1999

HOUSE FINANCE COMMITTEE

MINUTES

HOUSE COMMITTEE ON FINANCE

1999 – 2000 SESSION

REPRESENTATIVE GEORGE MILLER
REPRESENTATIVE PAUL LUEBKE
REPRESENTATIVE GORDON ALLEN
CHAIRMEN

VICE CHAIRS:

REPRESENTATIVE MARY JARRELL
REPRESENTATIVE STEVE WOOD

EX-OFFICIO MEMBERS:

REPRESENTATIVE JOE HACKNEY
REPRESENTATIVE PHIL BADDOUR
REPRESENTATIVE ANDREW DEDMON
REPRESENTATIVE BEVERLY EARLE
REPRESENTATIVE PETE CUNNINGHAM

STAFF:

CINDY AVRETTE
RICHARD BOSTIC
DAVID CROTTS
MARTHA HARRIS
LINDA MILLSAPS
ED ROSSI
MARTHA WALSTON

House Finance Committee – 1999 Session NCGA

Representative	Legislative Assistant	Room	Phone	Seat No.
Allen, Gordon, ***Chair***	Lillie Pearce	530 LOB	3-5662	10
Luebke, Paul, ***Chair***	Norma Bowen	529 LOB	3-7663	44
Miller, George, ***Chair***	Betty Angell	532 LOB	3-5995	43
	Kristen Crosson, *Finance*	532 LOB	3-5995	
Jarrell, Mary, ***Vice Chair***	Edna Collar	2219 LB	3-5749	3
Wood, Steve, ***Vice Chair***	Sylvia Perkins	2208 LB	3-5807	38
Arnold, Gene	Nancy Kirby	1420 LB	3-5806	88
Braswell, Jerry	Dianna Gilmore	420 LOB	5-3001	96
Bridgeman, John	Joyce Langdon	1204 LB	3-4948	94
Brown, John	Anna Kidd	1111 LB	3-5935	25
Buchanan, Monroe	Glenda Jones	536 LOB	3-5825	41
Capps, Russell	Pam Ahlin	1424 LB	5-2526	85
Church, Walt	Joyce Fuller	1311 LB	3-5805	33
Cox, Leslie	Ferebee Stainback	1221 LB	3-5827	107
Creech, Billy	Tina Covington	1409 LB	3-5609	52
Decker, Mike	Joanne Walters	1021 LB	3-5904	40
Dedmon, Andy	Donna Abu Harb	2213 LB	3-5732	12
Eddins, Rick	Dorie Monroe	1319 LB	3-5800	74
Edwards, Zeno	Jo Hinton	637 LOB	3-5906	91
Fitch, Toby	Carolyn Branch	1202 LB	5-2241	17
Gibson, Pryor	Bonnie Trivette	419A LB	5-3007	108
Goodwin, Wayne	Kristen Younts	502 LOB	3-4838	81
Gray, Lyons	Cindy Brooks	533 LOB	3-5820	49
Hackney, Joe	Emily Reynolds	2207 LB	3-5752	69
Hill, Dewey	Ginny McCann	1309 LB	3-5830	21
Howard, Julia	Gail Stewart	1023 LB	3-5988	51
McAllister, Mary	Annecia Norwood	638 LOB	3-5959	34
McComas, Danny	Jayne Walton	606 LOB	3-5786	111
McCombs, Gene	Suzanne Erskine	514 LOB	3-5881	75
Miner, David	Susan Phillips	1006 LB	3-5861	76
Morris, Mia	Joy Feagin	1315 LB	3-5741	115
Mosley, Jane	Ginnie Thurlow	2221 LB	3-5781	16
Neely, Chuck	Betty Harrison	539 LOB	3-5809	101
Ramsey, Liston	Dot Barber	2217 LB	3-5606	48
Rayfield, John	Gail Musser	1305 LB	3-5823	114
Starnes, Edgar	Pattie Fleming	617 LOB	5-9664	112
Tallent, Tim	Joyce Bulluck	1104 LB	3-5934	26
Tucker, Russell	Surena Henderson	417C LOB	5-3015	106
Wilson, Connie	Paula Covington	501 LOB	3-5903	73
Womble, Larry	Phyllis Cameron	537 LOB	3-5777	56
Wright, Tom	Clarestene Stewart	528 LOB	3-5754	5
Ex Officio Members				
Baddour, Phil	Elizabeth Kirkland	2301 LB	5-0850	31
Cunningham, Pete	Valerie Rustin	541 LOB	3-5778	7
Earle, Beverly	Ann Raeford	535 LOB	3-5747	95

Pope replaced Neely

Added:

Rep. Art Pope — Betty Harrison — 539 LOB — 3-5809 — 101

Rep. Philip Haire — Sara Lennard — 419-B LOB — 5-3005

House Finance Committee – 1999 Session NCGA

Staff	Division	Room	Phone
Cindy Avrette	Research	545 LOB	3-2578
Richard Bostic	Fiscal Research	619 LOB	3-4910
David Crotts	Fiscal Research	619 LOB	3-4910
Martha Harris	Bill Drafting	401 LOB	3-6660
Linda Millsaps	Fiscal Research	619 LOB	3-4910
Ed Rossi	Research	545 LOB	3-2578
Martha Walston	Fiscal Research	619 LOB	3-4910

FINANCE COMMITTEE STAFF

Fiscal Analysts

Richard Bostic, Fiscal Research, 733-4910
Income tax, privilege tax, Highway Fund/Highway Trust Fund taxes, Boards & Commissions, insurance premium tax

David Crotts
Fiscal Research Division, 733-4910
Economic and General Fund revenue forecasts and budget availability analysis, Bonds, School Finance

Linda Struyk Millsaps
Fiscal Research Division, 733-4910
Property Tax, Local Government Taxes and Fees, Estate and Gift Tax, White Goods and Scrap Tire Tax, Sales Tax.

Legal Analysts

Cindy Avrette
Research Division, 733-2578
Taxation; Primary counsel to the House Finance Committee (prepare bill summaries, amendments, and committee substitutes for bills before the House Finance Committee)

Martha H. Harris
Bill Drafting Division, 733-6660
Taxation; Government Debt

Martha K. Walston
Fiscal Research Division, 733-4910
Taxation; Primary counsel to the Senate Finance Committee (prepare bill summaries, amendments, and committee substitutes for bills before the Senate Finance Committee)

Ed Rossi
Research Division, 733-2578
Insurance, State & Local Government

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES	2/18	2/23	2/24	2/25	3/2	3/3	3/4	3/18
Allen, Gordon **Chair**	✓	✓	✓		✓		✓	✓
Luebke, Paul **Chair**	✓	✓	✓	✓	✓		✓	✓
Miller, George **Chair**	✓	✓	✓	✓	✓	✓	✓	✓
Jarrell, Mary **Vice Chair**	✓	✓		✓	✓	✓	✓	✓
Wood, Steve **Vice Chair**	✓	✓			✓		✓	
~~**Arnold, Gene**~~ Removed								
Braswell, Jerry	✓				✓		✓	✓
Bridgeman, John	✓	✓	✓	✓	✓	✓	✓	✓
Brown, John	✓	✓	✓	✓	✓	✓	✓	✓
Buchanan, Monroe	✓	✓	✓	✓	✓	✓	✓	✓
Capps, Russell		✓		✓	✓	✓	✓	✓
Church, Walter	✓	✓	✓	✓	✓	✓	✓	✓
Cox, Leslie	✓	✓	✓	✓	✓		✓	✓
Creech, Billy		✓		✓				✓
Decker, Michael	✓	✓	✓	✓	✓	✓	✓	✓
Dedmon, Andy	✓	✓			✓		✓	✓
Eddins, Rick	✓				✓	✓	✓	✓
Edwards, Zeno	✓		✓	✓	✓	✓	✓	✓
Fitch, Toby								
Gibson, Pryor		✓	✓	✓	✓		✓	✓
Goodwin, Wayne		✓	✓	✓	✓	✓	✓	✓
Gray, Lyons	✓		✓	✓	✓		✓	✓
Hackney, Joe	✓	✓				✓	✓	✓
Hill, Dewey		✓	✓	✓	✓	✓	✓	✓
Howard, Julia		✓					✓	
McAllister, Mary								

ATTENDANCE

Page 2

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES	2/18	2/23	2/24	2/25	3/2	3/3	3/4	3/8
McComas, Daniel			✓	✓	✓	✓	✓	✓
McCombs, Eugene	✓	✓	✓	✓	✓	✓		✓
Miner, David								
Morris, Mia	✓	✓	✓	✓	✓			✓
Mosley, Jane		✓	✓	✓		✓	✓	✓
Neely, Chuck				✓			✓	✓
Ramsey, Liston	✓	✓	✓			✓	✓	✓
Rayfield, John	✓	✓			✓	ex-cused	✓	✓
Starnes, Edgar		✓					✓	✓
Tallent, Tim								
Tucker, Russell	✓	ex.	✓	✓	✓	✓	✓	✓
Wilson, Connie	✓	✓					✓	✓
Womble, Larry	✓	✓	✓	✓	✓	✓	✓	✓
Wright, Thomas	✓						X	✓
Ex Officio Members:								
Hackney, Pro Tem	✓	✓					✓	✓
Baddour, Majority								
Dedmon, Whip	✓	✓					✓	✓
Earle, Whip								
Cunningham	✓	✓	✓				✓	✓

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES		3/23		3/24		3/30		4/1		4/8		4/13		4/20		4/22
Allen, Gordon	Chair	✓		✓		✓		✓		✓		✓		✓		✓
Luebke, Paul	Chair	✓		*✓		✓		✓		✓		✓		✓		✓
Miller, George	Chair	✓		✓		✓		✓		✓		✓		✓		✓
Jarrell, Mary	Vice-Chair	✓		✓		✓		✓		✓		✓		✓		✓
Wood, Steve	Vice-Chair															✓
Braswell, Jerry		✓		✓				✓				✓		✓		✓
Bridgeman, John		✓		✓		✓		✓		✓		✓		✓		✓
Brown, John		✓		✓		✓		✓		✓		✓		✓		✓
Buchanan, Monroe		✓		✓		✓		✓		✓		✓		✓		✓
Capps, Russell		✓				✓		✓		✓				✓		✓
Church, Walter		✓		✓				✓		✓				✓		✓
Cox, Leslie		✓		✓		✓		✓		✓		✓		✓		✓
Creech, Billy		✓						✓								✓
Decker, Michael		✓				✓		✓		✓		✓				✓
Dedmon, Andy		✓		✓						✓				✓		✓
Eddins, Rick		✓				✓				✓		✓		✓		✓
Edwards, Zeno		✓		✓				✓		✓		✓		✓		✓
Fitch, Toby																
Gibson, Pryor				✓		✓		✓		✓		✓		✓		✓
Goodwin, Wayne		✓		✓		✓		✓		✓		✓		✓		✓
Gray, Lyons				✓				✓		✓		✓				✓
Hackney, Joe		✓		✓		✓		✓		✓		✓		✓		✓
Hill, Dewey		✓		✓		✓		✓		✓		✓		✓		
Howard, Julia				✓								✓				
McAllister, Mary																
McComas, Daniel		✓												✓		✓

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES	3/23		3/24		3/30		4/1		4/8		4/13		4/20		4/27
McCombs, Eugene	✓		✓		✓		✓		✓		✓		✓		✓
Miner, David															✓
Morris, Mia	✓		✓		✓		✓		✓		✓		✓		
Mosley, Jane	✓				excused				✓				✓		✓
~~**Neely, Chuck**~~	✓				✓		✓								
Ramsey, Liston	✓		✓		✓		✓						✓		✓
Rayfield, John	✓		✓		✓		✓		✓		✓		✓		✓
Starnes, Edgar	✓		✓				✓				✓		✓		✓
Tallent, Tim															
Tucker, Russell	✓		✓		✓		✓		✓		✓		✓		✓
Wilson, Connie	✓						✓						✓		✓
Womble, Larry	✓		✓		✓		✓		✓		✓		✓		✓
Wright, Thomas															
Ex Officio Members:															
Hackney, Pro Tem															
Baddour, Majority															
Dedmon, Whip															
Earle, Whip															
Cunningham	✓	✓			✓		✓		✓		✓		✓		✓
Pope													✓		✓

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES		4-27		5/4		5/6		5/11		5/13		5/18		5/19		5/20
Allen, Gordon	Chair	✓		✓		✓		✓		✓		✓		✓		✓
Luebke, Paul	Chair	✓				✓		✓		✓		✓		✓		✓
Miller, George	Chair	✓		✓		✓		✓		✓		✓		✓		✓
Jarrell, Mary	Vice-Chair			✓		✓		✓		✓		✓		✓		✓
Wood, Steve	Vice-Chair	✓				✓						✓				
Braswell, Jerry		✓		✓						✓						✓
Bridgeman, John		✓		✓		✓		✓		✓				✓		
Brown, John		✓		✓		✓		✓		✓		✓		✓		✓
Buchanan, Monroe		✓		✓		✓		✓		✓		✓		✓		✓
Capps, Russell		✓		✓		✓				✓		✓				✓
Church, Walter		✓		✓		✓		✓						✓		✓
Cox, Leslie		✓		✓				✓		✓		✓		✓		✓
Creech, Billy		✓								✓						
Decker, Michael		✓						✓		✓		✓		✓		
Dedmon, Andy		✓				✓		✓		✓		✓		✓		✓
Eddins, Rick		✓		✓		✓		✓		✓		✓				✓
Edwards, Zeno		✓		✓				✓		✓		✓		✓		✓
Fitch, Toby																
Gibson, Pryor		✓		✓		✓		✓		✓		✓		✓		✓
Goodwin, Wayne				✓		✓		✓		✓		✓		✓		✓
Gray, Lyons				✓		✓				✓		✓				
Hackney, Joe		✓				✓				✓		✓		✓		✓
Hill, Dewey		✓		✓		✓		✓		✓		✓		✓		✓
Howard, Julia																
McAllister, Mary																
McComas, Daniel		✓						✓		✓						✓

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES	4/27		5/4		5/6		5/11		5/13		5/18		5/19		5/20
McCombs, Eugene	✓		✓		✓		✓		✓		✓		✓		✓
Miner, David	✓														
Morris, Mia	✓				✓				✓				✓		
Mosley, Jane	✓						✓				✓				✓
Pope, Art	✓		✓		✓		✓		✓		✓				
Ramsey, Liston	✓		✓		✓		✓		✓				Excused (car accident)		
Rayfield, John	✓		✓		✓		✓		✓		✓		✓		✓
Starnes, Edgar	✓				✓				✓				✓		✓
Tallent, Tim															
Tucker, Russell	✓		✓		✓		✓				✓		✓		✓
Wilson, Connie	✓						✓		✓		✓				✓
Womble, Larry	✓				✓		✓		✓		✓		✓		✓
Wright, Thomas	✓														
Ex Officio Members:															
Hackney, Pro Tem															
Baddour, Majority															
Dedmon, Whip															
Earle, Whip															
Cunningham	✓				✓		✓				✓		✓		✓
Inskeep															
Nye															

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES		5/25		5/27		6/1	6/2	6/8	6/8	6/10	6/15	6/15	6/16	6/16	6/17	6/22
Allen, Gordon	Chair	✓		✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Luebke, Paul	Chair	✓		✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Miller, George	Chair	✓		✓		✓	✓		✓	✓		✓	✓	✓		✓
Jarrell, Mary	Vice-Chair	✓		✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Wood, Steve	Vice-Chair			✓					✓			✓			✓	
Braswell, Jerry		✓		✓		✓	✓	✓	✓		✓	✓			✓	✓
Bridgeman, John		✓		✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Brown, John		✓		✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Buchanan, Monroe		✓		✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Capps, Russell		✓				✓	✓				✓	✓	✓	✓	✓	✓
Church, Walter		✓		✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Cox, Leslie		✓		✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Creech, Billy				✓		✓	✓		✓	✓			✓		✓	
Decker, Michael		✓		✓		✓	✓		✓	✓		✓	✓	✓	✓	✓
Dedmon, Andy		✓		✓			✓	✓	✓	✓	✓		✓		✓	✓
Eddins, Rick		✓		✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Edwards, Zeno		✓		✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Fitch, Toby										✓				✓		
Gibson, Pryor		✓		✓		✓	✓	✓	✓	✓	✓		✓		✓	✓
Goodwin, Wayne		✓		✓		✓	✓	✓	✓	✓	✓	✓		✓	✓	✓
Gray, Lyons		✓		✓			✓	✓	✓	✓				✓		✓
Hackney, Joe		✓		✓		✓			✓	✓	✓	✓	✓	✓	✓	✓
Hill, Dewey		✓		✓		✓	✓	✓	✓	✓	✓		✓		✓	✓
Howard, Julia												✓				
McAllister, Mary																
McComas, Daniel		✓					✓	✓		✓		✓	✓			

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES	5/25		5/27	6/2	6/1	6/2	6/8	6/9	6/10	6/15	6/15	6/16	6/16	6/17	6/22
McCombs, Eugene	✓		✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Miner, David			✓			✓	✓								
Morris, Mia	✓		✓		✓	✓	✓	✓			✓	✓	✓		✓
Mosley, Jane			✓			✓									
Pope, Art	✓		✓		✓	✓	✓	✓	✓	✓		✓		✓	✓
Ramsey, Liston	excused														
Rayfield, John	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Starnes, Edgar			✓			✓		✓	✓		✓	✓			✓
Tallent, Tim															
Tucker, Russell	✓		✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Wilson, Connie	✓		✓		✓	✓	✓	✓	✓			✓		✓	✓
Womble, Larry	✓		✓		✓	✓	✓	✓	✓	✓		✓		✓	✓
Wright, Thomas						✓		✓		✓	✓				
Ex Officio Members:															
Hackney, Pro Tem	✓		✓												
Baddour, Majority															
Dedmon, Whip	✓														
Earle, Whip															
Cunningham	✓		✓			✓	✓	✓	✓					✓	✓

6/29
Reps: Cole
Gulley

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

	DATES		6/23	6/23 afternoon session	6/24 morn	6/29 1pm	6/29 A.S.	6/29	6/30	7/1	7/6	7/7 morn.	7/7 A.S.	7/8 morn.	7/8 recess	7/9	7/13
D	**Allen,** Gordon	Chair	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
D	**Luebke,** Paul	Chair	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
D	**Miller,** George	Chair		✓	✓	✓	✓		✓		✓	✓	✓	✓	✓	✓	✓
D	**Jarrell,** Mary	Vice-Chair	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
R	**Wood,** Steve	Vice-Chair		✓	✓			✓	✓	✓			✓	✓	✓	✓	✓
D	**Braswell,** Jerry				✓	✓	✓	✓		✓	✓	✓		✓		✓	✓
D	**Bridgeman,** John		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
R	**Brown,** John		✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
R	**Buchanan,** Monroe		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓			✓
R	**Capps,** Russell				✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
D	**Church,** Walter		✓			✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
D	**Cox,** Leslie		✓	✓		•	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
R	**Creech,** Billy			✓	✓	✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
R	**Decker,** Michael		✓	✓	✓	✓		✓	✓	✓							
D	**Dedmon,** Andy		✓	✓	✓	✓	✓			✓	✓	✓	✓	✓	•	✓	
R	**Eddins,** Rick		✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
D	**Edwards,** Zeno		✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
D	**Fitch,** Toby																
D	**Gibson,** Pryor		✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
D	**Goodwin,** Wayne			✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓
R	**Gray,** Lyons		✓	✓	✓			✓	✓	✓			✓		✓		✓
D	**Hackney,** Joe				✓	✓		✓	✓	✓	✓	✓		✓	✓	✓	
D	**Hill,** Dewey		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
R	**Howard,** Julia									✓			✓		✓	✓	
D	**McAllister,** Mary																
R	**McComas,** Daniel		✓			✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

	DATES	6/23	6/23 afternoon	6/24	6/29 morn	6/29 1pm	6/29	6/30	7/1	7/6	7/7 morn	7/7 A&S morn	7/8	7/8 floor	7/9	7/13
R	McCombs, Eugene	✓	✓	✓	✓		✓	✓	✓	✓	✓		✓	✓	✓	✓
R	Miner, David			✓					✓					✓	✓	
R	Morris, Mia	✓				✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
D	Mosley, Jane	excused		excused		excused	excused	→	→	→	→	→				
R	Pope, Art	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓		✓	✓
D	Ramsey, Liston	excused		excused		excused	excused	→	→	→	→	→				
R	Rayfield, John	✓		✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
R	Starnes, Edgar	✓	✓	✓			✓	✓	✓	✓	✓		✓	✓	!	✓
R	Tallent, Tim		✓	✓				✓	✓	✓	✓		✓	✓	✓	
D	Tucker, Russell	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
R	Wilson, Connie	✓	✓	✓	✓		✓	✓	✓	✓	✓		✓	✓	✓	✓
D	Womble, Larry	✓	✓	✓	✓		✓	✓	✓		✓	✓	✓	✓	✓	✓
D	Wright, Thomas	✓														
	Ex Officio Members:															
	Hackney, Pro Tem							✓	✓							
D	**Baddour**, Majority	✓			✓			✓	✓					✓	✓	
	Dedmon, Whip							✓	✓							
D	**Earle**, Whip	✓						✓	✓							
D	**Cunningham**	✓	✓		✓			✓	✓	✓	✓	✓		✓	✓	
	Haire, Philip											✓	✓	✓	✓	
													✓	✓		✓

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES		7/14	7/15													
Allen, Gordon	Chair	✓	✓													
Luebke, Paul	Chair	✓	✓													
Miller, George	Chair	✓	✓													
Jarrell, Mary	Vice-Chair	✓	✓													
Wood, Steve	Vice-Chair															
Braswell, Jerry																
Bridgeman, John		✓	✓													
Brown, John		✓														
Buchanan, Monroe		✓	✓													
Capps, Russell		✓	✓													
Church, Walter		✓	✓													
Cox, Leslie		✓														
Creech, Billy		✓	✓													
Decker, Michael		✓	✓													
Dedmon, Andy																
Eddins, Rick		✓	✓													
Edwards, Zeno		✓	✓													
Fitch, Toby																
Gibson, Pryor		✓	✓													
Goodwin, Wayne		✓	✓													
Gray, Lyons																
Hackney, Joe		✓	✓													
Hill, Dewey		✓	✓													
Howard, Julia		✓														
McAllister, Mary																
McComas, Daniel																
Haire, Phillip		✓														

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES	7/14	7/15													
McCombs, Eugene	✓	✓													
Miner, David															
Morris, Mia		✓													
Mosley, Jane	excused														
Pope, Art	✓	✓													
Ramsey, Liston	excused														
Rayfield, John	✓	✓													
Starnes, Edgar		✓													
Tallent, Tim	✓														
Tucker, Russell	✓	✓													
Wilson, Connie	✓	✓													
Womble, Larry	✓	✓													
Wright, Thomas															
Ex Officio Members:															
Hackney, Pro Tem															
Baddour, Majority															
Dedmon, Whip															
Earle, Whip															
Cunningham	✓	✓													

House Finance Committee – 1999 Session NCGA

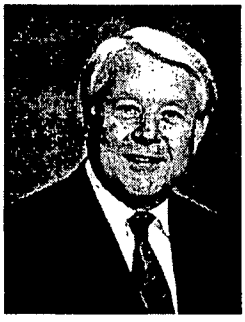
Gordon Allen, *Chair*

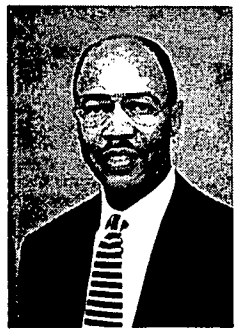
Paul Luebke, *Chair*

George Miller, *Chair*

Mary Jarrell
Vice Chair

Steve Wood
Vice Chair

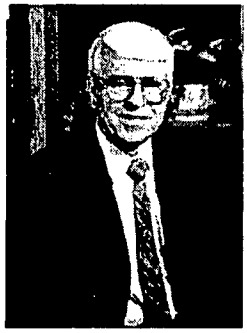

Gene Arnold


Jerry Braswell

John Bridgeman

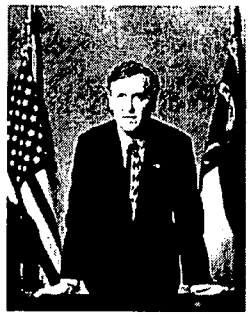
John Brown

Monroe Buchanan


Russell Capps

Walt Church

Leslie Cox


Billy Creech

Mike Decker

House Finance Committee – 1999 Session NCGA

Andy Dedmon

Rick Eddins

Zeno Edwards

Toby Fitch

Pryor Gibson

Wayne Goodwin

Lyons Gray

Joe Hackney

Dewey Hill

Julia Howard

Mary McAllister

Danny McComas

Gene McCombs

David Miner

Mia Morris

Jane Mosley

Chuck Neely

Liston Ramsey

John Rayfield

Edgar Starnes

House Finance Committee – 1999 Session NCGA

Tim Tallent

Russell Tucker

Connie Wilson

Larry Womble

Tom Wright

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium HOUSE: FINANCE Valid Through 28-JUL-1999

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H 19	REDWINE	CASINO BOATS REGULATED	*S -RE-REF COM ON RULES &	02-24-99	03-18-99
H 21=	CREECH	CLAYTON SATELLITE ANNEXATION	*H -RE-REF COM ON FINANCE	02-25-99	
H 32	NYE	BLADEN SALES TAX FOR SCHOOLS	H -REF TO COM ON FINANCE	02-04-99	
H 33=	WARNER	CUMBERLAND SALES TAX FOR SCHOOLS	H -REF TO COM ON FINANCE	02-04-99	
H 43	DEDMON	INCREASE FIRE AND RESCUE PENSION	H -RE-REF COM ON APPROP	02-08-99	03-02-99
H 44=	DEDMON	FOREST CITY/ALEXANDER MILLS	*H -RE-REF COM ON FINANCE	02-25-99	
H 53	MCCOMBS	ROWAN 1% SALES TAX/SCHOOLS	H -REF TO COM ON FINANCE	02-10-99	
H 54=	NEELY	MAKE FARMLAND USE VALUE ACCURATE	H -REF TO COM ON FINANCE	02-10-99	
H 56=	HILL	ELIMINATE STAMPS FOR DEED TAX	*R -CH. SL 99-0028	02-10-99	03-18-99
H 62=	GRAY	EFT OF CORPORATE EST. INCOME TAX	*H -CONF COM APPOINTED	02-10-99	03-17-99
H 63=	GRAY	REVIEW TAX CREDITS PERIODICALLY	H -REF TO COM ON FINANCE	02-10-99	
H 67	HILL	COLUMBUS COUNTY LOCAL ACT-2	*H -RE-REF COM ON FINANCE	04-13-99	
H 69	BOWIE	REPEAL HIGHWAY USE TAX TRANSFER	H -REF TO COM ON FINANCE	02-11-99	
H 73	BAKER	EXEMPT TOBACCO COMP. PAYMENTS	H -REF TO COM ON FINANCE	02-15-99	
H 74	**BAKER**	**PHASE II FUNDS/IMMUNITY/TAX-EXEMPT**	***R -CH. SL 99-0333**	**06-23-99**	**06-24-99**
H 74	**BAKER**	**PHASE II FUNDS/IMMUNITY/TAX-EXEMPT**	***R -CH. SL 99-0333**	**07-08-99**	**07-13-99**
H 87	GOODWIN	RICHMOND SALES TAX USE	*H -RE-REF COM ON FINANCE	04-28-99	
H 89	ALLRED	HOMESTEAD TAX REDUCTION	H -REF TO COM ON FINANCE	02-16-99	
H 95	MICHAUX	SMALL LOAN REVISIONS	S -REF TO COM ON JUDICII	03-24-99	04-07-99
H 105	CRAWFORD	BUTNER COMMUNITY GOVERNANCE	*R -CH. SL 99-0140	02-18-99	04-12-99
H 109	NYE	CASTLE HAYNE INCORPORATION	H -REF TO COM ON FINANCE	02-18-99	
H 110	BERRY	CATAWBA 1% LOCAL SALES TAX	H -REF TO COM ON FINANCE	02-18-99	
H 120	OWENS	TAX LIEN ADVERTISEMENT AND COLLECTIO	*H -PRES. TO GOV. 07-20	02-22-99	04-22-99
H 121=	CULPEPPER	INTEREST ON MONEY JUDGMENTS	H -REF TO COM ON FINANCE	02-23-99	
H 130	RAYFIELD	LOCAL OPTION HOMESTEAD EXEMPTION	H -REF TO COM ON FINANCE	02-23-99	
H 133	ROGERS	EXEMPT DISABLED VETERAN VEHICLES	*S -REF TO COM ON FINANCE	06-24-99	07-01-99
H 136=	INSKO	EXEMPT CHILD CARE PROPERTY	*S -REF TO COM ON FINANCE	02-24-99	07-08-99
H 139	EDWARDS	HYDE TRANSFER TAX	H -REF TO COM ON FINANCE	02-25-99	
H 149=	WARREN EDITH	REDUCE PITT CO. PISTOL PERMIT FEE	R -CH. SL 99-0285	03-09-99	03-23-99
H 178=	BROWN	JONESVILLE ACCIDENT REPORTS/WEEDS	R -CH. SL 99-0129	03-09-99	03-23-99

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium HOUSE: FINANCE Valid Through 28-JUL-1999

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H 215=	PRESTON	EXTEND CORE SOUND MORATORIUM	*H -RE-REF COM ON FINANCE	04-21-99	
H 221=	REDWINE	LONG BEACH/YAUPON BEACH	*R -CH. SL 99-0066	03-03-99	03-18-99
H 222	MITCHELL	STRENGTHEN LITTERING LAW	*H -PRES. TO GOV. 07-20	03-22-99	04-20-99
H 237	GULLEY J	BOAT AGENT FEES	R -CH. SL 99-0248	04-07-99	05-04-99
H 239	HAIRE	COMMUNITY COLLEGE PROPERTY TRANSFERS	*R -CH. SL 99-0115	04-01-99	04-13-99
H 240	INSKO	UNC NONAPPROPRIATED CAPITAL PROJECTS	*H -PRES. TO GOV. 07-19	06-14-99	06-17-99
H 251	THOMPSON	BAKERSVILLE DELINQUENT TAXES	*R -CH. SL 99-0326	03-09-99	04-22-99
H 256=	ALLEN	COMMUNITY COLLEGE SALES TAX REFUND	H -REF TO COM ON FINANCE	03-04-99	
H 258	ALLEN	COMMUNITY COLLEGE FUEL TAX EXEMPTION	H -REF TO COM ON FINANCE	03-04-99	
H 259	JARRELL	HOME INSPECTOR AMENDMENTS	*R -CH. SL 99-0149	03-04-99	03-24-99
H 275	**REDWINE**	**ZERO ESC TAX/TRAINING CONTRIBUTION**	***R -CH. SL 99-0321**	**04-01-99**	**04-13-99**
H 275	**REDWINE**	**ZERO ESC TAX/TRAINING CONTRIBUTION**	***R -CH. SL 99-0321**	**06-02-99**	
H 279	**REDWINE**	**TOWNSHIP HOSPITALS**	***H -PRES. TO GOV. 07-19**	**06-15-99**	**07-06-99**
H 280	COLE	MOTOR VEHICLE TECH. AMENDMENTS	*H -RATIFIED	04-12-99	04-20-99
H 286=	**EARLE**	**ADOPTION RECORDS AND REGISTRY**	***HF-REPTD UNFAV**	**04-19-99**	**06-21-99**
H 293	BRIDGEMAN	PROPRIETARY SCH./CIVIL PENALTIES	*H -CONF COM APPOINTED	04-14-99	04-27-99
H 301	CULPEPPER	AUCTIONEER AMENDMENTS	*R -CH. SL 99-0142	03-04-99	04-12-99
H 312	**GIBSON**	**CODE OFFICIALS PROFESSIONALISM**	***H -RE-REF COM ON APPROP**	**03-04-99**	**04-01-99**
H 315	WILSON C	MOTOR VEHICLE TAX VALUE/E&R BD.	*R -CH. SL 99-0353	03-04-99	06-15-99
H 351	WOOD	COLFAX INCORPORATED	*H -RE-REF COM ON FINANCE	05-19-99	
H 358	ALLRED	FAIR AUTOM0BILE PROPERTY TAXES	H -REF TO COM ON FINANCE	03-08-99	
H 362	GRAY	REPEAL GIFT TAX	H -REF TO COM ON FINANCE	03-08-99	
H 364=	MCCRARY	AGRICULTURAL FAIR REFUNDS	H -REF TO COM ON FINANCE	03-08-99	
H 375	DECKER	OAK RIDGE ANNEXATION	H -RE-REF COM ON FINANCE	03-09-99	03-23-99
H 375	DECKER	OAK RIDGE ANNEXATION	H -RE-REF COM ON FINANCE	03-30-99	
H 376=	SAUNDERS	HUNTERSVILLE ANNEXATION	H -REF TO COM ON FINANCE	03-10-99	
H 377=	SAUNDERS	HUNTERSVILLE SATELLITE ANNEXATION	*H -RE-REF COM ON FINANCE	03-24-99	
H 394=	CANSLER	CONTINUING CARE RETIREMENT HOMES	H -REF TO COM ON FINANCE	03-11-99	
H 411	COLE	PROHIBIT CERTAIN CIGARETTE SALES	*H -RE-REF COM ON FINANCE	04-28-99	
H 419	BAKER	MOUNT AIRY SATELLITE ANNEXATION	*R -CH. SL 99-0232	04-28-99	05-04-99

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium HOUSE: FINANCE Valid Through 28-JUL-1999

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H 420	MORRIS	BULK VENDING MACHINE EXEMPTION	H -REF TO COM ON FINANCE	03-11-99	
H 428=	MELTON	MINERAL SPRINGS INCORPORATED	H -REF TO COM ON FINANCE	03-15-99	
H 449	NYE	FARM BALING EQUIPMENT TAX CHANGE	S -REF TO COM ON FINANCE	03-15-99	07-08-99
H 450	EDWARDS	MAKE CAR TAX PROGRESSIVE	H -REF TO COM ON FINANCE	03-15-99	
H 486	MOORE R	PARADE TRAILERS/PERM./RET.SHP PLATES	R -CH. SL 99-0220	03-18-99	03-31-99
H 490	MCMAHAN	EXPAND CORPORATE CHARITABLE DEDUCTIO	H -RE-REF COM ON FINANCE	03-30-99	
H 504	PRESTON	CARTERET PLANNING/ZONING CHANGES	*R -CH. SL 99-0154	04-07-99	04-20-99
H 507	SMITH	CAPE CARTERET/BOGUE ANNEXATIONS	*R -CH. SL 99-0287	06-21-99	06-30-99
H 512	**CLARY**	**ASSISTED LIVING ADMINISTRATORS**	***H -PRES. TO GOV. 07-20**	**03-22-99**	**04-15-99**
H 519	JUSTUS	HENDERSON FIRE DISTRICTS	*S -REF TO COM ON FINANCE	04-23-99	06-30-99
H 541	MITCHELL	BUOY FISHING/SPECIAL FISHING DEVICE	*S -RE-REF COM ON FINANCE	04-07-99	06-09-99
H 586=	CARPENTER J	MACON COUNTY AIRPORT AUTHORITY	H -REF TO COM ON FINANCE	03-24-99	
H 594	CAPPS	NO GIFT TAX ON FARMS	H -REF TO COM ON FINANCE	03-25-99	
H 597=	ALEXANDER	MECKLENBURG STORMWATER FEES	H -RE-REF COM ON FINANCE	04-06-99	
H 600	CULPEPPER	TYRRELL LAND TRANSFER TAX	H -REF TO COM ON FINANCE	03-25-99	
H 605	THOMAS	CRAVEN CONVENTION CTR. CONDEMN.	*H -RE-REF COM ON FINANCE	04-27-99	
H 616	CANSLER	MODIFY INTANGIBLES REIMBURSEMENT	H -REF TO COM ON FINANCE	03-25-99	
H 623	BRUBAKER	PLEASANT GARDEN CHANGES	*R -CH. SL 99-0331	06-08-99	06-17-99
H 648=	DAUGHTRY	BENSON CHARTER REVISED	*R -CH. SL 99-0091	03-29-99	04-12-99
H 651	REDWINE	BRUNSWICK FIRE FEES	*R -CH. SL 99-0323	03-29-99	04-19-99
H 665	OWENS	MODIFY CURRITUCK ROOM TAX	*R -CH. SL 99-0155	03-29-99	05-18-99
H 667	CRAWFORD	ROANOKE RAPIDS ANNEXATION	*R -CH. SL 99-0324	07-01-99	07-06-99
H 672	GIBSON	VARIOUS LOCAL OCCUPANCY TAXES	*H -RE-REF COM ON RULES	03-29-99	06-17-99
H 675=	HAIRE	JACKSON TRANSFER TAX	H -REF TO COM ON FINANCE	03-29-99	
H 678	SHERRILL	ACUPUNCTURIST REIMBURSEMENT	*S -REF TO COM ON HLTHCARE	04-28-99	05-10-99
H 708=	COX	AIRPORT AUTHORITY REFUNDS	*R -CH. SL 99-0104	04-14-99	05-04-99
H 723	INSKO	DARK WINDOW INSPECTION FEE	*S -REF TO COM ON FINANCE	04-22-99	06-15-99
H 723	INSKO	DARK WINDOW INSPECTION FEE	*S -REF TO COM ON FINANCE	07-01-99	07-08-99
H 734	INSKO	CHAPEL HILL DEVELOPMENT AGREEMENTS	*S -REF TO COM ON FINANCE	04-29-99	05-31-99
H 738	ROGERS	GREENVILLE/CATAWBA ANNEXATIONS	R -CH. SL 99-0283	04-06-99	05-04-99

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium HOUSE: FINANCE Valid Through 28-JUL-1999

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H 740	ROGERS	MOUNT AIRY ANNEXATION CORRECTION	*R -CH. SL 99-0325	07-12-99	07-13-99
H 755	YONGUE	HIGHWAY LIGHTING SERVICE DISTRICTS	*R -CH. SL 99-0224	03-31-99	04-20-99
H 764	SETZER	RAISE MOORESVILLE ROOM TAX	*R -CH. SL 99-0258	03-31-99	05-25-99
H 765=	MELTON	WESLEY CHAPEL BOUNDARIES	R -CH. SL 99-0041	04-13-99	04-22-99
H 781	SETZER	CATAWBA ANNEXATIONS	S -REF TO COM ON FINANCE	05-18-99	07-01-99
H 782	BROWN	WILKES FIRE DISTRICT	*S -REF TO COM ON FINANCE	06-14-99	06-15-99
H 784=	HOWARD	BERMUDA RUN INCORPORATION	H -REF TO COM ON FINANCE	04-01-99	
H 794	WARREN EDITH	FARMVILLE ANNEXATION	R -CH. SL 99-0289	04-01-99	06-17-99
H 796	ARNOLD	DORTCHES/ROCKY MOUNT BOUNDARIES	H -REF TO COM ON FINANCE	04-01-99	
H 798	MOSLEY	CARY RECREATIONAL FEES	H -REF TO COM ON FINANCE	04-01-99	
H 812	THOMAS	REMOVE SUNSET/CRAVEN PROCEEDS USE	*R -CH. SL 99-0286	04-20-99	04-22-99
H 826=	HENSLEY	GARNER FACILITY FEE CHANGE	H -REF TO COM ON FINANCE	04-01-99	
H 830	WALEND	TRANSYLVANIA ROOM TAX PENALTIES	*R -CH. SL 99-0205	04-01-99	05-17-99
H 833=	MELTON	WAXHAW ANNEXATIONS	H -REF TO COM ON FINANCE	04-01-99	
H 845	MCLAWHORN	GREENVILLE UTILITIES COMMISSION	*R -CH. SL 99-0233	04-29-99	05-13-99
H 850=	DAUGHTRY	NORTH CLEVELAND INCORPORATION	H -REF TO COM ON FINANCE	04-01-99	
H 851	GULLEY J	MATTHEWS ANNEXATIONS	H -REF TO COM ON FINANCE	04-01-99	
H 852	BUCHANAN	HICKORY/MOCKSVILLE ANNEXATIONS	R -CH. SL 99-0208	04-01-99	04-20-99
H 857=	INSKO	CHATHAM, ORANGE REVENUE OPTIONS	H -RE-REF COM ON FINANCE	05-18-99	
H 862	EARLE	LAKE NORMAN BOATING SAFETY/FEES	H -REF TO COM ON FINANCE	04-01-99	
H 863	REDWINE	ST. JAMES INCORPORATION	R -CH. SL 99-0241	04-01-99	04-13-99
H 867	FITCH	WILSON ANNEXATIONS	*S -REF TO COM ON FINANCE	04-28-99	06-21-99
H 869	INSKO	USE VALUE ROLLBACK MODIFIED	H -REF TO COM ON FINANCE	04-01-99	
H 900	HUNTER	GATES COUNTY FIRE PROTECTION	*R -CH. SL 99-0242	04-23-99	05-10-99
H 952=	INSKO	EARNED INCOME TAX CREDIT	H -REF TO COM ON FINANCE	04-08-99	
H 954	WILSON C	CLARIFY HOSPITAL PROPERTY TAX	H -REF TO COM ON FINANCE	04-08-99	
H 955	CREECH	RIPARIAN BUFFERS TAX EXEMPT	H -REF TO COM ON FINANCE	04-08-99	
H 964	JARRELL	MUNICIPAL INCORPORATION PROCESS	*H -PRES. TO GOV. 07-20	06-07-99	06-14-99
H 970=	MCMAHAN	AFFORDABLE HOUSING	H -RE-REF COM ON FINANCE	05-04-99	
H1009=	HILL	FUNDS FOR AGRICULTURAL RESEARCH	R -CH. SL 99-0172	04-20-99	05-10-99

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium HOUSE: FINANCE Valid Through 28-JUL-1999

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H1010=	HILL	COTTON GINS, WAREHOUSES, MERCHANTS	*H -PRES. TO GOV. 07-20	06-01-99	07-05-99
H1013=	CANSLER	CONFORM TAX REFUND PERIOD	H -REF TO COM ON FINANCE	04-13-99	
H1049	MILLER G	PHYSICIAN LICENSURE	*H -RE-REF COM ON FINANCE	04-27-99	
H1069=	ALEXANDER	SOCIAL WORKER LICENSURE	*R -CH. SL 99-0313	04-15-99	06-01-99
H1077=	HUNTER	CERTIFIED PROFESSIONAL MIDWIVES	H -REF TO COM ON FINANCE	04-15-99	
H1082	SAUNDERS	LICENSING SELLING OF CARS	*S -HELD AS FILED	05-13-99	06-23-99
H1084	MCMAHAN	COUNTY BONDS FOR LANDBANKING	*H -PRES. TO GOV. 07-19	04-15-99	07-08-99
H1090	MOORE R	I.A.F.F. REGISTRATION PLATE	*R -CH. SL 99-0314	04-15-99	05-25-99
H1095=	ALLEN	CLINICAL PHARMACIST PRACTITIONER	*R -CH. SL 99-0290	04-26-99	05-17-99
H1096	HILL	REGISTER OF DEEDS AMENDS	*H -RE-REF COM ON WAYS&MNS	04-23-99	05-10-99
H1098=	HACKNEY	STRENGTHEN SEDIMENTATION ACT	*H -PRES. TO GOV. 07-19	06-14-99	06-24-99
H1114	WRIGHT	ENHANCING EMERGENCY MEDICAL SERVICES	*H -RE-REF COM ON FINANCE	06-10-99	
H1120	WRIGHT	AUTHORIZE PUBLIC HOSPITAL DEBT	*H -PRES. TO GOV. 07-15	06-23-99	07-01-99
H1132=	INSKO	PRESERVE FARMLANDS/SMALL FARMS	*S -REF TO COM ON FINANCE	04-28-99	05-17-99
H1132=	INSKO	PRESERVE FARMLANDS/SMALL FARMS	*S -REF TO COM ON FINANCE	07-08-99	07-13-99
H1133	HACKNEY	HEALTH INS./LIABILITY	*S -HELD AS FILED	04-29-99	05-31-99
H1134=	INSKO	UNC/HORACE WILLIAMS CAMPUS	R -CH. SL 99-0234	04-15-99	05-25-99
H1153	JUSTUS	RETIRED PHYSICIAN LICENSE	*S -REF TO COM ON FINANCE	04-15-99	07-07-99
H1177	ELLIS	LOCKSMITH LICENSURE -2	H -RE-REF COM ON RULES	04-15-99	07-05-99
H1189	MORRIS	FIRE ALARM SYSTEM CONTRACTORS	H -REF TO COM ON FINANCE	04-15-99	
H1190	SEXTON	DESERT STORM PLATES	S -REF TO COM ON FINANCE	04-15-99	06-17-99
H1196	MILLER G	UNIFORM CONSUMER FINANCE TAX	H -REF TO COM ON FINANCE	04-15-99	
H1197	MILLER G	CONFORM CRIMINAL DEADLINE TO FEDERAL	H -REF TO COM ON FINANCE	04-15-99	
H1203=	BAKER	MOTORCYCLE SAFETY ACT	H -RE-REF COM ON FINANCE	04-21-99	
H1233=	HILL	STRUCTURAL PEST CONTROL AMENDMENTS	*H -PRES. TO GOV. 07-19	06-29-99	06-30-99
H1237	MCMAHAN	LANDSCAPE ARCHITECTS EXAM FEE	R -CH. SL 99-0315	04-15-99	04-27-99
H1246	CLARY	ANIMAL LOVERS SPECIAL PLATE	H -PRES. TO GOV. 07-20	04-15-99	06-23-99
H1254	EARLE	HOMEBUILDER RESPONSIBILITY	H -RE-REF COM ON FINANCE	06-16-99	
H1289	LUEBKE	1999 FEE BILL	*H -PRES. TO GOV. 07-20	04-15-99	07-01-99
H1290=	LUEBKE	LIMIT RECYCLING TAX INCENTIVES	*S -REF TO COM ON FINANCE	04-19-99	06-24-99

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium HOUSE: FINANCE Valid Through 28-JUL-1999

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H1296	NYE	TECH. COMMERCIALIZATION CREDIT	H -REF TO COM ON FINANCE	04-19-99	
H1297	OWENS	REAL ESTATE PRIVILEGE LICENSE TAX	H -REF TO COM ON FINANCE	04-19-99	
H1302	BONNER	CHARTER SCHOOL FUEL EXEMPTION	S -REF TO COM ON FINANCE	04-20-99	05-31-99
H1303	OWENS	AMEND BILL LEE ACT/INCENTIVES - 2	H -REF TO COM ON FINANCE	04-20-99	
H1304	DECKER	NO INCOME TAX MARRIAGE PENALTY	H -REF TO COM ON FINANCE	04-21-99	
H1308	ALLEN	GOVERNMENT SALES TAX EXEMPTION	*H -RE-REF COM ON APPROP	04-22-99	05-04-99
H1314	CRAWFORD	ADJUST GAS TAX FORMULA - 2	H -REF TO COM ON FINANCE	04-22-99	
H1319=	WRIGHT	PORTS AUTHORITY TAX REFUNDS	H -REF TO COM ON FINANCE	04-22-99	
H1322=	COLE	LAB TESTING FACILITY SALES TAX	H -REF TO COM ON FINANCE	04-23-99	
H1325	DAVIS	REDUCE PENSION TAX	H -REF TO COM ON FINANCE	04-23-99	
H1326=	GIBSON	DRY-CLEANING SOLVENT CLEANUP AMENDS.	*S -REF TO COM ON FINANCE	04-23-99	07-07-99
H1327	BONNER	DEFINITIONS OF DEVELOPMENT ZONE	H -RE-REF COM ON ECONGRTH	04-23-99	05-19-99
H1330	CANSLER	HIGHWAY USE TAX CORRECTION	H -REF TO COM ON FINANCE	04-23-99	
H1340	TOLSON	RESPIRATORY CARE PRACTICE ACT	*S -REF TO COM ON HLTHCARE	06-23-99	07-06-99
H1357	ALLRED	REFUND INTANGIBLES TAX TO ALL	H -REF TO COM ON FINANCE	04-28-99	
H1358	ALLRED	CAMPAIGN CONTRIBUTION CREDIT	H -REF TO COM ON FINANCE	04-28-99	
H1373	MILLER G	MODERNIZE FRANCHISE TAX BASE	H -REF TO COM ON FINANCE	04-29-99	
H1374	MILLER G	CLARIFY SALES TAX ON UTILITIES	H -REF TO COM ON FINANCE	04-29-99	
H1380	CULPEPPER	VISIBLE LIGHT-WINDOW DARKENING	H -REF TO COM ON FINANCE	04-29-99	
H1388	MILLER G	UNIFORM TAXES ON SALES	H -REF TO COM ON FINANCE	04-29-99	
H1397	COLE	EXPAND DEVELOPMENT ZONES	S -REF TO COM ON FINANCE	05-13-99	06-08-99
H1400	MCMAHAN	PAYMENT BOND REVISIONS	H -REF TO COM ON FINANCE	04-29-99	
H1406	NYE	FACILITY LICENSURE FEES	H -REF TO COM ON FINANCE	04-29-99	
H1409	GOODWIN	INCENTIVES/BORDER AND LOW-TIER CO.	*H -RE-REF COM ON FINANCE	05-27-99	
H1410=	GOODWIN	POSTPONE PIPED GAS TAX CHANGE	H -REF TO COM ON FINANCE	04-29-99	
H1411	LUEBKE	BALANCE WM. S. LEE TAX INCENTIVES	H -RE-REF COM ON FINANCE	05-17-99	
H1433	MILLER G	USE TAX PAYMENT/OTHER CHANGES	*R -CH. SL 99-0341	04-29-99	06-22-99
H1434	REDWINE	COASTAL RECREATIONAL FISHING LICENSE	*S -REF TO COM ON AGRICUL&	06-23-99	06-30-99
H1460	EARLE	MARTIAL ARTS LICENSURE	H -REF TO COM ON FINANCE	05-03-99	
H1462	MILLER G	CLARIFY SALES TAX STRUCTURE	H -REF TO COM ON FINANCE	05-04-99	

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium HOUSE: FINANCE Valid Through 28-JUL-1999

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H1465	HARDAWAY	TAX-FREE BACK TO SCHOOL	H -REF TO COM ON FINANCE	05-10-99	
H1466	CANSLER	PENSION TAX WITHHOLDING	*H -PRES. TO GOV. 07-20	05-12-99	07-07-99
H1470	ALLEN	IMPAIRED DENTAL HYGIENISTS/FEE	*H -PRES. TO GOV. 07-19	05-13-99	06-08-99
H1471	CRAWFORD	ADJUST HIGHWAY BOND MATURITY	H -PRES. TO GOV. 07-19	05-13-99	07-06-99
H1472	HACKNEY	SIMPLIFY RENEWABLE ENERGY CREDITS	*R -CH. SL 99-0342	05-13-99	06-09-99
H1473	HACKNEY	RENEWABLE ENERGY MFR. CREDIT	*S -REF TO COM ON FINANCE	05-13-99	06-15-99
H1474	ALLRED	LOCAL OPTION FOOD TAX REPEAL	H -RE-REF COM ON FINANCE	07-07-99	
H1476	**MILLER G**	**CODE UPDATE/CRIM. DEADLINE/RESEARCH**	***H -RATIFIED**	**05-13-99**	**06-15-99**
H1477	MILLER G	CONFORM BANK TAX TO FEDERAL	H -REF TO COM ON FINANCE	05-13-99	
H1478	MILLER G	MAKE TAXES UNIFORM & SIMPLER	H -REF TO COM ON FINANCE	05-13-99	
H1479	MILLER G	NEWSPRINT TAX CREDIT CHANGE	*R -CH. SL 99-0346	05-13-99	06-21-99
H1480	MILLER G	INCREASE HOMESTEAD EXEMPTION	*H -RE-REF COM ON APPROP	05-18-99	05-19-99
H1481	MILLER G	AMEND TAX LAWS - 2	H -RE-REF COM ON FINANCE	06-24-99	
S 18	LEE	CARTHAGE CHARTER CONSOL/ANNEX	R -CH. SL 99-0239	04-07-99	06-15-99
S 29	KERR	COSMETOLOGY FEES	*R -CH. SL 99-0348	02-25-99	04-12-99
S 33=	WELLONS	CLAYTON SATELLITE ANNEXATION	R -CH. SL 99-0010	03-11-99	03-17-99
S 43=	DALTON	FOREST CITY/ALEXANDER MILLS	R -CH. SL 99-0009	03-03-99	03-17-99
S 44	SOLES	LAKE WACCAMAW ANNEXATION	*R -CH. SL 99-0046	04-14-99	05-10-99
S 55	COCHRANE	REVENUE LAWS TECHNICAL CHANGES	*R -CH. SL 99-0337	06-09-99	06-30-99
S 56=	LEE	SUNSET/TERM OF ENERGY SAVINGS CTRCT	*R -CH. SL 99-0235	05-27-99	06-15-99
S 59=	FOXX	MOBILE PHARMACIES	*R -CH. SL 99-0246	03-17-99	06-07-99
S 115=	GARWOOD	EXTEND BOND MATCH DEADLINE	H -RE-REF COM ON FINANCE	04-13-99	
S 222	REEVES	ELECTRONIC PAYMENT/INFO. TECH	*S -PRES. TO GOV. 07-21	05-27-99	06-28-99
S 235	HAGAN	"KIDS FIRST" REGISTRATION PLATES	R -CH. SL 99-0277	04-28-99	06-17-99
S 244=	HARTSELL	UNCLAIMED PROPERTY ACT	*S -PRES. TO GOV. 07-20	06-21-99	07-08-99
S 249=	ALBERTSON	CORE SOUND MORATORIUM/CRAB LICENSE	*R -CH. SL 99-0209	04-21-99	05-17-99
S 251	HORTON	MODIFY HISTORIC REHAB CREDIT	S -PRES. TO GOV. 07-15	06-29-99	07-08-99
S 254=	GULLEY W	OUTDOOR ADVERTISING CONTROL ACT	S -PRES. TO GOV. 07-20	07-12-99	07-13-99
S 269=	ODOM	HUNTERSVILLE SATELLITE ANNEXATION	R -CH. SL 99-0024	03-22-99	04-05-99
S 270	ODOM	HUNTERSVILLE VOLUNTARY ANNEXATION	*R -CH. SL 99-0019	03-22-99	04-01-99

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium HOUSE: FINANCE Valid Through 28-JUL-1999

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
S 271=	ODOM	HUNTERSVILLE ANNEXATION	R -CH. SL 99-0236	05-11-99	06-29-99
S 272	ODOM	LOCAL PHOTO ENFORCEMENT	H -RE-REF COM ON FINANCE	05-25-99	
S 285	WARREN E	UNIV. HEALTH SYS./JUDICIAL PLATES	*S -PRES. TO GOV. 07-20	06-24-99	07-13-99
S 290	MILLER B	LOBBYING LAW AMENDMENTS	*R -CH. SL 99-0338	06-23-99	07-01-99
S 297	CLODFELTER	LIMITED PARTNERSHIP LAW CHANGES	*S -PRES. TO GOV. 07-19	06-16-99	07-05-99
S 313=	CLODFELTER	MECKLENBURG STORMWATER FEES	R -CH. SL 99-0050	04-22-99	05-10-99
S 314=	PLYLER	MINERAL SPRINGS INCORPORATED	R -CH. SL 99-0175	04-27-99	05-31-99
S 323	KERR	WATERFOWL LICENSE CHANGES	*R -CH. SL 99-0339	05-19-99	06-23-99
S 325=	HOYLE	CONTINUING CARE RETIREMENT HOMES	*R -CH. SL 99-0191	04-28-99	05-31-99
S 353	ODOM	DAVIDSON SATELLITE ANNEXATION	*R -CH. SL 99-0085	04-29-99	05-18-99
S 391=	KINNAIRD	MOORE DEER HUNTING	H -RE-REF COM ON FINANCE	05-19-99	
S 436	PLYLER	VALIDATE CERTAIN BOND REFERENDA	R -CH. SL 99-0152	04-07-99	05-18-99
S 468	HORTON	WINSTON-SALEM/FORSYTH ASSESSMENTS	*R -CH. SL 99-0089	04-28-99	05-17-99
S 484	CLODFELTER	RMV TAX BUDGETING	*R -CH. SL 99-0261	04-23-99	06-17-99
S 499	HOYLE	BOAT REGISTRATION FEES	*S -PRES. TO GOV. 07-16	06-10-99	07-08-99
S 523	HAGAN	MODIFY GREENSBORO ROOM TAX USE	*R -CH. SL 99-0302	06-29-99	07-08-99
S 534	ALBERTSON	KENANSVILLE SERVICES	R -CH. SL 99-0054	04-28-99	05-13-99
S 547	HOYLE	TELECOMMUNICATIONS RELAY SERVICE	*S -PRES. TO GOV. 07-20	07-08-99	07-14-99
S 562	MILLER B	INS. FEE REPEALS AND INCREASES	*S -PRES. TO GOV. 07-20	07-12-99	07-13-99
S 618=	CARPENTER R	MACON COUNTY AIRPORT AUTHORITY	R -CH. SL 99-0238	04-29-99	06-15-99
S 619	MILLER B	FUQUAY ANNEX./HILLSBOROUGH MEALS TAX	*R -CH. SL 99-0304	06-21-99	07-08-99
S 622	KERR	NURSING HOME ADMIN.BD./FEES	*R -CH. SL 99-0217	04-13-99	06-01-99
S 625	LUCAS	DURHAM PRIVILEGE LICENSE TECHNICAL	R -CH. SL 99-0256	05-05-99	06-30-99
S 645	MARTIN R	PARMELE/FAIR BLUFF ANNEXATION	*R -CH. SL 99-0124	05-03-99	05-25-99
S 675	PLYLER	UNIONVILLE CHARTER CORRECTIONS	R -CH. SL 99-0090	04-22-99	05-19-99
S 691=	COCHRANE	BERMUDA RUN INCORPORATION	*R -CH. SL 99-0094	04-15-99	05-20-99
S 694	HARTSELL	RIMERTOWN INCORPORATION	*R -CH. SL 99-0284	04-28-99	06-30-99
S 708=	ODOM	AFFORDABLE HOUSING	*S -PRES. TO GOV. 07-19	05-11-99	07-01-99
S 712	ODOM	CORNELIUS SATELLITE ANNEXATION	R -CH. SL 99-0103	04-29-99	05-18-99
S 772=	CLODFELTER	EXPAND MUNICIPAL SERVICE DISTRICTS	S -PRES. TO GOV. 07-15	05-11-99	07-08-99

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium HOUSE: FINANCE Valid Through 28-JUL-1999

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
S 791	HOYLE	TEN YEAR DRIVERS LICENSE	*H -REF TO COM ON FINANCE	05-27-99	
S 796	HOYLE	GENERAL CONTRACTORS PROPERTY	R -CH. SL 99-0349	06-23-99	07-01-99
S 799	KERR	PHYSICAL THERAPY FEES	*R -CH. SL 99-0345	05-31-99	06-30-99
S 817	BALLANCE	REAL PROPERTY TAX PENALTY	*R -CH. SL 99-0297	05-25-99	06-30-99
S 835	CLODFELTER	REVISE LAW GOVERNING MERGERS	*S -PRES. TO GOV. 07-19	06-30-99	07-05-99
S 843	WEINSTEIN	NURSES AIDES II REGISTRY FEES	*R -CH. SL 99-0254	04-28-99	06-09-99
S 864=	GULLEY W	LAB TESTING FACILITY SALES TAX	*H -REF TO COM ON FINANCE	07-12-99	
S 878	KERR	NONPROFIT WATER CORP. LOANS	*R -CH. SL 99-0213	04-29-99	05-31-99
S 912	RAND	BONDS FOR HIGHER EDUCATION	*H -CONF COM APPOINTED	07-01-99	07-09-99
S 941	WARREN E	MANUFACTURED HOMES LAW CHANGES	*S -PRES. TO GOV. 07-16	06-29-99	07-08-99
S 968	SHAW L	WAIVER OF COMPETITIVE BIDDING MODIFI	*S -PRES. TO GOV. 07-20	07-13-99	07-15-99
S1043	**RAND**	**INTANGIBLES TAX SETTLEMENT**	***R -CH. SL 99-0327**	**07-08-99**	**07-08-99**
S1049	ALBERTSON	NEUSE RIVER BUFFER AMENDS	*S -PRES. TO GOV. 07-20	07-08-99	07-13-99
S1076	COOPER	REFORM LOCAL TAX ON RENTAL CARS	*S -PLACED ON CAL FOR 05-08	07-08-99	07-15-99
S1110	RAND	TECH. COMMERCIALIZATION CREDIT	*R -CH. SL 99-0305	06-21-99	07-08-99
S1112	KERR	NO SALES TAX FEE/OTHER CHANGES	*S -PRES. TO GOV. 07-21	06-21-99	06-29-99
S1115	KERR	AMEND BILL LEE ACT/INCENTIVES	*S -PRES. TO GOV. 07-19	06-01-99	06-24-99
S1161	HAGAN	RIPARIAN BUFFER TAX EXEMPT	*H -RE-REF COM ON APPROP	07-08-99	07-14-99

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

BILLS PASSED BY HOUSE FINANCE
July 20, 1999

Bill #	Short Title	Sponsor	Last Action	Information
H 19 V2	Casino Boats Regulated	Redwine	Fav Rept PCS 3/18	Staff pcs; 2 committee amendments incorporated into PCS
H 21 V2	Clayton Satellite Annexation	Creech	Passed S33, 3/16	2/25 Ref from LGII
H 43	Increase Fire and Rescue Pension	Dedmon	Withdrawn 3/2	
H 44 V2	Forest City Alexander Mills	Dedmon	Passed S43, 3/16	2/25 Ref from LGII
H 56	Eliminate Stamps for Deed Tax	Hill	Fav to PCS, 3/18	Revenue Laws DOR recommendation PCS removed the ($70,000) appropriation
H 62	EFT of Corporate Estimated Income Tax	Gray	Fav Rept 3/16	Revenue Laws = S 116 (Dalton) DOR recommendation $557,621 gain; ½ first year
H 74	Phase II Funds / Immunity / Tax-Exempt	Allen	Fav to CS 7/13	
H 95	Small Loan Revisions	Michaux	Withdrawn 4/7	
H 105	Butner Communitiy Governance	Crawford	Fav to CS 4/8	See file
H 120	Tax Lien Advertisement and Collection	Owens	4/22 Fav to PCS	Tax Subcomm created 3/16 Church, Braswell, McComas, Bridgeman
H 133	Exempt Disabled Veteran Vehicles	Rogers	Fav rept 7/1	
H 136	Exempt Child Care Property	Insko	7/8 Fav to CS	Tax
H 149	Reduce Pitt Co. Pistol Permit Fee	Warren	Fav Rept 3/23	

H 178	Jonesville Accidenet Reports/Weeds	Brown	Fav Rept 3/23	Ed thought it was unconst b/c local act concerning nuisances. Hackney questioned this b/c state law allows locals to abate nuisances. I didn't look at bill. Chair ruled const until challenged. Bill moved on.
H 221	Long Beach/Yaupon Beach	Redwine	Technical Amendment Fav Rept PCS 3/16	Ed handled =S219 (Soles) in Senate Finance
H 222 V2	Strengthen Littering Law	Mitchell	Re-ref to finance 3/22 from JIII	Fee
H 237	Boat Agent Fees	Gulley J.	Re-ref to finance 4/7 from Wildlife	Fee
H 239	Community College Property Transfers	Haire	Fav Rept 4/13	
H 240	UNC Nonappropriated Capital Projects	Inkso	6/16 Fav to CS	
H 251	Bakersville Delinquent Taxes	Thompson	Re-ref to finance 3/9 from Local Gov I	Local
H 259	Home Inspector Amendments	Jarrell	Fav to CS 3/23	Agency bill; Henry Jones; Diane Miller (AG – Insurance); CS technical; reogranizes. Summary tells differences. Prepared V2 summary without differences section.
H 275	Zero ESC Tax Rate	Redwine	Fav Rept 4/13	**Vote not to concur 6/17**
H 279	ESC Automation Funds	Redwine	7/6 Fav to CS	
H 280	Motor Vehicle Tech. Amendments	Cole	Fav to CS 4/20	Fee

H 286	Adoption Records and Registry	Earle	6/13 Unfav Rept	Fee
H 293	Proprietary Sch./Civil Penalties	Bridgeman	Fav Rept 4/27	Fee
H 301	Auctioneer Amendments	Culpepper	Fav to CS 4/8	See file
H 312	Code Officials Professionalism	Gibson	Fav to CS 4/1/99	
H 315	Motor Vehicle Tax Value	Wilson	Fav to CS 6/15	Tax
H 375	Oak Ridge Annexation	Decker	Fav Rept 3/23 Re-ref to finance	
H 377	Huntersville Satellite Annexation	Saunders	**Passed S 269 4/1**	3/24 Ref from LGI
H 394	Continuing Care Retirement Homes	Cansler & Wright	**=S 325 (Hoyle) Reptd. Out 5/31**	
H 419	Mount Airy Satellite Annexation	Hiatt	5/4 Fav rept	Local
H 428	Mineral Springs Incorporated	Melton	**=S 314 (Plyler) Reptd. Out 5/31**	
H 449	Farm Baling Equipment Tax Change	Nye	7/8 Fav rept	Tax
H 486	Parade Trailers – Permanent Plates	Moore	Fav to PCS. PCS consolidated and modernized statute	Authorizes issuance of permanent registration plate to trailers owned by charitable organizations and used only for parade floats or used to transport vehicles used only in parades. Cost of plate is $6.
H 504	Carteret Planning / Zoning Changes	Preston	4/20 Fav rept	Local

H 507	Cape Carteret Local Act	Smith	Fav Rept 6/30	Local
H 512	Assisted Living Administrators	Clary	Withdrawn 4/15	
H 519	Henderson Fire Districts	Justus	Fav Rept 6/30	Local
H 541	Buoy Fishing / Special Fishing Device	Mitchell	6/8 Fav to CS	Other
H 586	Macon County Airport Authority	Carpenter	=S 618 Reptd out 6/15	
H 597	Mecklenburg Stormwater Fees	Alexander	= S 313 (Clodfelter) Reptd. Out 5/10	
H 623	Pleasant Garden Changes	Brubaker	6/17 Fav to CS	
H 648	Benson Charter Revised	Daughtry	Fav to CS 4/8	CS replaces language concerning capacity fees with reference to past session law. Homebuilders concerned.
H 651	Brunswick Fire Fees	Redwine	Fav to CS 4/13	Technical amendment – incorporate into PCS
H 665	Modify Currituck Room Tax	Owens	Fav to Cs 5/18	Local
H 667	Roanoke Rapids Annexation	Crawford	7/6 Fav rept.	
H 672	Various Local Occupancy Taxes	Gibson	Fav to CS 6/17	
H 678	Acupunturist Reimbursement	Sherrill / Luebke	5/6 Fav rept	Tax
H 708	Sanford-Lee Airport Auth. Refunds	Cox	5/4 Fav rept	Tax; Should effective date be changed to a specific date? And apply to purchases made on or after that date?
H 723	Dark Window Inspection Fee	Insko	7/8 Fav to CS	Fee
H 734	Chapel Hill Local Act – 2	Insko	Fav Rept 5/27	Local

H 738	Greenville Satellite Annexations	Rogers	5/4 Fav rept	Local
H 740	Mount Airy Annexation Correction	Rogers	7/13 Fav rept	
H 755	Highway Lighting Service Districts	Yongue	4/20 Fav to CS	Other
H 764	Raise Mooresville Room Tax	Setzer	Fav PCS 5/25	Local
H 765	Wesley Chapel Boundaries	Melton	4/22 Fav rept	Local
H 781	Catawba Annexations	Setzer	Fav rept 7/1	Local
H 782	Wilkes Fire Districts	Brown	Fav to CS 6/15	
H 784	Bermuda Run Incorporation	Howard	**=S 691 (Cochrane). Reptd out 5/20**	
H 794	Farmville Annexation	Warrren E.	Fav Rept 6/17	Local
H 812	Remove Sunset / Craven Proceeds Use	Thomas	4/20 Fav rept	Local
H 830	Translyvania Room Tax Penalties	Walend	Fav to PCS, 5/13	Local
H 845	Greenville Utilities Commission	McLawhorn	Fav Rept 5/13	Local
H 852	Hickory/ Mocksville Annexations	Buchanan	4/20 Fav to CS	Local
H 863	St. James Incorporation	Redwine	Fav Rept 4/13	
H 867	Wilson Annexations	Fitch	Fav to CS 6/17	Local
H 900	Gates County Fire Protection	Hunter	5/6 Fav rept	Local
HB 964	Municipal Incorporation Process	Jarrell	6/10 Fav to CS	

H 1009	Funds for Agricultural Research	Hill	5/6 Fav rept	Tax
H 1010	Cotton Gins, Warehouses, Merchants	Hill	Fav to CS 7/1	
H 1069	Social Worker Licensure	Alexander	Fav to PCS w/amendts. 5/27	Fee
H 1082	Licensing Selling of Cars	Saunders	6/23 Fav to CS	
H 1084	County Bonds for Landbanking	McMahan	Fav to CS 6/30	Tax
H 1090	I.A.F.F. Registration Plate	Moore R.	Fav PCS 5/25	Fee
H 1095	Clinical Pharmacist Practitioner	Allen	Fav to PCS 5/13	Fee
H 1096	Register of Deed Amends	Hill	5/6 Fav to CS	Fee
H 1098	Amend Sedimentation Act	Hackney	Fav Rept 6/24	
H 1120	Authorize Public Hospital Debt	Wright	7/13 Fav rept	
H 1132	Preserve Farmlands/Small Farms	Insko	Re-ref to Agri. 5/17	
H 1133	Health Ins./Liability	Hackney	Fav Rept, re-refer to Insurance 5/27	
H 1134	UNC/Horace Williams Campus	Insko	Fav Rept 5/18	Fee
H 1153	Retired Physician License	Justus	7/7 Fav to CS	Fee
H 1177	Locksmith Licensure - 2	Ellis	Fav to CS 7/5	Fee
H 1190	Desert Storm Plates	Sexton	Fav Rept 6/17	Fee

H 1233	Structural Pest Control Amendments	Hill	Fav Rept 6/29	
H 1237	Landscape Architects Exam Fee	McMahan	Fav Rept 4/27	Fee
H 1246	Animal Lovers Special Plate	Clary	Fav to CS 6/23	Fee
H 1289	Limit Recycling Tax Incentives	Luebke	Fav to CS 6/30	Tax
H 1290	Limit Recycling Tax Incentives	Luebke	Fav to CS 6/24	Tax
H 1302	Charter School Fuel Exemption	Bonner	Fav Rept 5/27	Tax
H 1308	Government Sales Tax Exemption	Allen	4/22 Fav to CS	Tax
H 1326	Dry-Cleaning Solvent Cleanup Amends	Gibson	7/7 Fav to CS	Tax
H 1327	Definitions of Development Zone	Bonner	Re-ref to EcnGrwth 5/19	Tax
H 1340	Respiratory Care Practice Act	Tolson	7/6 Fav rept	
H 1397	Expand Development Zones	Cole	6/8 Fav Rept	
H 1433	Use Tax Payment/Other Changes	Miller G. Allen	Fav to CS 6/22	Tax
H 1434	Coastal Recreational Fishing License	Redwine	Fav to CS 6/29	
H 1466	Pension Tax Withholding	Cansler	7/6 Fav to CS	Tax
H 1470	Impaired Dental Hygienists / Fee	Allen	6/7 Fav to CS	Fee
H 1471	Adjust Highway Bond Maturity	Crawford	7/6 Fav rept	Tax
H 1472	Simplify Renewable Energy Credits	Hackney	6/8 Fav to CS	Tax

H 1473	Renewable Energy MFR. Credit	Hackney	Fav to CS 6/15	Tax
H 1476	Update I.R.C. Reference	Miller Luebke Allen	Fav to CS 6/15	
H 1479	Newsprint Tax Credit Change	Miller G.	Fav to CS 6/16	Tax
H 1480	Increase Homestead Exemption	Miller G.	Fav to CS 5/19	
Senate Bills				
S 18	Carthage Charter Consolidation	Lee	6/10 Fav rept	Local
S 29	Cosmetology Fees	Kerr	Fav to CS 4/8	Amendment to delay effective date
S 33 V2	Clayton Satellite Annexation	Wellons	Fav Rept 3/16	=H 21
S 43 V2	Forest City/Alexander Mills	Dalton	Fav Rept 3/16	=H 44
S 44	Lake Waccamaw Annexation	Soles	5/6 Fav Rept	Local
S 55	Revenue Laws Technical Changes	Cochrane	6/30 Fav to CS	
S 56	Sunset / Term of Energy Savings CTRCT	Lee	Fav rept 6/15	Rep. Rogers to handle in House
S 59 V3	Mobile Pharmacies	Foxx	6/7 Fav to CS	Fee
S 222	Government Accept Electronic Payment	Reeves	Fav to CS 6/22	
S 235	"Kids First" Registration Plates	Hagan	Fav to CS 6/17	
S 244	Unclaimed Property Act	Hartsell	7/8 Fav to CS	
S 249	Extend Core Sound Moratorium	Albertson	Fav to PCS 5/13	Fee

S 251	Modify Historic Rehab Credit	Horton	7/8 Fav to CS	
S 254	Outdoor Advertising Control Act	W. Gulley	7/13 Fav to CS	
S 269	Huntersville Satellite annexation	Odom	Fav to CS 4/1/99	=H 377 (Saunders) Loc Gov I. Amendment to add "in that county" per Huntersville attorney request.
S 270	Huntersville voluntary annexation	Odom	Fav Rept 4/1/99	Line 13, Martha H. thinks language re: required time should be clarified—town attorney wanted to keep language the way it is. Unconstitutional? Difference of opinion. Gerry Cohen thinks no; Bill Campbell thinks unconst classification of property. Didn't use Martha's language be/c Martha W. already asked Odom and he didn't want to change it. Summary brought out constitutional flags. Hackney questioned some.
S 271	Huntersville Annexation	Odom	Fav Rept 6/29	Local
S 285	Univ. Health Sys. /Judicial Plates	Warren E.	7/13 Fav to CS	
S 290	Lobbying Law Amendments	Miller B.	Fav to CS 6/30	
S 297	Limited Partnership Law Changes	Clodfelter	Fav to CS 7/1	
S 313	Mecklenburg Stormwater Fees	Clodfelter	5/6 Fav Rept	Local
S 314	Mineral Springs Incorporated	Plyler	Fav Rept 5/27	Local
S 323	Waterfowl License Changes	Kerr	Fav to CS 6/22	Fee

S 325	Continuing Care Retirement Homes	Hoyle	Fav Rept 5/25	Tax
S 353	Davidson Satellite Annexation	Odom	Fav Rept 5/18	Local
S 436	Validate Certain Bond Referenda	Plyler	Fav Rept 5/18	Other
S 468	Winston-Salem / Forsyth Assessments	Horton	Fav Rept 5/13	Local
S 484	RMV Tax Budgeting	Clodfelter	Fav Rept 6/16	Tax
S 499	Boat Registration Fees	Hoyle	7/8 Fav rept	
S 523	Modify Greensboro Room Tax Use	Hagan	7/8 Fav to CS	
S 534	Kenansville Services	Albertson	Fav Rept 5/13	Local
S 547	Telecommunicat -ions Relay Service	Hoyle	7/14	
S 562	Ins. Fee Repeals and Increases	B. Miller	7/13	
S 618	Macon County Airport Authority	Carpenter R.	6/9 Fav to CS	Local
S 619	Fuquay-Varina Annexations	Miller B.	7/8 Fav to CS	Local
S 622	Nursing Home Admin. Bd./Fees	Kerr	Fav to PCS w/amendts. 5/27	Fee
S 625	Durham Privilege License Technical	Lucas	6/30 Fav to CS	Tax
S 645	Parmele Bluff Annexation	Martin R.	Fav Rept 5/25	Local
S 675	Unionville Charter Corrections	Plyler	Fav Rept 5/19	Local
S 691	Bermuda Run Incorporation	Cochrane	Fav Rept 5/20	Local Is comm. sub.
S 694	Rimertown Incorporation	Hartsell	6/30 Fav rept	Local

S 708	Affordable Housing	Odom	Fav to CS 6/30	Tax
S 712	Cornelius Voluntary Annexation	Odom	Fav to CS 5/18	Local
S 772	Expand Municipal Service Districts	Clodfelter	7/8 Fav rept	
S 796	General Contractors Property	Hoyle	Fav rept 7/1	
S 799	Physical Therapy Fees	Kerr	Fav Rept 6/30	Fee
S 817	Real Property Tax Penalty	Ballance	Fav Rept 6/30	Tax
S 835	Revise Law Governing Mergers	Clodfelter	Fav to CS 7/1	
S 843	Nurses Aide II Registry Fees	Weinstein	6/8 Fav to CS	Fee
S 878	Nonprofit Water Corp. Loans	Kerr	Fav PCS 5/25	Tax
S 912	Bonds for Higher Education	Rand	7/9 Fav to CS	
S 941	Manufactured Homes Law Changes	Warren E.	7/8 Fav rept	
S 968	Waiver of Competitive Bidding Mods.	L. Shaw	7/15 Fav rept	
S 1043	Intangibles Tax Settlement	Rand	7/8 Fav to CS	
S 1049	Neuse River Buffer Amends	Albertson	7/13 Fav rept	
S 1076	Reform Local Tax on Rental Cars	Cooper	7/15 Fav to CS	
S 1110	Tech. Commercializati -on Credit	Rand	7/8 Fav to CS	Tax
S 1112	No Sales Tax Fee/Other Changes	Kerr	Fav to CS 6/29	

S 1115	Amend Bill Lee Act/Incentives	Kerr	Fav to CS 6/23	
S 1161	Riparian Buffer Tax Exempt	Hagan	7/14 Fav to CS	

HOUSE FINANCE COMMITTEE

Thursday, February 18, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

AGENDA:

Introduction of House Finance Staff
Presentation on Income Tax Treatment of Pension Income
Report on the Bailey Settlement

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

February 18, 1999

The House Committee on Finance met on Thursday, February 22, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. Staff present included David Crotts, Cindy Avrette, Richard Bostic, Martha Harris, Ed Rossi, Martha Walston, and Linda Millsaps.

Chair Miller called the meeting to order.

The House Finance Committee members introduced themselves. The House Finance staff introduced themselves.

The members heard presentations on income tax treatment of pension income and a staff report on the Bailey settlement.

There being no further business, the Chair adjourned the meeting at 10:00 a.m.

Respectfully submitted:

Representative George Miller
Chair

Lillie Pearce
Assistant to the Committee

2/18/99

BAILEY SETTLEMENT ADMINISTRATION

STATUS REPORT

JANUARY 19, 1999

Details of the refund plan have now been determined and effort is underway to carry out the Court Ordered process.

Refunds will be calculated using the following:
The amount of over payment for each year will be the lesser of:
1) The actual taxes paid less credits (other than federal retiree credits),
or
2) An amount determined by multiplying the total Government Retirement Benefits received, less the Government exclusion, by the Effective Tax Rate. The Effective Tax Rate is the tax paid to the State divided by the North Carolina taxable income.

The total overpayment amounts for all years, 1989-1997, is the principle amount due each NC State, Local Government or Federal (civil service or military) retiree.

The initial refund to State Retirees will be the overpayment amount reduced by the Court Ordered 15% Set Aside to cover all Costs and Fees, and the negotiated reduction to 95%. The resultant net refund of 80.75% of the taxes paid will constitute the first refund to NC State and Local Government Retirees.

The initial refund to Federal Retirees will be the overpayment amount reduced by the Court Ordered 15% Set Aside to cover all Costs and Fees, and the negotiated reduction to 70%. The resultant net refund of 59.5% of the taxes paid will constitute the first refund to Federal Retirees.

Claim Forms, with accompanying instructions, will start going out to State and Local Retirees in March 1999. Claim Forms for Federal Retirees will be delayed until late July, since the second of the two-part payment to the Settlement Fund by the NC General Assembly will not come before July 15, 1999.

The Instruction Packet, accompanying the Claim Form, will contain detailed information as to the procedures to be followed should you wish to dispute the amounts shown on your Claim Form. Also included with each packet is the information to guide you through the process of reopening an Estate.

If the calculations shown on your Claim Form are acceptable to you, then you need only sign, certifying your approval, and return the Claim Form. Your refund will be processed and a check returned to you as expeditiously as possible. If you had changes in filing status, however, you must provide information as to the type of changes (death, divorce, marriage, etc.) on the form provided for this purpose.

A second refund round will be sent out to all retirees late in the year 2000. This second refund, adjusted by the same percentages shown herein, will first cover any principal amount (overpayment amount) not yet recovered, and then interest amounts due you. The actual amounts you receive will depend on the remaining funds available. At such time as State Retirees reach a total of 80.75% of the total (principal and interest), any remaining funds will be utilized to bring the Federal Retirees up to the same level. Should there be additional funds remaining, both groups will be increased at the same rate from that point upward.

2/18/99

HISTORY OF INTANGIBLES TAX

Prior to 1995: North Carolina levied an intangibles tax of 25 cents per $100 market value of stock and shares in mutual funds, with an exemption for the proportion of corporate stock equal to the percentage of the corporation's business that was conducted in North Carolina. Thus, stock of a corporation that did 55% of its business in North Carolina was 55% exempt from the intangibles tax. If a company conducted all of its business in North Carolina, the shares of stock would be totally exempt. This exemption was known as the "taxable percentage" deduction.

Fulton: Fulton Corporation challenged the intangibles tax on stock on the grounds that the tax violated the Commerce Clause of the United States Constitution because it provided for a reduction of the tax in proportion to the issuing company's income taxed in North Carolina. The superior court upheld the tax as constitutional.

Court of Appeals: In 1993, the Court of Appeals reversed the superior court ruling, finding the taxable percentage deduction unconstitutional. The Court eliminated the deduction and ordered the intangibles tax on stock to be paid without any reduction based on income taxes paid to the State. It did not order a refund of taxes previously paid.

Supreme Court: In 1994, the North Carolina Supreme Court reversed the Court of Appeals, holding that the taxable percentage deduction did not violate the Commerce Clause.

Repeal of the Tax: In 1995, the General Assembly repealed the intangibles taxes on stocks, bonds, mutual funds, and accounts receivable.

USSC: In 1996, the United States Supreme Court reversed the North Carolina Supreme Court, agreeing with N. C. Court of Appeals that the taxable percentage deduction violated the Commerce Clause. It sent the case back to the North Carolina Supreme Court to "fashion a remedy".

Supreme Court: On February 10, 1997, the North Carolina Supreme Court ruled that the part of the intangible tax on stock that the United States Supreme Court held unconstitutional, the taxable percentage deduction,

should be severed from the statute and that the balance of the statute should be enforced. This left the intangible tax on stock to be enforced without any reduction for stock of corporations doing business in North Carolina. The Court also ruled that the tax applied retroactively. The Court's opinion made it possible for holders of North Carolina stock to be assessed by the Department of Revenue for tax due on the value of stock that was excluded from tax because of the unconstitutional deduction. Taxes could have been assessed for three back tax years for those who filed a return and for an indefinite period for those who did not file a return.

March 10, 1997: The Secretary of Revenue notified the General Assembly of a decision to comply with the N. C. Supreme Court ruling by directing the Department of Revenue to propose tax assessments against taxpayers who had not paid tax in certain prior years because of the taxable percentage deduction.

S.L. 1997-17: On April 9, 1997, the 1997 General Assembly passed a bill directing the Secretary of Revenue to take no action to assess or collect retroactive intangibles tax on stock from any taxpayer for liability arising solely from the taxpayer's use of the taxable percentage deduction. The enactment of the bill made the State liable for refunds to protesters for 1990-94.

Smith case: This is a class action lawsuit brought on behalf of both protesters and nonprotesters. The plaintiffs seek refunds of the stock tax for 1991 through 1994. On June 11, 1997, the court ordered refunds with interest to the protesters.

S.L. 1997-318: On July 21, 1997, the 1997 General Assembly passed a bill providing a refund of the intangibles tax on stock, with interest, to intangibles taxpayers who made a timely protest. The bill did not provide relief to nonprotesters.

Refunds: The principal amount of the stock tax for 1992-94 was refunded in September 1997 to protesters (both those who are part of the lawsuit and those who are not) and checks representing the interest due were mailed out in late-1997 to protesters after the Court determined attorneys' fees. These fees were deducted from the interest checks.

Nonprotesters: Several bills were introduced in 1997-98 to refund the intangibles tax on stock to nonprotesters, but none of the legislation passed.

Smith case: On December 4, 1998, the North Carolina Supreme Court ruled in favor of the nonprotesters. The ruling means that taxpayers who paid the intangibles tax on stock without protesting its payment will be entitled to a refund with interest. It is unclear what tax years the

opinion covers: 1991 through 1994 ($354 million of refunds and interest) or 1990 through 1994.($458 million) The Court ruled that the intangible tax must be imposed uniformly under Article V, Section 2(2) of the North Carolina Constitution. The Court reasoned that when it severed the unconstitutional taxable percentage deduction in Fulton in February 1997, the tax was uniformly applicable and enforceable against all taxpayers. In response to this decision, the General Assembly forgave the tax liability for the group of taxpayers who benefited from the unconstitutional taxable percentage deduction for tax years 1990 through 1994 in S.L. 1997-17. It also granted a refund to taxpayers who protested the constitutional it the intangibles tax for tax years 1990-1994 in S.L. 1997-318. The Court ruled that these legislative actions violated the constitutional provisions relating to the uniformity of taxation.

Superior Court: The case has been remanded to the superior court to determine the details. The Court could rule that all of the refunds and interest must be paid in one year or could allow the State to pay over many years. Briefs and oral arguments to the Superior Court will probably be made over the next two or three months. Other issues to be resolved by the Court include certification of the class, notification of class members and attorney fees.

Governor's Budget: The Governor's recommended budget for the 1999-01 biennium listed the $354 million impact of the Court decision along with a number of other one-time funding issues that added up to $1.1 billion. This list includes $400 million of refunds and interest to public sector retirees resulting from another lawsuit. The budget summary did include a list of items that could be used to address the $1.1 billion of requirement. The option list added up to more than $1.1 billion but the Governor did not recommend which items should be used. The language in the summary suggested that the Governor is awaiting clarification on the timetable for paying refunds and interest before recommending a particular source of funding.

Toll Free Number: The Department of Revenue has a toll free number for intangible tax questions. It is 1-888-627-3386.

2/16/99

BAILEY SETTLEMENT ADMINISTRATION

STATUS REPORT

JANUARY 19, 1999

Details of the refund plan have now been determined and effort is underway to carry out the Court Ordered process.

Refunds will be calculated using the following:

The amount of over payment for each year will be the lesser of:

1) The actual taxes paid less credits (other than federal retiree credits), or

2) An amount determined by multiplying the total Government Retirement Benefits received, less the Government exclusion, by the Effective Tax Rate. The Effective Tax Rate is the tax paid to the State divided by the North Carolina taxable income.

The total overpayment amounts for all years, 1989-1997, is the principle amount due each NC State, Local Government or Federal (civil service or military) retiree.

The initial refund to State Retirees will be the overpayment amount reduced by the Court Ordered 15% Set Aside to cover all Costs and Fees, and the negotiated reduction to 95%. The resultant net refund of 80.75% of the taxes paid will constitute the first refund to NC State and Local Government Retirees.

The initial refund to Federal Retirees will be the overpayment amount reduced by the Court Ordered 15% Set Aside to cover all Costs and Fees, and the negotiated reduction to 70%. The resultant net refund of 59.5% of the taxes paid will constitute the first refund to Federal Retirees.

Claim Forms, with accompanying instructions, will start going out to State and Local Retirees in March 1999. Claim Forms for Federal Retirees will be delayed until late July, since the second of the two-part payment to the Settlement Fund by the NC General Assembly will not come before July 15, 1999.

The Instruction Packet, accompanying the Claim Form, will contain detailed information as to the procedures to be followed should you wish to dispute the amounts shown on your Claim Form. Also included with each packet is the information to guide you through the process of reopening an Estate.

If the calculations shown on your Claim Form are acceptable to you, then you need only sign, certifying your approval, and return the Claim Form. Your refund will be processed and a check returned to you as expeditiously as possible. If you had changes in filing status, however, you must provide information as to the type of changes (death, divorce, marriage, etc.) on the form provided for this purpose.

A second refund round will be sent out to all retirees late in the year 2000. This second refund, adjusted by the same percentages shown herein, will first cover any principal amount (overpayment amount) not yet recovered, and then interest amounts due you. The actual amounts you receive will depend on the remaining funds available. At such time as State Retirees reach a total of 80.75% of the total (principal and interest), any remaining funds will be utilized to bring the Federal Retirees up to the same level. Should there be additional funds remaining, both groups will be increased at the same rate from that point upward.

Cindy Avrette

North Carolina Income Tax Treatment Of Government Pension Income

History of Court Cases

Davis: The United States Supreme Court ruled in *Davis v. Michigan* that the doctrine of intergovernmental immunity prohibits a state from taxing federal retirement income at a higher rate than State retirement income. Prior to 1989, North Carolina allowed a $3,000 income tax exclusion for federal and military retirees and allowed a full income exclusion for State retirement income. To comply with the Davis decision, the General Assembly in 1989 allowed all government retirees, both State and federal, a $4,000 exclusion. It also gave private retirees a $2,000 exclusion.

Tax Credit: The Davis decision was issued on March 28, 1989, the middle of the income tax filing period for the 1988 year. Those taxpayers who learned about it in time paid under protest. Those who paid early or did not become aware of the Davis decision until later did not pay under protest. To equalize the treatment of those who paid under protest for 1988 and those who did not, the General Assembly enacted a tax credit for 1988 taxes. The credit for 1988 tax was not refundable and was not allowed to deceased federal retirees. The 1988 credit was payable in three installments.

Swanson: The federal retirees who had not complied with the 30 day protest rule brought a class action suit against the State asking for a refund of the taxes paid pursuant to the unconstitutional tax for tax years 1985 through 1988. The North Carolina Supreme Court ruled that the federal retirees who did not contest the payment of the tax within 30 days after its payment were procedurally barred from recovering the refunds sought because they did not comply with the State's statutory postpayment refund demand procedure. The federal retirees who requested a refund pursuant to the 30-day rule received a refund. The United States Supreme Court ended the six year legal battle between the federal retirees and the State in December 1994 when it announced that it would not hear the case, thereby letting the decision of the North Carolina Supreme Court stand.

1996: During the Second Extra Session of 1996, the General Assembly gave relief to federal retirees who did not protest the payment of income tax on their government pension income. The law gave income tax credits and partial refunds for the North Carolina income taxes the retirees paid on their federal retirement benefits in 1985, 1986, 1987, and 1988. A retiree could claim an income tax credit equal to the net pension tax on those benefits. The credit had to be taken in three equal installments, beginning

with the 1996 tax year. The legislation provided for a one-time refund in lieu of a credit for taxpayers whose 1996 tax liability was less than 5% of their net pension tax. The refund was equal to 85% of the pension tax paid for the 1985-88 tax years. If a retiree entitled to the credit or refund had died, the legislation provided that the decedent's estate could claim the credit or refund.

1997: The General Assembly provided additional relief to federal retirees who paid unconstitutional North Carolina income tax on their federal retirement benefits in 1985, 1986, 1987, and 1988, but did not protest or request a refund with 30 days, as required by law at that time. The legislation allowed federal retirees to carry forward for two years the unused portion of their tax credit for payment of these taxes if they could not claim the entire credit because the credit exceeded their tax liability. The act also allowed the surviving spouse to claim the decedent's tax credit, including the two-year carry forward.

Bailey I: In 1990, State and local retirees sued North Carolina regarding the 1989 change of their tax exemption from a 100% exemption to an exemption for the first $4,000 in government retirement benefits received each year. The plaintiffs claimed that the reduction of their retirement benefits was unconstitutional and sought refunds of taxes paid in 1989 and later years. The North Carolina Supreme Court ruled that the plaintiffs were entitled to no relief because they had failed to comply with the 30-day protest rule.

Bailey II: In 1992, *Bailey II* was filed as a class action on behalf of all State and local retirees who individually complied with the 30-day protest requirement for the 1989, 1990, and 1991 tax years. In May 1995, the trial court ruled in favor of the plaintiffs, holding that taxation of retirement benefits earned and vested before August 12, 1989, is a breach of contract. It voided the 1989 act of the General Assembly that repealed the 100% tax exemption for State and local retirement benefits, as it applies to benefits earned and vested before August 12, 1989. On May 8, 1998, the North Carolina Supreme Court affirmed the trial court's decision. The case applies only to State and local retirees but the same relief must be granted to federal retirees under the federal doctrine of intergovernmental tax immunities. The Court held that both protesters and nonprotesters are entitled to refunds.

Settlement: The President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Class Counsel for the plaintiffs signed a consent order settling the *Bailey, Emory,* and *Patton* lawsuits in June of 1998. The consent order provides for the payment of $799 million in refunds to federal, state, and local government retirees. The refund allocation will be paid out over two fiscal years: $400 million in FY 98-99 and $399 million

in FY 99-00. Retirees eligible for refunds are those who were receiving retirement allowances by reason of 5 years creditable service in a federal government retirement system or a North Carolina state or local government retirement system as of August 12, 1989. These persons with 5 years creditable service as of August 12, 1989, will also not be taxed in the future on their retirement benefits. The refund monies will be paid into a settlement fund which will be administered by the Class Counsel under the supervision of the court.

Web Site: Retirees affected by the cases may contact the class counsel. The toll free number is 1-877-TAX-CASE (1-877-829-2273). The web site is also a good source for information and forms. The address is: http://baileypatton.wcsr.com.

Other States' Pension: North Carolina's statutes treat all states' government retirees alike by giving them a $4,000 exemption. The *Bailey* case granted a greater exemption only to certain vested North Carolina government retirees and, indirectly, certain vested federal government retirees. The court granted this greater exemption to certain retirees based on its finding that there was a special contract with those retirees. There is no such contract with retirees from other states or with retirees who have not vested as of August 1989. Therefore, all other government retirees, such as those North Carolina and federal retirees who were not vested as of August 12, 1989 and all retirees from other states, will be subject to the same law as before: a $4,000 annual exemption.

2/4/99

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **FINANCE** will meet:

DAY & DATE: **Thursday, February 18, 1999**

TIME: **9:00 A.M.**

LOCATION: **Room 544 LOB**

Respectfully,

Representatives Miller, Luebke, Allen
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **4:45 P.M.** on Feb. 17,1999.

___Principal Clerk
___Reading Clerk - House Chamber

Lillie Pearce (Committee Clerk)

HOUSE FINANCE COMMITTEE

Monday, February 22, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

AGENDA:

Staff Presentation
Mr. Don Liner and an overview of the N.C. Tax System

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

February 22, 1999

The House Committee on Finance met on Monday, February 22, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m.

The Chairman Allen called the meeting to order to hear a presentation by staff.

The Chairman recognized Don Liner of the University of North Carolina Institute of Government. Mr. Liner gave an overview of the North Carolina Tax System and its history and trends. In addition, Mr. Liner answered members' questions regarding his presentation.

There being no further business, the Chair adjourned the meeting at 10:00 a.m.

Respectfully submitted:

Representative Gordon Allen
Chairman

Lillie Pearce
Assistant to the Committee

#I

2/23/99

22

North Carolina's Tax System

Don Liner
Institute of Government
February 18, 1999

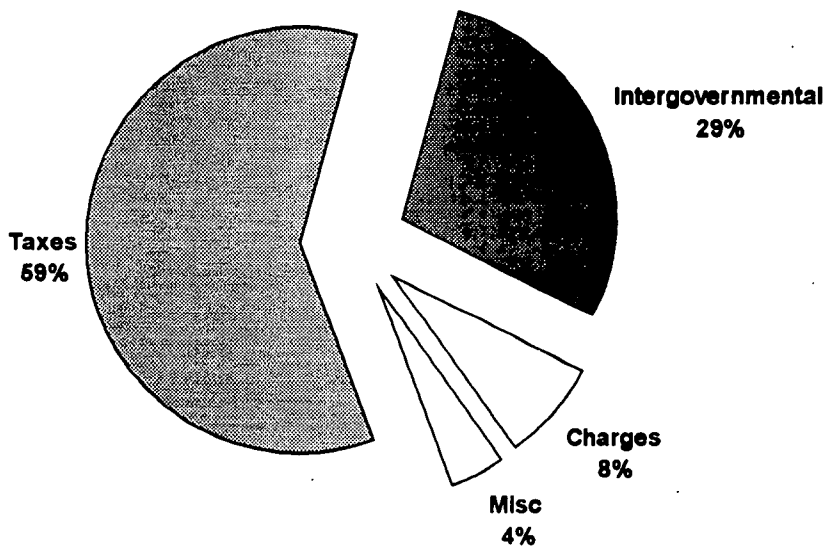
The General Assembly is responsible for authorizing both state and local taxes

The North Carolina Constitution:

- The power of taxation shall be exercised in a just and equitable manner, for public purposes only, and shall never be surrendered, suspended, or contracted away. (Art. V, Sec. 2)

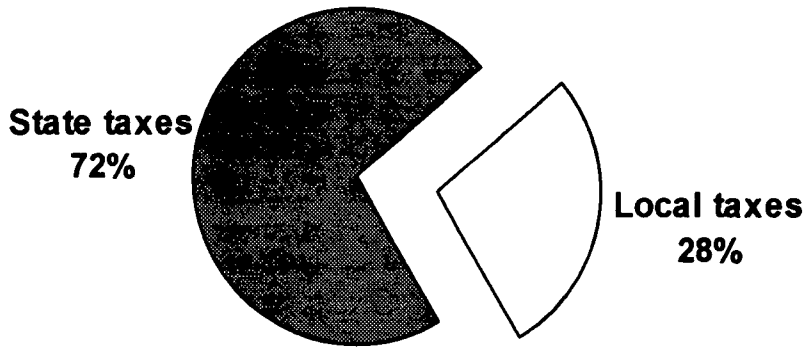
- No law shall be enacted…to impose any tax upon the people of the State, or to allow the counties, cities, or towns to do so, unless the bill for the purpose shall have been read three several times in each house… (Art. II, Sec. 2)

State Government Sources of Revenue, by Type



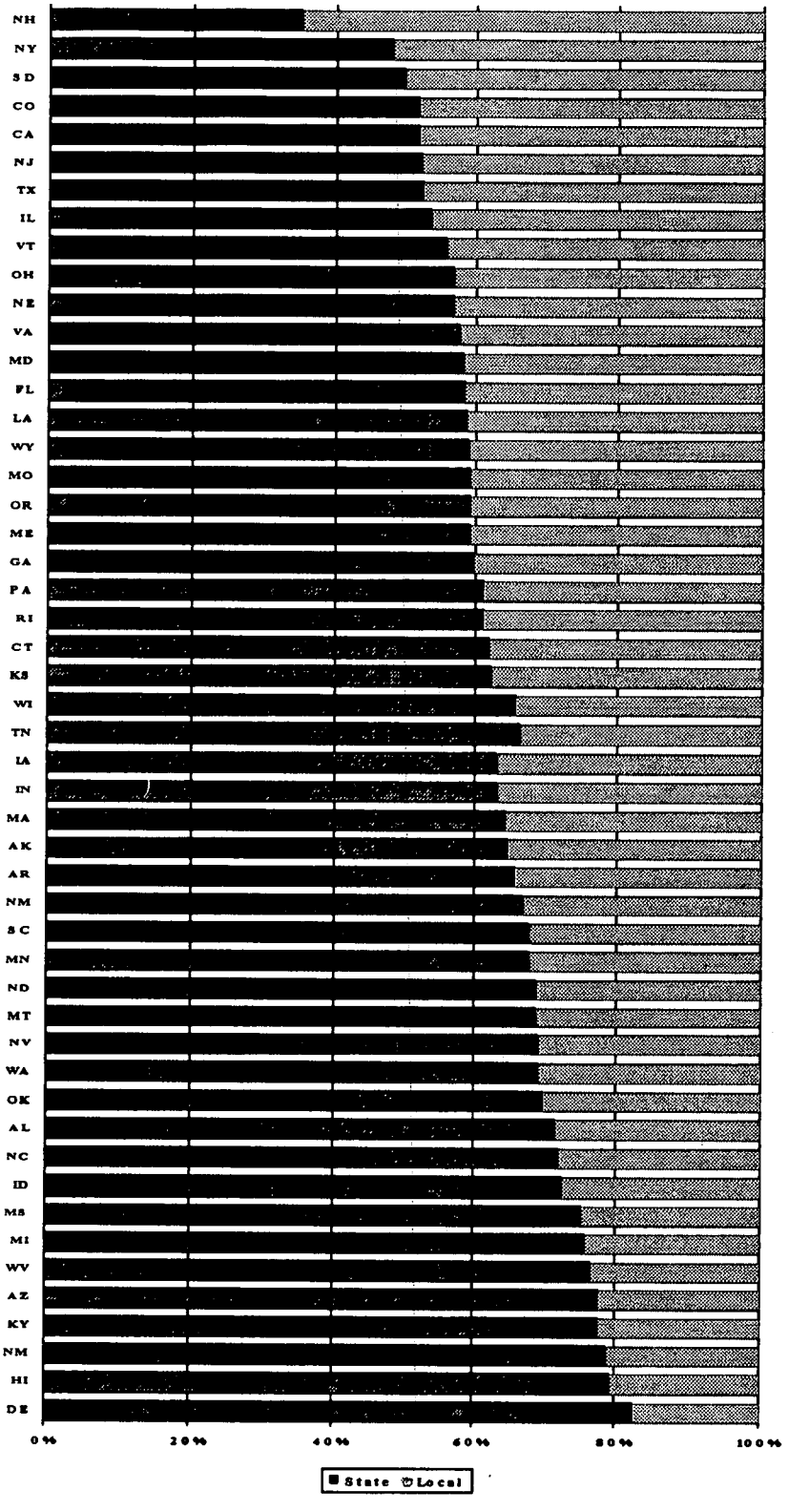
Total general revenue, 1994-95: $19.2 billion

Financial Responsibility is Centralized in North Carolina



Shares of total state and local taxes collected in North Carolina

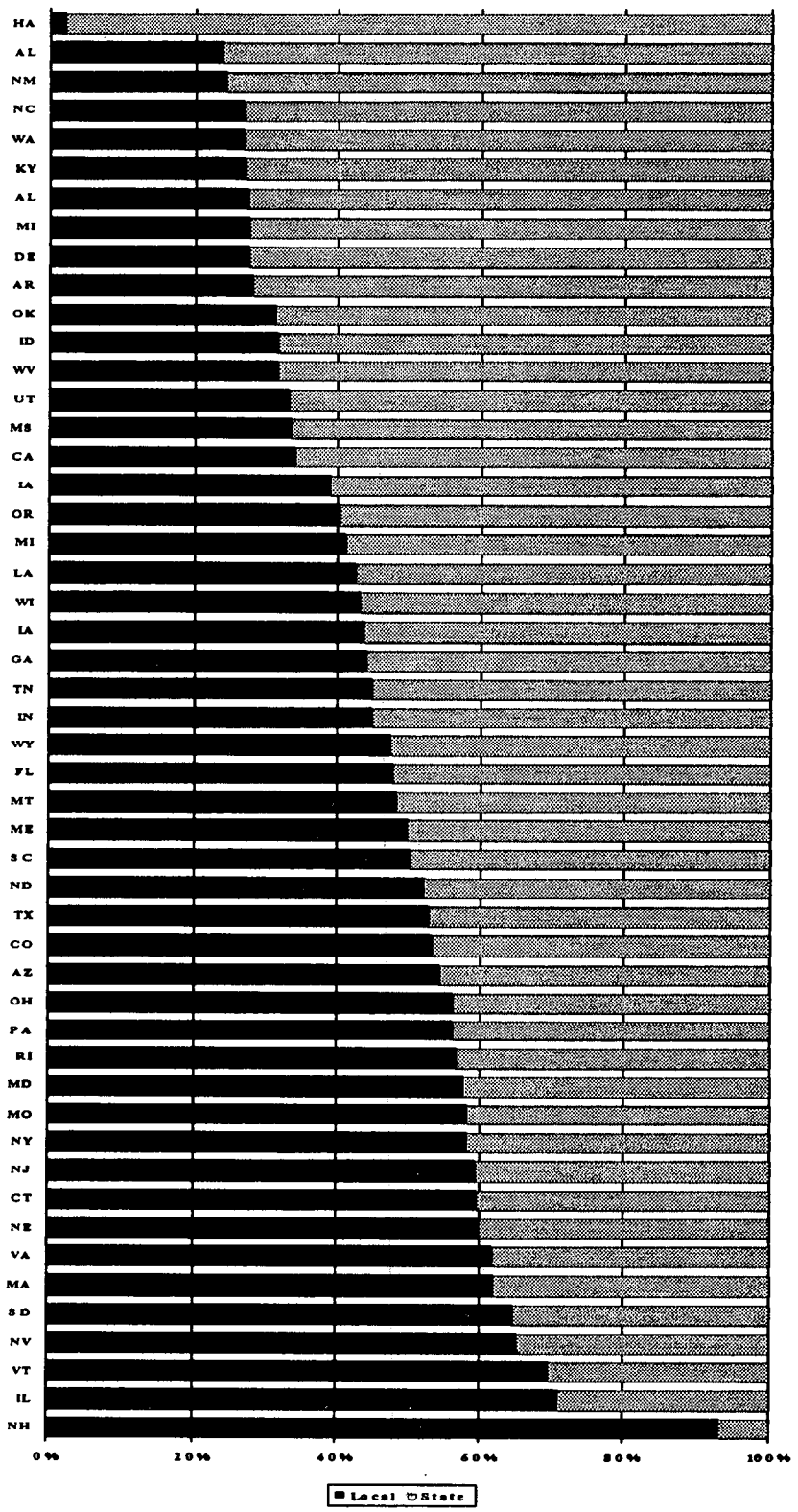
State taxes as % of total state and local taxes



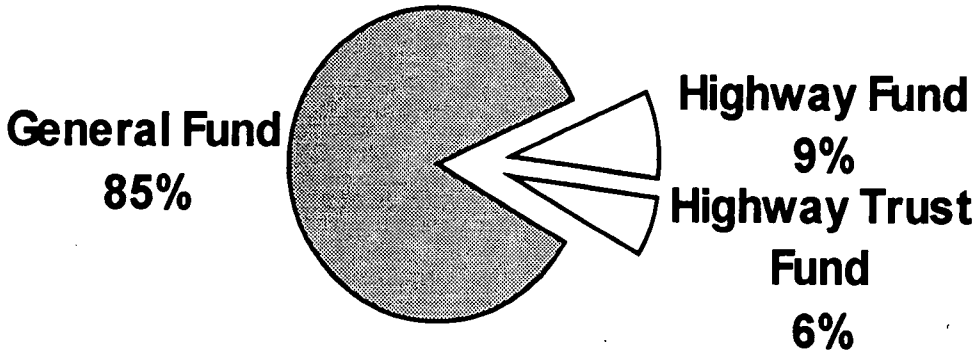
Reasons for Centralized Financial Responsibility

- **Public schools**. The state pays 89% of the cost of regular instruction programs in the public schools and 67% of total operating costs of the public schools.
- **Highways and roads**. The state is responsible for all highways and roads except city streets that are not part of the state thoroughfare system.
- **Social services**. The state pays the major share of major welfare and medical assistance programs administered by counties.
- **Corrections**. The state is responsible for all prisoners sentenced to 30 days or more in jail or prison.
- **Judicial system**. The state administers the entire courts and judicial system.
- **Community colleges**. The state is primarily responsible for the community college system.
- **Shared revenues and bases**. Local retail sales taxes and gasoline taxes, in addition to beverage, utility franchise, and real estate transfer taxes.

Local Share of State and Local Revenue for Schools



Tax Revenue by Fund



Amounts in millions:

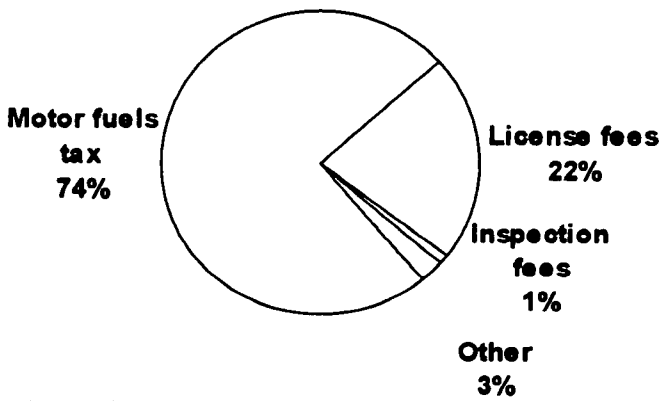
General Fund $11,092.4

Highway Fund $1,099.6

Highway Trust Fund $794.8

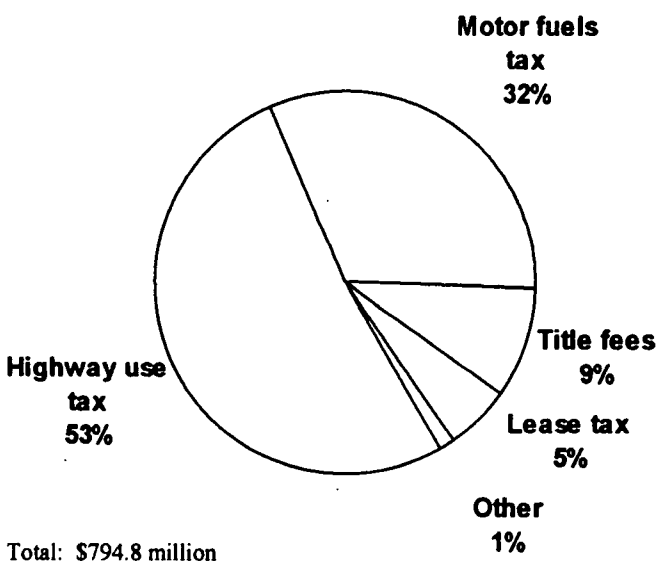
Highway-related Revenue

Highway Fund



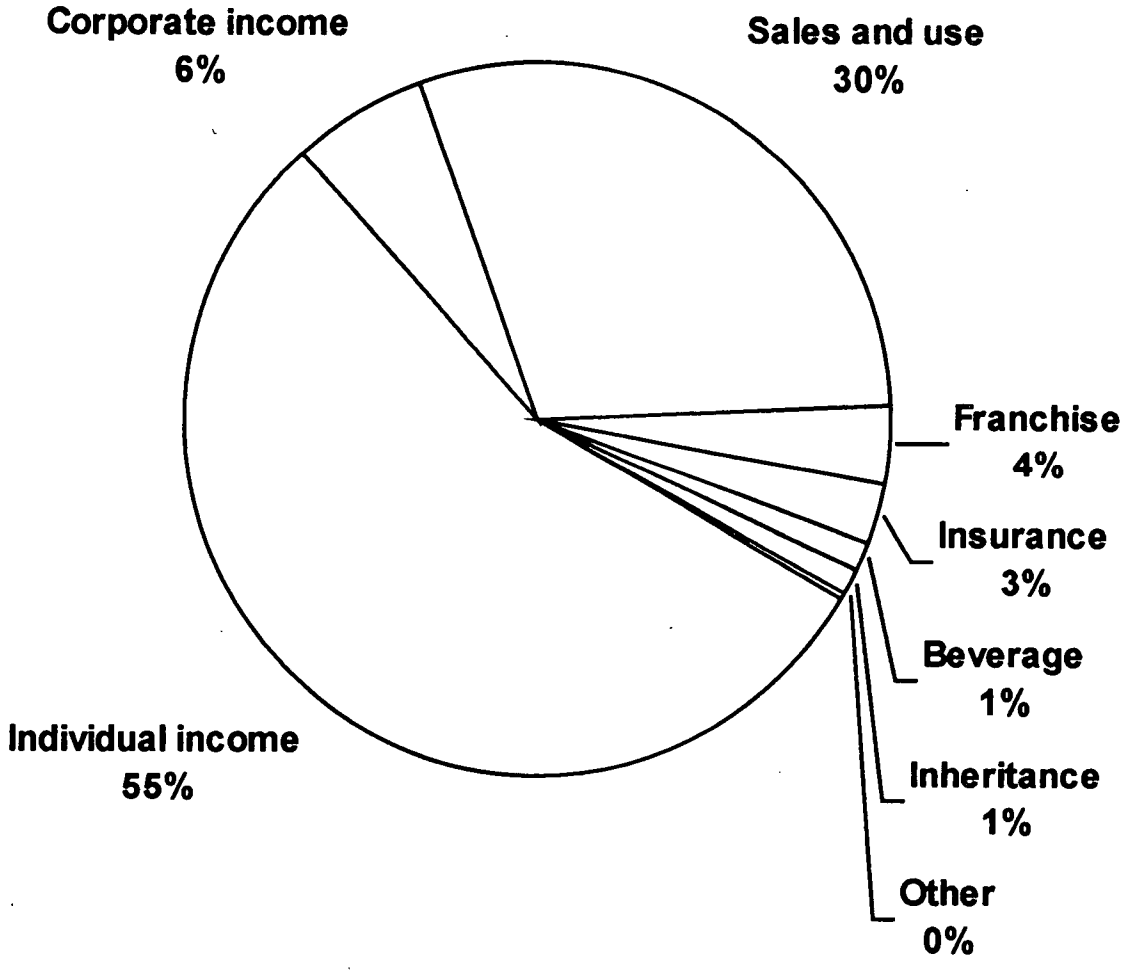
Total: $1099 million

Highway Trust Fund



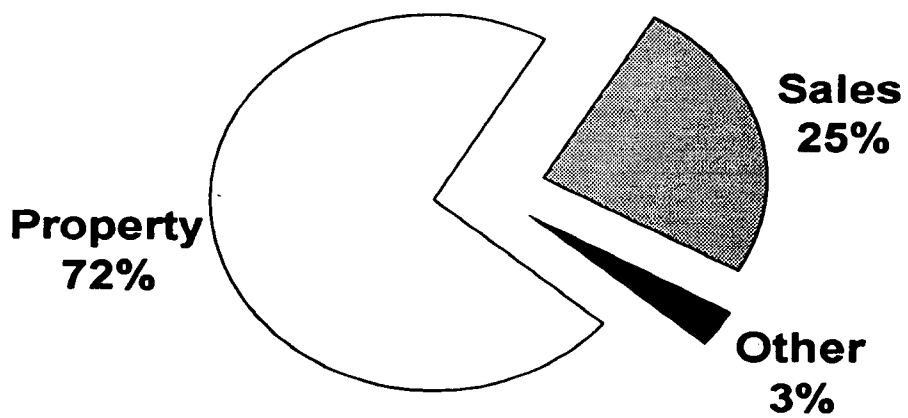
Total: $794.8 million

General Fund Tax Revenue



Total: $11,092.4 million

Local Government Tax Sources



Other taxes:

- Privilege license 1.2%
- Room occupancy 1.1%
- Excise stamp 0.5%
- Liquor by the drink
- Utility franchise
- Land transfer
- Animal
- Motor vehicle license
- 911 charges
- Flat household charges
- Admission
- Prepared food

Total tax revenue: $4.547 billion

HOUSE FINANCE COMMITTEE

Tuesday, February 23, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

AGENDA:

Cindy Avrette and History of Intangibles Tax
Mr. Don Liner and an overview of the N.C. Tax System

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

February 23, 1999

The House Committee on Finance met on Tuesday, February 23, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m.

Chair Allen called the meeting to order to hear a presentation by staff.

The Chair recognized Don Liner of the University of North Carolina Institute of Government. Mr. Liner continued his presentation from yesterday to provide an overview of the North Carolina Tax System and its history and trends. In addition, Mr. Liner answered members' questions regarding his presentation.

The Chair recognized Cindy Avrette of the Research staff to give a presentation on the history of intangibles tax.

There being no further business, the Chair adjourned the meeting at 10:00 a.m.

Respectfully submitted:

Representative Gordon Allen
Chair

Lillie Pearce

Lillie Pearce
Assistant to the Committee

#I
2/23/99

North Carolina's Tax System

Don Liner
Institute of Government
February 18, 1999

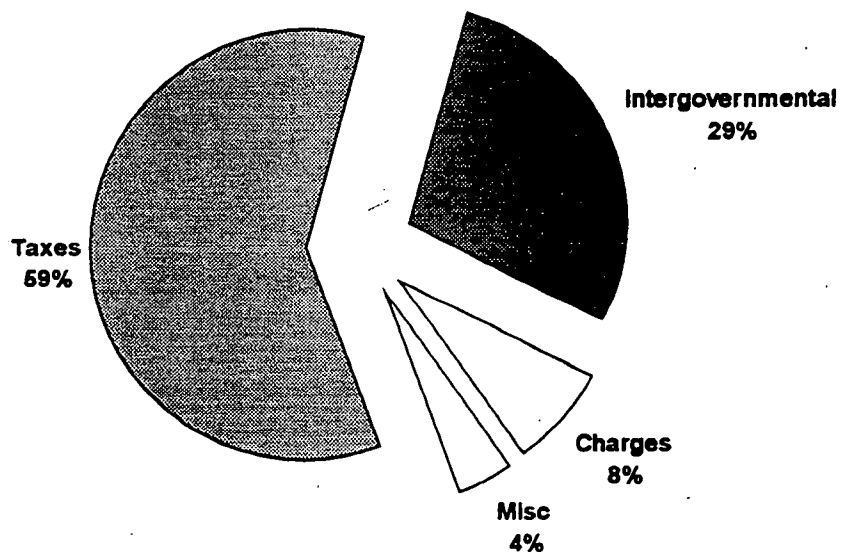
The General Assembly is responsible for authorizing both state and local taxes

The North Carolina Constitution:

- The power of taxation shall be exercised in a just and equitable manner, for public purposes only, and shall never be surrendered, suspended, or contracted away. (Art. V, Sec. 2)

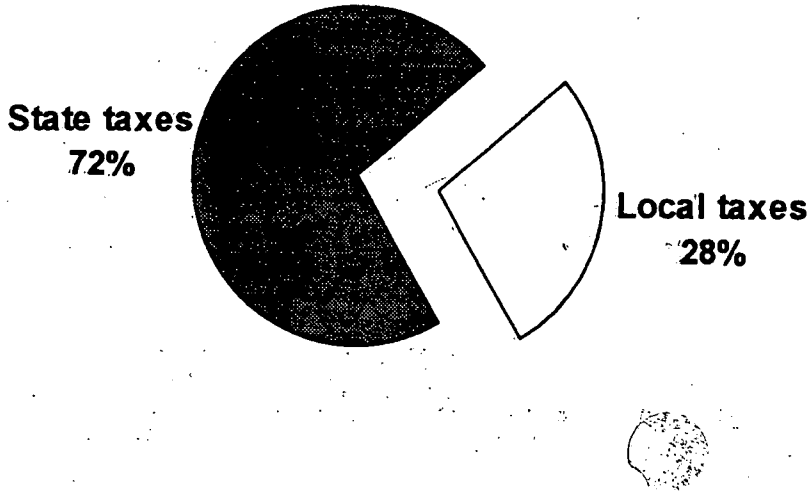
- No law shall be enacted…to impose any tax upon the people of the State, or to allow the counties, cities, or towns to do so, unless the bill for the purpose shall have been read three several times in each house… (Art. II, Sec. 2)

State Government Sources of Revenue, by Type



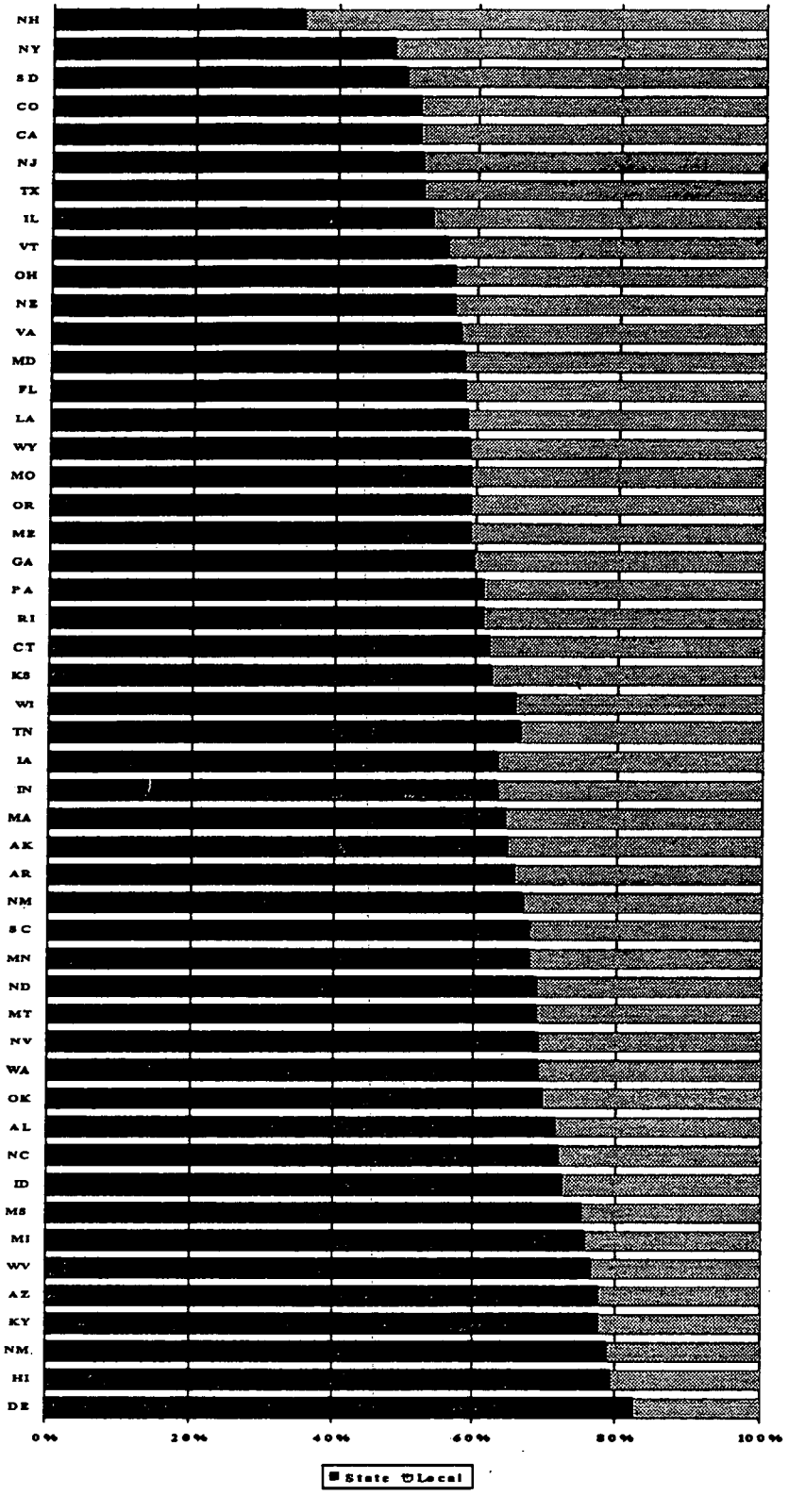
Total general revenue, 1994-95: $19.2 billion

Financial Responsibility is Centralized in North Carolina



Shares of total state and local taxes collected in North Carolina

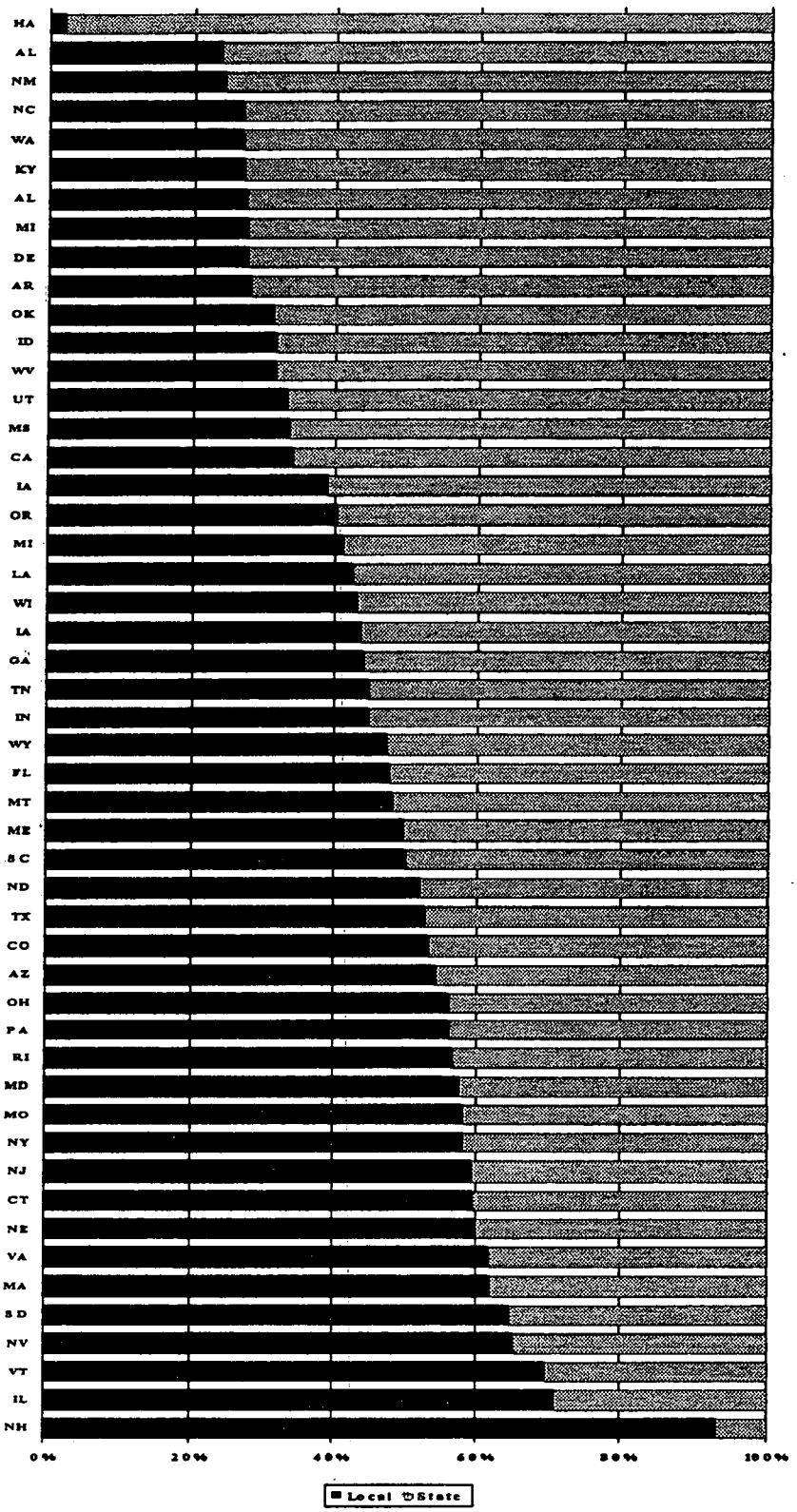
State taxes as % of total state and local taxes



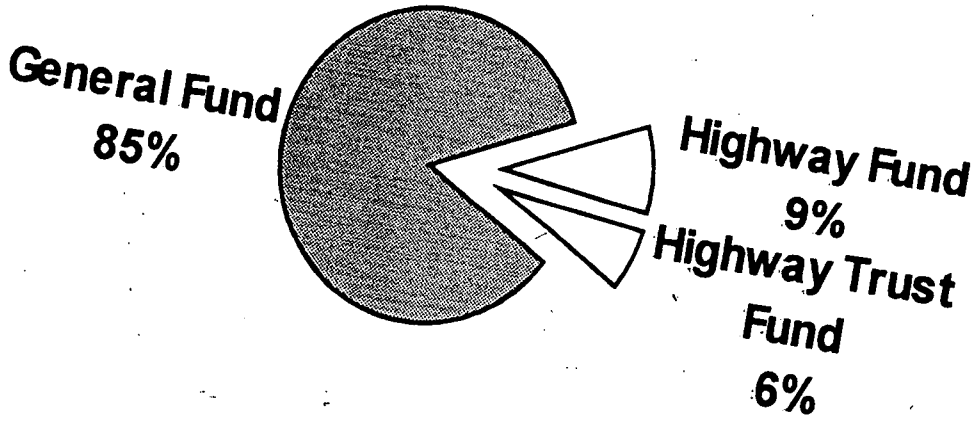
Reasons for Centralized Financial Responsibility

- **Public schools.** The state pays 89% of the cost of regular instruction programs in the public schools and 67% of total operating costs of the public schools.
- **Highways and roads.** The state is responsible for all highways and roads except city streets that are not part of the state thoroughfare system.
- **Social services.** The state pays the major share of major welfare and medical assistance programs administered by counties.
- **Corrections.** The state is responsible for all prisoners sentenced to 30 days or more in jail or prison.
- **Judicial system.** The state administers the entire courts and judicial system.
- **Community colleges.** The state is primarily responsible for the community college system.
- **Shared revenues and bases.** Local retail sales taxes and gasoline taxes, in addition to beverage, utility franchise, and real estate transfer taxes.

Local Share of State and Local Revenue for Schools



Tax Revenue by Fund



Amounts in millions:

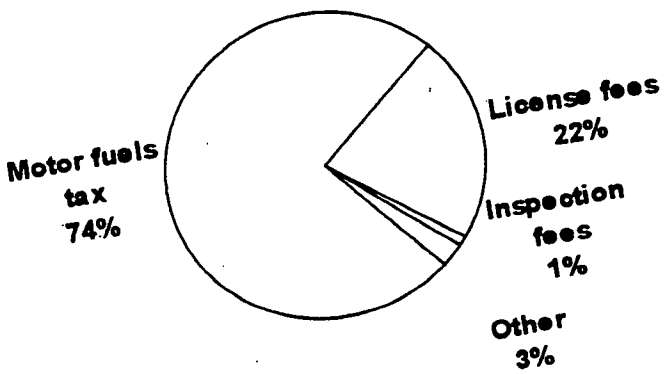
General Fund $11,092.4

Highway Fund $1,099.6

Highway Trust Fund $794.8

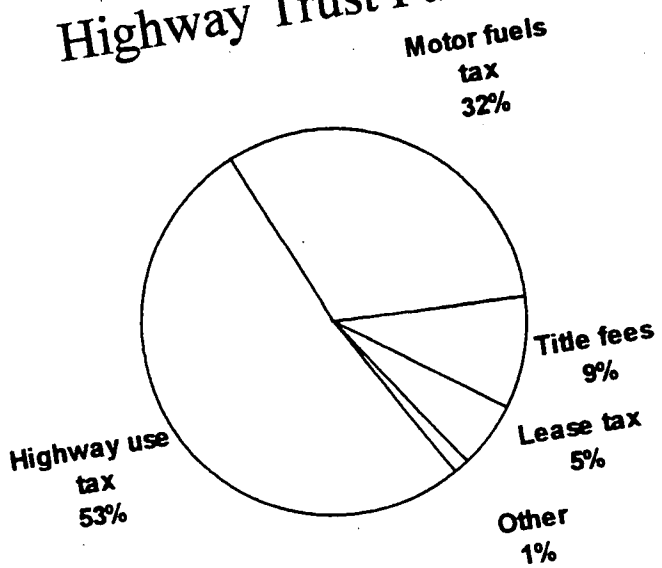
Highway-related Revenue

Highway Fund



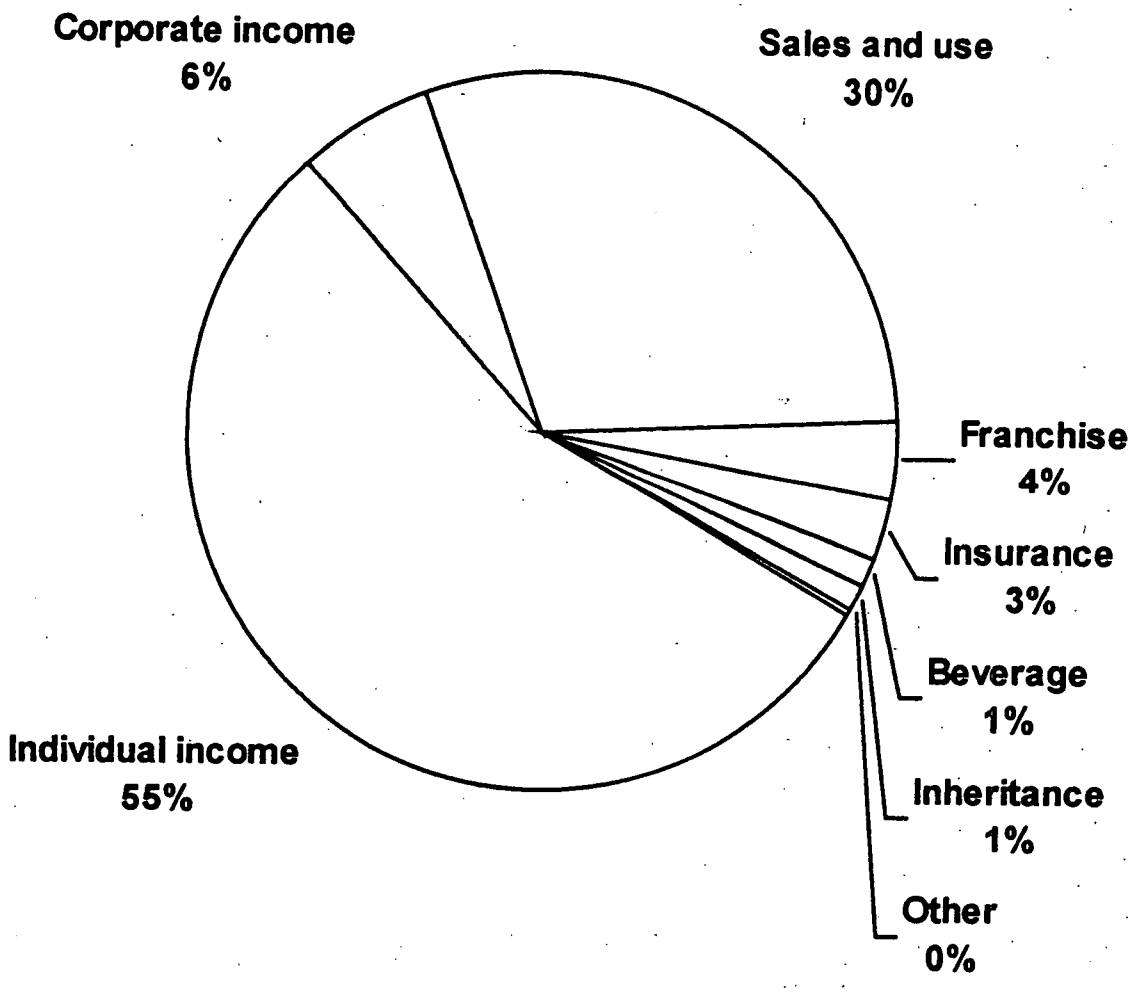
Total: $1099 million

Highway Trust Fund



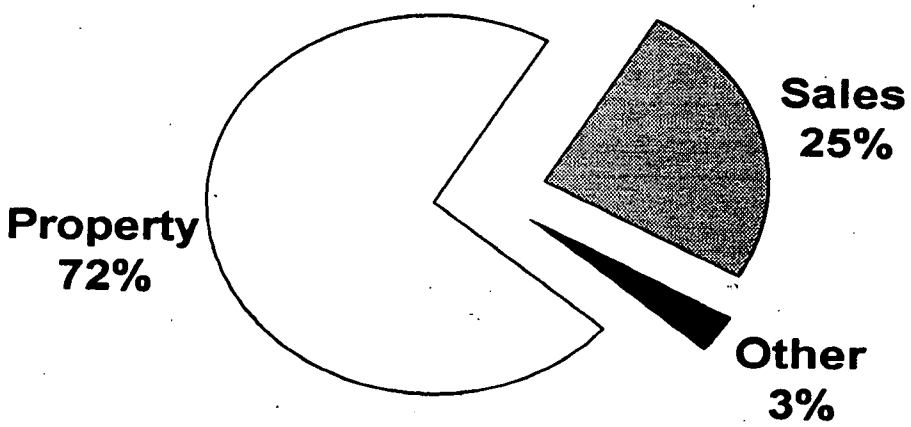
Total: $794.8 million

General Fund Tax Revenue



Total: $11,092.4 million

Local Government Tax Sources



Other taxes:

- Privilege license 1.2%
- Room occupancy 1.1%
- Excise stamp 0.5%
- Liquor by the drink
- Utility franchise
- Land transfer
- Animal
- Motor vehicle license
- 911 charges
- Flat household charges
- Admission
- Prepared food

Total tax revenue: $4.547 billion

VISITOR REGISTRATION SHEET

Finance — 2-23-99
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Tim Preston	Sanford Herald
Paul Gipson	OSBM
Rob Holliday	Legislative Intern
David Simmons	ZDA, PA
Zeb Alley	ZDA PA
Mark Dixon	Capitol Group
Jean Blackburn	N.C. Assoc. of County Commr's
Andy Romont	N.C.L.M.
Ed Regan	N.C.A.C.C.
S Markham	EGHS
Nan Hall	City of Durham
Laura A. Hill	City of Durham
P. Lamont Ewell	"
Alicia Gregory	Poyner & Spruill
Patricia Lowen	NCACC

HISTORY OF INTANGIBLES TAX

Cindy Avrette

Prior to 1995: North Carolina levied an intangibles tax of 25 cents per $100 market value of stock and shares in mutual funds, with an exemption for the proportion of corporate stock equal to the percentage of the corporation's business that was conducted in North Carolina. Thus, stock of a corporation that did 55% of its business in North Carolina was 55% exempt from the intangibles tax. If a company conducted all of its business in North Carolina, the shares of stock would be totally exempt. This exemption was known as the "taxable percentage" deduction.

Fulton: Fulton Corporation challenged the intangibles tax on stock on the grounds that the tax violated the Commerce Clause of the United States Constitution because it provided for a reduction of the tax in proportion to the issuing company's income taxed in North Carolina. The superior court upheld the tax as constitutional.

Court of Appeals: In 1993, the Court of Appeals reversed the superior court ruling, finding the taxable percentage deduction unconstitutional. The Court eliminated the deduction and ordered the intangibles tax on stock to be paid without any reduction based on income taxes paid to the State. It did not order a refund of taxes previously paid.

Supreme Court: In 1994, the North Carolina Supreme Court reversed the Court of Appeals, holding that the taxable percentage deduction did not violate the Commerce Clause.

Repeal of the Tax: In 1995, the General Assembly repealed the intangibles taxes on stocks, bonds, mutual funds, and accounts receivable.

USSC: In 1996, the United States Supreme Court reversed the North Carolina Supreme Court, agreeing with N. C. Court of Appeals that the taxable percentage deduction violated the Commerce Clause. It sent the case back to the North Carolina Supreme Court to "fashion a remedy".

Supreme Court: On February 10, 1997, the North Carolina Supreme Court ruled that the part of the intangible tax on stock that the United States Supreme Court held unconstitutional, the taxable percentage deduction,

should be severed from the statute and that the balance of the statute should be enforced. This left the intangible tax on stock to be enforced without any reduction for stock of corporations doing business in North Carolina. The Court also ruled that the tax applied retroactively. The Court's opinion made it possible for holders of North Carolina stock to be assessed by the Department of Revenue for tax due on the value of stock that was excluded from tax because of the unconstitutional deduction. Taxes could have been assessed for three back tax years for those who filed a return and for an indefinite period for those who did not file a return.

March 10, 1997: The Secretary of Revenue notified the General Assembly of a decision to comply with the N. C. Supreme Court ruling by directing the Department of Revenue to propose tax assessments against taxpayers who had not paid tax in certain prior years because of the taxable percentage deduction.

S.L. 1997-17: On April 9, 1997, the 1997 General Assembly passed a bill directing the Secretary of Revenue to take no action to assess or collect retroactive intangibles tax on stock from any taxpayer for liability arising solely from the taxpayer's use of the taxable percentage deduction. The enactment of the bill made the State liable for refunds to protesters for 1990-94.

Smith case: This is a class action lawsuit brought on behalf of both protesters and nonprotesters. The plaintiffs seek refunds of the stock tax for 1991 through 1994. On June 11, 1997, the court ordered refunds with interest to the protesters.

S.L. 1997-318: On July 21, 1997, the 1997 General Assembly passed a bill providing a refund of the intangibles tax on stock, with interest, to intangibles taxpayers who made a timely protest. The bill did not provide relief to nonprotesters.

Refunds: The principal amount of the stock tax for 1992-94 was refunded in September 1997 to protesters (both those who are part of the lawsuit and those who are not) and checks representing the interest due were mailed out in late-1997 to protesters after the Court determined attorneys' fees. These fees were deducted from the interest checks.

Nonprotesters: Several bills were introduced in 1997-98 to refund the intangibles tax on stock to nonprotesters, but none of the legislation passed.

Smith case: On December 4, 1998, the North Carolina Supreme Court ruled in favor of the nonprotesters. The ruling means that taxpayers who paid the intangibles tax on stock without protesting its payment will be entitled to a refund with interest. It is unclear what tax years the

opinion covers: 1991 through 1994 ($354 million of refunds and interest) or 1990 through 1994.($458 million) The Court ruled that the intangible tax must be imposed uniformly under Article V, Section 2(2) of the North Carolina Constitution. The Court reasoned that when it severed the unconstitutional taxable percentage deduction in Fulton in February 1997, the tax was uniformly applicable and enforceable against all taxpayers. In response to this decision, the General Assembly forgave the tax liability for the group of taxpayers who benefited from the unconstitutional taxable percentage deduction for tax years 1990 through 1994 in S.L. 1997-17. It also granted a refund to taxpayers who protested the constitutional it the intangibles tax for tax years 1990-1994 in S.L. 1997-318. The Court ruled that these legislative actions violated the constitutional provisions relating to the uniformity of taxation.

Superior Court: The case has been remanded to the superior court to determine the details. The Court could rule that all of the refunds and interest must be paid in one year or could allow the State to pay over many years. Briefs and oral arguments to the Superior Court will probably be made over the next two or three months. Other issues to be resolved by the Court include certification of the class, notification of class members and attorney fees.

Governor's Budget: The Governor's recommended budget for the 1999-01 biennium listed the $354 million impact of the Court decision along with a number of other one-time funding issues that added up to $1.1 billion. This list includes $400 million of refunds and interest to public sector retirees resulting from another lawsuit. The budget summary did include a list of items that could be used to address the $1.1 billion of requirement. The option list added up to more than $1.1 billion but the Governor did not recommend which items should be used. The language in the summary suggested that the Governor is awaiting clarification on the timetable for paying refunds and interest before recommending a particular source of funding.

Toll Free Number: The Department of Revenue has a toll free number for intangible tax questions. It is 1-888-627-3386.

2/16/99

HOUSE FINANCE COMMITTEE

Wednesday, February 24, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

AGENDA:

Paul Zippen - N.C. Tax Structure and Trends
Harlan Boyles, Treasurer - Annual Report on Fiscal Condition of N.C.

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

February 24, 1999

The House Committee on Finance met on Wednesday, February 24, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m.

Chair Luebke called the meeting to order to hear a presentation by staff.

The Chair recognized Paul Zippen of the State Budget and Management office to give an overview of the North Carolina tax structure and fiscal trends. Handouts are included in these minutes.

The Chair recognized Harlan Boyles, the N.C. State Treasurer, to give an annual report on the fiscal condition of the state. Handouts are included in these minutes.

There being no further business, the Chair adjourned the meeting at 10:00 a.m.

Respectfully submitted:

Representative Paul Luebke
Chairman

Lillie Pearce

Lillie Pearce
Assistant to the Committee

Zipen #1

SOURCES OF STATE AND LOCAL

TAX REVENUE

February 23, 1999

Office of State Budget and Management

TABLE 1

GENERAL FUND TAX COLLECTIONS
1997-98
($MILLIONS)

Tax	Collections	Percentage Distribution	Five Year Average Adjusted Growth Rate
Individual Income	$6,029	54.4%	10.8%
Sales and Use	3,255	29.3%	7.5%
Corporate Income	696	6.3%	8.8%
Franchise	407	3.7%	6.1%
Insurance	284	2.6%	7.5%
Alcoholic Beverage	154	1.4%	2.2%
Inheritance	138	1.2%	9.8%
Soft Drink	23	0.2%	5.1%
Privilege License	37	0.3%	6.5%
Cigarette and Tobacco	47	0.4%	1.7%
Gift	21	0.2%	20.3%
Miscellaneous	1	0.0%	11.5%
TOTAL	$11,092	100.0%	8.8%

TABLE 2

HIGHWAY FUND FUND TAX COLLECTIONS
1997-98
($MILLIONS)

Tax	Collections	Percentage Distribution	Five Year Average Adjusted Growth Rate
Motor Fuels	$775	70.5%	3.2%
Staggered Registration	134	12.2%	3.7%
Driver Licenses	70	6.4%	
Truck Plates	54	4.9%	2.3%
International Registration Plan	42	3.8%	7.5%
Other	25	2.3%	2.2%
TOTAL	$1,100	100.0%	3.3%

TABLE 3

HIGHWAY TRUST FUND FUND TAX COLLECTIONS
1997-98
($MILLIONS)

Tax	Collections	Percentage Distribution	Five Year Average Adjusted Growth Rate
Motor Fuels	$255	32.1%	3.2%
Motor Vechicle Use	453	57.0%	11.1%
Title/Registrations/Lien	87	10.9%	6.8%
TOTAL	$795	100.0%	7.8%

TABLE 4

LOCAL GOVERNMENT TAX COLLECTIONS
1997-98
($MILLIONS)

Tax	Collections	Percentage Distribution	Five Year Average Adjusted Growth Rate
Property	$3,900	69.1%	7.0%
Sales and Use	1,390	24.6%	7.7%
Privilege	71	1.3%	8.5%
Utility	152	2.7%	5.3%
Occupancy(*)	70	1.2%	n.a.
Conveyances	26	0.5%	10.2%
Beer and Wine	24	0.4%	3.5%
Liquor By-the-Drink	6	0.1%	4.7%
Land Transfer(*)	5	0.1%	n.a.
TOTAL	$5,644	100.0%	7.2%

01/24/99

State of North Carolina
Department of the Treasurer

HARLAN E. BOYLES
STATE TREASURER

325 NORTH SALISBURY STREET
RALEIGH, NORTH CAROLINA 27603-1385

ADMINISTRATIVE SERVICES DIVISION:

- **Departmental Operating Budgets**

1996-97 Authorized	1997-98 Authorized	1998-99 Authorized	1999-00 Recommended
$22,038,249	$23,432,998	$23,244,691	$21,146,191

- **Total Budgets (All Funds) of State of North Carolina (in millions)**

1996-97 Authorized	1997-98 Authorized	1998-99 Estimated	1999-00 Recommended
$19,780.2	$21,124.8	$22,631.6	$23,445.2

- **Escheats and Abandoned Property Fund Balances, June 30th**

1996-97	1997-98	1998-99	1999-00
$165,529,575	$184,395,784	$203,296,352	$227,477,469

- **Escheats Investment Earnings**

1996-97	1997-98	1998-99	1999-00
$13,656,404	$15,285,951	$16,915,433	$18,776,130

- **Student Loans Provided**

1996-97	1997-98	1998-99	1999-00
3,322	3,813	4,347	4,955

STATE AND LOCAL GOVERNMENT FINANCE DIVISION:

- **Total Debt Outstanding, June 30, 1998**

Counties & Cities	Public Authorities	State: General Fund	State: Highway Fund	Grand Total
$9,530,345,396	$14,169,610,241	$1,867,480,342	$250,000,000	$25,817,435,979

- **Debt Authorized & Unissued, December 31, 1998**

Counties & Cities	Public Authorities	State: General Fund	State: Highway Fund	Grand Total
$1,591,411,500	$156,405,400	$1,900,000,000	$700,000,000	$4,347,816,900

- **Total Debt Outstanding at June 30**

1995	1996	1997	1998
$20,323,587,606	$21,443,734,388	23,784,557,780	$25,817,435,979

- **State Debt Service Requirements, gross amounts**

1996-97	1997-98	1998-99	1999-00
$127,905,302	$165,973,572	$227,644,557	$274,589,980

(more)

INVESTMENT AND BANKING DIVISION:

- **Fund Balances, December 31, 1998:**

General Fund	Highway Funds	Retirement Funds	Other Funds	Grand Total
$3,949,199,775	$827,502,893	$52,145,500,065	$5,045,330,185	$61,967,532,918

- **Portfolio Allocations (Invested Assets), December 31, 1998**

Short Term	Fixed Income	Corporate Equities	Real Estate	Venture Capital	Grand Total
$8,775,481,436	$25,266,487,873	$26,874,672,388	$532,614,520	$39,384,402	$61,488,640,619

- **Investment Income, Fiscal Year Ended June 30, 1998:**

	General Fund	Highway Funds	Retirement Funds	Other Funds	Grand Total
Realized Income	$250,088,945	$50,256,114	$2,001,583,285	$292,528,410	$ 2,594,456,754
Unrealized Income			6,007,436,107	66,179,061	6,073,615,168
Total Income	$250,088,945	$50,256,114	$8,009,019,392	$358,707,471	$ 8,668,071,922
Cash Return	6.39%	6.39%			
Total Return			19.18%	19.18%	

- **General Fund Investment Earnings**

1996-97	1997-98	1998-99(Estimate)	1999-00(Estimate)
$228,941,577	$250,088,945	$260,000,000	$205,000,000

RETIREMENT SYSTEMS DIVISION:

- **Membership, Active and Retired, December 31, 1998**

Teachers & State	Local Government	Judicial	Legislative	Grand Total
Active - 274,815	110,151	464	157	385,587
Retired - 98,024	27,087	346	184	125,641

- **Employer Contribution Rate, Proposed 1990-00**

Teachers & State	Local Government	Judicial	Legislative
10.83%	5.12%	22.65%	24.58%

- **Retirement Benefits Paid and Refunds (in millions):**

1996	1997	1998	1999	2000
$1,376.0	$1,550.0	$1,809.4	$2,020.8	$2,257.2

- **Employer Matching Contributions (1998, in millions):**

Teachers & State	Local Government	Judicial	Legislation	Grand Total
$ 643.6	$154.7	$ 8.0	$ .8	$ 844.3

(more)

State Treasurer's Analysis
of
Governor's Reported General Fund Availability
1999-2000 Fiscal Year

Recurring Revenues and Expenditures

Changes in Revenues

General Fund Operating (Recurring) Revenues	+/-	Amount
Estimated Tax Revenues before Tax Revenue Reductions	+	13,552,600,000
Tax Revenue Reductions		
Because of the Bailey Case	-	125,400,000
Because of elimination of the Intangible Tax	-	124,800,000
Because of elimination of Sales Tax on food (1996, 97 & 98)	-	368,900,000
Because of the elimination of the Inheritance Tax (1998)	-	52,500,000
Because of increase in Personal Exemption and creation of $60 Child Credit (1995)	-	266,700,000
Because of Corporate Income Tax Rate cut (1996)	-	110,400,000
Because of tax credit for North Carolina Health Choice	-	64,500,000
Because of other tax reduction changes	-	183,800,000
Total Tax Revenue Reductions	-	1,297,000,000
Total Tax Revenue in Governors Budget (Growth = 3.8%)	-	12,255,600,000
Non-tax Revenue in Governors Budget	+	628,700,000
Adjusted for Treasurer's estimate of Investment Income *	-	76,800,000
Estimated Non-tax Revenue	+	551,900,000
Transfers		
From Highway Trust Fund Transfer	+	170,000,000
From Highway Fund Transfer	+	13,600,000
Total General Fund Operating (Recurring) Revenue	+	12,991,100,000
Estimated Deficiency		69,900,755

Changes in Expenditures

General Fund Operating (Recurring) Expenditures	+/-	Amount
Requested Operating Budget	+	12,724,367,014
Governor's Proposed Operating Reductions-1	-	37,351,664
Governor's Proposed Operating Reductions-2		
Medical Assistance	-	115,045,187
Debt Service**	-	141,150,000
Other	-	107,086,214
Final Recommended Continuation Budget	+	12,323,733,949
Governor's Expansion Budget		
Compensation increases	+	430,882,519
State Health Plan	+	100,000,000
Smart Start	+	81,371,826
Other	+	125,012,461
Total Governor's Expansion Budget	+	737,266,806
Total Governor's Recommended General Fund Operating (Recurring) Expenditures (Growth = (0.4%))		13,061,000,755

* Treasurer's Estimate (based on lower balances and lower average interest rates accruing). All other figures are taken from the Governor's Budget.
** Allows for the issuance of $140 million of $1 billion authorization for Clean Water and Gas Bonds in 1999-00.

(More)

State Treasurer's Analysis
of
Governor's Reported General Fund Availability
1999-2000 Fiscal Year

Nonrecurring Revenues and Expenditures

Changes in Revenues

General Fund Non-recurring Availability

Credit Balance @ 6/30/99		
Unreserved Fund Balance	+	313,252,126
"Reserved" amounts and Encumbrances	+	
Reserves:		
Budget Stabilization Reserve	+	522,520,562
Repair and Renovation Reserve	+	
Clean Water Management Trust Fund Reserve	+	
Disproportionate Share Reserve	+	
Total Reserves	+	522,520,562
Total Credit Balance @ 6/30/99	+	835,772,688
Less Reserves other wise earmarked		
Budget Stabilization Reserve	-	522,520,562 *
Credit Balance available for appropriation	+	313,252,126 **

Changes in Expenditures

General Fund Non-recurring Requirements

Reserve for Budget Stabilization	+	40,408,566
Reserve for Repair and Renovation	+	150,000,000
Reserve for Clean Water Management Trust Fund	+	30,000,000
Reserve for Bailey/Emory/Patton	+	399,000,000
Reserve for Intangible Tax Refund	+	354,000,000
Public School ABC Bonus	+	140,000,000
Total Non-recurring Requirements	+	1,113,408,566
Estimated Deficiency		800,156,440

* Governor's proposed utilization, modifying existing law.
** Where is the $61 million transferred to the Reserve for Purchase of the North Carolina Railroad Stock reflected

THE STATE'S MAJOR ISSUES IN WAITING

In addition to the budget challenges we now face, there are a number of other equally important issues that you may deem worthy of your attention. In your role as North Carolina's chief policymaker it is urgent that these issues be addressed soon, otherwise, there may well be severe consequences for our State for the future:

- the growing perception that our governments have the solution to all our needs and wants
- a State tax structure that is full of holes — lacking in fairness and equity among the people
- a State budget system that serves little value in letting the people know how the tax dollars are being spent; and, why
- the pending law suits of low wealth counties for public education — an issue that should be the responsibility of the General Assembly
- an overhaul of the budgeting system for the public schools; how the State's dollars are allocated and used
- the overlapping of the roles and responsibilities of State and the counties and cities
- a higher education system that cries out for coordination of programs among the 4-year campuses and the community colleges
- the issues surrounding the deregulation of the electric utility industry
- the excessive optimism regarding the moneys to be received from the tobacco settlement; note the prospect for reduced payments
- the need for early involvement by the General Assembly in the rapidly development plans for mass transit; and the funding sources to be identified and made available

State of North Carolina
Department of the Treasurer

HARLAN E. BOYLES
STATE TREASURER

325 NORTH SALISBURY STREET
RALEIGH, NORTH CAROLINA 27603-1385

Comments of State Treasurer Harlan Boyles
February 24, 1999
North Carolina House Finance Committee

Good Morning, Mr. Chairmen, Other Members of the General Assembly, and Ladies and Gentlemen.

I am honored that you would invite me here today to share my thoughts about the state of our State's finances.

There has been much talk in recent days about a so-called budget crisis, or budget gap that we face. I would suggest that is not the case at all.

We face no budget crisis in North Carolina. We are enjoying the greatest era of prosperity this state has ever seen. Revenues are at an all time high. More of our people are employed in better jobs than ever before. We are making real progress in improving our public schools. And we are effectively addressing a number of problems that have troubled us for years, such as better health care, diversifying our farm economy and improving our environment.

The challenge we face is how to make the best of these good times.

I would remind you that the actual, real budget you are considering is $23.4 billion, not the $13 billion that is often reported in the media. Within those funds, I would suggest, are ample resources to do all of the things that North Carolina must do to meet the needs of its people.

As a planning tool, I have prepared an analysis of the State's revenue and expenditure changes. The General Assembly requires each county and city government to prepare a "budget resolution" with a full analysis of its financial implications. I would suggest the state ought to follow its own mandate for local governments.

All of the figures (except for one item) in this analysis are from the Governor's Budget. That exception is a $76.8 million reduction in Investment earnings.

This analysis shows the estimated revenues for the 1999-2000 Fiscal Year. More importantly, it shows the revenue reductions as the result of recent tax reductions and two recent court cases.

This kind of analysis is essential for the General Assembly to know where it stands in planning for the future. If we do not take into account these reductions and the long-term implications of all revenue changes, we risk facing a real crisis.

On page two is a similar analysis of Non-recurring Revenues and Expenditures.

I would suggest, Mr. Chairmen, that the Finance Committee examine this analysis and decide what revenues are available. When that is done, the Appropriations Committee will know exactly how much it has to spend and that will determine the budget.

In summary, let me say that North Carolina has a solid reputation for making sound financial decisions. That is why we have maintained a Triple-A credit rating for more than three decades and have earned the envy of much of the rest of the nation for doing so.

Also, it is no accident that North Carolina has more Triple-A rated local units of government than any other state in the nation. In fact, we have 25 percent of all the Triple-A credit rated units of government in the entire nation. That is a great source of pride.

But more than a source of pride, it is the foundation of a sound system of public finance in North Carolina which has been built over many years. This has been achieved by strong leadership from the General Assembly, Governors and local officials.

All North Carolinians have been well served by our prudent financial policies of the past. And I know that you will continue this great tradition as you make the hard decisions that will impact our future.

II

State of North Carolina
Department of the Treasurer

HARLAN E. BOYLES
STATE TREASURER

325 NORTH SALISBURY STREET
RALEIGH, NORTH CAROLINA 27603-1385

ADMINISTRATIVE SERVICES DIVISION:

- **Departmental Operating Budgets**

1996-97 Authorized	1997-98 Authorized	1998-99 Authorized	1999-00 Recommended
$22,038,249	$23,432,998	$23,244,691	$21,146,191

- **Total Budgets (All Funds) of State of North Carolina (in millions)**

1996-97 Authorized	1997-98 Authorized	1998-99 Estimated	1999-00 Recommended
$19,780.2	$21,124.8	$22,631.6	$23,445.2

- **Escheats and Abandoned Property Fund Balances, June 30th**

1996-97	1997-98	1998-99	1999-00
$165,529,575	$184,395,784	$203,296,352	$227,477,469

- **Escheats Investment Earnings**

1996-97	1997-98	1998-99	1999-00
$13,656,404	$15,285,951	$16,915,433	$18,776,130

- **Student Loans Provided**

1996-97	1997-98	1998-99	1999-00
3,322	3,813	4,347	4,955

STATE AND LOCAL GOVERNMENT FINANCE DIVISION:

- **Total Debt Outstanding, June 30, 1998**

Counties & Cities	Public Authorities	State: General Fund	State: Highway Fund	Grand Total
$9,530,345,396	$14,169,610,241	$1,867,480,342	$250,000,000	$25,817,435,979

- **Debt Authorized & Unissued, December 31, 1998**

Counties & Cities	Public Authorities	State: General Fund	State: Highway Fund	Grand Total
$1,591,411,500	$156,405,400	$1,900,000,000	$700,000,000	$4,347,816,900

- **Total Debt Outstanding at June 30**

1995	1996	1997	1998
$20,323,587,606	$21,443,734,388	23,784,557,780	$25,817,435,979

- **State Debt Service Requirements, gross amounts**

1996-97	1997-98	1998-99	1999-00
$127,905,302	$165,973,572	$227,644,557	$274,589,980

(more)

INVESTMENT AND BANKING DIVISION:

- **Fund Balances, December 31, 1998:**

General Fund	Highway Funds	Retirement Funds	Other Funds	Grand Total
$3,949,199,775	$827,502,893	$52,145,500,065	$5,045,330,185	$61,967,532,918

- **Portfolio Allocations (Invested Assets), December 31, 1998**

Short Term	Fixed Income	Corporate Equities	Real Estate	Venture Capital	Grand Total
$8,775,481,436	$25,266,487,873	$26,874,672,388	$532,614,520	$39,384,402	$61,488,640,619

- **Investment Income, Fiscal Year Ended June 30, 1998:**

	General Fund	Highway Funds	Retirement Funds	Other Funds	Grand Total
Realized Income	$250,088,945	$50,256,114	$2,001,583,285	$292,528,410	$ 2,594,456,754
Unrealized Income			6,007,436,107	66,179,061	6,073,615,168
Total Income	$250,088,945	$50,256,114	$8,009,019,392	$358,707,471	$ 8,668,071,922
Cash Return	6.39%	6.39%			
Total Return			19.18%	19.18%	

- **General Fund Investment Earnings**

1996-97	1997-98	1998-99(Estimate)	1999-00(Estimate)
$228,941,577	$250,088,945	$260,000,000	$205,000,000

RETIREMENT SYSTEMS DIVISION:

- **Membership, Active and Retired, December 31, 1998**

Teachers & State	Local Government	Judicial	Legislative	Grand Total
Active - 274,815	110,151	464	157	385,587
Retired - 98,024	27,087	346	184	125,641

- **Employer Contribution Rate, Proposed 1990-00**

Teachers & State	Local Government	Judicial	Legislative
10.83%	5.12%	22.65%	24.58%

- **Retirement Benefits Paid and Refunds (in millions):**

1996	1997	1998	1999	2000
$1,376.0	$1,550.0	$1,809.4	$2,020.8	$2,257.2

- **Employer Matching Contributions (1998, in millions):**

Teachers & State	Local Government	Judicial	Legislation	Grand Total
$ 643.6	$154.7	$ 8.0	$ .8	$ 844.3

(more)

State Treasurer's Analysis
of
Governor's Reported General Fund Availability
1999-2000 Fiscal Year

Recurring Revenues and Expenditures

Changes in Revenues

General Fund Operating (Recurring) Revenues	+/-	Amount
Estimated Tax Revenues before Tax Revenue Reductions	+	13,552,600,000
Tax Revenue Reductions		
Because of the Bailey Case	-	125,400,000
Because of elimination of the Intangible Tax	-	124,800,000
Because of elimination of Sales Tax on food (1996, 97 & 98)	-	368,900,000
Because of the elimination of the Inheritance Tax (1998)	-	52,500,000
Because of increase in Personal Exemption and creation of $60 Child Credit (1995)	-	266,700,000
Because of Corporate Income Tax Rate cut (1996)	-	110,400,000
Because of tax credit for North Carolina Health Choice	-	64,500,000
Because of other tax reduction changes	-	183,800,000
Total Tax Revenue Reductions	-	1,297,000,000
Total Tax Revenue in Governors Budget (Growth = 3.8%)	-	12,255,600,000
Non-tax Revenue in Governors Budget	+	628,700,000
Adjusted for Treasurer's estimate of Investment Income *	-	76,800,000
Estimated Non-tax Revenue	+	551,900,000
Transfers		
From Highway Trust Fund Transfer	+	170,000,000
From Highway Fund Transfer	+	13,600,000
Total General Fund Operating (Recurring) Revenue	+	12,991,100,000
Estimated Deficiency		69,900,755

Changes in Expenditures

General Fund Operating (Recurring) Expenditures	+/-	Amount
Requested Operating Budget	+	12,724,367,014
Governor's Proposed Operating Reductions-1	-	37,351,664
Governor's Proposed Operating Reductions-2		
Medical Assistance	-	115,045,187
Debt Service**	-	141,150,000
Other	-	107,086,214
Final Recommended Continuation Budget	+	12,323,733,949
Governor's Expansion Budget		
Compensation increases	+	430,882,519
State Health Plan	+	100,000,000
Smart Start	+	81,371,826
Other	+	125,012,461
Total Governor's Expansion Budget	+	737,266,806
Total Governor's Recommended General Fund Operating (Recurring) Expenditures (Growth = (0.4%))		13,061,000,755

* Treasurer's Estimate (based on lower balances and lower average interest rates accruing). All other figures are taken from the Governor's Budget.
** Allows for the issuance of $140 million of $1 billion authorization for Clean Water and Gas Bonds in 1999-00.

(More)

State Treasurer's Analysis
of
Governor's Reported General Fund Availability
1999-2000 Fiscal Year

Nonrecurring Revenues and Expenditures

Changes in Revenues

General Fund Non-recurring Availability

Credit Balance @ 6/30/99			
Unreserved Fund Balance	+	313,252,126	
"Reserved" amounts and Encumbrances	+		
Reserves:			
Budget Stabilization Reserve	+	522,520,562	
Repair and Renovation Reserve	+		
Clean Water Management Trust Fund Reserve	+		
Disproportionate Share Reserve	+		
Total Reserves	+	522,520,562	
Total Credit Balance @ 6/30/99	+	835,772,688	
Less Reserves other wise earmarked			
Budget Stabilization Reserve	-	522,520,562	*
Credit Balance available for appropriation	+	313,252,126	**

Changes in Expenditures

General Fund Non-recurring Requirements

Reserve for Budget Stabilization	+	40,408,566
Reserve for Repair and Renovation	+	150,000,000
Reserve for Clean Water Management Trust Fund	+	30,000,000
Reserve for Bailey/Emory/Patton	+	399,000,000
Reserve for Intangible Tax Refund	+	354,000,000
Public School ABC Bonus	+	140,000,000
Total Non-recurring Requirements	+	1,113,408,566
Estimated Deficiency		800,156,440

* Governor's proposed utilization, modifying existing law.
** Where is the $61 million transferred to the Reserve for Purchase of the North Carolina Railroad Stock reflected

THE STATE'S MAJOR ISSUES IN WAITING

In addition to the budget challenges we now face, there are a number of other equally important issues that you may deem worthy of your attention. In your role as North Carolina's chief policymaker it is urgent that these issues be addressed soon, otherwise, there may well be severe consequences for our State for the future:

- the growing perception that our governments have the solution to all our needs and wants
- a State tax structure that is full of holes — lacking in fairness and equity among the people
- a State budget system that serves little value in letting the people know how the tax dollars are being spent; and, why
- the pending law suits of low wealth counties for public education — an issue that should be the responsibility of the General Assembly
- an overhaul of the budgeting system for the public schools; how the State's dollars are allocated and used
- the overlapping of the roles and responsibilities of State and the counties and cities
- a higher education system that cries out for coordination of programs among the 4-year campuses and the community colleges
- the issues surrounding the deregulation of the electric utility industry
- the excessive optimism regarding the moneys to be received from the tobacco settlement; note the prospect for reduced payments
- the need for early involvement by the General Assembly in the rapidly development plans for mass transit; and the funding sources to be identified and made available

a:stmjoris\0299\heb

State of North Carolina
Department of the Treasurer

HARLAN E. BOYLES
STATE TREASURER

325 NORTH SALISBURY STREET
RALEIGH, NORTH CAROLINA 27603-1385

Comments of State Treasurer Harlan Boyles
February 24, 1999
North Carolina House Finance Committee

Good Morning, Mr. Chairmen, Other Members of the General Assembly, and Ladies and Gentlemen.

I am honored that you would invite me here today to share my thoughts about the state of our State's finances.

There has been much talk in recent days about a so-called budget crisis, or budget gap that we face. I would suggest that is not the case at all.

We face no budget crisis in North Carolina. We are enjoying the greatest era of prosperity this state has ever seen. Revenues are at an all time high. More of our people are employed in better jobs than ever before. We are making real progress in improving our public schools. And we are effectively addressing a number of problems that have troubled us for years, such as better health care, diversifying our farm economy and improving our environment.

The challenge we face is how to make the best of these good times.

I would remind you that the actual, real budget you are considering is $23.4 billion, not the $13 billion that is often reported in the media. Within those funds, I would suggest, are ample resources to do all of the things that North Carolina must do to meet the needs of its people.

As a planning tool, I have prepared an analysis of the State's revenue and expenditure changes. The General Assembly requires each county and city government to prepare a "budget resolution" with a full analysis of its financial implications. I would suggest the state ought to follow its own mandate for local governments.

All of the figures (except for one item) in this analysis are from the Governor's Budget. That exception is a $76.8 million reduction in Investment earnings.

This analysis shows the estimated revenues for the 1999-2000 Fiscal Year. More importantly, it shows the revenue reductions as the result of recent tax reductions and two recent court cases.

This kind of analysis is essential for the General Assembly to know where it stands in planning for the future. If we do not take into account these reductions and the long-term implications of all revenue changes, we risk facing a real crisis.

On page two is a similar analysis of Non-recurring Revenues and Expenditures.

I would suggest, Mr. Chairmen, that the Finance Committee examine this analysis and decide what revenues are available. When that is done, the Appropriations Committee will know exactly how much it has to spend and that will determine the budget.

In summary, let me say that North Carolina has a solid reputation for making sound financial decisions. That is why we have maintained a Triple-A credit rating for more than three decades and have earned the envy of much of the rest of the nation for doing so.

Also, it is no accident that North Carolina has more Triple-A rated local units of government than any other state in the nation. In fact, we have 25 percent of all the Triple-A credit rated units of government in the entire nation. That is a great source of pride.

But more than a source of pride, it is the foundation of a sound system of public finance in North Carolina which has been built over many years. This has been achieved by strong leadership from the General Assembly, Governors and local officials.

All North Carolinians have been well served by our prudent financial policies of the past. And I know that you will continue this great tradition as you make the hard decisions that will impact our future.

HOUSE FINANCE COMMITTEE

Thursday, February 25, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

AGENDA:

William Schwecke of Corporation Enterprise Development
Richard Bostic - Tax Cuts since 1995
David Crotts - School Construction Finance

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

February 25, 1999

The House Committee on Finance met on Thursday, February 25, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m.

Chair Luebke called the meeting to order to hear presentations.

The Chair recognized William Schwecke of the Corporation Enterprise Development to make a presentation.

Richard Bostic gave a presentation on tax cuts since 1995 and David Crotts gave a presentation on school construction finance.

There being no further business, the Chair adjourned the meeting at 10:00 a.m.

Respectfully submitted:

_____

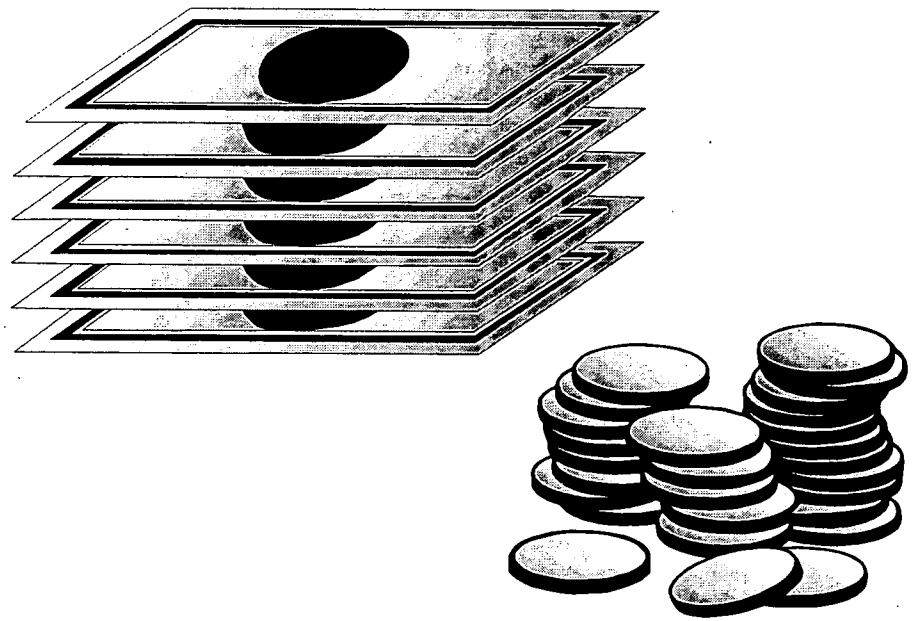
Representative Paul Luebke
Chair

Lillie Pearce

Lillie Pearce
Assistant to the Committee

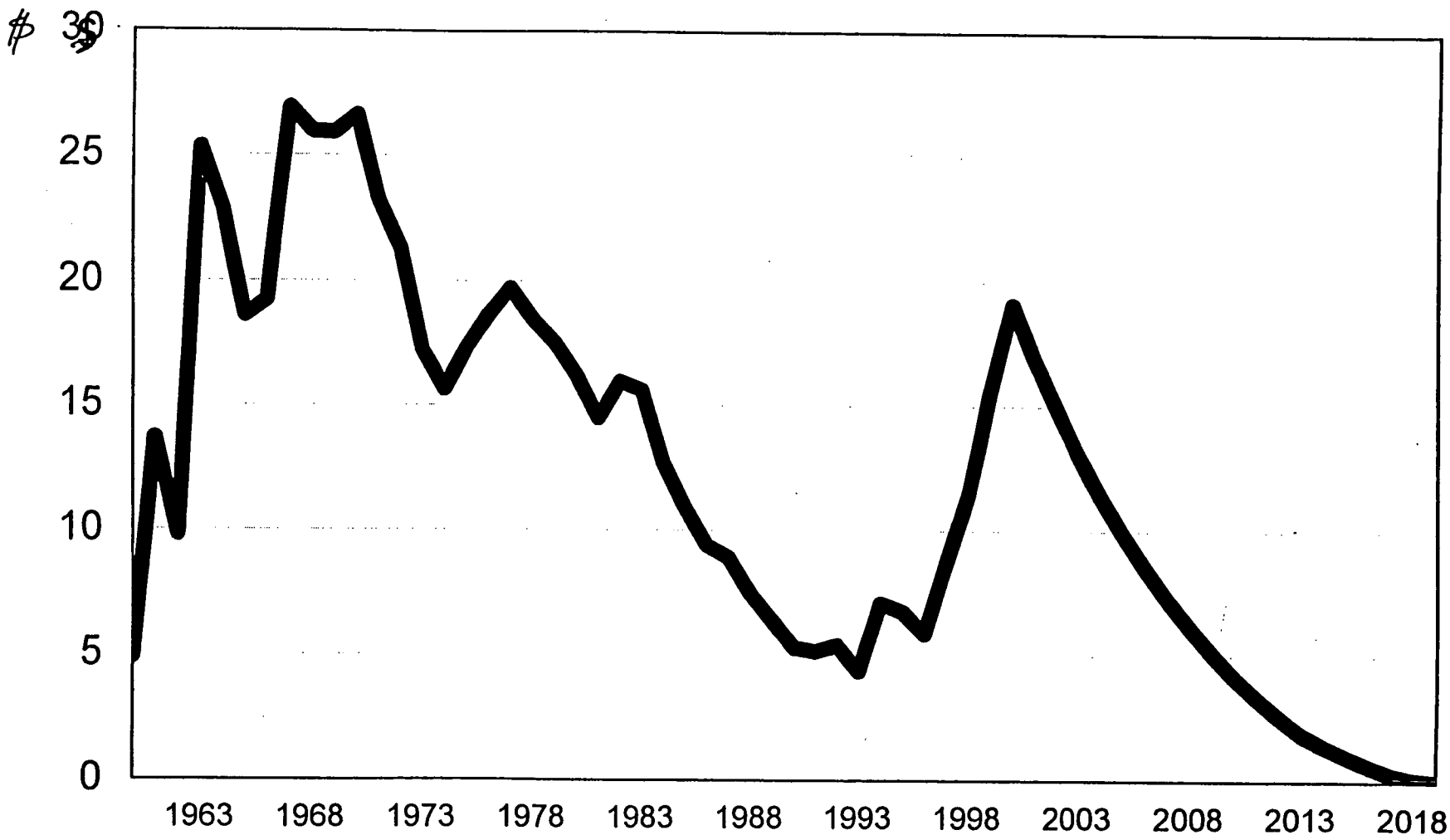
2/25

STATE AND LOCAL DEBT TRENDS



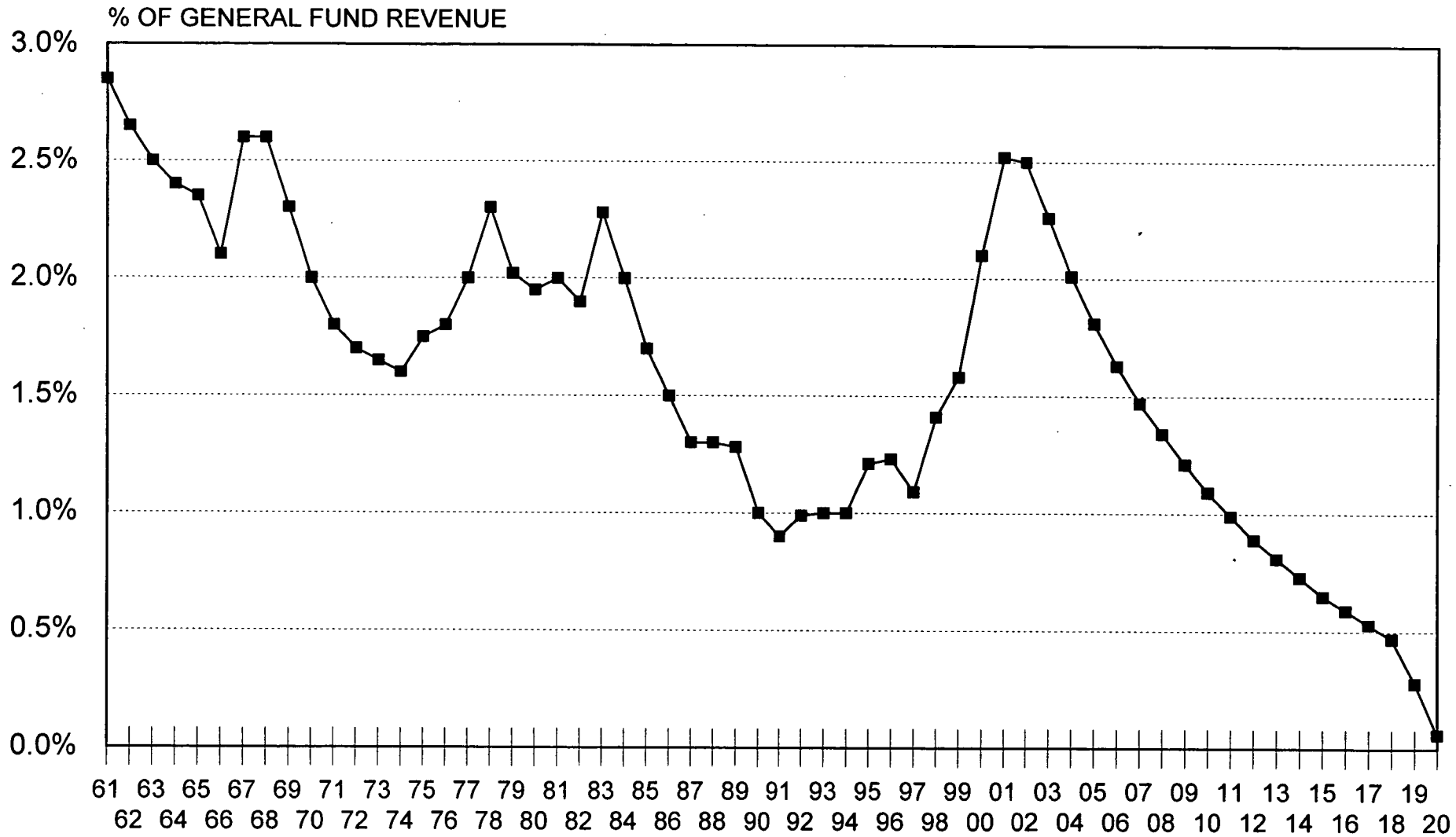
FISCAL RESEARCH DIVISION
FEBRUARY 9, 1999

STATE GENERAL OBLIGATION DEBT PER $1,000 OF STATE PERSONAL INCOME*



*Income of residents of state (projected for years 1998-2010).
NOTE: State received Triple A Bond rating in 1960.

STATE GENERAL FUND DEBT SERVICE AS A PERCENT OF REVENUE



*Includes last two issues under $1.8 billion school bond authorization and all of the $1.0 billion authorization for clean water and natural gas bonds [net of local repayment of loans]

STATE AND LOCAL BONDS OUTSTANDING BY MAJOR CATEGORIES ($MILLION)

	STATE		COUNTIES		CITIES	
June 30	General Obligation	Non-General Obligation	General Obligation	Non-General Obligation	General Obligation	Non-General Obligation
1983	937.4	3,662.3	833.1	112.8	939.4	3.7
1984	879.2	4,153.5	817.6	128.7	911.9	46.1
1985	821.0	5,156.5	887.8	112.2	976.2	38.8
1986	762.0	7,053.3	1,026.2	99.3	1,005.2	124.6
1987	775.5	7,396.3	1,063.1	102.7	1,135.0	266.7
1988	708.1	7,628.8	1,227.5	138.8	1,334.4	300.7
1989	660.4	8,055.3	1,331.1	199.2	1,373.1	336.7
1990	588.0	8,226.3	1,732.5	233.5	1,491.4	335.1
1991	590.0	8,682.8	2,013.2	355.1	1,670.6	376.6
1992	667.4	8,924.9	2,244.2	332.1	1,906.4	383.5
1993	580.7	9,519.1	2,403.8	620.1	1,958.8	777.4
1994	991.5	9,685.0	2,756.2	730.2	2,170.4	927.1
1995	1,019.7	9,524.4	2,815.9	860.8	2,180.9	1,130.5
1996	945.1	9,602.5	3,230.3	984.2	2,433.7	1,286.3
1997	1,508.2	10,441.0	3,395.9	1,342.5	2,363.6	1,619.9
1998	2,117.5	10,987.2	3,975.3	1,386.1	2,365.1	1,803.8
1999	3,044.0					
2000	3,925.1					

12/23/98

SUMMARY GENERAL FUND

FISCAL YEAR	EXISTING DEBT (GENERAL FUND ONLY) Principal	Principal & Interest	TOTAL PROPOSED SCHOOL BONDS Principal	Estimated Interest	TOTAL PROPOSED CLEAN WATER AND GAS BONDS Principal	Estimated Interest	WITH EXISTING DEBT Total Principal	Total Principal & Interest
1998-99	106,777,302.30	199,286,632.50					106,777,302.30	199,286,632.50
1999-00	106,604,115.30	193,882,430.00	18,500,000.00	43,250,000.00	16,000,000.00	35,250,000.00	141,104,115.30	272,382,430.00
2000-01	106,554,771.60	188,993,550.00	37,000,000.00	87,732,500.00	31,500,000.00	70,870,000.00	175,054,771.60	347,596,050.00
2001-02	106,574,167.30	183,714,670.00	37,000,000.00	85,605,000.00	44,500,000.00	100,060,000.00	188,074,167.30	369,379,670.00
2002-03	106,552,158.00	178,379,930.00	37,000,000.00	83,477,500.00	44,500,000.00	97,470,000.00	188,052,158.00	359,327,430.00
2003-04	106,388,448.80	173,147,930.00	37,000,000.00	81,350,000.00	44,500,000.00	94,880,000.00	187,888,448.80	349,377,930.00
2004-05	106,737,952.60	168,416,490.00	37,000,000.00	79,222,500.00	44,500,000.00	92,290,000.00	188,237,952.60	339,928,990.00
2005-06	106,580,431.80	163,159,380.00	37,000,000.00	77,095,000.00	44,500,000.00	89,700,000.00	188,080,431.80	329,954,380.00
2006-07	106,425,722.90	157,890,330.00	37,000,000.00	74,967,500.00	44,500,000.00	87,110,000.00	187,925,722.90	319,967,830.00
2007-08	106,470,014.55	152,817,510.00	37,000,000.00	72,840,000.00	44,500,000.00	84,520,000.00	187,970,014.55	310,177,510.00
2008-09	106,315,257.30	147,504,860.00	37,000,000.00	70,712,500.00	44,500,000.00	81,930,000.00	187,815,257.30	300,147,360.00
2009-10	106,500,000.00	141,034,500.00	37,000,000.00	68,585,000.00	44,500,000.00	79,340,000.00	188,000,000.00	288,959,500.00
2010-11	106,500,000.00	135,770,250.00	37,000,000.00	66,457,500.00	44,500,000.00	76,750,000.00	188,000,000.00	278,977,750.00
2011-12	106,500,000.00	130,506,000.00	37,000,000.00	64,330,000.00	44,500,000.00	74,160,000.00	188,000,000.00	268,996,000.00
2012-13	106,500,000.00	125,227,750.00	37,000,000.00	62,202,500.00	44,500,000.00	71,570,000.00	188,000,000.00	259,000,250.00
2013-14	106,500,000.00	119,949,500.00	37,000,000.00	60,075,000.00	44,500,000.00	68,980,000.00	188,000,000.00	249,004,500.00
2014-15	106,500,000.00	114,671,250.00	37,000,000.00	57,947,500.00	44,500,000.00	66,390,000.00	188,000,000.00	239,008,750.00
2015-16	53,600,000.00	56,392,000.00	90,000,000.00	108,820,000.00	44,500,000.00	63,800,000.00	188,000,000.00	229,012,000.00
2016-17	3,000,000.00	3,157,500.00	140,500,000.00	154,277,500.00	44,500,000.00	61,210,000.00	188,000,000.00	218,645,000.00
2017-18			82,500,000.00	88,217,500.00	105,500,000.00	119,620,000.00	188,000,000.00	207,837,500.00
2018-19			13,500,000.00	14,310,000.00	108,000,000.00	116,100,000.00	121,500,000.00	130,410,000.00
2019-20					27,000,000.00	28,620,000.00	27,000,000.00	28,620,000.00
2020-21								
2021-22								
TOTALS	1,867,480,342.45	2,733,902,462.50	900,000,000.00	1,501,475,000.00	1,000,000,000.00	1,660,620,000.00	3,767,480,342.45	5,895,997,462.50

12/23/98

SUMMARY HIGHWAY FUND

FISCAL YEAR	EXISTING DEBT (HIGHWAY FUND ONLY) Principal	EXISTING DEBT (HIGHWAY FUND ONLY) Principal & Interest	TOTAL PROPOSED HIGHWAY BONDS Principal	TOTAL PROPOSED HIGHWAY BONDS Principal & Est. Interest	WITH EXISTING DEBT Total Principal	WITH EXISTING DEBT Total Principal & Interest
1998-99	16,675,000.00	28,357,925.00			16,675,000.00	28,357,925.00
1999-00	16,675,000.00	27,607,550.00	25,000,000.00	44,250,000.00	41,675,000.00	71,857,550.00
2000-01	16,675,000.00	26,857,175.00	52,000,000.00	90,875,000.00	68,675,000.00	117,732,175.00
2001-02	16,675,000.00	26,106,800.00	52,000,000.00	87,880,000.00	68,675,000.00	113,986,800.00
2002-03	16,675,000.00	25,356,425.00	52,000,000.00	84,885,000.00	68,675,000.00	110,241,425.00
2003-04	16,675,000.00	24,606,050.00	52,000,000.00	81,890,000.00	68,675,000.00	106,496,050.00
2004-05	16,675,000.00	23,855,675.00	52,000,000.00	78,895,000.00	68,675,000.00	102,750,675.00
2005-06	16,675,000.00	23,105,300.00	52,000,000.00	75,900,000.00	68,675,000.00	99,005,300.00
2006-07	16,675,000.00	22,354,925.00	52,000,000.00	72,905,000.00	68,675,000.00	95,259,925.00
2007-08	16,675,000.00	21,604,550.00	52,000,000.00	69,910,000.00	68,675,000.00	91,514,550.00
2008-09	16,675,000.00	20,837,500.00	52,000,000.00	66,915,000.00	68,675,000.00	87,752,500.00
2009-10	16,675,000.00	20,003,750.00	52,000,000.00	63,920,000.00	68,675,000.00	83,923,750.00
2010-11	16,675,000.00	19,170,000.00	52,000,000.00	60,925,000.00	68,675,000.00	80,095,000.00
2011-12	16,675,000.00	18,336,250.00	52,000,000.00	57,930,000.00	68,675,000.00	76,266,250.00
2012-13	16,550,000.00	17,377,500.00	51,000,000.00	53,935,000.00	67,550,000.00	71,312,500.00
TOTALS	250,000,000.00	345,537,375.00	700,000,000.00	991,015,000.00	950,000,000.00	1,336,552,375.00

2/25 I Bostic

MAJOR GENERAL FUND TAX CHANGES SINCE 1995

- Annual Revenue Impact = ($1.5 billion) to ($1.6 billion)

Major Reductions: (based on FY 2000 estimates)

- Sales Tax on Food = ($380 million)
- Increase Personal Exemption & Add $60 Child Credit = ($274 million)
- Repeal Intangibles Tax = ($241.9 million)
- Reduce Corporate Income Tax Rate From 7.75% to 6.9% = ($124.3 million)
- Exempt Federal & State Retiree Income = ($122.3 million)
- Repeal Inheritance Tax = ($79.4 million)

For more information on tax changes since 1979, go to the General Assembly Intranet at:

http://info.ncga.state.nc.us/

When in the intranet page
- Click on Links
- Click on Tax History
- Choose Options: Tax Type
  Year Enacted
  Type of Action

The intranet site creates a chart that includes:
- Tax Type
- Original Bill Number
- Session Law
- General Statute
- Fiscal Effect
- Explanation

MAJOR GENERAL FUND TAX CHANGES 1995 to 1998

	Year Enacted	($Millions) FY99-00	FY00-01	FY 01-02
INTANGIBLES TAX				
Repeal Intangibles Tax on Stocks, Bonds, etc.	1995	**($228.2)**	**($241.9)**	**($256.4)**
INHERITANCE TAX				
Reform Inheritance Tax (Class A, QTIP, Installment Pay)	1996	($4.1)	($4.4)	($4.7)
Repeal Inheritance Tax / Keep Pick-up Tax	1998	(52.5)	(79.4)	(85.7)
Subtotal - Inheritance Tax		**($56.6)**	**($83.8)**	**($90.4)**
SALES & USE TAX				
Reduce State Sales on Food From 4% to 3% (1/1/97)	1996	($92.2)	($95.0)	($97.9)
Reduce State Sales on Food From 3% to 2% (7/1/98)	1997	(92.2)	(95.0)	(97.9)
Repeal Remaining 2% State Sales Tax on Food (5/1/99)	1998	(184.5)	(190.0)	(195.7)
Change Sales Tax on Bundled Transactions (Cellular Phones)	1996	(6.7)	(6.7)	(6.7)
Reduce Manufacturing Energy Tax From 3% to 2.83%	1996	(6.0)	(6.3)	(6.7)
Exempt Audiovisual Master Tapes	1997	(1.7)	(1.8)	(1.9)
Revise Definition of Custom Computer Software	1997	0.8	0.9	0.9
Provide School Sales Tax Refunds	1998	(14.8)	(15.0)	(14.4)
Repeal Wholesale License/ Increase Sales Tax Filing Threshold	1998	(3.3)	(1.3)	(1.3)
Economic Opportunities Act of 1998 (Fed Ex/Nucor)	1998	(0.1)	(0.2)	(0.6)
Repeal Tax on Pay Phone Coin Calls	1998	(0.8)	(1.9)	(2.0)
Subtotal - Sales Tax		**($401.5)**	**($412.3)**	**($424.1)**
SOFT DRINK TAX				
Cut Soft Drink Tax Rate 25%	1995	($11.2)	($11.6)	($12.1)
Phase-out Soft Drink Tax Over 3 Years	1996	(33.7)	(34.9)	(36.2)
Subtotal - Soft Drink Tax		**($44.9)**	**($46.5)**	**($48.3)**

MAJOR GENERAL FUND TAX CHANGES 1995 to 1998

	Year Enacted	($Millions) FY99-00	FY00-01	FY 01-02
INDIVIDUAL INCOME TAX				
Increase Personal Exemption & Create $60 Child Credit	1995	($266.7)	($274.0)	($281.2)
Exempt Severance Pay ($35,000 cap)	1996 & 1997	(6.5)	(6.9)	(7.3)
Establish 7% Nonitemizer Credit above 2% AGI	1996 & 1998	(12.6)	(12.8)	(12.9)
Provide Federal Retiree Income Tax Credit and Partial Refunds	1996 & 1997	(2.5)	(1.7)	
Withhold Income Tax on Nonresident Contractors	1997 & 1998	3.0	3.0	3.0
Establish Child Health Insurance Credit	1998	(64.5)	(65.3)	(65.6)
Extend Sunset on Qualified Business Investment Credits	1998	-	(6.0)	(6.0)
Create Long-Term Care Insurance Credit	1998	(8.0)	(8.9)	(9.8)
Offer Child Care & Handicapped Housing Credits to Nonresidents	1998	(0.6)	(0.6)	(0.6)
Exempt State & Federal Retiree Income (Bailey Case)	1998	(125.4)	(122.3)	(119.2)
Subtotal - Individual Income Tax		**($483.8)**	**($495.5)**	**($499.6)**
INDIVIDUAL & CORPORATE INCOME TAX				
Update Internal Revenue Code	1997	($11.5)	($13.0)	($17.0)
Expand Conservation Easement/Tax Credit	1997 & 1998	(4.4)	(4.4)	(4.4)
Expand Historic Rehabilitation Tax Credits	1997	(2.2)	(4.7)	(7.9)
Update Internal Revenue Code	1998	(4.0)	(10.7)	(18.5)
Subtotal - Individual & Corporate Income Tax		**($22.1)**	**($32.8)**	**($47.8)**

MAJOR GENERAL FUND TAX CHANGES 1995 to 1998

	Year Enacted	($Millions) FY99-00	FY00-01	FY 01-02
CORPORATE INCOME TAX				
Reduce Corporate Rate from 7.75% to 6.9% over 4 years	1996	($99.3)	($108.1)	($109.4)
Enact William S. Lee Act Incentive Credits:				
General Investment Tax Credit (4.5%, $100,000 cap)	1996	(16.9)	(22.3)	(28.1)
Targeted Investment Tax Credit (7%, threshold)	1996	(18.4)	(30.7)	(43.0)
Jobs Credit Expansion (range $12,500 to $500)	1996	(4.5)	(7.5)	(7.5)
Research & Development Tax Credit (5% of eligible expenses)	1996	(9.1)	(9.6)	(10.2)
Worker Training Tax Credit (50% of eligible expenses up to $1000)	1996	(1.7)	(2.2)	(2.2)
Central Administrative Offices (must employ 40 workers)	1997	(1.3)	(2.1)	(2.9)
Other Changes	1997	(0.9)	(2.6)	(5.0)
Extend Sunset & Modify Ports Tax Credit	1997	(2.7)	(3.6)	0.0
Economic Opportunities Act of 1998 (Fed Ex/Nucor)	1998	(1.2)	(6.6)	(12.4)
Increase Corporate Net Loss Carryforward from 5 to 15 Years	1998	(3.7)	(3.7)	(3.7)
Subtotal - Corporate Income Tax		**($159.7)**	**($199.0)**	**($224.4)**
PRIVILEGE TAX				
Abolish Most Privilege Taxes	1996	($11.1)	($11.1)	($11.1)
Simplify Privilege License Tax (Impose 1% Tax on Movies)	1998	2.2	2.3	2.4
Subtotal - Privilege Tax		**($8.9)**	**($8.8)**	**($8.7)**
MISCELLANEOUS				
Change Tax on Natural Gas	1998	($3.6)	($3.7)	($3.8)
Modify Controlled Substance Tax	1998	1.3	1.3	1.3
Make Other Revenue Changes (Net Impact)	1995 & 1996	18.4	18.9	19.3
Subtotal - Misc.		**$16.1**	**$16.5**	**$16.8**

MAJOR GENERAL FUND TAX CHANGES 1995 to 1998

	Year Enacted	($Millions) FY99-00	FY00-01	FY 01-02
FEE CHANGES				
Increase General Court of Justice Fees by $15	1997	$15.9	$16.6	$17.5
Increase Secretary of State Fees	1997 & 1998	2.4	2.4	2.5
Increase Corporate Annual Report Fee from $10 to $20	1997	1.7	1.7	1.7
Increase Autopsy Fees (net impact)	1998	0.4	0.4	0.4
Change Water Quality Fees	1998	(0.3)	(0.3)	(0.3)
Subtotal - Fees		**$20.1**	**$20.8**	**$21.7**
TOTAL MAJOR TAX CHANGES - 1995 to 1998		**($1,369.5)**	**($1,483.3)**	**($1,561.2)**

UNEMPLOYMENT INSURANCE TAX CUTS

Year Enacted	Legislative Action	Savings to Employers (1999 Dollars)
1992	Suspended the 20% surtax levied to create the ESC Reserve Fund.	$73.3 Million
1993	Cut the Unemployment Insurance (UI) taxes for positive rated employers by an average of 30% for any calendar year in which the balance in the Unemployment Insurance Fund equals or exceeds $800 million.	$128.7 Million
1994	Cut the UI taxes for positive rated employers by an average 38.7% and cut the UI taxes for new employers by 20%.	$118.6 Million
1995	Cut the UI taxes for positive rated employers by an average of 23%.	$70.9 Million
	Total - Annual	$391.5 Million
1996	Levied a zero rate in 1996 for employers with a positive balance in their unemployment insurance account. Reduced tax rate on new employers from 1.8% to 1.2 % of taxable base.	
	One-Time	$165 Million

VISITOR REGISTRATION SHEET

House Finance Committee — 2-24-99
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Keith SAWYER	COMMERCE
Reid Wilms	NCMBA
[illegible]	NCAFL
[illegible]	PPAB
[illegible]	DOR
[illegible]	Payne + Spruill
[illegible]	Gov's office

VISITOR REGISTRATION SHEET

House Finance Committee — 2-24-99
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Kevin D. Kintau	NC Farm Bureau
Stanley Carr	NCFB
Lynette Carr	NCFB
Ralph Umphlett	"
Marguerite Loath	N.C.F.B.
Gail L. Bacon	N.C.F.B.
B.J. Lilley	N.C.F.B.
Everett Purvis	NCFB
Willson Brison	NCFB
Vaden Lucas	NCFB
Iris Lucas	NCFB
J. Franklin Williams	NCFB
Rdr Holliday	Legislative Intern - Rep. Luebke
Steve Woodson	NC Farm Bureau Federation
JULIAN PHILPOTT	NC FARM BUREAU

VISITOR REGISTRATION SHEET

HOUSE FINANCE COMMITTEE — 2-24-99
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Andrew Chris	John Locke Fdn.
Robert Powell	OSBM
Andy Romanet	N.C.L.M.
John Hunt	NCFPC
John McMillan	NCFDS
Alice Garland	Electricities
Jon Allen	ZDA PA
FRAN Preston	NCRMA
ANDY ELLER	"
David Simmons	ZDA, PA
Lisa Bradley	State Treasurer
Don Carrington	Locke Foundation
Katherine Davis	ElectriCities
Bernard Allen	SOS
Alicia Gregory	Poyner & Spruill

2/25

MAJOR GENERAL FUND TAX CHANGES SINCE 1995

- Annual Revenue Impact = ($1.5 billion) to ($1.6 billion)

Major Reductions: (based on FY 2000 estimates)

- Sales Tax on Food = ($380 million)
- Increase Personal Exemption & Add $60 Child Credit = ($274 million)
- Repeal Intangibles Tax = ($241.9 million)
- Reduce Corporate Income Tax Rate From 7.75% to 6.9% = ($124.3 million)
- Exempt Federal & State Retiree Income = ($122.3 million)
- Repeal Inheritance Tax = ($79.4 million)

For more information on tax changes since 1979, go to the General Assembly Intranet at:

http://info.ncga.state.nc.us/

When in the intranet page
- Click on Links
- Click on Tax History
- Choose Options: Tax Type
  Year Enacted
  Type of Action

The intranet site creates a chart that includes:
- Tax Type
- Original Bill Number
- Session Law
- General Statute
- Fiscal Effect
- Explanation

MAJOR GENERAL FUND TAX CHANGES 1995 to 1998

	Year Enacted	($Millions) FY99-00	FY00-01	FY 01-02
INTANGIBLES TAX				
Repeal Intangibles Tax on Stocks, Bonds, etc.	1995	**($228.2)**	**($241.9)**	**($256.4)**
INHERITANCE TAX				
Reform Inheritance Tax (Class A, QTIP, Installment Pay)	1996	($4.1)	($4.4)	($4.7)
Repeal Inheritance Tax / Keep Pick-up Tax	1998	(52.5)	(79.4)	(85.7)
Subtotal - Inheritance Tax		**($56.6)**	**($83.8)**	**($90.4)**
SALES & USE TAX				
Reduce State Sales on Food From 4% to 3% (1/1/97)	1996	($92.2)	($95.0)	($97.9)
Reduce State Sales on Food From 3% to 2% (7/1/98)	1997	(92.2)	(95.0)	(97.9)
Repeal Remaining 2% State Sales Tax on Food (5/1/99)	1998	(184.5)	(190.0)	(195.7)
Change Sales Tax on Bundled Transactions (Cellular Phones)	1996	(6.7)	(6.7)	(6.7)
Reduce Manufacturing Energy Tax From 3% to 2.83%	1996	(6.0)	(6.3)	(6.7)
Exempt Audiovisual Master Tapes	1997	(1.7)	(1.8)	(1.9)
Revise Definition of Custom Computer Software	1997	0.8	0.9	0.9
Provide School Sales Tax Refunds	1998	(14.8)	(15.0)	(14.4)
Repeal Wholesale License/ Increase Sales Tax Filing Threshold	1998	(3.3)	(1.3)	(1.3)
Economic Opportunities Act of 1998 (Fed Ex/Nucor)	1998	(0.1)	(0.2)	(0.6)
Repeal Tax on Pay Phone Coin Calls	1998	(0.8)	(1.9)	(2.0)
Subtotal - Sales Tax		**($401.5)**	**($412.3)**	**($424.1)**
SOFT DRINK TAX				
Cut Soft Drink Tax Rate 25%	1995	($11.2)	($11.6)	($12.1)
Phase-out Soft Drink Tax Over 3 Years	1996	(33.7)	(34.9)	(36.2)
Subtotal - Soft Drink Tax		**($44.9)**	**($46.5)**	**($48.3)**

MAJOR GENERAL FUND TAX CHANGES 1995 to 1998

	Year Enacted	($Millions) FY99-00	FY00-01	FY 01-02
INDIVIDUAL INCOME TAX				
Increase Personal Exemption & Create $60 Child Credit	1995	($266.7)	($274.0)	($281.2)
Exempt Severance Pay ($35,000 cap)	1996 & 1997	(6.5)	(6.9)	(7.3)
Establish 7% Nonitemizer Credit above 2% AGI	1996 & 1998	(12.6)	(12.8)	(12.9)
Provide Federal Retiree Income Tax Credit and Partial Refunds	1996 & 1997	(2.5)	(1.7)	
Withhold Income Tax on Nonresident Contractors	1997 & 1998	3.0	3.0	3.0
Establish Child Health Insurance Credit	1998	(64.5)	(65.3)	(65.6)
Extend Sunset on Qualified Business Investment Credits	1998	-	(6.0)	(6.0)
Create Long-Term Care Insurance Credit	1998	(8.0)	(8.9)	(9.8)
Offer Child Care & Handicapped Housing Credits to Nonresidents	1998	(0.6)	(0.6)	(0.6)
Exempt State & Federal Retiree Income (Bailey Case)	1998	(125.4)	(122.3)	(119.2)
Subtotal - Individual Income Tax		**($483.8)**	**($495.5)**	**($499.6)**
INDIVIDUAL & CORPORATE INCOME TAX				
Update Internal Revenue Code	1997	($11.5)	($13.0)	($17.0)
Expand Conservation Easement/Tax Credit	1997 & 1998	(4.4)	(4.4)	(4.4)
Expand Historic Rehabilitation Tax Credits	1997	(2.2)	(4.7)	(7.9)
Update Internal Revenue Code	1998	(4.0)	(10.7)	(18.5)
Subtotal - Individual & Corporate Income Tax		**($22.1)**	**($32.8)**	**($47.8)**

MAJOR GENERAL FUND TAX CHANGES 1995 to 1998

	Year Enacted	($Millions) FY99-00	FY00-01	FY 01-02
CORPORATE INCOME TAX				
Reduce Corporate Rate from 7.75% to 6.9% over 4 years	1996	($99.3)	($108.1)	($109.4)
Enact William S. Lee Act Incentive Credits:				
General Investment Tax Credit (4.5%, $100,000 cap)	1996	(16.9)	(22.3)	(28.1)
Targeted Investment Tax Credit (7%, threshold)	1996	(18.4)	(30.7)	(43.0)
Jobs Credit Expansion (range $12,500 to $500)	1996	(4.5)	(7.5)	(7.5)
Research & Development Tax Credit (5% of eligible expenses)	1996	(9.1)	(9.6)	(10.2)
Worker Training Tax Credit (50% of eligible expenses up to $1000)	1996	(1.7)	(2.2)	(2.2)
Central Administrative Offices (must employ 40 workers)	1997	(1.3)	(2.1)	(2.9)
Other Changes	1997	(0.9)	(2.6)	(5.0)
Extend Sunset & Modify Ports Tax Credit	1997	(2.7)	(3.6)	0.0
Economic Opportunities Act of 1998 (Fed Ex/Nucor)	1998	(1.2)	(6.6)	(12.4)
Increase Corporate Net Loss Carryforward from 5 to 15 Years	1998	(3.7)	(3.7)	(3.7)
Subtotal - Corporate Income Tax		**($159.7)**	**($199.0)**	**($224.4)**
PRIVILEGE TAX				
Abolish Most Privilege Taxes	1996	($11.1)	($11.1)	($11.1)
Simplify Privilege License Tax (Impose 1% Tax on Movies)	1998	2.2	2.3	2.4
Subtotal - Privilege Tax		**($8.9)**	**($8.8)**	**($8.7)**
MISCELLANEOUS				
Change Tax on Natural Gas	1998	($3.6)	($3.7)	($3.8)
Modify Controlled Substance Tax	1998	1.3	1.3	1.3
Make Other Revenue Changes (Net Impact)	1995 & 1996	18.4	18.9	19.3
Subtotal - Misc.		**$16.1**	**$16.5**	**$16.8**

MAJOR GENERAL FUND TAX CHANGES 1995 to 1998

	Year Enacted	($Millions) FY99-00	FY00-01	FY 01-02
FEE CHANGES				
Increase General Court of Justice Fees by $15	1997	$15.9	$16.6	$17.5
Increase Secretary of State Fees	1997 & 1998	2.4	2.4	2.5
Increase Corporate Annual Report Fee from $10 to $20	1997	1.7	1.7	1.7
Increase Autopsy Fees (net impact)	1998	0.4	0.4	0.4
Change Water Quality Fees	1998	(0.3)	(0.3)	(0.3)
Subtotal - Fees		**$20.1**	**$20.8**	**$21.7**
TOTAL MAJOR TAX CHANGES - 1995 to 1998		**($1,369.5)**	**($1,483.3)**	**($1,561.2)**

UNEMPLOYMENT INSURANCE TAX CUTS

Year Enacted	Legislative Action	Savings to Employers (1999 Dollars)
1992	Suspended the 20% surtax levied to create the ESC Reserve Fund.	$73.3 Million
1993	Cut the Unemployment Insurance (UI) taxes for positive rated employers by an average of 30% for any calendar year in which the balance in the Unemployment Insurance Fund equals or exceeds $800 million.	$128.7 Million
1994	Cut the UI taxes for positive rated employers by an average 38.7% and cut the UI taxes for new employers by 20%.	$118.6 Million
1995	Cut the UI taxes for positive rated employers by an average of 23%.	$70.9 Million
	Total - Annual	$391.5 Million
1996	Levied a zero rate in 1996 for employers with a positive balance in their unemployment insurance account. Reduced tax rate on new employers from 1.8% to 1.2 % of taxable base.	
	One-Time	$165 Million

I

2/25/99

The Care and Feeding of the State and Local Tax Base

An Action Agenda to Conserve a Valuable Public Asset[1]

By William Schweke, Corporation for Enterprise Development

As Supreme Court Justice Oliver Wendell Holmes once said: "Taxes are what [we] pay for civilization." Everything we as citizens call upon state and local governments to do ultimately requires a funding mechanism. Taxes represent 56 percent of all of the financial resources available to state and local governments.

The tax bases of states and localities are valuable resources that must be nurtured, conserved, and used efficiently, no less so than timber or farmland. Unfortunately, a number of long-standing flaws in state and local tax systems and a host of recently enacted provisions aimed at encouraging local economic development are resulting in rapid erosion of this crucial community asset. Major changes in federal, state, and local tax policy are needed to ensure that state and local tax bases will be able to meet the demands placed upon them in coming decades.

Erosion From Without

Broadly speaking, states and localities tax the incomes, consumption, and real estate wealth of their citizens and the profits and property wealth of businesses engaged in economic activity within their borders. Personal income taxes, household and business property taxes, consumption taxes, and taxes on corporate profits together account for 99 percent of state and local tax revenues. Unfortunately, technological and economic factors are interacting with longstanding deficiencies in state and local taxing powers and policies to erode the base of these taxes. These factors include:

- **Rapid growth of interstate trade at the expense of localized production and marketing.** Obsolete federal law hobbles the authority of state and local governments to tax many out-of-state corporations. These governments already lose $3-4 billion in annual sales tax revenues from mail-order catalog sales alone. This revenue loss is likely to grow dramatically in the next several years as the Internet expands the range of goods and services that can be purchased from remote sellers.
- **The competitive disadvantage locally based businesses face** compared to out-of-state corporations that can take advantage of their multi-state operations to manipulate and cut their taxes. The ensuing lower after-tax profits and depressed sales of locally based businesses hamper their ability to expand both physical plant and payrolls. This in turn results in lower property tax and income tax payments by such businesses and their employees.

Erosion From Within

The flip side of the growing ability of corporations to satisfy nationwide demand for products from just a handful of production and distribution centers is intensified state and local government competition to attract such export-oriented facilities and the jobs they bring with them. Special breaks on state and local

---

[1] An original version of this article was authored by Michael Mazerov and William Schweke, for the CFED publication, *Ideas in Development* (1999).

taxes further erode the tax base.

Since the publication of *Bidding for Business: Are Cities and States Selling Themselves Short?* the Corporation for Enterprise Development and its allies have worked to curb the excesses in today's business incentives "arms race" among the states. We believe that most policymakers and opinion leaders have been convinced that tax incentives often are poor economic development tools -- especially because they pit one state or locality against another, and from a national perspective, rarely result a net increase in jobs. Nonetheless, economic development tax incentives continue to proliferate despite growing skepticism about their efficacy for several reasons:

1. When a new or expanded facility receives a tax incentive, there is no way to demonstrate conclusively that the investment would have occurred without it.
2. One cannot undercut the logic that a tax incentive larger than one being offered by a competing jurisdiction will tip a location decision when "all other factors are equal."
3. A few corporate executives who say tax incentives swayed their decision to locate a plant in a particular jurisdiction will trump a hundred econometric studies that show no correlation between business' state and local tax liabilities and job growth.

What is needed to combat these "arguments" is a more accurate view of the overall role of taxes and incentives in a good business climate, along with efforts to design much more cost-effective, publically accountable, and transparent development incentives. However, before looking at what policymakers might do about these nefarious trends, let's step back and establish some better design principles for a development-enhancing fiscal system.

The Role of Taxes in Business Climate

For the traditional perspective on business climates, state and local tax systems are always a liability nad never an asset. Cost – the amount of taxes paid is always the issue and rarely are the benefits of a sound tax system measures and identified.

Indeed, according to this traditional point of view, taxes harm more than they help. But taxes are the means for financing government. But is government, and the services it provides, really the enemy of business?

Experience, common sense, and the facts suggest otherwise. While taxes do impose costs, they also finance the basic services that businesses need to thrive and that significantly bolster an area's quality of life. After all, school teachers, police officers, sanitation workers, road crews, and public healthy nurses cannot work for free. Publishers can't be expected to provide free textbooks and construction workers can't give away sewage treatment plants. Everything we as citizens call upon state and local governments to do – including expanding opportunity for people and places left out of the economic mainstream – ultimately requires a funding mechanism. *Indeed, a well-balanced tax system can be an asset to a state's business climate, rather than a liability. And the real obstacle to achieving a better business climate is our outmoded tax systems.* We need to understand that our revenue systems often:

- Are out-of-step with technological change, today's multi-national, information-based service economy and demographic trends.
- Impose tax burdens on an increasingly narrow slice of economic activity.
- Establish an unfair advantage for large businesses and out-of-state companies.
- Result in structural deficits in many states.

- Require the less affluent to shoulder more of the tax load.

Simply responding to pressure by tinkering with a state's tax codes will do little to improve the business climate. A better way requires that:

- Tax competitiveness becomes only one of a number of goals for a quality fiscal system.
- Tax reform is based on creating a better fit between a state's fiscal system and its changing economic base.
- Tax reform is comprehensive in scope (or at least holistic in conception), rather seeking to "just get by" the next challenge or crisis.
- States seek to cooperate with their neighbors on issues of tax uniformity, taxing multi-state corporations, and restraining the incentives "arms race."
- Most importantly, a tax system should offer lower rates, greater predictability, a broader base, more equity, and greater simplicity.

Although these points may appear to say to business that the key to a more positive business is to pay more taxes, this is not the intent. Instead, the link between a good environment for business and a state tax system can be summarized in three simple ideas:

- A good fiscal system should be one that produces adequate revenues in a predictable manner. It is stable. It is certain. And revenues are sufficient to support current costs and are structured to grow naturally.
- The tax system creates a level playing field among all types of businesses and among all types of households. Those that make the same income or profits should pay the same amount of taxes.
- Businesses must pay its fair share because government services like police and fire protection, education, and highways are benefits received and needed by companies. Taxes reflect the cost of these services.

The Case of North Carolina

Something like these guidelines also should guide North Carolina policymakers in thinking about how best to address its current $800 million budget gap. Rather than raiding its Rainy Day Fund during a growth period, or instituting an economically regressive and morally questionable lottery, its leadership should consider other avenues. How might changes in its business tax incentive policies change its funding picture? Is the state pursuing the right course in dealing with the challenges posed by electronic commerce and multi-state corporations, who are bent on creating more "nowhere income?" Likewise, many of the tax cuts enacted by the General Assembly, during the past few years, have favored the wealthy and business, not the less affluent citizenry. How might legislators best deal with these important equity considerations? And how might elected leadership use this crisis to improve its overall tax system and not just extricate the state from its current situation? What larger economic, technological, political, and demographic trends should shape a system that is much more equipped for the 21st century?

An Action Agenda

Just as it has taken several decades to build a robust movement of organizations and individuals committed to conserving and restoring the natural environment, it will require considerable effort to build a constituency to defend the "natural resources" that fuel state and local public services. We urge organizations and elected and appointed officials concerned about preserving a healthy state and local tax

base to focus for the next decade on five sets of economic development-enhancing tax policies:

- **Mandate public disclosure by corporations of their actual state and local tax liabilities,** the value of the economic development tax incentives they receive, and their local economic activity. Policymakers and the public need this information if they are to evaluate (1) whether the cost of tax incentives is justified by the growth of payrolls and investment and the tax base itself, and (2) whether corporations benefiting from state and local services are paying their fair share of state and local taxes. Corporate tax disclosure is best pursued through a coordinated national campaign that seeks to enact legislation in numerous states simultaneously, since a single state seeking to adopt such a policy would be subject to corporate threats not to invest there.

- **Implement state tax policies that ensure that multi-state corporations have state corporate income tax and sales tax liabilities similar to those faced by wholly in-state corporations.** These policies include mandatory "combined reporting" (an accounting method that treats businesses comprised of a parent and subsidiaries as one corporation for state corporate tax purposes) and the assertion of taxing jurisdiction over out-of-state corporations to the limits permitted by federal law. Also seek long-term changes in federal law to permit states to tax all out-of-state corporations making substantial sales to their residents (including resident businesses).

- **Draw on best practice and draft a model law that states and localities can use to enforce the accountability of economic development incentive deals through legally binding performance contracts.** Seek laws to grant citizens legal standing to ensure compliance with these contracts and to ensure that the routine enforcement of the contracts is *not* the responsibility of the state and local economic development staff that originally marketed the jurisdiction and arranged the deal. Require economic development tax incentive programs by law to undergo a well-financed, professional, and independent sunset review every five years.

- **Seek legislation requiring preparation of a unified development budget, which would examine simultaneously all on- and off-budget spending on economic development.** This budget tool clarifies existing commitments and implicit priorities, enables policymakers to better weigh conflicting imperatives (such as K-12 class size reduction versus property tax abatements), and can help direct scarce public dollars into programs that generate better development returns for the state.
- **Develop a "certified" cost-benefit methodology that sets minimum standards for a good assessment to be used in evaluating incentive programs and special deals.** After such a model approach is developed, encourage all states and localities to use it when measuring net benefits and net costs per job for varied development incentives.

These reforms will not be easy to enact, but these are the right policies. Their only major difficulty is that they work best if all states are doing them. But we are encouraged by the organizing efforts now underway around these issues. If we can focus the degree of commitment and resources that this agenda demands, we can build broader coalitions that include small businesses, public employee unions, taxpayer watchdog groups, and low-income budget advocates. By doing so, this agenda will have realistic prospects for successful implementation.

For more background on these issues, contact:
Michael Mazerov is a Senior Policy Analyst at the Center on Budget and Policy Priorities. He is an expert on corporate taxation. William Schweke is a Senior Program Director at the Corporation for Enterprise Development. His work focuses on designing more cost-effective, accountable business incentives (schweke@cfed.org mazerov@cbpp.org)

Innovations

Positive Business Climates Project (No. 5) *August 1996*

The Corporation for Enterprise Development (CFED) has launched a "Positive Business Climates" project. This multi-year project, funded by the Ford Foundation, seeks to broaden the accepted definition of an attractive business climate beyond development incentives to encompass education, tax and regulatory reform, physical infrastructure, quality business services, and governance. In addition, the project is designed to encourage states, cities, and counties to hold incentives to a higher level of accountability and to adopt more effective approaches that create both greater competitiveness and expanded opportunity.

The Corporation for Enterprise Development is a private nonprofit economic development organization, which works with state and local governments, private companies, foundations unions, and community based organizations to design and implement economic development strategies that enhance economic competitiveness, expand economic opportunity and increase the capacity of communities to think and act strategically.

For more information contact:
Bill Schweke or Carl Rist
CFED-South, 1829 E. Franklin Street, Suite 1200-M, Chapel Hill, NC 27514
(919) 967-5300

Editor: Bill Schweke
Graphic Design: Carmen Murray
Corporation for Enterprise Development

This newsletter may be reproduced without permission, as long as it is done in its entirety.

Pursuing Development - Enhancing Tax Reform[1]

For conventional business climate proponents, with taxes, there is rarely a "benefit in the house." Cost, cost, cost is always the issue; and rarely are benefits identified and measured.

Indeed, according to this traditional point of view, a tax is a tax is a tax, and all taxes are bad. But taxes are the means for financing government. And is government, and the services it provides, really the enemy of business?

> ***Taxes are the price we pay for a civilized society.***

Experience, common sense, and the facts suggest otherwise. As Supreme Court Justice Oliver Wendell Holmes once pointed out, taxes are the price we pay for a civilized society. But they are more than that. While taxes impose costs, they also finance the basic public services that businesses need to thrive and that significantly bolster an area's quality of life. Indeed, many states, like Minnesota, have higher tax burdens, but have typically had strong, healthy economies.

We believe that traditional business climate analyses are extremely misleading in this area: they assert that all taxes are bad, that all debt is bad, and that all government spending is bad. In doing so, they overestimate the importance of state taxes in business climate location decisions, oversimplify the complex array of state and local tax issues that face specific businesses differently, and ignore weighing the services businesses receive in exchange for their taxpayer dollar.[2]

Specifically, we will argue the following in this newsletter. First, the conventional wisdom about the effects of taxation on state economic development is incorrect. State and local taxes are not the most important factor in business investment decisions and they do not necessarily slow growth and destroy jobs. Although they are important, taxes are not by themselves an appropriate measure of a good business climate.

---

[1] This newsletter is drawn from a chapter of soon to be published book on state business climate.

[2] For background on these issues, see: Michael Kieschnick, *Taxes and Growth: Business Incentives and Economic Development*, Council of State Planning Agencies, 1981; Roger Vaughan, *State Tax Policy and the Development of Small and New Business*, Coalition of Northeastern Governor's Policy Research Center, 1983; Corporation for Enterprise Development, *Taken For Granted: How Grant Thorton's Business Climate Index Leads States Astray*, November 1986, pages 22-30; Karl Seidman, *The Role of Taxation in Business Climate*, Corporation for Enterprise Development, 1986; Robert Lynch, "Do State and Local Tax Incentives Work?" Economic Policy Institute (April 1996) and Robert Tannenwald, "State Business Tax Climate: How It Should Be Measured and How Important Is It," New England Economic Review: Federal Reserve Bank of Boston (January 1996).

Second, the traditional business climate perspective frames the issues wrongly and leads to poor policy decisions. Third, we must look at the issues of the role of taxation in business climate differently: instead of constantly looking for additional taxes to cut, we need to work on creating a high-quality revenue system. And, such a tax and fiscal system must be in step with the needs and workings of today's economy and must avoid solely focusing on just the ultimate policy goal of business climate traditionalists: lowering tax burdens on both businesses and households. Rather, it should seek to accomplish more effectively all the objectives of a sound revenue policy and a strategic economic development agenda so that the appropriate ends of policy can be accomplished -- created more widely shared economic growth and job creation. Later in this piece, we outline in more detail the key elements of a sensible and development-enhancing approach to tax reform and suggest how policy-makers should get started.

Conventional wisdom argues that state and local taxes discourage investment, slow economic growth, and destroy jobs.

What's Wrong With The Conventional Wisdom About Taxes and Jobs?

Conventional wisdom argues that state and local taxes discourage investment, slow economic growth, and destroy jobs. There are a number of reasons to be skeptical about the traditional claims about taxes and economic development:

- Surveys of business decisionmakers regarding the factors affecting their location decisions always rate taxes and tax incentives much, much lower than other critical factors, such as quality of labor, market potential, access to raw materials, and so forth.
- Most new jobs result from the creation and growth of in-state firms so policymakers need to avoid placing too much policy attention toward developing tax incentives aimed at relocating companies.
- State and local taxes are a relative small share of total business costs.
- State and local taxes reduce profits by small amounts and after-tax rates of returns vary only slightly across the states.
- Statistical and econometric studies are nearly unanimous in concluding that state and local tax cuts (and incentives) have no or a very small effect on the creation of jobs.
- These studies also find a very wide range in the costs per job created by these tax cuts and incentives. The lower parts of the spectrum probably mean cost-effective programs, but the average to high figures suggest that governments are not getting their money's worth.

The greatest obstacle to creating a more development-enhancing environment for business growth and profitability is not overly burdensome taxes: it is our outmoded state tax systems.

Our Outmoded Tax Systems

The greatest obstacle to creating a more development-enhancing environment for business growth and profitability is not overly burdensome taxes: it is our outmoded state tax systems. By updating our state and local tax systems, we reap the following results:

- The creation of revenue systems that are increasingly out-of-step with technological change, today's multinational, information-based, service economy, and new demographic trends;
- The imposition of tax burdens on an increasingly narrow slice of economic activity;
- The establishment of an uneven playing field between large and small businesses, and between in-state firms and out-of-state companies;
- The development of structural deficits in many states, which force them to make almost yearly, and often unpredictable, changes in their tax levels and bases;
- The creation of state revenue adequacy problems at the same time that federal domestic spending will be radically cut and new capped block grants are being devised by Congress; and
- The exacerbation of fairness problems -- the less affluent shoulder more of the tax load and businesses and households that earn the same income pay significantly different taxes.

These are the real tax issues of business climate that need the attention of reformers.[3]

[3] This discussion is strongly based on *Financing State Government in the 1990s*, a jointly published work by the National Conference of

What Should Be Done To Create A High Quality Revenue System?

Innovative state policymakers, who wish to confront today's business climate challenges regarding taxes, must avoid pursuing the traditional tax reform approaches -- the enactment of more tax preferences and making additional cuts in overall tax rates without considering the larger picture. What should be done instead?

To start, we must admit the truth of a basic proposition: state taxes and fiscal policies do affect the economic climate for business in a state.

To start, we must admit the truth of a basic proposition: state taxes *and* fiscal policies do affect the economic climate for business in a state. Stable and attractive conditions for business development and profitability depend to a significant extent on the establishment of adequate, efficiently administered and equitable tax policies and a sound business climate depends also on the quality of public services.

Things are not as they are conventionally seen, because tax policy gimmickry is a limited tool for promoting economic development, especially when used to recruit footloose businesses. Moreover, the revenue generated by taxes is essential for public services that are critically needed by business. But if taxes are higher than the benefits from the services that they finance, the level of investment, income growth, and job creation will be lower than it would be otherwise. Thus, the issues of creating a more positive tax climate are more subtle, requiring more thoughtful and less ideological action.

Next, to expand this argument further: reformers on both sides of the political aisle must admit that tax and fiscal policy, like most areas of public life, are challenged by genuine dilemmas. And it is not easy to combine all the appropriate goals of a fair and far-sighted tax policy. Chief among these is seeking to avoid either starving the public sector of essential revenues or burdening businesses with unnecessary tax burdens and complexity. But we will not make any real progress if liberals or conservatives deny the dangerous realities of erring on either side.

Although the agenda for reform is complicated and particulars will differ from state to state, it still can be summarized in a few simple recommendations:

- Reframe the debate about taxes and business climate so that adequate tax competitiveness becomes only one of a number of important goals of a quality fiscal system;[4]
- Review the ways that changing conditions affect a specific state's tax structure and develop a reform approach that creates a better fit between a state's fiscal system and its underlying economic base;
- Explore more comprehensive tax reforms rather than adopting inadequate, "only-just-getting -by" solutions;
- Curb wasteful tax expenditures;
- Cooperate with other states around uniformity issues, taxing multi-state corporations, and restraining the incentives "arms race"; and
- Create a tax system with lower rates, greater predictability, a broader base, more equity, and greater simplicity.[5]

---

[4] See the discussion of tax reform goals in "Innovations" issues No. 1 and 2.

[5] These proposals are largely based on the NCSL book cited above and the work of John Shannon, "Characteristics of a Balanced State and Local Tax system," Remarks before the National Conference of State Legislatures meeting, Denver, Colorado, October 10, 1985. An excellent and more current revision of Shannon's original ideas can be found in "Principles of a High-Quality state Revenue System" (Second Edition — November 1992), by National Conference of State Legislatures. Also, see the latest partial measurement of how states stack up on these dimensions in Corporation for Enterprise Development, *Development Report Card 1996,* Tax and Fiscal Index.

Corporation for Enterprise Development
1829 E. Franklin Street,
Suite 1200-M
Chapel Hill, NC 27514

Non-Profit
Organization
U.S. Postage
PAID
Permit No. 2410

Final Thoughts: So, What's the Message To Business?

Although this newsletter may appear to be saying to business that the key to a more positive business climate is to pay more taxes, this is not its intended message. Instead, the link between a good environment for business and a state tax system can be summarized in three simple ideas.

- A good fiscal system should be one which produces revenue in a predictable manner. It is stable. It is certain. And revenues are adequate.
- Next, the tax system creates a level playing field among all types of businesses and among all types of households. Those that make the same income or profits should pay the same.
- Lastly, business must pay its fair share, because government services like police and fire protection, education, and highways are benefits received and needed by businesses and taxes are the cost of providing them.[5]

[5] We recognize that there is a deep debate, that is both factual and philosophic, about what's a fair share. But the basic point stands: business, both large and small, multi-state and in-state must pay a share of the costs of public services from with they benefit.

TOP TEN QUESTIONS ON DEVELOPMENT INCENTIVES
by the Corporation for Enterprise Development

The following section answers the ten most important questions-and-answers about the use of business incentives to foster economic development.[1]

1. What's The Problem With Incentives?

The competition among states to recruit new companies or retain existing ones has never been more intense. Annually, states and localities across the country spend billions of public dollars on a variety of tax incentives and spending programs whose use has fueled a new incentives "arms race" among the states. This development strategy presents cities and states with a fundamental dilemma:

On the one hand, it appears that incentives can make a difference in the site selection process, particularly when the choice comes to two or three similar locations. Moreover, even if the economics are bad, political pressure makes it hard for governors and mayors to ignore the incentives sweepstakes. Indeed, how can any state or locality unilaterally disarm and miss the chance of landing a significant business prospect? Likewise, how can an elected official, such as a mayor or governor, avoid responding with public dollars and policy changes when a company, which has long operated in the state, threatens to leave and accept generous incentives from another jurisdiction?

On the other hand, most economists and policy analysts agree that incentives are not good development policy. In using them to attract businesses, cities and states: (1) waste scarce public dollars without creating net new jobs in the vast majority of cases; (2) subsidize the shareholders of these companies for the economic actions they would have taken anyway; (3) foster unfair competition by helping some firms and industries and not others; and (4) divert the attention of policymakers from other issues that could lead to additional job creation and a better business climate.

Neither business attraction nor incentive use should be seen as an utterly worthless exercise. Rather, the challenge for state and local governments is to find ways to make their jurisdictions attractive without giving away the tax base, and to use incentives selectively and responsibly.

2. What Are Development Incentives?

Development incentives refer to inducements state and local governments use to attract and retain companies and facilities. These incentives take two principal forms: tax incentives and non-tax incentives.

Tax incentives. The traditional workhorse of business climate policy is the tax incentive. Tax incentives include various types of abatements, exemptions, reductions, and moratoria. These may take a variety of forms, such as corporate income tax exemptions,

sales/use tax exemptions on new equipment, and tax exemptions or moratoriums on equipment and machinery. Included in this category are also other tax-related investment incentives, such as investment and tax credits, research and development tax incentives, and accelerated depreciation of industrial equipment. A special kind of tax incentive program that has received much attention in recent years is the Enterprise Zone (EZ) concept (also known as Empowerment Zones and Empowerment Communities). EZs have been used by the federal government and even more widely by many states. Ohio, for instance, created 310 separate zones! Despite their popularity, however, research has not, by and large, found them to be very effective tools for economic development.[2]

Non-tax incentives. These are a growing form of inducement, including grants, creative financing subsidies and customized worker training. The mainstay is the Industrial Development Bond, or IDB. These are used by almost every state to offer low-interest loans to firms. A variation on the IDB is the use in many states of Tax Increment Financing (TIF) districts. TIF allows governments to float bonds to help companies based on their anticipated future tax impact. Some states also compete in important non-tax ways by offering watered-down environmental regulations, "right to work" laws that inhibit union organizing, and so on.

3. How Much Is Being Given Away?

Two things are clear in attempting to answer this question. First, incentives have increased exponentially in just the past few years. Second, accurate dollar figures on the costs of these programs are hard to come by.

This lack of data is driven, principally, by two factors. First, the vast majority of incentives are in the form of "tax expenditures," or exemptions in the tax code. Although these cost taxpayers money, they do not typically get reported in the same manner, or receive the public scrutiny, as cash expenditures. Second, there is a critical lack of mandatory and accurate reporting of most incentive programs. For instance, there is no national legislation that requires states to keep track of the cost of all their tax expenditure programs. States, furthermore, spend economic development dollars through a variety of channels -- on-budget and off-budget, state agencies and quasi-publics, credit enhancements (e.g., loan guarantees and insurance) and direct expenditures. And no existing state budget document accurately captures all this activity.

No one knows how much these total nationwide. Two recent estimates of state-level incentives put the price tag at $15 to $16 *billion* per year, and incentives at the local level may be equally high. Even these analyses acknowledge the difficulty of calculating this amount with any precision. The following examples may help the reader get a sense of the magnitude at the state level:

The price tag of packages for so-called "trophy project" has risen exponentially. With large automobile plants, for instance, states have upped the ante substantially. In 1980, Tennessee offered Nissan $11,000 per job created, a large sum at the time. Just thirteen

years later, Alabama offered between $150,000 and $200,000 *per job* for a new Mercedes-Benz plant.

Some states, like New York, give out so many subsidies that corporations can not use them all annually and must carry them forward. For instance, New York companies have "earned" $242 million in new investment tax credits and had $938 million in unused credits for these companies to use in future years to offset their tax liability.

Even small states like Maine spend at least $100 million directly on economic development (this includes all types of economic development activities, ranging from smokestack chasing to existing business development, but it does not count tax expenditures). And experts estimate that tax expenditures vastly exceed direct spending by anywhere from 3:1 to 8:1. The means state tax incentives total in the billions annually in mid-sized and large states.

A study of a few states that have good tax incentive reporting systems finds that such incentives are growing more rapidly than many other budgetary categories.

Incentives have skyrocketed in the past decade, and they show no sign of letting up. Various surveys of both public officials and corporate officers indicate a common expectation that they will continue to rise in coming years. Despite predictions by some over the years that incentives are going to slow down "soon," they appear to be increasing all the more rapidly.

4. What Are Some Examples of Incentive Abuse?

There are countless troubling examples of incentive abuse. The following are just a few, which are especially disturbing, yet all too typical.

"You Can't Just Give One Away." In 1987, Nebraska was forced to redesign its entire tax structure in response to Con Agra's threat to move its corporate headquarters. Currently, the deal costs the state more than $60 million annually. While it was projected to pay back in seven years, it now appears that twenty is more likely. The cumulative price tag for revenues foregone amounts to $650 million. Only one-third of the companies claiming the credit appear to have created new jobs as a result of the tax break. Finally, instead of 12 firms qualifying for benefits, as originally planned for, 114 companies are already receiving tax breaks under the bill and another 118 are qualifying or applying for the benefits.

"An Implicit Contract Is Not a Real Contract." General Motors and the Township of Ypsilanti, Michigan waged a well-publicized court battle over an auto plant that GM wanted to close. After openly pitting Ypsilanti officials against counterparts in Arlington, Texas, which also had a plant, GM announced it would close the Michigan plant despite receiving millions of dollars in property tax abatements over 20 years. The township, together with the city and state, filed suit against GM. They charged that the

abatements constituted a contract, especially since GM officials had promised Ypsilanti officials to keep the plant open as long as "market conditions" allowed. Although GM's own analysis showed that the Michigan plant cost $74 million less each year to run, many believed that the company wanted to send a message to labor, since the Texas union local was much less militant than Michigan's. A lower court stunned many by ruling in Ypsilanti's favor, finding that, "This tax subsidy policy results in pitting state against state and municipality against municipality in an inter-governmental bidding war." The appellate court overturned the decision, however, arguing that the township should have understood that GM's promises were just "hyperbole and puffery" to get the abatement. Basically, the court ruled that GM's word should not have been taken seriously by the naïve public officials who granted the abatement.

"You Can Pay Too Much Even For A 'Trophy'." In October 1993, Alabama won the very public race for Mercedes' first U.S. car plant at the cost of $300 million in incentives. Since coming up with the package and obtaining Mercedes' commitment, however, the entire effort has been dogged by numerous problems. First, the state tried to raid its educational revenues to finance some of the deal, but the teachers' union sued to stop this tactic. (The state was simultaneously under court order to spend more than $500 million to upgrade its poor school system.) After that and other attempts failed, the state missed a $43 million payment to the auto company. Officials were then forced to borrow money from the state's pension fund at a junk-bond rate. The state even used its National Guard troops to clear the site for construction, thereby off-loading the expense on the federal government. Taxpayer dissatisfaction about the deal helped lead to the defeat of the governor who had originally come up with the deal. Lastly, although the state still expects the creation of thousands of high-quality jobs at the plant and at in-state suppliers, the state's original calculations of job generation appear to have been grossly overestimated. As a result, the victory that Alabama policymakers achieved has been overshadowed by the state's difficulties in coming up with the necessary funds and the political fallout over its image of over-paying. As an economist at the University of Alabama put it, "We're suffering from winner's curse." The winner's curse is an economic concept that explains why, in certain kinds of bidding situations, the "winner" is the bidder who most *overestimates* the value of the good being sought.

"The Perils of Paying Companies To Stay Put." In Massachusetts, Raytheon lobbied successfully for a $140 million tax cut in exchange for its promise to keep its operations in the Commonwealth. Sadly, only six months after being granted this tax relief, it announced plans to cuts its payroll in the state by up to 4,400 employers. Soon after Raytheon's victory, Fidelity Investments, a financial firm with annual profits of nearly a half-million dollars, requested and received $50 million in tax breaks for it and similar firms. As a result, Fidelity will pay an effective tax rate of less than 1 percent. The local mom 'n' pop operation, meanwhile, will pay a rate of 9.5 percent, and the average worker will pay 5.95 percent. Fidelity, like many other profitable and cash-rich companies, achieve some of the lowest tax rates through this kind of competition and pressure.

"Growth Does Not Necessarily Pay for Itself." Since the mid-1980s, Rio Rancho, New Mexico has been quite successful at attracting businesses. Generous property tax abatements have been part of the package used to entice some of Rio Rancho's largest employers. The city's biggest victory was Intel Corporation, which had chosen Rio Rancho after courting offers from a large number of cities. (Intel had gone so far as to volunteer a 104-point "ideal incentive matrix" to help out public officials.) As a result of incentives, Intel paid no property taxes on its advanced manufacturing plant, an operation approaching $2 billion in value. Largely a result of Intel's influx of employees, the school system soon found itself in need of five new schools to keep up with rapid enrollment growth. The city's property tax base, however, was too small to pay for more than half of the needed funds. Intel reluctantly agreed to finance one of the high schools in exchange for the city's issuance of a multi-billion dollar bond that was several times the budget of the entire state. The city has not solved the long-term revenue capacity problem that it faces. Simultaneously, Intel anticipates an additional $8 billion in expansion investments, but none of this property is part of the tax base.

5. Why Are Incentives So Popular?

Several reasons lie behind this increased abuse of development incentives.

Competition among states is an integral part of the American federal system. The power of state and local governments to deliver services and raise revenues is much greater than in most other nations. The major cuts in federal development programs by recent administrations and the increased use of block grants have fueled additional competition among states, as each jurisdiction tries to attract and retain jobs.

The impact of plant closures, work layoffs and economic restructuring, sparked off and reinforced by global competition and new technologies, has dramatically affected the economic health of states. Elected officials are under immense pressure to "do something" about economic development. While they have little power to influence these larger macro-economic forces, they are able to change the tax code or create new non-tax incentive programs.

Increasingly, most companies have come to expect an incentive as part of their standard business package. This is true whether the companies are large or small, healthy or barely competitive, in manufacturing, wholesaling, retail, or other sectors.

Corporate lobbyists, state officials, and legislators often work in tandem to provide more incentives. Their actions are fueled by the fear that they will fail to compete effectively with other states and promoted by explicit efforts to help particular and powerful corporations. Others wish to seek a general drop in taxes on business and private investors. Providing incentives is a veiled way to answer this request.

Incentives often appear to be an easy solution to complex economic problems. With a quick and immediate victory, public officials are tempted to use incentives because they

are some of the few tools they have that appear to influence private investment, which is the real engine behind a region's economy. For public officials facing the pressure to "do something," incentives appear to be an easy answer.

The "incentives" for taking this approach in economic development are stronger than the "disincentives." For instance, public officials and staff are more rewarded for making any deal happen than carefully evaluating, and possibly rejecting, some deals. Furthermore, they are present at the "ribbon-cutting" events, but not necessarily around later when the real costs are borne. It is important to remember that many public officials work on a short time horizon – often just until the next election – while the cost of incentives is often not paid for years or decades to come.

The potential losers from incentives – the unsubsidized firms and citizens of a jurisdiction – are often not aware of, or sufficiently interested in, an incentive policy and do nothing to oppose it. The potential beneficiaries, on the other hand, work hard to gain the political and administrative support for a policy that will benefit them personally and corporately.

Finally, there is an "arms race" mentality that requires policymakers to match any development incentive a competitor offers, regardless of its utility and effectiveness. ("Everybody is doing it.") This is fueled by a host of governments that are constantly striving to strike first in offering a particular inducement. This is more than a metaphor; several academic analyses show that incentives are better explained by a "do whatever my neighbor is doing" approach than by careful analyses or any other rival explanations.

6. Are There Efforts to Make Incentives More Accountable?

Escalating costs and the proliferation of new incentive tools are not the only trend in economic development. Thankfully, growing concerns about the use of public monies to support private firms, and about the escalating costs of incentive deals and policies, have led to some positive movement in policy. A growing number of states and communities have begun exploring how best to provide incentives responsibly.

Some of those opposed to incentives have actually begun to pursue legal action to try to prevent their use. Companies have sued states which provided funds for their competitors. Others have questioned the constitutionality of using public monies for private gain. Legal experts have developed a strong rationale for challenging many incentives on federal interstate commerce clause grounds and arguing for additional litigation.

Other policymakers are trying to hold incentive policies to higher accountability and cost-effectiveness standards. Policy experimentation and implementation is on the rise. In the new edition *of No More Candy Store*, researchers from the Grassroots Policy Project point out that innovative state and local policymakers are exploring how to attach new conditions to these incentives. These provisions include several elements. First, they argue for public access to information, such as requiring companies to disclose

"competing bids," instituting program evaluations of costs and benefits, and disclosure of incentive package terms. Second, they make the case for offering incentives as an explicit *quid pro quo*, in exchange for a minimum number of new jobs, a threshold for adequate wages and benefits, local hiring, and so forth. Third, they argue for enforceability protections such as "clawbacks," recapture provisions, etc.

Meanwhile, some policymakers are working to design incentives in increasingly responsible ways. Here are a few examples.

Many states and local governments are pursuing performance-based contracting approaches and have instituted provisions for clawbacks and recisions in the case when companies violate the terms of the deal. Increasingly, these sorts of provisions are becoming nearly standard practice.

Some states, such as Kansas, are trying to restrict tax incentives to "strategic use," only rewarding firms and prospects that meet the area's priority goals. Incentives that are carefully thought out to add to an area's strategic needs can prove to be beneficial.

Several states are designing their tax incentives to maximize larger public benefits. Some, like Georgia and Indiana, for instance, reward investment in poorer counties more than in richer counties.

Cost-benefit tests, critical to careful policy analysis, are becoming a more important part of some programs. A growing number of states and communities try to use them while screening projects. Although their numbers can often be subjective and prone to manipulation, cost-benefit analyses are necessary for any thoughtful incentive program.

Some states are being more careful about the kind of jobs they reward. For its Governor's Competitiveness Fund, for example, North Carolina policymakers have developed a thoughtful screening process for awarding grants to companies that are seeking to create high-quality, high-impact jobs. Companies are scored against four measures -- job quality, industry quality, state economic impact, and local impact and only the winners get a grant. In addition, the state holds grants in escrow until jobs are created.

In summary, at least 29 states have laws requiring accountability provisions, up from just two in 1989. At least 10 cities or counties have similar statutes, more than triple the number cited in an earlier survey by the Grassroots Policy Project. According to *Wall Street Journal* reporter, Michael Philips, "The trend signals a turning point in what some economists call the new war between the states, in which communities armed with tax breaks and other giveaways battle one another for factories, office buildings, stores -- and jobs that fill them. After years of showering companies with tax breaks to lure investments and jobs, a growing number of state and local governments are taking steps to protect themselves against broken corporate promises." Still, implementing and policing such provisions takes political will on the part of public officials. These

encouraging trends must be rewarded by the public in order to gain a foothold in the incentives war.

7. Does This Mean That The Incentive Problem Is Correcting Itself?

Hardly. We are barely out of the "starting blocks" when it comes to "best practice" in development incentive design, accountability, and implementation. The models emerging need to be looked at closely and more design work, experimentation, and evaluation are desperately needed. Furthermore, the prime directive should always be: "Economic foundations, first, business incentives later." This means that policymakers must begin by ensuring that they are making adequate and efficient investments in their people, technologies, physical infrastructure, natural resources, and quality of life. Only after adequately dealing with this priority should reformers look at these options.

Indeed, we still believe that providing incentives in the form of grants and tax incentives are very questionable policies. (At best, they may even be regarded as a "necessary evil.") And from a national point of view, they are only justified in terms of using scarce public funds if they are structured to accomplish one of two objectives: (1) they create net new jobs and a larger economic pie by correcting market imperfections (which is highly unlikely in the vast majority of cases); or (2) they foster or retain jobs in economically distressed areas.

In sum, then, public officials face something of a dilemma. They face pressures to offer incentives, which may in some cases even be effective in luring jobs. Yet most of them understand that, from a broader perspective, these do not represent good policy. Given this, we think that reformers and critics should focus on three basic strategies:

Designing them better (e.g., ensuring that they are more strategic, cost-effective, and accountable).

Scrutinizing them more thoroughly in the budgetary process (and especially ensuring that tax measures are examined in the intensive fashion that direct expenditure programs are in most states).

Evaluating them more comprehensively in required sunset processes (that is, making sure that tough questions are being answered regarding their appropriateness, their effectiveness, and their efficiency).

8. How Should States Act To Reform Incentive Policies and Programs?

To start, the thoughtful state policymaker should not rush to match the offers of other states that are going "incentive-mad." This development insanity will only lead to eventual disaster -- growing fiscal shortfalls, indiscriminate deal making, and political backlash. Instead, a smarter approach is to ensure that tax and non-tax incentives are integrated into larger state and local development policies and that their use meets the

highest standards of fiscal integrity. And although there are no ideal models in existence, the way forward for innovative policymakers is quite clear.

Compete on Public Services

Compete on "bread and butter" government services such as K-12 schools, roads and needed physical infrastructure, research and development, police, and higher education. What companies fundamentally need are customer-friendly services that are worth the taxes, and professional, predictable regulation.

Do Not Focus On Tax Competitiveness Alone

Do not let tax incentive and tax competitiveness issues be the sole focus of your tax policy and undermine the overall quality of your tax and fiscal system. Other goals of tax policy which should not be ignored include: revenue adequacy, balance, equity, predictability, efficiency, and accountability.

Structure tax reform to meet the needs of all potential business clients (both in-state and potential prospects) and your citizenry's other priority development and social service concerns.

Limit Development Incentives To Strategic Uses

Incentives must be designed much more strategically: they should be "custom-fit," not "copy-cat." They must create significant numbers of jobs cost-effectively and fit with the state's highest priority development challenges and goals.

Policymakers should set clear goals and criteria for what sorts of projects deserve financing. For instance, after a careful evaluation of a jurisdiction's needs, priorities, and opportunities, policymakers might focus on any of the following goals: overall job creation, job growth in slower growing areas, industry diversification, increased minority employment, or the attraction of high tech industries or "quality jobs." And certain incentives will fit some of these goals better than others.

Pick The Right Incentives

Since not all incentives are the same and since policymakers should only help firms if there is a larger public benefit, they must choose the best tool -- those that have the greatest potential accountability and are likely to provide the broadest benefits beyond the company aided. For example, investments in training or physical infrastructure accrue to the broader community and remain in a community, whether a particular company stays or not.

Loans have to paid back. Cash grants, on the other hand, belong to the business alone. So, be sure they are designed with strong accountability and performance mechanisms.

Tax expenditures are worst on the list of incentives. True, they are easy to administer and they require less bureaucracy. But they are hard to police and easily abused by company officials. Very careful design work and serious sunset reviews are needed to help them to succeed. Be sure to carefully structure the incentive to fit your priority goal. For instance, do not reward capital investment if job creation is your game. Build in added accountability by restricting incentives to slower growing areas. Set required job creation/investment thresholds before firms are eligible for incentives. States can also "front-load" the costs, so that these are not imposed on a later administration, making politicians more accountable. Make the reforms fairer to all companies, not just new prospects. And strongly consider making overall tax cuts rather than creating a morass of special credits and exemptions if tax relief is really needed.

Strengthen Accountability and Disclosure

Provide full disclosure of all incentive costs. Consider requiring the disclosure of how much individual companies benefit from incentives.

Use rigorous and standardized approaches for calculating the costs of each job created or retained.

Institute stronger tax expenditure reporting and budgeting procedures in order to subject new and old incentives to as much scrutiny as direct spending programs.

Hold serious "sunset" reviews to assess the appropriateness, effectiveness, and efficiency of tax and non-tax incentives (e.g., thorough evaluations of incentives must be conducted before programs are re-authorized).

Establish benchmark "return on investment" targets, if incentives are to be enacted or maintained. Here, it is very important to have an independent agency – separate from the "sales" agency – charged with evaluating the real return on investment for the community.

Link Incentives and Employment Programs

States should also explore how to link "first source" hiring agreements with their incentive efforts (especially in faster growing jurisdictions). Such agreements require private companies that receive public monies to agree to consider hiring displaced and economically disadvantaged workers through a public or non-profit operated job referral and training service.

Consider cutting capital investment incentives and using these monies instead for employment-based incentives, such as for new hires, for training, and for jobs with a "living wage." This is essential if a state is focusing on employment generation goals more than productivity goals.

Discourage Irresponsible Incentive Use By Local Governments

State policymakers have important roles in curbing wasteful efforts by local government to steal jobs from other in-state locations. Potential policies include:

Using state intergovernmental aid formulas to discourage the use of wasteful tax incentives by local governments.

Requiring stronger state oversight of using local industrial revenue bonds to attract companies within the state.

Encouraging metropolitan tax base sharing, the creation of special regional tax districts, and new forms of regional service delivery in order to discourage a "race to the bottom" in terms of tax and service adequacy across sub-state regions.

Exploring the creation of new "incentives" to promote more regional coordination and incentive "rationalization" regarding economic development strategies.

Show Political Leadership

State and local policymakers should not only seek to play the incentive game more smartly. They should also work on changing the game. After all, even if a state follows ideas above and pursues the most accountable and cost-effective course, sooner or later its programs will be surpassed by other states, their value will be canceled out, and the game begins again, now at a higher cost.

So, far-sighted leadership should look for ways to slow the "arms race" by: (1) working with other states to devise workable compacts for responsible incentive competition (for instance, focusing more on training and infrastructure); (2) calling for federal action and additional thinking about how best to restrict incentive bidding wars; and (3) educating their constituents. This last element might entail several components, such as education around the dangers posed by an unregulated incentives arms race, the fact that most new jobs come from expansions and new business start-ups and not firm relocations, and the fact that broad-based public policies have much greater impacts on job growth than the combined effects of a state or local community's entire economic development arsenal.

9. What Are The Toughest Arguments That Incentive Supporters Use To Counter This Agenda?

Incentives do have their proponents. Of the arguments made in defense of incentives, two are particularly compelling.

The first argument is that incentives can help to direct investment and job creation to those areas that most need them. If this were true, this could be a compelling social and

economic reason to keep incentives. A high-unemployment area, for instance, might be able to lure jobs through incentives and thus convince a company to go there instead of a better-off area.

The problem with this line of reasoning is that incentives have become ubiquitous. Although the high-unemployment area needs the jobs most, its low-unemployment neighbor is likely offering incentives, too. Because of the "everyone's doing it" mentality, all states and a great number of local jurisdictions offer incentives. In this case, the companies are most likely to go where they wanted to go in the first place... but also take a good amount of taxpayer dollars with them through incentives.

The second argument that proponents have is that incentives may not be "good," but they are "necessary." Elected and appointed officials cannot sit on their hands and ignore the competition. Embracing "unilateral disarmament" or attaching too many strings to incentives will only lead to a more slowly growing economy, more company relocations, and less success in the attraction game.

There are two responses to this position. First, it should be pointed out that there are costs, as well as some benefits, to the use of incentives, and that an alternative set of strategies -- wise public investments, customer-friendly public services, and more accountable incentives -- will generate a higher proportion of benefits than the traditional approach. Also, this pro-incentive argument gets lost in what's supposedly necessary, instead of focusing on those policies and programs that are more likely to successfully address a state's development goals of a higher standard of living, more even development, better jobs, improved employment opportunities for the disadvantaged, etc.

Second, even if incentives "work," they only do for the few states that innovate by offering new incentives. Once these incentives are offered, however, they are quickly copied by other states that are afraid of being left behind. Once this happens, the innovating states no longer have a competitive advantage. Instead, they are left with a distorted tax code and wasted tax dollars. For this reason, this "realist" position is myopic and self-destructive over the long haul. Incentives may *seem* necessary in the short term, but they are destructive in the long term. Unfortunately for taxpayers, public officials rarely do focus on the long term.

10. What Is A Better Economic Development Approach?

Fresh thinking is required about the way economic development is heading in the United States. We have to move the debate about business climate away from simplistic notions of tax competitiveness or "getting the government off our backs" to focus on what are the real disincentives to economic competitiveness and opportunity. States and local governments interested in improving the business climate should focus on the following five key components of a positive business climate: education, physical infrastructure, regulation, taxation and modernization.

Education. In our global economy, competitive advantage is now based primarily on the education and skills of the labor force. States and communities must make wise investments in public education — this is an absolute must for creating a positive business climate. But, this is not simply about throwing more money at education. Rather, it means getting the most value out of additional education spending. Schools need to adapt to a changing world and changing technologies, be more accountable for student outcomes, and help in forming closer ties between the worlds of school and work. Business needs to modernize, as well, so that they will create a demand for students with higher skill levels.

Physical Infrastructure. Often neglected in the anti-tax debates is the importance of basic services, delivered efficiently and cost-effectively, to the creation of a positive business climate. States must continue to repair and maintain highways and sidewalks, operate schools, prevent crime, and care for public parks. The reduction of tax revenues to the point where these services can no longer be adequately provided signals a reduction in an area's competitiveness.

Regulation. Regulations exist to place some restraint on the more unacceptable aspects of the free market. However, often because of the way they are administered — overly bureaucratic procedures, focusing on compliance rather than finding workable preventive solutions, the application of uniform standards regardless of circumstances, cost or size of business — they cause business much grief. To create a positive business climate, regulators must work with businesses to achieve acceptable standards, whether in the workplace or in the environment, while at the same time not compromising their ability to enforce the law on behalf of other stakeholders.

Taxation. State taxes and fiscal policies do affect the climate for doing business in a state. However, policymakers should not let tax rates and tax competitiveness issues be the sole focus of tax policy and, thus, undermine the overall quality of the tax and fiscal system. Other goals of tax policy which should not be ignored include: revenue adequacy, balance, equity, efficiency, and accountability. Tax reform should be considered only in relation to all of these goals, the needs of potential business clients (both in-state and potential prospects) and in consideration of other priority development and public service concerns.

Business Modernization. For years, much of economic development has also focused on the "homegrown economy" by providing financial support in the form of grants, low interest loans, debt insurance mechanisms, and advisory services to businesses. Millions of dollars of public money have been used in this way, even though the evidence of real effectiveness of many of these programs is thin. Questionable and invariably over-optimistic figures are offered about jobs created and jobs saved. Many initiatives have worked well, but are still under-funded. What is certain is that many states have complicated and confusing arrays of financing and advisory programs. The policy landscape is all the more bewildering because year after year governors and legislators add new programs to respond to yet another perceived problem or gap.

The challenge is to turn these programs into effective delivery systems. They must include public and private providers and address the pressing need for businesses to modernize and to upgrade their technologies so they can be more competitive. What is needed are economic development efforts that pursue the high-road of greater skills, higher productivity, and better wages, and that deliver these development services with greater quality, customer-friendliness, accountability, and cost-effectiveness.

In short, good economic development is all about good government. In seeking to create a favorable and profitable environment in which to do business, state and local governments should adopt a longer-term perspective, ensure that public benefits accrue from public investments, and behave with economic, social, and fiscal responsibility.

---

[1] For further documentation on these points, see CFED's Bidding for Business and Improving Your Business Climate: A Guide to Smarter Public Investments in Economic Development, 1996.

[2] Some states also provide "incentives" by reforming how they can calculate the tax base. Critics of these ad-hoc reforms and of the misuse of incentives believe that the federal government should require greater uniformity of tax definitions, bases, etc. across the states. This would help to cut the transaction costs for tax filing by multi-state corporations, as well as slow the "race to the bottom" caused by giving away too much of a state's tax base.

CFED: The Business Incentives Reform Clearinghouse, December 1998

The Basic Bookshelf on Business Incentives

There are a number of excellent resources, which any incentive reformer should know well. They have been divided into four sections and the most important ones are marked with an asterisk.

Overview / Understanding The Larger Tax Scene / Accountability Strategies / Legal Challenges

Overview

*Barlett, Donald and James B. Steele. "Special Report: Corporate Welfare." *Time*. Four issue series (November 9-30, 1998). Available at www.time.com. This is good introductory, journalistic treatment, which is packed with meaty studies of corporate misuse of incentives.

Lynch, Robert. *Do State and Local Tax Incentives Work?* Washington, DC: Economic Policy Institute (202-775-8810).* This is an excellent summary and critical discussion of scores of academic studies of this issue. The author concludes that generally these tools do not work.

*Schweke, William, Carl Rist, and Brian Dabson. *Bidding For Business: Are Cities and States Selling Themselves Short?* Washington, DC: Corporation for Enterprise Development, 1994 (202-408-9788).This report presents a very full overview of the topic, looking at the nature of incentives, the trends in their use, the dangers they pose, the causes of their proliferation and growing costs, and ways to reform them. The work also includes a very complete bibliography on the issue.

Understanding The Larger Tax Scene

*Bonnett, Thomas. *Is The New Global Economy Leaving State-Local Tax Structures Behind.* Washington, DC: National League of Cities, National Conference of State Legislatures, and National Governors' Association, 1998 (202-624-5300). This report updates the following work, as it looks at a number of threats to effective state-local tax systems. Incentive reformers can draw upon this report when making their case for designing much more accountable and cost-effective business incentives.

*National Conference of State Legislatures and National Governors Association. *Financing State Government in the 1990s.* Washington, DC, 1993 (202-624-5300). This book argues that today's state tax systems are designed for an economy that no longer exists. The authors warn that if they are not reformed, taxation is likely to become more inequitable and state finances will be more difficult to manage. The discussions help to put tax incentives in their proper place as only one (and an over-rated) aspect of an overall tax and fiscal policy.

Accountability Strategies

Council for Urban Economic Development. *Incentives: A Guide To An Effective and Equitable Policy.* Washington, DC: 1996 (202-387-2933). Although aimed at economic development professionals, this resource book includes useful incentive design and reform ideas for activists and policymakers as well.

Gilbert, Jennifer L. "Selling The City Without Selling Out: New Legislation on Development Incentives Emphasizes Accountability." *Urban Lawyer.* Summer 1995. This is an excellent, clearly written discussion of incentive accountability approaches.

*Grassroots Policy Project. *Public Subsidies, Public Accountability: Holding Corporations to Labor and Community Standards.* Washington, CD: Grassroots Policy Project, Sugar Law Center for Economic and Social Justice, and Sustainable America, 1998 (202-387-2935). The publication includes an excellent overview chapter on incentive accountability legislation, a good treatment of legal challenges, and a useful appendix, which summarizes recently enacted bills.

*Howard, Marcia. *A Corporate Welfare Reform Agenda: A Handbook on How To Curb State Tax Breaks for Economic Development.* Washington, DC: AFSCME Department of Public Policy, June 1994 (202-638-0510). This is a reader-friendly resource book that provides a good introduction to the issues and outlines a reform agenda.

Ihlanfeldt, Keith. "Ten Principles for State Tax Incentives." *Economic Development Quarterly.* November 1995. The article proposes a fine set of principles to guide those wishing to design cost-effective, well-targeted tax incentives.

Ledebur and Woodward, "Adding A Stick To A Carrot: Location Incentives With Clawbacks, Recisions, and Recalibrations." *Economic Development Quarterly.* August 1990. This is an early and thorough treatment of performance accountability measures.

*LeRoy, Greg, and others. *No More Candy Store: States and Cities Making Job Subsidies Accountability.* Federation for Industrial Retention and Renewal, 1994 (202-626-3780). This was the first major work that described a number of the new incentive accountability tools.

*National Conference of State Legislatures. *A Review of State Economic Development Policy: A Report from the Task Force on Economic Incentives.* Denver, CO: March 1998 (303-830-2200). This short book includes a fine discussion of the nature and workings of development incentives, outlines a helpful set of design principles, and proposes a variety of reform ideas.

*Schweke, William, Carl Rist, and Brian Dabson. *Improving Your Business Climate: A Guide To Smarter Public Investments in Economic Development.* Washington, DC: Corporation for Enterprise Development, 1996 (202-408-9788). This book makes the case that there are alternatives to incentives when trying to create a positive business climate. These include actions to reform education, enhance business services, upgrade the public infrastructure and improve regulations. It also presents a detailed discussion of what constitutes good incentive reform measures and a well-structured tax code. Detailed bibliographies are provided.

Legal Challenges

*Enrich, Peter D., "Saving The States From Themselves: Commerce Clause Constraints on State Tax Incentives for Business." *Harvard Law Review.* 1996. Enrich looks in detail on how national legal challenges might be mounted against certain types of state and local tax incentives.

*Hellerstein, Walter and Dan Coenen. "Commerce Clause Restraints of State Business Development Incentives." *Cornell Law Review.* 1996. The authors examine a number of important tax law cases that raise questions about the constitutionality of a variety of business tax incentives.

*Moss, Kary. *Corporate Welfare Practitioners Guide.* Detroit, MI: Sugar Law Center. 1996 (313-962-6540). This is a how-to guide for activists who wish to challenge the legality of state and local incentives.

Return to Business Incentives Page

INCENTIVES: ARE THEY REALLY "ZERO SUM"?[1]

The "Zero Sum" Critique

Economic development incentives have been widely – and increasingly – used in the US to lure investment and jobs. The price tag is in the tens of billions of dollars annually at the state level alone, and possibly as much at local levels.

This proliferation has spawned a heated debate among public officials and outside observers about the wisdom of such policies. Critics charge, among other things, that incentives unfairly shift the tax burden, skew competition in favor of certain firms, and offer a misleading "quick fix" approach to economic development.

The most damning criticism, however, has been that incentives represent a "zero sum game." What is meant by this is, simply, that *the total amount of investment and job creation is unaffected by incentives*. Cities and states, so the logic goes, are spending public dollars to influence how the pie is divided, not to expand the size of the pie itself.

In any given case a city or state *may* actually "win" an investment. When Indiana, for instance, beat out Colorado, Oklahoma, Illinois, and others for a new United Airlines facility, it gave up $300 million in incentives to the airline. Did it really "win"? Perhaps. So long as the net revenue to Indiana, in increased income taxes through employees, for instance, totals more than $300 million, it may have been a logical move.

But what happens *nationally* when this kind of competition takes place? Did United build a bigger facility because of the incentive? No. Did it hire more workers? No. It merely took the $300 million to do what it was going to do anyway. This scenario is played out with other companies day in and day out across the country.

The implication of the "zero sum" argument is that, on a national (and international!) basis, incentives represent *tax dollars thrown away*. This is true regardless of whether any individual location "wins" at any given point in time in the race for a particular firm. Indiana may "win," but if more plants, or more jobs, are not created by incentives, then the nation as a whole must lose through these kinds of expenditures.

If true, this argument is a powerful one in the call for a ban on incentives altogether as a way of "saving the states from themselves." A great many public officials, in fact, have called for federal intervention to keep them from getting into a bidding war they feel forced into by competition.

But is the zero sum argument really true?

In Defense of Incentives

Many have defended incentives as justifiable policy. Most have done so by pointing out that they can be *necessary*. Because other communities offer them, refusing to do so puts another community at a relative disadvantage, regardless of how important the incentives are to the firm.

A corollary argument is that incentives may be *effective*. To public officials this may not only be obvious, but their thinking about the subject may, understandably, end here. Although some incentives clearly pay firms to do what they would have done otherwise, some successfully affect a firm's location decision.

This kind of defense, however, does nothing to challenge the notion that, *nationwide*, incentives are zero-sum. While local and state officials may shrug their shoulders at such a problem, national officials should be concerned if tax dollars are really being wasted at this level.

Some defenders, however, *have* cogently argued for incentives in a more important way. Nationally, they say, incentives may turn out to be positive sum after all. Some of these observers have offered thoughtful and persuasive arguments.[2] If they are right, then the correct policy prescription should not be a call to eliminate incentives, but simply to fine-tune them.

Might incentives be positive sum after all?

Arguments about Efficiency

These defenses can be grouped into three categories. First, some have defended incentives as efficiency-enhancing. They view incentives as good tools for fine-tuning tax bundles and redressing past policy wrongs. As narrowly focused tools aimed at specific projects, they may be appropriate tools in some cases.

Specifically, many economists point out that firms may pay more than their fair share of taxes, which – on a local basis – is probably economically inefficient. Incentives, they argue, can help correct this problem. (This notion of "benefit taxation" being efficient locally assumes that the redistributive functions of government are taking place at the federal level. Not all economists agree that businesses really *are* overtaxed; the answer is complicated and appears to vary with the type of business and with other factors.)

More generally, some claim that incentives may enable governments to correct for market distortions, encourage firms to internalize externalities that they would otherwise be unable to afford, or correct for past problems, such as inequitable tax systems or underinvestment in school systems.

The efficiency arguments, however, fail when scrutinized closely. The problem with these arguments is not that incentives could not *theoretically* be used in the manners described by proponents, but that they are *not* systematically used in such ways in the real world.

Governments should, indeed, address inefficiencies when they exist. But they are better able to redress them through general policies (like improving public services or adjusting the general tax rate) than through selective tax breaks, as most economists agree. Most local governments do *not*, furthermore, make the careful measures of tax incidence (who pays for what) that efficiency arguments assume.

Incentives, in fact, often *distort* taxation, sometimes in dramatic fashions. Communities pay more in taxes: Spartanburg SC tax rates, for instance, shot up after it "won" BMW with $135 million in incentives. And some, after giving away their tax base through abatements, face crises in funding schools and other needs: dramatic examples include Flat Rock MI after "winning" Mazda for $49 million, and Rio Rancho NM after "winning" Intel for $114 million. These distortions may make a community *less* competitive due to an inability to provide for basic public services.

The efficiency argument also rests on an analogy to the marketplace. Yet this critical analogy ignores the important fact that public officials are primarily *political*, not economic, actors. Although they may care about efficiency, it is not always the first of their concerns. *Incentives are often made for political reasons* – for the jobs and investment they seem to represent – rather than for solid economic reasons.

In its most ridiculous form, this is seen in the case of professional sports franchises, which time and time again receive lucrative new stadiums, despite the fact that study after study shows that they have little economic impact on local economies. This is hardly limited to sports teams, though. The ribbon-cutting of a new plant, after all, reaps immediate benefits, while the cost to the taxpayer is usually hidden and spread out over years.

The efficiency argument also fails because governments overbid. They overbid because they have imperfect information about the firm, and because politics matter at least as much as economics. For the efficiency claim to hold, governments would offer incentives only up until their marginal value to the community. But it is clear, empirically, that governments do not know what the marginal value is, much less try to hold themselves to it.

Arguments about Output

Incentives are also defended by a supply-side argument. This defense says that incentives can increase productivity, output, and the job supply. The argument may take several forms.

A simple productivity argument is that incentives alter the cost of production, which can lower the unemployment rate and increase output. Much of this argument rests on the indirect benefits caused by "multiplier" jobs.

In a similar vein, incentives are claimed by some to have long-term effects on the job supply. One-time increases in jobs, they say, help the unemployed build skills that can increase their employability in the long run.

Like efficiency arguments, though, these defenses also fail to stand up. First, although lowering taxes does lower overall production costs, this does not necessarily "trickle down" into jobs, investment, or other social goods. There is little guarantee that a decrease in tax burden will result in increased job creation rather than profit-taking.

More importantly, the supply-side arguments move from a general hypothetical (incentives might have a given result) to a specific claim (they do) *without showing how this happens*. Proponents have not demonstrated that tax incentives increase output; indeed, most empirical evidence shows that firms have determined the level of investment and job creation long before incentives are even negotiated.

Many of the productivity arguments, moreover, rest on the strength of economic multipliers. These multipliers, experience shows, are often calculated in vague and optimistic ways. When Illinois offered hundreds of millions of dollars, for instance, to Diamond Star (a joint venture of Chrysler and Mitsubishi), it promised 8,000 "extra" jobs through multipliers. In the end, Diamond Star only offered half of the subcontracts that it had promised, and only fifteen percent of these went to Illinois firms. Several years later, the state's head economic development official reported that not only was the state not close to the 8,000 jobs, but that he was "not sure where the number came from."

But even correctly measured economic multipliers do not represent overall net gains to the economy. This is because supplier and expenditure effects would normally come about in the absence of incentives, although the *location* of them might be different.

The claims that employment shocks have long-term effects also fail to hold. These arguments rest on the assumption that the local unemployed obtain some significant portion of any jobs created. But empirical studies do not generally show that they gain at all from an increased job supply. If the end goal of incentive policies were job training, as this argument implies, incentives are surely one of the most inefficient and costly job training programs available!

Although the output arguments do not hold up empirically, one additional weakness would be evident even if they were true. Proponents do not show why – even if incentives *did* increase output – these narrow preferential tools should be used rather than broad-based tax cuts. If lowered taxes really did "trickle down" to create new jobs or increased output, then general tax cuts would be the most economically efficient, not the hodgepodge tax code that is created by a series of preferential incentives.

Arguments about Employment Distribution

A related, but distinct, argument has to do with social gains associated with employment distribution. Proponents argue that incentives may direct jobs to the most socially desirable locations. If investment *can* be directed toward areas least likely to fare well in the open marketplace – those with poor infrastructure, low skill levels, or chronic employment from structural economic changes, for instance – then incentives really can be beneficial. This is an especially powerful argument because it can apply even without efficiency or output gains.

Proponents have made this argument at length, with a number of formal models which purport to show how this effect can happen. Some describe a "market for jobs" which helps to maximize the total "community benefits." Another version uses the notion of the reservation wage – the lowest wage for which an individual is willing to work – to demonstrate that jobs are worth more in high-unemployment areas.

The arguments fail, however, for one important reason. An explicit assumption of this argument is that the areas most in need will bid more aggressively than those that are better off. If this is not the case, then these arguments, as acknowledged by their own proponents, will not hold.

As it turns out, this critical assumption *is not true*. A series of empirical studies show that high-need cities and states do *not* appear to offer more incentives than low-need areas. At best, the relationship between need and incentives is random, and in many cases it appears that better-off areas even outbid their poorer neighbors. Furthermore, individual states – rich or poor – have not been able to direct investment to the highest-need areas within their own borders.

In the end, *there is absolutely no evidence to suggest that the sites most in need will successfully direct the investment their way.* No proponent of this argument has offered a compelling *mechanism* in the marketplace that promotes "good" incentives in areas of high need and discourages "bad" ones in well-off areas. By 1999, incentives have become essentially universal.

It is this ubiquity that provides the last nail for this argument's coffin. Poor areas that need to lure investment may offer incentives to do so, but rich areas are doing the same thing, sometimes even more generously. Without a mechanism to promote one and discourage the other, any positive effect is eliminated (or the poor area must bid even more generously to regain an advantage!) and the corporation gets to pocket the incentive no matter where it goes.

Incentives: Zero Sum (or worse) After All

The bottom line is clear: *if everyone is offering incentives, there is no reason to believe that the "good" incentives will be chosen any more often than the "bad" incentives.*

The defenses of incentives fail to hold up. Most fail not on theoretical grounds, but empirical ones. Incentives *might* be capable of effecting some of the happy benefits that have been discussed. Unfortunately, they do not.

The principal reason that incentives fail to live up to their efficiency-enhancing, output-increasing, utility-maximizing promises is that they are ubiquitous. Incentives, left in the hands of state and local officials, lack direction. On a systematic level, they do not *do* anything, they simply *exist*.

When critics call incentives a zero sum game because they only shift resources around, they are partially correct. Aggregate investment and job creation are highly unlikely to increase.

It is more accurate to describe the phenomenon, however, as a *negative sum game*. Not only is total investment unchanged, but cities, counties, states, and countries spend tens of billions of dollars every year trying to bring about this zero sum change in location.

Incentives are more than just an imperfect tool. Location incentives, while at times *individually rational*, are *collectively irrational*. They are irrational because they do not add benefits net of expenses in the aggregate.

California, for instance, may offer Looking-For-Breaks Corporation $100 million in incentives to "win" it. While the firm will happily take the cash, it will not create *more* jobs than it would have without the breaks. While it may be understandable for California officials, looking out for their state's economy, to try to win the corporation, the economic system as a whole simply sees a $100 million public loss without affecting the firm's investment behavior.

While individual communities may benefit at the expense of others, states and cities are *collectively* worse off for their use.

Why Should I Care?

Defenders of incentives are right in saying that they are politically necessary in this day and age. State and local officials often say, "I wish I didn't have to offer incentives, but...." They may be necessary because everyone else is doing it, *but this reality does not make them good policy.*

The same defenders are not correct, though, when they try to take the argument to the next level by saying that incentives – *taken as a whole* – are worthwhile.

State and local governments, in the face of competition, really are forced to put up incentives or risk losing desired investment. For this reason, many – including any number of academics, economic development professionals, and state legislatures – have called for federal intervention to stop incentives. A number of legal scholars have argued that incentives may be deemed unconstitutional, if challenged head-on, because they violate the dormant commerce clause of the Constitution.

Incentives may be politically necessary for individual cities and states who are trying to lure or keep investment. Without federal intervention, this will continue to be so. But incentives represent, ten million here and a hundred million there, a net loss to the public coffers, and to the public good.

Incentives *are*, despite claims to the contrary, a negative-sum game. And, because local officials feel forced to play that game, a solution can only come at a national level.

---

[1] By David E. Buchholz, Ph.D.

[2] This article incorporates a number of analyses. Easily the most prolific and convincing defender of incentives is Timothy Bartik; see, for instance, Bartik 1996, Bartik 1991a; Bartik 1992b; and Bartik 1993. For other cogent articles critiqued in this article, see Mattey and Spiegel 1996; Netzer 1991; Toft 1995; Toft 1996; Blair and Wechsler 1984; and Blair, Fichtenbaum, and Swaney 1984. For a more complete and detailed delineation of the arguments contained herein, see David E. Buchholz, "Competition and Corporate Incentives: Dilemmas in Economic Development," Doctoral Dissertation, Duke University, 1998.

CFED: The Business Incentives Reform Clearinghouse, December 1998

Taking Aim: How North Carolina Economic Incentives are Targeted

Abstract of a Master's Paper by Laura Deaton Klauke

Taking Aim: How Are North Carolina Economic Development Incentives Targeted, by Laura Deaton Klauke, is a master's project paper for the Department of City and Regional Planning at the University of North Carolina at Chapel Hill (May 1998). Its purpose is to look at four state-financed business incentive programs and to compare their performance with their design goals.

The programs analyzed are:

The William S. Lee Quality Jobs and Business Expansion Act. This program provides a jobs tax credit, a machinery and equipment tax credit, a worker training credit, a research and development tax credit, and a business investment tax credit. Qualifying industries are: manufacturing, warehousing, air courier services, distribution, data processing, and central administrative offices. There is a wage standard for qualifying investments and the amount tax credit for the jobs, machinery and equipment, and worker training varies by region of the states. The poorest counties get the highest credit.

The Industrial Development Fund. The initiative provides loans and grants, which are only available in less affluent counties in the state. The maximum subsidy is $4,000 per new job created, with a $400,000 maximum. Financing is directed to new and expanding manufacturing firms. Loans are available for installation or purchase of manufacturing or processing equipment; repairs, improvements or renovations of existing buildings; and enhanced infrastructure, which is located on the building site or directly relevant to the manufacturing activity. Grants are expended for publicly owned water, sewer, gas, and electric lines. Grant funds are made available to local governments and require a 25 percent match, except in the poorest tier of counties.

Industrial Recruitment Competitiveness Fund. This discretionary fund is targeted to new and expanding manufacturing. It sets a maximum of $1,000 per new job created. It seeks to support firms that create a high wage, high value-added jobs. In addition, projects that are located in needy locations or constitute "trophy" prospects will receive special consideration. This program is a grant fund, which can be used for equipment purchases or installation; renovation, repair, or expansion of existing buildings; and construction or expansion of water, sewer, gas, and electric lines for existing buildings and new or proposed manufacturing or industrial buildings.

Industrial Revenue Bonds. This is a typical industrial revenue bond (IRB) program. These tax exempt bonds provide firms with a means of debt financing at interest rates below those of conventional commercial options. IRBs are only available for manufacturing firms and the proceeds can only be used for land, buildings, equipment, and costs related to obtaining the bond. In addition, the firm must agree to pay employees above the state average for such employment.

The researcher originally intended to view how each program distributed its funding across the state. Unfortunately, proprietary issues and the lack of available data on the William S. Lee tax credit program made it impossible to evaluate this program along these lines. In fact, the state revenue department voiced that they would have difficulty complying even with the minimal reporting standards required by the legislation, which simply asked for the total expenditures.

Furthermore, the employment data on all the programs was inadequate to draw any conclusions. The lack of consistency in counting jobs made it impossible to create a reliable data base on jobs generated. Yet, it was possible to look at the investment numbers and this is what the researcher did. After analyzing the company investment data, by county, the researcher concluded the following:

- Only the Industrial Development Fund, in fact, delivered its monies to North Carolina's poorest counties. And it did so, because it was only allowed to serve the 50 poorest counties in the state. However, this program also had the poorest record of attracting high paying jobs.
- The Industrial Revenue Bond program did better than the Industrial Recruitment Competitiveness Fund in directing monies to poorer parts of the state. (Yet, its track record is somewhat skewed by three large projects, occurring in less affluent counties.)
- Industrial Recruitment Competitiveness Fund did the poorest job of meeting the needs of poorer counties.
- These programs in general do not level the playing field between poor and rich counties when it comes to business recruitment. Instead, they "mirror" the playing field and in some cases, actually reinforce the strengths of more dynamic county economies.
- If state policymakers wish to target monies to less affluent areas, they must restrict the use of these monies only to such counties.

The author further concluded that:

> While restrictions can help insure that incentives are targeted, that is not the same as concluding that they are achieving the desired outcome. The Strategic Plan argued for higher wage jobs as a means to reduce the disparity in wealth among the regions of the state and provide a means for the poor to work their way out of poverty. Thus, the goals of shared prosperity and of attracting higher wage employment are connected. However, comparing the individual program performance by county and by industry presents a tradeoff. Incentives successfully targeted to low wealth communities were not successful at targeting high wage industries and vice-versa. Providing incentives in an economically distressed area does not appear to allow the area to attract a substantially different quality of firm than would be expected without the incentive. This suggests that while incentives may provide some benefits, they may not be the appropriate or most effective tool for helping distressed communities actually improve their economic structure. (Page 22)

Return to Business Incentives Page

ON THE USE OF SUNSET REVIEWS TO REFORM INCENTIVE POLICIES

By

William Schweke
Corporation for Enterprise Development

and

Edward Feser
University of North Carolina at Chapel Hill

Prepared for *Economic Development Quarterly*

Contact:
William Schweke, CFED
919-688-6444

Edward Feser, Assistant Professor
Department of City and Regional Planning
CB 3140, New East Building
University of North Carolina
Chapel Hill, NC 27599-3140
Voice: 919.962.4768 Fax: 919.962.5206
E-Mail: feser@email.unc.edu

September 1998

ON THE USE OF SUNSET REVIEWS TO REFORM INCENTIVE POLICIES

The Incentive Policy Conundrum

The competition between states to recruit new companies or to retain existing ones has never been more intense. Annually, states and localities across the country spend hundreds of millions of public dollars on a variety of development tax incentives and related spending programs whose use has fueled a new incentives "arms race" among the states.

Development incentives are inducements state and local governments use to attract and retain companies and facilities. Some incentives are provided in customized, company-specific or project specific form, while others are provided to all customers who meet certain established criteria, such as size of company or location in an enterprise zone. There are both tax and non-tax types of incentives. *Tax incentives*, a traditional workhorse of business climate policy, include various kinds of abatements, exemptions, reductions, and moratoria (such as corporate income tax exemptions, sales/use tax exemptions on new equipment, and tax exemptions or moratoriums on equipment and machinery), along with other tax-related investment incentives (investment and jobs tax credits, research and development tax incentives, and accelerated depreciation of equipment). *Non-tax incentives* include grants, creative financing subsidies and customized worker training. One principal mainstay is the Industrial Development Bond (IDB), which almost every state uses to offer low-interest loans to firms.

The use of incentives as a development strategy presents cities and states with some fundamental dilemmas. On the one hand, most economists agree that incentives are not good development policy. They often waste scarce public resources without creating any net new jobs from a national (or larger societal) perspective, subsidize the shareholders of assisted companies for undertaking actions they likely would have undertaken anyway, foster unfair competition by helping some firms and industries and not others, and divert the attention of policymakers from more effective strategies that would lead to net new job creation and an improved business climate. Tax incentives, in particular, introduce especially egregious economic distortions. Most economists prefer lowering the tax rate for all companies, indexing depreciation schedules, or providing general incentives for research and development rather than proliferating lots of special tax loopholes for specific industries.

Even if evaluation experts agree that one could, ideally, design incentives that would be in the larger public interest (e.g., they would either create a bigger economic pie or promote development in economically disadvantaged areas), the political process probably ordains that the programs would not be so sharply targeted. States are reluctant to spatially target incentives if that would reduce their ability to attract companies. In other words, states want to be able to market the sites within their borders that are most attractive to companies relocating or building new facilities. This means that companies awash with capital and communities flush with jobs are likely to remain major beneficiaries of incentives, no matter how they are designed.

On the other hand, incentives can make the difference in the site selection process, mainly when the choice is between one or two similar locations. Moreover, even if incentives represent bad economics, political pressure makes it hard for governors and mayors to ignore the incentives sweepstakes. Indeed, how can any state or locality unilaterally disarm and miss the

chance of landing a significant business prospect? Likewise, how can an elected official, such as a mayor or governor, avoid responding with public dollars and policy reforms when a company, which has long operated in the state, threatens to leave and is beckoned by the largess of another jurisdiction?

In this context, should states' incentives programs be abolished? While a strong case can be made that they should be, it does not appear that the political will exists in most states to do so. In the present political climate, policymakers and advocates should at least concern themselves with making state and local development incentives more strategic, cost-effective, and accountable. To do this, they should concentrate their reform attentions on the following actions: better design and targeting of the programs; more intense scrutiny (especially of tax incentives) in the budget process; more thorough evaluation in the sunset review process; and litigation or federal action to curb their use.

This paper focuses on the issue of sunset reviews. Its recommendations were developed from a review of the evaluation literature on incentives and interviews with leading national economic development evaluation experts. The paper sets out guidelines for making sunset reviews meaningful exercises in incentives policy evaluation rather than obligatory exercises in policy justification. We argue that even if one believes that the total elimination of incentives as a viable development strategy is the most appropriate action, attention to the proper conduct of sunset reviews is worthwhile given current political realities. Sunset reviews are one important mechanism for gradual reform of incentives practices by states and localities.

Sunset Reviews as Policy Evaluation

Beginning with Colorado in 1976, state after state adopted "sunset" legislation designed to force legislative evaluation of an agency or a program by establishing a specific date for its termination unless affirmatively reestablished by statute. With sunset reviews, programs are reconsidered as part of the normal budget preparation process. Many states also put particular agencies or programs through fuller sunset reviews on a periodic basis.

Unfortunately, in many states sunset reviews are handled in a very perfunctory manner. Programs are often re-authorized with little debate as its termination date grows near. In other cases, evaluations are less than thorough, focusing on smaller administrative details and not exploring the tough questions involved in assessing the given program's impact and cost-effectiveness.

Outside studies of sunset review processes have identified a number of common problems. These include minimal attention to the development of indicators of program or agency performance, inadequate time, money and professional resources for conducting thorough and independent research, little substantive public participation, false expectations regarding the effectiveness of cursory reviews for eliminating poor programs, and a weak 'feedback loop' through which the review can be used to genuinely improve future program management, performance, and measurement.

But sound evaluations of development incentives are desperately needed in state legislatures for the following reasons. First, the price tag of development incentives is increasing geometrically in most states. Thorough sunset evaluations are capable of helping policymakers identify ineffective efforts and terminate them. (And because the costs of incentives in most

states are in the hundreds of millions, buying even an expensive study is still a good deal.) Second, good sunset reviews are important ingredients in other "reinvent government" efforts, such as performance-based management, improved performance measurement, results-oriented budgeting, and so forth. Third, quality sunset reviews can provide the intelligence needed to redesign incentives so that they are more strategic, cost-effective, transparent, and accountable and at the same time sharpen the larger debate about the goals, costs, and benefits of economic development programs. Finally, programs reformed via sunset review can be used to change the "corporate culture" of economic development agencies so that staff efforts are focused on closing "good" deals not just "any" deal.

What is needed in a more comprehensive model of assessment that would enable policymakers to evaluate not only the efficiency of program administration, but also incentive appropriateness and effectiveness. Such a model would include three elements: appropriateness, effectiveness, and efficiency.

Appropriateness. A fundamental question for any sunset review is whether the program or policy in question is an appropriate tool for addressing stated objectives. This involves understanding the context in which the program was created and the goals it was designed to address. What were the development problems, opportunities and trends that led to the creation of the incentive? Is the incentive a relevant strategy in helping to achieve the objectives of high quality jobs, high performance enterprises and widely shared prosperity? What specific objectives is it best equipped to address? How might its outcomes be best measured? How might it be complemented by other development initiatives? Are other development tools potentially more relevant as priority actions? If the incentive is no longer appropriate (because of changing circumstances), should it be changed to better fit state priorities or eliminated?

Effectiveness. Any evaluation must include a thorough calculation of the relative costs and benefits of the program or policy in question. In addition, it must take a tough look at whether the incentive really made a difference in company decisions. Questions might include: Did the actual number of jobs and capital investment match the anticipated? What were the public costs per job? Would the investments have occurred in the absence of the incentive? Using multipliers, what was the secondary job impact? What were the distributional effects (local versus non-local workers, unemployed workers, minorities)? What was the quality of jobs created or retained? What were the fiscal impacts (estimated revenue gains and losses)?

Efficiency. The evaluation should assess the efficiency with which program outcomes were achieved. Answering those questions could also entail looking at the administrative and related design issues that affected the use of incentives by private firms. There are clearly trade-offs between administrative targeting issues and administrative simplicity concerns. How might such competing goals be more effectively addressed? A related question is the degree of 'customer satisfaction' with the program management.[1]

Challenges to Proper Evaluation of Incentives

There are two types of barriers that discourage the development of good incentives evaluations. First are the constraints that inhibit evaluation in general. Good assessments are costly. Negative evaluations may be used to kill programs, but positive assessments tend to be discounted by program opponents. And little upfront effort is made to develop the sorts of

performance measurement system, which can keep a later evaluation from becoming a "forensic" exercise of reconstructing the scene that led to the program's design and developing from "scratch" the required measurement information. These types of problems can be solved with proper resources and commitment to the sunset review process.

Second are tough problems associated with answering the critical "if not for X" question. Even if the analysis documents positive results since a program's enactment, did the incentive really make the difference in creating the jobs and making the investment happen? Without designing live experiments with control groups, which involve giving incentives to some companies and not to others, there is no way to definitively answer that question. Indeed, issues of ascertaining the cost-effectiveness of particular programs are small compared to this challenge.

We argue that there are a couple of ways of tackling the problem of the counterfactual. The best starting point is always finding out the objectives of the policymakers who designed the program and then judging the program against that standard. Evaluators should be aware that all too often a program's architects are rather confused, fail to set clear goals, and/or establish contradictory objectives. Thus, evaluators may have to backtrack some and try to hone further the objectives by which their assessment will judge program success.

One good way to establish some rationality on what was originally done is to reconstruct the original definition of the problem and the model of how the policy tool was supposed to address it. This might involve determining how well state and local economies were performing at the time of the incentive's introduction, reconstructing the state's priority economic needs at that time, outlining strategies that might meet those needs, and determining the types of organization and delivery system needed to effectively deliver those strategies. Are the incentive and its means of delivery part of the picture? If not, maybe it was the wrong choice of strategies.[2]

But besides starting with what was done when setting up the program or trying to spell out its implicit model of economic development, evaluators should recognize the issue of the counterfactual is only one of three important questions. These include: did the proposed results (e.g., jobs, increased investment, higher value-added, etc.) occur?; without this program, would the "Y" (e.g., investment, jobs, research and development, etc.) have happened anyway; and was the public investment cost-effective (was it worth it)? While we can rarely be sure about the second question, the first and third can often be addressed reasonably well. It should be noted that some researchers think that the "if not for" question is not as important as many think. Policymakers ideally want to avoid giving out windfalls. But if the program meets a serious cost-benefit test, this is less of a problem. (It still means that from a national viewpoint, the program may be a waste of money and that there may have been superior ways to invest the public funds.)

Appropriate Methodologies

It is very important that policymakers should assign sunset assessments to independent and professionally competent organizations. For example, they should not be conducted by the agency that administers the incentives. A legislative fiscal or audit office is one obvious site. However, many states will not possess the size or quality of staff needed to handle this

assignment. (Their competence should be comparable to what the federal Congressional Budget Office and the Government Accounting Office can marshal.) When this is the case, the review should be contracted out to a university, a private consulting firm, or other independent source. (The decisions on who should be hired to perform the study should be handled by a bipartisan group of policymakers and policy experts.)

There are a variety of creative ways to explore whether incentives made some positive difference and whether they are worth the public dollars. (In the first three approaches, the evaluators are mainly documenting positive results over time and not trying to claim that the program should claim credit for these changes.)

First, *measure against objectives.* What did the program intend to do? Using simple descriptive statistics, how did these goals and results match up? In addition, are their other empirical studies and evaluations conducted in other states that can help policymakers interpret the results? Can employment indicators be tracked over time to determine if the program is delivering? (*Note:* Evaluators can often reach a reasonable conclusion about whether or not the benefits were caused by the incentive by creatively using simplified examples, game theory, or micro-economics decisionmaking logic. Simple logic will often suggest a probable answer regarding the influence of an incentive on the location or investment decision.)

Second, *conduct cost/benefit analyses.* One of the most important techniques for deciding if a project or an incentive was really worth it is cost-benefit analysis. The idea behind it is simple: one evaluates a program by weighing its costs and benefits and seeing if it generates net benefits. (And ideally, policymakers may look at other policy or program alternatives and decide on which offers the greatest net gain.) Cost-benefit analysis is helpful for both ex post and ex ante evaluations and is especially effective for looking at fiscal impact issues and deciding whether an initiative returned more to the public coffers over time than policymakers expended.[3]

Third, *conduct survey research.* This is an ideal way to deal with management and administration issues, regarding both grant and tax incentives. The Urban Institute and a number of other evaluators have already developed good questionnaires for measuring client satisfaction and development services.

Fourth, *conduct case studies.* A deeper form of survey (or face-to face) research involves case studies. In a case study, researchers can weave together archival records, structured surveys, open-ended interviews, and other sources and explore in depth the how and why questions. (Past research has often found that companies often do not give expected answers to independent evaluators, admitting, for example, that the incentive did not make a real difference in the investment decision.)[4]

Case studies can address a number of important questions. They can help provide an understanding of the nature of the business and the industry that firms assisted by the incentive compete in (especially at the time that the incentive was taken for granted). For instance, are affected firms locally-owned or corporate subsidiaries? What are the firms' product or service line? What are current employments? What was the total employment at each plant right prior to public financing and one and two years after? What would have happened had each company's financial request been turned down? What best describes the firm's financial condition right before the incentive? Where else had the company applied for financing? Case

studies can also help assess the quality of services provided to companies as well as the net effects on business operations. Did the assistance help to enhance competitiveness? Increase productivity? Diversify your sales? Develop new products? Enter new markets? Increase exports? Create jobs?

Fifth, *develop quasi-experimental designs*. Above we noted how it generally politically impossible to mount true controlled experiments involving incentives. But it is generally possible to identify "benchmark" counties or regions (or a "comparable", but "invented" state) to better determine the impact of specific incentives. Researchers, for instance, would identify counties with basic characteristics most similar to the state's counties and compare those that received incentives with those that did not and hence measure the difference in employment, income, or value-added that the incentives appeared to make. (*Note:* Even with a sophisticated version of this methodology, it is still impossible to reach certainty about the effects of the incentive. There may be difficulties in identifying other measurable factors that affected firms' decisions or the economy's evolution. And it is often difficult to even isolate the specific "independent" variable -- the particular incentive "cause." Is it the number of incentives? The type of incentive? The quality of administration of the incentive? Highly quantitative quasi-experimental models are still plagued by these problems.)[5]

Sixth, *do simulations (proforma)*. Peat Marwick, the Boston Federal Reserve, Purdue University's Center for Taxation Studies, and the Iowa University Urban and Regional Studies have all developed good modeling techniques for simulating the effects of state tax systems and incentives on the profits of companies in a variety of industries. These are very effective tools for measuring real business tax burdens, correlating these differences with state income and employment growth trends, determining the difference that incentives make in after-tax profits, ascertaining the types of "implicit" industrial policy embedded in states' tax codes and incentive systems, assessing whether such policies make sense in terms of tax neutrality, horizontal equity, and industry comparative advantage.

Evaluating Different Kinds of Incentives

On the one hand, there should be little difference in appraising grant-based incentives and tax incentives. After all, as economists often point out, money is money, and any incentive's real effect on the assisted firm's bottom-line is the true litmus test. However, as one examines different types of incentives' critical features and delivery systems, differences that have implications for conducting a good sunset review are evident.

Grant incentives provide in-kind help, like customized training and modern infrastructure, that have broader effects beyond the assisted firm. Therefore, they tend to pass a public interest test more easily. Also, with all grant programs—whether they provide extra cash for plant and equipment purchases or match company training funds—issues of administration rise to the top. It is generally easier to design performance contracts and disclosure requirements with such programs. Is the program efficiently delivered? Are its decisions in accordance with legislative intent and administrative guidelines (e.g., are the point systems required for screening and appraising deals really used)? Are there any signs of corruption or "sweetheart" deals? Grant programs are also more discretionary and this introduces a greater burden on the evaluation.

Tax incentives raise a host of different issues. First, they typically operate on a much

larger scale yet they tend to administer themselves. This makes them tougher to police and easier for company accountants and managers to abuse. Identifying such potential problems is very important to ensure effective monitoring processes and adherence to eligibility requirements. Second, such incentives are generally open-ended entitlements, which means that evaluators need to pay greater attention to projecting future costs. Third, there are a broader array of policy questions raised by tax incentives. It is important, for example, that a wider variety of evaluation analyses are performed, regarding the tax incentives' potential effects on revenue adequacy, horizontal and vertical equity, tax neutrality, and other standards of a sound fiscal system.. Finally, the sheer scale of tax programs and the confidential nature of filed financials also raise thorny issues regarding access to existing information and requiring additional disclosure. It often requires at least three entities (e.g., the legislature, the commerce department, and the tax department) to cooperate in a sunset review of tax incentives. To make matters worse, it may be tougher in this time of increasing mandate sensitivity to require needed data from the companies in the enacted legislation.[6]

Investment Tax Credits. Probably all states offer businesses a variety of specific tax credits that reduce (or sometimes eliminate) tax liability. Investment tax credits (ITCs) are one of the most common types of such credits. Under an investment tax credit, when a firm makes a qualifying investment, a certain percentage of the investment is allowed as a dollar for dollar reduction in the firm's tax liability. The theory behind the credit is that corporations will invest more if they are rewarded with tax breaks. And it is hoped that investment tax credits will help to raise productivity, as well as boost employment. In addition, if other states offer such credits, it is thought that these incentives must be matched if a state is to stay competitive in the race to attract facilities and keep firms from relocating. The primary indicators of success for this type of incentive are whether the credit appeared to improve the state's success in the business recruitment game (or keep it from getting worse) and whether the credit has a favorable additive effect on investment, employment, or other competitiveness indicators.

In general, economists prefer dropping tax loopholes like ITCs and cutting taxes for all companies if there is really some sort of tax competitiveness problem. Often tax credits appear to reward companies for what they would have done anyway and therefore do not serve as a genuine growth stimulus. Other concerns include: whether such credits tend to shift the composition of investment, thereby encouraging too much investment in certain assets and providing a tax code incentive, rather than a sound business reason, for additional investment; whether ITCs create jobs or instead lead to a substitution of capital for labor, thereby reducing employment; whether there is a sound economic rationale for privileging one type of asset (e.g., plant and equipment) over another (e.g., land or labor); and that ITCs tend to create a large gap between stated rates of corporate taxation and effective rates, thereby confusing the public and the business community about what the real tax burden is and ultimately, lowering the tax rates on different types of companies making the same amount of income.

The costs of investment tax credits can be extremely high in terms of foregone income, necessitating either service cuts or tax shifting. And in some states, the subsidies are so deep that corporations cannot even use all their credits and are owed additional revenue back from the state almost indefinitely, thereby creating a very long-term and somewhat unpredictable fiscal liability. ITCs have also tended to differentially benefit larger corporations, capital-intensive

operations, and more established and profitable firms, in addition to proliferating tax shelter offerings, increasing the complexity of the tax code, and encouraging gamesmanship in tax filings and corporate lobbying. Yet at the same time, domestic and international studies have failed to document significant positive effects on investment and there is a great deal of legal support for the argument that investment tax credits are unconstitutional and violate the federal interstate commerce clause.

How should sunset reviews handle ITCs? They should start by making a series of very simple comparisons. For example, are changes in investment tax rates correlated with nonagricultural employment growth, manufacturing capital investment, valued added, or other relevant indicators. And if both employment and investment tax credit incentives exist in a state's tax code, have firms that have used the latter also used the former?

Next evaluators should examine trends in corporate taxation. What share of overall taxes do businesses contribute today and over the past ten years? Is there a large spread between the "stated" tax rate and the effective tax rate? How does the effective tax rate compare to other states? Are unused credits accumulating and what is the state liability in coming years? What have been the trends over time in credit use? Is there a tax expenditure reporting process that keeps track of foregone revenue from the investment tax credit and other corporate incentives?

Given this basic information, evaluators should then develop both a snapshot and moving picture of the types of firms that use the credits. What is the percentage of all corporations that claim ITCs? How do they differ by size of company and by economic sector? What types of firm accrue most of the credits? Is there a minimum corporate tax requirement? What is the profile of companies exercising that option? Researchers also could do survey research or case studies and profile companies that used the credits in an effort to determine what affect ITCs had on recent employment or investment. Likewise, where possible, researchers could examine affected firms' ES-202 tax filings (based on unemployment insurance records and which cover between 90 to 98 percent of all firms in a state) and establishment level changes in employment, industry and county trends. And depending on the nature of the incentive, the data base could be used to match assisted and unassisted firms. Another alternative is a simulation of the effects of an ITC on after-tax profits in a variety of industries.

As a last step, evaluators must consider potential enforcement and compliance problems. An investment tax credit leads inevitably to the pursuit of aggressive tax planning techniques by taxpayers. Mistakes and intentional fraud are become more common. Since only the firm knows how much of its investment was dependent on the credit, states are at risk of paying to induce investments that would have already occurred. Various ways of discouraging such corporate windfall have been attempted in designing credits, such as requiring an investment over a base period. The sunset review should look closely at the investment trend indicators and definitions. The review could also assemble a blue-ribbon group of accountants and economists to determine if anything more could be done to tighten up the credit.

Job Creation Tax Credits. Employment or job creation tax credits are becoming increasingly popular in many states. Critics of tax incentives like them better than other kinds of incentives because they appear to be more focused on citizens that need help most. Incentive proponents believe that since most states offer them, no jurisdiction should lack this particular tool.

Yet there is no clear justification for job tax incentives. Why would additional cash encourage companies to hire more? What's the hurdle that this tool is equipped to overcome? How might such programs affect the underlying structural reasons for poverty and underemployment in certain communities? Don't these incentives distort investment decision making and encourage more labor-intensive production, whether it is economically efficient or not? Could some form of the credit lead to the hiring of less productive workers? Shouldn't most states and localities seek ways to compete at higher levels of value-added? Isn't this the best way to create more "family wage" jobs? After all, a more productive firm will hire more workers if it is tapping into new or larger markets. And, anyway, how can job creation tax credits be designed to boost the hiring local residents or the economically disadvantaged?[7]

There has been a great deal of research on federal tax credits to promote new job creation or to hire the poor, jobless, and under-employed. For instance, many studies have demonstrated strong "stigma" effects associated with job credits that target the poor. Researchers have also found that such credits often do nothing more than shift jobs from non-targeted to target groups. Some programs have also been found to simply attract into the job market those whom otherwise would not be looking for work, thereby having no real effect on the joblessness rate. And there is the ever present risk that job credits will not change hiring practices at all, so that employers simply receive a windfall on those economically disadvantaged workers that they would have hired anyway. Addressing these kinds of problems must be built into both the design and evaluation of such incentives.

Sunset reviewers of job creation tax credits could begin by clarifying the rationale for the program. How are such credits supposed to affect firm behavior? What are reasonable goals and measurable indicators? Has the job creation performance of firms appeared to change since the incentive was created? Have interviews with the companies suggested that the incentive was a real factor in affecting their job creation behavior? Did job creation activity significantly increase after the enactment of the incentive? As in the case of ITCs, evaluators should examine the profile of the typical company that uses the incentive, produce simulations of the impact of the credits on firm behavior, quantify the type of jobs firms report establishing on the basis of ITCs, and determine the length of time such jobs remain in place. If the program is really targeted at those who are less likely to have access new jobs, it should be linked to in-state labor market intermediaries that can deal with the stigma issue as well as ensure that new employment prospects are adequately screened for the job. Firms should also willing to work with an outside referral operation. That intermediary can serve as troubleshooter for any ongoing problems with the new personnel as well as a data collection agent for the eventual sunset review.

Training Tax Credits. Investments in training can have large payoffs for increasing firm competitiveness and profits, boosting employee wages and employability, and raising national productivity and the standard of living. Despite well-documented research supporting such returns, research suggests that many businesses under-invest in training. This may be because companies must pay for training out of current accounts yet only reap the returns from training over time. Alternatively, companies may lack adequate information about their training needs or how and where they can access training resources, or some businesses may be concerned that trained workers will be hired away by other firms. Many innovative state governments have been interested in training as a means of increasing the employability and wages of the

unemployed and the under-employed. In addition to running their own customized training operations and drawing down federal Job Training Partnership Act monies, some states have adopted training tax credits as another tool for encouraging greater human resource investments by companies.

The issue of training has been studied extensively by researchers using a variety of methodologies, from controlled experiments and quasi-experimental designs to case studies. But most studies focus on direct expenditure programs rather than tax credit mechanisms. Those results do suggest real successes, both in company and worker terms, but also notable failures.

As with other kinds of incentives, evaluators must begin by focusing on the rationale for the training credit. Does the program emphasize more one goal over another, such as improving business performance and the competitive standing of the business within industry, or providing marketable skills to retrained workers? Is there a logical fit between the problem identified and the credit adopted? Is their any research from labor or training program evaluations which establish a good case for a good fit between this tool and this particular problem? How is training defined? How does the program ensure that training really takes place? How might program eligibility and monitoring be tightened up? Does the training produces any transferable skills? Although it is expensive, does it make sense to follow longitudinally a cohort of trained workers over time and see if the training helps them in their job mobility and employability?

Who is doing the training? Is the company happy with their "internal" training operations? Do they need any help? Should this function be contracted out? And if an external group is doing the training, is the company satisfied with their performance? How might it be improved? Why are training credits preferable to customized training programs? Or, are they? How might they complement each other? Ideally, evaluators should conduct a series of case studies to better understand the pros and cons of these two approaches in a given state. Or, a more limited case study research effort could be undertaken, which would solely focus on the employment tax credits. But in either case, evaluators would look at performance outcomes in four areas: (1) training (and behavioral) objectives; (2) work unit performance; (3) company performance; and (4) trainee earnings. Of course, the assessment should address various administrative issues as well.

Evaluators might also consider other plausible mechanisms for achieving the same objectives. Some states are beginning to look into training loans, for example. The National Alliance of Business conducted a survey of small and large firms and discovered that, although a minority (24 percent) were interested in loans, small companies were more willing take out a loan than bigger firms. In addition, a majority of respondents (54 percent) indicated that funding was a primary factor in determining the size and scope of their training programs. Hence, part of the research could compare the existing tax credit program to a proposed loan initiative and pose their potential pros and cons.

Research and Development Tax Credits. In the long run, the advance of scientific knowledge, and its translation into new and improved products and methods of production, is the most important force contributing to economic growth. Progress in science and technology occurs along a spectrum, ranging from fundamental advances in scientific knowledge to commercially feasible improvements in consumer goods and production processes. In seeking to advance science and technology, the government has two tasks: to promote basic scientific

research and accomplishment and to do what it can, though its capacity is limited, to foster the translation of scientific advances into industrially and commercially useful technology. Several studies have documented that the private rate of return to industrial and commercial R&D averages about 25 percent, roughly double the return on investments in plant and equipment. In addition, these same studies demonstrate that the total social return of such investments is still higher. But private firms are still reluctant to invest more, because of the risks and costs of investing additional resources in research and development.

In response, state governments (as well as the federal government) have launched a variety of efforts—technology transfer services, small research matching grants, the federal Small Business Innovation Research grants, R&D tax credits—designed to encourage both research and development and the adoption of the latest production technologies and innovations. R&D tax credits generally provide a limited tax break for private research and development—a credit for R&D expenditures typically in excess of a base period amount. Such credits were first created on the federal level in 1981. But since then, many states have crafted their own approaches.

The federal tax credit has been extensively studied. The evaluation of the effectiveness of the credit requires first estimating the additional research spending stimulated by the incentive. Ideally, this additional spending then should be evaluated according to the net social benefit it produces. However, that net societal benefit is difficult to determine because it depends on how the research of some companies affects the costs and products of other companies. As a result, researchers have stuck with calculating a "bang-per-buck" ration, the amount of spending stimulated per dollar of revenue cost.

Unfortunately, although there have been close to a dozen rigorous studies of the federal R&D tax credit, there is still little consensus. More recent studies find a higher amount of research generated by the credit than earlier research, but the degree of effect depends strongly on the assumptions and methodologies used in the analysis and the findings range from promoting an additional dollar of research for every public dollar invested to encouraging only 15 to 36 cents of further research spending.

Many of the issues that confront the evaluator of other types of tax incentives must also be faced by the evaluator of R&D credits. But there are several unique issues that R&D tax incentives pose. For example, besides encouraging additional research and development, the incentive should eventually lead to production growth and/or business spin-offs. Significant job creation will also only occur if the R&D has production facilities in-state. Most states are also active in a variety of other technology support programs. Are all these efforts necessary? Evaluators might want to compare the results of the tax credit program with other state activities such as providing technical assistance to companies applying for federal SBIR grants, the provision of matching research grants, and the operation of advanced technology development and technical assistance centers. What are the pros and cons of these differing approaches?

Evaluators must assess how the state is monitoring the use of the R&D incentive and whether it is ensuring that real R&D activity takes place (so that the credit is not being used to subsidize marketing or other company expenses). In considering the rationale for the program, evaluators should examine the types of R&D the credits are supposed to be encouraging. Should credits be structured to only encourage more research and development at the margin? Or should

they help those smaller technology-based businesses, who have no real R&D facilities, to access or develop technologies and commercialize them from scratch? Many states have different objectives in mind for the same type of program. And why might a credit be a more effective tool than direct grants or technology transfer services to help these sorts of enterprises?

As is the case with all types of incentives, evaluators must determine the types of firms the credits are going to. Are they large? Small? In technology sectors or traditional sectors? What are the tangible outcomes? Are patents resulting? New products commercializing? New production within the state? Evaluators should make sure that taking the credits necessitates that the firm supplies some important information to the state that could answer these questions. In addition, sunset reviewers should identify a sample of such firms and conduct some in-depth case studies (or phone-based survey research), as described above for other kinds of incentives.

Using Evaluations to Improve Program Management

After the sunset evaluation has clarified what works and what does not, the next step is to decide about the performance measures that will guide the program's future management. Step one is settling upon the critical measures to be collected and analyzed that will correspond to the following levels: policy outcomes (the major goals like measurable changes in state or county income and employment growth), program outcomes (results such as firm-level employment creation or investment), program outputs (the efficient operation of the program), and inputs (the necessary resources, such as employees, salaries, information, offices, equipment, and so forth). Step two involves deciding on who is responsible for those levels. Most likely, *elected officials* are accountable for *policy outcomes. Department executives* oversee *program outcomes. Operating management* are responsible for *program outputs*. Step three entails setting up a system to measure results, establish standards or targets, and reward good performance.

In the policy area of incentives, staff and upper level management should be rewarded for striking better deals, for conducting good cost-benefit analyses of prospective projects, and for making sure that prospects are courted well and all their questions and concerns are dealt with professionally and quickly. Furthermore, it is very important that the state provides customer-friendly services and honors its commitments for appropriate training, world class infrastructure, timely permitting, helpful site selection, and ongoing ombudsman services.

Closing Thoughts

Several points deserve emphasis. First, it is important that policymakers and advocates do not get lost in all the evaluation minutiae and reach a conclusion that, because we cannot achieve certainty regarding the "if only" question (e.g., did the incentive make the difference, or not), we are at sea when its comes to designing good sunset reviews and making use of their results. *Given present political realities and the likelihood that incentives are here to stay—at least for now—any independent, professional, and properly carried out evaluation is better than none.* At a minimum, a thorough measurement against objectives would meet the threshold requirement for evaluation. It is also the assessment approach most understandable to policymakers and most helpful to efforts to institute better results-oriented budgeting, performance measurement, and performance management.

Second, *it is important that the results of the assessments are widely discussed in the*

press, in public hearings, and other forums. That is, public participation should be an integral element both to the sunset review process as well as the evaluation of its results. We need a larger discussion of the distribution of costs and benefits when its comes to incentives. To achieve better public policy, this aspect of the sunset review cannot be shortchanged. *Who benefits? Who loses? Who pays?* Above all, these questions must be answered well in front of a critical public.

Third, policymakers and advocates must demand that *incentive legislation should not be enacted without money earmarked for a later evaluation and tough and clear requirements for data collection*. This function must be designed and paid for at the program's inception rather than after the fact. Only by preparing for evaluation at the start of a program can it be properly evaluated at its end. As a corollary, all program designers should be *required to develop a short, clear statement of goals and indicators by which the program is to be judged*. Program architects should also develop a brief description of the initiative's "theory of change" or economic rationale (i.e., how is this incentive supposed to affect firm behavior?). Both of these elements would help evaluators to design appropriate tests of the program's efficacy. They should become as universal as the fiscal notes that are required by many states in new legislation.

Finally, *good economic development is good government*. Policymakers should make the case for rigorous sunset reviews on the grounds of fiscal responsibility and public accountability. Government should, at all times, reflect the highest standards of public service. This means honesty, fairness, and openness. Where there are clearly defined policies and criteria governing public investment and the use of business incentives, they will limit abuses and reduce the pressure associated with inter-jurisdictional competition. Daylight is the enemy of dubious dealings. The practice of good sunset reviews is good economic development.

NOTES

1. For good basic discussions, see Fitz-Gibbon, Carol Taylor and Lynn Lyons Morris, *How to Analyze Data*, Park, CA: Sage Publications, Inc., 1987; Fitz-Gibbon, Carol Taylor, Jean A. King and Lynn Lyons Morris, *How to Assess Program Implementation*, Newbury Park, CA: Sage Publications, Inc., 1987; Fitz-Gibbon, Carol Taylor, Lynn Lyons Morris and Marie E. Freeman, *How to Communicate Evaluation Findings*, Newbury Park, CA: Sage Publications, Inc., 1987; Fitz-Gibbon, Carol Taylor and Lynn Lyons Morris, *How to Design a Program Evaluation*, Newbury Park, CA: Sage Publications, Inc., 1987; Fitz-Gibbon, Carol Taylor, Elaine Lindheim and Lynn Lyons Morris, *How to Measure Performance and Use Tests*, Newbury Park, CA: Sage Publications, Inc., 1987; Hatry, Harry P., Mark Fall, Thomas O. Singer, and E. Blaine Liner, *A Manual: Monitoring the Outcomes of Economic Development Programs*, Washington, DC: The Urban Institute Press, 1990; Mt. Auburn Associates, Inc., *Evaluating Development Loan Funds: A Handbook*, Sommerville, MA, July 1987; and Yin, Robert K., *Case Study Research: Design and Methods*, Second Edition, Applied Social Research Methods Series, Vol. 5, Thousand Oaks, CA: Sage Publications, 1994. The following experts were interviewed: Timothy Bartik, W.E. Upjohn Institute for Employment Research; Richard Bingham, Department of Urban Studies, Cleveland State University; Michael Ettlinger, Citizens for Tax Justice; Peter Fisher, Urban and Regional Planning, University of Iowa; Ernie Goss, Creighton University, College of Business; Edward Hill, Department of Urban Studies, Cleveland State University; Hal Hovey, State Policies Research, Inc.; Peter Kwass, Mt. Auburn Associates; Joseph Persky, Department of Economics, University of Illinois at Chicago; Robert Sheets, Business and Industry Services, Northern Illinois University; and Wim Wiewel, College of Urban Planning and Public Affairs, University of Illinois at Chicago.

2. These questions are adapted from work by Mt. Auburn Associates.

3. For more on cost-benefit analysis see: Burchell, Robert W. and David Listokin, *The Fiscal Impact Handbook: Estimating Local Costs and Revenues of Land Development*, New Brunswick, NJ: The Center for Urban Policy Research, 1978; Burchell, Robert W., David Kistokin and William R. Dolphin, *The New Practitioner's Guide to Fiscal Impact Analysis*, New Brunswick, NJ: Center for urban Policy Research, 1985; Persky, Joseph, Daniel Felsenstein, and Wim Wiewel, "Ex Ante Project Evaluation," in Robert Mier and Richard Bingham, *Significant Issues in Urban Economic Development*, Sage Books, 1994; Persky, Joseph and Robert Mier, *A Quick Course in How To Evaluate Mega-Projects*, undated and unpublished; and Stokey, Edith and Richard Zeckhauser, *A Primer for Policy Analysis*, New York: NY, W. W. Norton and Company, 1978.

4. See Yin, Robert K., *Case Study Research: Design and Methods*, Second Edition, Applied Social Research Methods Series, Vol. 5, Thousand Oaks, CA: Sage Publications, 1994.

5. For a great example of a quasi-experimental study, see Isserman, Andrew and Terance Rephann, "The Economic Effects of the Appalachian Regional Commission: An Empirical Assessment of 26 Years of Regional Development Planning, *Journal of the American Planning Association*, Volume 61, No. 3, Summer, 1995, 345-364.

6. Evaluations must also look carefully at these confidentiality issues as they are designing the incentive legislation and developing the questions they want the sunset review to answer. Is the information required already collected? Can it be legally accessed? In order to do a first-class

evaluation, should other information be disclosed by companies receiving these incentives?

7. See the review of literature in Clones, Daphne, *A Review of the Literature on Direct Incentives to Employers to Hire from Economically Disadvantaged Communities*, Washington, DC: Corporation for Enterprise Development, August 1993.

Return-Path: <linda@cfed.org>
Delivered-To: <businincentives-list@cfed.org>
X-Sender: linda@mail.cfed.org
Date: Fri, 19 Feb 1999 11:05:47 -0500
To: businincentives-list@cfed.org
From: Linda Keeney <lkeeney@cfed.org>
Subject: Februrary Business Incentives Clearinghouse Newsletter

Accountability: The Newsletter of the Business Incentives Clearinghouse
Volume 1, Number 2 February 1999

The Business Incentive Reform Clearinghouse is a new project, managed by the Corporation for Enterprise Development (CFED) and funded by the Ford Foundation, which seeks to provide local, state, and federal policymakers with the most current ideas for holding such incentives to a higher standard of public accountability. Its specific goals include: (1) serving to strengthen the ties between policymakers and the best academic research on incentive design, reform, administration, and evaluation ideas; (2) create a forum for dialogue between reform experts, research, policymakers, journalists, and the informed public; (3) exploring new federal, state, and local reform options; and (4) tracking the latest reform alternatives and the latest case studies of unaccountable incentive uses.

****

INCENTIVES: ARE THEY REALLY "ZERO SUM"?

By David Buchholz

The "Zero Sum" Critique

Economic development incentives have been widely - and increasingly - used in the US to lure investment and jobs. The price tag is in the tens of billions of dollars annually at the state level alone, and possibly as much at local levels.

This proliferation has spawned a heated debate among public officials and outside observers about the wisdom of such policies. Critics charge, among other things, that incentives unfairly shift the tax burden, skew competition in favor of certain firms, and offer a misleading "quick fix" approach to economic development.

The most damning criticism, however, has been that incentives represent a "zero sum game." What is meant by this is, simply, that the total amount of investment and job creation is unaffected by incentives. Cities and states, so the logic goes, are spending public dollars to influence how the pie is divided, not to expand the size of the pie itself.

In any given case a city or state may actually "win" an investment. When Indiana, for instance, beat out Colorado, Oklahoma, Illinois, and others for a new United Airlines facility, it gave up $300 million in incentives

to the airline. Did it really "win"? Perhaps. So long as the net revenue to Indiana, in increased income taxes through employees, for instance, totals more than $300 million, it may have been a logical move.

But what happens nationally when this kind of competition takes place? Did United build a bigger facility because of the incentive? No. Did it hire more workers? No. It merely took the $300 million to do what it was going to do anyway. This scenario is played out with other companies day in and day out across the country.

The implication of the "zero sum" argument is that, on a national (and international!) basis, incentives represent tax dollars thrown away. This is true regardless of whether any individual location "wins" at any given point in time in the race for a particular firm. Indiana may "win," but if more plants, or more jobs, are not created by incentives, then the nation as a whole must lose through these kinds of expenditures.

If true, this argument is a powerful one in the call for a ban on incentives altogether as a way of "saving the states from themselves." A great many public officials, in fact, have called for federal intervention to keep them from getting into a bidding war they feel forced into by competition.

But is the zero sum argument really true?

In Defense of Incentives

Many have defended incentives as justifiable policy. Most have done so by pointing out that they can be necessary. Because other communities offer them, refusing to do so puts another community at a relative disadvantage, regardless of how important the incentives are to the firm.

A corollary argument is that incentives may be effective. To public officials this may not only be obvious, but their thinking about the subject may, understandably, end here. Although some incentives clearly pay firms to do what they would have done otherwise, some successfully affect a firm's location decision.

This kind of defense, however, does nothing to challenge the notion that, nationwide, incentives are zero-sum. While local and state officials may shrug their shoulders at such a problem, national officials should be concerned if tax dollars are really being wasted at this level.

Some defenders, however, have cogently argued for incentives in a more important way. Nationally, they say, incentives may turn out to be positive sum after all. Some of these observers have offered thoughtful and persuasive arguments. If they are right, then the correct policy prescription should not be a call to eliminate incentives, but simply to fine-tune them.

Might incentives be positive sum after all?

Arguments about Efficiency

These defenses can be grouped into three categories. First, some have defended incentives as efficiency-enhancing. They view incentives as good tools for fine-tuning tax bundles and redressing past policy wrongs. As narrowly focused tools aimed at specific projects, they may be appropriate tools in some cases.

Specifically, many economists point out that firms may pay more than their fair share of taxes, which¾on a local basis¾is probably economically inefficient. Incentives, they argue, can help correct this problem. (This notion of "benefit taxation" being efficient locally assumes that the redistributive functions of government are taking place at the federal level. Not all economists agree that businesses really are overtaxed; the answer is complicated and appears to vary with the type of business and with other factors.)

More generally, some claim that incentives may enable governments to correct for market distortions, encourage firms to internalize externalities that they would otherwise be unable to afford, or correct for past problems, such as inequitable tax systems or under-investment in school systems.

The efficiency arguments, however, fail when scrutinized closely. The problem with these arguments is not that incentives could not theoretically be used in the manners described by proponents, but that they are not systematically used in such ways in the real world.

Governments should, indeed, address inefficiencies when they exist. But they are better able to redress them through general policies (like improving public services or adjusting the general tax rate) than through selective tax breaks, as most economists agree. Most local governments do not, furthermore, make the careful measures of tax incidence (who pays for what) that efficiency arguments assume.

Incentives, in fact, often distort taxation, sometimes in dramatic fashions. Communities pay more in taxes: Spartanburg, SC tax rates, for instance, shot up after it "won" BMW with $135 million in incentives. And some, after giving away their tax base through abatements, face crises in funding schools and other needs: dramatic examples include Flat Rock MI after "winning" Mazda for $49 million, and Rio Rancho NM after "winning" Intel for $114 million. These distortions may make a community less competitive due to an inability to provide for basic public services.

The efficiency argument also rests on an analogy to the marketplace. Yet this critical analogy ignores the important fact that public officials are primarily political, not economic, actors. Although they may care about efficiency, it is not always the first of their concerns. Incentives are often made for political rea-sons¾for the jobs and investment they seem to represent¾rather than for solid economic reasons.

In its most ridiculous form, this is seen in the case of professional

sports franchises, which time and time again receive lucrative new stadiums, despite the fact that study after study shows that they have little economic impact on local economies. This is hardly limited to sports teams, though. The ribbon cutting of a new plant, after all, reaps immediate benefits, while the cost to the taxpayer is usually hidden and spread out over years.

The efficiency argument also fails because governments overbid. They overbid because they have imperfect information about the firm, and because politics matter at least as much as economics. For the efficiency claim to hold, governments would offer incentives only up until their marginal value to the community. But it is clear, empirically, that governments do not know what the marginal value is, much less try to hold themselves to it.

Arguments about Output

Incentives are also defended by a supply-side argument. This defense says that incentives can increase productivity, output, and the job supply. The argument may take several forms.

A simple productivity argument is that incentives alter the cost of production, which can lower the unemployment rate and increase output. Much of this argument rests on the indirect benefits caused by "multi-plier" jobs.

In a similar vein, incentives are claimed by some to have long-term effects on the job supply. One-time increases in jobs, they say, help the unemployed build skills that can increase their employability in the long run.

Like efficiency arguments, though, these defenses also fail to stand up. First, although lowering taxes does lower overall production costs, this does not necessarily "trickle down" into jobs, investment, or other social goods. There is little guarantee that a decrease in tax burden will result in increased job creation rather than profit-taking.

More importantly, the supply-side arguments move from a general hypothetical (incentives might have a given result) to a specific claim (they do) without showing how this happens. Proponents have not demonstrated that tax incentives increase output; indeed, most empirical evidence shows that firms have deter-mined the level of investment and job creation long before incentives are even negotiated.

Many of the productivity arguments, moreover, rest on the strength of economic multipliers. These multipliers, experience shows, are often calculated in vague and optimistic ways. When Illinois offered hundreds of millions of dollars, for instance, to Diamond Star (a joint venture of Chrysler and Mitsubishi), it promised 8,000 "extra" jobs through multipliers. In the end, Diamond Star only offered half of the subcontracts that it had promised, and only fifteen percent of these went to Illinois firms. Several years later, the state's head economic development official reported that not only was the state not close to the

8,000 jobs, but that he was "not sure where the number came from."

But even correctly measured economic multipliers do not represent overall net gains to the economy. This is because supplier and expenditure effects would normally come about in the absence of incentives, although the location of them might be different.

The claims that employment shocks have long-term effects also fail to hold. These arguments rest on the assumption that the local unemployed obtain some significant portion of any jobs created. But empirical studies do not generally show that they gain at all from an increased job supply. If the end goal of incentive policies were job training, as this argument implies, incentives are surely one of the most inefficient and costly job training programs available!

Although the output arguments do not hold up empirically, one additional weakness would be evident even if they were true. Proponents do not show why¾even if incentives did increase output¾these narrow preferential tools should be used rather than broad-based tax cuts. If lowered taxes really did "trickle down" to create new jobs or increased output, then general tax cuts would be the most economically efficient, not the hodgepodge tax code that is created by a series of preferential incentives.

Arguments about Employment Distribution

A related, but distinct, argument has to do with social gains associated with employment distribution. Proponents argue that incentives may direct jobs to the most socially desirable locations. If investment can be directed toward areas least likely to fare well in the open marketplace¾those with poor infrastructure, low skill levels, or chronic employment from structural economic changes, for instance¾then incentives really can be beneficial. This is an especially powerful argument because it can apply even without efficiency or output gains.

Proponents have made this argument at length, with a number of formal models that purport to show how this effect can happen. Some describe a "market for jobs" which helps to maximize the total "community benefits." Another version uses the notion of the reservation wage - the lowest wage for which an individual is willing to work - to demonstrate that jobs are worth more in high-unemployment areas.

The arguments fail, however, for one important reason. An explicit assumption of this argument is that the areas most in need will bid more aggressively than those that are better off. If this is not the case, then these arguments, as acknowledged by their own proponents, will not hold.

As it turns out, this critical assumption is not true. A series of empirical studies show that high-need cities and states do not appear to offer more incentives than low-need areas. At best, the relationship between need and incentives is random, and in many cases it appears that better-off areas even outbid their poorer neighbors. Furthermore, individual states¾rich or poor¾have not been able to direct investment to

the highest-need areas within their own borders.

In the end, there is absolutely no evidence to suggest that the sites most in need will successfully direct the investment their way. No proponent of this argument has offered a compelling mechanism in the market-place that promotes "good" incentives in areas of high need and discourages "bad" ones in well-off areas. By 1999, incentives have become essentially universal.

It is this ubiquity that provides the last nail for this argument's coffin. Poor areas that need to lure investment may offer incentives to do so, but rich areas are doing the same thing, sometimes even more generously. Without a mechanism to promote one and discourage the other, any positive effect is eliminated (or the poor area must bid even more generously to regain an advantage!) and the corporation gets to pocket the incentive no matter where it goes.

Incentives: Zero Sum (or worse) After All

The bottom line is clear: if everyone is offering incentives, there is no reason to believe that the "good" incentives will be chosen any more often than the "bad" incentives.

The defenses of incentives fail to hold up. Most fail not on theoretical grounds, but empirical ones. Incentives might be capable of effecting some of the happy benefits that have been discussed. Unfortunately, they do not.

The principal reason that incentives fail to live up to their efficiency-enhancing, output-increasing, utility-maximizing promises is that they are ubiquitous. Incentives, left in the hands of state and local officials, lack direction. On a systematic level, they do not do anything, they simply exist.

When critics call incentives a zero sum game because they only shift resources around, they are partially correct. Aggregate investment and job creation are highly unlikely to increase.

It is more accurate to describe the phenomenon, however, as a negative sum game. Not only is total investment unchanged, but cities, counties, states, and countries spend tens of billions of dollars every year trying to bring about this zero sum change in location.

Incentives are more than just an imperfect tool. Location incentives, while at times individually rational, are collectively irrational. They are irrational because they do not add benefits net of expenses in the aggregate.

California, for instance, may offer Looking-For-Breaks Corporation $100 million in incentives to "win" it. While the firm will happily take the cash, it will not create more jobs than it would have without the breaks. While it may be understandable for California officials, looking out for their state's economy, to try to win the corporation, the economic system

as a whole simply sees a $100 million public loss without affecting the firm's investment behavior.

While individual communities may benefit at the expense of others, states and cities are collectively worse off for their use.

Why Should I Care?

Defenders of incentives are right in saying that they are politically necessary in this day and age. State and local officials often say, "I wish I didn't have to offer incentives, but…." They may be necessary because everyone else is doing it, but this reality does not make them good policy.

The same defenders are not correct, though, when they try to take the argument to the next level by saying that incentives¾taken as a whole¾are worthwhile.

State and local governments, in the face of competition, really are forced to put up incentives or risk losing desired investment. For this reason, many¾including any number of academics, economic development professionals, and state legislatures¾have called for federal intervention to stop incentives. A number of legal scholars have argued that incentives may be deemed unconstitutional, if challenged head-on, because they violate the dormant commerce clause of the Constitution.

Incentives may be politically necessary for individual cities and states who are trying to lure or keep investment. Without federal intervention, this will continue to be so. But incentives represent¾ten million here and a hundred million there¾a net loss to the public coffers, and to the public good.

Incentives are, despite claims to the contrary, a negative-sum game. And, because local officials feel forced to play that game, a solution can only come at a national level.

David E. Buchholz has recently completed a Ph.D. dissertation at the Department of Political Science at Duke University. He is currently executive director of Good Work, a microenterprise lending and technical assistance organization, and will be working at Self Help, a NC-based community development finance institution in early 1999.

****

Bibliography

This article incorporates a number of analyses. Easily the most prolific and convincing defender of incentives is Timothy Bartik. For more detail, see the articles below. Readers who want a more complete and detailed delineation of the arguments contained herein, see David E. Buchholz, "Competition and Corporate Incentives: Dilemmas in Economic Development," Doctoral Dissertation, Duke University, 1998.

Bartik, Timothy. "The Effects of Metropolitan Job Growth on the Size Distribution of Family Income." Working Paper No. 91-06, W.E. Upjohn Institute for Employment Research, 1991a.

Bartik, Timothy. Who Benefits from State and Local Economic Development Policies? Kalamazoo: W. E. Upjohn Institute for Employment Research, 1991b.

Bartik, Timothy. "Who Benefits from Local Job Growth: Migrants or Original Residents?" Regional Studies 27 (1993): 297-311.

Bartik, Timothy. "Eight Issues for Policy Towards Economic Development Incentives." The Region [Federal Reserve Bank of Minneapolis] 10 (June 1996): 43-46.

Blair, John P., Rudy H. Fichtenbaum, and James A. Swaney. "The Market for Jobs: Locational Decisions and the Competition for Economic Development." Urban Affairs Quarterly 20 (September 1984): 64-77.

Blair, John P., and Barton Wechsler. "A Tale of Two Cities: A Case Study of Urban Competition for Jobs." In Urban Affairs Annual Reviews, vol. 27, Urban Economic Development, ed. Richard D. Bingham and John P. Blair, 269-281. Beverley Hills: Sage Publications, 1984.

Mattey, Joe and Mark Spiegel. "On The Efficiency of Tax Competition for Firms." The Region [Federal Reserve Bank of Minneapolis] 10 (June 1996): 0-51.

Netzer, Dick. "An Evaluation of Interjurisdictional Competition through Economic Development Incentives." In Competition among States and Local Governments, ed. Daphne A. Kenyon and John Kincaid, 221-246. Washington, DC: Urban Institute Press, 1991.

Toft, Graham. "Doing Battle Over the Incentives War: Improve Accountability But Avoid Federal Mandates." The Region [Federal Reserve Bank of Minneapolis] 10 (June 1996): 37-40.

Resource Update

The Center for Community Change's December, 1998 issue (#11) of "Organizing" focuses on "Ending Corporate Welfare As We Know It." It includes a number of helpful articles on topics, such as: "Corporate Welfare: The Basics," living wage campaigns, a Montana effort to research corporate subsidies, a Maine corporate accountability law, and an interesting editorial by Greg LeRoy, "The Time Is Right For Corporate Welfare Reform." The issue closes with a helpful list of publications to read. For copies, contact: Rich Stolz or Leigh Dingerson at the Center for Community Change, 1000 Wisconsin Avenue, NW, Washington, DC 20007. Phone: 202-342-0594. Fax: 202-298-8542. Visit its web site at ww.communitychange.org.

****

For more information about the project and CFED, contact: Bill Schweke or Matt Hull at CFED's Southern Office, 123 West Main Street, Third Floor, Durham, NC 27701 (phone: 919-688-6444; fax: 919-688-6580).

Be sure to visit our web site for additional information about incentive reform and alternatives to incentives: www.cfed.org.

Norma Bowen (Rep. Luebke)

From: Rep. Paul Luebke
Sent: Thursday, February 11, 1999 8:48 AM
To: Norma Bowen (Rep. Luebke)
Subject: FW: CFED Business Incentive Clearinghouse Newsletter

Norma, can you please print three copies of the below, in time for me to take them to the House floor this morning? Thanks, Paul

---

From: Horn, Charles F.[SMTP:chorn@mailr.sen.state.oh.us]
Sent: Wednesday, January 06, 1999 1:10 PM
To: Horn, Charles F.
Subject: CFED Business Incentive Clearinghouse Newsletter

The Corporation for Economic Development (CFED) has asked me to distribute this newsletter to my network. This is a new project and one I think could provide some insight on how best to deal with the wasteful incentive wars between the states.

I would welcome any feedback you may have on the newsletter.

Charles F. Horn
State Senator
Ohio's 6th Senate District

Accountability: The Newsletter of the Business Incentives Clearinghouse
Volume 1, Number 1 January 1999

The Business Incentive Reform Clearinghouse is a new project, managed by the Corporation for Enterprise Development (CFED) and funded by the Ford Foundation, which seeks to provide local, state, and federal policymakers with the most current ideas for holding such incentives to a higher standard of public accountability. Its specific goals include: (1) serving to strengthen the ties between policymakers and the best academic research on incentive design, reform, administration, and evaluation ideas; (2) create a forum for dialogue between reform experts, research, policymakers, journalists, and the informed public; (3) exploring new federal, state, and local reform options; and (4) tracking the latest reform alternatives and the latest case studies of unaccountable incentive uses.

****

******

The Care and Feeding of the State and Local Tax Base: A Valuable Public Asset
By Michael Mazerov and William Schweke

Supreme Court Justice Oliver Wendell Holmes said it accurately and succinctly: "Taxes are what [we] pay for civilization." Schoolteachers, police officers, sanitation workers, road crews, and public health nurses can't work for free. Publishers can't be expected to provide free textbooks and construction companies can't give away sewage treatment plants. Everything we as citizens call upon state and local governments to do - including expanding opportunity for people and places left out of the economic mainstream - ultimately requires a funding mechanism. Taxes represent 56 percent of all of the financial resources available to state and local governments.

The tax bases of states and localities are thus valuable resources that must be nurtured, conserved, and used efficiently, no less so than a stand of timber or a parcel of rich farmland. Unfortunately, a number of longstanding flaws in state and local tax systems and a host of recently-enacted provisions aimed at encouraging local economic development are resulting in rapid erosion of this crucial community asset. Major changes in federal, state, and local tax policy are needed to ensure that state and local tax bases will be capable of meeting the demands that will be placed upon them in the coming decades.

Erosion From Without

Broadly speaking, states and localities tax the incomes, consumption, and real estate wealth of their citizens and the profits and property wealth of businesses engaged in economic activity within their borders. Personal income taxes, household and business property taxes, consumption taxes, and corporate profits taxes together account for 99 percent of state and local tax revenues. Unfortunately, technological and economic factors are interacting with longstanding deficiencies in state and local taxing powers and policies to erode the base of these taxes. Indeed, a recent study by Hal Hovey of State Policy Reports found that many states, despite the strong economic and fiscal conditions that currently prevail, are in great danger of falling into structural deficits (e.g., a chronic underlying imbalance between their revenues and expenditures) when the next economic downturn occurs.

Recent improvements and declining relative costs of transportation and communications permit businesses to supply local markets for an ever-wider variety of goods and services through interstate trade rather than localized production and marketing. For example, a searchable Internet database can now furnish potential customers with a breadth of information concerning product specifications and availability that until recently could only have been provided by a large national sales force traveling to the customers' place of business.

The increasing ability of corporations to satisfy their customers' market demands with little or no direct physical presence in the states and localities where these customers are located is already contributing to a serious direct erosion of state and local sales tax and corporate income tax bases. The authority of state and local governments to tax out-of-state corporations is severely constrained by obsolete federal law, and this problem is compounded by other tax policies that have not been updated to take account of the explosive growth in interstate trade and multi-state corporations. There is only so much consumer demand and business profit potential within a given state or locality at a given point in time, and if the sales are made and the profits are earned by out-of-state corporations not subject to tax, the sales tax and corporate income tax base will be directly eroded. Already, for example, state and local governments lose $3-4 billion in sales tax revenues from mail-order catalog sales. This revenue loss is anticipated to grow dramatically in the next several years as the Internet expands the range of goods and services that can be purchased from remote sellers.

The direct loss in sales and corporate income tax revenues resulting from the collision of accelerating interstate commerce and obsolete tax laws is compounded by a second-round loss of local income and property tax receipts from local merchants. Locally based businesses are at a competitive disadvantage as compared with both out-of-state businesses selling from tax haven states and corporations that can take advantage of their multi-state operations to cut their taxes. For example, one infamous court case revealed that Toys 'R Us was reducing its reported profit in many states - and thus its state corporate income tax

liability - by requiring its stores to pay tax-deductible royalties to another Toys 'R Us subsidiary especially set up in Delaware to hold its Geoffrey Giraffe logo.

The local toy store proprietor does not have the same opportunity to manipulate her income tax liability that a multi-state chain like Toys 'R Us does; the neighborhood computer builder starts out with a 6-8 percent price disadvantage vis-a-vis Dell Computer because he has to charge sales tax while Dell does not. Lower after-tax profitability and depressed sales for locally based businesses mean lost opportunities to expand both physical plant and payrolls. In turn, this results in lower property tax and income tax collections. True, the jurisdiction that is home to the region's Toys 'R Us store may reap economic benefits despite the company's ability to manipulate its state tax liability, as may the one community lucky enough to land the mail-order computer manufacturer's national distribution warehouse. But if states and localities want to derive a significant share of their economic and tax base from viable, competitive, locally based businesses, it will be increasingly necessary to modify their tax systems to ensure that such businesses are not taxed more heavily than out-of-state and multi-state businesses. At present, the competitive playing field is very much tilted against the locally based business sector.

Erosion From Within

The flip side of the growing ability of corporations to satisfy nationwide demand for their products from just a handful of production and distribution centers has been intensified state and local government competition to attract such export-oriented facilities and the jobs they bring with them. Special breaks on state and local taxes have, of course, been a principal weapon in this well-publicized "War Between the States," to the point that they, too, constitute a major source of tax base erosion. The amount of state and local government tax revenue given away has escalated steadily, with the cost per job attracted reaching as high as $250,000 to $500,000 in some instances. While no nationwide survey of the cost of economic development incentives exists, we can fairly accurately project that total state and local on- and off-budget spending on economic development (including both good programs and bad ones) is probably five times what the federal government spends. This would put the total nonfederal figure at close to $32 billion. And, according to our best estimates, the largest proportions of this total are tax incentives. Depending on the state, they may exceed direct on-budget economic development spending by 3:1 to 8:1. New York's state and local tax expenditures for economic development, for example, exceed $500 million annually, or over $27 per capita.

Since the publication of Bidding for Business: Are Cities and States Selling Themselves Short?, the Corporation for Enterprise Development and its allies have been working to curb the excesses in today's business incentives "arms race" among the states. In doing so, we believe we have succeeded in convincing most policymakers and opinion leaders that tax incentives are generally not good economic development tools - especially when looked at from the national perspective. There is a growing conventional wisdom that such programs:

* Often reward shareholders of the recipient corporations for economic actions the companies would have taken anyway;
* Waste scarce public dollars to affect the location of business investments with little if any impact on net job creation;
* Sometimes destroy jobs in existing businesses by providing substantial unfair advantages to new competitors;
* Divert the attention of policymakers from attending to the

actions that could lead to net job creation and a better business climate; and

* Deprive state and local governments of revenues need to finance public services that enhance a region's attractiveness as a business location, such as good public schools and effective retraining programs for adult workers.

Nonetheless, we must acknowledge that our intellectual victories are not translating into practical success. Economic development tax incentives continue to proliferate. For example, the last KPMG Peat Marwick survey of senior tax and financial exectives at 203 large corporations found that these companies stated that such incentives were more likely to be offered than five years ago and the number of such programs has also grown from 450 to 600 during the year polled.

Why do tax incentives continue to proliferate despite growing skepticism about their efficacy? First, because when a new or expanded facility receives a tax incentive, there is no way to demonstrate conclusively that the investment would have occurred without it. Second, because one cannot undercut the logic that a tax incentive larger than one being offered by a competing jurisdiction will tip a location decision when "all other factors are equal." Third, because a couple of examples of corporate executives citing tax incentives as a factor in their decision to locate an especially sought-after plant in a particular jurisdiction will trump a hundred econometric studies showing no correlation between business' state and local tax liabilities and job growth.

An Action Agenda for Preserving the State and Local Tax Base

Just as it has taken several decades to build a robust movement of organizations and individuals committed to conserving and restoring the natural environment, it will require considerable effort to build a constituency to defend the "natural resources" that fuel state and local public services. Fortunately, a growing number of organizations are beginning to focus on strategies and policies aimed at preserving the state and local tax base. The embryonic elements of such a movement can be seen in such diverse activities as the National Governors' Association's efforts to educate Congress about the emerging threat to the sales tax base that tax-free Internet marketing represents and initiatives challenging excessive property tax abatements placed on the ballot by teachers' unions in several states. Perhaps the most exciting recent developments are the establishment of a full-blown project at Citizens for Tax Justice - "Good Jobs First" - aimed at supporting a growing local movement that seeks to attach job quality-related performance requirements to major economic development incentive packages granted by state and local governments, along with CFED's newly-funded "Business Incentive Reform Clearinghouse," which intends to create a current and comprehensive web-based library of reform tools, ideas, and research.

We would suggest that organizations concerned about the long-term preservation of a healthy state and local tax base focus for the next decade on seeking implementation of the following five sets of economic development-enhancing tax policies:

* Mandatory public disclosure by corporations of their actual state and local tax liabilities, the value of the economic development tax incentives they receive, and their local economic activity (including sales, payrolls, and plant and equipment investment) is the sine qua non of achieving both corporate accountability for tax incentives and fair taxation of businesses in general. Only with such information can policymakers and the public evaluate whether the cost of tax incentives is justified by the growth of payrolls and investment and

the feedback effect on the tax base itself. Such information is also needed to evaluate whether existing tax policy ensures that all corporations benefiting from state and local services are paying their fair share of taxes and that state and local taxes are not tilting the playing field either in favor of or against competitors. Corporate tax disclosure is best pursued through a coordinated national campaign that seeks to enact it in numerous states simultaneously, since a single state seeking to adopt such a policy would be vulnerable to corporate threats not to locate new investments there.

* Many states need to implement a set of tax policies aimed at ensuring that multi-state corporations have state corporate income tax and sales tax liabilities as similar as possible to those faced by wholly in-state corporations. These policies include mandatory "combined reporting" (an accounting method that treats businesses comprised of a parent and subsidiaries as one corporation for state corporate tax purposes) and the assertion of taxing jurisdiction over out-of-state corporations to the limits permitted by federal law. For the long term, changes must also be sought in federal law that would permit states to tax all out-of-state corporations making substantial sales to their residents (including resident businesses). All of these changes are needed to ensure both that a state's tax base is not directly eroded by out-of-state businesses (such as mail-order and Internet sellers) and that local businesses are not placed at a competitive disadvantage by a state's tax policies as compared with out-of-state businesses.

* Given the range of experimentation that has already occurred for enforcing the accountability of economic development incentive deals through legally binding performance contracts, now is the time to draw on best practice and draft a model for states and localities to follow. Laws should be sought to grant citizens legal standing to ensure compliance with these contracts and to ensure that the routine enforcement of the contracts is not the responsibility of the state and local economic development staff that originally marketed the jurisdiction and arranged the deal. Laws implementing economic development incentives should also always include a requirement that the programs undergo a well-financed, professional, and independent sunset review every five years.

* Activists should seek legislation requiring the preparation of a unified development budget, which would examine simultaneously all on- and off-budget spending on economic development. This is a valuable tool, because it clarifies existing commitments and implicit priorities (e.g., business recruitment versus workforce preparation versus technology development), enables policymakers to better weigh conflicting imperatives (e.g., K-12 school financing versus property tax abatements), can help direct scarce public dollars into programs that generate better development returns for the state, and helps educate the public and policymaking community to the fact that economic development involves more than business incentives and industrial attraction.

* Finally, both before- and after-the-fact evaluation of incentive programs and special deals would be aided by developing a "certified" cost-benefit methodology setting minimum standards for what a good assessment should look like. After such a model approach is developed, efforts should be launched to encourage all states and localities to adopt it when they are measuring net benefits and net costs per job for varied development incentives. Adoption of a uniform evaluation methodology would prevent one state from offering a more extensive location incentive package than another merely because it measured the benefits more generously. The effectiveness of such a uniform methodology would also be enhanced if states competing for a particular

facility would agree to share information provided by the company regarding such matters as the amount of capital to be invested, the number of jobs to be created, their pay scales, etc.

We are under no illusion that these reforms will be easy to enact. But we are encouraged by the reform efforts, which are now organizing around these issues. More and more citizens are saying "enough is enough" and that we are wasting too much money on subsidizing companies for what they would have done anyway. If we can focus the degree of commitment and resources that this agenda demands, we can build broader coalitions between main street businesses, public employee unions, taxpayer watchdog groups, low-income budget advocates, and many others. By doing so, this agenda has a realistic prospect for success.

Michael Mazerov is a Senior Policy Analyst at the Center on Budget and Policy Priorities and William Schweke is a Senior Program Director at the Corporation for Enterprise Development.

****

****

For more information about the project and CFED, contact: Bill Schweke or Matt Hull at CFED's Southern Office, 123 West Main Street, Third Floor, Durham, NC 27701 (phone: 919-688-6444; fax: 919-688-6580).

Be sure to visit our web site for additional information about incentive reform and alternatives to incentives: www.cfed.org.

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **TUESDAY, MARCH 2, 1999**
WEDNESDAY, MARCH 3, 1999
THURSDAY, MARCH 4, 1999

TIME: **8:30 A.M.**

LOCATION: **ROOM 544 LOB**

Respectfully,

Representatives Miller, Luebke, Allen
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **12:30 p.m.** on **Thursday, February 25, 1999**.

___Principal Clerk
___Reading Clerk - House Chamber

Lillie Pearce (Committee Clerk)

VISITOR REGISTRATION SHEET

HOUSE FINANCE COMMITTEE 2-25-99

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
James Piedad	Guilford Co Young Republicans
Laura Piedad	"
Leslie Stewart	UNC-CH Office of Econ. Devel.
Kathy Sawyer	Commerce
Kim Carlton	NC Budget & Tax Center
Stewart Dickinson	DOC - Finance Ctr.
Ginger Gay	Media General News Service
Kelli Kikura	DuPont
[illegible]	[illegible]
[illegible]	[illegible]
Michael Luger	UNC-CH
Rob Holladay	Legislative Intern
[illegible]	[illegible]
Kevin Hyatt	Gov's office
Katherine Davis	Secretaries
Alice Barnard	"
Andy Romanet	N.C.L.M.
Mary Carinalia	Mecklenburg County
Dave Simmons	ZNA PA
Alicia Mowery	Pittard & Sproull
Josh Ayers	Pinehurst Area Advisory Recreation
Peter Reber	Materials Bank
Patrice Rogers	NAEC
John [illegible]	NCFPC
Carl Williams	NCMBA

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Mont Cross	Moon & Van Allen
K. Weigel	UNC School of Medicine
H Hintaya	Coca Cola
Ke Howell	God's office
[illegible]	JDA&L
Paul Stock	NCBA
Willie Riddick	DOR
Butch Gunnells	NCSDA
Gregg Haworth	EGNS
Mona Monchotte	Poyner & Spruill

HOUSE FINANCE COMMITTEE

Tuesday, March 2, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

AGENDA:

Sec. Offerman of Department of Revenue
Sabra Faires of Department of Revenue

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

March 2, 1999

The House Committee on Finance met on Tuesday, March 2, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m.. The following members were present: Chairmen Miller; Allen, and Luebke; Vice Chairs Jarrell and Wood; Representatives, Braswell, Bridgeman, Brown, Buchanan, Capps, Church, Cox, Decker, Dedmon, Eddins, Edwards, Gibson, Goodwin, Gray, Hill, McComas, McCombs, Morris, Rayfield, Tucker, Womble. Staff including Cindy Avrette, Richard Bostic, David Crotts, Linda Millsaps, and Ed Rossi were in attendance. A Visitor Registration List is attached and made a part of these minutes.

The Chairman Allen called the meeting to order to hear a presentation by staff.

Madame Secretary Muriel K. Offerman of the Department of Revenue was recognized to introduce her staff, explain how the Department of Revenue works, discuss new methods of tax administration systems, and give a brief overview of the services provided by the Department of Revenue.

Sabre Faires, the Assistant Secretary for Tax Administration for the Department of Revenue was recognized for discussion of how her staff can assist the Finance Committee, to explain the Department of Revenue's critiques of legislation dealing with taxes and suggested changes, and how the Department of Revenue staff can provide information on tax research.

There being no further business, the Chair adjourned the meeting at 10:00 a.m.

Respectfully submitted:

Representative Gordon Allen
Chair

Kristen L. Crosson

Kristen L. Crosson
Assistant to the Committee

#1
2/23/99

North Carolina's Tax System

Don Liner
Institute of Government
February 18, 1999

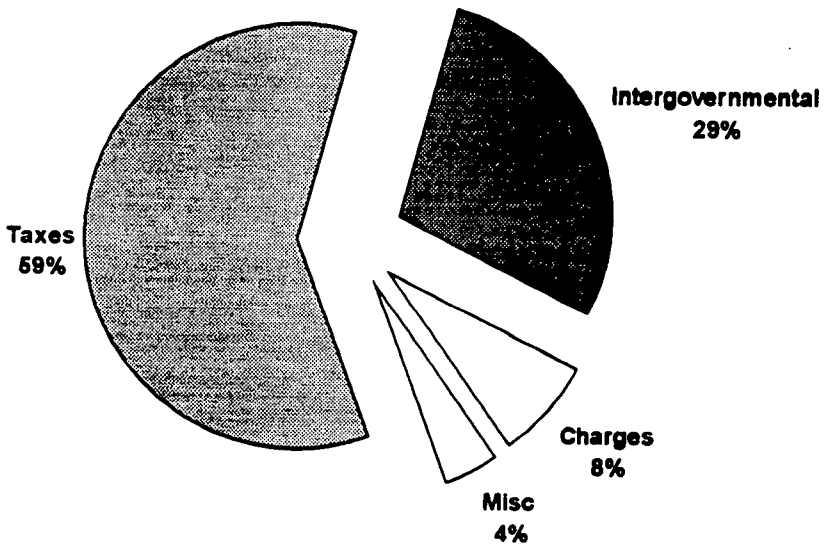
The General Assembly is responsible for authorizing both state and local taxes

The North Carolina Constitution:

- The power of taxation shall be exercised in a just and equitable manner, for public purposes only, and shall never be surrendered, suspended, or contracted away. (Art. V, Sec. 2)

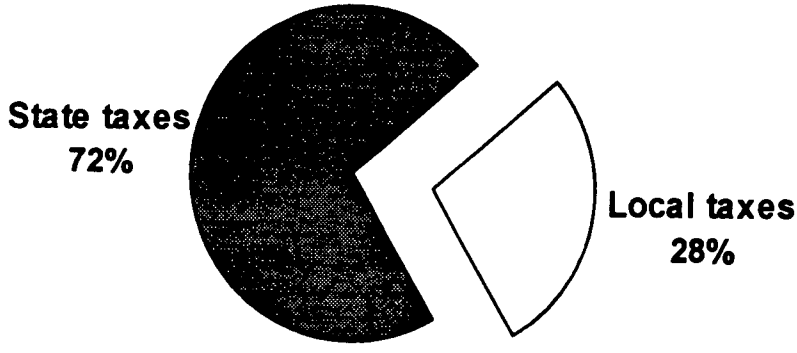
- No law shall be enacted…to impose any tax upon the people of the State, or to allow the counties, cities, or towns to do so, unless the bill for the purpose shall have been read three several times in each house… (Art. II, Sec. 2)

State Government Sources of Revenue, by Type



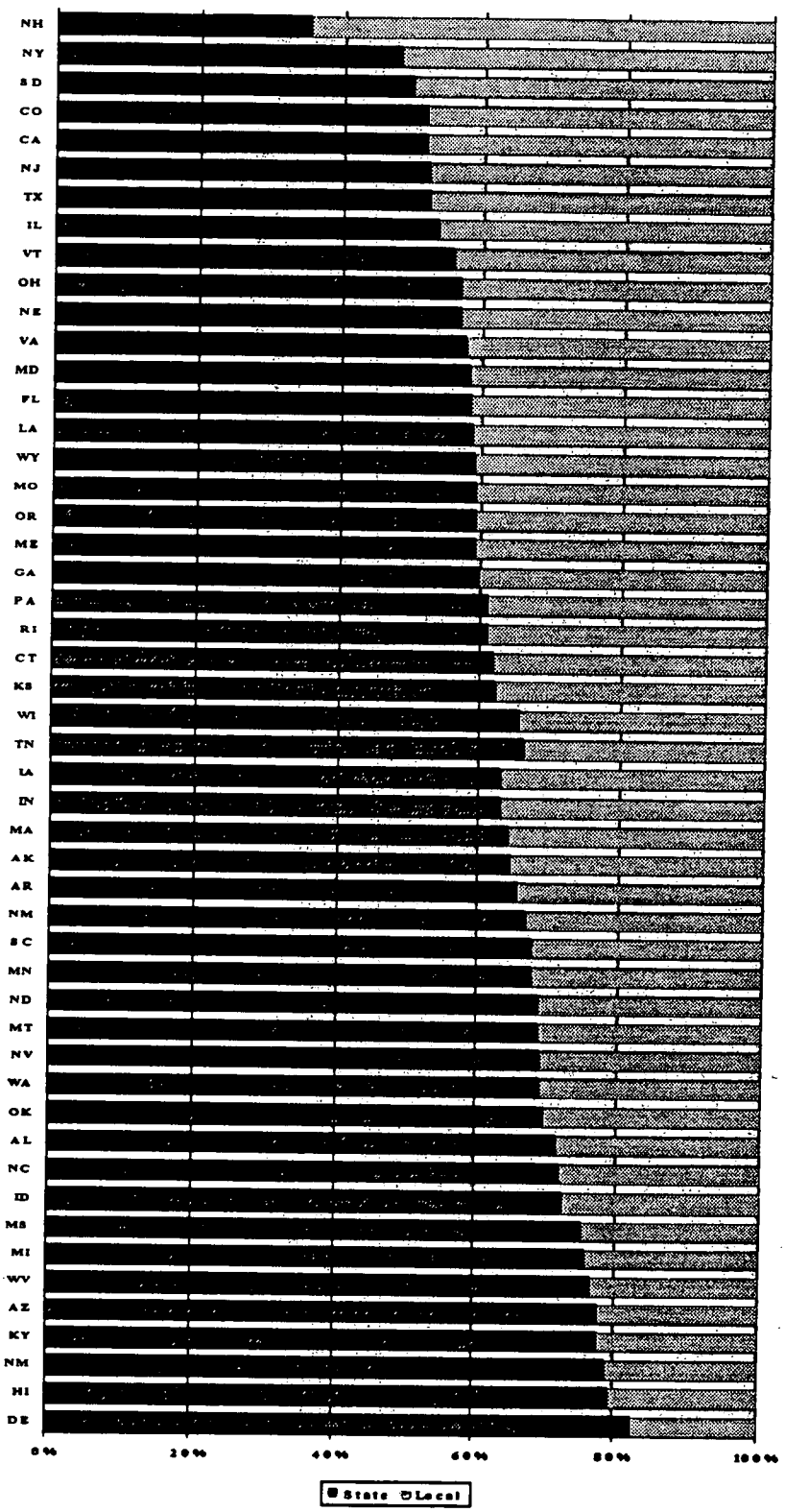
Total general revenue, 1994-95: $19.2 billion

Financial Responsibility is Centralized in North Carolina



Shares of total state and local taxes collected in North Carolina

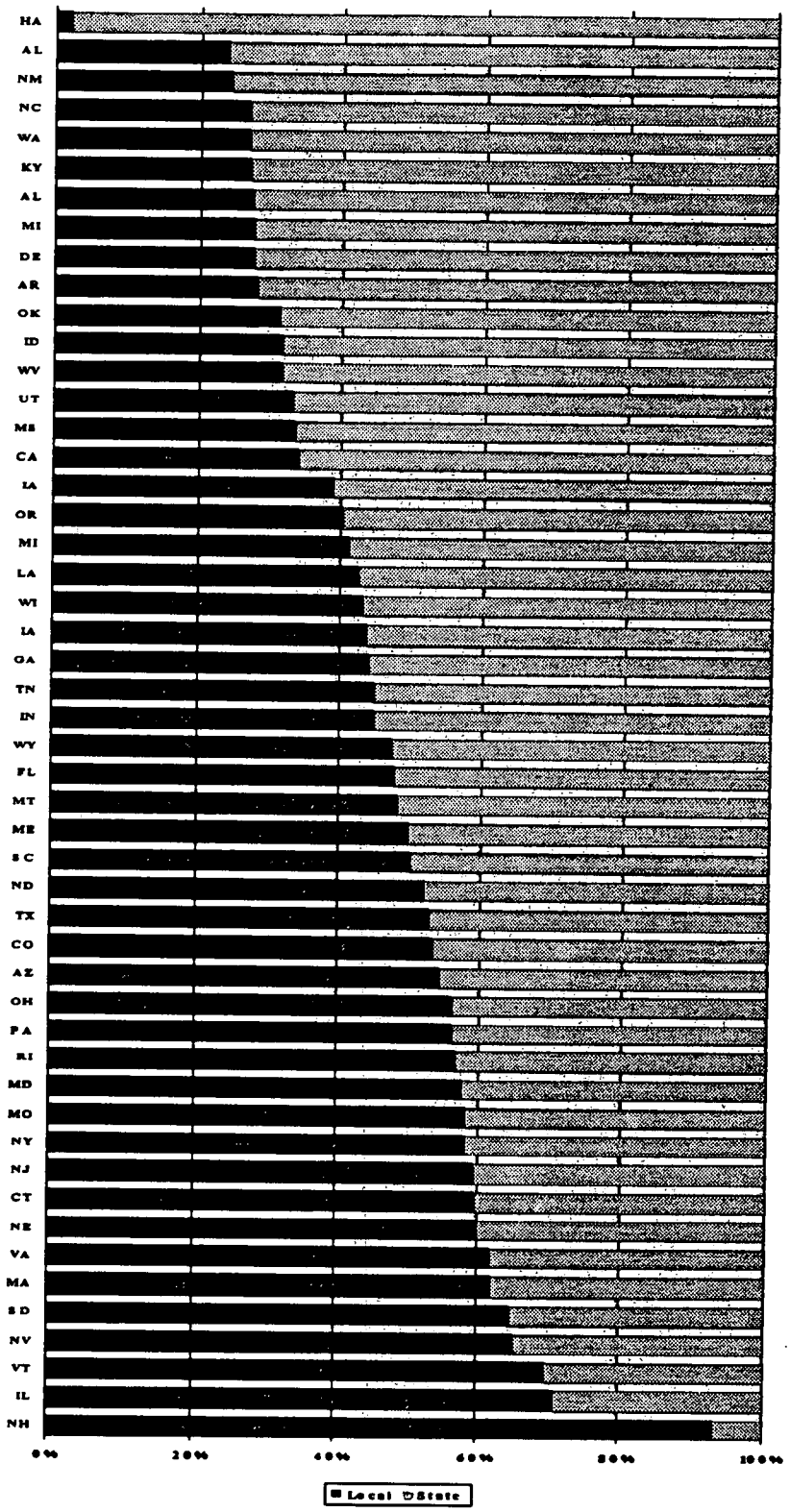
State taxes as % of total state and local taxes



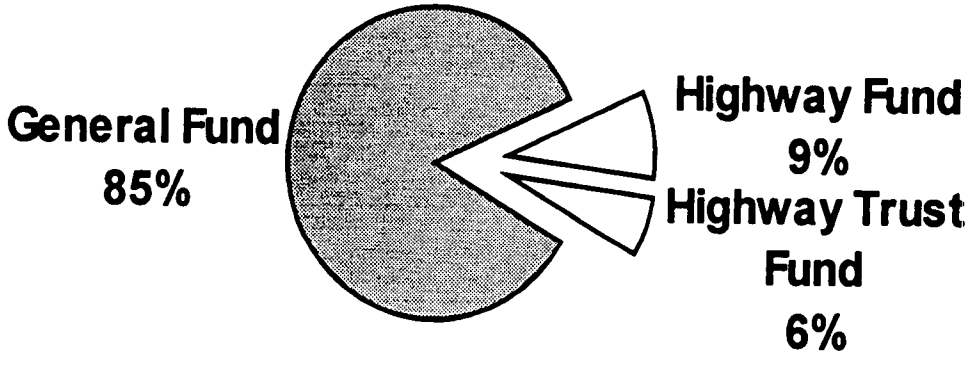
Reasons for Centralized Financial Responsibility

- **Public schools**. The state pays 89% of the cost of regular instruction programs in the public schools and 67% of total operating costs of the public schools.
- **Highways and roads**. The state is responsible for all highways and roads except city streets that are not part of the state thoroughfare system.
- **Social services**. The state pays the major share of major welfare and medical assistance programs administered by counties.
- **Corrections**. The state is responsible for all prisoners sentenced to 30 days or more in jail or prison.
- **Judicial system**. The state administers the entire courts and judicial system.
- **Community colleges**. The state is primarily responsible for the community college system.
- **Shared revenues and bases**. Local retail sales taxes and gasoline taxes, in addition to beverage, utility franchise, and real estate transfer taxes.

Local Share of State and Local Revenue for Schools



Tax Revenue by Fund



Amounts in millions:

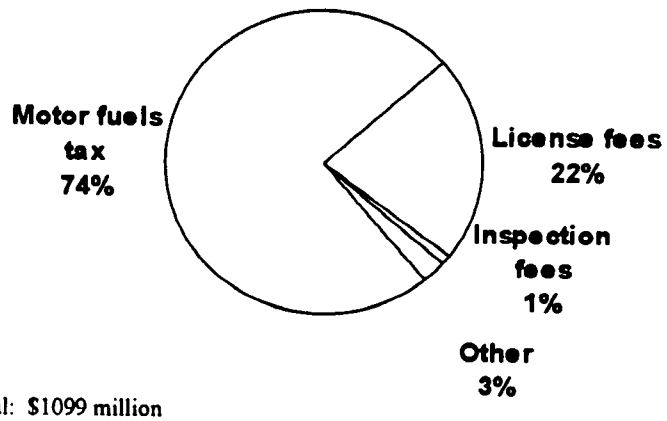
General Fund $11,092.4

Highway Fund $1,099.6

Highway Trust Fund $794.8

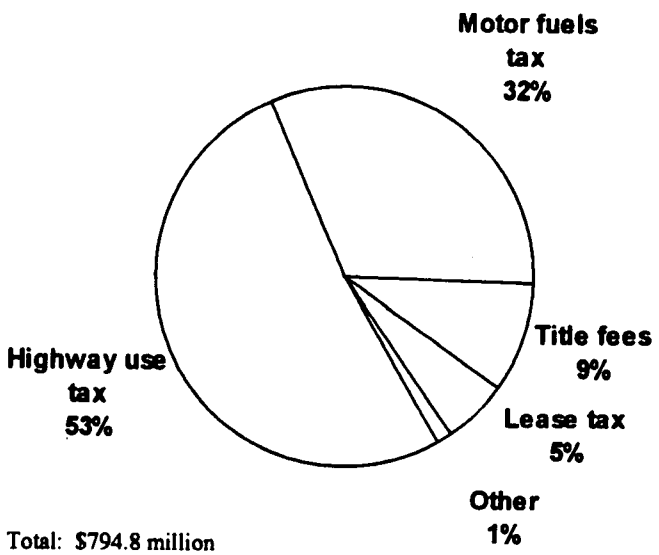
Highway-related Revenue

Highway Fund



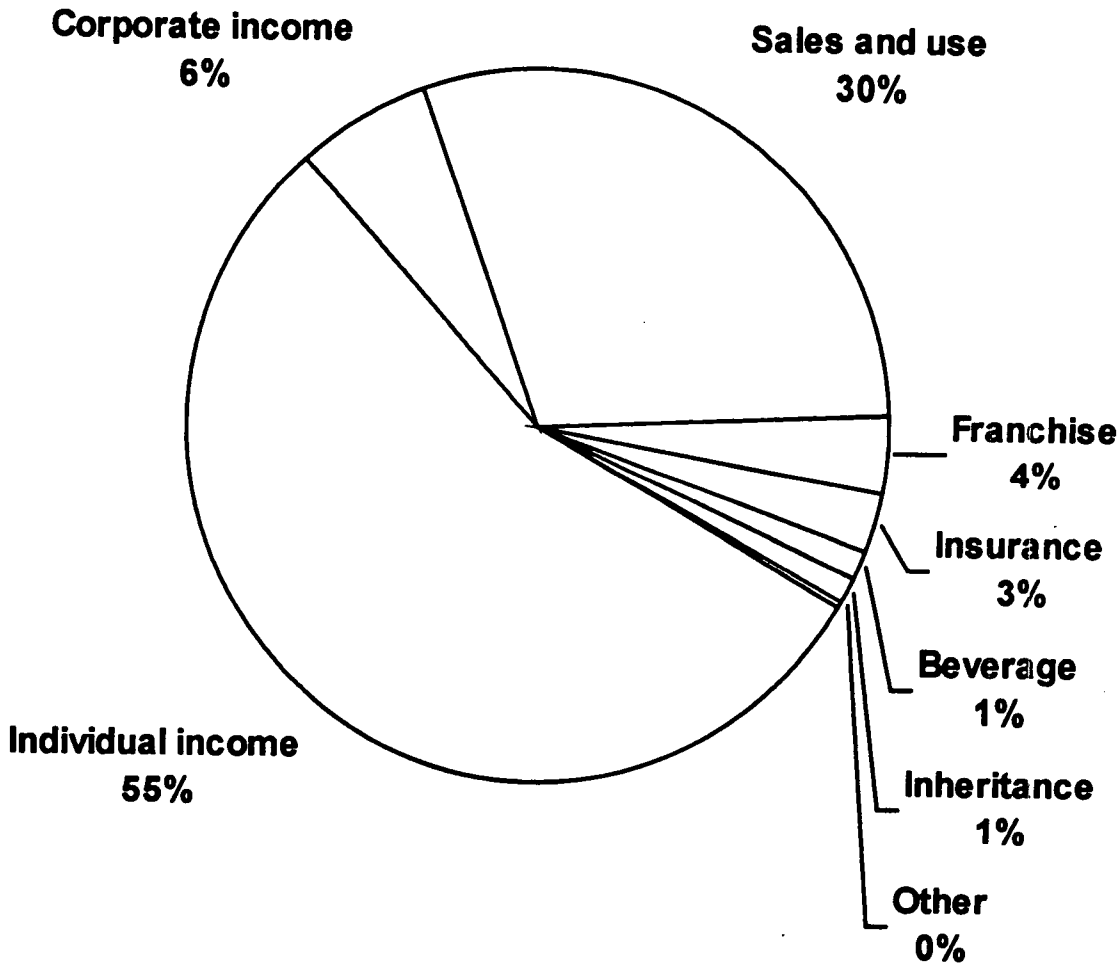
Total: $1099 million

Highway Trust Fund



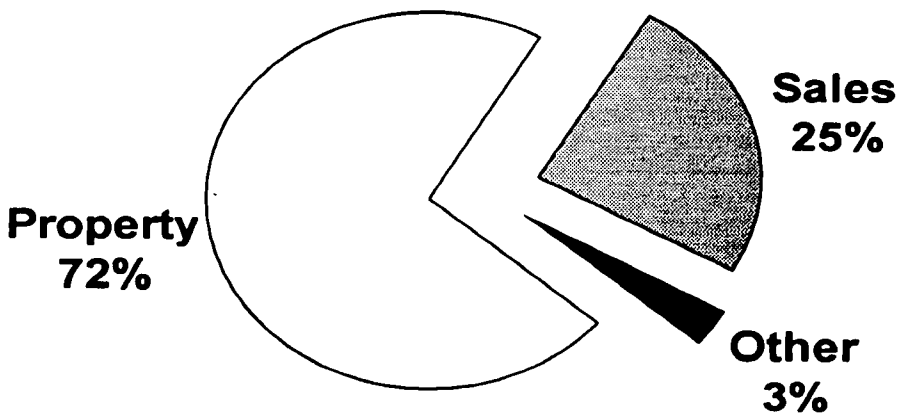
Total: $794.8 million

General Fund Tax Revenue



Total: $11,092.4 million

Local Government Tax Sources



Other taxes:

- Privilege license 1.2%
- Room occupancy 1.1%
- Excise stamp 0.5%
- Liquor by the drink
- Utility franchise
- Land transfer
- Animal
- Motor vehicle license
- 911 charges
- Flat household charges
- Admission
- Prepared food

Total tax revenue: $4.547 billion

#1
2/23/99

North Carolina's Tax System

Don Liner
Institute of Government
February 18, 1999

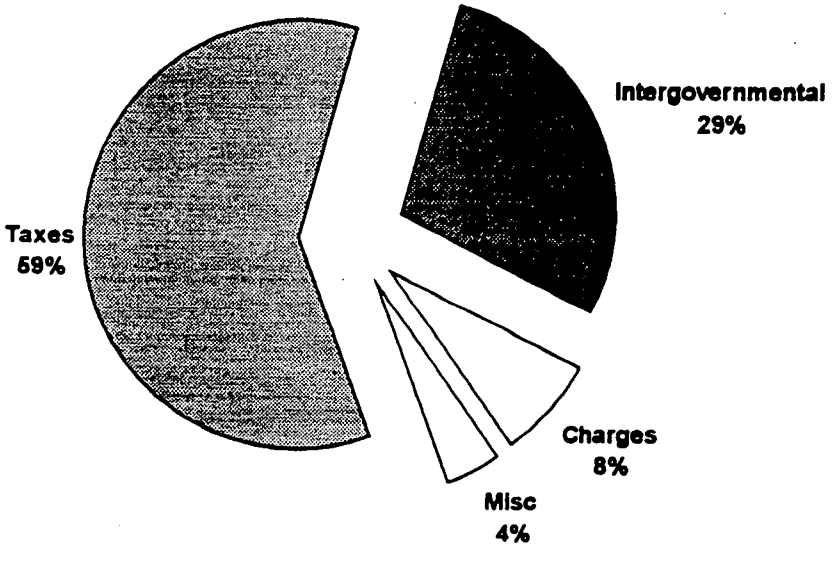
The General Assembly is responsible for authorizing both state and local taxes

The North Carolina Constitution:

- The power of taxation shall be exercised in a just and equitable manner, for public purposes only, and shall never be surrendered, suspended, or contracted away. (Art. V, Sec. 2)

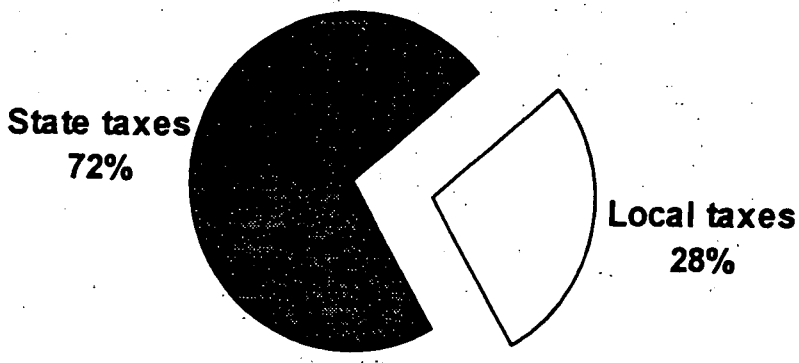
- No law shall be enacted...to impose any tax upon the people of the State, or to allow the counties, cities, or towns to do so, unless the bill for the purpose shall have been read three several times in each house... (Art. II, Sec. 2)

State Government Sources of Revenue, by Type



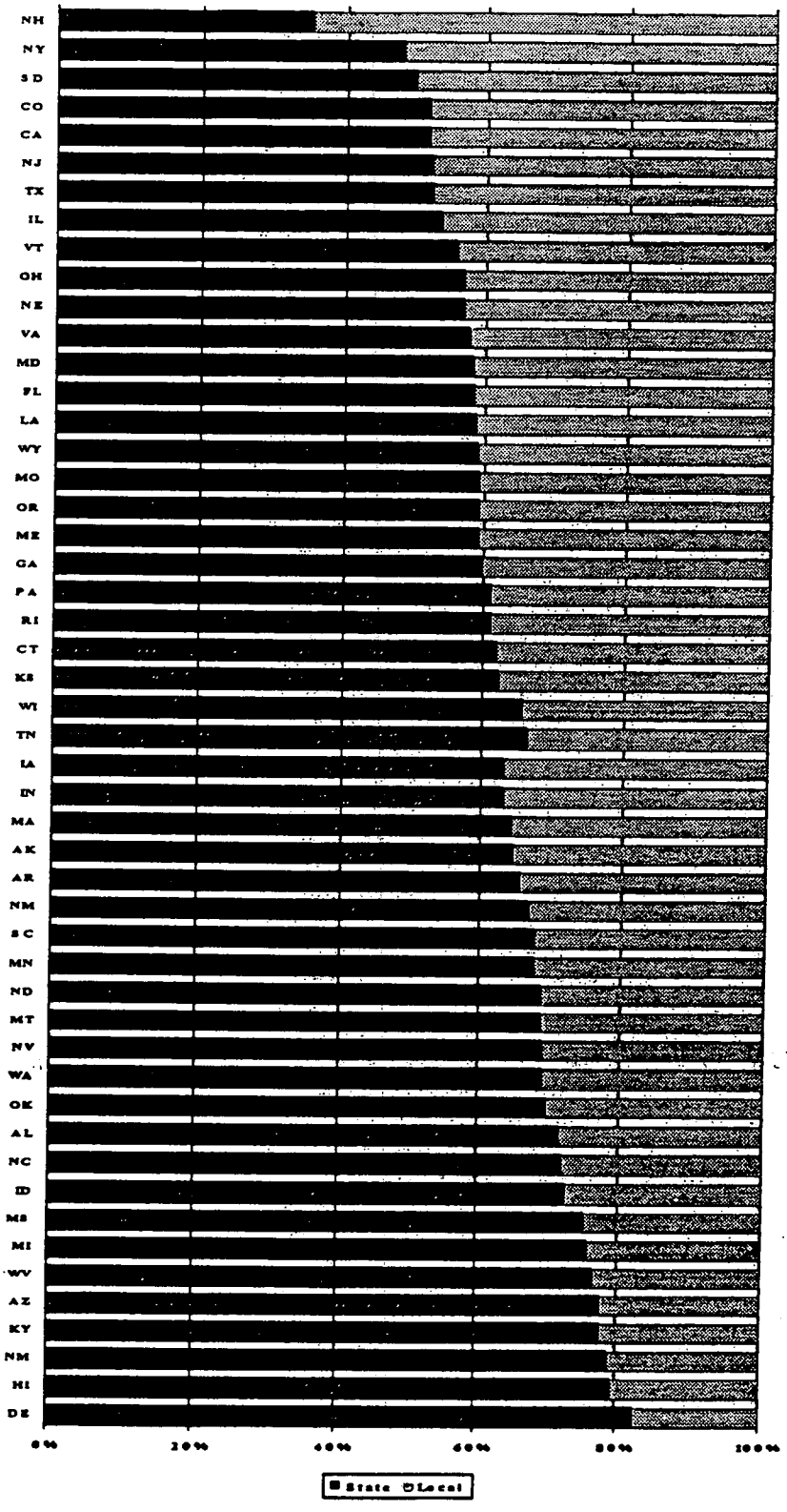
Total general revenue, 1994-95: $19.2 billion

Financial Responsibility is Centralized in North Carolina



Shares of total state and local taxes collected in North Carolina

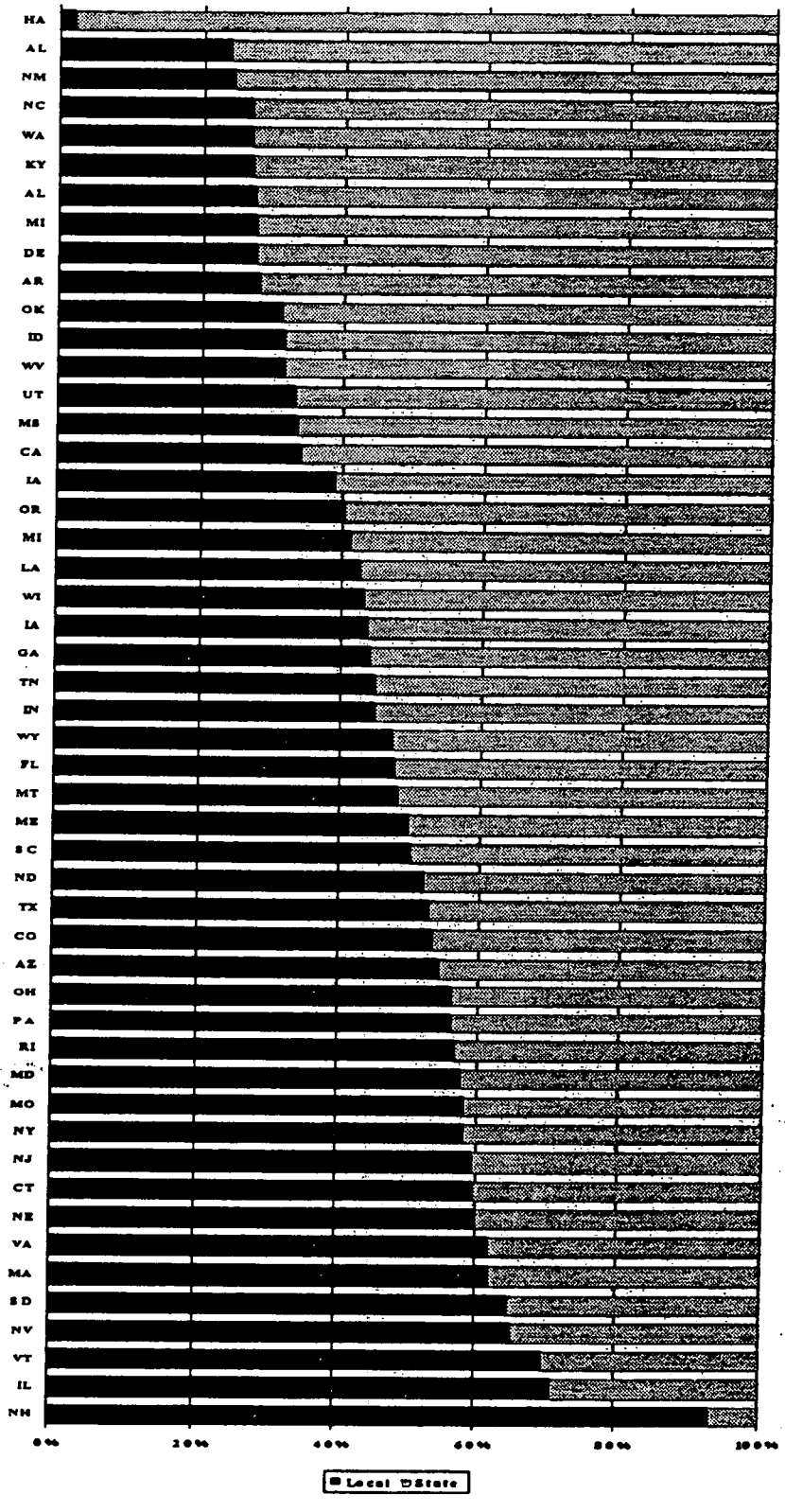
State taxes as % of total state and local taxes



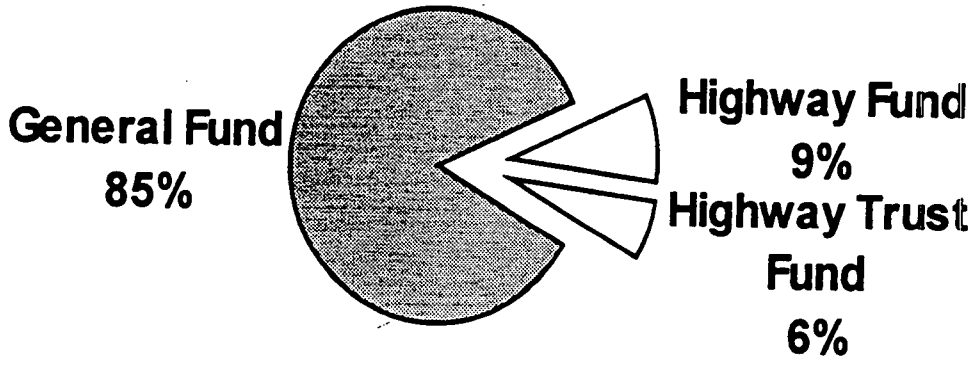
Reasons for Centralized Financial Responsibility

- **Public schools.** The state pays 89% of the cost of regular instruction programs in the public schools and 67% of total operating costs of the public schools.
- **Highways and roads.** The state is responsible for all highways and roads except city streets that are not part of the state thoroughfare system.
- **Social services.** The state pays the major share of major welfare and medical assistance programs administered by counties.
- **Corrections.** The state is responsible for all prisoners sentenced to 30 days or more in jail or prison.
- **Judicial system.** The state administers the entire courts and judicial system.
- **Community colleges.** The state is primarily responsible for the community college system.
- **Shared revenues and bases.** Local retail sales taxes and gasoline taxes, in addition to beverage, utility franchise, and real estate transfer taxes.

Local Share of State and Local Revenue for Schools



Tax Revenue by Fund



Amounts in millions:

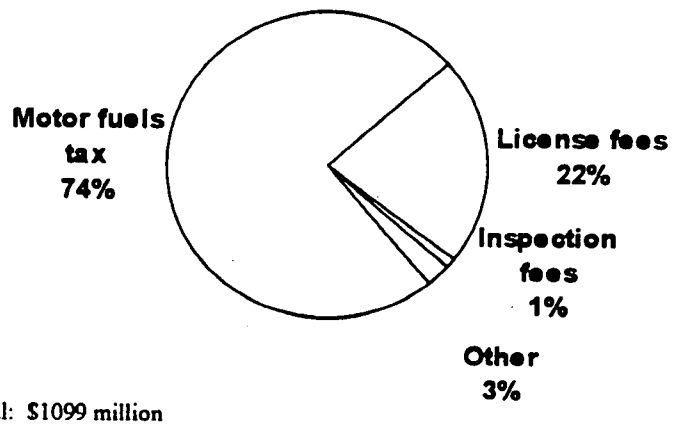
General Fund $11,092.4

Highway Fund $1,099.6

Highway Trust Fund $794.8

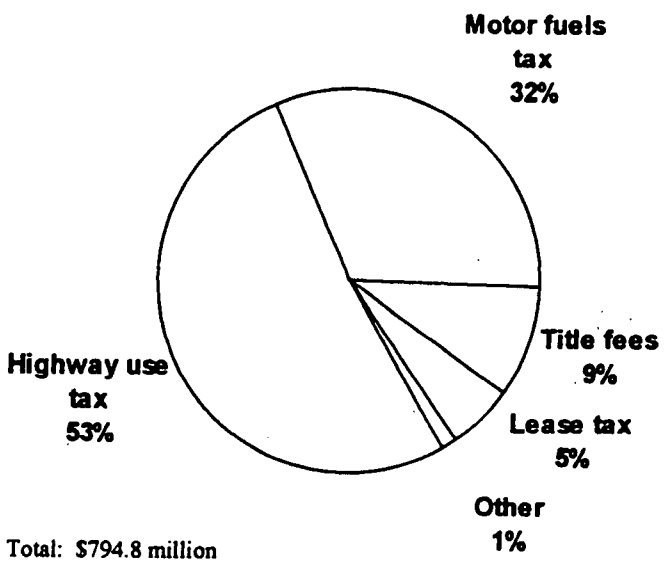
Highway-related Revenue

Highway Fund



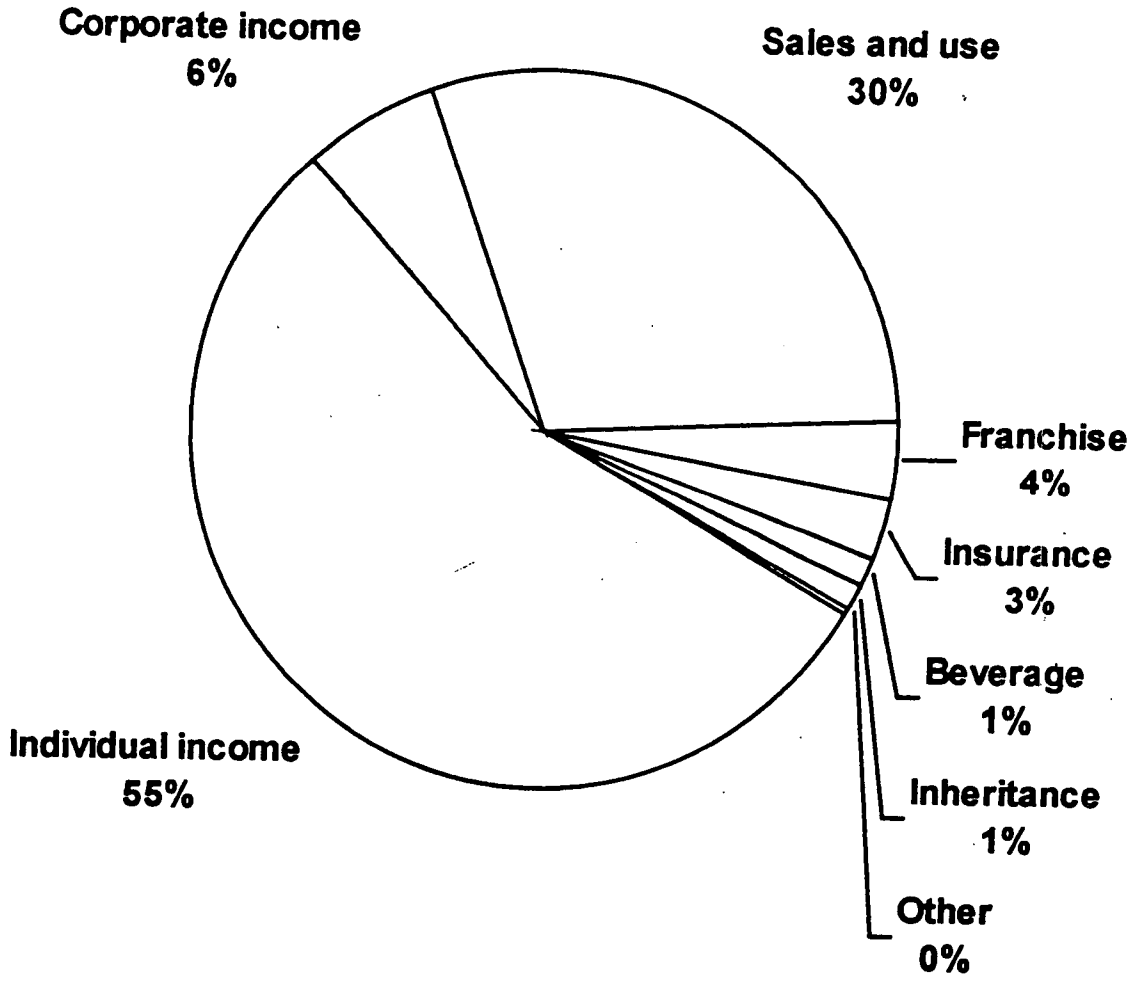
Total: $1099 million

Highway Trust Fund



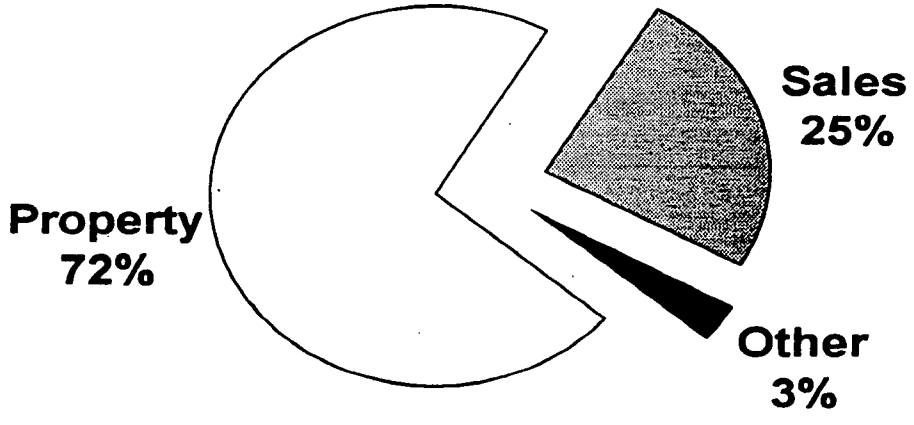
Total: $794.8 million

General Fund Tax Revenue



Total: $11,092.4 million

Local Government Tax Sources



Other taxes:

- Privilege license 1.2%
- Room occupancy 1.1%
- Excise stamp 0.5%
- Liquor by the drink
- Utility franchise
- Land transfer
- Animal
- Motor vehicle license
- 911 charges
- Flat household charges
- Admission
- Prepared food

Total tax revenue: $4.547 billion

Zipen #1

SOURCES OF STATE AND LOCAL

TAX REVENUE

February 23, 1999

Office of State Budget and Management

TABLE 1

GENERAL FUND TAX COLLECTIONS
1997-98
($MILLIONS)

Tax	Collections	Percentage Distribution	Five Year Average Adjusted Growth Rate
Individual Income	$6,029	54.4%	10.8%
Sales and Use	3,255	29.3%	7.5%
Corporate Income	696	6.3%	8.8%
Franchise	407	3.7%	6.1%
Insurance	284	2.6%	7.5%
Alcoholic Beverage	154	1.4%	2.2%
Inheritance	138	1.2%	9.8%
Soft Drink	23	0.2%	5.1%
Privilege License	37	0.3%	6.5%
Cigarette and Tobacco	47	0.4%	1.7%
Gift	21	0.2%	20.3%
Miscellaneous	1	0.0%	11.5%
TOTAL	$11,092	100.0%	8.8%

TABLE 2

HIGHWAY FUND FUND TAX COLLECTIONS
1997-98
($MILLIONS)

Tax	Collections	Percentage Distribution	Five Year Average Adjusted Growth Rate
Motor Fuels	$775	70.5%	3.2%
Staggered Registration	134	12.2%	3.7%
Driver Licenses	70	6.4%	
Truck Plates	54	4.9%	2.3%
International Registration Plan	42	3.8%	7.5%
Other	25	2.3%	2.2%
TOTAL	$1,100	100.0%	3.3%

TABLE 3

HIGHWAY TRUST FUND FUND TAX COLLECTIONS
1997-98
($MILLIONS)

Tax	Collections	Percentage Distribution	Five Year Average Adjusted Growth Rate
Motor Fuels	$255	32.1%	3.2%
Motor Vechicle Use	453	57.0%	11.1%
Title/Registrations/Lien	87	10.9%	6.8%
TOTAL	$795	100.0%	7.8%

TABLE 4

LOCAL GOVERNMENT TAX COLLECTIONS
1997-98
($MILLIONS)

Tax	Collections	Percentage Distribution	Five Year Average Adjusted Growth Rate
Property	$3,900	69.1%	7.0%
Sales and Use	1,390	24.6%	7.7%
Privilege	71	1.3%	8.5%
Utility	152	2.7%	5.3%
Occupancy(*)	70	1.2%	n.a.
Conveyances	26	0.5%	10.2%
Beer and Wine	24	0.4%	3.5%
Liquor By-the-Drink	6	0.1%	4.7%
Land Transfer(*)	5	0.1%	n.a.
TOTAL	$5,644	100.0%	7.2%

I

2/25/99

The Care and Feeding of the State and Local Tax Base

An Action Agenda to Conserve a Valuable Public Asset[1]

By William Schweke, Corporation for Enterprise Development

As Supreme Court Justice Oliver Wendell Holmes once said: "Taxes are what [we] pay for civilization." Everything we as citizens call upon state and local governments to do ultimately requires a funding mechanism. Taxes represent 56 percent of all of the financial resources available to state and local governments.

The tax bases of states and localities are valuable resources that must be nurtured, conserved, and used efficiently, no less so than timber or farmland. Unfortunately, a number of long-standing flaws in state and local tax systems and a host of recently enacted provisions aimed at encouraging local economic development are resulting in rapid erosion of this crucial community asset. Major changes in federal, state, and local tax policy are needed to ensure that state and local tax bases will be able to meet the demands placed upon them in coming decades.

Erosion From Without

Broadly speaking, states and localities tax the incomes, consumption, and real estate wealth of their citizens and the profits and property wealth of businesses engaged in economic activity within their borders. Personal income taxes, household and business property taxes, consumption taxes, and taxes on corporate profits together account for 99 percent of state and local tax revenues. Unfortunately, technological and economic factors are interacting with longstanding deficiencies in state and local taxing powers and policies to erode the base of these taxes. These factors include:

- **Rapid growth of interstate trade at the expense of localized production and marketing.** Obsolete federal law hobbles the authority of state and local governments to tax many out-of-state corporations. These governments already lose $3-4 billion in annual sales tax revenues from mail-order catalog sales alone. This revenue loss is likely to grow dramatically in the next several years as the Internet expands the range of goods and services that can be purchased from remote sellers.
- **The competitive disadvantage locally based businesses face** compared to out-of-state corporations that can take advantage of their multi-state operations to manipulate and cut their taxes. The ensuing lower after-tax profits and depressed sales of locally based businesses hamper their ability to expand both physical plant and payrolls. This in turn results in lower property tax and income tax payments by such businesses and their employees.

Erosion From Within

The flip side of the growing ability of corporations to satisfy nationwide demand for products from just a handful of production and distribution centers is intensified state and local government competition to attract such export-oriented facilities and the jobs they bring with them. Special breaks on state and local

[1] An original version of this article was authored by Michael Mazerov and William Schweke, for the CFED publication, *Ideas in Development* (1999).

taxes further erode the tax base.

Since the publication of *Bidding for Business: Are Cities and States Selling Themselves Short?* the Corporation for Enterprise Development and its allies have worked to curb the excesses in today's business incentives "arms race" among the states. We believe that most policymakers and opinion leaders have been convinced that tax incentives often are poor economic development tools – especially because they pit one state or locality against another, and from a national perspective, rarely result a net increase in jobs. Nonetheless, economic development tax incentives continue to proliferate despite growing skepticism about their efficacy for several reasons:

1. When a new or expanded facility receives a tax incentive, there is no way to demonstrate conclusively that the investment would have occurred without it.
2. One cannot undercut the logic that a tax incentive larger than one being offered by a competing jurisdiction will tip a location decision when "all other factors are equal."
3. A few corporate executives who say tax incentives swayed their decision to locate a plant in a particular jurisdiction will trump a hundred econometric studies that show no correlation between business' state and local tax liabilities and job growth.

What is needed to combat these "arguments" is a more accurate view of the overall role of taxes and incentives in a good business climate, along with efforts to design much more cost-effective, publically accountable, and transparent development incentives. However, before looking at what policymakers might do about these nefarious trends, let's step back and establish some better design principles for a development-enhancing fiscal system.

The Role of Taxes in Business Climate

For the traditional perspective on business climates, state and local tax systems are always a liability nad never an asset. Cost – the amount of taxes paid is always the issue and rarely are the benefits of a sound tax system measures and identified.

Indeed, according to this traditional point of view, taxes harm more than they help. But taxes are the means for financing government. But is government, and the services it provides, really the enemy of business?

Experience, common sense, and the facts suggest otherwise. While taxes do impose costs, they also finance the basic services that businesses need to thrive and that significantly bolster an area's quality of life. After all, school teachers, police officers, sanitation workers, road crews, and public healthy nurses cannot work for free. Publishers can't be expected to provide free textbooks and construction workers can't give away sewage treatment plants. Everything we as citizens call upon state and local governments to do – including expanding opportunity for people and places left out of the economic mainstream – ultimately requires a funding mechanism. *Indeed, a well-balanced tax system can be an asset to a state's business climate, rather than a liability. And the real obstacle to achieving a better business climate is our outmoded tax systems.* We need to understand that our revenue systems often:

- Are out-of-step with technological change, today's multi-national, information-based service economy and demographic trends.
- Impose tax burdens on an increasingly narrow slice of economic activity.
- Establish an unfair advantage for large businesses and out-of-state companies.
- Result in structural deficits in many states.

- Require the less affluent to shoulder more of the tax load.

Simply responding to pressure by tinkering with a state's tax codes will do little to improve the business climate. A better way requires that:

- Tax competitiveness becomes only one of a number of goals for a quality fiscal system.
- Tax reform is based on creating a better fit between a state's fiscal system and its changing economic base.
- Tax reform is comprehensive in scope (or at least holistic in conception), rather seeking to "just get by" the next challenge or crisis.
- States seek to cooperate with their neighbors on issues of tax uniformity, taxing multi-state corporations, and restraining the incentives "arms race."
- Most importantly, a tax system should offer lower rates, greater predictability, a broader base, more equity, and greater simplicity.

Although these points may appear to say to business that the key to a more positive business is to pay more taxes, this is not the intent. Instead, the link between a good environment for business and a state tax system can be summarized in three simple ideas:

- A good fiscal system should be one that produces adequate revenues in a predictable manner. It is stable. It is certain. And revenues are sufficient to support current costs and are structured to grow naturally.
- The tax system creates a level playing field among all types of businesses and among all types of households. Those that make the same income or profits should pay the same amount of taxes.
- Businesses must pay its fair share because government services like police and fire protection, education, and highways are benefits received and needed by companies. Taxes reflect the cost of these services.

The Case of North Carolina

Something like these guidelines also should guide North Carolina policymakers in thinking about how best to address its current $800 million budget gap. Rather than raiding its Rainy Day Fund during a growth period, or instituting an economically regressive and morally questionable lottery, its leadership should consider other avenues. How might changes in its business tax incentive policies change its funding picture? Is the state pursuing the right course in dealing with the challenges posed by electronic commerce and multi-state corporations, who are bent on creating more "nowhere income?" Likewise, many of the tax cuts enacted by the General Assembly, during the past few years, have favored the wealthy and business, not the less affluent citizenry. How might legislators best deal with these important equity considerations? And how might elected leadership use this crisis to improve its overall tax system and not just extricate the state from its current situation? What larger economic, technological, political, and demographic trends should shape a system that is much more equipped for the 21st century?

An Action Agenda

Just as it has taken several decades to build a robust movement of organizations and individuals committed to conserving and restoring the natural environment, it will require considerable effort to build a constituency to defend the "natural resources" that fuel state and local public services. We urge organizations and elected and appointed officials concerned about preserving a healthy state and local tax

base to focus for the next decade on five sets of economic development-enhancing tax policies:

- **Mandate public disclosure by corporations of their actual state and local tax liabilities,** the value of the economic development tax incentives they receive, and their local economic activity. Policymakers and the public need this information if they are to evaluate (1) whether the cost of tax incentives is justified by the growth of payrolls and investment and the tax base itself, and (2) whether corporations benefiting from state and local services are paying their fair share of state and local taxes. Corporate tax disclosure is best pursued through a coordinated national campaign that seeks to enact legislation in numerous states simultaneously, since a single state seeking to adopt such a policy would be subject to corporate threats not to invest there.

- **Implement state tax policies that ensure that multi-state corporations have state corporate income tax and sales tax liabilities similar to those faced by wholly in-state corporations.** These policies include mandatory "combined reporting" (an accounting method that treats businesses comprised of a parent and subsidiaries as one corporation for state corporate tax purposes) and the assertion of taxing jurisdiction over out-of-state corporations to the limits permitted by federal law. Also seek long-term changes in federal law to permit states to tax all out-of-state corporations making substantial sales to their residents (including resident businesses).

- **Draw on best practice and draft a model law that states and localities can use to enforce the accountability of economic development incentive deals through legally binding performance contracts.** Seek laws to grant citizens legal standing to ensure compliance with these contracts and to ensure that the routine enforcement of the contracts is *not* the responsibility of the state and local economic development staff that originally marketed the jurisdiction and arranged the deal. Require economic development tax incentive programs by law to undergo a well-financed, professional, and independent sunset review every five years.

- **Seek legislation requiring preparation of a unified development budget, which would examine simultaneously all on- and off-budget spending on economic development.** This budget tool clarifies existing commitments and implicit priorities, enables policymakers to better weigh conflicting imperatives (such as K-12 class size reduction versus property tax abatements), and can help direct scarce public dollars into programs that generate better development returns for the state.
- **Develop a "certified" cost-benefit methodology that sets minimum standards for a good assessment to be used in evaluating incentive programs and special deals.** After such a model approach is developed, encourage all states and localities to use it when measuring net benefits and net costs per job for varied development incentives.

These reforms will not be easy to enact, but these are the right policies. Their only major difficulty is that they work best if all states are doing them. But we are encouraged by the organizing efforts now underway around these issues. If we can focus the degree of commitment and resources that this agenda demands, we can build broader coalitions that include small businesses, public employee unions, taxpayer watchdog groups, and low-income budget advocates. By doing so, this agenda will have realistic prospects for successful implementation.

For more background on these issues, contact:
Michael Mazerov is a Senior Policy Analyst at the Center on Budget and Policy Priorities. He is an expert on corporate taxation. William Schweke is a Senior Program Director at the Corporation for Enterprise Development. His work focuses on designing more cost-effective, accountable business incentives. (schweke@cfed.org mazerov@cbpp.org)

2/24/99

State of North Carolina
Department of the Treasurer

HARLAN E. BOYLES
STATE TREASURER

325 NORTH SALISBURY STREET
RALEIGH, NORTH CAROLINA 27603-1385

ADMINISTRATIVE SERVICES DIVISION:

- **Departmental Operating Budgets**

1996-97 Authorized	1997-98 Authorized	1998-99 Authorized	1999-00 Recommended
$22,038,249	$23,432,998	$23,244,691	$21,146,191

- **Total Budgets (All Funds) of State of North Carolina (in millions)**

1996-97 Authorized	1997-98 Authorized	1998-99 Estimated	1999-00 Recommended
$19,780.2	$21,124.8	$22,631.6	$23,445.2

- **Escheats and Abandoned Property Fund Balances, June 30th**

1996-97	1997-98	1998-99	1999-00
$165,529,575	$184,395,784	$203,296,352	$227,477,469

- **Escheats Investment Earnings**

1996-97	1997-98	1998-99	1999-00
$13,656,404	$15,285,951	$16,915,433	$18,776,130

- **Student Loans Provided**

1996-97	1997-98	1998-99	1999-00
3,322	3,813	4,347	4,955

STATE AND LOCAL GOVERNMENT FINANCE DIVISION:

- **Total Debt Outstanding, June 30, 1998**

Counties & Cities	Public Authorities	State: General Fund	State: Highway Fund	Grand Total
$9,530,345,396	$14,169,610,241	$1,867,480,342	$250,000,000	$25,817,435,979

- **Debt Authorized & Unissued, December 31, 1998**

Counties & Cities	Public Authorities	State: General Fund	State: Highway Fund	Grand Total
$1,591,411,500	$156,405,400	$1,900,000,000	$700,000,000	$4,347,816,900

- **Total Debt Outstanding at June 30**

1995	1996	1997	1998
$20,323,587,606	$21,443,734,388	23,784,557,780	$25,817,435,979

- **State Debt Service Requirements, gross amounts**

1996-97	1997-98	1998-99	1999-00
$127,905,302	$165,973,572	$227,644,557	$274,589,980

(more)

INVESTMENT AND BANKING DIVISION:

- **Fund Balances, December 31, 1998:**

General Fund	Highway Funds	Retirement Funds	Other Funds	Grand Total
$3,949,199,775	$827,502,893	$52,145,500,065	$5,045,330,185	$61,967,532,918

- **Portfolio Allocations (Invested Assets), December 31, 1998**

Short Term	Fixed Income	Corporate Equities	Real Estate	Venture Capital	Grand Total
$8,775,481,436	$25,266,487,873	$26,874,672,388	$532,614,520	$39,384,402	$61,488,640,619

- **Investment Income, Fiscal Year Ended June 30, 1998:**

	General Fund	Highway Funds	Retirement Funds	Other Funds	Grand Total
Realized Income	$250,088,945	$50,256,114	$2,001,583,285	$292,528,410	$ 2,594,456,754
Unrealized Income			6,007,436,107	66,179,061	6,073,615,168
Total Income	$250,088,945	$50,256,114	$8,009,019,392	$358,707,471	$ 8,668,071,922
Cash Return	6.39%	6.39%			
Total Return			19.18%	19.18%	

- **General Fund Investment Earnings**

1996-97	1997-98	1998-99(Estimate)	1999-00(Estimate)
$228,941,577	$250,088,945	$260,000,000	$205,000,000

RETIREMENT SYSTEMS DIVISION:

- **Membership, Active and Retired, December 31, 1998**

Teachers & State	Local Government	Judicial	Legislative	Grand Total
Active - 274,815	110,151	464	157	385,587
Retired - 98,024	27,087	346	184	125,641

- **Employer Contribution Rate, Proposed 1990-00**

Teachers & State	Local Government	Judicial	Legislative
10.83%	5.12%	22.65%	24.58%

- **Retirement Benefits Paid and Refunds (in millions):**

1996	1997	1998	1999	2000
$1,376.0	$1,550.0	$1,809.4	$2,020.8	$2,257.2

- **Employer Matching Contributions (1998, in millions):**

Teachers & State	Local Government	Judicial	Legislation	Grand Total
$ 643.6	$154.7	$ 8.0	$ .8	$ 844.3

(more)

State Treasurer's Analysis
of
Governor's Reported General Fund Availability
1999-2000 Fiscal Year

Recurring Revenues and Expenditures

Changes in Revenues

General Fund Operating (Recurring) Revenues	+/-	Amount
Estimated Tax Revenues before Tax Revenue Reductions	+	13,552,600,000
Tax Revenue Reductions		
Because of the Bailey Case	-	125,400,000
Because of elimination of the Intangible Tax	-	124,800,000
Because of elimination of Sales Tax on food (1996, 97 & 98)	-	368,900,000
Because of the elimination of the Inheritance Tax (1998)	-	52,500,000
Because of increase in Personal Exemption and creation of $60 Child Credit (1995)	-	266,700,000
Because of Corporate Income Tax Rate cut (1996)	-	110,400,000
Because of tax credit for North Carolina Health Choice	-	64,500,000
Because of other tax reduction changes	-	183,800,000
Total Tax Revenue Reductions	-	1,297,000,000
Total Tax Revenue in Governors Budget (Growth = 3.8%)	-	12,255,600,000
Non-tax Revenue in Governors Budget	+	628,700,000
Adjusted for Treasurer's estimate of Investment Income *	-	76,800,000
Estimated Non-tax Revenue	+	551,900,000
Transfers		
From Highway Trust Fund Transfer	+	170,000,000
From Highway Fund Transfer	+	13,600,000
Total General Fund Operating (Recurring) Revenue	+	12,991,100,000
Estimated Deficiency		69,900,755

Changes in Expenditures

General Fund Operating (Recurring) Expenditures	+/-	Amount
Requested Operating Budget	+	12,724,367,014
Governor's Proposed Operating Reductions-1	-	37,351,664
Governor's Proposed Operating Reductions-2		
Medical Assistance	-	115,045,187
Debt Service**	-	141,150,000
Other	-	107,086,214
Final Recommended Continuation Budget	+	12,323,733,949
Governor's Expansion Budget		
Compensation increases	+	430,882,519
State Health Plan	+	100,000,000
Smart Start	+	81,371,826
Other	+	125,012,461
Total Governor's Expansion Budget	+	737,266,806
Total Governor's Recommended General Fund Operating (Recurring) Expenditures (Growth = (0.4%))		13,061,000,755

* Treasurer's Estimate (based on lower balances and lower average interest rates accruing). All other figures are taken from the Governor's Budget.
** Allows for the issuance of $140 million of $1 billion authorization for Clean Water and Gas Bonds in 1999-00.

(More)

State Treasurer's Analysis
of
Governor's Reported General Fund Availability
1999-2000 Fiscal Year

Nonrecurring Revenues and Expenditures

Changes in Revenues

General Fund Non-recurring Availability

Credit Balance @ 6/30/99			
Unreserved Fund Balance	+	313,252,126	
"Reserved" amounts and Encumbrances	+		
Reserves:			
Budget Stabilization Reserve	+	522,520,562	
Repair and Renovation Reserve	+		
Clean Water Management Trust Fund Reserve	+		
Disproportionate Share Reserve	+		
Total Reserves	+	522,520,562	
Total Credit Balance @ 6/30/99	+	835,772,688	
Less Reserves other wise earmarked			
Budget Stabilization Reserve	-	522,520,562	*
Credit Balance available for appropriation	+	313,252,126	**

Changes in Expenditures

General Fund Non-recurring Requirements

Reserve for Budget Stabilization	+	40,408,566
Reserve for Repair and Renovation	+	150,000,000
Reserve for Clean Water Management Trust Fund	+	30,000,000
Reserve for Bailey/Emory/Patton	+	399,000,000
Reserve for Intangible Tax Refund	+	354,000,000
Public School ABC Bonus	+	140,000,000
Total Non-recurring Requirements	+	1,113,408,566

Estimated Deficiency 800,156,440

* Governor's proposed utilization, modifying existing law.
** Where is the $61 million transferred to the Reserve for Purchase of the North Carolina Railroad Stock reflected

THE STATE'S MAJOR ISSUES IN WAITING

In addition to the budget challenges we now face, there are a number of other equally important issues that you may deem worthy of your attention. In your role as North Carolina's chief policymaker it is urgent that these issues be addressed soon, otherwise, there may well be severe consequences for our State for the future:

- the growing perception that our governments have the solution to all our needs and wants
- a State tax structure that is full of holes — lacking in fairness and equity among the people
- a State budget system that serves little value in letting the people know how the tax dollars are being spent; and, why
- the pending law suits of low wealth counties for public education — an issue that should be the responsibility of the General Assembly
- an overhaul of the budgeting system for the public schools; how the State's dollars are allocated and used
- the overlapping of the roles and responsibilities of State and the counties and cities
- a higher education system that cries out for coordination of programs among the 4-year campuses and the community colleges
- the issues surrounding the deregulation of the electric utility industry
- the excessive optimism regarding the moneys to be received from the tobacco settlement; note the prospect for reduced payments
- the need for early involvement by the General Assembly in the rapidly development plans for mass transit; and the funding sources to be identified and made available

a:stmjoris\0299\heb

State of North Carolina
Department of the Treasurer

HARLAN E. BOYLES
STATE TREASURER

325 NORTH SALISBURY STREET
RALEIGH, NORTH CAROLINA 27603-1385

Comments of State Treasurer Harlan Boyles
February 24, 1999
North Carolina House Finance Committee

Good Morning, Mr. Chairmen, Other Members of the General Assembly, and Ladies and Gentlemen.

I am honored that you would invite me here today to share my thoughts about the state of our State's finances.

There has been much talk in recent days about a so-called budget crisis, or budget gap that we face. I would suggest that is not the case at all.

We face no budget crisis in North Carolina. We are enjoying the greatest era of prosperity this state has ever seen. Revenues are at an all time high. More of our people are employed in better jobs than ever before. We are making real progress in improving our public schools. And we are effectively addressing a number of problems that have troubled us for years, such as better health care, diversifying our farm economy and improving our environment.

The challenge we face is how to make the best of these good times.

I would remind you that the actual, real budget you are considering is $23.4 billion, not the $13 billion that is often reported in the media. Within those funds, I would suggest, are ample resources to do all of the things that North Carolina must do to meet the needs of its people.

As a planning tool, I have prepared an analysis of the State's revenue and expenditure changes. The General Assembly requires each county and city government to prepare a "budget resolution" with a full analysis of its financial implications. I would suggest the state ought to follow its own mandate for local governments.

All of the figures (except for one item) in this analysis are from the Governor's Budget. That exception is a $76.8 million reduction in Investment earnings.

This analysis shows the estimated revenues for the 1999-2000 Fiscal Year. More importantly, it shows the revenue reductions as the result of recent tax reductions and two recent court cases.

This kind of analysis is essential for the General Assembly to know where it stands in planning for the future. If we do not take into account these reductions and the long-term implications of all revenue changes, we risk facing a real crisis.

On page two is a similar analysis of Non-recurring Revenues and Expenditures.

I would suggest, Mr. Chairmen, that the Finance Committee examine this analysis and decide what revenues are available. When that is done, the Appropriations Committee will know exactly how much it has to spend and that will determine the budget.

In summary, let me say that North Carolina has a solid reputation for making sound financial decisions. That is why we have maintained a Triple-A credit rating for more than three decades and have earned the envy of much of the rest of the nation for doing so.

Also, it is no accident that North Carolina has more Triple-A rated local units of government than any other state in the nation. In fact, we have 25 percent of all the Triple-A credit rated units of government in the entire nation. That is a great source of pride.

But more than a source of pride, it is the foundation of a sound system of public finance in North Carolina which has been built over many years. This has been achieved by strong leadership from the General Assembly, Governors and local officials.

All North Carolinians have been well served by our prudent financial policies of the past. And I know that you will continue this great tradition as you make the hard decisions that will impact our future.

2/24/99

State of North Carolina
Department of the Treasurer

HARLAN E. BOYLES
STATE TREASURER

325 NORTH SALISBURY STREET
RALEIGH, NORTH CAROLINA 27603-1385

ADMINISTRATIVE SERVICES DIVISION:

- **Departmental Operating Budgets**

1996-97 Authorized	1997-98 Authorized	1998-99 Authorized	1999-00 Recommended
$22,038,249	$23,432,998	$23,244,691	$21,146,191

- **Total Budgets (All Funds) of State of North Carolina (in millions)**

1996-97 Authorized	1997-98 Authorized	1998-99 Estimated	1999-00 Recommended
$19,780.2	$21,124.8	$22,631.6	$23,445.2

- **Escheats and Abandoned Property Fund Balances, June 30th**

1996-97	1997-98	1998-99	1999-00
$165,529,575	$184,395,784	$203,296,352	$227,477,469

- **Escheats Investment Earnings**

1996-97	1997-98	1998-99	1999-00
$13,656,404	$15,285,951	$16,915,433	$18,776,130

- **Student Loans Provided**

1996-97	1997-98	1998-99	1999-00
3,322	3,813	4,347	4,955

STATE AND LOCAL GOVERNMENT FINANCE DIVISION:

- **Total Debt Outstanding, June 30, 1998**

Counties & Cities	Public Authorities	State: General Fund	State: Highway Fund	Grand Total
$9,530,345,396	$14,169,610,241	$1,867,480,342	$250,000,000	$25,817,435,979

- **Debt Authorized & Unissued, December 31, 1998**

Counties & Cities	Public Authorities	State: General Fund	State: Highway Fund	Grand Total
$1,591,411,500	$156,405,400	$1,900,000,000	$700,000,000	$4,347,816,900

- **Total Debt Outstanding at June 30**

1995	1996	1997	1998
$20,323,587,606	$21,443,734,388	23,784,557,780	$25,817,435,979

- **State Debt Service Requirements, gross amounts**

1996-97	1997-98	1998-99	1999-00
$127,905,302	$165,973,572	$227,644,557	$274,589,980

(more)

INVESTMENT AND BANKING DIVISION:

- **Fund Balances, December 31, 1998:**

General Fund	Highway Funds	Retirement Funds	Other Funds	Grand Total
$3,949,199,775	$827,502,893	$52,145,500,065	$5,045,330,185	$61,967,532,918

- **Portfolio Allocations (Invested Assets), December 31, 1998**

Short Term	Fixed Income	Corporate Equities	Real Estate	Venture Capital	Grand Total
$8,775,481,436	$25,266,487,873	$26,874,672,388	$532,614,520	$39,384,402	$61,488,640,619

- **Investment Income, Fiscal Year Ended June 30, 1998:**

	General Fund	Highway Funds	Retirement Funds	Other Funds	Grand Total
Realized Income	$250,088,945	$50,256,114	$2,001,583,285	$292,528,410	$ 2,594,456,754
Unrealized Income			6,007,436,107	66,179,061	6,073,615,168
Total Income	$250,088,945	$50,256,114	$8,009,019,392	$358,707,471	$ 8,668,071,922
Cash Return	6.39%	6.39%			
Total Return			19.18%	19.18%	

- **General Fund Investment Earnings**

1996-97	1997-98	1998-99(Estimate)	1999-00(Estimate)
$228,941,577	$250,088,945	$260,000,000	$205,000,000

RETIREMENT SYSTEMS DIVISION:

- **Membership, Active and Retired, December 31, 1998**

Teachers & State	Local Government	Judicial	Legislative	Grand Total
Active - 274,815	110,151	464	157	385,587
Retired - 98,024	27,087	346	184	125,641

- **Employer Contribution Rate, Proposed 1990-00**

Teachers & State	Local Government	Judicial	Legislative
10.83%	5.12%	22.65%	24.58%

- **Retirement Benefits Paid and Refunds (in millions):**

1996	1997	1998	1999	2000
$1,376.0	$1,550.0	$1,809.4	$2,020.8	$2,257.2

- **Employer Matching Contributions (1998, in millions):**

Teachers & State	Local Government	Judicial	Legislation	Grand Total
$ 643.6	$154.7	$ 8.0	$ .8	$ 844.3

(more)

State Treasurer's Analysis
of
Governor's Reported General Fund Availability
1999-2000 Fiscal Year

Recurring Revenues and Expenditures

Changes in Revenues

General Fund Operating (Recurring) Revenues	+/-	Amount
Estimated Tax Revenues before Tax Revenue Reductions	+	13,552,600,000
Tax Revenue Reductions		
Because of the Bailey Case	-	125,400,000
Because of elimination of the Intangible Tax	-	124,800,000
Because of elimination of Sales Tax on food (1996, 97 & 98)	-	368,900,000
Because of the elimination of the Inheritance Tax (1998)	-	52,500,000
Because of increase in Personal Exemption and creation of $60 Child Credit (1995)	-	266,700,000
Because of Corporate Income Tax Rate cut (1996)	-	110,400,000
Because of tax credit for North Carolina Health Choice	-	64,500,000
Because of other tax reduction changes	-	183,800,000
Total Tax Revenue Reductions	-	1,297,000,000
Total Tax Revenue in Governors Budget (Growth = 3.8%)	-	12,255,600,000
Non-tax Revenue in Governors Budget	+	628,700,000
Adjusted for Treasurer's estimate of Investment Income *	-	76,800,000
Estimated Non-tax Revenue	+	551,900,000
Transfers		
From Highway Trust Fund Transfer	+	170,000,000
From Highway Fund Transfer	+	13,600,000
Total General Fund Operating (Recurring) Revenue	+	12,991,100,000
Estimated Deficiency		69,900,755

Changes in Expenditures

General Fund Operating (Recurring) Expenditures	+/-	Amount
Requested Operating Budget	+	12,724,367,014
Governor's Proposed Operating Reductions-1	-	37,351,664
Governor's Proposed Operating Reductions-2		
Medical Assistance	-	115,045,187
Debt Service**	-	141,150,000
Other	-	107,086,214
Final Recommended Continuation Budget	+	12,323,733,949
Governor's Expansion Budget		
Compensation increases	+	430,882,519
State Health Plan	+	100,000,000
Smart Start	+	81,371,826
Other	+	125,012,461
Total Governor's Expansion Budget	+	737,266,806
Total Governor's Recommended General Fund Operating (Recurring) Expenditures (Growth = (0.4%))		13,061,000,755

* Treasurer's Estimate (based on lower balances and lower average interest rates accruing). All other figures are taken from the Governor's Budget.
** Allows for the issuance of $140 million of $1 billion authorization for Clean Water and Gas Bonds in 1999-00.

(More)

State Treasurer's Analysis
of
Governor's Reported General Fund Availability
1999-2000 Fiscal Year

Nonrecurring Revenues and Expenditures

Changes in Revenues

General Fund Non-recurring Availability

Credit Balance @ 6/30/99		
Unreserved Fund Balance	+	313,252,126
"Reserved" amounts and Encumbrances	+	
Reserves:		
Budget Stabilization Reserve	+	522,520,562
Repair and Renovation Reserve	+	
Clean Water Management Trust Fund Reserve	+	
Disproportionate Share Reserve	+	
Total Reserves	+	522,520,562
Total Credit Balance @ 6/30/99	+	835,772,688
Less Reserves other wise earmarked		
Budget Stabilization Reserve	-	522,520,562 *
Credit Balance available for appropriation	+	313,252,126 **

Changes in Expenditures

General Fund Non-recurring Requirements

Reserve for Budget Stabilization	+	40,408,566
Reserve for Repair and Renovation	+	150,000,000
Reserve for Clean Water Management Trust Fund	+	30,000,000
Reserve for Bailey/Emory/Patton	+	399,000,000
Reserve for Intangible Tax Refund	+	354,000,000
Public School ABC Bonus	+	140,000,000
Total Non-recurring Requirements	+	1,113,408,566

Estimated Deficiency 800,156,440

* Governor's proposed utilization, modifying existing law.
** Where is the $61 million transferred to the Reserve for Purchase of the North Carolina Railroad Stock reflected

THE STATE'S MAJOR ISSUES IN WAITING

In addition to the budget challenges we now face, there are a number of other equally important issues that you may deem worthy of your attention. In your role as North Carolina's chief policymaker it is urgent that these issues be addressed soon, otherwise, there may well be severe consequences for our State for the future:

- the growing perception that our governments have the solution to all our needs and wants
- a State tax structure that is full of holes — lacking in fairness and equity among the people
- a State budget system that serves little value in letting the people know how the tax dollars are being spent; and, why
- the pending law suits of low wealth counties for public education — an issue that should be the responsibility of the General Assembly
- an overhaul of the budgeting system for the public schools; how the State's dollars are allocated and used
- the overlapping of the roles and responsibilities of State and the counties and cities
- a higher education system that cries out for coordination of programs among the 4-year campuses and the community colleges
- the issues surrounding the deregulation of the electric utility industry
- the excessive optimism regarding the moneys to be received from the tobacco settlement; note the prospect for reduced payments
- the need for early involvement by the General Assembly in the rapidly development plans for mass transit; and the funding sources to be identified and made available

State of North Carolina
Department of the Treasurer

HARLAN E. BOYLES
STATE TREASURER

325 NORTH SALISBURY STREET
RALEIGH, NORTH CAROLINA 27603-1385

Comments of State Treasurer Harlan Boyles
February 24, 1999
North Carolina House Finance Committee

Good Morning, Mr. Chairmen, Other Members of the General Assembly, and Ladies and Gentlemen.

I am honored that you would invite me here today to share my thoughts about the state of our State's finances.

There has been much talk in recent days about a so-called budget crisis, or budget gap that we face. I would suggest that is not the case at all.

We face no budget crisis in North Carolina. We are enjoying the greatest era of prosperity this state has ever seen. Revenues are at an all time high. More of our people are employed in better jobs than ever before. We are making real progress in improving our public schools. And we are effectively addressing a number of problems that have troubled us for years, such as better health care, diversifying our farm economy and improving our environment.

The challenge we face is how to make the best of these good times.

I would remind you that the actual, real budget you are considering is $23.4 billion, not the $13 billion that is often reported in the media. Within those funds, I would suggest, are ample resources to do all of the things that North Carolina must do to meet the needs of its people.

As a planning tool, I have prepared an analysis of the State's revenue and expenditure changes. The General Assembly requires each county and city government to prepare a "budget resolution" with a full analysis of its financial implications. I would suggest the state ought to follow its own mandate for local governments.

All of the figures (except for one item) in this analysis are from the Governor's Budget. That exception is a $76.8 million reduction in Investment earnings.

This analysis shows the estimated revenues for the 1999-2000 Fiscal Year. More importantly, it shows the revenue reductions as the result of recent tax reductions and two recent court cases.

This kind of analysis is essential for the General Assembly to know where it stands in planning for the future. If we do not take into account these reductions and the long-term implications of all revenue changes, we risk facing a real crisis.

On page two is a similar analysis of Non-recurring Revenues and Expenditures.

I would suggest, Mr. Chairmen, that the Finance Committee examine this analysis and decide what revenues are available. When that is done, the Appropriations Committee will know exactly how much it has to spend and that will determine the budget.

In summary, let me say that North Carolina has a solid reputation for making sound financial decisions. That is why we have maintained a Triple-A credit rating for more than three decades and have earned the envy of much of the rest of the nation for doing so.

Also, it is no accident that North Carolina has more Triple-A rated local units of government than any other state in the nation. In fact, we have 25 percent of all the Triple-A credit rated units of government in the entire nation. That is a great source of pride.

But more than a source of pride, it is the foundation of a sound system of public finance in North Carolina which has been built over many years. This has been achieved by strong leadership from the General Assembly, Governors and local officials.

All North Carolinians have been well served by our prudent financial policies of the past. And I know that you will continue this great tradition as you make the hard decisions that will impact our future.

Zipen #1

SOURCES OF STATE AND LOCAL

TAX REVENUE

February 23, 1999

Office of State Budget and Management

TABLE 1

GENERAL FUND TAX COLLECTIONS
1997-98
($MILLIONS)

Tax	Collections	Percentage Distribution	Five Year Average Adjusted Growth Rate
Individual Income	$6,029	54.4%	10.8%
Sales and Use	3,255	29.3%	7.5%
Corporate Income	696	6.3%	8.8%
Franchise	407	3.7%	6.1%
Insurance	284	2.6%	7.5%
Alcoholic Beverage	154	1.4%	2.2%
Inheritance	138	1.2%	9.8%
Soft Drink	23	0.2%	5.1%
Privilege License	37	0.3%	6.5%
Cigarette and Tobacco	47	0.4%	1.7%
Gift	21	0.2%	20.3%
Miscellaneous	1	0.0%	11.5%
TOTAL	$11,092	100.0%	8.8%

TABLE 2

HIGHWAY FUND FUND TAX COLLECTIONS
1997-98
($MILLIONS)

Tax	Collections	Percentage Distribution	Five Year Average Adjusted Growth Rate
Motor Fuels	$775	70.5%	3.2%
Staggered Registration	134	12.2%	3.7%
Driver Licenses	70	6.4%	
Truck Plates	54	4.9%	2.3%
International Registration Plan	42	3.8%	7.5%
Other	25	2.3%	2.2%
TOTAL	$1,100	100.0%	3.3%

TABLE 3

HIGHWAY TRUST FUND FUND TAX COLLECTIONS
1997-98
($MILLIONS)

Tax	Collections	Percentage Distribution	Five Year Average Adjusted Growth Rate
Motor Fuels	$255	32.1%	3.2%
Motor Vechicle Use	453	57.0%	11.1%
Title/Registrations/Lien	87	10.9%	6.8%
TOTAL	$795	100.0%	7.8%

TABLE 4

LOCAL GOVERNMENT TAX COLLECTIONS
1997-98
($MILLIONS)

Tax	Collections	Percentage Distribution	Five Year Average Adjusted Growth Rate
Property	$3,900	69.1%	7.0%
Sales and Use	1,390	24.6%	7.7%
Privilege	71	1.3%	8.5%
Utility	152	2.7%	5.3%
Occupancy(*)	70	1.2%	n.a.
Conveyances	26	0.5%	10.2%
Beer and Wine	24	0.4%	3.5%
Liquor By-the-Drink	6	0.1%	4.7%
Land Transfer(*)	5	0.1%	n.a.
TOTAL	$5,644	100.0%	7.2%

I

2/25/99

The Care and Feeding of the State and Local Tax Base

An Action Agenda to Conserve a Valuable Public Asset[1]

By William Schweke, Corporation for Enterprise Development

As Supreme Court Justice Oliver Wendell Holmes once said: "Taxes are what [we] pay for civilization." Everything we as citizens call upon state and local governments to do ultimately requires a funding mechanism. Taxes represent 56 percent of all of the financial resources available to state and local governments.

The tax bases of states and localities are valuable resources that must be nurtured, conserved, and used efficiently, no less so than timber or farmland. Unfortunately, a number of long-standing flaws in state and local tax systems and a host of recently enacted provisions aimed at encouraging local economic development are resulting in rapid erosion of this crucial community asset. Major changes in federal, state, and local tax policy are needed to ensure that state and local tax bases will be able to meet the demands placed upon them in coming decades.

Erosion From Without

Broadly speaking, states and localities tax the incomes, consumption, and real estate wealth of their citizens and the profits and property wealth of businesses engaged in economic activity within their borders. Personal income taxes, household and business property taxes, consumption taxes, and taxes on corporate profits together account for 99 percent of state and local tax revenues. Unfortunately, technological and economic factors are interacting with longstanding deficiencies in state and local taxing powers and policies to erode the base of these taxes. These factors include:

- **Rapid growth of interstate trade at the expense of localized production and marketing.** Obsolete federal law hobbles the authority of state and local governments to tax many out-of-state corporations. These governments already lose $3-4 billion in annual sales tax revenues from mail-order catalog sales alone. This revenue loss is likely to grow dramatically in the next several years as the Internet expands the range of goods and services that can be purchased from remote sellers.
- **The competitive disadvantage locally based businesses face** compared to out-of-state corporations that can take advantage of their multi-state operations to manipulate and cut their taxes. The ensuing lower after-tax profits and depressed sales of locally based businesses hamper their ability to expand both physical plant and payrolls. This in turn results in lower property tax and income tax payments by such businesses and their employees.

Erosion From Within

The flip side of the growing ability of corporations to satisfy nationwide demand for products from just a handful of production and distribution centers is intensified state and local government competition to attract such export-oriented facilities and the jobs they bring with them. Special breaks on state and local

---

[1] An original version of this article was authored by Michael Mazerov and William Schweke, for the CFED publication, *Ideas in Development* (1999).

taxes further erode the tax base.

Since the publication of *Bidding for Business: Are Cities and States Selling Themselves Short?* the Corporation for Enterprise Development and its allies have worked to curb the excesses in today's business incentives "arms race" among the states. We believe that most policymakers and opinion leaders have been convinced that tax incentives often are poor economic development tools – especially because they pit one state or locality against another, and from a national perspective, rarely result a net increase in jobs. Nonetheless, economic development tax incentives continue to proliferate despite growing skepticism about their efficacy for several reasons:

1. When a new or expanded facility receives a tax incentive, there is no way to demonstrate conclusively that the investment would have occurred without it.
2. One cannot undercut the logic that a tax incentive larger than one being offered by a competing jurisdiction will tip a location decision when "all other factors are equal."
3. A few corporate executives who say tax incentives swayed their decision to locate a plant in a particular jurisdiction will trump a hundred econometric studies that show no correlation between business' state and local tax liabilities and job growth.

What is needed to combat these "arguments" is a more accurate view of the overall role of taxes and incentives in a good business climate, along with efforts to design much more cost-effective, publically accountable, and transparent development incentives. However, before looking at what policymakers might do about these nefarious trends, let's step back and establish some better design principles for a development-enhancing fiscal system.

The Role of Taxes in Business Climate

For the traditional perspective on business climates, state and local tax systems are always a liability nad never an asset. Cost – the amount of taxes paid is always the issue and rarely are the benefits of a sound tax system measures and identified.

Indeed, according to this traditional point of view, taxes harm more than they help. But taxes are the means for financing government. But is government, and the services it provides, really the enemy of business?

Experience, common sense, and the facts suggest otherwise. While taxes do impose costs, they also finance the basic services that businesses need to thrive and that significantly bolster an area's quality of life. After all, school teachers, police officers, sanitation workers, road crews, and public healthy nurses cannot work for free. Publishers can't be expected to provide free textbooks and construction workers can't give away sewage treatment plants. Everything we as citizens call upon state and local governments to do – including expanding opportunity for people and places left out of the economic mainstream – ultimately requires a funding mechanism. *Indeed, a well-balanced tax system can be an asset to a state's business climate, rather than a liability. And the real obstacle to achieving a better business climate is our outmoded tax systems.* We need to understand that our revenue systems often:

- Are out-of-step with technological change, today's multi-national, information-based service economy and demographic trends.
- Impose tax burdens on an increasingly narrow slice of economic activity.
- Establish an unfair advantage for large businesses and out-of-state companies.
- Result in structural deficits in many states.

- Require the less affluent to shoulder more of the tax load.

Simply responding to pressure by tinkering with a state's tax codes will do little to improve the business climate. A better way requires that:

- Tax competitiveness becomes only one of a number of goals for a quality fiscal system.
- Tax reform is based on creating a better fit between a state's fiscal system and its changing economic base.
- Tax reform is comprehensive in scope (or at least holistic in conception), rather seeking to "just get by" the next challenge or crisis.
- States seek to cooperate with their neighbors on issues of tax uniformity, taxing multi-state corporations, and restraining the incentives "arms race."
- Most importantly, a tax system should offer lower rates, greater predictability, a broader base, more equity, and greater simplicity.

Although these points may appear to say to business that the key to a more positive business is to pay more taxes, this is not the intent. Instead, the link between a good environment for business and a state tax system can be summarized in three simple ideas:

- A good fiscal system should be one that produces adequate revenues in a predictable manner. It is stable. It is certain. And revenues are sufficient to support current costs and are structured to grow naturally.
- The tax system creates a level playing field among all types of businesses and among all types of households. Those that make the same income or profits should pay the same amount of taxes.
- Businesses must pay its fair share because government services like police and fire protection, education, and highways are benefits received and needed by companies. Taxes reflect the cost of these services.

The Case of North Carolina

Something like these guidelines also should guide North Carolina policymakers in thinking about how best to address its current $800 million budget gap. Rather than raiding its Rainy Day Fund during a growth period, or instituting an economically regressive and morally questionable lottery, its leadership should consider other avenues. How might changes in its business tax incentive policies change its funding picture? Is the state pursuing the right course in dealing with the challenges posed by electronic commerce and multi-state corporations, who are bent on creating more "nowhere income?" Likewise, many of the tax cuts enacted by the General Assembly, during the past few years, have favored the wealthy and business, not the less affluent citizenry. How might legislators best deal with these important equity considerations? And how might elected leadership use this crisis to improve its overall tax system and not just extricate the state from its current situation? What larger economic, technological, political, and demographic trends should shape a system that is much more equipped for the 21st century?

An Action Agenda

Just as it has taken several decades to build a robust movement of organizations and individuals committed to conserving and restoring the natural environment, it will require considerable effort to build a constituency to defend the "natural resources" that fuel state and local public services. We urge organizations and elected and appointed officials concerned about preserving a healthy state and local tax

base to focus for the next decade on five sets of economic development-enhancing tax policies:

- **Mandate public disclosure by corporations of their actual state and local tax liabilities,** the value of the economic development tax incentives they receive, and their local economic activity. Policymakers and the public need this information if they are to evaluate (1) whether the cost of tax incentives is justified by the growth of payrolls and investment and the tax base itself, and (2) whether corporations benefiting from state and local services are paying their fair share of state and local taxes. Corporate tax disclosure is best pursued through a coordinated national campaign that seeks to enact legislation in numerous states simultaneously, since a single state seeking to adopt such a policy would be subject to corporate threats not to invest there.

- **Implement state tax policies that ensure that multi-state corporations have state corporate income tax and sales tax liabilities similar to those faced by wholly in-state corporations.** These policies include mandatory "combined reporting" (an accounting method that treats businesses comprised of a parent and subsidiaries as one corporation for state corporate tax purposes) and the assertion of taxing jurisdiction over out-of-state corporations to the limits permitted by federal law. Also seek long-term changes in federal law to permit states to tax all out-of-state corporations making substantial sales to their residents (including resident businesses).

- **Draw on best practice and draft a model law that states and localities can use to enforce the accountability of economic development incentive deals through legally binding performance contracts.** Seek laws to grant citizens legal standing to ensure compliance with these contracts and to ensure that the routine enforcement of the contracts is *not* the responsibility of the state and local economic development staff that originally marketed the jurisdiction and arranged the deal. Require economic development tax incentive programs by law to undergo a well-financed, professional, and independent sunset review every five years.

- **Seek legislation requiring preparation of a unified development budget, which would examine simultaneously all on- and off-budget spending on economic development.** This budget tool clarifies existing commitments and implicit priorities, enables policymakers to better weigh conflicting imperatives (such as K-12 class size reduction versus property tax abatements), and can help direct scarce public dollars into programs that generate better development returns for the state.
- **Develop a "certified" cost-benefit methodology that sets minimum standards for a good assessment to be used in evaluating incentive programs and special deals.** After such a model approach is developed, encourage all states and localities to use it when measuring net benefits and net costs per job for varied development incentives.

These reforms will not be easy to enact, but these are the right policies. Their only major difficulty is that they work best if all states are doing them. But we are encouraged by the organizing efforts now underway around these issues. If we can focus the degree of commitment and resources that this agenda demands, we can build broader coalitions that include small businesses, public employee unions, taxpayer watchdog groups, and low-income budget advocates. By doing so, this agenda will have realistic prospects for successful implementation.

For more background on these issues, contact:
Michael Mazerov is a Senior Policy Analyst at the Center on Budget and Policy Priorities. He is an expert on corporate taxation. William Schweke is a Senior Program Director at the Corporation for Enterprise Development. His work focuses on designing more cost-effective, accountable business incentives. (schweke@cfed.org mazerov@cbpp.org)

2/18/97

HISTORY OF INTANGIBLES TAX

Prior to 1995: North Carolina levied an intangibles tax of 25 cents per $100 market value of stock and shares in mutual funds, with an exemption for the proportion of corporate stock equal to the percentage of the corporation's business that was conducted in North Carolina. Thus, stock of a corporation that did 55% of its business in North Carolina was 55% exempt from the intangibles tax. If a company conducted all of its business in North Carolina, the shares of stock would be totally exempt. This exemption was known as the "taxable percentage" deduction.

Fulton: Fulton Corporation challenged the intangibles tax on stock on the grounds that the tax violated the Commerce Clause of the United States Constitution because it provided for a reduction of the tax in proportion to the issuing company's income taxed in North Carolina. The superior court upheld the tax as constitutional.

Court of Appeals: In 1993, the Court of Appeals reversed the superior court ruling, finding the taxable percentage deduction unconstitutional. The Court eliminated the deduction and ordered the intangibles tax on stock to be paid without any reduction based on income taxes paid to the State. It did not order a refund of taxes previously paid.

Supreme Court: In 1994, the North Carolina Supreme Court reversed the Court of Appeals, holding that the taxable percentage deduction did not violate the Commerce Clause.

Repeal of the Tax: In 1995, the General Assembly repealed the intangibles taxes on stocks, bonds, mutual funds, and accounts receivable.

USSC: In 1996, the United States Supreme Court reversed the North Carolina Supreme Court, agreeing with N. C. Court of Appeals that the taxable percentage deduction violated the Commerce Clause. It sent the case back to the North Carolina Supreme Court to "fashion a remedy".

Supreme Court: On February 10, 1997, the North Carolina Supreme Court ruled that the part of the intangible tax on stock that the United States Supreme Court held unconstitutional, the taxable percentage deduction,

should be severed from the statute and that the balance of the statute should be enforced. This left the intangible tax on stock to be enforced without any reduction for stock of corporations doing business in North Carolina. The Court also ruled that the tax applied retroactively. The Court's opinion made it possible for holders of North Carolina stock to be assessed by the Department of Revenue for tax due on the value of stock that was excluded from tax because of the unconstitutional deduction. Taxes could have been assessed for three back tax years for those who filed a return and for an indefinite period for those who did not file a return.

March 10, 1997: The Secretary of Revenue notified the General Assembly of a decision to comply with the N. C. Supreme Court ruling by directing the Department of Revenue to propose tax assessments against taxpayers who had not paid tax in certain prior years because of the taxable percentage deduction.

S.L. 1997-17: On April 9, 1997, the 1997 General Assembly passed a bill directing the Secretary of Revenue to take no action to assess or collect retroactive intangibles tax on stock from any taxpayer for liability arising solely from the taxpayer's use of the taxable percentage deduction. The enactment of the bill made the State liable for refunds to protesters for 1990-94.

Smith case: This is a class action lawsuit brought on behalf of both protesters and nonprotesters. The plaintiffs seek refunds of the stock tax for 1991 through 1994. On June 11, 1997, the court ordered refunds with interest to the protesters.

S.L. 1997-318: On July 21, 1997, the 1997 General Assembly passed a bill providing a refund of the intangibles tax on stock, with interest, to intangibles taxpayers who made a timely protest. The bill did not provide relief to nonprotesters.

Refunds: The principal amount of the stock tax for 1992-94 was refunded in September 1997 to protesters (both those who are part of the lawsuit and those who are not) and checks representing the interest due were mailed out in late-1997 to protesters after the Court determined attorneys' fees. These fees were deducted from the interest checks.

Nonprotesters: Several bills were introduced in 1997-98 to refund the intangibles tax on stock to nonprotesters, but none of the legislation passed.

Smith case: On December 4, 1998, the North Carolina Supreme Court ruled in favor of the nonprotesters. The ruling means that taxpayers who paid the intangibles tax on stock without protesting its payment will be entitled to a refund with interest. It is unclear what tax years the

opinion covers: 1991 through 1994 ($354 million of refunds and interest) or 1990 through 1994.($458 million) The Court ruled that the intangible tax must be imposed uniformly under Article V, Section 2(2) of the North Carolina Constitution. The Court reasoned that when it severed the unconstitutional taxable percentage deduction in Fulton in February 1997, the tax was uniformly applicable and enforceable against all taxpayers. In response to this decision, the General Assembly forgave the tax liability for the group of taxpayers who benefited from the unconstitutional taxable percentage deduction for tax years 1990 through 1994 in S.L. 1997-17. It also granted a refund to taxpayers who protested the constitutional it the intangibles tax for tax years 1990-1994 in S.L. 1997-318. The Court ruled that these legislative actions violated the constitutional provisions relating to the uniformity of taxation.

Superior Court: The case has been remanded to the superior court to determine the details. The Court could rule that all of the refunds and interest must be paid in one year or could allow the State to pay over many years. Briefs and oral arguments to the Superior Court will probably be made over the next two or three months. Other issues to be resolved by the Court include certification of the class, notification of class members and attorney fees.

Governor's Budget: The Governor's recommended budget for the 1999-01 biennium listed the $354 million impact of the Court decision along with a number of other one-time funding issues that added up to $1.1 billion. This list includes $400 million of refunds and interest to public sector retirees resulting from another lawsuit. The budget summary did include a list of items that could be used to address the $1.1 billion of requirement. The option list added up to more than $1.1 billion but the Governor did not recommend which items should be used. The language in the summary suggested that the Governor is awaiting clarification on the timetable for paying refunds and interest before recommending a particular source of funding.

Toll Free Number: The Department of Revenue has a toll free number for intangible tax questions. It is 1-888-627-3386.

2/16/99

2/18/97

HISTORY OF INTANGIBLES TAX

Prior to 1995: North Carolina levied an intangibles tax of 25 cents per $100 market value of stock and shares in mutual funds, with an exemption for the proportion of corporate stock equal to the percentage of the corporation's business that was conducted in North Carolina. Thus, stock of a corporation that did 55% of its business in North Carolina was 55% exempt from the intangibles tax. If a company conducted all of its business in North Carolina, the shares of stock would be totally exempt. This exemption was known as the "taxable percentage" deduction.

Fulton: Fulton Corporation challenged the intangibles tax on stock on the grounds that the tax violated the Commerce Clause of the United States Constitution because it provided for a reduction of the tax in proportion to the issuing company's income taxed in North Carolina. The superior court upheld the tax as constitutional.

Court of Appeals: In 1993, the Court of Appeals reversed the superior court ruling, finding the taxable percentage deduction unconstitutional. The Court eliminated the deduction and ordered the intangibles tax on stock to be paid without any reduction based on income taxes paid to the State. It did not order a refund of taxes previously paid.

Supreme Court: In 1994, the North Carolina Supreme Court reversed the Court of Appeals, holding that the taxable percentage deduction did not violate the Commerce Clause.

Repeal of the Tax: In 1995, the General Assembly repealed the intangibles taxes on stocks, bonds, mutual funds, and accounts receivable.

USSC: In 1996, the United States Supreme Court reversed the North Carolina Supreme Court, agreeing with N. C. Court of Appeals that the taxable percentage deduction violated the Commerce Clause. It sent the case back to the North Carolina Supreme Court to "fashion a remedy".

Supreme Court: On February 10, 1997, the North Carolina Supreme Court ruled that the part of the intangible tax on stock that the United States Supreme Court held unconstitutional, the taxable percentage deduction,

should be severed from the statute and that the balance of the statute should be enforced. This left the intangible tax on stock to be enforced without any reduction for stock of corporations doing business in North Carolina. The Court also ruled that the tax applied retroactively. The Court's opinion made it possible for holders of North Carolina stock to be assessed by the Department of Revenue for tax due on the value of stock that was excluded from tax because of the unconstitutional deduction. Taxes could have been assessed for three back tax years for those who filed a return and for an indefinite period for those who did not file a return.

March 10, 1997: The Secretary of Revenue notified the General Assembly of a decision to comply with the N. C. Supreme Court ruling by directing the Department of Revenue to propose tax assessments against taxpayers who had not paid tax in certain prior years because of the taxable percentage deduction.

S.L. 1997-17: On April 9, 1997, the 1997 General Assembly passed a bill directing the Secretary of Revenue to take no action to assess or collect retroactive intangibles tax on stock from any taxpayer for liability arising solely from the taxpayer's use of the taxable percentage deduction. The enactment of the bill made the State liable for refunds to protesters for 1990-94.

Smith case: This is a class action lawsuit brought on behalf of both protesters and nonprotesters. The plaintiffs seek refunds of the stock tax for 1991 through 1994. On June 11, 1997, the court ordered refunds with interest to the protesters.

S.L. 1997-318: On July 21, 1997, the 1997 General Assembly passed a bill providing a refund of the intangibles tax on stock, with interest, to intangibles taxpayers who made a timely protest. The bill did not provide relief to nonprotesters.

Refunds: The principal amount of the stock tax for 1992-94 was refunded in September 1997 to protesters (both those who are part of the lawsuit and those who are not) and checks representing the interest due were mailed out in late-1997 to protesters after the Court determined attorneys' fees. These fees were deducted from the interest checks.

Nonprotesters: Several bills were introduced in 1997-98 to refund the intangibles tax on stock to nonprotesters, but none of the legislation passed.

Smith case: On December 4, 1998, the North Carolina Supreme Court ruled in favor of the nonprotesters. The ruling means that taxpayers who paid the intangibles tax on stock without protesting its payment will be entitled to a refund with interest. It is unclear what tax years the

opinion covers: 1991 through 1994 ($354 million of refunds and interest) or 1990 through 1994.($458 million) The Court ruled that the intangible tax must be imposed uniformly under Article V, Section 2(2) of the North Carolina Constitution. The Court reasoned that when it severed the unconstitutional taxable percentage deduction in Fulton in February 1997, the tax was uniformly applicable and enforceable against all taxpayers. In response to this decision, the General Assembly forgave the tax liability for the group of taxpayers who benefited from the unconstitutional taxable percentage deduction for tax years 1990 through 1994 in S.L. 1997-17. It also granted a refund to taxpayers who protested the constitutional it the intangibles tax for tax years 1990-1994 in S.L. 1997-318. The Court ruled that these legislative actions violated the constitutional provisions relating to the uniformity of taxation.

Superior Court: The case has been remanded to the superior court to determine the details. The Court could rule that all of the refunds and interest must be paid in one year or could allow the State to pay over many years. Briefs and oral arguments to the Superior Court will probably be made over the next two or three months. Other issues to be resolved by the Court include certification of the class, notification of class members and attorney fees.

Governor's Budget: The Governor's recommended budget for the 1999-01 biennium listed the $354 million impact of the Court decision along with a number of other one-time funding issues that added up to $1.1 billion. This list includes $400 million of refunds and interest to public sector retirees resulting from another lawsuit. The budget summary did include a list of items that could be used to address the $1.1 billion of requirement. The option list added up to more than $1.1 billion but the Governor did not recommend which items should be used. The language in the summary suggested that the Governor is awaiting clarification on the timetable for paying refunds and interest before recommending a particular source of funding.

Toll Free Number: The Department of Revenue has a toll free number for intangible tax questions. It is 1-888-627-3386.

2/16/99

2/18/99

BAILEY SETTLEMENT ADMINISTRATION

STATUS REPORT

JANUARY 19, 1999

Details of the refund plan have now been determined and effort is underway to carry out the Court Ordered process.

Refunds will be calculated using the following:

The amount of over payment for each year will be the lesser of:

1) The actual taxes paid less credits (other than federal retiree credits), or

2) An amount determined by multiplying the total Government Retirement Benefits received, less the Government exclusion, by the Effective Tax Rate. The Effective Tax Rate is the tax paid to the State divided by the North Carolina taxable income.

The total overpayment amounts for all years, 1989-1997, is the principle amount due each NC State, Local Government or Federal (civil service or military) retiree.

The initial refund to State Retirees will be the overpayment amount reduced by the Court Ordered 15% Set Aside to cover all Costs and Fees, and the negotiated reduction to 95%. The resultant net refund of 80.75% of the taxes paid will constitute the first refund to NC State and Local Government Retirees.

The initial refund to Federal Retirees will be the overpayment amount reduced by the Court Ordered 15% Set Aside to cover all Costs and Fees, and the negotiated reduction to 70%. The resultant net refund of 59.5% of the taxes paid will constitute the first refund to Federal Retirees.

Claim Forms, with accompanying instructions, will start going out to State and Local Retirees in March 1999. Claim Forms for Federal Retirees will be delayed until late July, since the second of the two-part payment to the Settlement Fund by the NC General Assembly will not come before July 15, 1999.

The Instruction Packet, accompanying the Claim Form, will contain detailed information as to the procedures to be followed should you wish to dispute the amounts shown on your Claim Form. Also included with each packet is the information to guide you through the process of reopening an Estate.

If the calculations shown on your Claim Form are acceptable to you, then you need only sign, certifying your approval, and return the Claim Form. Your refund will be processed and a check returned to you as expeditiously as possible. If you had changes in filing status, however, you must provide information as to the type of changes (death, divorce, marriage, etc.) on the form provided for this purpose.

A second refund round will be sent out to all retirees late in the year 2000. This second refund, adjusted by the same percentages shown herein, will first cover any principal amount (overpayment amount) not yet recovered, and then interest amounts due you. The actual amounts you receive will depend on the remaining funds available. At such time as State Retirees reach a total of 80.75% of the total (principal and interest), any remaining funds will be utilized to bring the Federal Retirees up to the same level. Should there be additional funds remaining, both groups will be increased at the same rate from that point upward.

2/18/99

BAILEY SETTLEMENT ADMINISTRATION

STATUS REPORT

JANUARY 19, 1999

Details of the refund plan have now been determined and effort is underway to carry out the Court Ordered process.

Refunds will be calculated using the following:

The amount of over payment for each year will be the lesser of:

1) The actual taxes paid less credits (other than federal retiree credits), or

2) An amount determined by multiplying the total Government Retirement Benefits received, less the Government exclusion, by the Effective Tax Rate. The Effective Tax Rate is the tax paid to the State divided by the North Carolina taxable income.

The total overpayment amounts for all years, 1989-1997, is the principle amount due each NC State, Local Government or Federal (civil service or military) retiree.

The initial refund to State Retirees will be the overpayment amount reduced by the Court Ordered 15% Set Aside to cover all Costs and Fees, and the negotiated reduction to 95%. The resultant net refund of 80.75% of the taxes paid will constitute the first refund to NC State and Local Government Retirees.

The initial refund to Federal Retirees will be the overpayment amount reduced by the Court Ordered 15% Set Aside to cover all Costs and Fees, and the negotiated reduction to 70%. The resultant net refund of 59.5% of the taxes paid will constitute the first refund to Federal Retirees.

Claim Forms, with accompanying instructions, will start going out to State and Local Retirees in March 1999. Claim Forms for Federal Retirees will be delayed until late July, since the second of the two-part payment to the Settlement Fund by the NC General Assembly will not come before July 15, 1999.

The Instruction Packet, accompanying the Claim Form, will contain detailed information as to the procedures to be followed should you wish to dispute the amounts shown on your Claim Form. Also included with each packet is the information to guide you through the process of reopening an Estate.

If the calculations shown on your Claim Form are acceptable to you, then you need only sign, certifying your approval, and return the Claim Form. Your refund will be processed and a check returned to you as expeditiously as possible. If you had changes in filing status, however, you must provide information as to the type of changes (death, divorce, marriage, etc.) on the form provided for this purpose.

A second refund round will be sent out to all retirees late in the year 2000. This second refund, adjusted by the same percentages shown herein, will first cover any principal amount (overpayment amount) not yet recovered, and then interest amounts due you. The actual amounts you receive will depend on the remaining funds available. At such time as State Retirees reach a total of 80.75% of the total (principal and interest), any remaining funds will be utilized to bring the Federal Retirees up to the same level. Should there be additional funds remaining, both groups will be increased at the same rate from that point upward.

HOUSE FINANCE COMMITTEE

Wednesday, March 3, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

AGENDA:

Richard Bostic - Major General Fund Tax Changes since 1995
Linda Millsaps - N.C. Sales and Use Tax

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

March 3, 1999

The House Committee on Finance met on Wednesday, March 3, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m.. The following members were present: Chairmen Miller; Vice Chairs Jarrell and Wood; Representatives, Bridgeman, Brown, Buchanan, Capps, Church, Decker, Eddins, Edwards, Goodwin, Hackney, Hill, McComas, McCombs, Mosley, Ramsey, Tucker, Womble. Staff including Cindy Avrette, Richard Bostic, David Crotts, Linda Millsaps, and Ed Rossi were in attendance. A Visitor Registration List is attached and made a part of these minutes.

The Chairman Miller called the meeting to order to hear a presentation by staff.

Richard Bostic of the Fiscal Research Staff discussed major general tax fund changes since 1995, state tax collections per capita and per $1,000 of personal income, and number of services taxed by category and state.

Linda Millsaps of the Fiscal Research Staff discussed North Carolina sales and use tax and the problem of internet shoppers ignoring state sales tax

There being no further business, the Chair adjourned the meeting at 10:00 a.m.

Respectfully submitted:

George Miller

Representative George Miller
Chair

Kristen Crosson

Kristen L. Crosson
Assistant to the Committee

Number of Services Taxed by Category and State
1996

State	Utilities	Personal Services	Business Services	Computer Services	Admis./ Amus.	Prof. Services	Fabrication, Repair & Installation	Other Services	Total
Alabama	9	2	6	1	10	0	1	3	32
Alaska	0	0	0	0	0	0	0	1	1
Arizona	12	2	5	1	11	0	2	24	57
Arkansas	14	6	11	1	11	0	11	11	65
California	5	2	3	0	0	0	0	3	13
Colorado	4	0	2	1	2	0	3	2	14
Connecticut	10	11	20	6	13	0	14	13	87
Delaware*	9	20	33	6	10	8	19	37	142
District of Columbia**	10	7	11	6	6	0	13	10	127
Florida	7	4	8	2	13	0	16	14	64
Georgia	10	3	3	2	8	0	2	6	191
[redacted]	16	20	34	6	13	8	18	42	157
[redacted]	0	3	4	0	11	0	6	5	29
Illinois	12	1	1	1	0	0	1	1	17
[redacted]iana	8	4	2	2	2	0	0	4	22
[redacted]	13	15	18	0	13	0	14	21	94
[redacted]sas	10	10	9	2	13	0	16	16	76
Kentucky	10	2	4	0	6	0	3	1	84
Louisiana	12	9	5	3	8	0	13	8	58
Maine	9	1	6	3	2	0	4	2	27
Maryland	5	3	13	1	11	0	4	2	39
Massachusetts	9	1	4	0	1	0	2	3	20
Michigan	12	4	7	1	1	0	2	2	29
Minnesota	15	6	11	2	13	0	4	10	131
Mississippi	8	4	8	3	10	0	14	23	98
Missouri	8	1	2	1	11	0	0	5	47
Montana	12	0	0	0	3	0	0	4	68
Nebraska	14	6	6	3	11	0	5	4	49
Nevada	0	1	4	0	1	0	2	3	22
New Hampshire	8	1	0	0	0	0	0	2	11
New Jersey	6	2	10	0	6	0	14	12	202
New Mexico	16	20	32	6	13	8	18	39	152
New York	9	5	15	4	7	0	16	18	74
North Carolina	10	4	4	1	7	0	1	1	53
North Dakota	6	1	4	0	11	0	1	2	25
[redacted]	8	7	14	3	2	0	12	6	52
[redacted]na	8	1	4	2	11	0	0	6	32
Oregon	0	0	0	0	0	0	0	0	0
Pennsylvania	8	6	17	6	1	0	15	8	61

State	Utilities	Personal Services	Business Services	Computer Services	Admis./ Amus.	Prof. Services	Fabrication, Repair & Installation	Other Services	T
Rhode Island	10	1	6	3	3	0	3	2	28
South Carolina	4	5	6	4	9	0	1	3	173
South Dakota	12	19	28	6	12	4	18	42	141
Tennessee	11	11	6	3	12	0	14	14	149
Texas	12	11	14	6	10	1	11	13	132
Utah	7	8	6	0	9	0	15	9	54
Vermont3	3	2	4	1	10	0	2	1	23
Virginia	1	3	4	0	1	0	4	5	18
Washington	16	20	34	6	10	8	15	43	152
West Virginia	10	17	26	4	13	1	13	26	110
Wisconsin	11	11	6	1	13	0	14	13	69
Wyoming	11	7	6	2	7	0	16	14	227
Number in Category	16	20	34	6	14	8	19	47	164

*Includes the business license tax in Delaware and the business occupation tax in Washington.
**1992 data.

Source: Federation of Tax Administrators, Sales Taxation of Services Sruvey, 1996.

Number of Services Taxed by Category and State
1996

State	Utilities	Personal Services	Business Services	Computer Services	Admis./ Amus.	Prof. Services	Fabrication, Repair & Installation	Other Services	Total
Alabama	9	2	6	1	10	0	1	3	32
Alaska	0	0	0	0	0	0	0	1	1
Arizona	12	2	5	1	11	0	2	24	57
Arkansas	14	6	11	1	11	0	11	11	65
California	5	2	3	0	0	0	0	3	13
Colorado	4	0	2	1	2	0	3	2	14
Connecticut	10	11	20	6	13	0	14	13	87
Delaware*	9	20	33	6	10	8	19	37	142
District of Columbia**	10	7	11	6	6	0	13	10	127
Florida	7	4	8	2	13	0	16	14	64
Georgia	10	3	3	2	8	0	2	6	191
[redacted]	16	20	34	6	13	8	18	42	157
[redacted]	0	3	4	0	11	0	6	5	29
Illinois	12	1	1	1	0	0	1	1	17
Indiana	8	4	2	2	2	0	0	4	22
[redacted]	13	15	18	0	13	0	14	21	94
[redacted]sas	10	10	9	2	13	0	16	16	76
Kentucky	10	2	4	0	6	0	3	1	84
Louisiana	12	9	5	3	8	0	13	8	58
Maine	9	1	6	3	2	0	4	2	27
Maryland	5	3	13	1	11	0	4	2	39
Massachusetts	9	1	4	0	1	0	2	3	20
Michigan	12	4	7	1	1	0	2	2	29
Minnesota	15	6	11	2	13	0	4	10	131
Mississippi	8	4	8	3	10	0	14	23	98
Missouri	8	1	2	1	11	0	0	5	47
Montana	12	0	0	0	3	0	0	4	68
Nebraska	14	6	6	3	11	0	5	4	49
Nevada	0	1	4	0	1	0	2	3	22
New Hampshire	8	1	0	0	0	0	0	2	11
New Jersey	6	2	10	0	6	0	14	12	202
New Mexico	16	20	32	6	13	8	18	39	152
New York	9	5	15	4	7	0	16	18	74
North Carolina	10	4	4	1	7	0	1	1	53
North Dakota	6	1	4	0	11	0	1	2	25
[redacted]	8	7	14	3	2	0	12	6	52
[redacted]na	8	1	4	2	11	0	0	6	32
Oregon	0	0	0	0	0	0	0	0	0
Pennsylvania	8	6	17	6	1	0	15	8	61

State	Utilities	Personal Services	Business Services	Computer Services	Admis./ Amus.	Prof. Services	Fabrication, Repair & Installation	Other Services	T
Rhode Island	10	1	6	3	3	0	3	2	28
South Carolina	4	5	6	4	9	0	1	3	173
South Dakota	12	19	28	6	12	4	18	42	141
Tennessee	11	11	6	3	12	0	14	14	149
Texas	12	11	14	6	10	1	11	13	132
Utah	7	8	6	0	9	0	15	9	54
Vermont3	3	2	4	1	10	0	2	1	23
Virginia	1	3	4	0	1	0	4	5	18
Washington	16	20	34	6	10	8	15	43	152
West Virginia	10	17	26	4	13	1	13	26	110
Wisconsin	11	11	6	1	13	0	14	13	69
Wyoming	11	7	6	2	7	0	16	14	227
Number in Category	16	20	34	6	14	8	19	47	164

*Includes the business license tax in Delaware and the business occupation tax in Washington.
**1992 data.

Source: Federation of Tax Administrators, Sales Taxation of Services Sruvey, 1996.

THE WALL STREET JOURNAL.

TUESDAY, JANUARY 26, 1999 B1

MARKETPLACE

Advertising: *Fox television network forms broad alliance with Yahoo!* *Page B8.*

Your Career Matters: *Mattel looks for new leader of Barbie line* *Page B14.*

States Chafe as Web Shoppers Ignore Sales Taxes

By JOHN SIMONS
Staff Reporter of THE WALL STREET JOURNAL

What's the difference between a $3,000 personal computer purchased on the Internet and the same machine bought at a PC outlet and tucked in your trunk?

This isn't a joke, and states and municipalities hungry for sales-tax revenue

ONLINE

aren't laughing. The answer, in Rhode Island at least, is $210.

That's the 7% the state loses every time a consumer points and clicks through an Internet retail site like **Dell Computer** Corp.'s and makes such a purchase—unless the buyer reads and heeds the fine print near the bottom of Dell's invoice: "The purchaser is responsible for remitting any additional taxes to the taxing authority."

Believe it or not, the burden is on *you* to calculate and pay the state and local taxes on what you buy. But if you're like the overwhelming majority of Internet shoppers, you're likely to leave that tax unpaid.

With the current law on Internet-sales taxation murky and a three-year moratorium on new rules in effect, state tax collectors are breathless at the revenue slipping through their fingers. It isn't hard to understand their chagrin; U.S. sales rung up on the Internet register last year totaled nearly $8 billion, and the Web-shopping surge is looking robust. It all spells a serious tax-compliance problem.

In 1996, well before Internet commerce took off, a handful of states began drafting rules to govern Web taxation. A few even considered adding Internet-only levies to existing sales taxes. But the White House, generally favoring a hands-off approach to regulation of the Net, objected to the introduction of any new taxes. In 1997, White House adviser Ira Magaziner suggested that Congress implement legislation temporarily prohibiting them.

It did. Last October, the Internet Tax Freedom Act was passed, placing the three-year ban on new Internet sales taxes. A five- or six-year moratorium had been discussed, and the shorter term was offered as a concession to groups like the National Governors Association and the National League of Cities. But the ban effectively inaugurated a tax-free Internet shopping spree.

The nation's governors and mayors had long worried that Web shopping would siphon much-needed revenues from their tax coffers. Then last Christmas's Internet sales hit $3.2 billion, tripling the previous year's holiday receipts—and the officials' displeasure. All but five states have sales taxes, from which they derive half their revenue.

In most states and municipalities, the buyer is required to pay sales tax, but the seller isn't required to collect the tax unless the business has a corporate office, warehouse or other physical presence—a "nexus"—in the state where the sale occurs. The same laws govern the $48 billion catalog-sales business, and states and municipalities have fought unsuccessfully for two decades to overturn them. Internet sales are growing faster than catalog sales, though, and are due to overtake them within the next few years.

The laws are nearly impossible to enforce, and consumers know it. Michael A. Pitlock, executive director of the Nevada Department of Taxation, likens the situation to "putting a speed-limit sign on the road that says, 'By the way, police don't patrol here, and they never will.' "

Mr. Pitlock is particularly sensitive to any drain on revenue. Nevada, which doesn't have an income tax, depends on the state's 6.5% sales tax. "Looking at the national numbers, [Internet commerce] is now a significant concern," he says. His solution to the quandary: "Put a requirement on vendors to collect taxes for all products they ship to each state."

Not surprisingly, most online sellers don't want to play tax collector in each of the country's 30,000 tax jurisdictions. "It puts additional cost and responsibility on us," says Cathie Hargett, a spokeswoman for Dell, of Round Rock, Texas.

Naomi Lefkovitz, deputy general counsel at Web-based music seller **CDnow** Inc., in Fort Washington, Pa., is blunter. "Consumers are supposed to pay the tax and report it, but we have no control over that," she says. "That's up to each person and their own honesty."

Most online entrepreneurs believe stricter sales-tax rules would slow the growth of digital commerce. Take away the bargain-basement aura of the Net, they say, and online buying loses some of its glow. University of Chicago economist Austan Goolsbee, who analyzed data on the buying decisions of some 25,000 Internet shoppers, says in a recent paper that applying existing sales taxes to Internet commerce "would reduce the number of online buyers by 25% and spending by more than 30%."

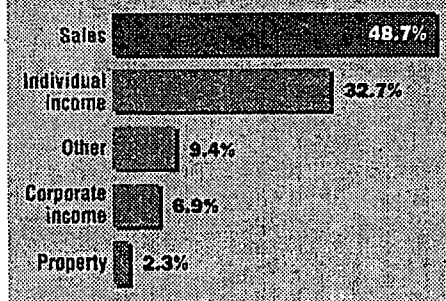
Under current tax law, Internet bookseller **Amazon.com**, Seattle, charges taxes only on purchases made by customers who give an address in the company's home state of Washington. Dell charges taxes only on Web sales made to consumers in Florida, Kentucky, Nevada and Texas, because it has warehouses, distribution centers or corporate offices there.

Amazon competitor **Borders Group** Inc., of Ann Arbor, Mich., set up Borders Online Inc. as a separate operation to handle Internet sales. As a result, although

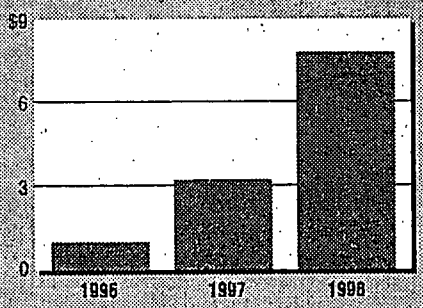
Please Turn to Page B4, Column 3

Seeking a Share of the Wealth

States Depend on Sales Taxes...
Sources of state tax revenue



And Want Their Cut of Web Purchases
Estimated business-to-consumer sales online, in billions of dollars



Sources: Forrester Research, U.S. Bureau of Census

...a share, down 20% from a year

Class B stock, which has voting control.

the other one hasn't been determined.

Consumers Ignore Taxes on Web Purchases

Continued From Page B1

Borders Group operates bookstores in all but 10 states, Borders Online charges tax in only two: Tennessee, where it has a warehouse, and Michigan, where it shares a corporate base with Borders Group.

Microsoft Corp. is one of the few companies that regularly factor in state and local sales taxes. As consumers type their addresses on an electronic sales form, the Redmond, Wash., company's billing system calculates the tax for that location. "But I can't say with 100% certainty that we tax everybody appropriately," says Bruce Reid, Microsoft's state and local tax director. An online buyer might have software mailed to a friend in a state with no sales tax, he says.

From the consumer's point of view, sales-tax obligations can be baffling. University of Michigan graduate student Bob Geier estimates that he spent close to $4,000 shopping online last year. He was "vaguely aware" that he was eventually supposed to pay taxes on most of those purchases, he says, but "like every other human being in Michigan, I dutifully ignore" the requirement.

October's Internet Tax Freedom Act ordered that state and local officials and Internet entrepreneurs participate in an advisory panel to hash out a uniform Internet-tax policy. The panel, with options ranging from recommending extension of the moratorium to calling for creation of a national system for taxing Internet sales, would have 18 months to issue a report. The committee's makeup was to provide a balance of views.

Appointments were made in December; industry panelists include C. Michael Armstrong, chief executive of **AT&T** Corp.; Robert Pittman, chief operating officer of **America Online** Inc.; and **Netscape Communications** Corp. Chief Executive James Barksdale. But governors and state legislators complain that the panel is slanted toward industry, with nine business representatives and only seven state and local members. Congress is rethinking the board's balance and may expand membership to 22.

This month, seven groups, including the Council of State Governments and the U.S. Conference of Mayors, sent a letter to President Clinton and members of Congress urging them to redress the panel's imbalance. The letter asked them to ensure that the committee "does not serve as a mechanism to harm or create a bias against local retailers" or "serve as a tax haven to drain vital resources critical to education, health care and public safety."

THE WALL STREET JOURNAL.

TUESDAY, JANUARY 26, 1999 B1

MARKETPLACE

Advertising: *Fox television network forms broad alliance with Yahoo!* *Page B8.*

Your Career Matters: *Mattel looks for new leader of Barbie line* *Page B14.*

States Chafe as Web Shoppers Ignore Sales Taxes

By JOHN SIMONS
Staff Reporter of THE WALL STREET JOURNAL

What's the difference between a $3,000 personal computer purchased on the Internet and the same machine bought at a PC outlet and tucked in your trunk?

This isn't a joke, and states and municipalities hungry for sales-tax revenue

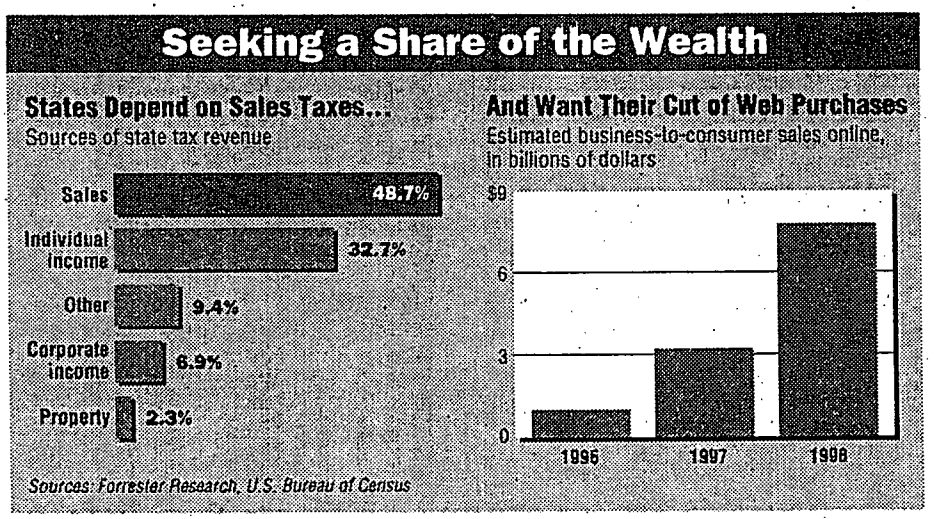
ONLINE

aren't laughing. The answer, in Rhode Island at least, is $210.

That's the 7% the state loses every time a consumer points and clicks through an Internet retail site like **Dell Computer Corp.**'s and makes such a purchase—unless the buyer reads and heeds the fine print near the bottom of Dell's invoice: "The purchaser is responsible for remitting any additional taxes to the taxing authority."

Believe it or not, the burden is on *you* to calculate and pay the state and local taxes on what you buy. But if you're like the overwhelming majority of Internet shoppers, you're likely to leave that tax unpaid.

With the current law on Internet-sales taxation murky and a three-year moratorium on new rules in effect, state tax collectors are breathless at the revenue slipping through their fingers. It isn't hard to understand their chagrin; U.S. sales rung up on the Internet register last year totaled



duction of any new taxes. In 1997, White House adviser Ira Magaziner suggested that Congress implement legislation temporarily prohibiting them.

It did. Last October, the Internet Tax Freedom Act was passed, placing the three-year ban on new Internet sales taxes. A five- or six-year moratorium had been discussed, and the shorter term was offered as a concession to groups like the National Governors Association and the National League of Cities. But the ban effectively inaugurated a tax-free Internet shopping spree.

buyer is required to pay sales tax, but the seller isn't required to collect the tax unless the business has a corporate office, warehouse or other physical presence—a "nexus"—in the state where the sale occurs. The same laws govern the $48 billion catalog-sales business, and states and municipalities have fought unsuccessfully for two decades to overturn them. Internet sales are growing faster than catalog sales, though, and are due to overtake them within the next few years.

The laws are nearly impossible to enforce, and consumers know it. Michael A.

now a significant concern," he says. His solution to the quandary: "Put a requirement on vendors to collect taxes for all products they ship to each state."

Not surprisingly, most online sellers don't want to play tax collector in each of the country's 30,000 tax jurisdictions. "It puts additional cost and responsibility on us," says Cathie Hargett, a spokeswoman for Dell, of Round Rock, Texas.

Naomi Lefkovitz, deputy general counsel at Web-based music seller **CDnow Inc.**, in Fort Washington, Pa., is blunter. "Consumers are supposed to pay the tax and report it, but we have no control over that," she says. "That's up to each person and their own honesty."

Most online entrepreneurs believe stricter sales-tax rules would slow the growth of digital commerce. Take away the bargain-basement aura of the Net, they say, and online buying loses some of its glow. University of Chicago economist Austan Goolsbee, who analyzed data on the buying decisions of some 25,000 Internet shoppers, says in a recent paper that applying existing sales taxes to Internet commerce "would reduce the number of online buyers by 25% and spending by more than 30%."

Under current tax law, Internet bookseller **Amazon.com**, Seattle, charges taxes only on purchases made by customers who give an address in the company's home state of Washington. Dell charges taxes

surge is looking robust. It all spells a serious tax-compliance problem.

In 1996, well before Internet commerce took off, a handful of states began drafting rules to govern Web taxation. A few even considered adding Internet-only levies to existing sales taxes. But the White House, generally favoring a hands-off approach to regulation of the Net, objected to the intro-

long worried that Web shopping would siphon much-needed revenues from their tax coffers. Then last Christmas's Internet sales hit $3.2 billion, tripling the previous year's holiday receipts—and the officials' displeasure. All but five states have sales taxes, from which they derive half their revenue.

In most states and municipalities, the

Department of Taxation, likens the situation to "putting a speed-limit sign on the road that says, 'By the way, police don't patrol here, and they never will.' "

Mr. Pitlock is particularly sensitive to any drain on revenue. Nevada, which doesn't have an income tax, depends on the state's 6.5% sales tax. "Looking at the national numbers, [Internet commerce] is

only on Web sales made to consumers in Florida, Kentucky, Nevada and Texas, because it has warehouses, distribution centers or corporate offices there.

Amazon competitor **Borders Group** Inc., of Ann Arbor, Mich., set up Borders Online Inc. as a separate operation to handle Internet sales. As a result, although

Please Turn to Page B4, Column 3

...a share, down 20% from a year ... Class B stock, which has voting control. ... the other one hasn't been determined.

Consumers Ignore Taxes on Web Purchases

Continued From Page B1

Borders Group operates bookstores in all but 10 states, Borders Online charges tax in only two: Tennessee, where it has a warehouse, and Michigan, where it shares a corporate base with Borders Group.

Microsoft Corp. is one of the few companies that regularly factor in state and local sales taxes. As consumers type their addresses on an electronic sales form, the Redmond, Wash., company's billing system calculates the tax for that location. "But I can't say with 100% certainty that we tax everybody appropriately," says Bruce Reid, Microsoft's state and local tax director. An online buyer might have software mailed to a friend in a state with no sales tax, he says.

From the consumer's point of view, sales-tax obligations can be baffling. University of Michigan graduate student Bob Geier estimates that he spent close to $4,000 shopping online last year. He was "vaguely aware" that he was eventually supposed to pay taxes on most of those purchases, he says, but "like every other human being in Michigan, I dutifully ignore" the requirement.

October's Internet Tax Freedom Act ordered that state and local officials and Internet entrepreneurs participate in an advisory panel to hash out a uniform Internet-tax policy. The panel, with options ranging from recommending extension of the moratorium to calling for creation of a national system for taxing Internet sales, would have 18 months to issue a report. The committee's makeup was to provide a balance of views.

Appointments were made in December; industry panelists include C. Michael Armstrong, chief executive of **AT&T** Corp.; Robert Pittman, chief operating officer of **America Online** Inc.; and **Netscape Communications** Corp. Chief Executive James Barksdale. But governors and state legislators complain that the panel is slanted toward industry, with nine business representatives and only seven state and local members. Congress is rethinking the board's balance and may expand membership to 22.

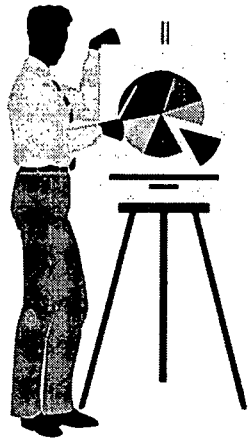
This month, seven groups, including the Council of State Governments and the U.S. Conference of Mayors, sent a letter to President Clinton and members of Congress urging them to redress the panel's imbalance. The letter asked them to ensure that the committee "does not serve as a mechanism to harm or create a bias against local retailers" or "serve as a tax haven to drain vital resources critical to education, health care and public safety."

North Carolina Sales & Use Tax: An Introduction

Prepared by:
Linda Struyk Millsaps
Fiscal Research Division
March 2, 1999

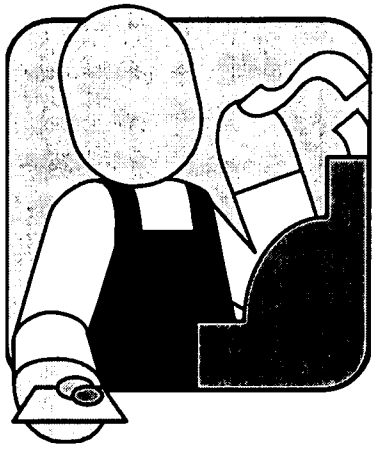
Outline: NC Sales & Use Tax

- ✔ **Sales Tax Background**
- ✔ **Sales Tax History**
- ✔ **Sales Tax Allocation**
- ✔ **Role of Use Tax**
- ✔ **General Fund Impact**
- ✔ **Local Impact**
- ✔ **Potential Issues**



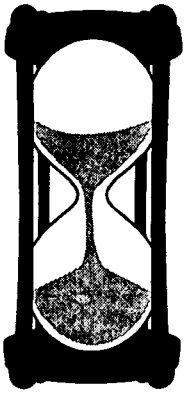
N.C. Sales & Use Tax: Background

- ✔ Collected from local merchants.
- ✔ The general rate of tax is: 4% state, 2% local.
- ✔ Some items are taxed at 3% or 1%. Others have a cap.
- ✔ Most of the 1% items are related to farming and manufacturing.
- ✔ This relatively standard rate is often held up as a model for other states.
- ✔ On May 1, 1999 food will be exempt from state sales tax.
- ✔ When a consumer purchases a taxable item out of state they may be liable for use tax.



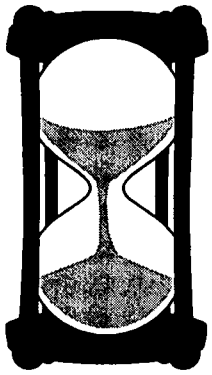
N.C. Sales & Use Tax: History

- First State Sales Tax Enacted: 1930's
- General Rate Started at 3%. Remained there until 1991.
- 1% rate was first applied to items covered by the old wholesale tax. These were primarily farming and manufacturing items. (Since extended to investment packages like FedEx.)
- The $80 cap on manufacturing items was enacted in 1961. It remains at the $80 level.
- 1960's first movement on local option sales taxes.
- Statewide levy of 1%.



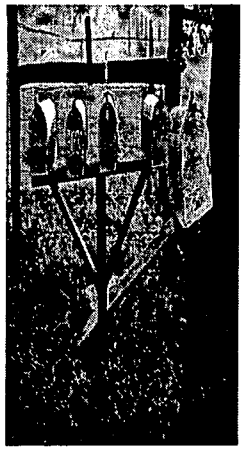
N.C. Sales & Use Tax: History (cont'd)

- 1983 & 1986 - Added the 2, 1/2 cent taxes. Applies in all counties.
- *Now only one county with local option sales tax:Mecklenburg.*
- Other special rates and caps apply for mobile homes (2% rate, $300 cap), aircraft (3%, $1500 cap), others.
- *Nonprofits, local governments, and now schools can apply for a refund of sales taxes.*



NC Sales & Use Tax: Intra County Allocation

- 1% is allocated on a point of sale basis to counties.
- County can select one of two methods to determine distribution to the county and its municipalities.
  - Per Capita Method - The proportion of total population - county plus each municipality.
  - Ad Valorem Method - Based on proportion of total property taxes paid by each municipality and the county.
- 1/2% is allocated to counties on a per capita basis (G.S. 105-483). It requires that some revenue be used for school construction and water/sewer projects, for a period of years. (1983).
- 1/2% is allocated to counties on a per capita basis. It also requires that some of the revenue be used for school construction and water/sewer projects, for several years (1986).



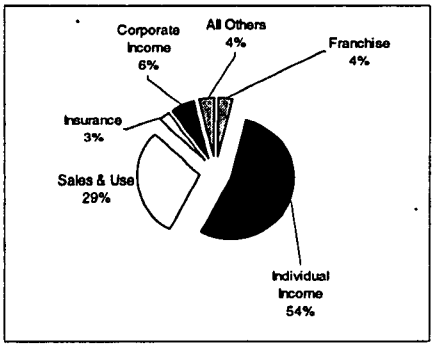
N.C. Sales & Use Tax: Use Tax

Key Elements

- "An excise tax ... is imposed on the storage, use, or consumption in this State of tangible personal property purchased inside or outside the State for storage, use, or consumption in the state." (G.S. 105-164.6(a).
- *The use tax is designed to complement the sales tax and to reach transactions which cannot be subject to a sales tax by reason of its burden on interstate commerce. (Atwater-Waynick Hosiery Mills Inc. v. Clayton, 1966).*

- The purpose of the use tax is to impose the same burdens on out-of-state purchases as the sales tax imposes on purchases within the state. (Colonial Pipeline Co. v. Clayton, 1969).
- *"The Secretary may enter into agreements with sellers pursuant to which the seller agrees to collect and remit on behalf of its customers" (G.S. 105-164.6A)*
- North Carolina also participates in a regional compact of 12 Southeastern States to collect and audit use taxes on large purchases.

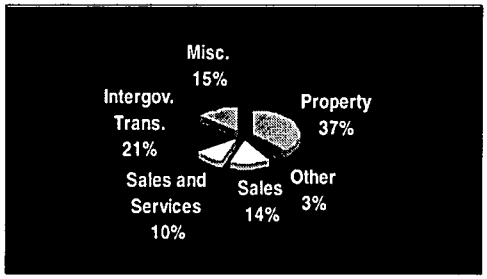
NC Sales & Use Tax: General Fund Impact



General Fund Revenue by Source: FY 1997-98

Sources of Revenue	Net Revenue
Inheritance Tax	$ 138,124,663
Franchise Tax	$ 407,256,555
Individual Income Tax	$ 6,028,870,217
Sales & Use Tax	$ 3,255,372,048
Alcoholic Beverage Tax	$ 153,723,510
Insurance Tax	$ 283,763,234
Corporate Income Tax	$ 696,338,557
All Others	$ 130,204,521
TOTAL	$ 11,093,653,305

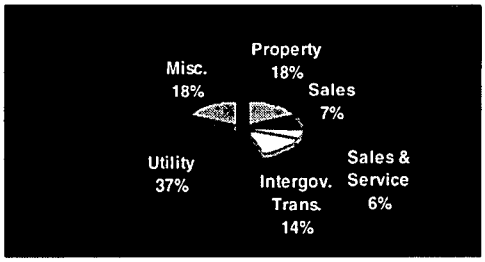
NC Sales & Use Tax: Local Impact



County Revenue by Source 1996-97 Statewide Average

Category	Total	Per Capita
Property	$ 25,263,915	$ 345
Other	$ 2,094,781	$ 29
Sales	$ 9,304,466	$ 127
Sales and Services	$ 6,461,545	$ 88
Intergovernmental	$ 13,730,085	$ 187
Misc.	$ 9,791,705	$ 134
TOTAL	$ 66,646,497	$ 910

NC Sales & Use Tax: Local Impact



Municipal Revenue by Source 1996-97 Statewide Average

Category	Total	Per Capita
Property	$ 1,931,298	$ 267
Sales	$ 772,228	$ 107
Sales and Services	$ 623,035	$ 86
Intergovern.	$ 1,436,749	$ 198
Utility	$ 3,821,200	$ 528
Misc.	$ 1,898,600	$ 262
TOTAL	$ 10,483,110	$ 1,448

NC Sales & Use Tax: Potential Issues

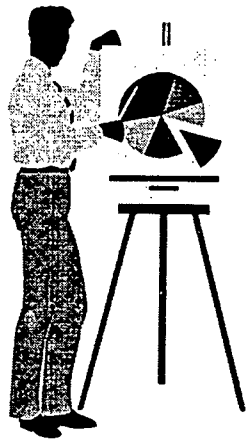
- ✔ Mail Order Sales Tax
- ✔ Internet Sales Tax
- ✔ Mill Machinery Cap
- ✔ Services
- ✔ Direct TV, Cable, & Pay Per View.
- ✔ Sales Tax and Nonprofits.

North Carolina Sales & Use Tax: An Introduction

Prepared by:
Linda Struyk Millsaps
Fiscal Research Division
March 2, 1999

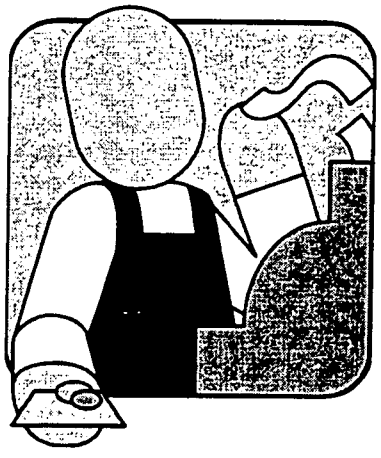
Outline: NC Sales & Use Tax

- ✔ Sales Tax Background
- ✔ Sales Tax History
- ✔ Sales Tax Allocation
- ✔ Role of Use Tax
- ✔ General Fund Impact
- ✔ Local Impact
- ✔ Potential Issues



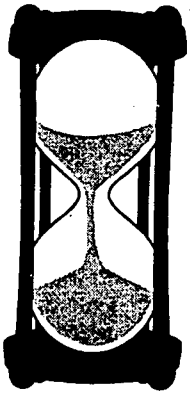
N.C. Sales & Use Tax: Background

- ✔ Collected from local merchants.
- ✔ The general rate of tax is: 4% state, 2% local.
- ✔ Some items are taxed at 3% or 1%. Others have a cap.
- ✔ Most of the 1% items are related to farming and manufacturing.
- ✔ This relatively standard rate is often held up as a model for other states.
- ✔ On May 1, 1999 food will be exempt from state sales tax.
- ✔ When a consumer purchases a taxable item out of state they may be liable for use tax.



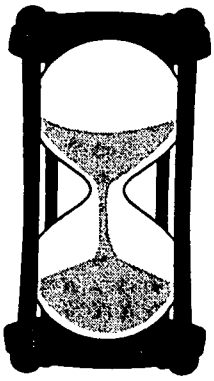
N.C. Sales & Use Tax: History

- First State Sales Tax Enacted: 1930's
- General Rate Started at 3%. Remained there until 1991.
- 1% rate was first applied to items covered by the old wholesale tax. These were primarily farming and manufacturing items. (Since extended to investment packages like FedEx.)
- The $80 cap on manufacturing items was enacted in 1961. It remains at the $80 level.
- 1960's first movement on local option sales taxes.
- Statewide levy of 1%.



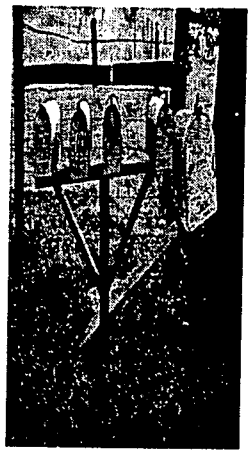
N.C. Sales & Use Tax: History (cont'd)

- 1983 & 1986 - Added the 2, 1/2 cent taxes. Applies in all counties.
- *Now only one county with local option sales tax:Mecklenburg.*
- Other special rates and caps apply for mobile homes (2% rate, $300 cap), aircraft (3%, $1500 cap), others.
- *Nonprofits, local governments, and now schools can apply for a refund of sales taxes.*



NC Sales & Use Tax: Intra County Allocation

- 1% is allocated on a point of sale basis to counties.
- County can select one of two methods to determine distribution to the county and its municipalities.
  - Per Capita Method - The proportion of total population - county plus each municipality.
  - Ad Valorem Method - Based on proportion of total property taxes paid by each municipality and the county.
- 1/2% is allocated to counties on a per capita basis (G.S. 105-483). It requires that some revenue be used for school construction and water/sewer projects, for a period of years. (1983).
- 1/2% is allocated to counties on a per capita basis. It also requires that some of the revenue be used for school construction and water/sewer projects, for several years (1986).



N.C. Sales & Use Tax: Use Tax

Key Elements

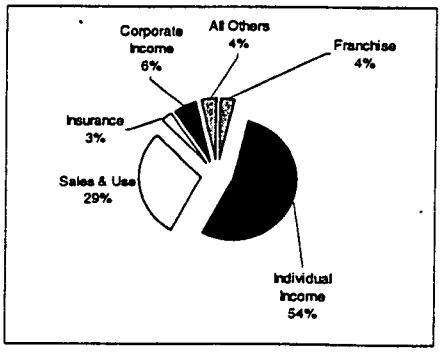
- "An excise tax ... is imposed on the storage, use, or consumption in this State of tangible personal property purchased inside or outside the State for storage, use, or consumption in the state." (G.S. 105-164.6(a).
- *The use tax is designed to complement the sales tax and to reach transactions which cannot be subject to a sales tax by reason of its burden on interstate commerce. (Atwater-Waynick Hosiery Mills Inc. v. Clayton, 1966).*

•The purpose of the use tax is to impose the same burdens on out-of-state purchases as the sales tax imposes on purchases within the state. (Colonial Pipeline Co. v. Clayton, 1969).

•*"The Secretary may enter into agreements with sellers pursuant to which the seller agrees to collect and remit on behalf of its customers" (G.S. 105-164.6A)*

•North Carolina also participates in a regional compact of 12 Southeastern States to collect and audit use taxes on large purchases.

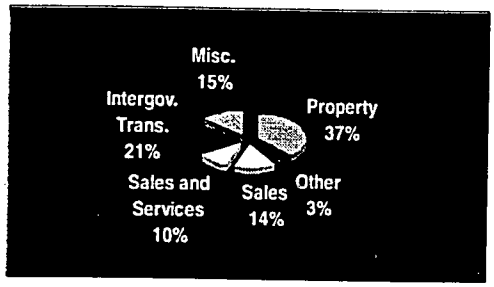
NC Sales & Use Tax: General Fund Impact



General Fund Revenue by Source: FY 1997-98

Sources of Revenue	Net Revenue
Inheritance Tax	$ 138,124,663
Franchise Tax	$ 407,256,555
Individual Income Tax	$ 6,028,870,217
Sales & Use Tax	$ 3,255,372,048
Alcoholic Beverage Tax	$ 153,723,510
Insurance Tax	$ 283,763,234
Corporate Income Tax	$ 696,338,557
All Others	$ 130,204,521
TOTAL	$ 11,093,653,305

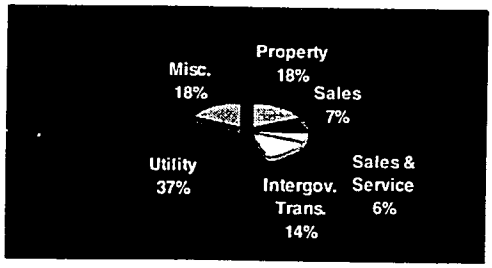
NC Sales & Use Tax: Local Impact



County Revenue by Source 1996-97 Statewide Average

Category	Total	Per Capita
Property	$ 25,263,915	$ 345
Other	$ 2,094,781	$ 29
Sales	$ 9,304,466	$ 127
Sales and Services	$ 6,461,545	$ 88
Intergovernmental	$ 13,730,085	$ 187
Misc.	$ 9,791,705	$ 134
TOTAL	$ 66,646,497	$ 910

NC Sales & Use Tax: Local Impact



Municipal Revenue by Source 1996-97 Statewide Average

Category	Total	Per Capita
Property	$ 1,931,298	$ 267
Sales	$ 772,228	$ 107
Sales and Services	$ 623,035	$ 86
Intergovern.	$ 1,436,749	$ 198
Utility	$ 3,821,200	$ 528
Misc.	$ 1,898,600	$ 262
TOTAL	$ 10,483,110	$ 1,448

NC Sales & Use Tax: Potential Issues

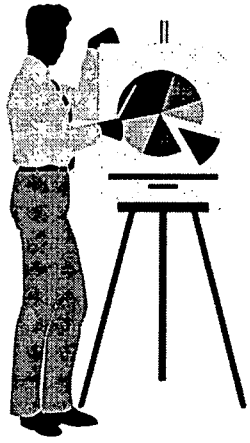
- ✔ Mail Order Sales Tax
- ✔ Internet Sales Tax
- ✔ Mill Machinery Cap
- ✔ Services
- ✔ Direct TV, Cable, & Pay Per View.
- ✔ Sales Tax and Nonprofits.

North Carolina Sales & Use Tax: An Introduction

Prepared by:
Linda Struyk Millsaps
Fiscal Research Division
March 2, 1999

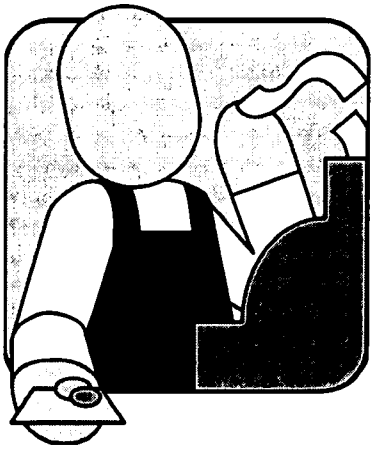
Outline: NC Sales & Use Tax

- ✔ **Sales Tax Background**
- ✔ **Sales Tax History**
- ✔ **Sales Tax Allocation**
- ✔ **Role of Use Tax**
- ✔ **General Fund Impact**
- ✔ **Local Impact**
- ✔ **Potential Issues**



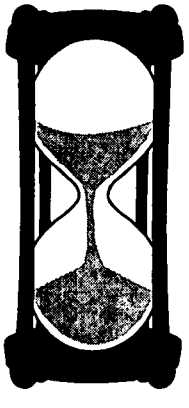
N.C. Sales & Use Tax: Background

- ✔ Collected from local merchants.
- ✔ The general rate of tax is: 4% state, 2% local.
- ✔ Some items are taxed at 3% or 1%. Others have a cap.
- ✔ Most of the 1% items are related to farming and manufacturing.
- ✔ This relatively standard rate is often held up as a model for other states.
- ✔ On May 1, 1999 food will be exempt from state sales tax.
- ✔ When a consumer purchases a taxable item out of state they may be liable for use tax.



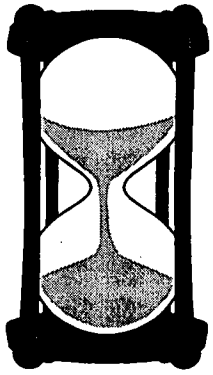
N.C. Sales & Use Tax: History

- First State Sales Tax Enacted: 1930's
- General Rate Started at 3%. Remained there until 1991.
- 1% rate was first applied to items covered by the old wholesale tax. These were primarily farming and manufacturing items. (Since extended to investment packages like FedEx.)
- The $80 cap on manufacturing items was enacted in 1961. It remains at the $80 level.
- 1960's first movement on local option sales taxes.
- Statewide levy of 1%.



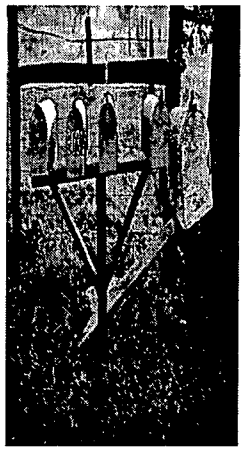
N.C. Sales & Use Tax: History (cont'd)

- 1983 & 1986 - Added the 2, 1/2 cent taxes. Applies in all counties.
- *Now only one county with local option sales tax:Mecklenburg.*
- Other special rates and caps apply for mobile homes (2% rate, $300 cap), aircraft (3%, $1500 cap), others.
- *Nonprofits, local governments, and now schools can apply for a refund of sales taxes.*



NC Sales & Use Tax: Intra County Allocation

- 1% is allocated on a point of sale basis to counties.
- County can select one of two methods to determine distribution to the county and its municipalities.
  - Per Capita Method - The proportion of total population - county plus each municipality.
  - Ad Valorem Method - Based on proportion of total property taxes paid by each municipality and the county.
- 1/2% is allocated to counties on a per capita basis (G.S. 105-483). It requires that some revenue be used for school construction and water/sewer projects, for a period of years. (1983).
- 1/2% is allocated to counties on a per capita basis. It also requires that some of the revenue be used for school construction and water/sewer projects, for several years (1986).



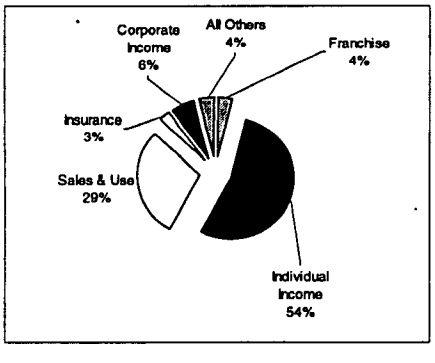
N.C. Sales & Use Tax: Use Tax

Key Elements

- "An excise tax ... is imposed on the storage, use, or consumption in this State of tangible personal property purchased inside or outside the State for storage, use, or consumption in the state." (G.S. 105-164.6(a).
- *The use tax is designed to complement the sales tax and to reach transactions which cannot be subject to a sales tax by reason of its burden on interstate commerce. (Atwater-Waynick Hosiery Mills Inc. v. Clayton, 1966).*

- The purpose of the use tax is to impose the same burdens on out-of-state purchases as the sales tax imposes on purchases within the state. (Colonial Pipeline Co. v. Clayton, 1969).
- *"The Secretary may enter into agreements with sellers pursuant to which the seller agrees to collect and remit on behalf of its customers" (G.S. 105-164.6A)*
- North Carolina also participates in a regional compact of 12 Southeastern States to collect and audit use taxes on large purchases.

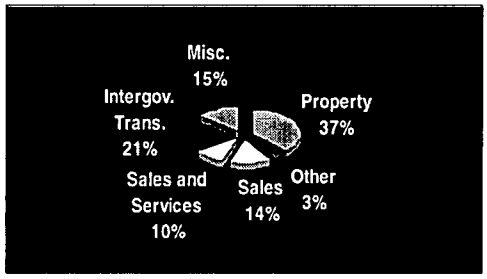
NC Sales & Use Tax: General Fund Impact



General Fund Revenue by Source: FY 1997-98

Sources of Revenue	Net Revenue
Inheritance Tax	$ 138,124,663
Franchise Tax	$ 407,256,555
Individual Income Tax	$ 6,028,870,217
Sales & Use Tax	$ 3,255,372,048
Alcoholic Beverage Tax	$ 153,723,510
Insurance Tax	$ 283,763,234
Corporate Income Tax	$ 696,338,557
All Others	$ 130,204,521
TOTAL	$ 11,093,653,305

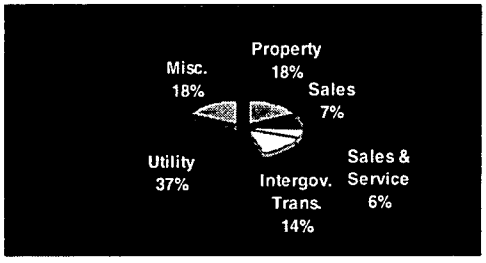
NC Sales & Use Tax: Local Impact



County Revenue by Source 1996-97 Statewide Average

Category	Total	Per Capita
Property	$ 25,263,915	$ 345
Other	$ 2,094,781	$ 29
Sales	$ 9,304,466	$ 127
Sales and Services	$ 6,461,545	$ 88
Intergovernmental	$ 13,730,085	$ 187
Misc.	$ 9,791,705	$ 134
TOTAL	$ 66,646,497	$ 910

NC Sales & Use Tax: Local Impact



Municipal Revenue by Source 1996-97 Statewide Average

Category	Total	Per Capita
Property	$ 1,931,298	$ 267
Sales	$ 772,228	$ 107
Sales and Services	$ 623,035	$ 86
Intergovern.	$ 1,436,749	$ 198
Utility	$ 3,821,200	$ 528
Misc.	$ 1,898,600	$ 262
TOTAL	$ 10,483,110	$ 1,448

NC Sales & Use Tax: Potential Issues

- ✔ Mail Order Sales Tax
- ✔ Internet Sales Tax
- ✔ Mill Machinery Cap
- ✔ Services
- ✔ Direct TV, Cable, & Pay Per View.
- ✔ Sales Tax and Nonprofits.

State Tax Collections Per Capita and Per $1,000 of Personal Income (FY1996)

	Total ($ Millions)	Per Capita	Per $1,000 Personal Income	Rank Per Capita	Rank Per $1,000 Personal Income
Alabama	$5,257.8	$1,230	$61.12	46	35
Alaska	1,519.1	2,506	102.57	3	2
Arizona	6,409.4	1,447	67.76	30	27
Arkansas	3,708.7	1,478	77.94	27	13
California	57,746.7	1,811	71.47	12	21
Colorado	4,820.2	1,261	49.06	45	49
Connecticut	7,830.2	2,392	70.60	4	22
Delaware	1,688.3	2,329	84.02	5	7
District of Columbia	2,480.7	4,567	133.81	1	1
Florida	19,699.3	1,368	56.47	41	44
Georgia	10,292.4	1,400	60.92	37	36
Hawaii	3,069.3	2,592	102.07	2	3
Idaho	1,857.0	1,562	78.72	20	12
Illinois	17,277.3	1,458	54.32	28	45
Indiana	8,437.0	1,444	63.92	31	30
Iowa	4,440.5	1,557	69.81	21	23
Kansas	3,978.8	1,547	66.77	23	28
Kentucky	6,489.3	1,671	84.40	16	5
Louisiana	4,906.3	1,128	57.35	48	43
Maine	1,896.6	1,526	72.60	25	19
Maryland	8,166.7	1,610	58.31	18	41
Massachusetts	12,453.4	2,044	68.61	7	26
Michigan	19,128.7	1,994	79.93	8	10
Minnesota	10,055.5	2,159	84.13	6	6
Mississippi	3,862.5	1,422	80.92	35	9
Missouri	7,300.1	1,362	59.17	42	40
Montana	1,256.4	1,429	74.36	33	16
Nebraska	2,369.5	1,434	62.58	32	34
Nevada	2,889.3	1,802	69.29	13	24
New Hampshire	837.1	720	27.06	51	51
New Jersey	14,384.9	1,801	57.47	14	42
New Mexico	3,060.6	1,787	95.00	15	4
New York	34,150.0	1,878	64.35	10	29
North Carolina	11,882.3	1,623	73.08	17	18
North Dakota	985.3	1,530	74.88	24	15
Ohio	15,649.5	1,401	59.71	36	39
Oklahoma	4,617.8	1,399	71.58	38	20
Oregon	4,415.7	1,378	59.73	40	38
Pennsylvania	18,725.0	1,553	62.62	22	33
Rhode Island	1,549.2	1,565	63.67	19	31
South Carolina	5,113.0	1,382	69.20	39	25
South Dakota	730.3	998	47.72	50	50
Tennessee	6,184.6	1,163	52.97	47	46
Texas	21,259.1	1,111	49.88	49	48

State Tax Collections Per Capita and Per $1,000 of Personal Income (FY1996)

	Total ($ Millions)	Per Capita	Per $1,000 Personal Income	Rank Per Capita	Rank Per $1,000 Personal Income
Utah	2,914.0	1,457	74.34	29	17
Vermont	841.0	1,428	63.58	34	32
Virginia	8,900.4	1,333	52.88	43	47
Washington	10,586.5	1,913	75.97	9	14
West Virginia	2,770.9	1,517	83.57	26	8
Wisconsin	9,616.8	1,864	79.92	11	11
Wyoming	626.0	1,301	60.36	44	37
All States (a)	$418,606.1	$1,581	64.79		

(a) Does not include the District of Columbia.

Source: Tax Foundation, based on data from the Department of Commerce, Bureau of the Census and Bureau of Economic Analysis

State Tax Distribution by Source (FY1996)

	General Sales & Use	Individual Income	Corporate Income	Motor Fuels	Licenses	All Other
Alabama	27.4%	30.0%	4.1%	8.8%	8.0%	21.6%
Alaska	0.0	0.0	21.5	2.5	5.2	70.8
Arizona	42.4	23.3	7.0	7.8	6.1	13.4
Arkansas	37.1	31.3	6.2	8.9	5.8	10.7
California	32.9	36.0	10.1	4.7	5.3	11.1
Colorado	27.4	47.2	4.3	9.2	5.3	6.6
Connecticut	31.2	33.4	8.2	6.4	4.2	16.6
Delaware	0.0	37.4	9.8	5.6	31.6	15.6
District of Columbia	18.8	27.8	6.2	1.2	2.0	44.0
Florida	58.0	0.0	5.1	6.8	6.7	23.4
Georgia	37.2	41.2	7.0	5.3	4.1	5.2
Hawaii	46.6	32.6	2.1	2.5	2.8	13.3
Idaho	32.3	35.3	8.2	8.6	5.2	10.4
Illinois	29.3	33.5	9.4	6.9	5.5	15.5
Indiana	34.0	41.2	10.6	7.3	2.4	4.5
Iowa	32.8	35.8	4.6	8.3	9.3	9.3
Kansas	35.2	34.6	6.4	7.4	5.1	112.0
Kentucky	27.5	32.0	4.4	6.2	5.9	24.1
Louisiana	33.1	23.6	6.7	10.2	8.5	17.9
Maine	34.7	37.4	3.7	8.2	6.0	9.9
Maryland	24.5	42.7	4.0	7.4	4.4	17.0
Massachusetts	21.0	53.9	9.9	4.8	3.2	7.3
Michigan	34.4	30.7	11.4	4.1	5.1	14.2
Minnesota	28.8	41.1	7.0	5.2	6.3	11.5
Mississippi	47.4	19.2	5.2	9.2	6.5	12.5
Missouri	33.6	39.7	5.1	8.0	8.2	5.4
Montana	0.0	30.5	6.0	14.0	11.8	37.7
Nebraska	34.4	35.5	5.4	11.4	6.7	6.8
Nevada	54.4	0.0	0.0	6.8	10.8	28.0
New Hampshire	0.0	6.2	21.5	12.8	12.9	46.6
New Jersey	30.0	32.9	8.0	3.2	5.2	20.6
New Mexico	41.9	21.0	5.3	7.4	5.4	19.0
New York	20.4	50.9	8.0	1.5	2.9	16.3
North Carolina	25.0	41.5	7.9	8.0	6.2	11.4
North Dakota	28.6	15.4	7.5	9.7	7.9	30.9
Ohio	31.9	37.7	5.2	7.7	7.8	9.8
Oklahoma	26.2	32.8	3.5	7.4	14.3	15.8
Oregon	0.0	63.9	6.8	8.6	13.2	7.5
Pennsylvania	30.7	28.8	9.1	4.1	9.7	17.7
Rhode Island	30.0	37.5	5.6	8.1	5.2	13.6
South Carolina	37.5	35.5	4.9	6.3	7.6	8.2
South Dakota	52.5	0.0	5.2	12.3	12.4	17.6
Tennessee	57.2	1.9	8.6	11.6	9.9	10.9
Texas	50.9	0.0	0.0	10.9	14.3	23.9
Utah	40.2	39.1	6.1	7.1	3.4	4.2

State Tax Distribution by Source (FY1996)

	General Sales & Use	Individual Income	Corporate Income	Motor Fuels	Licenses	All Other
Vermont	21.7	33.4	5.3	7.0	8.5	24.1
Virginia	22.4	48.3	4.1	7.9	4.7	12.5
Washington	58.4	0.0	0.0	6.4	4.7	30.6
West Virginia	28.8	27.1	8.5	7.4	5.6	22.6
Wisconsin	28.2	43.2	6.0	7.0	6.9	8.7
Wyoming	33.7	0.0	0.0	6.9	11.9	47.5
All States (a)	33.3%	32.1%	7.0%	6.2%	6.4%	14.9%
	$139,307	$134,309	$29,425	$25,998	$26,988	$62,579

(a) Does not include the District of Columbia.
Source: Tax Foundation, based on data from the Department of Commerce, Bureau of the Census

Average State/Local Total Tax Rates by State, 1998

	State/Local Taxes as % of Income	State/ Local Rank	Total Taxes as % of Income	Total Rank
Total	11.45%	0	35.45%	0
Hawaii	14.19%	1	35.30%	17
New York	13.60%	2	37.06%	4
Wisconsin	13.52%	3	37.35%	2
Maine	13.34%	4	35.81%	13
Minnesota	13.13%	5	37.19%	3
Connecticut	12.85%	6	39.85%	1
Utah	12.70%	7	36.11%	11
New Mexico	12.38%	8	35.14%	20
Mississippi	12.34%	9	34.69%	31
California	11.99%	10	35.80%	14
Kentucky	11.94%	11	34.59%	33
Rhode Island	11.93%	12	35.89%	12
Vermont	11.92%	13	34.88%	27
Washington	11.77%	14	36.36%	8
Idaho	11.70%	15	34.99%	24
Missouri	11.66%	16	34.96%	25
Arkansas	11.63%	17	34.06%	36
Kansas	11.59%	18	35.40%	15
South Carolina	11.51%	19	35.08%	21
Georgia	11.50%	20	35.28%	18
Nebraska	11.46%	21	35.01%	23
New Jersey	11.40%	22	37.02%	5
Massachusetts	11.39%	23	36.71%	6
Ohio	11.36%	24	35.06%	22
Iowa	11.31%	25	33.66%	39
Nevada	11.27%	26	36.23%	10
Oregon	11.25%	27	34.76%	30
Maryland	11.12%	28	35.20%	19
Delaware	11.11%	29	34.06%	37
Indiana	11.04%	30	34.84%	29
Arizona	11.01%	31	34.85%	28
Illinois	11.00%	32	36.41%	7
Michigan	10.99%	33	36.27%	9
West Virginia	10.81%	34	33.12%	42
Colorado	10.81%	35	34.90%	26
North Carolina	10.77%	36	34.02%	38
Pennsylvania	10.74%	37	34.65%	32
Montana	10.70%	38	33.46%	40
Oklahoma	10.67%	39	32.28%	48
North Dakota	10.67%	40	32.69%	47
Florida	10.65%	41	35.32%	16
South Dakota	10.62%	42	32.91%	44
Texas	10.52%	43	34.19%	34
Virginia	10.32%	44	34.07%	35

Average State/Local Total Tax Rates by State, 1998

	State/Local Taxes as % of Income	State/ Local Rank	Total Taxes as % of Income	Total Rank
Louisiana	10.20%	45	32.72%	46
Alabama	9.47%	46	32.94%	43
Tennessee	8.61%	47	32.73%	45
Wyoming	7.89%	48	33.23%	41
New Hampshire	6.52%	49	31.37%	50
Alaska	6.09%	50	31.74%	49
District of Columbia	18.10%	0	41.04%	0

Source: Tax Foundation

State Sales Tax Rates

January 1, 1999

State	Tax Rates	------Exemptions------ Food	Prescription Drugs	Non-prescription Drugs
ALABAMA	4		*	
ALASKA	none			
ARIZONA	5	*	*	
ARKANSAS	4.625		*	
CALIFORNIA	6	*	*	
COLORADO	3	*	*	
CONNECTICUT	6	*	*	
DELAWARE	none			
FLORIDA	6	*	*	*
GEORGIA	4	*	*	
HAWAII	4		*	
IDAHO	5		*	
ILLINOIS (2)	6.25	1%	1%	1%
INDIANA	5	*	*	
IOWA	5	*	*	
KANSAS	4.9		*	
KENTUCKY	6	*	*	
LOUISIANA	4		*	
MAINE	5.5	*	*	
MARYLAND	5	*	*	*
MASSACHUSETTS	5	*	*	
MICHIGAN	6	*	*	
MINNESOTA (2)	6.5	*	*	*
MISSISSIPPI	7		*	
MISSOURI	4.225	1.225%	*	
MONTANA	none			
NEBRASKA (4)	4.5	*	*	
NEVADA	6.5	*	*	
NEW HAMPSHIRE	none			
NEW JERSEY	6	*	*	*
NEW MEXICO	5		*	
NEW YORK	4	*	*	*
NORTH				

CAROLINA	4		*	
NORTH DAKOTA	5	*	*	
OHIO	5	*	*	
OKLAHOMA	4.5		*	
OREGON	none			
PENNSYLVANIA	6	*	*	*
RHODE ISLAND	7	*	*	*
SOUTH CAROLINA	5		*	
SOUTH DAKOTA	4		*	
TENNESSEE	6		*	
TEXAS	6.25	*	*	
UTAH	4.75		*	
VERMONT	5	*	*	
VIRGINIA	3.5		*	*
WASHINGTON	6.5	*	*	
WEST VIRGINIA	6		*	
WISCONSIN	5	*	*	
WYOMING (3)	4		*	
DIST. OF COLUMBIA	5.75	*	*	*

Source: Compiled by FTA from various sources.
(1) Some state tax food, but allow an (income) tax credit to compensate poor households. They are: ID, KS, SD, VT, and WY.
(2) 1.25% of the tax in IL and 0.5% in MN is distributed to local governments.
(3) Tax rate may be adjusted annually according to a formula based on balances in the unappropriated general fund and the school foundation fund.
(4) Effective 7/1/99, the tax rate will increase to 5%.

State Individual Income Tax Rates

Tax rate for tax year 1999 -- as of January 1, 1999

State	---Tax Rates--- Low	High	# of Brackets	--Income Brackets-- Low	High	---Personal Exemption--- Single	Married	Child.	F
ALABAMA	2.0	5.0	3	500 (b)	3,000 (b)	1,500	3,000	300	
ALASKA	No State Income Tax								
ARIZONA	2.87	5.04	5	10,000 (b)	150,000 (b)	2,100	4,200	2,300	
ARKANSAS	1.0	7.0 (e)	6	2,999	25,000	20 (c)	40 (c)	20 (c)	
CALIFORNIA (a)	1.0	9.3	6	5,131 (b)	33,673 (b)	70 (c)	140 (c)	253 (c)	
COLORADO	5.0		1	-----Flat rate-----		----------None----------			
CONNECTICUT	3.0	4.5	2	6,250 (b)	6,250 (b)	12,000 (f)	24,000 (f)	0	
DELAWARE	2.6	6.4	7	2,000	60,000	100 (c)	200 (c)	100 (c)	
FLORIDA	No State Income Tax								
GEORGIA	1.0	6.0	6	750 (g)	7,000 (g)	1,500	3,000	2,500	
HAWAII (h)	1.6	8.75	8	1,500 (b)	20,500 (b)	1,040	2,080	1,040	
IDAHO	2.0	8.2	8	1,000 (i)	20,000 (i)	2,750 (d)	5,500 (d)	2,750 (d)	
ILLINOIS	3.0		1	-----Flat rate-----		1,650 (j)	3,300 (j)	1,650 (j)	
INDIANA	3.4		1	-----Flat rate-----		1,000	2,000	1,000	
IOWA (a)	0.36	8.98	9	1,148	51,660	40 (c)	80 (c)	40 (c)	
KANSAS	4.1	6.45	3	15,000 (b)	30,000 (b)	2,250	4,500	2,250	
KENTUCKY	2.0	6.0	5	3,000	8,000	20 (c)	40 (c)	20 (c)	
LOUISIANA	2.0	6.0	3	10,000 (b)	50,000 (b)	4,500 (k)	9,000 (k)	1,000 (k)	
MAINE (a)	2.0	8.5	4	4,150 (b)	16,500 (b)	2,750	5,500	2,750	
MARYLAND	2.0	4.85	4	1,000	3,000	1,850	3,700	1,850	
MASSACHUSETTS	5.95		1	-----Flat rate-----		4,400	8,800	1,000	
MICHIGAN (a)	4.4		1	-----Flat rate-----		2,500	5,000	2,500	
MINNESOTA (a)	6.0	8.5	3	17,250 (l)	56,680 (l)	2,550 (d)	5,100 (d)	2,550 (d)	
MISSISSIPPI	3.0	5.0	3	5,000	10,000	6,000	9,500	1,500	
MISSOURI	1.5	6.0	10	1,000	9,000	1,200	2,400	1,200	
MONTANA (a)	2.0	11.0	10	2,000	69,000	1,580	3,160	1,580	
NEBRASKA (a)	2.62	6.99	4	2,400 (n)	26,500 (n)	88 (c)	176 (c)	88 (c)	
NEVADA	No State Income Tax								
NEW HAMPSHIRE	State Income Tax is Limited to Dividends and Interest Income Only.								
NEW JERSEY	1.4	6.37	6	20,000 (o)	75,000 (o)	1,000	2,000	1,500	
NEW MEXICO	1.7	8.2	7	5,500 (p)	65,000 (p)	2,750 (d)	5,500 (d)	2,750 (d)	
NEW YORK	4.0	6.85	5	8,000 (b)	20,000 (b)	0	0	1,000	
NORTH CAROLINA	6.0	7.75	3	12,750 (q)	60,000 (q)	2,750 (d)	5,500 (d)	2,750 (d)	
NORTH DAKOTA	2.67	12.0 (r)	8	3,000	50,000	2,750 (d)	5,500 (d)	2,750 (d)	

OHIO	0.673 - 6.799 (y)	9	5,000 - 200,000	1,050 (s)	2,100 (s)	1,050 (s)
OKLAHOMA	0.5 - 6.75 (t)	8	1,000 - 10,000	1,000	2,000	1,000
OREGON (a)	5.0 - 9.0	3	2,250 (b) - 5,700 (b)	124 (c)	248 (c)	124 (c)
PENNSYLVANIA	2.8	1	-----Flat rate-----	----------None----------		
RHODE ISLAND	27.5% Federal tax liability		---	---	---	---
SOUTH CAROLINA (a)	2.5 - 7.0	6	2,310 - 11,550	2,750 (d)	5,500 (d)	2,750 (d)
SOUTH DAKOTA	No State Income Tax					
TENNESSEE	State Income Tax is Limited to Dividends and Interest Income Only.					
TEXAS	No State Income Tax					
UTAH	2.30 - 7.0	6	750 (b) - 3,750 (b)	2,063 (d)	4,125 (d)	2,063 (d)
VERMONT	25% Federal tax liability (w)			---	---	---
VIRGINIA	2.0 - 5.75	4	3,000 - 17,000	800	1,600	800
WASHINGTON	No State Income Tax					
WEST VIRGINIA	3.0 - 6.5	5	10,000 (b) - 60,000 (b)	2,000	4,000	2,000
WISCONSIN	4.77 - 6.77 (x)	3	7,500 - 15,001	0	0	50 (c)
WYOMING	No State Income Tax					
DIST. OF COLUMBIA	6.0 - 9.5	3	10,000 - 20,000	1,370	2,740	1,370

Source: The Federation of Tax Administrators from various sources.

(a) Seven states have statutory provision for automatic adjustment of tax brackets, personal exemption or standard deductions to the rate of inflation. Nebraska indexes the personal exemption amounts only.
(b) For joint returns, the taxes are twice the tax imposed on half the income.
(c) tax credits.
(d) These states allow personal exemption or standard deductions as provided in the IRC. Utah allows a personal exemption equal to three-fourths the federal exemptions.
(e) A special tax table is available for low income taxpayers reducing their tax payments.
(f) Combined personal exemptions and standard deduction. An additional tax credit is allowed ranging from 75% to 0% based on state adjusted gross income. Exemption amounts are phased out for higher income taxpayers until they are eliminated for households earning over $52,500.
(g) The tax brackets reported are for single individuals. For married households filing separately, the same rates apply to income brackets ranging from $500 to $5,000; and the income brackets range from $1,000 to $10,000 for joint filers.
(h) For tax years beginning after 2000, the tax rates range from 1.5% to 8.5% for the same tax brackets.
(i) For joint returns, the tax is twice the tax imposed on half the income. A $10 filing tax is charge for each return and a $15 credit is allowed for each exemption.
(j) For tax years beginning in 2000, the personal exemption amounts increase to $2,000.
(k) Combined personal exemption and standard deduction.
(l) The tax brackets reported are for single. For married taxpayers filing jointly, the same rates apply to income brackets ranging from $25,220 to $100,200 and. An addition 0.5% tax is applied to certain income levels.
(m) Limited to $10,000 for joint returns and $5,000 for individuals.
(n) The tax brackets reported are for single individual. For married couples filing jointly, the same rates apply for income under $4,000 to over $46,750.

(o) The tax brackets reported are for single individuals. A separate schedule is provided for married households filing jointly which ranges from 1.4% under $20,000 to 6.37% for income over $150,000.
(p) The tax brackets reported are for single individuals. For married individuals filing jointly, the rate ranges from 1.7% under $8,000 to 8.2% over $100,000. Married households filing separately pay the tax imposed on half the income.
(q) The tax brackets reported are for single individuals. For married taxpayers, the same rates apply to income brackets ranging from $21,250 to $100,000. An additional middle income tax credit is allowed.
(r) Taxpayers have the option of paying 14% of the adjusted federal income tax liability, without a deduction of federal taxes. And additional $300 personal exemption is allowed for joint returns or unmarried head of households.
(s) Plus an additional $20 per exemption tax credit.
(t) The rate range reported is for single persons not deducting federal income tax. For married persons filing jointly, the same rates apply to income brackets ranging from $2,000 to $21,000. Separate schedules, with rates ranging from 0.5% to 10%, apply to taxpayers deducting federal income taxes.
(u) Limited to $3,000.
(v) One half of the federal income taxes are deductible.
(w) If Vermont tax liability for any taxable year exceeds the tax liability determinable under federal tax law in effect on December 31, 1995, the taxpayer will be entitled to a credit of 106% of the excess tax.
(x) The tax brackets reported are for single individuals. For married taxpayers, the same rates apply to income brackets ranging from $10,000 to $20,000.
(y) Rate shown are for tax year 1998, the 1999 rates will not be determined until July, 1999.

State Corporate Income Tax Rates

Tax rate for tax year 1999 -- as of January 1, 1999

State	Tax Rates	Tax Brackets	# of Brackets	Bank Tax Rates	Federal Tax Deductible
ALABAMA	5.0	----Flat Rate----	1	6.0	*
ALASKA	1.0 - 9.4	10,000 90,000	10	1.0 - 9.4	
ARIZONA	8.0 (b)	----Flat Rate----	1	8.0 (b)	
ARKANSAS	1.0 - 6.5	3,000 100,000	6	1.0 - 6.5	
CALIFORNIA	8.84 (c)	----Flat Rate----	1	10.84 (c)	
COLORADO	5.0	----Flat Rate----	1	5.0	
CONNECTICUT	8.5 (d)	----Flat Rate----	1	8.5 (d)	
DELAWARE	8.7	----Flat Rate----	1	8.7-1.7 (e)	
FLORIDA	5.5 (f)	----Flat Rate----	1	5.5 (f)	
GEORGIA	6.0	----Flat Rate----	1	6.0	
HAWAII	4.4 - 6.4 (g)	25,000 100,000	3	7.92 (g)	
IDAHO	8.0 (h)	----Flat Rate----	1	8.0 (h)	
ILLINOIS	7.3 (i)	----Flat Rate----	1	7.3 (i)	
INDIANA	7.9 (j)	----Flat Rate----	1	7.9 (j)	
IOWA	6.0 - 12.0	25,000 250,000	4	5.0	* (k)
KANSAS	4.0 (l)	----Flat Rate----	1	2.25 (l)	
KENTUCKY	4.0 - 8.25	25,000 250,000	5	--- (a)	
LOUISIANA	4.0 - 8.0	25,000 200,000	5	--- (a)	*
MAINE	3.5 - 8.93 (m)	25,000 250,000	4	1.0	
MARYLAND	7.0	----Flat Rate----	1	7.0	
MASSACHUSETTS	9.5 (n)	----Flat Rate----	1	10.5 (n)	
MINNESOTA	9.8 (o)	----Flat Rate----	1	9.8 (o)	
MISSISSIPPI	3.0 - 5.0	5,000 10,000	3	--- (a)	
MISSOURI	6.25	----Flat Rate----	1	7.0	* (k)
MONTANA	6.75 (p)	----Flat Rate----	1	6.75 (p)	
NEBRASKA	5.58 - 7.81	50,000	2	--- (a)	
NEW HAMPSHIRE	7.0 (q)	----Flat Rate----	1	7.0 (q)	
NEW JERSEY	9.0 (r)	----Flat Rate----	1	9 (r)	
NEW MEXICO	4.8 - 7.6	500,000 1 million	3	4.8 - 7.6	
NEW YORK	9.0 (s)	----Flat Rate----	1	9.0 (s)	
NORTH CAROLINA	7.0 (t)	----Flat Rate----	1	7.0 (t)	
NORTH DAKOTA	3.0 - 10.5	3,000 50,000	6	7 (b)	*
OHIO	5.1 - 8.5 (u)	50,000	2	--- (u)	
OKLAHOMA	6.0	----Flat Rate----	1	6.0	

OREGON	6.6 (b)	----Flat Rate----		1	6.6 (b)
PENNSYLVANIA	9.99	----Flat Rate----		1	--- (a)
RHODE ISLAND	9.0	----Flat Rate----		1	9.0 (v)
SOUTH CAROLINA	5.0	----Flat Rate----		1	4.5 (w)
SOUTH DAKOTA	---				6.0-1.0% (b)
TENNESSEE	6.0	----Flat Rate----		1	6.0
UTAH	5.0 (b)	----Flat Rate----			5.0 (b)
VERMONT	7.0 - 9.75 (b)	10,000	250,000	4	7.0 - 9.75 (b)
VIRGINIA	6.0	----Flat Rate----		1	6.0 (x)
WEST VIRGINIA	9.0	----Flat Rate----		1	9.0
WISCONSIN	7.9	----Flat Rate----		1	7.9
DIST. OF COLUMBIA	9.975 (y)	----Flat Rate----			9.975 (y)

Source: Compiled by FTA from various sources

Note: Michigan imposes a single business tax (sometimes described as a business activities tax or value added tax) of 2.3% on the sum of federal taxable income of the business, compensation paid to employees, dividends, interest, royalties paid and other items. Similarly, Texas imposes a franchise tax of 4.5% of earned surplus. Nevada, Washington, and Wyoming do not have state corporate income taxes.
(a) Rates listed include the corporate tax rate applied to financial institutions or excise taxes based on income. Some states have other taxes based upon the value of deposits or shares.
(b) Minimum tax is $50 in Arizona, $50 in North Dakota (banks), $10 in Oregon, $250 in Rhode Island, $500 per location in South Dakota (banks), $100 in Utah, $150 in Vermont.
(c) Minimum tax is $800. The tax rate on S-Corporations is 1.5% (3.5% for banks).
(d) Or 3.1 mills per dollar of capital stock and surplus (maximum tax $1 million) or $250. Tax rate is scheduled to fall to 7.5% after 1999.
(e) The marginal rate decreases over 4 brackets ranging from $20 to $650 million in taxable income. Building and loan associations are taxed at a flat 8.7%.
(f) Or 3.3% Alternative Minimum Tax. An exemption of $5,000 is allowed.
(g) Capital gains are taxed at 4%. There is also an alternative tax of 0.5% of gross annual sales.
(h) Minimum tax is $20. An additional tax of $10 is imposed on each return.
(i) Includes a 2.5% personal property replacement tax.
(j) Consists of 3.4% on income from sources within the state plus a 4.5% supplemental income tax.
(k) Fifty percent of the federal income tax is deductible.
(l) Plus a surtax of 3.35% (2.125% for banks) taxable income in excess of $50,000 ($25,000).
(m) Or a 27% tax on Federal Alternative Minimum Taxable Income.
(n) Rate includes a 14% surtax, as does the following: an additional tax of $7.00 per $1,000 on taxable tangible property (or net worth allocable to state, for intangible property corporations); minimum tax of $456.
(o) Plus a 5.8% tax on any Alternative Minimum Taxable Income over the base tax.
(p) A 7% tax on taxpayers using water's edge combination. Minimum tax is $100; for small business corporations, $10.
(q) Plus a 0.25 percent tax on the enterprise base (total compensation, interest and dividends paid). Business profits tax imposed on both corporations and unincorporated associations.
(r) The rate reported in the table is the business franchise tax rate. The minimum tax is $200. Corporations not subject to the franchise tax are subject to a 7.25% income tax. Banks other than savings institutions are

subject to the franchise tax. S-Corporation are subject to an entity level tax of 2.0%.
(s) Or 1.78 (0.1 for banks) mills per dollar of capital (up to $350,000; or 3.25% (3% after 7/1/99) (3% for banks) of the minimum taxable income; or a minimum of $100 to $1,500 depending on payroll size ($250 plus 2.5% surtax for banks); if any of these is greater than the tax computed on net income. An addition tax of 0.9 mills per dollar of subsidiary capital is imposed on corporations. Small businesses with income under $200,000 pay tax of 8% of income.
(t) Financial institutions are also subject to a Franchise tax equal to $30 per one million in assets. The tax rate for tax years after 1999 6.90%.
(u) Or 4.0 mills time the value of the taxpayer's issued and outstanding share of stock witha maximum payment of $150,000. An additional litter tax is imposed equal to 0.11% on the first $50,000 of taxable income, 0.22% on income over $50,000; or 0.14 mills on net worth.
(v) For banks, the alternative tax is $2.50 per $10,000 of capital stock ($100 minimum).
(w) Savings and Loans are taxed at a 6% rate.
(x) State and national banks subject to the state's franchise tax on net capital is exempt from the income tax.
(y) Plus a 5.0% surtax is also imposed. Minimum tax is $100.

Motor Fuel Excise Tax Rates

January 1, 1999

Note: The tax rates listed are fuel excise taxes collected by distributor/supplier/retailers in each state. Additional taxes may apply to motor carriers. For information of carrier taxes, see the IFTA, Inc. Home Page.

	----Gasoline----			----Diesel Fuel----			----Gasohol----			
State	Excise Tax	Add'l Tax	Total Tax	Excise Tax	Add'l Tax	Total Tax	Excise Tax	Add'l Tax	Total Tax	Notes
Alabama	16.0	2.0	18.0	17.0	2.0	19.0	16.0	2.0	18.0	Inspection fee
Alaska	8.0		8.0	8.0		8.0	0.0		0.0	
Arizona	18.0		18.0	18.0		18.0	18.0		18.0	/3
Arkansas	18.5	0.2	18.7	18.5	0.2	18.7	18.5	0.2	18.7	Environment surcharge
California /1	18.0		18.0	18.0		18.0	18.0		18.0	Sales tax applicable
Colorado	22.0		22.0	20.5		20.5	22.0		22.0	
Connecticut	32.0		32.0	18.0		18.0	31.0		31.0	
Delaware	23.0		23.0	22.0		22.0	23.0		23.0	Plus 0.5% GRT /5
Florida /1	4.0	9.1	13.1	16.0	9.1	25.1	4.0	9.1	13.1	Sales tax added to excise /2
Georgia	7.5		7.5	7.5		7.5	7.5		7.5	Sales tax applicable (3%)
Hawaii /1	16.0		16.0	16.0		16.0	16.0		16.0	Sales tax applicable
Idaho	25.0	1	26.0	25.0	1	26.0	22.5	1	23.5	Clean water tax /7
Illinois /1	19.0	0.3	19.3	21.5		21.5	19.0		19.0	Sales tax appl., env. fee /3
Indiana	15.0		15.0	16.0		16.0	15.0		15.0	Sales tax applicable /3
Iowa	20.0		20.0	22.5		22.5	19.0		19.0	
Kansas	18.0		18.0	20.0		20.0	18.0		18.0	
Kentucky	15.0	1.4	16.4	12.0	1.4	13.4	15.0	1.4	16.4	Environmental fee /4 /3
Louisiana	20.0		20.0	20.0		20.0	20.0		20.0	
Maine	19.0		19.0	20.0		20.0	19.0		19.0	
Maryland	23.5		23.5	24.25		24.3	23.5		23.5	
Massachusetts	21.0		21.0	21.0		21.0	21.0		21.0	/4
Michigan	19.0		19.0	15.0		15.0	19.0		19.0	Sales tax applicable
Minnesota	20.0		20.0	20.0		20.0	20.0		20.0	
Missisippi	18.0	0.4	18.4	18.0	0.4	18.4	18.0	0.4	18.4	Environmental fee
Missouri	17.0	0.05	17.05	17.0	0.05	17.05	15.0	0.05	15.05	Inspection fee
Montana	27.0		27.0	27.75		27.75	27.0		27.0	
Nebraska	23.5	0.9	24.4	23.5	0.9	24.4	23.9	0.9	24.8	Petroleum fee /5
Nevada /1	24.0		24.00	27.0		27.0	24.0		24.00	

New Hampshire	18.0	0.7	18.7	18.0	0.7	18.7	18.0	0.7	18.7	Oil discharge cleanup fee
New Jersey	10.5		10.5	13.5		13.5	10.5		10.5	Plus a 2.75% GRT
New Mexico	17.0	1.0	18.0	18.0	1.0	19.0	17.0	1.0	18.0	Petroeum loading fee
New York	8.0		8.0	8.0		8.0	8.0		8.0	Sales tax applicable /3, /4
North Carolina	21.6		21.6	21.6		21.6	21.6		21.6	/4
North Dakota	20.0		20.0	20.0		20.0	20.0		20.0	
Ohio	22.0		22.0	22.0		22.0	22.0		22.0	Plus 3 cents commerical
Oklahoma	16.0	1.0	17.0	13.0	1.0	14.0	16.0	1.0	17.0	Environmental fee
Oregon /1	24.0		24.0	24.0		24.0	24.0		24.0	
Pennsylvania	12.0	18.77	30.77	12.0	18.77	30.77	12.0	18.77	30.77	Oil franchise tax /3
Rhode Island	28.0	1	29.0	28.0	1	29.0	28.0	1	29.0	LUST tax
South Carolina	16.0		16.0	16.0		16.0	16.0		16.0	
South Dakota /1	21.0		21.0	21.0		21.0	19.0		19.0	
Tennessee /1	20.0	1.0	21.0	17.0	1.0	18.0	20.0	1.0	21.0	Special petroleum tax
Texas	20.0		20.0	20.0		20.0	20.0		20.0	
Utah	24.5	0.25	24.75	19.0	0.25	19.25	24.5	0.25	24.75	
Vermont	19.0	1.0	20.0	16.0	1.0	17.0	19.0	1.0	20.0	Petroleum cleanup fee /6
Virginia /1	17.5		17.5	16.0		16.0	17.5		17.5	/6
Washington	23.0		23.0	23.0		23.0	23.0		23.0	0.5% privilege tax
West Virginia	20.5	4.85	25.35	20.5	4.85	25.35	20.5	4.85	25.35	Sales tax added to excise
Wisconsin /5	25.4		25.4	25.4		25.4	25.4		25.4	/5
Wyoming	13.0	1	14.0	13.0	1	14.0	13.0	1	14.0	LUST tax
Dist. of Columbia	20.0		20.0	20.0		20.0	20.0		20.0	
Federal	18.3		18.3	24.3		24.3	13.0		13.0	/7

SOURCE: Compiled by FTA from various sources.

/1 Tax rates do not include local option taxes. In AL, 1 - 3 cents; CA, 1 cent; HI, 8 to 11.5 cent; IL, 5 cents in Chicago and 6 cents in Cook county (gasoline only); NV, 1 to 10 cents; OR, 1 to 2 cents; SD and TN, 1 cent; and VA 2%.

/2 Local taxes for gasoline and gasohol vary from 5.5 cents to 17 cents. Plus a 2.07 cent per gallon pollution tax.

/3 Carriers pay an additional surcharge equal to AZ-8 cents, IL-6.3 cents (g) 6.0 cents (d), IN-11 cents, KY-2% (g) 4.7% (d), NY-22.21 (g) 23.21 (d), PA-6 cents.

/4 Tax rate is based on the average wholesale price and is adjusted quarterly. The actual rates are: KY, 9%; MA, 19.1%; and NC, 17 cents + 7%.

/5 Portion of the rate is adjustable based on maintenance costs, sales volume, or cost of fuel to state government.

/6 Large trucks pay a higher tax, VT-total 25 cents per gallon, VA-additional 3.5 cents.

/7 Tax rate is reduced by the percentage of ethanol used in blending (reported rate assumes the max. 10% ethanol).

State Tax Collections Per Capita and Per $1,000 of Personal Income (FY1996)

	Total ($ Millions)	Per Capita	Per $1,000 Personal Income	Rank Per Capita	Rank Per $1,000 Personal Income
Alabama	$5,257.8	$1,230	$61.12	46	35
Alaska	1,519.1	2,506	102.57	3	2
Arizona	6,409.4	1,447	67.76	30	27
Arkansas	3,708.7	1,478	77.94	27	13
California	57,746.7	1,811	71.47	12	21
Colorado	4,820.2	1,261	49.06	45	49
Connecticut	7,830.2	2,392	70.60	4	22
Delaware	1,688.3	2,329	84.02	5	7
District of Columbia	2,480.7	4,567	133.81	1	1
Florida	19,699.3	1,368	56.47	41	44
Georgia	10,292.4	1,400	60.92	37	36
Hawaii	3,069.3	2,592	102.07	2	3
Idaho	1,857.0	1,562	78.72	20	12
Illinois	17,277.3	1,458	54.32	28	45
Indiana	8,437.0	1,444	63.92	31	30
Iowa	4,440.5	1,557	69.81	21	23
Kansas	3,978.8	1,547	66.77	23	28
Kentucky	6,489.3	1,671	84.40	16	5
Louisiana	4,906.3	1,128	57.35	48	43
Maine	1,896.6	1,526	72.60	25	19
Maryland	8,166.7	1,610	58.31	18	41
Massachusetts	12,453.4	2,044	68.61	7	26
Michigan	19,128.7	1,994	79.93	8	10
Minnesota	10,055.5	2,159	84.13	6	6
Mississippi	3,862.5	1,422	80.92	35	9
Missouri	7,300.1	1,362	59.17	42	40
Montana	1,256.4	1,429	74.36	33	16
Nebraska	2,369.5	1,434	62.58	32	34
Nevada	2,889.3	1,802	69.29	13	24
New Hampshire	837.1	720	27.06	51	51
New Jersey	14,384.9	1,801	57.47	14	42
New Mexico	3,060.6	1,787	95.00	15	4
New York	34,150.0	1,878	64.35	10	29
North Carolina	11,882.3	1,623	73.08	17	18
North Dakota	985.3	1,530	74.88	24	15
Ohio	15,649.5	1,401	59.71	36	39
Oklahoma	4,617.8	1,399	71.58	38	20
Oregon	4,415.7	1,378	59.73	40	38
Pennsylvania	18,725.0	1,553	62.62	22	33
Rhode Island	1,549.2	1,565	63.67	19	31
South Carolina	5,113.0	1,382	69.20	39	25
South Dakota	730.3	998	47.72	50	50
Tennessee	6,184.6	1,163	52.97	47	46
Texas	21,259.1	1,111	49.88	49	48

State Tax Collections Per Capita and Per $1,000 of Personal Income (FY1996)

	Total ($ Millions)	Per Capita	Per $1,000 Personal Income	Rank Per Capita	Rank Per $1,000 Personal Income
Utah	2,914.0	1,457	74.34	29	17
Vermont	841.0	1,428	63.58	34	32
Virginia	8,900.4	1,333	52.88	43	47
Washington	10,586.5	1,913	75.97	9	14
West Virginia	2,770.9	1,517	83.57	26	8
Wisconsin	9,616.8	1,864	79.92	11	11
Wyoming	626.0	1,301	60.36	44	37
All States (a)	$418,606.1	$1,581	64.79		

(a) Does not include the District of Columbia.

Source: Tax Foundation, based on data from the Department of Commerce, Bureau of the Census and Bureau of Economic Analysis

State Tax Distribution by Source (FY1996)

	General Sales & Use	Individual Income	Corporate Income	Motor Fuels	Licenses	All Other
Alabama	27.4%	30.0%	4.1%	8.8%	8.0%	21.6%
Alaska	0.0	0.0	21.5	2.5	5.2	70.8
Arizona	42.4	23.3	7.0	7.8	6.1	13.4
Arkansas	37.1	31.3	6.2	8.9	5.8	10.7
California	32.9	36.0	10.1	4.7	5.3	11.1
Colorado	27.4	47.2	4.3	9.2	5.3	6.6
Connecticut	31.2	33.4	8.2	6.4	4.2	16.6
Delaware	0.0	37.4	9.8	5.6	31.6	15.6
District of Columbia	18.8	27.8	6.2	1.2	2.0	44.0
Florida	58.0	0.0	5.1	6.8	6.7	23.4
Georgia	37.2	41.2	7.0	5.3	4.1	5.2
Hawaii	46.6	32.6	2.1	2.5	2.8	13.3
Idaho	32.3	35.3	8.2	8.6	5.2	10.4
Illinois	29.3	33.5	9.4	6.9	5.5	15.5
Indiana	34.0	41.2	10.6	7.3	2.4	4.5
Iowa	32.8	35.8	4.6	8.3	9.3	9.3
Kansas	35.2	34.6	6.4	7.4	5.1	112.0
Kentucky	27.5	32.0	4.4	6.2	5.9	24.1
Louisiana	33.1	23.6	6.7	10.2	8.5	17.9
Maine	34.7	37.4	3.7	8.2	6.0	9.9
Maryland	24.5	42.7	4.0	7.4	4.4	17.0
Massachusetts	21.0	53.9	9.9	4.8	3.2	7.3
Michigan	34.4	30.7	11.4	4.1	5.1	14.2
Minnesota	28.8	41.1	7.0	5.2	6.3	11.5
Mississippi	47.4	19.2	5.2	9.2	6.5	12.5
Missouri	33.6	39.7	5.1	8.0	8.2	5.4
Montana	0.0	30.5	6.0	14.0	11.8	37.7
Nebraska	34.4	35.5	5.4	11.4	6.7	6.8
Nevada	54.4	0.0	0.0	6.8	10.8	28.0
New Hampshire	0.0	6.2	21.5	12.8	12.9	46.6
New Jersey	30.0	32.9	8.0	3.2	5.2	20.6
New Mexico	41.9	21.0	5.3	7.4	5.4	19.0
New York	20.4	50.9	8.0	1.5	2.9	16.3
North Carolina	25.0	41.5	7.9	8.0	6.2	11.4
North Dakota	28.6	15.4	7.5	9.7	7.9	30.9
Ohio	31.9	37.7	5.2	7.7	7.8	9.8
Oklahoma	26.2	32.8	3.5	7.4	14.3	15.8
Oregon	0.0	63.9	6.8	8.6	13.2	7.5
Pennsylvania	30.7	28.8	9.1	4.1	9.7	17.7
Rhode Island	30.0	37.5	5.6	8.1	5.2	13.6
South Carolina	37.5	35.5	4.9	6.3	7.6	8.2
South Dakota	52.5	0.0	5.2	12.3	12.4	17.6
Tennessee	57.2	1.9	8.6	11.6	9.9	10.9
Texas	50.9	0.0	0.0	10.9	14.3	23.9
Utah	40.2	39.1	6.1	7.1	3.4	4.2

State Tax Distribution by Source (FY1996)

	General Sales & Use	Individual Income	Corporate Income	Motor Fuels	Licenses	All Other
Vermont	21.7	33.4	5.3	7.0	8.5	24.1
Virginia	22.4	48.3	4.1	7.9	4.7	12.5
Washington	58.4	0.0	0.0	6.4	4.7	30.6
West Virginia	28.8	27.1	8.5	7.4	5.6	22.6
Wisconsin	28.2	43.2	6.0	7.0	6.9	8.7
Wyoming	33.7	0.0	0.0	6.9	11.9	47.5
All States (a)	33.3%	32.1%	7.0%	6.2%	6.4%	14.9%
	$139,307	$134,309	$29,425	$25,998	$26,988	$62,579

(a) Does not include the District of Columbia.
Source: Tax Foundation, based on data from the Department of Commerce, Bureau of the Census

Average State/Local Total Tax Rates by State, 1998

	State/Local Taxes as % of Income	State/ Local Rank	Total Taxes as % of Income	Total Rank
Total	11.45%	0	35.45%	0
Hawaii	14.19%	1	35.30%	17
New York	13.60%	2	37.06%	4
Wisconsin	13.52%	3	37.35%	2
Maine	13.34%	4	35.81%	13
Minnesota	13.13%	5	37.19%	3
Connecticut	12.85%	6	39.85%	1
Utah	12.70%	7	36.11%	11
New Mexico	12.38%	8	35.14%	20
Mississippi	12.34%	9	34.69%	31
California	11.99%	10	35.80%	14
Kentucky	11.94%	11	34.59%	33
Rhode Island	11.93%	12	35.89%	12
Vermont	11.92%	13	34.88%	27
Washington	11.77%	14	36.36%	8
Idaho	11.70%	15	34.99%	24
Missouri	11.66%	16	34.96%	25
Arkansas	11.63%	17	34.06%	36
Kansas	11.59%	18	35.40%	15
South Carolina	11.51%	19	35.08%	21
Georgia	11.50%	20	35.28%	18
Nebraska	11.46%	21	35.01%	23
New Jersey	11.40%	22	37.02%	5
Massachusetts	11.39%	23	36.71%	6
Ohio	11.36%	24	35.06%	22
Iowa	11.31%	25	33.66%	39
Nevada	11.27%	26	36.23%	10
Oregon	11.25%	27	34.76%	30
Maryland	11.12%	28	35.20%	19
Delaware	11.11%	29	34.06%	37
Indiana	11.04%	30	34.84%	29
Arizona	11.01%	31	34.85%	28
Illinois	11.00%	32	36.41%	7
Michigan	10.99%	33	36.27%	9
West Virginia	10.81%	34	33.12%	42
Colorado	10.81%	35	34.90%	26
North Carolina	10.77%	36	34.02%	38
Pennsylvania	10.74%	37	34.65%	32
Montana	10.70%	38	33.46%	40
Oklahoma	10.67%	39	32.28%	48
North Dakota	10.67%	40	32.69%	47
Florida	10.65%	41	35.32%	16
South Dakota	10.62%	42	32.91%	44
Texas	10.52%	43	34.19%	34
Virginia	10.32%	44	34.07%	35

Average State/Local Total Tax Rates by State, 1998

	State/Local Taxes as % of Income	State/ Local Rank	Total Taxes as % of Income	Total Rank
Louisiana	10.20%	45	32.72%	46
Alabama	9.47%	46	32.94%	43
Tennessee	8.61%	47	32.73%	45
Wyoming	7.89%	48	33.23%	41
New Hampshire	6.52%	49	31.37%	50
Alaska	6.09%	50	31.74%	49
District of Columbia	18.10%	0	41.04%	0

Source: Tax Foundation

State Sales Tax Rates

January 1, 1999

State	Tax Rates	------Exemptions------ Food	Prescription Drugs	Non-prescription Drugs
ALABAMA	4		*	
ALASKA	none			
ARIZONA	5	*	*	
ARKANSAS	4.625		*	
CALIFORNIA	6	*	*	
COLORADO	3	*	*	
CONNECTICUT	6	*	*	
DELAWARE	none			
FLORIDA	6	*	*	*
GEORGIA	4	*	*	
HAWAII	4		*	
IDAHO	5		*	
ILLINOIS (2)	6.25	1%	1%	1%
INDIANA	5	*	*	
IOWA	5	*	*	
KANSAS	4.9		*	
KENTUCKY	6	*	*	
LOUISIANA	4		*	
MAINE	5.5	*	*	
MARYLAND	5	*	*	*
MASSACHUSETTS	5	*	*	
MICHIGAN	6	*	*	
MINNESOTA (2)	6.5	*	*	*
MISSISSIPPI	7		*	
MISSOURI	4.225	1.225%	*	
MONTANA	none			
NEBRASKA (4)	4.5	*	*	
NEVADA	6.5	*	*	
NEW HAMPSHIRE	none			
NEW JERSEY	6	*	*	*
NEW MEXICO	5		*	
NEW YORK	4	*	*	*
NORTH				

CAROLINA	4		*	
NORTH DAKOTA	5	*	*	
OHIO	5	*	*	
OKLAHOMA	4.5		*	
OREGON	none			
PENNSYLVANIA	6	*	*	*
RHODE ISLAND	7	*	*	*
SOUTH CAROLINA	5		*	
SOUTH DAKOTA	4		*	
TENNESSEE	6		*	
TEXAS	6.25	*	*	
UTAH	4.75		*	
VERMONT	5	*	*	
VIRGINIA	3.5		*	*
WASHINGTON	6.5	*	*	
WEST VIRGINIA	6		*	
WISCONSIN	5	*	*	
WYOMING (3)	4		*	
DIST. OF COLUMBIA	5.75	*	*	*

Source: Compiled by FTA from various sources.
(1) Some state tax food, but allow an (income) tax credit to compensate poor households. They are: ID, KS, SD, VT, and WY.
(2) 1.25% of the tax in IL and 0.5% in MN is distributed to local governments.
(3) Tax rate may be adjusted annually according to a formula based on balances in the unappropriated general fund and the school foundation fund.
(4) Effective 7/1/99, the tax rate will increase to 5%.

State Individual Income Tax Rates

Tax rate for tax year 1999 -- as of January 1, 1999

State	---Tax Rates--- Low	High	# of Brackets	--Income Brackets-- Low	High	---Personal Exemption--- Single	Married	Child.	F
ALABAMA	2.0 -	5.0	3	500 (b) -	3,000 (b)	1,500	3,000	300	
ALASKA	No State Income Tax								
ARIZONA	2.87 -	5.04	5	10,000 (b) -	150,000 (b)	2,100	4,200	2,300	
ARKANSAS	1.0 -	7.0 (e)	6	2,999 -	25,000	20 (c)	40 (c)	20 (c)	
CALIFORNIA (a)	1.0 -	9.3	6	5,131 (b) -	33,673 (b)	70 (c)	140 (c)	253 (c)	
COLORADO	5.0		1	-----Flat rate-----		----------None----------			
CONNECTICUT	3.0 -	4.5	2	6,250 (b) -	6,250 (b)	12,000 (f)	24,000 (f)	0	
DELAWARE	2.6 -	6.4	7	2,000 -	60,000	100 (c)	200 (c)	100 (c)	
FLORIDA	No State Income Tax								
GEORGIA	1.0 -	6.0	6	750 (g) -	7,000 (g)	1,500	3,000	2,500	
HAWAII (h)	1.6 -	8.75	8	1,500 (b) -	20,500 (b)	1,040	2,080	1,040	
IDAHO	2.0 -	8.2	8	1,000 (i) -	20,000 (i)	2,750 (d)	5,500 (d)	2,750 (d)	
ILLINOIS	3.0		1	-----Flat rate-----		1,650 (j)	3,300 (j)	1,650 (j)	
INDIANA	3.4		1	-----Flat rate-----		1,000	2,000	1,000	
IOWA (a)	0.36 -	8.98	9	1,148 -	51,660	40 (c)	80 (c)	40 (c)	
KANSAS	4.1 -	6.45	3	15,000 (b) -	30,000 (b)	2,250	4,500	2,250	
KENTUCKY	2.0 -	6.0	5	3,000 -	8,000	20 (c)	40 (c)	20 (c)	
LOUISIANA	2.0 -	6.0	3	10,000 (b) -	50,000 (b)	4,500 (k)	9,000 (k)	1,000 (k)	
MAINE (a)	2.0 -	8.5	4	4,150 (b) -	16,500 (b)	2,750	5,500	2,750	
MARYLAND	2.0 -	4.85	4	1,000 -	3,000	1,850	3,700	1,850	
MASSACHUSETTS	5.95		1	-----Flat rate-----		4,400	8,800	1,000	
MICHIGAN (a)	4.4		1	-----Flat rate-----		2,500	5,000	2,500	
MINNESOTA (a)	6.0 -	8.5	3	17,250 (l) -	56,680 (l)	2,550 (d)	5,100 (d)	2,550 (d)	
MISSISSIPPI	3.0 -	5.0	3	5,000 -	10,000	6,000	9,500	1,500	
MISSOURI	1.5 -	6.0	10	1,000 -	9,000	1,200	2,400	1,200	
MONTANA (a)	2.0 -	11.0	10	2,000 -	69,000	1,580	3,160	1,580	
NEBRASKA (a)	2.62 -	6.99	4	2,400 (n) -	26,500 (n)	88 (c)	176 (c)	88 (c)	
NEVADA	No State Income Tax								
NEW HAMPSHIRE	State Income Tax is Limited to Dividends and Interest Income Only.								
NEW JERSEY	1.4 -	6.37	6	20,000 (o) -	75,000 (o)	1,000	2,000	1,500	
NEW MEXICO	1.7 -	8.2	7	5,500 (p) -	65,000 (p)	2,750 (d)	5,500 (d)	2,750 (d)	
NEW YORK	4.0 -	6.85	5	8,000 (b) -	20,000 (b)	0	0	1,000	
NORTH CAROLINA	6.0 -	7.75	3	12,750 (q) -	60,000 (q)	2,750 (d)	5,500 (d)	2,750 (d)	
NORTH DAKOTA	2.67 -	12.0 (r)	8	3,000 -	50,000	2,750 (d)	5,500 (d)	2,750 (d)	

OHIO	0.673 - 6.799 (y)	9	5,000 - 200,000	1,050 (s)	2,100 (s)	1,050 (s)	
OKLAHOMA	0.5 - 6.75 (t)	8	1,000 - 10,000	1,000	2,000	1,000	
OREGON (a)	5.0 - 9.0	3	2,250 (b) - 5,700 (b)	124 (c)	248 (c)	124 (c)	
PENNSYLVANIA	2.8	1	-----Flat rate-----	----------None----------			
RHODE ISLAND	27.5% Federal tax liability		---	---	---	---	
SOUTH CAROLINA (a)	2.5 - 7.0	6	2,310 - 11,550	2,750 (d)	5,500 (d)	2,750 (d)	
SOUTH DAKOTA	No State Income Tax						
TENNESSEE	State Income Tax is Limited to Dividends and Interest Income Only.						
TEXAS	No State Income Tax						
UTAH	2.30 - 7.0	6	750 (b) - 3,750 (b)	2,063 (d)	4,125 (d)	2,063 (d)	
VERMONT	25% Federal tax liability (w)			---	---	---	
VIRGINIA	2.0 - 5.75	4	3,000 - 17,000	800	1,600	800	
WASHINGTON	No State Income Tax						
WEST VIRGINIA	3.0 - 6.5	5	10,000 (b) - 60,000 (b)	2,000	4,000	2,000	
WISCONSIN	4.77 - 6.77 (x)	3	7,500 - 15,001	0	0	50 (c)	
WYOMING	No State Income Tax						
DIST. OF COLUMBIA	6.0 - 9.5	3	10,000 - 20,000	1,370	2,740	1,370	

Source: The Federation of Tax Administrators from various sources.

(a) Seven states have statutory provision for automatic adjustment of tax brackets, personal exemption or standard deductions to the rate of inflation. Nebraska indexes the personal exemption amounts only.
(b) For joint returns, the taxes are twice the tax imposed on half the income.
(c) tax credits.
(d) These states allow personal exemption or standard deductions as provided in the IRC. Utah allows a personal exemption equal to three-fourths the federal exemptions.
(e) A special tax table is available for low income taxpayers reducing their tax payments.
(f) Combined personal exemptions and standard deduction. An additional tax credit is allowed ranging from 75% to 0% based on state adjusted gross income. Exemption amounts are phased out for higher income taxpayers until they are eliminated for households earning over $52,500.
(g) The tax brackets reported are for single individuals. For married households filing separately, the same rates apply to income brackets ranging from $500 to $5,000; and the income brackets range from $1,000 to $10,000 for joint filers.
(h) For tax years beginning after 2000, the tax rates range from 1.5% to 8.5% for the same tax brackets.
(i) For joint returns, the tax is twice the tax imposed on half the income. A $10 filing tax is charge for each return and a $15 credit is allowed for each exemption.
(j) For tax years beginning in 2000, the personal exemption amounts increase to $2,000.
(k) Combined personal exemption and standard deduction.
(l) The tax brackets reported are for single. For married taxpayers filing jointly, the same rates apply to income brackets ranging from $25,220 to $100,200 and. An addition 0.5% tax is applied to certain income levels.
(m) Limited to $10,000 for joint returns and $5,000 for individuals.
(n) The tax brackets reported are for single individual. For married couples filing jointly, the same rates apply for income under $4,000 to over $46,750.

(o) The tax brackets reported are for single individuals. A separate schedule is provided for married households filing jointly which ranges from 1.4% under $20,000 to 6.37% for income over $150,000.
(p) The tax brackets reported are for single individuals. For married individuals filing jointly, the rate ranges from 1.7% under $8,000 to 8.2% over $100,000. Married households filing separately pay the tax imposed on half the income.
(q) The tax brackets reported are for single individuals. For married taxpayers, the same rates apply to income brackets ranging from $21,250 to $100,000. An additional middle income tax credit is allowed.
(r) Taxpayers have the option of paying 14% of the adjusted federal income tax liability, without a deduction of federal taxes. And additional $300 personal exemption is allowed for joint returns or unmarried head of households.
(s) Plus an additional $20 per exemption tax credit.
(t) The rate range reported is for single persons not deducting federal income tax. For married persons filing jointly, the same rates apply to income brackets ranging from $2,000 to $21,000. Separate schedules, with rates ranging from 0.5% to 10%, apply to taxpayers deducting federal income taxes.
(u) Limited to $3,000.
(v) One half of the federal income taxes are deductible.
(w) If Vermont tax liability for any taxable year exceeds the tax liability determinable under federal tax law in effect on December 31, 1995, the taxpayer will be entitled to a credit of 106% of the excess tax.
(x) The tax brackets reported are for single individuals. For married taxpayers, the same rates apply to income brackets ranging from $10,000 to $20,000.
(y) Rate shown are for tax year 1998, the 1999 rates will not be determined until July, 1999.

State Corporate Income Tax Rates

Tax rate for tax year 1999 -- as of January 1, 1999

State	Tax Rates	Tax Brackets	# of Brackets	Bank Tax Rates	Federal Tax Deductible
ALABAMA	5.0	----Flat Rate----	1	6.0	*
ALASKA	1.0 - 9.4	10,000 90,000	10	1.0 - 9.4	
ARIZONA	8.0 (b)	----Flat Rate----	1	8.0 (b)	
ARKANSAS	1.0 - 6.5	3,000 100,000	6	1.0 - 6.5	
CALIFORNIA	8.84 (c)	----Flat Rate----	1	10.84 (c)	
COLORADO	5.0	----Flat Rate----	1	5.0	
CONNECTICUT	8.5 (d)	----Flat Rate----	1	8.5 (d)	
DELAWARE	8.7	----Flat Rate----	1	8.7-1.7 (e)	
FLORIDA	5.5 (f)	----Flat Rate----	1	5.5 (f)	
GEORGIA	6.0	----Flat Rate----	1	6.0	
HAWAII	4.4 - 6.4 (g)	25,000 100,000	3	7.92 (g)	
IDAHO	8.0 (h)	----Flat Rate----	1	8.0 (h)	
ILLINOIS	7.3 (i)	----Flat Rate----	1	7.3 (i)	
INDIANA	7.9 (j)	----Flat Rate----	1	7.9 (j)	
IOWA	6.0 - 12.0	25,000 250,000	4	5.0	* (k)
KANSAS	4.0 (l)	----Flat Rate----	1	2.25 (l)	
KENTUCKY	4.0 - 8.25	25,000 250,000	5	--- (a)	
LOUISIANA	4.0 - 8.0	25,000 200,000	5	--- (a)	*
MAINE	3.5 - 8.93 (m)	25,000 250,000	4	1.0	
MARYLAND	7.0	----Flat Rate----	1	7.0	
MASSACHUSETTS	9.5 (n)	----Flat Rate----	1	10.5 (n)	
MINNESOTA	9.8 (o)	----Flat Rate----	1	9.8 (o)	
MISSISSIPPI	3.0 - 5.0	5,000 10,000	3	--- (a)	
MISSOURI	6.25	----Flat Rate----	1	7.0	* (k)
MONTANA	6.75 (p)	----Flat Rate----	1	6.75 (p)	
NEBRASKA	5.58 - 7.81	50,000	2	--- (a)	
NEW HAMPSHIRE	7.0 (q)	----Flat Rate----	1	7.0 (q)	
NEW JERSEY	9.0 (r)	----Flat Rate----	1	9 (r)	
NEW MEXICO	4.8 - 7.6	500,000 1 million	3	4.8 - 7.6	
NEW YORK	9.0 (s)	----Flat Rate----	1	9.0 (s)	
NORTH CAROLINA	7.0 (t)	----Flat Rate----	1	7.0 (t)	
NORTH DAKOTA	3.0 - 10.5	3,000 50,000	6	7 (b)	*
OHIO	5.1 - 8.5 (u)	50,000	2	--- (u)	
OKLAHOMA	6.0	----Flat Rate----	1	6.0	

OREGON	6.6 (b)	----Flat Rate----		1	6.6 (b)
PENNSYLVANIA	9.99	----Flat Rate----		1	--- (a)
RHODE ISLAND	9.0	----Flat Rate----		1	9.0 (v)
SOUTH CAROLINA	5.0	----Flat Rate----		1	4.5 (w)
SOUTH DAKOTA	---				6.0-1.0% (b)
TENNESSEE	6.0	----Flat Rate----		1	6.0
UTAH	5.0 (b)	----Flat Rate----			5.0 (b)
VERMONT	7.0 - 9.75 (b)	10,000	250,000	4	7.0 - 9.75 (b)
VIRGINIA	6.0	----Flat Rate----		1	6.0 (x)
WEST VIRGINIA	9.0	----Flat Rate----		1	9.0
WISCONSIN	7.9	----Flat Rate----		1	7.9
DIST. OF COLUMBIA	9.975 (y)	----Flat Rate----			9.975 (y)

Source: Compiled by FTA from various sources

Note: Michigan imposes a single business tax (sometimes described as a business activities tax or value added tax) of 2.3% on the sum of federal taxable income of the business, compensation paid to employees, dividends, interest, royalties paid and other items. Similarly, Texas imposes a franchise tax of 4.5% of earned surplus. Nevada, Washington, and Wyoming do not have state corporate income taxes.
(a) Rates listed include the corporate tax rate applied to financial institutions or excise taxes based on income. Some states have other taxes based upon the value of deposits or shares.
(b) Minimum tax is $50 in Arizona, $50 in North Dakota (banks), $10 in Oregon, $250 in Rhode Island, $500 per location in South Dakota (banks), $100 in Utah, $150 in Vermont.
(c) Minimum tax is $800. The tax rate on S-Corporations is 1.5% (3.5% for banks).
(d) Or 3.1 mills per dollar of capital stock and surplus (maximum tax $1 million) or $250. Tax rate is scheduled to fall to 7.5% after 1999.
(e) The marginal rate decreases over 4 brackets ranging from $20 to $650 million in taxable income. Building and loan associations are taxed at a flat 8.7%.
(f) Or 3.3% Alternative Minimum Tax. An exemption of $5,000 is allowed.
(g) Capital gains are taxed at 4%. There is also an alternative tax of 0.5% of gross annual sales.
(h) Minimum tax is $20. An additional tax of $10 is imposed on each return.
(i) Includes a 2.5% personal property replacement tax.
(j) Consists of 3.4% on income from sources within the state plus a 4.5% supplemental income tax.
(k) Fifty percent of the federal income tax is deductible.
(l) Plus a surtax of 3.35% (2.125% for banks) taxable income in excess of $50,000 ($25,000).
(m) Or a 27% tax on Federal Alternative Minimum Taxable Income.
(n) Rate includes a 14% surtax, as does the following: an additional tax of $7.00 per $1,000 on taxable tangible property (or net worth allocable to state, for intangible property corporations); minimum tax of $456.
(o) Plus a 5.8% tax on any Alternative Minimum Taxable Income over the base tax.
(p) A 7% tax on taxpayers using water's edge combination. Minimum tax is $100; for small business corporations, $10.
(q) Plus a 0.25 percent tax on the enterprise base (total compensation, interest and dividends paid). Business profits tax imposed on both corporations and unincorporated associations.
(r) The rate reported in the table is the business franchise tax rate. The minimum tax is $200. Corporations not subject to the franchise tax are subject to a 7.25% income tax. Banks other than savings institutions are

subject to the franchise tax. S-Corporation are subject to an entity level tax of 2.0%.
(s) Or 1.78 (0.1 for banks) mills per dollar of capital (up to $350,000; or 3.25% (3% after 7/1/99) (3% for banks) of the minimum taxable income; or a minimum of $100 to $1,500 depending on payroll size ($250 plus 2.5% surtax for banks); if any of these is greater than the tax computed on net income. An addition tax of 0.9 mills per dollar of subsidiary capital is imposed on corporations. Small businesses with income under $200,000 pay tax of 8% of income.
(t) Financial institutions are also subject to a Franchise tax equal to $30 per one million in assets. The tax rate for tax years after 1999 6.90%.
(u) Or 4.0 mills time the value of the taxpayer's issued and outstanding share of stock witha maximum payment of $150,000. An additional litter tax is imposed equal to 0.11% on the first $50,000 of taxable income, 0.22% on income over $50,000; or 0.14 mills on net worth.
(v) For banks, the alternative tax is $2.50 per $10,000 of capital stock ($100 minimum).
(w) Savings and Loans are taxed at a 6% rate.
(x) State and national banks subject to the state's franchise tax on net capital is exempt from the income tax.
(y) Plus a 5.0% surtax is also imposed. Minimum tax is $100.

Motor Fuel Excise Tax Rates

January 1, 1999

Note: The tax rates listed are fuel excise taxes collected by distributor/supplier/retailers in each state. Additional taxes may apply to motor carriers. For information of carrier taxes, see the IFTA, Inc. Home Page.

	----Gasoline----			----Diesel Fuel----			----Gasohol----			
State	Excise Tax	Add'l Tax	Total Tax	Excise Tax	Add'l Tax	Total Tax	Excise Tax	Add'l Tax	Total Tax	Notes
Alabama	16.0	2.0	18.0	17.0	2.0	19.0	16.0	2.0	18.0	Inspection fee
Alaska	8.0		8.0	8.0		8.0	0.0		0.0	
Arizona	18.0		18.0	18.0		18.0	18.0		18.0	/3
Arkansas	18.5	0.2	18.7	18.5	0.2	18.7	18.5	0.2	18.7	Environment surcharge
California /1	18.0		18.0	18.0		18.0	18.0		18.0	Sales tax applicable
Colorado	22.0		22.0	20.5		20.5	22.0		22.0	
Connecticut	32.0		32.0	18.0		18.0	31.0		31.0	
Delaware	23.0		23.0	22.0		22.0	23.0		23.0	Plus 0.5% GRT /5
Florida /1	4.0	9.1	13.1	16.0	9.1	25.1	4.0	9.1	13.1	Sales tax added to excise /2
Georgia	7.5		7.5	7.5		7.5	7.5		7.5	Sales tax applicable (3%)
Hawaii /1	16.0		16.0	16.0		16.0	16.0		16.0	Sales tax applicable
Idaho	25.0	1	26.0	25.0	1	26.0	22.5	1	23.5	Clean water tax /7
Illinois /1	19.0	0.3	19.3	21.5		21.5	19.0		19.0	Sales tax appl., env. fee /3
Indiana	15.0		15.0	16.0		16.0	15.0		15.0	Sales tax applicable /3
Iowa	20.0		20.0	22.5		22.5	19.0		19.0	
Kansas	18.0		18.0	20.0		20.0	18.0		18.0	
Kentucky	15.0	1.4	16.4	12.0	1.4	13.4	15.0	1.4	16.4	Environmental fee /4 /3
Louisiana	20.0		20.0	20.0		20.0	20.0		20.0	
Maine	19.0		19.0	20.0		20.0	19.0		19.0	
Maryland	23.5		23.5	24.25		24.3	23.5		23.5	
Massachusetts	21.0		21.0	21.0		21.0	21.0		21.0	/4
Michigan	19.0		19.0	15.0		15.0	19.0		19.0	Sales tax applicable
Minnesota	20.0		20.0	20.0		20.0	20.0		20.0	
Mississippi	18.0	0.4	18.4	18.0	0.4	18.4	18.0	0.4	18.4	Environmental fee
Missouri	17.0	0.05	17.05	17.0	0.05	17.05	15.0	0.05	15.05	Inspection fee
Montana	27.0		27.0	27.75		27.75	27.0		27.0	
Nebraska	23.5	0.9	24.4	23.5	0.9	24.4	23.9	0.9	24.8	Petroleum fee /5
Nevada /1	24.0		24.00	27.0		27.0	24.0		24.00	

New Hampshire	18.0	0.7	18.7	18.0	0.7	18.7	18.0	0.7	18.7	Oil discharge cleanup fee
New Jersey	10.5		10.5	13.5		13.5	10.5		10.5	Plus a 2.75% GRT
New Mexico	17.0	1.0	18.0	18.0	1.0	19.0	17.0	1.0	18.0	Petroeum loading fee
New York	8.0		8.0	8.0		8.0	8.0		8.0	Sales tax applicable /3, /4
North Carolina	21.6		21.6	21.6		21.6	21.6		21.6	/4
North Dakota	20.0		20.0	20.0		20.0	20.0		20.0	
Ohio	22.0		22.0	22.0		22.0	22.0		22.0	Plus 3 cents commerical
Oklahoma	16.0	1.0	17.0	13.0	1.0	14.0	16.0	1.0	17.0	Environmental fee
Oregon /1	24.0		24.0	24.0		24.0	24.0		24.0	
Pennsylvania	12.0	18.77	30.77	12.0	18.77	30.77	12.0	18.77	30.77	Oil franchise tax /3
Rhode Island	28.0	1	29.0	28.0	1	29.0	28.0	1	29.0	LUST tax
South Carolina	16.0		16.0	16.0		16.0	16.0		16.0	
South Dakota /1	21.0		21.0	21.0		21.0	19.0		19.0	
Tennessee /1	20.0	1.0	21.0	17.0	1.0	18.0	20.0	1.0	21.0	Special petroleum tax
Texas	20.0		20.0	20.0		20.0	20.0		20.0	
Utah	24.5	0.25	24.75	19.0	0.25	19.25	24.5	0.25	24.75	
Vermont	19.0	1.0	20.0	16.0	1.0	17.0	19.0	1.0	20.0	Petroleum cleanup fee /6
Virginia /1	17.5		17.5	16.0		16.0	17.5		17.5	/6
Washington	23.0		23.0	23.0		23.0	23.0		23.0	0.5% privilege tax
West Virginia	20.5	4.85	25.35	20.5	4.85	25.35	20.5	4.85	25.35	Sales tax added to excise
Wisconsin /5	25.4		25.4	25.4		25.4	25.4		25.4	/5
Wyoming	13.0	1	14.0	13.0	1	14.0	13.0	1	14.0	LUST tax
Dist. of Columbia	20.0		20.0	20.0		20.0	20.0		20.0	
Federal	18.3		18.3	24.3		24.3	13.0		13.0	/7

SOURCE: Compiled by FTA from various sources.

/1 Tax rates do not include local option taxes. In AL, 1 - 3 cents; CA, 1 cent; HI, 8 to 11.5 cent; IL, 5 cents in Chicago and 6 cents in Cook county (gasoline only); NV, 1 to 10 cents; OR, 1 to 2 cents; SD and TN, 1 cent; and VA 2%.

/2 Local taxes for gasoline and gasohol vary from 5.5 cents to 17 cents. Plus a 2.07 cent per gallon pollution tax.

/3 Carriers pay an additional surcharge equal to AZ-8 cents, IL-6.3 cents (g) 6.0 cents (d), IN-11 cents, KY-2% (g) 4.7% (d), NY-22.21 (g) 23.21 (d), PA-6 cents.

/4 Tax rate is based on the average wholesale price and is adjusted quarterly. The actual rates are: KY, 9%; MA, 19.1%; and NC, 17 cents + 7%.

/5 Portion of the rate is adjustable based on maintenance costs, sales volume, or cost of fuel to state government.

/6 Large trucks pay a higher tax, VT-total 25 cents per gallon, VA-additional 3.5 cents.

/7 Tax rate is reduced by the percentage of ethanol used in blending (reported rate assumes the max. 10% ethanol).

MAJOR GENERAL FUND TAX CHANGES SINCE 1995

- Annual Revenue Impact = ($1.5 billion) to ($1.6 billion)

Major Reductions: (based on FY 2000 estimates)

- Sales Tax on Food = ($380 million)
- Increase Personal Exemption & Add $60 Child Credit = ($274 million)
- Repeal Intangibles Tax = ($241.9 million)
- Reduce Corporate Income Tax Rate From 7.75% to 6.9% = ($124.3 million
- Exempt Federal & State Retiree Income = ($122.3 million)
- Repeal Inheritance Tax = ($79.4 million)

For more information on tax changes since 1979, go to the General Assembly Intranet at:

http://info.ncga.state.nc.us/

When in the intranet page
- Click on Links
- Click on Tax History
- Choose Options: Tax Type
  Year Enacted
  Type of Action

The intranet site creates a chart that includes:
- Tax Type
- Original Bill Number
- Session Law
- General Statute
- Fiscal Effect
- Explanation

MAJOR GENERAL FUND TAX CHANGES 1995 to 1998

	Year Enacted	($Millions) FY99-00	FY00-01	FY 01-02
INTANGIBLES TAX				
Repeal Intangibles Tax on Stocks, Bonds, etc.	1995	**($228.2)**	**($241.9)**	**($256.4)**
INHERITANCE TAX				
Reform Inheritance Tax (Class A, QTIP, Installment Pay)	1996	($4.1)	($4.4)	($4.7)
Repeal Inheritance Tax / Keep Pick-up Tax	1998	(52.5)	(79.4)	(85.7)
Subtotal - Inheritance Tax		**($56.6)**	**($83.8)**	**($90.4)**
SALES & USE TAX				
Reduce State Sales on Food From 4% to 3% (1/1/97)	1996	($92.2)	($95.0)	($97.9)
Reduce State Sales on Food From 3% to 2% (7/1/98)	1997	(92.2)	(95.0)	(97.9)
Repeal Remaining 2% State Sales Tax on Food (5/1/99)	1998	(184.5)	(190.0)	(195.7)
Change Sales Tax on Bundled Transactions (Cellular Phones)	1996	(6.7)	(6.7)	(6.7)
Reduce Manufacturing Energy Tax From 3% to 2.83%	1996	(6.0)	(6.3)	(6.7)
Exempt Audiovisual Master Tapes	1997	(1.7)	(1.8)	(1.9)
Revise Definition of Custom Computer Software	1997	0.8	0.9	0.9
Provide School Sales Tax Refunds	1998	(14.8)	(15.0)	(14.4)
Repeal Wholesale License/ Increase Sales Tax Filing Threshold	1998	(3.3)	(1.3)	(1.3)
Economic Opportunities Act of 1998 (Fed Ex/Nucor)	1998	(0.1)	(0.2)	(0.6)
Repeal Tax on Pay Phone Coin Calls	1998	(0.8)	(1.9)	(2.0)
Subtotal - Sales Tax		**($401.5)**	**($412.3)**	**($424.1)**
SOFT DRINK TAX				
Cut Soft Drink Tax Rate 25%	1995	($11.2)	($11.6)	($12.1)
Phase-out Soft Drink Tax Over 3 Years	1996	(33.7)	(34.9)	(36.2)
Subtotal - Soft Drink Tax		**($44.9)**	**($46.5)**	**($48.3)**

MAJOR GENERAL FUND TAX CHANGES 1995 to 1998

	Year Enacted	($Millions) FY99-00	FY00-01	FY 01-02
INDIVIDUAL INCOME TAX				
Increase Personal Exemption & Create $60 Child Credit	1995	($266.7)	($274.0)	($281.2)
Exempt Severance Pay ($35,000 cap)	1996 & 1997	(6.5)	(6.9)	(7.3)
Establish 7% Nonitemizer Credit above 2% AGI	1996 & 1998	(12.6)	(12.8)	(12.9)
Provide Federal Retiree Income Tax Credit and Partial Refunds	1996 & 1997	(2.5)	(1.7)	
Withhold Income Tax on Nonresident Contractors	1997 & 1998	3.0	3.0	3.0
Establish Child Health Insurance Credit	1998	(64.5)	(65.3)	(65.6)
Extend Sunset on Qualified Business Investment Credits	1998	-	(6.0)	(6.0)
Create Long-Term Care Insurance Credit	1998	(8.0)	(8.9)	(9.8)
Offer Child Care & Handicapped Housing Credits to Nonresidents	1998	(0.6)	(0.6)	(0.6)
Exempt State & Federal Retiree Income (Bailey Case)	1998	(125.4)	(122.3)	(119.2)
Subtotal - Individual Income Tax		**($483.8)**	**($495.5)**	**($499.6)**
INDIVIDUAL & CORPORATE INCOME TAX				
Update Internal Revenue Code	1997	($11.5)	($13.0)	($17.0)
Expand Conservation Easement/Tax Credit	1997 & 1998	(4.4)	(4.4)	(4.4)
Expand Historic Rehabilitation Tax Credits	1997	(2.2)	(4.7)	(7.9)
Update Internal Revenue Code	1998	(4.0)	(10.7)	(18.5)
Subtotal - Individual & Corporate Income Tax		**($22.1)**	**($32.8)**	**($47.8)**

MAJOR GENERAL FUND TAX CHANGES 1995 to 1998

	Year Enacted	($Millions) FY99-00	FY00-01	FY 01-02
CORPORATE INCOME TAX				
Reduce Corporate Rate from 7.75% to 6.9% over 4 years	1996	($99.3)	($108.1)	($109.4)
Enact William S. Lee Act Incentive Credits:				
General Investment Tax Credit (4.5%, $100,000 cap)	1996	(16.9)	(22.3)	(28.1)
Targeted Investment Tax Credit (7%, threshold)	1996	(18.4)	(30.7)	(43.0)
Jobs Credit Expansion (range $12,500 to $500)	1996	(4.5)	(7.5)	(7.5)
Research & Development Tax Credit (5% of eligible expenses)	1996	(9.1)	(9.6)	(10.2)
Worker Training Tax Credit (50% of eligible expenses up to $1000)	1996	(1.7)	(2.2)	(2.2)
Central Administrative Offices (must employ 40 workers)	1997	(1.3)	(2.1)	(2.9)
Other Changes	1997	(0.9)	(2.6)	(5.0)
Extend Sunset & Modify Ports Tax Credit	1997	(2.7)	(3.6)	0.0
Economic Opportunities Act of 1998 (Fed Ex/Nucor)	1998	(1.2)	(6.6)	(12.4)
Increase Corporate Net Loss Carryforward from 5 to 15 Years	1998	(3.7)	(3.7)	(3.7)
Subtotal - Corporate Income Tax		**($159.7)**	**($199.0)**	**($224.4)**
PRIVILEGE TAX				
Abolish Most Privilege Taxes	1996	($11.1)	($11.1)	($11.1)
Simplify Privilege License Tax (Impose 1% Tax on Movies)	1998	2.2	2.3	2.4
Subtotal - Privilege Tax		**($8.9)**	**($8.8)**	**($8.7)**
MISCELLANEOUS				
Change Tax on Natural Gas	1998	($3.6)	($3.7)	($3.8)
Modify Controlled Substance Tax	1998	1.3	1.3	1.3
Make Other Revenue Changes (Net Impact)	1995 & 1996	18.4	18.9	19.3
Subtotal - Misc.		**$16.1**	**$16.5**	**$16.8**

MAJOR GENERAL FUND TAX CHANGES 1995 to 1998

	Year Enacted	($Millions) FY99-00	FY00-01	FY 01-02
FEE CHANGES				
Increase General Court of Justice Fees by $15	1997	$15.9	$16.6	$17.5
Increase Secretary of State Fees	1997 & 1998	2.4	2.4	2.5
Increase Corporate Annual Report Fee from $10 to $20	1997	1.7	1.7	1.7
Increase Autopsy Fees (net impact)	1998	0.4	0.4	0.4
Change Water Quality Fees	1998	(0.3)	(0.3)	(0.3)
Subtotal - Fees		**$20.1**	**$20.8**	**$21.7**
TOTAL MAJOR TAX CHANGES - 1995 to 1998		**($1,369.5)**	**($1,483.3)**	**($1,561.2)**

UNEMPLOYMENT INSURANCE TAX CUTS

Year Enacted	Legislative Action	Savings to Employers (1999 Dollars)
1992	Suspended the 20% surtax levied to create the ESC Reserve Fund.	$73.3 Million
1993	Cut the Unemployment Insurance (UI) taxes for positive rated employers by an average of 30% for any calendar year in which the balance in the Unemployment Insurance Fund equals or exceeds $800 million.	$128.7 Million
1994	Cut the UI taxes for positive rated employers by an average 38.7% and cut the UI taxes for new employers by 20%.	$118.6 Million
1995	Cut the UI taxes for positive rated employers by an average of 23%.	$70.9 Million
	Total - Annual	$391.5 Million
1996	Levied a zero rate in 1996 for employers with a positive balance in their unemployment insurance account. Reduced tax rate on new employers from 1.8% to 1.2 % of taxable base.	
	One-Time	$165 Million

MAJOR GENERAL FUND TAX CHANGES SINCE 1995

- ✔ Annual Revenue Impact = ($1.5 billion) to ($1.6 billion)

Major Reductions: (based on FY 2000 estimates)

- ✔ Sales Tax on Food = ($380 million)
- ✔ Increase Personal Exemption & Add $60 Child Credit = ($274 million)
- ✔ Repeal Intangibles Tax = ($241.9 million)
- ✔ Reduce Corporate Income Tax Rate From 7.75% to 6.9% = ($124.3 million
- ✔ Exempt Federal & State Retiree Income = ($122.3 million)
- ✔ Repeal Inheritance Tax = ($79.4 million)

For more information on tax changes since 1979, go to the General Assembly Intranet at:

http://info.ncga.state.nc.us/

When in the intranet page
- Click on Links
- Click on Tax History
- Choose Options: Tax Type
  Year Enacted
  Type of Action

The intranet site creates a chart that includes:
- Tax Type
- Original Bill Number
- Session Law
- General Statute
- Fiscal Effect
- Explanation

MAJOR GENERAL FUND TAX CHANGES 1995 to 1998

	Year Enacted	($Millions) FY99-00	FY00-01	FY 01-02
INTANGIBLES TAX				
Repeal Intangibles Tax on Stocks, Bonds, etc.	1995	**($228.2)**	**($241.9)**	**($256.4)**
INHERITANCE TAX				
Reform Inheritance Tax (Class A, QTIP, Installment Pay)	1996	($4.1)	($4.4)	($4.7)
Repeal Inheritance Tax / Keep Pick-up Tax	1998	(52.5)	(79.4)	(85.7)
Subtotal - Inheritance Tax		**($56.6)**	**($83.8)**	**($90.4)**
SALES & USE TAX				
Reduce State Sales on Food From 4% to 3% (1/1/97)	1996	($92.2)	($95.0)	($97.9)
Reduce State Sales on Food From 3% to 2% (7/1/98)	1997	(92.2)	(95.0)	(97.9)
Repeal Remaining 2% State Sales Tax on Food (5/1/99)	1998	(184.5)	(190.0)	(195.7)
Change Sales Tax on Bundled Transactions (Cellular Phones)	1996	(6.7)	(6.7)	(6.7)
Reduce Manufacturing Energy Tax From 3% to 2.83%	1996	(6.0)	(6.3)	(6.7)
Exempt Audiovisual Master Tapes	1997	(1.7)	(1.8)	(1.9)
Revise Definition of Custom Computer Software	1997	0.8	0.9	0.9
Provide School Sales Tax Refunds	1998	(14.8)	(15.0)	(14.4)
Repeal Wholesale License/ Increase Sales Tax Filing Threshold	1998	(3.3)	(1.3)	(1.3)
Economic Opportunities Act of 1998 (Fed Ex/Nucor)	1998	(0.1)	(0.2)	(0.6)
Repeal Tax on Pay Phone Coin Calls	1998	(0.8)	(1.9)	(2.0)
Subtotal - Sales Tax		**($401.5)**	**($412.3)**	**($424.1)**
SOFT DRINK TAX				
Cut Soft Drink Tax Rate 25%	1995	($11.2)	($11.6)	($12.1)
Phase-out Soft Drink Tax Over 3 Years	1996	(33.7)	(34.9)	(36.2)
Subtotal - Soft Drink Tax		**($44.9)**	**($46.5)**	**($48.3)**

MAJOR GENERAL FUND TAX CHANGES 1995 to 1998

	Year Enacted	($Millions) FY99-00	FY00-01	FY 01-02
INDIVIDUAL INCOME TAX				
Increase Personal Exemption & Create $60 Child Credit	1995	($266.7)	($274.0)	($281.2)
Exempt Severance Pay ($35,000 cap)	1996 & 1997	(6.5)	(6.9)	(7.3)
Establish 7% Nonitemizer Credit above 2% AGI	1996 & 1998	(12.6)	(12.8)	(12.9)
Provide Federal Retiree Income Tax Credit and Partial Refunds	1996 & 1997	(2.5)	(1.7)	
Withhold Income Tax on Nonresident Contractors	1997 & 1998	3.0	3.0	3.0
Establish Child Health Insurance Credit	1998	(64.5)	(65.3)	(65.6)
Extend Sunset on Qualified Business Investment Credits	1998	-	(6.0)	(6.0)
Create Long-Term Care Insurance Credit	1998	(8.0)	(8.9)	(9.8)
Offer Child Care & Handicapped Housing Credits to Nonresidents	1998	(0.6)	(0.6)	(0.6)
Exempt State & Federal Retiree Income (Bailey Case)	1998	(125.4)	(122.3)	(119.2)
Subtotal - Individual Income Tax		**($483.8)**	**($495.5)**	**($499.6)**
INDIVIDUAL & CORPORATE INCOME TAX				
Update Internal Revenue Code	1997	($11.5)	($13.0)	($17.0)
Expand Conservation Easement/Tax Credit	1997 & 1998	(4.4)	(4.4)	(4.4)
Expand Historic Rehabilitation Tax Credits	1997	(2.2)	(4.7)	(7.9)
Update Internal Revenue Code	1998	(4.0)	(10.7)	(18.5)
Subtotal - Individual & Corporate Income Tax		**($22.1)**	**($32.8)**	**($47.8)**

MAJOR GENERAL FUND TAX CHANGES 1995 to 1998

	Year Enacted	($Millions) FY99-00	FY00-01	FY 01-02
CORPORATE INCOME TAX				
Reduce Corporate Rate from 7.75% to 6.9% over 4 years	1996	($99.3)	($108.1)	($109.4)
Enact William S. Lee Act Incentive Credits:				
General Investment Tax Credit (4.5%, $100,000 cap)	1996	(16.9)	(22.3)	(28.1)
Targeted Investment Tax Credit (7%, threshold)	1996	(18.4)	(30.7)	(43.0)
Jobs Credit Expansion (range $12,500 to $500)	1996	(4.5)	(7.5)	(7.5)
Research & Development Tax Credit (5% of eligible expenses)	1996	(9.1)	(9.6)	(10.2)
Worker Training Tax Credit (50% of eligible expenses up to $1000)	1996	(1.7)	(2.2)	(2.2)
Central Administrative Offices (must employ 40 workers)	1997	(1.3)	(2.1)	(2.9)
Other Changes	1997	(0.9)	(2.6)	(5.0)
Extend Sunset & Modify Ports Tax Credit	1997	(2.7)	(3.6)	0.0
Economic Opportunities Act of 1998 (Fed Ex/Nucor)	1998	(1.2)	(6.6)	(12.4)
Increase Corporate Net Loss Carryforward from 5 to 15 Years	1998	(3.7)	(3.7)	(3.7)
Subtotal - Corporate Income Tax		**($159.7)**	**($199.0)**	**($224.4)**
PRIVILEGE TAX				
Abolish Most Privilege Taxes	1996	($11.1)	($11.1)	($11.1)
Simplify Privilege License Tax (Impose 1% Tax on Movies)	1998	2.2	2.3	2.4
Subtotal - Privilege Tax		**($8.9)**	**($8.8)**	**($8.7)**
MISCELLANEOUS				
Change Tax on Natural Gas	1998	($3.6)	($3.7)	($3.8)
Modify Controlled Substance Tax	1998	1.3	1.3	1.3
Make Other Revenue Changes (Net Impact)	1995 & 1996	18.4	18.9	19.3
Subtotal - Misc.		**$16.1**	**$16.5**	**$16.8**

MAJOR GENERAL FUND TAX CHANGES 1995 to 1998

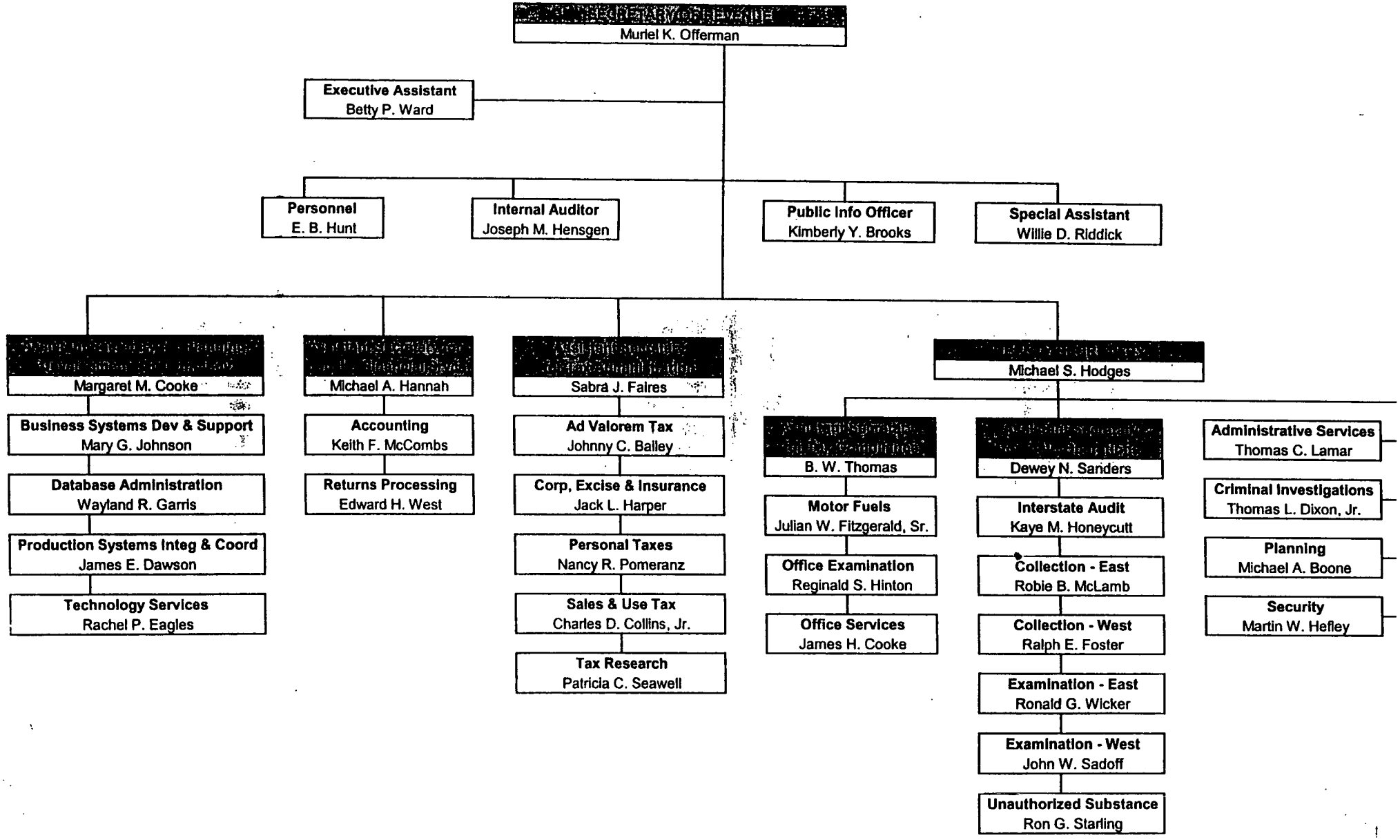
	Year Enacted	($Millions) FY99-00	FY00-01	FY 01-02
FEE CHANGES				
Increase General Court of Justice Fees by $15	1997	$15.9	$16.6	$17.5
Increase Secretary of State Fees	1997 & 1998	2.4	2.4	2.5
Increase Corporate Annual Report Fee from $10 to $20	1997	1.7	1.7	1.7
Increase Autopsy Fees (net impact)	1998	0.4	0.4	0.4
Change Water Quality Fees	1998	(0.3)	(0.3)	(0.3)
Subtotal - Fees		**$20.1**	**$20.8**	**$21.7**
TOTAL MAJOR TAX CHANGES - 1995 to 1998		**($1,369.5)**	**($1,483.3)**	**($1,561.2)**

UNEMPLOYMENT INSURANCE TAX CUTS

Year Enacted	Legislative Action	Savings to Employers (1999 Dollars)
1992	Suspended the 20% surtax levied to create the ESC Reserve Fund.	$73.3 Million
1993	Cut the Unemployment Insurance (UI) taxes for positive rated employers by an average of 30% for any calendar year in which the balance in the Unemployment Insurance Fund equals or exceeds $800 million.	$128.7 Million
1994	Cut the UI taxes for positive rated employers by an average 38.7% and cut the UI taxes for new employers by 20%.	$118.6 Million
1995	Cut the UI taxes for positive rated employers by an average of 23%.	$70.9 Million
	Total - Annual	$391.5 Million
1996	Levied a zero rate in 1996 for employers with a positive balance in their unemployment insurance account. Reduced tax rate on new employers from 1.8% to 1.2 % of taxable base.	
	One-Time	$165 Million

NORTH CAROLINA DEPARTMENT OF REVENUE

2/25/99



Minutes/House Finance

3-3-99

Richard Bostic - handout - (list in order)

~~1)~~ Major General...

~~2) NC Sales & Use Tax~~

~~3)~~ 2) State Tax Collec....

3)

Rep. Hackney

Rep Capps

Rep. McComas

Rep Hackney

Rep Decker

Rep Decker

Rep McComas

Rep McComas

~~Rep Capps~~

~~Rep~~ Hill gives discussion on merchants

Linda Millsaps

1) NC Use & Sales Tax

2) Wall St. Journal

VISITOR REGISTRATION SHEET

HOUSE FINANCE COMMITTEE 3-3-99

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Butch Gunnells	NC Soft Drink Assoc
Steve Woodson	NC Farm Bureau
Chris Garland	Electricities
Keri D. Howell	Gov's Office
Angela Romanet	N.C.L.M.
Mark Beason	The Capital Group
Cindy Ellen	NCRMA
Paul Preston	NCRMA
Kelli Kukuca	DuPont
Gina Gregory	Poyner & Spruill
Leslie Bullock	NCBA
Natalie English	NC Agribusiness Council
David Simmons	ZDA, PA
C. Parker Porter	Bone & Associates
Pam Wilms	NCMBA
Barbara Blount	DENR
Jean McKillop	Moore & Van Allen

Pages: Jessica Grafton - Rockingham
Katawna Flood - Hertford

HOUSE FINANCE COMMITTEE

Tuesday, March 16, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 62 - EFT of Corporate Estimated Income Tax - Rep. Gray
HB 120 - Tax Lien Advertisement and Collection - Rep. Owens
SB 33 - Clayton Satellite Annexation - Sen. Wellons
SB 43 - Forest City/Alexander Mills - Sen. Dalton

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Tuesday, March 16, 1999

The House Committee on Finance met on Tuesday, March 16, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairmen Allen, Luebke, Miller; Vice Chairs Jarrell and Wood; Representatives Braswell, Bridgeman, Brown, Buchanan, Capps, Church, Cox, Cunningham, Decker, Dedmon, Eddins, Edwards, Gibson, Goodwin, Gray, Hackney, Hill, Howard, McComas, Mosley, Neely, Ramsey, Rayfield, Starnes, Tucker, Wilson, Womble. Staff including Cindy Avrette, Richard Bostic, David Crotts, Linda Millsaps, and Ed Rossi were in attendance. A Visitor Registration List is attached and made a part of these minutes.

The Chairman called the meeting to order to consider the following bills:

Representative Gray was recognized to explain HB 62, A BILL TO BE ENTITLED AN ACT TO REQUIRE CORPORATIONS THAT ARE REQUIRED TO PAY FEDERAL-ESTIMATED INCOME TAX BY ELECTRONIC FUNDS TRANSFER TO PAY STATE-ESTIMATED INCOME TAX BY ELECTRONIC FUNDS TRANSFER. Upon motion made by Representative McComas, the bill received a favorable report.

Representative Owens was recognized to explain HB 120, A BILL TO BE ENTITLED AN ACT TO IMPROVE THE PROCEDURES FOR NOTIFYING OWNERS AND ADVERTISING TAX LIENS ON REAL PROPERTY AND TO AUTHORIZE COUNTIES TO PROHIBIT REGISTRATION OF DEEDS IF DELINQUENT TAXES ARE OWED ON THE PROPERTY. The chair recognized Mr. Bill Campbell of the Institute of Government to offer explanations of the bill material. The chair also recognized Mr. Bill Scoggin of the N.C. Bar Association to offer his views on the bill material. Mr. Jim Blackburn of the County Commissioners Association was also recognized to explain his organization's views of the bill material. Upon a motion by Representative Hackney, the bill was referred to a sub-committee. The sub-committee has not yet been named.

Senator Wellons was recognized to explain SB 33, A BILL TO BE ENTITLED AN ACT CONCERNING ANNEXATION OF CERTAIN PROPERTY BY THE TOWN OF CLAYTON. Upon motion made by Representative Buchanan, the bill (the House Committee Substitute for the 2nd SB edition) received a favorable report.

Senator Dalton was recognized to explain SB 43, A BILL TO BE ENTITLED AN ACT TO CONSOLIDATE THE TOWN OF ALEXANDER MILLS INTO THE TOWN OF FOREST CITY. Upon motion made by Representative Brown, the bill (Senate Committee Substitute) received a favorable report.

There being no further business, the Chair adjourned the meeting at 9:40 a.m.

Respectfully submitted:

Representative Paul Luebke
Chairman

Kristen L. Crosson
Assistant to the Committee

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MILLER, LUEBKE, ALLEN** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 62 A BILL TO BE ENTITLED AN ACT TO REQUIRE CORPORATIONS THAT ARE REQUIRED TO PAY FEDERAL-ESTIMATED INCOME TAX BY ELECTRONIC FUNDS TRANSFER TO PAY STATE-ESTIMATED INCOME TAX BY ELECTRONIC FUNDS TRANSFER

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

(3) If, after the last day of the 5th month and before the 1st day of the 9th month of the taxable year, the corporation's estimated tax equals or exceeds five hundred dollars ($500.00), the corporation shall pay the estimated tax in two equal installments on or before the 15th day of the 9th and 12th months.

(4) If, after the last day of the 8th month and before the 1st day of the 12th month of the taxable year, the corporation's estimated tax equals or exceeds five hundred dollars ($500.00), the corporation shall pay the estimated tax on or before the 15th day of the 12th month of the taxable year.

(b) Payment of Estimated Tax When Declaration Amended. -- When a corporation submits an amended declaration after making one or more installment payments on its estimated tax, the amount of each remaining installment shall be the amount that would have been payable if the estimate in the amended declaration was the original estimate, increased or decreased as appropriate by the amount computed by dividing:

(1) The absolute value of the difference between:

a. The amount paid and

b. The amount that would have been paid if the estimate in the amended declaration was the original estimate by

(2) The number of remaining installments.

(c) Short Taxable Year. -- Payment of estimated tax for taxable years of less than 12 months shall be made in accordance with rules promulgated by the Secretary.

(d) Form of Payment. -- A corporation that is required under the Code to pay its federal-estimated corporate income tax by electronic funds transfer must pay its State-estimated tax by electronic funds transfer."

Section 2. G.S. 105-241(b) reads as rewritten:

"(b) Electronic Funds Transfer. -- ~~The~~ Except as provided in G.S. 105-163.40, the Secretary shall not require a taxpayer to pay a tax by electronic funds transfer unless, during the applicable period for that tax, the average amount of the taxpayer's required payments of the tax was at least twenty thousand dollars ($20,000) a month. The twenty thousand dollar ($20,000) threshold applies separately to each tax. The applicable period for a tax is a 12-month period, designated by the Secretary, preceding the imposition or review of the payment requirement. The requirement that a taxpayer pay a tax by electronic funds transfer remains in effect until suspended by the Secretary. Every 12 months after requiring a taxpayer to pay a tax by electronic funds transfer, the Secretary shall determine whether, during the applicable period for that tax, the average amount of the taxpayer's required payments of the tax was at least twenty thousand dollars ($20,000) a month. If it was not, the Secretary shall suspend the requirement that the taxpayer pay the tax by electronic funds transfer and shall notify the taxpayer in writing that the requirement has been suspended."

Section 3. This act becomes effective for taxable years beginning on or after January 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 62*

Short Title: EFT of Corporate Estimated Income Tax. (Public)

Sponsors: Representatives Gray, Cansler, Capps, Hill, Neely, Ramsey, C. Wilson; Culp, Dockham, Rayfield, Starnes, and Wood.

Referred to: Finance.

February 10, 1999

A BILL TO BE ENTITLED

AN ACT TO REQUIRE CORPORATIONS THAT ARE REQUIRED TO PAY FEDERAL-ESTIMATED INCOME TAX BY ELECTRONIC FUNDS TRANSFER TO PAY STATE-ESTIMATED INCOME TAX BY ELECTRONIC FUNDS TRANSFER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-163.40 reads as rewritten:

"**§ 105-163.40. Time for submitting declaration; time and method for paying estimated ~~tax.~~ tax; form of payment.**

(a) Due Dates of Declarations. -- Declarations of estimated tax are due at the same time as the corporation's first installment payment. Installment payments are due as follows:

(1) If, before the 1st day of the 4th month of the taxable year, the corporation's estimated tax equals or exceeds five hundred dollars ($500.00), the corporation shall pay the estimated tax in four equal installments on or before the 15th day of the 4th, 6th, 9th and 12th months of the taxable year.

(2) If, after the last day of the 3rd month and before the 1st day of the 6th month of the taxable year, the corporation's estimated tax equals or exceeds five hundred dollars ($500.00), the corporation shall pay the estimated tax in three equal installments on or before the 15th day of the 6th, 9th and 12th months of the taxable year.

HOUSE BILL 62:
EFT of Corporate Estimated Income Tax

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Gray
Date:	March 16, 1999	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: House Bill 62 requires corporations that are required by the Internal Revenue Code to pay federal income tax estimated payments by electronic funds transfer (EFT) to pay State income tax estimated payments by EFT The change becomes effective for taxable years beginning on or after January 1, 2000.

CURRENT LAW: In 1993, the General Assembly authorized the Department of Revenue to collect taxes by EFT. The average tax payment must be at least $20,000 a month before the tax payment must be submitted by EFT. The $20,000 threshold applies separately to each tax.

BILL ANALYSIS: House Bill 62 creates a different rule for corporate estimated income tax payments in order to increase the efficiency of State tax collections and to conform the State's method of collecting corporate estimated income tax payments with federal law so that a taxpayer has only one set of rules to learn and follow.

For federal purposes, a corporation whose depository taxes exceed $50,000 in a twelve-month period must pay its corporate income tax estimated payments by EFT. The federal regulations list the different types of depository taxes. Examples of depository taxes include social security taxes, withheld income taxes, and corporate estimated income taxes. Section 1of the bill requires a corporation who must pay its federal estimated tax by EFT to pay its State estimated tax by EFT. This change in the law will eliminate thousands of returns, not payments, each year. It will enable the State to receive tax payments more quickly and thus gain three to five days of interest on the payments. Section 2 makes a conforming change in the State's current requirements for EFT to recognize the EFT requirements established in Section 1 for corporate estimated income tax payments.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 62 (First Edition)

SHORT TITLE: EFT of Corporate Estimated Income Tax

SPONSOR(S): Representatives Gray, et al.

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
GENERAL FUND					
Revenue	**$268,771**	**$537,543**	**$537,543**	**$537,543**	**$537,543**
Expenditures	**$10,039**	**$20,078**	**$20,078**	**$20,078**	**$20,078**
NET G.F. Gain	**$278,810**	**$557,621**	**$557,621**	**$557,621**	**$557,621**

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

EFFECTIVE DATE: The effective date is for taxable years beginning on after January 1, 2000.

BILL SUMMARY:
The bill requires corporations that pay federal income tax estimated payments by electronic funds transfers (EFT) to also pay state income tax estimated payments by EFT.

ASSUMPTIONS AND METHODOLOGY:
The Department of Revenue estimates an annual gain of **$557,621** from the required electronic funds transfer (EFT) provision in this bill. By processing 15,707 transactions by EFT instead of paper based transactions, the state will earn an additional six days of interest on tax collections of $357.7 million each fiscal year. Using the State Treasurer's FY 1997-98 short-term interest rate of 5.51%, the additional interest is anticipated to be $537,543 per year. The remainder of the gain ($20,078) is from a reduction in printing, postage and processing of the coupon sized payment vouchers now used by corporate taxpayers. Due to a January 1, 2000 effective date, the first fiscal year savings will be half of the estimate. This assumes that the quarterly estimated tax payments are equal and that the April and June 2000 payments are made by EFT.

FISCAL RESEARCH DIVISION (733-4910)
PREPARED BY: Richard Bostic
APPROVED BY:
DATE: March 12, 1999

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 120
Proposed Committee Substitute H120-PCS3132-RB

Short Title: Tax Lien Advertisement and Collection. (Public)

Sponsors:

Referred to:

February 22, 1999

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE PROCEDURES FOR NOTIFYING OWNERS AND ADVERTISING TAX LIENS ON REAL PROPERTY AND TO AUTHORIZE COUNTIES TO PROHIBIT REGISTRATION OF DEEDS IF DELINQUENT TAXES ARE OWED ON THE PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-369 reads as rewritten:

"**§ 105-369. Advertisement of tax liens on real property for failure to pay taxes.**

(a) Report of unpaid Taxes that are Liens on Real Property. -- ~~On the first Monday in February in each year, each county tax collector and on the second Monday in February in each year, each municipal tax collector shall~~ In February of each year, the tax collector must report to the governing body the total amount of unpaid taxes for the current fiscal year that are liens on real ~~property, and the governing body shall thereupon~~ property. A county tax collector's report is due the first Monday in February, and a municipal tax collector's report is due the second Monday in February. Upon receipt of the report, the governing body may order the tax collector to advertise ~~such~~ the tax liens. For purposes of this section, district taxes collected by county tax collectors shall be regarded as county taxes and district taxes collected by municipal tax collectors shall be regarded as municipal taxes.

(b) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1013.

(b1) Notice to Owner. -- If the governing body orders the tax collector to advertise the tax liens, the tax collector must send a notice to the listing owner and to the record owner of each affected parcel of property, as determined as of December 31 of

the fiscal year for which the taxes are due. The notice must be sent to each owner's last known address by first-class mail at least 30 days before the date the advertisement is to be published. The notice must state the principal amount of unpaid taxes that are a lien on the parcel to be advertised and inform the owner that the names of the listing owner and the record owner will appear in a newspaper advertisement of delinquent taxes if the taxes are not paid before the publication date.

(c) Time and Contents of Advertisement. -- If the governing body orders the tax collector to advertise the tax liens, this subsection governs the advertisement. A tax collector's failure to comply with this subsection does not affect the validity of the taxes or tax liens. The county tax collector shall advertise county tax liens by posting a notice of the liens at the county courthouse and by publishing each lien at least one time in one or more newspapers having general circulation in the taxing unit. The municipal tax collector shall advertise municipal tax liens by posting a notice of the liens at the city or town hall and by publishing each lien at least one time in one or more newspapers having general circulation in the taxing unit. Advertisements of tax liens shall be made during the period March 1 through June 30. The costs of newspaper advertising shall be paid by the taxing unit. ~~(If~~ If the taxes of two or more taxing units are collected by the same tax collector, the tax liens of each unit shall be advertised separately unless, under the provisions of a special act or contractual agreement between the taxing units, joint advertisement is ~~permitted.)~~ permitted.

The posted notice and newspaper advertisement shall set forth the following information:

(1) ~~The~~ In the case of property that the listing owner has not transferred after January 1 preceding the fiscal year for which the tax liens are advertised, the name of each person to whom is listed real property on which the taxing unit has a lien for unpaid ~~taxes,~~ taxes, in alphabetical order.

(1a) In the case of property that the listing owner has transferred after January 1 preceding the fiscal year for which the tax liens are advertised, the name of the record owner as of December 31 of each parcel on which the taxing unit has a lien for unpaid taxes, in alphabetical order, followed by a notation that the property was transferred to the record owner and a notation of the name of the listing owner.

(1b) ~~together with a~~ After the information required by subdivision (1) or (1a) of this subsection for each parcel, a brief description of each parcel of land to which ~~such~~ a lien has attached and a statement of the principal amount of the taxes constituting a lien against the parcel.

(2) A statement that the amounts advertised will be increased by interest and costs and that the omission of interest and costs from the amounts advertised will not constitute waiver of the taxing unit's claim for those items.

(3) In the event the list of tax liens has been divided for purposes of advertisement in more than one newspaper, a statement of the names of all newspapers in which advertisements will appear and the dates on which they will be published.

(4) A statement that the taxing unit may foreclose the tax liens and sell the real property subject to the liens in satisfaction of its claim for taxes.

~~Failure to comply with this subsection does not affect the validity of the taxes or tax liens.~~

(d) Costs. -- Each parcel of real property advertised pursuant to this section shall be assessed an advertising fee to cover the actual cost of the advertisement. Actual advertising costs per parcel shall be determined by the tax collector on any reasonable basis. Advertising costs assessed pursuant to this ~~subdivision (d) shall be deemed to be~~ subsection are taxes.

(e) Payments during Advertising Period. -- At any time during the advertisement period, any parcel may be withdrawn from the list by payment of the taxes plus interest that has accrued to the time of payment and a proportionate part of the advertising fee to be determined by the tax collector. Thereafter, the tax collector shall delete that parcel from any subsequent advertisement, but ~~if he fails to do so he shall not be liable for his~~ the tax collector is not liable for failure to make the deletion.

(f) Listing and Advertising in Wrong Name. -- No tax lien ~~shall be~~ is void because the real property to which the lien attached was listed or advertised in the name of a person other than the person in whose name the property should have been listed for taxation or because the record owner's name was omitted from the advertisement, if the property was in other respects correctly described on the abstract or in the advertisement.

(g) Wrongful Advertisement. -- Any tax collector or deputy tax collector who ~~shall willfully advertise~~ willfully advertises any tax lien knowing that the property is not subject to taxation or that the taxes advertised have been paid ~~shall be~~ is guilty of a Class 3 misdemeanor, and shall be required to pay the injured party all damages sustained in consequence."

Section 2. Article 26 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-370. Notice of delinquent taxes.**

If the governing body of a taxing unit decides not to advertise tax liens for a fiscal year, the tax collector must, at least 30 days before initiating any lien foreclosure action under G.S. 105-374, send a notice to the listing owner and the record owner of the affected parcel of property, as determined as of December 31 of the fiscal year for which the taxes are due. The notice must be sent to each owner's last known address by first-class mail. The notice must state the principal amount of unpaid taxes that are a lien on the property and inform the owner that the lien may be foreclosed to enforce collection of those taxes. Failure to mail the notice required by this section

to the correct listing owner or record owner does not affect the validity of the tax lien or of any foreclosure action."

Section 3. G.S. 105-375(b) reads as rewritten:

"(b) Docketing Certificate of Taxes as Judgment. -- In lieu of following the procedure set forth in G.S. 105-374, the governing body of any taxing unit may direct the tax collector to ~~file, no earlier than six months following the advertisement of tax liens, with the clerk of superior court~~ file with the clerk of superior court, no earlier than 30 days after the tax liens were advertised or May 6 following the delinquency date, whichever occurs first, a certificate showing the following: the name of the taxpayer listing real property on which the taxes are a lien, together with the amount of taxes, penalties, interest, and costs that are a lien thereon; the year or years for which the taxes are due; and a description of the property sufficient to permit its identification by parol testimony. The fees for docketing and indexing the certificate shall be payable to the clerk of superior court at the time the taxes are collected or the property is sold."

Section 4. G.S. 105-375(e) reads as rewritten:

"(e) Special Assessments. -- Street, sidewalk, and other special assessments may be included in any judgment for taxes taken under this ~~section; or such~~ section, or the special assessments may be included in a separate judgment docketed under this ~~section, which is hereby declared to be made available~~ section. The tax collector may use such a judgment as a method of foreclosing the lien of special assessments. When used to foreclose the lien of special assessments, the procedure may be instituted at any time after the assessment or installment falls due and remains unpaid; the ~~six months'~~ waiting period required by subsection ~~(b), above, shall~~ (b) of this section does not apply to the foreclosure of special assessments."

Section 5. Article 2 of Chapter 161 of the General Statutes is amended by adding a new section to read:

"**§ 161-31. Tax certification.**

The board of commissioners of a county may, by resolution, require the register of deeds not to accept any deed for registration unless the county tax collector has certified that no delinquent ad valorem county taxes, ad valorem municipal taxes, or taxes with which the collector is charged are a lien on the property described in the deed."

Section 6. This act becomes effective January 1, 2001.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 120

Short Title: Tax Lien Advertisement and Collection. (Public)

Sponsors: Representative Owens.

Referred to: Finance.

February 22, 1999

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE PROCEDURES FOR NOTIFYING OWNERS AND ADVERTISING TAX LIENS ON REAL PROPERTY AND TO AUTHORIZE COUNTIES TO PROHIBIT REGISTRATION OF DEEDS IF DELINQUENT TAXES ARE OWED ON THE PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-369 reads as rewritten:

"**§ 105-369. Advertisement of tax liens on real property for failure to pay taxes.**

(a) Report of unpaid Taxes that are Liens on Real Property. -- ~~On the first Monday in February in each year, each county tax collector and on the second Monday in February in each year, each municipal tax collector shall~~ In February of each year, the tax collector must report to the governing body the total amount of unpaid taxes for the current fiscal year that are liens on real ~~property, and the governing body shall thereupon~~ property. A county tax collector's report is due the first Monday in February, and a municipal tax collector's report is due the second Monday in February. Upon receipt of the report, the governing body may order the tax collector to advertise ~~such~~ the tax liens. For purposes of this section, district taxes collected by county tax collectors shall be regarded as county taxes and district taxes collected by municipal tax collectors shall be regarded as municipal taxes.

(b) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1013.

(b1) Notice to Owner. -- If the governing body orders the tax collector to advertise the tax liens, the tax collector must send a notice to the listing owner and to the record owner of each affected parcel of property, as determined as of December 31 of the fiscal year for which the taxes are due. The notice must be sent to each owner's

last known address by first-class mail at least 30 days before the date the advertisement is to be published. The notice must state the principal amount of unpaid taxes that are a lien on the parcel to be advertised and inform the owner that the names of the listing owner and the record owner will appear in a newspaper advertisement of delinquent taxes if the taxes are not paid before the publication date.

(c) Time and Contents of Advertisement. -- If the governing body orders the tax collector to advertise the tax liens, this subsection governs the advertisement. A tax collector's failure to comply with this subsection does not affect the validity of the taxes or tax liens. The county tax collector shall advertise county tax liens by posting a notice of the liens at the county courthouse and by publishing each lien at least one time in one or more newspapers having general circulation in the taxing unit. The municipal tax collector shall advertise municipal tax liens by posting a notice of the liens at the city or town hall and by publishing each lien at least one time in one or more newspapers having general circulation in the taxing unit. Advertisements of tax liens shall be made during the period March 1 through June 30. The costs of newspaper advertising shall be paid by the taxing unit. ~~(If~~ If the taxes of two or more taxing units are collected by the same tax collector, the tax liens of each unit shall be advertised separately unless, under the provisions of a special act or contractual agreement between the taxing units, joint advertisement is ~~permitted.)~~ permitted.

The posted notice and newspaper advertisement shall set forth the following information:

(1) ~~The~~ In the case of property that the listing owner has not transferred after January 1 preceding the fiscal year for which the tax liens are advertised, the name of each person to whom is listed real property on which the taxing unit has a lien for unpaid ~~taxes,~~ taxes, in alphabetical order.

(1a) In the case of property that the listing owner has transferred after January 1 preceding the fiscal year for which the tax liens are advertised, the name of the record owner as of December 31 of each parcel on which the taxing unit has a lien for unpaid taxes, in alphabetical order, followed by a notation that the property was transferred to the record owner and a notation of the name of the listing owner.

(1b) ~~together with a~~ After the information required by subdivision (1) or (1a) of this subsection for each parcel, a brief description of each parcel of land to which ~~such~~ a lien has attached and a statement of the principal amount of the taxes constituting a lien against the parcel.

(2) A statement that the amounts advertised will be increased by interest and costs and that the omission of interest and costs from the amounts advertised will not constitute waiver of the taxing unit's claim for those items.

(3) In the event the list of tax liens has been divided for purposes of advertisement in more than one newspaper, a statement of the names of all newspapers in which advertisements will appear and the dates on which they will be published.

(4) A statement that the taxing unit may foreclose the tax liens and sell the real property subject to the liens in satisfaction of its claim for taxes.

~~Failure to comply with this subsection does not affect the validity of the taxes or tax liens.~~

(d) Costs. -- Each parcel of real property advertised pursuant to this section shall be assessed an advertising fee to cover the actual cost of the advertisement. Actual advertising costs per parcel shall be determined by the tax collector on any reasonable basis. Advertising costs assessed pursuant to this ~~subdivision (d) shall be deemed to be~~ subsection are taxes.

(e) Payments during Advertising Period. -- At any time during the advertisement period, any parcel may be withdrawn from the list by payment of the taxes plus interest that has accrued to the time of payment and a proportionate part of the advertising fee to be determined by the tax collector. Thereafter, the tax collector shall delete that parcel from any subsequent advertisement, but ~~if he fails to do so he shall not be liable for his~~ the tax collector is not liable for failure to make the deletion.

(f) Listing and Advertising in Wrong Name. -- No tax lien ~~shall be~~ is void because the real property to which the lien attached was listed or advertised in the name of a person other than the person in whose name the property should have been listed for taxation or because the record owner's name was omitted from the advertisement, if the property was in other respects correctly described on the abstract or in the advertisement.

(g) Wrongful Advertisement. -- Any tax collector or deputy tax collector who ~~shall willfully advertise~~ willfully advertises any tax lien knowing that the property is not subject to taxation or that the taxes advertised have been paid ~~shall be~~ is guilty of a Class 3 misdemeanor, and shall be required to pay the injured party all damages sustained in consequence."

Section 2. Article 26 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-370. Notice of delinquent taxes.**

If the governing body of a taxing unit decides not to advertise tax liens for a fiscal year, the tax collector must, at least 30 days before initiating any lien foreclosure action under G.S. 105-374, send a notice to the listing owner and the record owner of the affected parcel of property, as determined as of December 31 of the fiscal year for which the taxes are due. The notice must be sent to each owner's last known address by first-class mail. The notice must state the principal amount of unpaid taxes that are a lien on the property and inform the owner that the lien may be foreclosed to enforce collection of those taxes. Failure to mail the notice required by this section

to the correct listing owner or record owner does not affect the validity of the tax lien or of any foreclosure action."

Section 3. G.S. 105-375(b) reads as rewritten:

"(b) Docketing Certificate of Taxes as Judgment. -- In lieu of following the procedure set forth in G.S. 105-374, the governing body of any taxing unit may direct the tax collector to ~~file, no earlier than six months following the advertisement of tax liens, with the clerk of superior court~~ file with the clerk of superior court, no earlier than six months after the tax liens were advertised or May 6 following the delinquency date, whichever is later, a certificate showing the following: the name of the taxpayer listing real property on which the taxes are a lien, together with the amount of taxes, penalties, interest, and costs that are a lien thereon; the year or years for which the taxes are due; and a description of the property sufficient to permit its identification by parol testimony. The fees for docketing and indexing the certificate shall be payable to the clerk of superior court at the time the taxes are collected or the property is sold."

Section 4. G.S. 105-375(e) reads as rewritten:

"(e) Special Assessments. -- Street, sidewalk, and other special assessments may be included in any judgment for taxes taken under this ~~section; or such~~ section, or the special assessments may be included in a separate judgment docketed under this ~~section, which is hereby declared to be made available~~ section. The tax collector may use such a judgment as a method of foreclosing the lien of special assessments. When used to foreclose the lien of special assessments, the procedure may be instituted at any time after the assessment or installment falls due and remains unpaid; the ~~six months'~~ waiting period required by subsection ~~(b), above, shall~~ (b) of this section does not apply to the foreclosure of special assessments."

Section 5. Article 2 of Chapter 161 of the General Statutes is amended by adding a new section to read:

"**§ 161-31. Tax certification.**

The board of commissioners of a county may, by resolution, require the register of deeds not to accept any deed for registration unless the county tax collector has certified that no delinquent ad valorem county taxes, ad valorem municipal taxes, or taxes with which the collector is charged are a lien on the property described in the deed."

Section 6. This act becomes effective January 1, 2000.

HOUSE BILL 120:
Tax Lien Advertisement and Collection

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Owens
Date:	March 16, 1999	**Summary by:**	Cindy Avrette
Version:	PCS for 1st Edition H120-PCS3132-RB		Committee Counsel

SUMMARY: ***The Proposed Committee Substitute for House Bill 120 would make three changes to the laws concerning property tax collection. The changes would become effective January 1, 2001. The proposed committee substitute changes the effective date from January 1, 2000, to January 1, 2001.***

- ***It would require property tax collectors to notify both the listing owner and the record owner before advertising tax delinquencies in the newspaper.***
- ***It would give counties the option to not advertise tax delinquencies before beginning tax foreclosure proceedings.***
- ***It would allow counties to begin tax foreclosure proceedings sooner if the tax delinquency is advertised in the newspaper. (added in the PCS)***
- ***It would authorize the board of county commissioners to adopt a resolution requiring delinquent taxes to be paid before a deed maybe accepted for registration in the county Register of Deeds.***

CURRENT LAW: Property must be listed for property tax in January of each year. The listing owner is the taxpayer who owned the property as of January 1. The taxes become due in September and become delinquent on January 6 of the following year. Although most counties send tax listing notices and tax bills to the taxpayer, they are not required by law to do so. Property owners are charged with notice that they must list their property for taxes and pay the taxes; otherwise, enforcement measures will be taken against the property. The legal effect of this law is to prevent a taxpayer from using lack of notice as an excuse for not paying property taxes or as a defense to a collection remedy against the property. If property taxes remain unpaid, the tax collector is required by statute to advertise the tax liens in a local newspaper under the name of the listing owner. If the taxes remain unpaid for six months following the advertisement, the tax collector may begin a foreclosure proceeding against the property.

BILL ANALYSIS: The bill removes the requirement that tax delinquencies be advertised in the newspaper. Under the bill, the advertising of tax delinquencies would be optional. The bill sets forth new standards for collecting the delinquent taxes through a tax foreclosure proceeding against the property if the county chooses not to advertise the tax delinquency. The tax collector may not initiate an in rem foreclosure proceeding until May 6, which is six months following the delinquency date of January 6. The tax collector must also send a notice to both the listing owner and the record owner as of December 31 if the record owner is different than the listing owner. The notice must be sent at least 30 days before initiating any foreclosure action. The notice must state the principal amount of unpaid taxes that are a lien

on the property and inform the owner that the lien may be foreclosed to enforce collection of those taxes. Failure to send the notice would not invalidate the tax lien or any foreclosure action.

For counties that continue to choose to advertise tax delinquencies in a local newspaper, the bill adds a requirement that local taxing units must notify both the listing owner and the record owner as of December 31, if the record owner is different than the listing owner, of the intent to advertise. The notice must state the principal amount of tax due and inform the persons that the tax delinquency will be advertised in a local newspaper under the name of the record owner, with a notation of the name of the listing owner. The notice must be sent by first class mail at least 30 days before the date the advertisement is to be published. If a county advertises, then it may begin an in rem foreclosure proceeding sooner than it could under current law. Under the current law, a county cannot begin an in rem foreclosure proceeding until six months following the date the tax liens were advertised. The earliest tax liens can be advertised is March; therefore, September is the earliest an in rem foreclosure proceeding may be initiated under current law. Under the bill, a county that advertises tax liens may begin an in rem foreclosure proceeding as early as 30 days after the tax liens were advertised. The earlier date allows counties to begin collection proceedings during the fiscal year in which the taxes are due.

Lastly, the bill gives all counties the authority to adopt a resolution requiring a certificate from the tax collector that all delinquent taxes for which the county is charged with collecting have been paid on the property described in a deed before the deed maybe accepted by the register of deeds for registration. Several local units of government have this authority through local legislation the General Assembly has enacted over the years: the counties of Alleghany, Ashe, Avery, and Mitchell, and the Towns of Banner Elk, Newland, and Spruce Pine.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 120

SHORT TITLE: Tax Lien Advertisement and Collection

SPONSOR(S): Rep. Owens

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
EXPENDITURES					
Local Governments	**($30,000)**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: County Governments.

EFFECTIVE DATE: This act becomes effective January 1, 2000.

BILL SUMMARY: The bill intends to improve the procedures for advertising tax liens on real property and for notifying delinquent taxpayers. The bill also gives counties the option to prohibit the registration of deeds if delinquent taxes are owed on the property.

ASSUMPTIONS AND METHODOLOGY: This bill may have a small one-time impact on the costs of county operations, primarily in the area of computer programming and data entry. Virtually all counties will have to change their computer software to enable the advertisement of both the January 1 and the December 31 owner of real property (if different). A majority of counties will need to make minor software changes to allow notices to be mailed to both the January 1 and December 31 property owner (if different).

When working on a similar bill in 1998, Fiscal Research Division staff interviewed a sample of county tax collectors, a professor in the Institute of Government, and the chairman of the North Carolina Association of Assessing Officers. It was found that approximately 75 counties lack a fully automated way to timely send deed transfer information between the Register of Deeds Office and the Tax Assessor's Office. The Registers of Deeds provide copies of deeds to the Tax Assessors in the form of paper, microfilm, microfiche, or CD. The tax professionals contacted in

1998 estimated that only 25 counties might incur one-time costs for computer programming in the first year of implementing HB 120. These 25 counties might expend an average of $800 each ($20,000) for computer vendors to program county databases for this data transfer.

Data entry was another cost identified by tax professionals interviewed in 1998. It was estimated that 25 county Tax Assessors might spend approximately $400 each ($10,000) for temporary clerks to do data entry on deed transfer files in order to update the county tax files. Small counties with few land transactions do not experience a backlog in deed transfer filings. It was suggested in 1998 that temporary clerks would be needed each year due to this bill, but this fiscal note assumes that keeping deed and tax files current should be standard operating procedure for the tax listing process and is not a new requirement on county governments.

FISCAL RESEARCH DIVISION
733-4910
PREPARED BY: Richard Bostic
APPROVED BY:
DATE: March 12, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MILLER, LUEBKE, ALLEN** for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B.33 A BILL TO BE ENTITLED AN ACT CONCERNING ANNEXATION OF CERTAIN PROPERTY BY THE TOWN OF CLAYTON

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 33*
House Committee Substitute Favorable 3/11/99

Short Title: Clayton Satellite Annexation. (Local)

Sponsors:

Referred to:

February 4, 1999

A BILL TO BE ENTITLED

AN ACT CONCERNING ANNEXATION OF CERTAIN PROPERTY BY THE TOWN OF CLAYTON.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-58.1(b)(5) does not apply to the Town of Clayton for any noncontiguous annexation with the following area:

Lying and being situated in Wilder Township, Johnston County, containing 786.19 acres, more or less, and more particularly described as follows:

BEING all of that property as shown on the plats entitled "Survey for the Raleigh Rescue Mission, Inc., Wilder Township, Johnston County, North Carolina," dated August 1, 1990, prepared by Derward W. Baker and Associates P.A., Registered Land Surveyors, and recorded in Plat Book 35, Page 381, Johnston County Registry and "Property of Joseph M. Hester, Jr., et al." dated October 4, 1996, prepared by Joyner, Keeny & Associates, Registered Land Surveyors, and recorded in Plat Book 48, Page 359, Johnston County Registry, to which reference is hereby made for a more particular description.

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

S33:
Clayton Satellite Annexation

BILL ANALYSIS

Committee: House Finance Committee
Date: March 15, 1999
Version: 2

Introduced by: Senator Wellons
Summary by: Ed Rossi
Committee Co-Counsel

SUMMARY: Senate bill 33 exempts the town of Clayton from G.S. § 160A-58.1(b)(5). This allows the town to annex land that increases its total of "satellite" or non-contiguous land holdings to more than 10% of its primary corporate limits.

CURRENT LAW: State law sets out certain criteria that cities must meet before they can annex non-contiguous ("satellite") land:

1. The owners in the satellite must sign a petition requesting the annexation.
2. The nearest point in the satellite cannot be more than 3 miles from the primary (original) city limits.
3. The annexing city must be the closest city to the satellite.
4. The annexing city must provide the same services to the satellite that it provides to the rest of the city.
5. If the satellite includes subdivision, the entire subdivision must be part of the satellite.
6. When land in satellite to be annexed is added to the land in the existing satellites, the total land in all the satellites cannot be more than 10% of the land in the original city limits.

BILL ANALYSIS: Senate bill 33 exempts the Town of Clayton from this last requirement. Presumably when the land described in the bill is added the other satellite parcels already annexed by the town, the total of the satellites will exceed 10% of the town's primary (original) corporate limits.

BACKGROUND: This bill is identical to House bill 21, which was introduced by Representative Creech. To date, 7 towns have been completely exempted from this 10% provision.[1] Thy are: Hickory, New Bern, Statesville, Kenly, Troy, Catawba, and Mooresville. [2] The Town of Clayton has received one prior exemption from this provision .[3]

[1] See March 9, 1999, memorandum by Esther Manheimer to House Local Government II Committee.
[2] Id.
[3] Chapter 63 of the 1993 Session Laws.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MILLER, LUEBKE, ALLEN** for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B.43 A BILL TO BE ENTITLED AN ACT TO CONSOLIDATE THE TOWN OF ALEXANDER MILLS INTO THE TOWN OF FOREST CITY

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 43*
Finance Committee Substitute Adopted 2/25/99

Short Title: Forest City/Alexander Mills. (Local)

Sponsors:

Referred to:

February 8, 1999

A BILL TO BE ENTITLED

AN ACT TO CONSOLIDATE THE TOWN OF ALEXANDER MILLS INTO THE TOWN OF FOREST CITY.

The General Assembly of North Carolina enacts:

Section 1. (a) The Town of Alexander Mills is merged into the Town of Forest City. The effective date of the merger is July 1, 1999. The Town of Alexander Mills is abolished as a separate municipal corporation.

(b) Subsection (a) of this section is effective only if approved in a referendum by the qualified voters of the Town of Alexander Mills.

(c) The referendum shall be held on a date set by the Rutherford County Board of Elections, but no later than May 31, 1999. It may be held on the same day as any other referendum or election in the county, but may not otherwise be held during the period beginning 50 days before and ending 50 days after the day of any other referendum or election to be conducted by the board of elections conducting the referendum and already validly called or scheduled by law. The proposition submitted to the voters shall be in the form approved by the Rutherford County Board of Elections.

Section 2. (a) On the effective date of the merger, all property, real and personal and mixed, including accounts receivable, belonging to the Town of Alexander Mills, shall by operation of law vest in, belong to, and be the property of the Town of Forest City. The governing body of the Town of Alexander Mills shall take such additional actions and execute such documents as will carry into effect the provisions and the intent of this section.

(b) All judgments, liens, rights of liens, and causes of action of any nature in favor of the Town of Alexander Mills shall vest in and remain and inure to the benefit of the Town of Forest City.

(c) All taxes, assessments, water or sewer charges, and any other charges or fees, owed to the Town of Alexander Mills shall be owed to and collected by the Town of Forest City.

(d) All actions, suits, and proceedings pending against, or having been instituted by the Town of Alexander Mills, shall not be abated by this act or by the merger herein provided for, but all such actions, suits, and proceedings shall be continued and completed in the same manner as if merger had not occurred, and the Town of Forest City shall be a party to all such actions, suits, and proceedings in the place and stead of the Town of Alexander Mills and shall pay or cause to be paid any judgments rendered against the Town of Alexander Mills in any such actions, suits, or proceedings. No new process need be served in any such action, suit, or proceeding.

(e) All obligations of the Town of Alexander Mills, including outstanding indebtedness, shall be assumed by the Town of Forest City, and all such obligations and outstanding indebtedness are hereby constituted obligations and indebtedness of the Town of Forest City.

(f) The Town of Forest City may adopt any ordinances, rules, and regulations under Article 19 of Chapter 160A of the General Statutes prior to July 1, 1999, as to the area of the Town of Alexander Mills, to become effective not earlier than July 1, 1999. All other ordinances of the Town of Forest City become effective July 1, 1999, in the area formerly of the Town of Alexander Mills except as provided by subsection (g) of this section.

(g) All franchises heretofore granted by the Town of Alexander Mills, which are still in force, shall continue as valid franchises of the Town of Forest City for the purposes granted within the area formerly comprising the Town of Alexander Mills, but shall not hereby be constituted valid franchises for any other portion of the corporate limits of the Town of Forest City.

(h) The Town of Forest City shall assume responsibility for all current and future liabilities of the Town of Alexander Mills for unemployment insurance benefit charges under G.S. 96-9(f)(1).

Section 3. The Charter of the Town of Forest City, being Chapter 209, Session Laws of 1981, is amended by adding the following new section:

"Sec. 1.4. The corporate limits of the Town of Forest City also include all areas within the corporate limits of the Town of Alexander Mills on the date the Town of Alexander Mills was merged into the Town of Forest City."

Section 4. The Mayor and Town Commissioners of the Town of Forest City continue in existence after the consolidation. The Mayor and Commissioners of the Town of Alexander Mills are abolished as of July 1, 1999, but shall continue from that date until the organizational meeting after the 1999 Forest City municipal election as an advisory panel of the Town of Forest City to provide information and guidance in regard to matters pertaining to the area which was formerly the Town of Alexander Mills. In the 1999 municipal election, residents of the area formerly the

Town of Alexander Mills shall have full rights to be candidates for elective office in the Town of Forest City as provided by law.

Section 5. All property that had a tax situs in the Town of Alexander Mills on January 1, 1999, shall be considered to have a tax situs in the Town of Forest City for the appropriate fiscal year, and any property properly listed for taxation in the Town of Alexander Mills is properly listed for taxation in the Town of Forest City.

Section 6. Chapter 5, Private Laws of 1925, being the Charter of the Town of Alexander Mills, is repealed.

Section 7. Sections 2 through 6 of this act become effective only if the Town of Alexander Mills is merged into the Town of Forest City under Section 1 of this act.

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

S43:
Forest City /Alexander Mills

BILL ANALYSIS

Committee: House Finance
Date: March 15, 1999
Version: 2

Introduced by: Senator Dalton
Summary by: Ed Rossi
Committee Co-Counsel

SUMMARY: Senate bill 43 merges the Town of Alexander Mills into the Town of Forrest City. This merger is contingent on the approval of a referendum that is to be put before the qualified voters of the Town of Alexander Mills. If the merger is approved, the Town of Forrest City will acquire all the property, rights, obligations, and liabilities of the Town of Alexander Mills.

BACKGROUND: This bill as introduced was identical to House bill 44, which was introduced by Representative Dedmond. On February 25, 1999, the Senate Finance Committee adopted a committee substitute which made a technical amendment to Section 6, so that this section correctly referenced the Charter of the Town of Alexander Mills as being Chapter 5 of the Private Laws of 1925.

VISITOR REGISTRATION SHEET

House Finance
Name of Committee

3-16-99
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Bill Campbell	Institute of Government
Bill Little	Duke L.T.C.
Fannie N.B. Williams	Duke L.T.C.
Sabra Faires	Dept of Revenue
Judith McLaughlin	DOR
Elizabeth L. Williams	Dept of Revenue
Dick Rowe	DOR
Patti Seawell	"
Paul Coggins	OSBM
Bill Scogin	NC Bar Assoc.
Jim Blackburn	County Commissioners Association
John Bain	Dept. of Rev.
Alice Garland	Electricities
Rob Holliday	Intern - Rep. Luebke

2 (Cont.)

VISITOR REGISTRATION SHEET

House Finance — Name of Committee

3-16-99 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Kelli Kukura	DuPont
Andy Romanet	N.C.L.M.
[illegible]	CP&L
V.L. McBride	NCAA
[illegible]	Moore Van Allen
Paul Stock	NCBA
[illegible]	Moore & VanAllen
[illegible] Williams	NCMBA
Garrett Perdue	ZDA PA
C. Porter	Bone & Associates
[illegible]	DES
A.B. Swindell	BFI
[illegible]	the Capitol Group
[illegible]	AT&T

VISITOR REGISTRATION SHEET

House Finance — 3-16-99
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Willie Riddick	DOR
Daniel Boone (EXD)	Electricities
Ed Regan	N.C.A.C.C.

AGENDA

HOUSE FINANCE COMMITTEE

Thursday, March 18, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 56 - Eliminate Stamps for Deed Tax – Rep. Hill

HB 221 – Long Beach / Yaupon Beach – Rep. Redwine

HB 19 – Casino Boats Regulated – Rep. Redwine

ADJOURNMENT OF MEETING

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 56 A BILL TO BE ENTITLED AN ACT TO ELIMINATE THE USE OF STAMPS TO INDICATE WHETHER THE EXCISE TAX ON CONVEYANCES HAS BEEN PAID AND TO MAKE THE PENALTIES THAT APPLY TO THIS TAX THE SAME AS FOR OTHER TAXES.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 56*
Proposed Committee Substitute H56-PCS6067-SC

Short Title: Eliminate Stamps for Deed Tax. (Public)

Sponsors:

Referred to:

February 10, 1999

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE USE OF STAMPS TO INDICATE WHETHER THE EXCISE TAX ON CONVEYANCES HAS BEEN PAID AND TO MAKE THE PENALTIES THAT APPLY TO THIS TAX THE SAME AS FOR OTHER TAXES.

The General Assembly of North Carolina enacts:

Section 1. Article 8E of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 8E.

"Excise ~~Stamp~~ Tax on Conveyances.

"**§ 105-228.28. ~~To whom this Article shall apply.~~ Scope.**

~~The provisions of this Article shall apply to every person, firm, corporation, association, society or organization~~ This Article applies to every person conveying an interest in real estate located in North Carolina other than a governmental unit ~~and instrumentalities thereof.~~ or an instrumentality of a governmental unit.

"**§ 105-228.29. ~~Conveyances excluded.~~ Exemptions.**

~~The provisions of this Article shall not apply to transfers of an interest in real estate by operation of law, by lease for a term of years, by or pursuant to the provisions of a will, by intestacy, by gift, by merger or consolidation, or by instruments securing indebtedness, or any other transfer where no consideration in property or money is due or paid by the transferee to transferor.~~ This Article does not apply to any of the following transfers of an interest in real property:

(1) By operation of law.

(2) By lease for a term of years.
(3) By or pursuant to the provisions of a will.
(4) By intestacy.
(5) By gift.
(6) If no consideration in property or money is due or paid by the transferee to the transferor.
(7) By merger or consolidation.
(8) By an instrument securing indebtedness.

"§ 105-228.30. Imposition of excise ~~stamp tax.~~ tax; distribution of proceeds.

(a) ~~There is levied an~~ An excise tax is levied on each ~~deed, instrument, or writing~~ instrument by which any interest in real property is conveyed to another person. The tax ~~shall be at the rate of~~ rate is one dollar ($1.00) on each five hundred dollars ($500.00) or fractional part thereof of the consideration or value of the interest ~~or property~~ conveyed. The ~~tax shall be paid by the~~ transferor must pay the tax to the register of deeds of the county in which the real estate is ~~situated prior to~~ located before recording the instrument of ~~conveyance; provided that, if~~ conveyance. If the instrument transfers ~~any~~ a parcel of real estate lying in two or more counties, ~~the tax shall~~ however, the tax must be paid to the register of deeds of the county ~~wherein~~ in which the greater part of the real estate with respect to value lies.

(b) The register of deeds of each county ~~shall~~ must remit the proceeds of the tax levied by this section to the county finance officer. The finance officer of each county ~~shall~~ must credit one-half of the proceeds to the county's general fund and ~~shall~~ remit the remaining one-half of the proceeds, less the county's allowance for administrative expenses, to the Department of Revenue on a quarterly basis. A county may retain two percent (2%) of the amount of tax proceeds allocated for remittance to the Department of Revenue as compensation for the county's cost in collecting and remitting the State's share of the tax. Of the funds remitted to it pursuant to this section, the Department of Revenue ~~shall~~ must credit seventy-five percent (75%) to the Parks and Recreation Trust Fund established under G.S. 113-44.15 and twenty-five percent (25%) to the Natural Heritage Trust Fund established under G.S. 113-77.7.

~~"§ 105-228.31. Issuance of tax stamp.~~

~~The Secretary of Revenue shall furnish to the register of deeds of each county tax stamps to be issued upon payment of the tax herein imposed. Counties shall pay to the Secretary a reasonable charge therefor to cover the cost of printing and handling same. Such tax stamps shall be uniform as to size and design and shall be in such form as determined by the Secretary of Revenue and shall be valid until cancelled as hereinafter provided for.~~

~~The register of deeds of any county is authorized to affix stamps by meter or other similar device in accordance with procedures established by the Secretary of Revenue. Stamps affixed by such devices shall be uniform as to size and design and shall be in such form as determined by the Secretary and cancellation as provided by this Article is not required.~~

"**§ 105-228.32. ~~Duties of register of deeds; duty of party presenting instrument for registration.~~ Instrument must be marked to reflect tax paid.**

~~The register of deeds of each county shall obtain from the Secretary of Revenue and keep on hand an adequate supply of excise tax stamps. The register of deeds shall keep such records and otherwise account for said stamps in accordance with procedures established by the Secretary of Revenue for the control, distribution and sale of said stamps and for the accounting for proceeds of their sale consistent with this Article. It is the duty of the party presenting the instrument for registration to see that the correct amount of stamps is affixed to the face thereof prior to recording the same in the office of the register of deeds. The register of deeds shall cancel said stamp or stamps prior to recording by writing the date of filing on the face of said stamp or stamps.~~ A person who presents an instrument for registration must report to the Register of Deeds the amount of tax due. Before the instrument may be recorded, the Register of Deeds must collect the tax due and mark the instrument to indicate that the tax has been paid.

"**§ 105-228.33. Taxes recoverable by action.**

~~Upon the failure to pay the taxes imposed by this Article, they may be recovered~~ A county may recover unpaid taxes under this Article in an action in the name of the county brought in the superior court of ~~said county when the same remain unpaid for a period of 30 days after demand has been made by the register of deeds on behalf of the county therefor.~~ the county. The action may be filed if the taxes remain unpaid more than 30 days after the register of deeds has demanded payment. In such actions, costs of court shall include a fee to the county of twenty-five dollars ($25.00) for expense of collection.

"~~**§ 105-228.34. Willful failure to pay tax.**~~

~~Any transferor or agent of transferor of real estate willfully and knowingly failing to pay the correct amount of the tax imposed by this Article or any person aiding, abetting, or directing any other person to willfully and knowingly fail to pay the correct amount of such tax shall be guilty of a Class 3 misdemeanor and only fined not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000) for each offense. When the register of deeds relies on the statement of the party presenting the instrument for registration as to the correct amount of stamps to be affixed, he shall not be subject to prosecution as an aider or abettor under this section.~~

"**§ 105-228.35. Administrative provisions.**

The provisions of ~~Subchapter III, Article 30 of Chapter 105 of the General Statutes of North Carolina to the extent applicable shall apply to the tax imposed herein.~~ Article 9 of this Chapter apply to this Article.

"~~**§ 105-228.36. Reproduction of tax stamps.**~~

~~No person, firm, or corporation shall print, engrave, or otherwise reproduce excise tax stamps except with the express permission of the Secretary of Revenue. The unauthorized reproduction of said stamps shall be punishable as a forgery under G.S. 14-119.~~"

Section 2. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

Section 3. Section 1 of this act becomes effective July 1, 2000. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

HOUSE BILL 56*

Short Title: Eliminate Stamps for Deed Tax. (Public)

Sponsors: Representatives Hill, Cansler, Capps, Gray, Neely, Ramsey, C. Wilson; Buchanan, Church, Rayfield, Russell, and Starnes.

Referred to: Finance.

February 10, 1999

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE USE OF STAMPS TO INDICATE WHETHER THE EXCISE TAX ON CONVEYANCES HAS BEEN PAID AND TO MAKE THE PENALTIES THAT APPLY TO THIS TAX THE SAME AS FOR OTHER TAXES.

The General Assembly of North Carolina enacts:

Section 1. Article 8E of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 8E.

"Excise ~~Stamp~~ Tax on Conveyances.

"**§ 105-228.28. ~~To whom this Article shall apply.~~ Scope.**

~~The provisions of this Article shall apply to every person, firm, corporation, association, society or organization~~ This Article applies to every person conveying an interest in real estate located in North Carolina other than a governmental unit ~~and instrumentalities thereof.~~ or an instrumentality of a governmental unit.

"**§ 105-228.29. ~~Conveyances excluded.~~ Exemptions.**

~~The provisions of this Article shall not apply to transfers of an interest in real estate by operation of law, by lease for a term of years, by or pursuant to the provisions of a will, by intestacy, by gift, by merger or consolidation, or by instruments securing indebtedness, or any other transfer where no consideration in property or money is due or paid by the transferee to transferor.~~ This Article does not apply to any of the following transfers of an interest in real property:

(1) By operation of law.

(2) By lease for a term of years.
(3) By or pursuant to the provisions of a will.
(4) By intestacy.
(5) By gift.
(6) If no consideration in property or money is due or paid by the transferee to the transferor.
(7) By merger or consolidation.
(8) By an instrument securing indebtedness.

"§ 105-228.30. Imposition of excise ~~stamp tax.~~ tax; distribution of proceeds.

(a) ~~There is levied an~~ An excise tax is levied on each ~~deed, instrument, or writing~~ instrument by which any interest in real property is conveyed to another person. The tax ~~shall be at the rate of~~ rate is one dollar ($1.00) on each five hundred dollars ($500.00) or fractional part thereof of the consideration or value of the interest ~~or property~~ conveyed. The ~~tax shall be paid by the~~ transferor must pay the tax to the register of deeds of the county in which the real estate is ~~situated prior to~~ located before recording the instrument of ~~conveyance; provided that, if~~ conveyance. If the instrument transfers ~~any~~ a parcel of real estate lying in two or more counties, ~~the tax shall~~ however, the tax must be paid to the register of deeds of the county ~~wherein~~ in which the greater part of the real estate with respect to value lies.

(b) The register of deeds of each county ~~shall~~ must remit the proceeds of the tax levied by this section to the county finance officer. The finance officer of each county ~~shall~~ must credit one-half of the proceeds to the county's general fund and ~~shall~~ remit the remaining one-half of the proceeds, less the county's allowance for administrative expenses, to the Department of Revenue on a quarterly basis. A county may retain two percent (2%) of the amount of tax proceeds allocated for remittance to the Department of Revenue as compensation for the county's cost in collecting and remitting the State's share of the tax. Of the funds remitted to it pursuant to this section, the Department of Revenue ~~shall~~ must credit seventy-five percent (75%) to the Parks and Recreation Trust Fund established under G.S. 113-44.15 and twenty-five percent (25%) to the Natural Heritage Trust Fund established under G.S. 113-77.7.

~~"§ 105-228.31. Issuance of tax stamp.~~

~~The Secretary of Revenue shall furnish to the register of deeds of each county tax stamps to be issued upon payment of the tax herein imposed. Counties shall pay to the Secretary a reasonable charge therefor to cover the cost of printing and handling same. Such tax stamps shall be uniform as to size and design and shall be in such form as determined by the Secretary of Revenue and shall be valid until cancelled as hereinafter provided for.~~

~~The register of deeds of any county is authorized to affix stamps by meter or other similar device in accordance with procedures established by the Secretary of Revenue. Stamps affixed by such devices shall be uniform as to size and design and shall be in such form as determined by the Secretary and cancellation as provided by this Article is not required.~~

"**§ 105-228.32. Duties of register of deeds; duty of ~~party~~ person presenting instrument for registration.**

The register of deeds of each county ~~shall obtain from the Secretary of Revenue and keep on hand an adequate supply of excise tax stamps. The register of deeds shall keep such records and otherwise account for said stamps in accordance with procedures established by the Secretary of Revenue for the control, distribution and sale of said stamps and for the accounting for proceeds of their sale consistent with this Article. It is the duty of the party presenting the instrument for registration to see that the correct amount of stamps is affixed to the face thereof prior to recording the same in the office of the register of deeds. The register of deeds shall cancel said stamp or stamps prior to recording by writing the date of filing on the face of said stamp or stamps.~~ must, before recording an instrument subject to tax under this Article, collect the tax and mark the instrument to indicate that the tax has been paid. The person presenting an instrument for registration must indicate the correct amount of tax due on the face of the instrument.

"**§ 105-228.33. Taxes recoverable by action.**

~~Upon the failure to pay the taxes imposed by this Article, they may be recovered~~ A county may recover unpaid taxes under this Article in an action in the name of the county brought in the superior court of ~~said county when the same remain unpaid for a period of 30 days after demand has been made by the register of deeds on behalf of the county therefor.~~ the county. The action may be filed if the taxes remain unpaid more than 30 days after the register of deeds has demanded payment. In such actions, costs of court shall include a fee to the county of twenty-five dollars ($25.00) for expense of collection.

"~~**§ 105-228.34. Willful failure to pay tax.**~~

~~Any transferor or agent of transferor of real estate willfully and knowingly failing to pay the correct amount of the tax imposed by this Article or any person aiding, abetting, or directing any other person to willfully and knowingly fail to pay the correct amount of such tax shall be guilty of a Class 3 misdemeanor and only fined not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000) for each offense. When the register of deeds relies on the statement of the party presenting the instrument for registration as to the correct amount of stamps to be affixed, he shall not be subject to prosecution as an aider or abettor under this section.~~

"**§ 105-228.35. Administrative provisions.**

The provisions of ~~Subchapter III, Article 30 of Chapter 105 of the General Statutes of North Carolina to the extent applicable shall apply to the tax imposed herein.~~ Article 9 of this Chapter apply to this Article.

"~~**§ 105-228.36. Reproduction of tax stamps.**~~

~~No person, firm, or corporation shall print, engrave, or otherwise reproduce excise tax stamps except with the express permission of the Secretary of Revenue. The unauthorized reproduction of said stamps shall be punishable as a forgery under G.S. 14-119.~~"

Section 2. The Secretary of Revenue may withhold from collections under Part 2 of Article 4 of Chapter 105 of the General Statutes for the 1999-2001 fiscal biennium the amount necessary to reimburse eligible counties for the costs of this act as required by this section. A county is eligible for reimbursement under this section if, before July 1, 1999, it used only stamps issued under Article 8E of Chapter 105 of the General Statutes to collect the conveyance tax imposed in that Article, and did not purchase or lease meters or other equipment to provide a substitute mechanism for collecting the conveyance tax before July 1, 1999. If an eligible county purchases or leases meters or other equipment during the 1999-2000 fiscal year to provide a substitute mechanism for collecting the conveyance tax pursuant to this act, the Department of Revenue shall, upon request, reimburse the county for the costs it paid during the 1999-2000 fiscal year to purchase or lease the equipment, not to exceed three thousand five hundred dollars ($3,500) per eligible county. In order to be reimbursed under this section, an eligible county must request reimbursement within six months after purchasing or leasing the equipment and must provide the Secretary of Revenue any information and documentation the Secretary requires to substantiate the request.

Section 3. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

Section 4. Section 1 of this act becomes effective July 1, 2000. The remainder of this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: H.B. 56 (Second Version)

SHORT TITLE: Eliminate Stamps for Deed Tax DRAFT

SPONSOR(S): Rep. Hill

FISCAL IMPACT

Yes () **No (x)** **No Estimate Available ( )**

	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03
REVENUES		insignificant			
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Corporate, Excise and Insurance Division, Department of Revenue, County Register of Deeds Offices.

EFFECTIVE DATE: Section 1 becomes effective July 1, 2000. The remainder becomes effective when it becomes law.

BILL SUMMARY: The bill eliminates the use of Department of Revenue produced tax stamps in payment of the conveyance tax. This tax is also known as the excise tax on deeds. Under the bill, the taxes would still be due, but the counties would be responsible for supplying the materials to record the tax stamp. The bill also clarifies that the same penalties that apply to other taxes apply to the deed tax.

ASSUMPTIONS AND METHODOLOGY: According to the Department of Revenue, only 12 counties have purchased stamps from the Department in the last two years. However, because these purchases are made in mass quantities, the actual number of counties still using such a stamp may be higher. Based on information provided by the Register of Deeds Association members and key vendors, the Department of Revenue and Fiscal Research estimate that approximately 15-20 counties may be without a computerized stamp system. As such, as many

as 15-20 counties may be dependent on the Department for deed stamps. Under the bill, these counties would now be responsible for obtaining their own stamps.

Approximately 80 to 85 counties already obtain their stamps, or some alternative, through other means. Most of these counties purchase or rent special computer equipment. Some of the largest counties have their deed stamp system integrated into a larger county government computer system.

No estimates are available at this time for potential cost savings to the Department. Also, no estimates are available for potential loss revenue from the lack of stamp sales. However, the Department expects the fiscal impact of these items is insignificant.

FISCAL RESEARCH DIVISION
733-4910
PREPARED BY: Linda Struyk Millsaps
APPROVED BY:
DATE: March 16, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 221 A BILL TO BE ENTITLED AN ACT TO REVISE AND CONSOLIDATE THE CHARTERS OF THE TOWN OF YAUPON BEACH AND THE TOWN OF LONG BEACH AND ESTABLISH A CHARTER FOR THE CONSOLIDATED TOWN OF OAK ISLAND

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 221

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H221-ASD-001

Page 1 of __

Date 3/18 ,1999

Comm. Sub. [ ]
Amends Title [ ]

moves to amend the bill on page 2, line 6,
by:

inserting the word "applicable" between the the words "all" and "powers" and;

on page 4, lines 38 & 39 by rewriting the lines to read:
"(11) Prior local acts that apply to the Town of Yaupon Beach and the Town of Long Beach, that are not inconsistent with the provisions of this act," and;

on page 5, lines 13 through 16 and lines 18 through 25 by inserting the phrase "(or successor)" to the right of each surname as was done on line 17 next to the surname "Bell"

Dawn Bell

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 221

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H221-ASD-001

Date_____,1999

Comm. Sub. []
Amends Title []

moves to amend the bill on page 2, line 6,
by:

inserting the word "applicable" between the the words "all" and "powers" and;

on page 4, lines 38 & 39 by rewriting the lines to read:
"(11) Prior local acts that apply to the Town of Yaupon Beach and the Town of Long Beach, that are not inconsistent with the provisions of this act," and;

on page 5, lines 13 through 16 and lines 18 through 25 by inserting the phrase "(or successor)" to the right of each surname as was done on line 17 next to the surname "Bell"

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 221*
Proposed Committee Substitute H221-PCS2129-LBX

Short Title: Long Beach/Yaupon Beach. (Local)

Sponsors:

Referred to:

March 3, 1999

A BILL TO BE ENTITLED

AN ACT TO REVISE AND CONSOLIDATE THE CHARTERS OF THE TOWN OF YAUPON BEACH AND THE TOWN OF LONG BEACH AND ESTABLISH A CHARTER FOR THE CONSOLIDATED TOWN OF OAK ISLAND.

The General Assembly of North Carolina enacts:

Section 1. The charters of the Town of Yaupon Beach and the Town of Long Beach are hereby revised and consolidated into the Charter for the Town of Oak Island to read as follows:

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Sec. 1.1. **Incorporation and General Powers.** The Town of Oak Island shall be a body politic and corporate under the name of the "Town of Oak Island", and shall be vested with all property and rights which now belong to the Towns of Yaupon Beach and Long Beach; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract; may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

"Sec. 1.2. **Exercise of Powers.** All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees shall be carried into execution as provided by this Charter, or, if this Charter makes no provisions, as

provided by ordinance or resolution of the Town Council and as provided by the general laws of North Carolina pertaining to municipal corporations.

"Sec. 1.3. **Enumerated Power Not Exclusive.** The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Oak Island shall have and may exercise all applicable powers which are granted to municipal corporations by the general laws of North Carolina and all powers which are granted by this Charter.

"Sec. 1.4. **Referendum Not Required.** Notwithstanding any other provision of law, the consolidation of the Town of Yaupon Beach and the Town of Long Beach into the Town of Oak Island shall not require a referendum but shall be governed by the provisions of this act.

"ARTICLE II. CORPORATE BOUNDARIES.

"Sec. 2.1. **Existing Corporate Boundaries.** The corporate limits of the Town of Oak Island shall be the combined corporate limits of the Town of Yaupon Beach and the Town of Long Beach existing at the time of enactment of this Charter and the effective date of consolidation, as the same are now or hereafter may be constituted pursuant to law. An official map or description of the Town, showing the current Town boundaries, shall be maintained permanently in the office of the Town Clerk, and shall be available for public inspection. Immediately upon changes, alteration of the corporate limits pursuant to law, the appropriate changes to the official map or description of the Town shall be made.

"Sec. 2.2. **Pending Annexations.** Matters pertaining to the annexation of property instituted by the Town of Yaupon Beach under an ordinance adopted September 14, 1998, shall become the responsibility of the consolidated Town of Oak Island as if begun originally by the Town of Oak Island. Any annexation action instituted or pending by the Town of Yaupon Beach and Town of Long Beach prior to the effective date of consolidation into the Town of Oak Island shall be as if instituted by the Town of Oak Island and the prior actions are hereby ratified. This section shall not be construed as prohibiting any annexation proceedings occurring between the date of enactment of this act and the effective date of consolidation.

"Sec. 2.3. **Extension of Corporate Boundaries.** All extensions of the corporate boundaries shall be governed by the General Statutes.

"ARTICLE III. TRANSITIONAL PROVISIONS.

"Sec. 3.1. **Action Prior to Consolidation.** (a) The following actions by the governing bodies of the Town of Yaupon Beach and the Town of Long Beach under subsections (b) and (c) of this section are authorized prior to the effective date of consolidation.

(b) The Town of Yaupon Beach and the Town of Long Beach shall take whatever action is necessary to assure delivery of services as of the effective date of consolidation of the two Towns into the Town of Oak Island. This includes effecting any interim planning, work assignments, and coordination required to effect a consolidated workforce and support operation as of the effective date of consolidation.

(c) The Town of Yaupon Beach and the Town of Long Beach shall take necessary action to consolidate accounting and budgeting systems to effect the consolidation of the Towns by the effective date of consolidation. Notwithstanding other provisions of the Local Government Budget and Fiscal Control Act, the Towns may prepare a budget for the consolidated Town of Oak Island in a manner and schedule agreed to by both Towns. Adoption of a budget for the consolidated Town of Oak Island shall be approved by both governing bodies prior to the effective date of consolidation and shall be effective on the date of consolidation. Audits of existing Town accounts shall be performed as of the end of the last fiscal year and prior to consolidation.

"Sec. 3.2. **Effective Date of Consolidation; Status of Governing Bodies.** Subject to the conditions and provisions of this act, the Town of Yaupon Beach and the Town of Long Beach are consolidated into the Town of Oak Island effective at 12:01 a.m., on July 1, 1999. The governing body of the Town of Oak Island will be the Interim Town Council and subsequent Councils as prescribed in this act. The terms of office of the governing bodies of the Town of Yaupon Beach and the Town of Long Beach will cease as of 12:00 midnight on June 30, 1999.

"Sec. 3.3. **Operational Procedures Upon Consolidation.** Upon the date of consolidation of the Town of Yaupon Beach and the Town of Long Beach into the Town of Oak Island:

(1) All property, real and personal and mixed, including accounts receivable, belonging to the Town of Yaupon Beach and the Town of Long Beach shall vest in, belong to, and be the property of the Town of Oak Island. The governing body of the Town of Oak Island will take such actions and execute such documents as will carry into effect the provisions and the intent of this section;

(2) All judgments, liens, rights of liens, and causes of action of any nature in favor of the Town of Yaupon Beach and the Town of Long Beach shall vest in and remain and inure to the benefit of the Town of Oak Island;

(3) All taxes, assessments, water or sewer charges, and any other charges or fees, owing to the Town of Yaupon Beach and the Town of Long Beach shall be owed to and collected by the Town of Oak Island;

(4) All actions, suits, and proceedings pending against, or having been instituted by the Town of Yaupon Beach and the Town of Long Beach shall not be abated by the legislative act allowing consolidation, but all such actions, suits, and proceedings shall be continued and completed in the same manner as if consolidation had not occurred, and the Town of Oak Island shall be a party to all such actions, suits, and proceedings in the place and stead of the Town of Yaupon Beach and the Town of Long Beach and shall pay or cause to be paid any judgments rendered against the Town of Yaupon Beach and the Town of Long Beach, its governing board and officials acting in their official capacity, in such actions,

suits, or proceedings. No new process need be served in any such action, suit, or proceeding;

(5) All obligations of the Town of Yaupon Beach and the Town of Long Beach, including outstanding indebtedness, shall be assumed by the Town of Oak Island and all such obligations and outstanding indebtedness are hereby constituted obligations and indebtedness of the Town of Oak Island and the financial resources of the Town of Oak Island shall be deemed to be pledged for the punctual payment of all such obligations and indebtedness;

(6) All ordinances of the Town of Yaupon Beach and the Town of Long Beach shall continue in full force and effect within the area to which they apply until the effective date of consolidation as ordinances until modified by the Town of Oak Island governing body to be effective uniformly throughout the consolidated corporate limits and, where applicable, extraterritorial jurisdiction;

(7) All franchises heretofore granted by the Town of Yaupon Beach and the Town of Long Beach which are still in force shall continue as valid franchises of the Town of Oak Island for purposes granted within the area formerly comprising the Town of Yaupon Beach and the Town of Long Beach until modified by the Town of Oak Island governing body to be effective uniformly throughout the consolidated corporate limits of the Town of Oak Island;

(8) The Town of Oak Island shall assume responsibility for all current and future liabilities of the Town of Yaupon Beach and the Town of Long Beach for unemployment insurance benefit charges under G.S. 96-9(f)(1);

(9) Extraterritorial Jurisdiction (ETJ) areas of the Town of Yaupon Beach and the Town of Long Beach under Article 19 of Chapter 160A of the General Statutes in effect on the date of consolidation shall be extraterritorial areas of the Town of Oak Island;

(10) All property that had a tax situs in the Town of Yaupon Beach and the Town of Long Beach on January 1, 1999, shall be considered to have a tax situs in the Town of Oak Island for the appropriate fiscal year, and any property properly listed for taxation in the Town of Yaupon Beach and the Town of Long Beach is properly listed for the Town of Oak Island; and

(11) Prior local acts that apply to the Town of Yaupon Beach and the Town of Long Beach, that are not inconsistent with the provisions of this act, shall remain in force in the consolidated Town of Oak Island from and after the date of consolidation.

"ARTICLE IV. MAYOR AND TOWN COUNCIL.

"Sec. 4.1. **Interim Mayor and Council and Succession of Interim Council Members and Mayors.** (a) Upon enactment of this act and on the effective date of

consolidation, an interim Town Council shall serve until elections are held in accordance with provisions of this Charter. The following individuals are hereby named to serve as the Interim Council: Linda W. Franklin, Roy R. Johnson, Richard D. Marshall, William S. Smith, Martin John Wozniak, Kevin M. Bell (or the person appointed to succeed him on the Long Beach Town Council), Horace Collier, James H. Locke, H. Michael Oxford, Mary B. Snead, J.K. Somers; Joan P. Altman, Co-Mayor, and Dorothy Kelly, Co-Mayor. The succession of Mayor and Council Member positions shall occur in a rotation prescribed as follows:

Elected Officials July 1999 - November 1999

Town Area	Seat	Name	Term Expires
Long Beach	Co-Mayor	Altman(or successor)	2001
Yaupon Beach	Co-Mayor	Kelly(or successor)	2001
Yaupon Beach	Council Member	Smith(or successor)	2001
Yaupon Beach	Council Member	Wozniak(or successor)	2001
Long Beach	Council Member	Bell(or successor)	2001
Long Beach	Council Member	Somers(or successor)	2001
Long Beach	Council Member	Locke(or successor)	2001
Yaupon Beach	Council Member	Franklin(or successor)	1999
Yaupon Beach	Council Member	Marshall(or successor)	1999
Yaupon Beach	Council Member	Johnson(or successor)	1999
Long Beach	Council Member	Oxford(or successor)	1999
Long Beach	Council Member	Collier(or successor)	1999
Long Beach	Council Member	Snead(or successor)	1999

(b) November 1999 Election: Two Council Member seats will be elected, one from Yaupon Beach and one from Long Beach. This preserves equal representation. From November 1999 on, there will be eight Council Members. Mayor Altman will serve until November 2001.

Elected Officials November 1999 - November 2001

Town Area	Seat	Name	Term Expires
At Large	Mayor	Altman	2001
Yaupon Beach	Mayor Pro Tempore	Kelly	2001
Yaupon Beach	Council Member	Smith	2001
Yaupon Beach	Council Member	Wozniak	2001
Yaupon Beach	Council Member	Elected 1999	2003
Long Beach	Council Member	Bell(or successor)	2001
Long Beach	Council Member	Somers	2001
Long Beach	Council Member	Locke	2001
Long Beach	Council Member	Elected 1999	2003

(c) November 2001 Election: Two Council Members from Long Beach will be elected to four-year terms. Two Council Members from Yaupon Beach will be elected to four-year terms. One Council Member from Long Beach will be elected to a two-year term. One Council Member from Yaupon Beach will be elected to a two-year term. The Mayor will be elected at large for a two-year term. The Mayor Pro Tempore will be elected by Council Members at December 2001 Town Council meeting.

Elected Officials November 2001 - November 2003

Town Area	Seat	Name	Term Expires
At Large	Mayor	Elected 2001	2003
Yaupon Beach	Council Member	Elected 1999	2003
Yaupon Beach	Council Member	Elected 2001	2003
Yaupon Beach	Council Member	Elected 2001	2005
Yaupon Beach	Council Member	Elected 2001	2005
Long Beach	Council Member	Elected 1999	2003
Long Beach	Council Member	Elected 2001	2003
Long Beach	Council Member	Elected 2001	2005
Long Beach	Council Member	Elected 2001	2005

(d) November 2003 Election: Four Council Members elected at large to four-year terms. Mayor elected at large to two-year term.

Elected Officials November 2003 - November 2005

Town Area	Seat	Name	Term Expires
At Large	Mayor	Elected 2003	2005
Yaupon Beach	Council Member	Elected 2001	2005
Yaupon Beach	Council Member	Elected 2001	2005
Long Beach	Council Member	Elected 2001	2005
Long Beach	Council Member	Elected 2001	2005
At Large	Council Member	Elected 2003	2007
At Large	Council Member	Elected 2003	2007
At Large	Council Member	Elected 2003	2007
At Large	Council Member	Elected 2003	2007

(e) November 2005 Election: Four Council Members elected at large to four-year terms. Mayor elected at large to two-year term. Beginning in November 2005, all seats will be elected at large.

"Sec. 4.2. **Composition of Town Council.** The Town Council shall consist of eight members to be elected by the qualified voters of the Town at large in the manner provided by Article IV.

"Sec. 4.3. **Terms; Qualifications; Vacancies.** (a) The members of the Town Council shall serve for terms of four years, beginning the day and hour of the organizational meeting following their election, as established by ordinance with this Charter; provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or be elected as a member of the Town Council, or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

(c) If any elected Town Council members shall refuse to qualify, or if there shall be any vacancy in the Town Council after election and qualification, the remaining members of the Council shall by majority vote appoint some qualified person to serve for the unexpired term. Any Town Council member so appointed shall have the same authority and powers as if regularly elected.

"Sec. 4.4. **Mayor and Mayor Pro Tempore.** Beginning with the regular municipal election following succession of the Interim Council as provided by this act, and every two years thereafter, there shall be elected a Mayor by the qualified voters of the Town voting at large. The Mayor shall serve for a term of two years. A vacancy in the office of Mayor shall be filled for the unexpired term by a person appointed by the Town Council. The Mayor shall take the oath of office before entry upon the duties of his office. Candidates for Mayor shall file a notice of candidacy as is required by candidates for Town Council.

The Mayor shall be the official head of the Town government, shall preside at all meetings of the Town Council, but shall have the right to vote when there are equal numbers of votes in the affirmative and in the negative. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Town Council shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Town Council.

"Sec. 4.4. **Compensation of Mayor and Town Council Members.** The Mayor and Town Council shall receive for their services such salary and compensation as the Town Council shall determine in accordance with the General Statutes.

"Sec. 4.5. **Organization of Town Council; Oaths of Office.** The Town Council shall meet and organize for the transaction of business at a time established by the General Statutes. Before entering upon their offices, each Town Council member shall take, subscribe, and have entered upon the minutes of the Town Council the following oath of office: "I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully perform the duties of the office of Town Council member, on which I am about to enter, according to my best skill and ability; so help me, God."

"Sec. 4.6. **Meetings of Town Council.** (a) The Town Council shall fix suitable times for its regular meeting, which shall be as often as once monthly. Special

meetings may be held on the call of the Mayor or a majority of the Town Council members, and those not joining in the call shall be notified in writing. Any business may be transacted at a special meeting that might be transacted at a regular meeting.

(b) All meetings of the Town Council shall be open to the public. The Town Council shall not by closed session or otherwise formally consider or vote upon any question in private session.

"Sec. 4.7. **Quorum; Votes.** (a) A majority of the members elected to the Town Council shall constitute a quorum for the conduct of business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance.

(b) The affirmative vote of a majority of the members of the Town Council shall be necessary to adopt any ordinance, or any resolution or motion having the effect of an ordinance. All other matters to be voted upon shall be decided by a majority vote of the members present and voting.

"Sec. 4.8. **Ordinances and Resolutions.** The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The yeas and nays shall be taken upon all ordinances and resolutions and entered upon the minutes of the Town Council. The enacting clause of all ordinances shall be "Be it ordained by the Town Council of the Town of Oak Island." All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"ARTICLE V. ELECTION PROCEDURE.

"Sec. 5.1. **Regular Municipal Elections.** At the regular municipal election to be held following the succession of the Interim Council, and every two years thereafter, four members of the Town Council shall be elected to serve for four-year terms.

"Sec. 5.2. **Voting.** Election of the Mayor and Town Council member shall be by the nonpartisan plurality election method prescribed by G.S. 163-192, and shall be conducted as provided by General Statutes.

"Sec. 5.3. **Regulation of Elections.** All municipal elections shall be conducted in accordance with the general laws of North Carolina relating to municipal elections, except as otherwise herein provided.

"ARTICLE VI. TOWN MANAGER.

"Sec. 6.1. **Appointment; Compensation.** The Town Council shall appoint an officer whose title shall be Town Manager and who shall be the chief executive officer of the Town and the head of the administrative branch of the Town government. The Town Manager shall be chosen by the Town Council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or knowledge of, accepted practice in respect to the duties of his office as hereinafter prescribed. At the time of his appointment he need not be a resident of the Town, but shall reside therein during his tenure of office. No person elected as a member of the Town Council shall be eligible for appointment as Town Manager until one year shall have elapsed following the expiration of the term for which he was elected. The Town Manager shall serve at the pleasure of the Town Council and shall receive such salary as the Town Council shall fix. In case of the

absence or disability of the Manager, the Town Council may designate a qualified administrative officer of the Town to perform the duties of the Manager during such absence or disability.

"Sec. 6.2. **Chief Administrator**. The Manager shall be the chief administrator of the Town. The Manager shall be responsible to the Council for administering all municipal affairs placed in his charge by them, and shall have the following powers and duties:

(1) The Manager shall appoint and suspend or remove all city officers and employees not elected by the people and whose appointment or removal is not otherwise provided for by law, except the Town Attorney, in accordance with such general personnel rules, regulations, policies, or ordinances as the Council may adopt. Before appointing or removing officers or department heads he shall consult with Council, but retain the authority to take whatever personnel action he deems proper.

(2) The Manager shall direct and supervise the administration of all departments, offices, and agencies of the city, subject to the general direction and control of the Council, except as otherwise provided by law. No member of Council shall direct or request the appointment of any person to, or removal from, office by the Town Manager; nor give orders or directions to any subordinate of the Town Manager, either publicly or privately, without the permission of the Town Manager. On the other hand, members of Council shall be free to make work-related inquiries of any employee, to be available for discussion, and to bring to the attention of the Town Manager any facts of which he may not be aware which may require remedial action.

(3) The Manager shall attend all meetings of the Council and recommend any measures that he deems expedient.

(4) The Manager shall see that all laws of the State, the Town Charter, and the ordinances, resolutions and regulations of the Council are faithfully executed within the Town.

(5) The Manager shall prepare and submit the annual budget and capital program to the Council.

(6) The Manager shall annually submit to the Council and make available to the public a complete report on the finances and administrative activities of the Town as of the end of the fiscal year.

(7) The Manager shall make any other reports that the Council may require concerning the operations of the Town departments, offices, and agencies subject to his direction and control.

(8) The Manager shall perform any other duties that may be required or authorized by the Council.

"ARTICLE VII. TOWN ATTORNEY.

"Sec. 7.1. **Appointment; Qualification; Term; Compensation.** The Town Council shall appoint a Town Attorney who shall be an Attorney-at-law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Town Council and shall receive such compensation as the Town Council shall determine.

"Sec. 7.2. **Duties of Town Attorney.** It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the Mayor, Town Council, Town Manager, and other Town officials with respect to the affairs of the Town; to draw all legal documents relating to the affairs of the Town; to draw proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises, and other instruments with which the Town may be concerned; to attend all meetings of the Town Council; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

"ARTICLE VIII. ADMINISTRATIVE OFFICERS AND EMPLOYEES.

"Sec. 8.1. **Town Clerk.** The Town Manager may appoint a Town Clerk to keep a journal of the proceedings of the Town Council and to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Manager may direct.

"Sec. 8.2. **Town Tax Collector.** The Town Manager may appoint a Tax Collector to collect all taxes, licenses, fees, and other moneys belonging to the Town, subject to the provisions of this Charter and the ordinances of the Town, and he shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

"Sec. 8.3. **Consolidation of Functions.** The Town Manager may, in his discretion, consolidate the offices of Town Clerk and Town Tax Collector, or may assign the functions of any one of these offices to the holder or holders of any other of these offices. The Town Manager may also, in his discretion, himself perform all or any part of the functions of any of the named offices, in lieu of appointing another person to perform the same.

"ARTICLE IX. FINANCE.

"Sec. 9.1. **Issuance of Bonds.** The Town may issue bonds for the purposes and in the manner prescribed by the General Statutes relating to the issuance of bonds by municipalities.

"Sec. 9.2. **Purchases and Contracts.** Purchases of apparatus, supplies, material, and equipment, and contracts for construction or repair work shall be made in accordance with the General Statutes relating thereto.

"ARTICLE X. TITLE TO PROPERTIES.

"Sec. 10.1. **Title to Properties Used for Certain Purposes.** In the absence of any contracts with the Town in relation to the lands used or occupied by it for the purposes of streets, sidewalks, alleys, or other public works of the Town signed by the owner thereof or his agent, it shall be conclusively presumed that said land has been granted to the Town by the owner or owners, and the Town shall have good right and title thereto and shall have, hold, and enjoy the same. Unless the owner or owners of said land, or those claiming under them, shall make claim or demand in

writing addressed to the Town Council within two years following the date when such land was taken, he or they shall be forever barred from recovering such land or having any compensation therefor; provided, nothing herein shall affect the rights of persons under disabilities until two years following removal thereof.

Section 2. Effective July 1, 1999, the Alcoholic Beverage Control Boards of the Town of Yaupon Beach and the Town of Long Beach will be consolidated into the Alcoholic Beverage Control Board of the Town of Oak Island. The Alcoholic Beverage Control Board of the Town of Oak Island shall be appointed by the Town Council of the Town of Oak Island and shall consist of three members. The Chair of the Alcoholic Beverage Control Board of the Town of Oak Island shall be appointed by the Oak Island Town Council. The assets and liabilities of the Alcoholic Beverage Control Boards of the Town of Yaupon Beach and the Town of Long Beach shall become the assets and liabilities of the Alcoholic Beverage Control Board of the Town of Oak Island as of July 1, 1999. The individual Alcoholic Beverage Control Boards of the Town of Yaupon Beach and the Town of Long Beach shall take whatever actions are necessary to effectuate the consolidation of the two Boards and Systems between the adoption of this act and July 1, 1999, so that consolidation will be accomplished on July 1, 1999.

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

HOUSE BILL 221*

Short Title: Long Beach/Yaupon Beach. (Local)

Sponsors: Representatives Redwine; and Hill.

Referred to: Finance.

March 3, 1999

A BILL TO BE ENTITLED

AN ACT TO REVISE AND CONSOLIDATE THE CHARTERS OF THE TOWN OF YAUPON BEACH AND THE TOWN OF LONG BEACH AND ESTABLISH A CHARTER FOR THE CONSOLIDATED TOWN OF OAK ISLAND.

The General Assembly of North Carolina enacts:

Section 1. The charters of the Town of Yaupon Beach and the Town of Long Beach are hereby revised and consolidated into the Charter for the Town of Oak Island to read as follows:

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Sec. 1.1. **Incorporation and General Powers.** The Town of Oak Island shall be a body politic and corporate under the name of the "Town of Oak Island", and shall be vested with all property and rights which now belong to the Towns of Yaupon Beach and Long Beach; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract; may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

"Sec. 1.2. **Exercise of Powers.** All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees shall be carried into execution as provided by this Charter, or, if this Charter makes no provisions, as

provided by ordinance or resolution of the Town Council and as provided by the general laws of North Carolina pertaining to municipal corporations.

"Sec. 1.3. **Enumerated Power Not Exclusive.** The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Oak Island shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina and all powers which are granted by this Charter.

"Sec. 1.4. **Referendum Not Required.** Notwithstanding any other provision of law, the consolidation of the Town of Yaupon Beach and the Town of Long Beach into the Town of Oak Island shall not require a referendum but shall be governed by the provisions of this act.

"ARTICLE II. CORPORATE BOUNDARIES.

"Sec. 2.1. **Existing Corporate Boundaries.** The corporate limits of the Town of Oak Island shall be the combined corporate limits of the Town of Yaupon Beach and the Town of Long Beach existing at the time of enactment of this Charter and the effective date of consolidation, as the same are now or hereafter may be constituted pursuant to law. An official map or description of the Town, showing the current Town boundaries, shall be maintained permanently in the office of the Town Clerk, and shall be available for public inspection. Immediately upon changes, alteration of the corporate limits pursuant to law, the appropriate changes to the official map or description of the Town shall be made.

"Sec. 2.2. **Pending Annexations.** Matters pertaining to the annexation of property instituted by the Town of Yaupon Beach under an ordinance adopted September 14, 1998, shall become the responsibility of the consolidated Town of Oak Island as if begun originally by the Town of Oak Island. Any annexation action instituted or pending by the Town of Yaupon Beach and Town of Long Beach prior to the effective date of consolidation into the Town of Oak Island shall be as if instituted by the Town of Oak Island and the prior actions are hereby ratified. This section shall not be construed as prohibiting any annexation proceedings occurring between the date of enactment of this act and the effective date of consolidation.

"Sec. 2.3. **Extension of Corporate Boundaries.** All extensions of the corporate boundaries shall be governed by the General Statutes.

"ARTICLE III. TRANSITIONAL PROVISIONS.

"Sec. 3.1. **Action Prior to Consolidation.** (a) The following actions by the governing bodies of the Town of Yaupon Beach and the Town of Long Beach under subsections (b) and (c) of this section are authorized prior to the effective date of consolidation.

(b) The Town of Yaupon Beach and the Town of Long Beach shall take whatever action is necessary to assure delivery of services as of the effective date of consolidation of the two Towns into the Town of Oak Island. This includes effecting any interim planning, work assignments, and coordination required to effect a consolidated workforce and support operation as of the effective date of consolidation.

(c) The Town of Yaupon Beach and the Town of Long Beach shall take necessary action to consolidate accounting and budgeting systems to effect the consolidation of the Towns by the effective date of consolidation. Notwithstanding other provisions of the Local Government Budget and Fiscal Control Act, the Towns may prepare a budget for the consolidated Town of Oak Island in a manner and schedule agreed to by both Towns. Adoption of a budget for the consolidated Town of Oak Island shall be approved by both governing bodies prior to the effective date of consolidation and shall be effective on the date of consolidation. Audits of existing Town accounts shall be performed as of the end of the last fiscal year and prior to consolidation.

"Sec. 3.2. **Effective Date of Consolidation; Status of Governing Bodies.** Subject to the conditions and provisions of this act, the Town of Yaupon Beach and the Town of Long Beach are consolidated into the Town of Oak Island effective at 12:01 a.m., on July 1, 1999. The governing body of the Town of Oak Island will be the Interim Town Council and subsequent Councils as prescribed in this act. The terms of office of the governing bodies of the Town of Yaupon Beach and the Town of Long Beach will cease as of 12:00 midnight on June 30, 1999.

"Sec. 3.3. **Operational Procedures Upon Consolidation.** Upon the date of consolidation of the Town of Yaupon Beach and the Town of Long Beach into the Town of Oak Island:

(1) All property, real and personal and mixed, including accounts receivable, belonging to the Town of Yaupon Beach and the Town of Long Beach shall vest in, belong to, and be the property of the Town of Oak Island. The governing body of the Town of Oak Island will take such actions and execute such documents as will carry into effect the provisions and the intent of this section;

(2) All judgments, liens, rights of liens, and causes of action of any nature in favor of the Town of Yaupon Beach and the Town of Long Beach shall vest in and remain and inure to the benefit of the Town of Oak Island;

(3) All taxes, assessments, water or sewer charges, and any other charges or fees, owing to the Town of Yaupon Beach and the Town of Long Beach shall be owed to and collected by the Town of Oak Island;

(4) All actions, suits, and proceedings pending against, or having been instituted by the Town of Yaupon Beach and the Town of Long Beach shall not be abated by the legislative act allowing consolidation, but all such actions, suits, and proceedings shall be continued and completed in the same manner as if consolidation had not occurred, and the Town of Oak Island shall be a party to all such actions, suits, and proceedings in the place and stead of the Town of Yaupon Beach and the Town of Long Beach and shall pay or cause to be paid any judgments rendered against the Town of Yaupon Beach and the Town of Long Beach, its governing board and officials acting in their official capacity, in such actions,

suits, or proceedings. No new process need be served in any such action, suit, or proceeding;

(5) All obligations of the Town of Yaupon Beach and the Town of Long Beach, including outstanding indebtedness, shall be assumed by the Town of Oak Island and all such obligations and outstanding indebtedness are hereby constituted obligations and indebtedness of the Town of Oak Island and the financial resources of the Town of Oak Island shall be deemed to be pledged for the punctual payment of all such obligations and indebtedness;

(6) All ordinances of the Town of Yaupon Beach and the Town of Long Beach shall continue in full force and effect within the area to which they apply until the effective date of consolidation as ordinances until modified by the Town of Oak Island governing body to be effective uniformly throughout the consolidated corporate limits and, where applicable, extraterritorial jurisdiction;

(7) All franchises heretofore granted by the Town of Yaupon Beach and the Town of Long Beach which are still in force shall continue as valid franchises of the Town of Oak Island for purposes granted within the area formerly comprising the Town of Yaupon Beach and the Town of Long Beach until modified by the Town of Oak Island governing body to be effective uniformly throughout the consolidated corporate limits of the Town of Oak Island;

(8) The Town of Oak Island shall assume responsibility for all current and future liabilities of the Town of Yaupon Beach and the Town of Long Beach for unemployment insurance benefit charges under G.S. 96-9(f)(1);

(9) Extraterritorial Jurisdiction (ETJ) areas of the Town of Yaupon Beach and the Town of Long Beach under Article 19 of Chapter 160A of the General Statutes in effect on the date of consolidation shall be extraterritorial areas of the Town of Oak Island;

(10) All property that had a tax situs in the Town of Yaupon Beach and the Town of Long Beach on January 1, 1999, shall be considered to have a tax situs in the Town of Oak Island for the appropriate fiscal year, and any property properly listed for taxation in the Town of Yaupon Beach and the Town of Long Beach is properly listed for the Town of Oak Island; and

(11) Prior local acts apply to the Town of Yaupon Beach and the Town of Long Beach, not inconsistent with the provisions of this act, shall remain in force in the consolidated Town of Oak Island from and after the date of consolidation.

"ARTICLE IV. MAYOR AND TOWN COUNCIL.

"Sec. 4.1. **Interim Mayor and Council and Succession of Interim Council Members and Mayors.** (a) Upon enactment of this act and on the effective date of

consolidation, an interim Town Council shall serve until elections are held in accordance with provisions of this Charter. The following individuals are hereby named to serve as the Interim Council: Linda W. Franklin, Roy R. Johnson, Richard D. Marshall, William S. Smith, Martin John Wozniak, Kevin M. Bell (or the person appointed to succeed him on the Long Beach Town Council), Horace Collier, James H. Locke, H. Michael Oxford, Mary B. Snead, J.K. Somers; Joan P. Altman, Co-Mayor, and Dorothy Kelly, Co-Mayor. The succession of Mayor and Council Member positions shall occur in a rotation prescribed as follows:

Elected Officials July 1999 - November 1999

Town Area	Seat	Name	Term Expires
Long Beach	Co-Mayor	Altman	2001
Yaupon Beach	Co-Mayor	Kelly	2001
Yaupon Beach	Council Member	Smith	2001
Yaupon Beach	Council Member	Wozniak	2001
Long Beach	Council Member	Bell(or successor)	2001
Long Beach	Council Member	Somers	2001
Long Beach	Council Member	Locke	2001
Yaupon Beach	Council Member	Franklin	1999
Yaupon Beach	Council Member	Marshall	1999
Yaupon Beach	Council Member	Johnson	1999
Long Beach	Council Member	Oxford	1999
Long Beach	Council Member	Collier	1999
Long Beach	Council Member	Snead	1999

(b) November 1999 Election: Two Council Member seats will be elected, one from Yaupon Beach and one from Long Beach. This preserves equal representation. From November 1999 on, there will be eight Council Members. Mayor Altman will serve until November 2001.

Elected Officials November 1999 - November 2001

Town Area	Seat	Name	Term Expires
At Large	Mayor	Altman	2001
Yaupon Beach	Mayor Pro Tempore	Kelly	2001
Yaupon Beach	Council Member	Smith	2001
Yaupon Beach	Council Member	Wozniak	2001
Yaupon Beach	Council Member	Elected 1999	2003
Long Beach	Council Member	Bell(or successor)	2001
Long Beach	Council Member	Somers	2001
Long Beach	Council Member	Locke	2001
Long Beach	Council Member	Elected 1999	2003

(c) November 2001 Election: Two Council Members from Long Beach will be elected to four-year terms. Two Council Members from Yaupon Beach will be elected to four-year terms. One Council Member from Long Beach will be elected to a two-year term. One Council Member from Yaupon Beach will be elected to a two-year term. The Mayor will be elected at large for a two-year term. The Mayor Pro Tempore will be elected by Council Members at December 2001 Town Council meeting.

Elected Officials November 2001 - November 2003

Town Area	Seat	Name	Term Expires
At Large	Mayor	Elected 2001	2003
Yaupon Beach	Council Member	Elected 1999	2003
Yaupon Beach	Council Member	Elected 2001	2003
Yaupon Beach	Council Member	Elected 2001	2005
Yaupon Beach	Council Member	Elected 2001	2005
Long Beach	Council Member	Elected 1999	2003
Long Beach	Council Member	Elected 2001	2003
Long Beach	Council Member	Elected 2001	2005
Long Beach	Council Member	Elected 2001	2005

(d) November 2003 Election: Four Council Members elected at large to four-year terms. Mayor elected at large to two-year term.

Elected Officials November 2003 - November 2005

Town Area	Seat	Name	Term Expires
At Large	Mayor	Elected 2003	2005
Yaupon Beach	Council Member	Elected 2001	2005
Yaupon Beach	Council Member	Elected 2001	2005
Long Beach	Council Member	Elected 2001	2005
Long Beach	Council Member	Elected 2001	2005
At Large	Council Member	Elected 2003	2007
At Large	Council Member	Elected 2003	2007
At Large	Council Member	Elected 2003	2007
At Large	Council Member	Elected 2003	2007

(e) November 2005 Election: Four Council Members elected at large to four-year terms. Mayor elected at large to two-year term. Beginning in November 2005, all seats will be elected at large.

"Sec. 4.2. **Composition of Town Council.** The Town Council shall consist of eight members to be elected by the qualified voters of the Town at large in the manner provided by Article IV.

"Sec. 4.3. **Terms; Qualifications; Vacancies.** (a) The members of the Town Council shall serve for terms of four years, beginning the day and hour of the organizational meeting following their election, as established by ordinance with this Charter; provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or be elected as a member of the Town Council, or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

(c) If any elected Town Council members shall refuse to qualify, or if there shall be any vacancy in the Town Council after election and qualification, the remaining members of the Council shall by majority vote appoint some qualified person to serve for the unexpired term. Any Town Council member so appointed shall have the same authority and powers as if regularly elected.

"Sec. 4.4. **Mayor and Mayor Pro Tempore.** Beginning with the regular municipal election following succession of the Interim Council as provided by this act, and every two years thereafter, there shall be elected a Mayor by the qualified voters of the Town voting at large. The Mayor shall serve for a term of two years. A vacancy in the office of Mayor shall be filled for the unexpired term by a person appointed by the Town Council. The Mayor shall take the oath of office before entry upon the duties of his office. Candidates for Mayor shall file a notice of candidacy as is required by candidates for Town Council.

The Mayor shall be the official head of the Town government, shall preside at all meetings of the Town Council, but shall have the right to vote when there are equal numbers of votes in the affirmative and in the negative. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Town Council shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Town Council.

"Sec. 4.4. **Compensation of Mayor and Town Council Members.** The Mayor and Town Council shall receive for their services such salary and compensation as the Town Council shall determine in accordance with the General Statutes.

"Sec. 4.5. **Organization of Town Council; Oaths of Office.** The Town Council shall meet and organize for the transaction of business at a time established by the General Statutes. Before entering upon their offices, each Town Council member shall take, subscribe, and have entered upon the minutes of the Town Council the following oath of office: "I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully perform the duties of the office of Town Council member, on which I am about to enter, according to my best skill and ability; so help me, God."

"Sec. 4.6. **Meetings of Town Council.** (a) The Town Council shall fix suitable times for its regular meeting, which shall be as often as once monthly. Special

meetings may be held on the call of the Mayor or a majority of the Town Council members, and those not joining in the call shall be notified in writing. Any business may be transacted at a special meeting that might be transacted at a regular meeting.

(b) All meetings of the Town Council shall be open to the public. The Town Council shall not by closed session or otherwise formally consider or vote upon any question in private session.

"Sec. 4.7. **Quorum; Votes.** (a) A majority of the members elected to the Town Council shall constitute a quorum for the conduct of business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance.

(b) The affirmative vote of a majority of the members of the Town Council shall be necessary to adopt any ordinance, or any resolution or motion having the effect of an ordinance. All other matters to be voted upon shall be decided by a majority vote of the members present and voting.

"Sec. 4.8. **Ordinances and Resolutions.** The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The yeas and nays shall be taken upon all ordinances and resolutions and entered upon the minutes of the Town Council. The enacting clause of all ordinances shall be "Be it ordained by the Town Council of the Town of Oak Island." All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"ARTICLE V. ELECTION PROCEDURE.

"Sec. 5.1. **Regular Municipal Elections.** At the regular municipal election to be held following the succession of the Interim Council, and every two years thereafter, four members of the Town Council shall be elected to serve for four-year terms.

"Sec. 5.2. **Voting.** Election of the Mayor and Town Council member shall be by the nonpartisan plurality election method prescribed by G.S. 163-192, and shall be conducted as provided by General Statutes.

"Sec. 5.3. **Regulation of Elections.** All municipal elections shall be conducted in accordance with the general laws of North Carolina relating to municipal elections, except as otherwise herein provided.

"ARTICLE VI. TOWN MANAGER.

"Sec. 6.1. **Appointment; Compensation.** The Town Council shall appoint an officer whose title shall be Town Manager and who shall be the chief executive officer of the Town and the head of the administrative branch of the Town government. The Town Manager shall be chosen by the Town Council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or knowledge of, accepted practice in respect to the duties of his office as hereinafter prescribed. At the time of his appointment he need not be a resident of the Town, but shall reside therein during his tenure of office. No person elected as a member of the Town Council shall be eligible for appointment as Town Manager until one year shall have elapsed following the expiration of the term for which he was elected. The Town Manager shall serve at the pleasure of the Town Council and shall receive such salary as the Town Council shall fix. In case of the

absence or disability of the Manager, the Town Council may designate a qualified administrative officer of the Town to perform the duties of the Manager during such absence or disability.

"Sec. 6.2. **Chief Administrator.** The Manager shall be the chief administrator of the Town. The Manager shall be responsible to the Council for administering all municipal affairs placed in his charge by them, and shall have the following powers and duties:

(1) The Manager shall appoint and suspend or remove all city officers and employees not elected by the people and whose appointment or removal is not otherwise provided for by law, except the Town Attorney, in accordance with such general personnel rules, regulations, policies, or ordinances as the Council may adopt. Before appointing or removing officers or department heads he shall consult with Council, but retain the authority to take whatever personnel action he deems proper.

(2) The Manager shall direct and supervise the administration of all departments, offices, and agencies of the city, subject to the general direction and control of the Council, except as otherwise provided by law. No member of Council shall direct or request the appointment of any person to, or removal from, office by the Town Manager; nor give orders or directions to any subordinate of the Town Manager, either publicly or privately, without the permission of the Town Manager. On the other hand, members of Council shall be free to make work-related inquiries of any employee, to be available for discussion, and to bring to the attention of the Town Manager any facts of which he may not be aware which may require remedial action.

(3) The Manager shall attend all meetings of the Council and recommend any measures that he deems expedient.

(4) The Manager shall see that all laws of the State, the Town Charter, and the ordinances, resolutions and regulations of the Council are faithfully executed within the Town.

(5) The Manager shall prepare and submit the annual budget and capital program to the Council.

(6) The Manager shall annually submit to the Council and make available to the public a complete report on the finances and administrative activities of the Town as of the end of the fiscal year.

(7) The Manager shall make any other reports that the Council may require concerning the operations of the Town departments, offices, and agencies subject to his direction and control.

(8) The Manager shall perform any other duties that may be required or authorized by the Council.

"ARTICLE VII. TOWN ATTORNEY.

"Sec. 7.1. **Appointment; Qualification; Term; Compensation.** The Town Council shall appoint a Town Attorney who shall be an Attorney-at-law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Town Council and shall receive such compensation as the Town Council shall determine.

"Sec. 7.2. **Duties of Town Attorney.** It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the Mayor, Town Council, Town Manager, and other Town officials with respect to the affairs of the Town; to draw all legal documents relating to the affairs of the Town; to draw proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises, and other instruments with which the Town may be concerned; to attend all meetings of the Town Council; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

"ARTICLE VIII. ADMINISTRATIVE OFFICERS AND EMPLOYEES.

"Sec. 8.1. **Town Clerk.** The Town Manager may appoint a Town Clerk to keep a journal of the proceedings of the Town Council and to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Manager may direct.

"Sec. 8.2. **Town Tax Collector.** The Town Manager may appoint a Tax Collector to collect all taxes, licenses, fees, and other moneys belonging to the Town, subject to the provisions of this Charter and the ordinances of the Town, and he shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

"Sec. 8.3. **Consolidation of Functions.** The Town Manager may, in his discretion, consolidate the offices of Town Clerk and Town Tax Collector, or may assign the functions of any one of these offices to the holder or holders of any other of these offices. The Town Manager may also, in his discretion, himself perform all or any part of the functions of any of the named offices, in lieu of appointing another person to perform the same.

"ARTICLE IX. FINANCE.

"Sec. 9.1. **Issuance of Bonds.** The Town may issue bonds for the purposes and in the manner prescribed by the General Statutes relating to the issuance of bonds by municipalities.

"Sec. 9.2. **Purchases and Contracts.** Purchases of apparatus, supplies, material, and equipment, and contracts for construction or repair work shall be made in accordance with the General Statutes relating thereto.

"ARTICLE X. TITLE TO PROPERTIES.

"Sec. 10.1. **Title to Properties Used for Certain Purposes.** In the absence of any contracts with the Town in relation to the lands used or occupied by it for the purposes of streets, sidewalks, alleys, or other public works of the Town signed by the owner thereof or his agent, it shall be conclusively presumed that said land has been granted to the Town by the owner or owners, and the Town shall have good right and title thereto and shall have, hold, and enjoy the same. Unless the owner or owners of said land, or those claiming under them, shall make claim or demand in

writing addressed to the Town Council within two years following the date when such land was taken, he or they shall be forever barred from recovering such land or having any compensation therefor; provided, nothing herein shall affect the rights of persons under disabilities until two years following removal thereof.

Section 2. Effective July 1, 1999, the Alcoholic Beverage Control Boards of the Town of Yaupon Beach and the Town of Long Beach will be consolidated into the Alcoholic Beverage Control Board of the Town of Oak Island. The Alcoholic Beverage Control Board of the Town of Oak Island shall be appointed by the Town Council of the Town of Oak Island and shall consist of three members. The Chair of the Alcoholic Beverage Control Board of the Town of Oak Island shall be appointed by the Oak Island Town Council. The assets and liabilities of the Alcoholic Beverage Control Boards of the Town of Yaupon Beach and the Town of Long Beach shall become the assets and liabilities of the Alcoholic Beverage Control Board of the Town of Oak Island as of July 1, 1999. The individual Alcoholic Beverage Control Boards of the Town of Yaupon Beach and the Town of Long Beach shall take whatever actions are necessary to effectuate the consolidation of the two Boards and Systems between the adoption of this act and July 1, 1999, so that consolidation will be accomplished on July 1, 1999.

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

H221:
LongBeach / Yaupon Beach

BILL ANALYSIS

Committee:	House Finance Committee	**Introduced by:**	Representative Redwine
Date:	March 17, 1999	**Summary by:**	Ed Rossi
Version:	1st Ed.		Committee Co-Counsel

SUMMARY: House Bill 221 consolidates the charters of the towns of Yaupon Beach and Long Beach and creates the new consolidated Town of Oak Island. No referendum is required to effectuate this change. Under the provisions of the bill:

- *The new town acquires all the property, rights, obligations, and liabilities of the former towns.*
- *A transitional government is created, with some members being appointed until 20001.*
- *A council – manager form of government is adopted and council members serve staggered 4 year terms*
- *The consolidation is effective July 1, 1999, at which time the ABC boards are also consolidated.*

CURRENT LAW: State laws[1] provide a mechanism for the consolidation of towns. Where two or more towns share a continuous boundary, they may, by concurrent resolution, create a commission to study a consolidation of services. This commission may draft a plan to create a single government unit, and if authorized by the concurrent resolutions, may place the matter before the voters by way of a referendum. Article V of the North Carolina Constitution also addresses referendums in the context of government debt. It requires that a majority of voters approve the contracting of debt that is secured by a pledge of a local government's full faith and credit.[2]

BACKGROUND: The Town of Yaupon Beach has approximately 900 residents and a land area of 1 square mile. The Town of Long Beach has approximately 5,100 residents and a land area of 8 square miles. On or about October 1st of last year both towns began a process of open hearings that considered the consolidation issue.[3] That process culminated in March of this year with the introduction of this bill.[4] In preparation for the introduction of the bill, both towns retired their general obligation debt in order to avoid the cost of a referendum.[5]

BILL ANALYSIS: House bill 221 does not provide for a referendum on the proposed consolidation. The bill creates an appointed government – the majority of which remains in office until 2001. No provisions are made in charter for the recall of these appointed officials.

---

[1] G.S. § 153A-401 through G.S. § 153A- 405.
[2] Article V. Sec. 4.
[3] The Town Clerk of Yaupon Beach and the Town Manager of Long Beach supplied this information.
[4] Id.
[5] Statement of the Long Beach Town Manager, Jerry Walters.

Under North Carolina law, population governs certain municipal powers (e.g. extraterritorial jurisdiction, and certain minimum housing standards)[6]. This bill would exempt the new Town of Oak Island from those population constraints. On page 2 line 6, the bill grants the new town the exercise of "*all powers*" that "*are granted to municipal corporations.*" Thus presumably, this new municipality of approximately 6,000 people would have "*all powers*" that are granted to its larger brethren due to the size of their populations.

[6] See G.S. § 160A-360 & G.S. § 160A-443.

MINUTES
HOUSE COMMITTEE ON FINANCE

Thursday, March 18, 1999

The House Committee on Finance met on Thursday, March 18, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairmen Allen, Luebke, Miller; Vice Chairs Jarrell; Representatives Braswell, Bridgeman, Brown, Buchanan, Capps, Church, Cox, Creech, Cunningham, Decker, Dedmon, Eddins, Edwards, Gibson, Goodwin, Gray, Hackney, Hill, Howard, McComas, McCombs, Morris, Mosley, Neely, Ramsey, Rayfield, Starnes, Tucker, Wilson, Womble, Wright. Staff including Cindy Avrette, Richard Bostic, David Crotts, Linda Millsaps, and Ed Rossi were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Miller called the meeting to order to consider the following bills:

Representative Hill was recognized to explain HB 56, A BILL TO BE ENTITLED AN ACT TO ELIMINATE THE USE OF STAMPS TO INDICATE WHETHER THE EXCISE TAX ON CONVEYANCES HAS BEEN PAID AND TO MAKE THE PENALTIES THAT APPLY TO THIS TAX THE SAME AS FOR OTHER TAXES. Rep. Goodwin made a motion to adopt the Proposed Committee Substitute for discussion purposes, and it passed. Rep. Church made a motion to give the PCS a favorable report and an unfavorable report to the original bill. The Chair recognized Jim Blackburn of the County Commissioners' Association whom gave his organization's support for the bill. The Chair also recognized Sabra Faires, the Assistant Secretary for Tax Administration for the Department of Revenue who stated the Department of Revenue supports the bill. Rep. Church's motion passed.

Representative Redwine was recognized to explain HB 221, A BILL TO BE ENTITLED AN ACT TO REVISE AND CONSOLIDATE THE CHARTERS OF THE TOWN OF YAUPON BEACH AnD THE TOWN OF LONG BEACH AND ESTABLISH A CHARTER FOR THE CONSOLIDATED TOWN OF OAK ISLAND. Rep. Hill sent forward a technical amendment to the bill and moved for its adoption. The amendment was adopted. The Chair recognized Mayor Joan Altman of the Town of Long Beach who stated she was also representing the mayor of Yaupon Beach. Mayor Altman gave her support to the bill. Rep. Rayfield made a motion to roll the amendment into a Proposed Committee Substitute, give the Proposed Committee Substitute a favorable report, unfavorable to the original bill. The motion passed.

Representative Redwine was recognized to explain HB 19, A BILL TO BE ENTITLED AN ACT TO PROHIBIT CERTAIN CASINO BOATS FROM OPERATING IN NORTH CAROLINA AND TO REGULATE CERTAIN CASINO BOATS THAT OPERATE IN NORTH CAROLINA PURSUANT TO FEDERAL LAW AND TO LEVY A PRIVILEGE TAX ON GAMBLING BOATS OPERATING IN NORTH CAROLINA AND TO REQUIRE WITHHOLDING FROM CERTAIN GAMBLING BOAT WINNINGS. Rep. Goodwin moved to adopt the Proposed Committee Substitute for discussion purposes and it was adopted. The Chair recognized Ann Fulton of the ABC Commission to answer some of the members' questions. Rep. Creech sent forward an amendment concerning the ABC fees and moved for its adoption. The amendment was adopted.

The Chair recognized Phyllis Ford, the President/Executive Director of the Carteret County Chamber of Commerce, who stated her organization was opposed to the bill. The Chair recognized Jay Hare of the Excise Tax Division of the Department of Revenue, who answered members' questions. Rep. Braswell sent forward an amendment to ban anyone under the age of 21 from Casino Boats and moved for its adoption. The motion passed. Rep. Wilson made a motion to incorporate the two amendments into a new Proposed Committee Substitute and to give the Proposed Committee Substitute a favorable report, unfavorable to the original bill. The motion passed.

There being no further business, the Chair adjourned the meeting at 10:00 a.m.

Respectfully submitted:

Representative George Miller
Chair

/Kristen L. Crosson
Kristen L. Crosson
Assistant to the Committee

NEWS-TIMES

A Merger of The Beaufort News (Est. 1912) and The Twin City Times (Est. 1936)

Henry Lockwood Phillips, *Publisher 1944-1982*

Walter D. Phillips, *Editor and Associate Publisher*
Lockwood B. Phillips, *General Manager and Associate Publisher*
Tom O'Neal, *Managing Editor*
Beth Blake, *Assistant Managing Editor*
Pattie Kittrell, *Advertising Manager*

Vernon Thompson, *Production Manager*

Dorrie Nicholson, *Circulation Manager*

HB 56

No to offshore gambling

While we applaud our Tourism Development Bureau for its hugely successful efforts to bring visitors to the Crystal Coast, it's taking the wrong tack to oppose wise efforts banning floating gambling dens off our shores and to endorse casino gambling aboard cruise ships offshore North Carolina.

N.C. Rep. David Redwine, D-Brunswick, has introduced legislation that would ban cruise ships from leaving North Carolina's ports with passengers and going three miles offshore for gambling. Rep. Ronnie Smith, D-Carteret, supports Rep. Redwine's measure.

The TDB says if the anti-gambling proposal looks like it will win approval in Raleigh it will oppose the bill and will put something in writing showing it supports cruise ship casino gambling.

Reporting that since November Carteret County's tourist activity numbers have been up over Dare, Onslow and New Hanover counties, Carol Lohr, TDB executive director, says, "I feel we could benefit from it." TDB board member Jack Goldstein agrees, saying, "It might be a boost for the spring and fall — for the shoulder season."

These arguments miss the boat. Family vacationers have made the Crystal Coast the attraction it is. Not only is it short-sighted to risk killing the goose that lays golden eggs for the sake of wringing a few extra dollars out of tourists — it's risky.

Our tourism industry, like our business community, seek not only quantity but quality in those they serve. The type of characters gambling would attract is not what we need, and it certainly is not what our communities want.

It's glistening white beaches, clean water, fine seafood restaurants, quality accommodations, interesting shops and outstanding cultural attractions that draw vacationers to our shores. Equally important in making the Crystal Coast an ideal place for a family vacation is the absence of sleaze and the tawdry.

If we allow offshore gambling junkets, the glow of wholesomeness will fade on the Crystal Coast.

The TDB should reconsider its stance.

Kudos Laurie Brown

Kudos to Laurie Brown, chairman of the West Carteret High School social studies department, named Teacher of the Year Feb. 19 by the North Carolina Council for Social Studies.

At WCHS, Mrs. Brown teaches studies teacher and her nominator.

Instrumental in organizing and teaching numerous workshops for teachers and students, she recently co-sponsored "In Search of the Renaissance — Past and Present," an in-

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 19 A BILL TO BE ENTITLED AN ACT TO PROHIBIT CERTAIN CASINO BOATS FROM OPERATING IN NORTH CAROLINA AND TO REGULATE CERTAIN CASINO BOATS THAT OPERATE IN NORTH CAROLINA PURSUANT TO FEDERAL LAW AND TO LEVY A PRIVILEGE TAX ON GAMBLING BOATS OPERATING IN NORTH CAROLINA AND TO REQUIRE WITHHOLDING FROM CERTAIN GAMBLING BOAT WINNINGS.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

* incorporates the two Committee amendments
CWA
3-18-99

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 19

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H19-ARB-3 Page 1 of __

Date 4/3/18 ,1999

Comm. Sub. [PROPOSED]
Amends Title []
H19-PCS2126-RB

moves to amend the bill on page 3, line 16, by deleting the quotation marks at the end of that line;

and on page 3, lines 16 and 17, by inserting a new subdivision between those lines to read:

"(4) The passengers must be at least 21 years of age.";

and on page 4, line 43, by adding a new section immediately after that line to read:

"Section 4. G.S. 18B-903(b) reads as rewritten:

'(b) Renewal. -- Application for renewal of an ABC permit shall be on a form provided by the Commission. An application for renewal shall be accompanied by an application fee of twenty-five percent (25%) of the original application fee set in G.S. 18B-902, except ~~that the~~ for the following permits:

(1) The renewal application fee for each mixed beverages permit and each guest room cabinet permit shall be seven hundred fifty dollars ($750.00).

(2) The renewal application fee for a gambling boat permit shall be the same as the original application fee.

A renewal fee shall not be refundable.'".

and by renumbering the remaining sections accordingly;

and on page 7, lines 1 and 2, by deleting "Sections 4 through 10" and substituting "Sections 5 through 11".

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) _____
Sen.)

moves to amend the bill on page 3, line 16

( ) WHICH CHANGES THE TITLE

by deleting the quotation mark (");

and on page 3 between lines 16 and 17, inserting the following

(4) The passengers must be at least 21 years of age."

SIGNED Jerry Braswell

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 19-PCS2126-RB DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) _____
Sen.)

1 moves to amend the bill on page 4, line 43, by adding a new section to
2 ( ) WHICH CHANGES THE TITLE read:
3 ~~by~~ "Section 4. G.S. 18B-903(6) reads as rewritten:
4 "(b) Renewal. – Application for renewal of an
5 ABC permit shall be on a form provided by the
6 Commission. An application for renewal shall be
7 accompanied by an applic fee of twenty-five
8 percent (25%) of the original application fee set in
9 G.S. 18B-902, except ~~that~~ for the following permits:
10 (1) ~~The~~ The renewal applic fee for each
11 mixed bev permit; each guest
12 room cabin permit shall be ~~four~~ seven
13 hundred fifty dollars ($~~700~~750.00).
14 (2) The renewal applic fee for a
15 gambling boat permit shall be
16 ~~ten thousand dollars ($ 10,000~~ the
17 same as the original applic fee.
18 ~~The~~ A renewal fee shall not be refunded." "
19 And by renumbering the remaining sections accordingly.

SIGNED Billy Creech

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

HOUSE BILL 19:
Gambling Boats Regulated

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Redwine
Date:	March 17, 1999	**Summary by:**	Cindy Avrette
Version:	PCS for 2nd Edition H19-PCS2126-RB		Committee Counsel

SUMMARY: ***The proposed committee substitute for House Bill 19 prohibits casino boat cruises to nowhere in North Carolina. North Carolina cannot prohibit gambling boat cruises that engage in interstate commerce by making at least one stop outside the State. However, the bill imposes the following requirements on gambling boat cruises that originate and end in North Carolina:***

- ***A privilege license tax at the rate of $6.00 for each passenger.***
- ***A requirement that the gambling boat operator deduct and withhold from a North Carolina resident's winnings individual income taxes equal to 7% of the winnings paid to the resident.***
- ***If the gambling boat operator desires to sell alcoholic beverages on the voyage while it is within the State's boundaries, then the operator must obtain a gambling boat permit from the ABC Commission in order to get a malt beverage permit, an unfortified wine permit, a fortified wine permit, or a mixed beverage permit. The cost of the gambling boat permit is $10,000.***

The proposed committee substitute corrects incorrect statutory cites, removes redundant language, establishes definitions, and makes stylistic, technical, and organizational changes to the original bill.

BACKGROUND: Gambling and the possession and use of gambling devices, such as slot machines, punchboards, and gaming tables, are illegal in North Carolina. However, because of changes in the federal law since 1992, it is legal to transport and possess gambling devices on US flagships within the boundaries of a state if the use of the devices occurs outside the boundaries of the state and the devices remain onboard the vessel while it is within the state's boundaries. The 1992 changes to the Johnson Act, 15 U.S.C. § 1175, were enacted in part to end the discrimination between US flagships and foreign flagships. This change in the federal law means that it would be permissible for a person in North Carolina to have a vessel equipped with gambling devices and to take passengers on voyages for the purpose of gambling, so long as the vessel travels outside the 3 mile territorial boundary of the State before initiating the gambling games. This type of voyage is commonly referred to as a "cruise to nowhere".

The Johnson Act does permit states to prohibit casino boat cruises to nowhere if the voyage begins and ends in the same state without making an intervening stop. To prohibit casino boat cruises to nowhere, a state must pass legislation that bans the use of gambling devices outside the boundaries of the state on voyages that begin and end in the state without making an intervening stop. A South Carolina court case and a Georgia AG opinion, as well as legislative discussions in several other states, have concluded that to

escape the effect of the 1992 amendments to the Johnson Act, a state must pass specific legislation to prohibit casino boat cruises to nowhere. North Carolina's current statutes prohibiting gambling and the possession of gambling devices are not sufficient to meet this "opt out" provision in the federal law. House Bill 19 provides the specific legislation necessary to prohibit casino boat cruises to nowhere in North Carolina.

BILL ANALYSIS: Section 1 of the bill defines a "casino boat" as a vessel that leaves from and returns to a port in North Carolina for the purpose of gambling without making an intervening stop in another state or country. Although federal law does not define "an intervening stop", this bill does. It defines an "intervening stop" as a docking at a port outside the boundaries of North Carolina for a period of at least six hours where the passengers may disembark the vessel for sightseeing, shopping, or other similar tourism-related activities.

The bill makes it unlawful to operate a casino boat, to possess, use, or repair a gambling device on a casino boat, or to solicit people to embark on a casino boat. A person who violates this law is guilty of a Class A1 misdemeanor. A Class A1 misdemeanor is the most serious misdemeanor offense. It is punishable by community punishment, intermediate punishment, or active punishment. A monetary fine maybe imposed in the discretion of the court. Upon conviction, a person's vessel, along with all of its equipment, maybe seized, forfeited, and sold. If a law enforcement officer has probable cause to believe that a violation of this law is occurring, the officer may seize the illegal gambling devices, seize any monies or property used in conjunction with or derived from the unlawful use of the illegal gambling devices, and seize the vessel upon which the illegal gambling devices are found. The bill clarifies that the law does not apply to vessels engaged in interstate commerce and that it does not prevent the prosecution for other gambling offenses.

North Carolina cannot prohibit gambling voyages that are allowed by federal law. Therefore, a person may offer gambling voyages that begin and end in North Carolina so long as the voyage makes an intervening stop in another state or country and all the gambling takes place beyond the 3 mile territorial boundary of the State. However, North Carolina can regulate these gambling boat voyages.

Sections 2 and 3 of the bill provide that an operator of a gambling boat voyage that wants to sell alcohol on the boat while it is in the territorial jurisdiction of North Carolina must obtain a gambling boat permit. A person must possess this permit before the person may obtain the necessary beer, wine, and mixed beverages permits. To obtain the gambling boat permit, a person must pay the fee of $10,000 and meet the following conditions:

- Serve meals on each voyage and have a dining area that will seat at least 36 people.
- Have gross receipts from food and nonalcoholic beverages that are greater than its gross receipts from alcohol.
- Have its home port in North Carolina and its passengers must embark on the voyage at the vessel's home port or at other ports listed on a preannounced itinerary.

Sections 4 through 10 of the bill create tax obligations for the gambling boat operator that do not exist under current law. A gambling boat operator is a person engaged in the business of operating a gambling boat voyage. A gambling boat voyage is defined for North Carolina tax purposes as a voyage that meets all of the following conditions:

- It transports passengers engaged in gambling aboard the vessel.
- Its passengers embark the vessel in this State.
- Its passengers disembark the vessel only in this State or a contiguous state.

This definition of "gambling boat voyage" eliminates the imposition of the tax obligations on cruise ships that travel and dock in noncontiguous states or another country.

Section 5 imposes a privilege license tax on gambling boat voyages at a rate equal to $6 per passenger. Section 8 requires a gambling boat operator who pays a resident of this State more than $600 in gambling winnings during a gambling boat voyage to deduct and withhold income tax from the resident's winnings. The federal government requires that taxes be withheld if the winnings exceed $5,000. The amount of State taxes to be withheld is 7% of the winnings paid to the resident. If the gambling boat operator does not withhold from any gambling winnings paid to an individual, the operator must obtain from the individual documentation proving that the individual is not a resident of North Carolina. The operator must remit the withheld tax payments to the State quarterly.

The following tax laws would also apply to businesses engaged in the gambling boat voyage business: State income tax and sales tax on any sales of tangible personal property that occur while the boat is in North Carolina's territorial boundaries. Also under current law, residents of North Carolina must pay tax on any income derived from gambling activities, whether they occur inside or outside the State's territorial boundaries.

EFFECTIVE DATE: This act is effective when it becomes law. The tax sections of this act become effective on the first day of the third calendar month after this act becomes law.

This summary was contributed to by Mary Shuping, Research Division.

H19-SMRB-1

DRAFT

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 19 (Proposed House Finance Committee Substitute)

SHORT TITLE: Casino Boats Regulated

SPONSOR(S): Representative Redwine

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue; Alcoholic Beverage Control Commission

EFFECTIVE DATE: Sections 4 through 10 of this act are effective on the first day of the third calendar month after this act becomes law. All other sections are effective when the bill becomes law.

BILL SUMMARY:

The bill prohibits in North Carolina those casino equipped boats that take gambling cruises to nowhere in the Atlantic Ocean. Ships that embark passengers in North Carolina for "gambling boat voyages" to contiguous states must pay a privilege tax of $6 per passenger, obtain a $10,000 ABC license if it has a home port in the state, and withhold 7% of winnings from North Carolina residents. When traveling outside North Carolina's three-mile criminal jurisdictional limit, HB 19 requires a casino boat to make an intervening stop in another state or country for 6 hours and allow its passengers to disembark or country and embark passengers in North Carolina ports.

ASSUMPTIONS AND METHODOLOGY:

There are no casino boats based in North Carolina nor are there casino boats in the contiguous states of Virginia and South Carolina that embark passengers in North Carolina for gambling boat voyages. There are two small cruise lines that have scheduled stops in North Carolina, but these ships do not offer gambling. Although North Carolina is visited infrequently by the major cruise lines that have casino operations onboard, these vessels are exempt from tax because they do not have home ports in the state and do not arrange cruises to contiguous states.

DRAFT

No information is available to estimate the potential for gambling boat voyages in the future. It is uncertain how prospective casino boat operators will react to the restrictions and taxes imposed in HB 19. Fiscal Research talked to the owner of the Stardancer, one of two casino boats based in Little River, South Carolina, and found that the owner had no intention of expanding his business into North Carolina. Furthermore, the intervening stop requirements of HB 19 may make travel to North Carolina impracticable and less profitable. The Stardancer casino boat has a cruise time of five hours (1 hour to reach the 3-mile limit, 3 hours to gamble, and 1 hour to return) and makes two trips a day. The six hour intervening stop requirement would prohibit the Stardancer casino boat from making two daily trips and would increase costs due to additional staff hours spent on board.

FISCAL RESEARCH DIVISION
733-4910
PREPARED BY: Richard Bostic
APPROVED BY:
DATE: March 17, 1999

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 19
Committee Substitute Favorable 2/24/99
Proposed Committee Substitute H19-PCS2126-RB

Short Title: Gambling Boats Regulated. (Public)

Sponsors:

Referred to:

February 3, 1999

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT CASINO BOATS FROM OPERATING IN NORTH CAROLINA, TO REGULATE CERTAIN GAMBLING BOATS THAT OPERATE IN NORTH CAROLINA PURSUANT TO FEDERAL LAW, TO LEVY A PRIVILEGE TAX ON GAMBLING BOATS OPERATING IN NORTH CAROLINA, AND TO REQUIRE WITHHOLDING FROM CERTAIN GAMBLING BOAT WINNINGS.

The General Assembly of North Carolina enacts:

Section 1. Article 37 of Chapter 14 of the General Statutes is amended by adding a new Part to read:

"Part 4. Casino Boats.

"**§ 14-309.30. Definitions.**

The following definitions apply in this Part:

(1) Casino boat. -- A vessel that meets both of the following conditions:

a. Embarks from a point within this State and disembarks at the same or another point within this State without making an intervening stop.

b. Is operated or maintained for the purpose of gambling and carries or operates gambling devices for the use of its passengers or otherwise provides facilities for the purpose of gambling.

(2) Gambling. -- A game of chance at which money, property, or some other thing of value is bet, whether the same be in stake or not.
(3) Gambling device. -- A device as defined in 15 U.S.C. § 1171 and any other device used to facilitate gambling, such as a gaming table and a punchboard.
(4) Intervening stop. -- When a vessel does all of the following:
a. Docks at a port within the boundaries of another state, possession of the United States, or foreign country.
b. Remains continuously at that port for at least six hours.
c. Allows passengers to disembark the vessel for sightseeing, shopping, or other similar tourism-related activities at that port.
(5) Operate. -- To manage, supervise, control, or own, either alone or in association with others.
(6) Vessel. -- A boat, barge, ship, vessel, or watercraft.

"§ 14-309.31. Casino boats prohibited.

(a) Unlawful Activity. -- It shall be unlawful to do any one or more of the following:
(1) To operate a casino boat.
(2) To manufacture, recondition, repair, sell, transport, possess, or use a gambling device on a casino boat.
(3) To solicit, entice, induce, persuade, or procure, or to aid in soliciting, enticing, inducing, persuading, or procuring a person to visit or embark on a casino boat.

(b) Penalty and Conviction. -- A person who violates subsection (a) of this section shall be guilty of a Class A1 misdemeanor. Upon conviction, a court of competent jurisdiction shall enter an order directing the seizure, forfeiture, and sale of the vessel, along with all of its gear, engines, tackle, and all other nautical, navigation, and safety equipment, furniture, and personal property of any description. Any means of conveyance to and from an illegally used vessel shall also be ordered seized, forfeited, and sold. The proceeds of a sale in accordance with this subsection shall be applied, in order, to the costs of seizure, storage, and sale, with the balance paid to the public school fund in the county in which the property is seized.

(c) Applicability. -- This section shall not apply to possession or transportation of gambling devices on United States-flagged or foreign-flagged vessels during travel from a foreign nation or another state or possession of the United States up to the first point of entry into North Carolina waters or during travel to a foreign nation or another state or possession of the United States from the point of departure from North Carolina waters.

(d) Prosecution for Other Offenses. -- Nothing contained in this section shall preclude prosecution for another offense under this Article or for the use of a gambling device on a vessel while docked within the territorial waters of this State.

"§ 14-309.32. Enforcement.

A law enforcement officer with subject matter and territorial jurisdiction over a vessel may take any one or more of the following actions if the officer has probable cause to believe that a violation of G.S. 14-309.31 is occurring on the vessel:

(1) Seize the illegal gambling device.

(2) Seize any monies, other property, or thing of value used in conjunction with or derived from the unlawful use of the illegal gambling device.

(3) Seize the vessel upon which an illegal gambling device is found.

"**§ 14-309.33. Regulation of gambling boats operating pursuant to federal law.**

The operator of a vessel, the operation of which would be illegal in this State except for the exclusions provided in 15 U.S.C. § 1175(b)(2), shall comply with all of the following:

(1) The applicable provisions of Chapter 105 of the General Statutes.

(2) The applicable provisions of Chapter 18B of the General Statutes.

(3) The Safety of Life at Sea (SOLAS) standards and requirements normally applicable in international waters."

Section 2. Article 10 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-1010. Gambling boat permit.**

(a) Definitions. -- The definitions in G.S. 14-309.30 apply in this section.

(b) Gambling Boat Permit. -- The Commission may issue a 'gambling boat' permit to a person who operates a vessel that is operated pursuant to G.S. 14-309.33 if the vessel meets all of the following conditions:

(1) It serves meals on each voyage and has a dining area with seating for at least 36 people.

(2) Its gross receipts from food and nonalcoholic beverages are greater than its gross receipts from alcoholic beverages.

(3) It has its home port in an area of this State where issuance of all of the permits listed in subsection (c) are legal.

(4) All of its passengers embark at the vessel's home port or at other ports listed on a preannounced itinerary.

(5) It meets the requirements of all other applicable provisions in this Chapter.

(c) Other Permits. -- The Commission may issue the following permits to a person who holds a gambling boat permit; however, no off-premises sales may be made pursuant to these permits:

(1) On-Premises Malt Beverage Permit.

(2) On-Premises Unfortified Wine Permit.

(3) On-Premises Fortified Wine Permit.

(4) Mixed Beverages Permit.

(d) Restrictions. -- The permits are valid only during voyages that leave from and return to the vessel's home port. If the vessel docks in other areas within this State, the permits are valid in that area only if the sales are legal in that area, unless the vessel docks in that area because of an emergency. Liquor purchased for resale in

mixed beverages may be purchased only from the local board for the jurisdiction of the vessel's home port.

(e) Record Keeping. -- The permittee must comply with all Commission rules regarding record keeping and reporting for tour boats."

Section 3. G.S. 18B-902(d) reads as rewritten:

"(d) Fees. -- An application for an ABC permit shall be accompanied by payment of the following application fee:

(1) On-premises malt beverage permit -- $400.00.
(2) Off-premises malt beverage permit -- $400.00.
(3) On-premises unfortified wine permit -- $400.00.
(4) Off-premises unfortified wine permit -- $400.00.
(5) On-premises fortified wine permit -- $400.00.
(6) Off-premises fortified wine permit -- $400.00.
(7) Brown-bagging permit -- $400.00, unless the application is for a restaurant seating less than 50, in which case the fee shall be $200.00.
(8) Special occasion permit -- $400.00.
(9) Limited special occasion permit -- $50.00.
(10) Mixed beverages permit -- $1,000.
(11) Culinary permit -- $200.00.
(12) Unfortified winery permit -- $300.00.
(13) Fortified winery permit -- $300.00.
(14) Limited winery permit -- $300.00.
(15) Brewery permit -- $300.00.
(16) Distillery permit -- $300.00.
(17) Fuel alcohol permit -- $100.00.
(18) Wine importer permit -- $300.00.
(19) Wine wholesaler permit -- $300.00.
(20) Malt beverage importer permit -- $300.00.
(21) Malt beverage wholesaler permit -- $300.00.
(22) Bottler permit -- $300.00.
(23) Salesman permit -- $100.00.
(24) Vendor representative permit -- $50.00.
(25) Nonresident malt beverage vendor permit -- $100.00.
(26) Nonresident wine vendor permit -- $100.00.
(27) Any special one-time permit under G.S. 18B-1002 -- $50.00.
(28) Winery special event permit -- $200.00.
(29) Mixed beverages catering permit -- $200.00.
(30) Guest room cabinet permit -- $1,000.
(31) Liquor importer/bottler permit -- $500.00.
(32) Cider and vinegar manufacturer permit -- $200.00.
(33) Brew on premises permit -- $400.00.
(34) Gambling boat permit -- $10,000."

Section 4. G.S. 105-228.90(b) is amended by adding a new subdivision to read:

"(4) Gambling boat voyage. -- A voyage of a commercial vessel transporting passengers engaged in gambling aboard the vessel, during which passengers embark in this State and disembark only in this State or a contiguous state."

Section 5. Article 2 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-40.1. Gambling boat voyages.**

A person engaged in the business of operating gambling boat voyages must pay a tax on the business at the rate of six dollars ($6.00) for each passenger who embarks on a gambling boat voyage in this State. Within the first 10 days of each month, the taxpayer must report to the Secretary the number of passengers who embarked on the taxpayer's gambling boat voyages during the previous month and must pay the tax at the time the report is due."

Section 6. G.S. 105-163.1 is amended by adding a new subdivision to read:

"(5a) Gambling boat operator. -- A person engaged in the business of operating gambling boat voyages."

Section 7. G.S. 105-163.1(14) reads as rewritten:

"(14) Withholding agent. -- An ~~employer~~ employer, a gambling boat operator, or a payer."

Section 8. Article 4A of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-163.3A. Gambling boat operators must withhold taxes.**

(a) Requirement. -- Every gambling boat operator who pays a resident of this State more than six hundred dollars ($600.00) in gambling winnings during a gambling boat voyage must deduct and withhold from the winnings paid to the resident the State income taxes due on the winnings as provided in this section. The amount of taxes to be withheld is seven percent (7%) of the winnings paid to the resident. The taxes a gambling boat operator withholds are held in trust for the Secretary.

(b) Returns; Due Date. -- A gambling boat operator must file a return with the Secretary on a form prepared by the Secretary and must provide any information required by the Secretary. The return is due and the withheld taxes are payable by the last day of the first month after the end of each calendar quarter during which the gambling boat operator pays gambling winnings to a resident of this State. The Secretary may extend the time for filing the return or paying the tax as provided in G.S. 105-263.

(c) Annual Statement. -- A gambling boat operator required to deduct and withhold from a resident's gambling winnings under this section must furnish to the resident duplicate copies of a written information statement. The statement is due by January 31 following the calendar year and must show the following:

(1) The gambling boat operator's name, address, and taxpayer identification number.

(2) The resident's name, address, and taxpayer identification number.
(3) The total amount of gambling winnings paid during the calendar year.
(4) The total amount deducted and withheld under this section during the calendar year.
(5) Any other information required by the Secretary.

(d) Report to Secretary. -- Each gambling boat operator must file with the Secretary an annual report that compiles the information contained in each of the operator's statements to residents and any other information required by the Secretary. This report is due on the date prescribed by the Secretary and is in lieu of the information report required by G.S. 105-154.

(e) Records. -- If a gambling boat operator does not withhold from any gambling winnings paid to an individual, the operator must obtain from the individual documentation proving that he or she is not a resident of this State. The operator must retain this information with its records."

Section 9. G.S. 105-163.9 reads as rewritten:

"**§ 105-163.9. Refund of overpayment to withholding agent.**

A withholding agent who pays the Secretary more under this Article than the Article requires the agent to pay may obtain a refund of the overpayment by filing an application for a refund with the Secretary. No refund is allowed, however, if the withholding agent withheld the amount of the overpayment from the ~~wages~~ wages, winnings, or compensation of the agent's ~~employees~~ employees, passengers, or contractors. A withholding agent must file an application for a refund within the time period set in G.S. 105-266. Interest accrues on a refund as provided in G.S. 105-266."

Section 10. G.S. 105-163.10 reads as rewritten:

"**§ 105-163.10. Withheld amounts credited to taxpayer for calendar year.**

The amount deducted and withheld under this Article during any calendar year from the ~~wages~~ wages, winnings, or compensation of an individual ~~shall be~~ is allowed as a credit to that individual against the tax imposed by Article 4 of this Chapter for taxable years beginning in that calendar year. The amount deducted and withheld under this Article during any calendar year from the compensation of a nonresident entity ~~shall be~~ is allowed as a credit to that entity against the tax imposed by Article 4 of this Chapter for taxable years beginning in that calendar year. If the nonresident entity is a pass-through entity, the entity shall pass through and allocate to each owner the owner's share of the credit.

If more than one taxable year begins in the calendar year during which the withholding occurred, the amount ~~shall be~~ is allowed as a credit against the tax for the last taxable year so beginning. To obtain the credit allowed in this section, the individual or nonresident entity must file with the Secretary one copy of the withholding statement required by G.S. ~~105-163.3 or G.S.~~ 105-163.3, 105-163.3A, or 105-163.7 and any other information the Secretary requires."

Section 11. This act is effective when it becomes law. Sections 4 through 10 of this act become effective on the first day of the third calendar month after this act becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

HOUSE BILL 19
Committee Substitute Favorable 2/24/99

Short Title: Casino Boats Regulated. (Public)

Sponsors:

Referred to:

February 3, 1999

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT CERTAIN CASINO BOATS FROM OPERATING IN NORTH CAROLINA AND TO REGULATE CERTAIN CASINO BOATS THAT OPERATE IN NORTH CAROLINA PURSUANT TO FEDERAL LAW AND TO LEVY A PRIVILEGE TAX ON GAMBLING BOATS OPERATING IN NORTH CAROLINA AND TO REQUIRE WITHHOLDING FROM CERTAIN GAMBLING BOAT WINNINGS.

Whereas, North Carolina has a long history of outlawing gambling within the State; with gambling being illegal since 1891, allowing gambling in houses of public entertainment being illegal since 1799, and the possession of gambling devices outlawed in this State since 1791; and

Whereas, casino boats have started "gambling cruise to nowhere" operations in several states along the Atlantic Ocean, in an attempt to avoid the application of similar laws prohibiting gambling and the possession of gambling devices, with passengers embarking at ports within the State, passing beyond the three-mile State criminal jurisdictional limit where the gambling and use of the gambling devices actually take place, and then returning to the same port within the State where the passengers disembark; and

Whereas, the federal government has preempted regulation of the possession of gambling devices on certain casino boats that leave a port in one state, make at least one intervening stop in a second state, and then return to the same or another port in the first state as specified in 15 U.S.C. 1175(b)(2), commonly referred to as the Johnson Act Amendments of 1992; and

Whereas, it is the intent of the General Assembly to prohibit "gambling cruises to nowhere" in this State and to regulate, to the extent possible under federal law, all gambling cruises that originate and terminate in this State; Now, therefore, The General Assembly of North Carolina enacts:

Section 1. Article 37 of Chapter 14 of the General Statutes is amended by adding a new Part to read:

"Part 3. Casino Boats.

"**§ 14-309.20. Short title.**

This Part may be referred to as the 'Gambling Cruise Prohibition and Regulation Act.'

"**§ 14-309.21. Casino boats and gambling devices; prohibited.**

(a) It shall be unlawful to manufacture, recondition, repair, sell, transport, possess, or use any slot machine, gaming table, illegal punchboard, or gambling device as defined in this Article or 15 U.S.C. 1171 on any vessel, boat, ship, watercraft, or barge that embarks from any point within this State and disembarks at the same or another point within this State without making an intervening stop within the boundaries of another state, possession of the United States, or a foreign country.

For purposes of this subsection, an 'intervening stop' shall be when a vessel, boat, ship, watercraft, or barge does all of the following:

(1) Docks at a port.

(2) Remains continuously at that port for at least six hours.

(3) Allows passengers to disembark the vessel for sightseeing, shopping, or other similar tourism-related acts at that port.

(b) It shall be unlawful to manage, supervise, control, operate, or own any vessel or craft during which time the person intentionally causes or knowingly permits a violation of subsection (a) of this section.

(c) It shall be unlawful to solicit, entice, induce, persuade, or procure, or to aid in soliciting, enticing, inducing, persuading, or procuring any person to visit or embark on any vessel, boat, ship, watercraft, or barge for any purpose that constitutes a violation of this Article.

(d) This section shall not apply to possession or transportation of slot machines, gaming tables, illegal punchboards, or gambling devices on United States-flagged or foreign-flagged vessels during travel from a foreign nation or another state or possession of the United States up to the first point of entry into North Carolina waters or during travel to a foreign nation or another state or possession of the United States from the point of departure from North Carolina waters, provided that nothing herein shall preclude prosecution for any other offense under this Article.

(e) Nothing contained in this section shall preclude prosecution for any other offense under this Article or for the use of any slot machine, gaming table, illegal punchboard, or gambling device on any vessel while docked within the territorial waters of this State.

"**§ 14-309.22. Penalty for violation.**

(a) A person who violates G.S. 14-309.21 shall be guilty of a Class A1 misdemeanor.

(b) Alcohol law enforcement officers and any law enforcement officer with subject matter and territorial jurisdiction, who have probable cause to believe any slot machine, gaming table, illegal punchboard, or gambling device is being manufactured, reconditioned, repaired, sold, transported, possessed, or used in violation of G.S. 14-309.21, may take any of the following actions:

(1) Seize the slot machine, gaming table, illegal punchboard, or gambling device.

(2) Seize any monies, other property, or thing of value used in conjunction with or derived from the unlawful use of such illegal device.

(3) Seize any vessel, boat, ship, watercraft, or barge upon which an illegal slot machine, gaming table, illegal punchboard, or other gambling device is found.

(c) Upon conviction, a court of competent jurisdiction shall enter an order directing the seizure, forfeiture, and sale of any vessel, boat, ship, watercraft, or barge along with all of its gear, engines, tackle, and all other nautical, navigation, and safety equipment, furniture, and personal property of any description. Any means of conveyance to and from an illegally used vessel, boat, ship, watercraft, or barge shall also be ordered seized, forfeited, and sold. The proceeds of a sale pursuant to this subsection shall be applied, in order, to the costs of seizure, storage, and sale, with the balance paid to the school fund in the county in which the property is seized.

"**§ 14-309.23. Authority of alcohol law enforcement division and Alcoholic Beverage Control Commission.**

(a) Authority. -- In the case of any tour boat or vessel, boat, ship, watercraft, or barge possessing an alcoholic beverage permit pursuant to Chapter 18B of the General Statutes, any alcohol law enforcement agent or employee of the Alcoholic Beverage Control Commission shall, at any time it reasonably appears that someone is on board, have authority to board and investigate the operation of the craft to ensure compliance with the provisions of the ABC law and this Article to include viewing the entire premises, and examining any books, logs, and records of the permittee.

(b) Interference with inspection. -- Refusal by a permittee or by any employee of a permittee to permit an alcohol law enforcement agent or employee of the Alcoholic Beverage Control Commission to board to make an inspection authorized by subsection (a) of this section shall be cause for revocation, suspension, or other action against the permit of the permittee as provided in G.S. 18B-104.

(c) It shall be a Class 2 misdemeanor for any person to resist or obstruct an authorized person attempting to make a lawful inspection under this section.

"**§ 14-309.24. Regulation of casino boats operating pursuant to federal law.**

(a) The operator of any vessel, boat, ship, watercraft, or barge, the operation of which would be illegal in this State except for the exclusions provided in 15 U.S.C. 1175(b)(2), shall comply with all of the following:

(1) The operator shall comply with the applicable provisions of Chapter 105 of the General Statutes including paying a privilege

tax in accordance with G.S. 105-40.1 and withholding and reporting gambling winnings in accordance with G.S. 105-163.3A.

(2) If alcoholic beverages are to be sold to the passengers, the operator shall obtain a 'casino boat' permit as provided for in G.S. 18B-1006(n).

(3) The operator shall, while operating the vessel within North Carolina waters, comply with the Safety of Life at Sea (SOLAS) standards and requirements normally applicable in international waters."

Section 2. G.S. 18B-1006 is amended by adding a new subsection:

"(n) Casino boats. -- The Commission may issue a 'casino boat' permit to a boat that is operated pursuant to G.S. 14-309.24 if the boat meets all of the following conditions:

(1) The boat shall serve meals on each voyage and shall have a dining area with seating for at least 36 people.

(2) The boat's gross receipts from food and nonalcoholic beverages shall be greater than its gross receipts from alcoholic beverages.

(3) A boat holding a 'casino boat' permit may also hold the permits listed in G.S. 18B-1001(1), (3), (5), and (10), but no off-premises sales may be made pursuant to those permits.

(4) A boat shall have a home port in an area where issuance of all of the permits listed in subdivision (3) of this subsection are legal, and all passengers shall enter the boat at the home port or at other ports listed on a preannounced itinerary. The boat's permits are valid only during voyages that leave and return to the boat's home port, and apply only if the boat docks in areas within this State where sales are legal, except in an emergency.

(5) Liquor purchased for resale in mixed beverages may be purchased only from the local board for the jurisdiction of the boat's home port.

(6) The permit fees are paid for the applicable permits listed in subdivision (3) of this section and for a 'casino boat' permit.

(7) The permittee shall comply with all Commission rules regarding record keeping and reporting for tour boats.

(8) The requirements of all other applicable provisions of this Chapter are met."

Section 3. G.S. 18B-902(d) reads as rewritten:

"(d) Fees. -- An application for an ABC permit shall be accompanied by payment of the following application fee:

(1) On-premises malt beverage permit -- $400.00.

(2) Off-premises malt beverage permit -- $400.00.

(3) On-premises unfortified wine permit -- $400.00.

(4) Off-premises unfortified wine permit -- $400.00.

(5) On-premises fortified wine permit -- $400.00.

(6) Off-premises fortified wine permit -- $400.00.
(7) Brown-bagging permit -- $400.00, unless the application is for a restaurant seating less than 50, in which case the fee shall be $200.00.
(8) Special occasion permit -- $400.00.
(9) Limited special occasion permit -- $50.00.
(10) Mixed beverages permit -- $1,000.
(11) Culinary permit -- $200.00.
(12) Unfortified winery permit -- $300.00.
(13) Fortified winery permit -- $300.00.
(14) Limited winery permit -- $300.00.
(15) Brewery permit -- $300.00.
(16) Distillery permit -- $300.00.
(17) Fuel alcohol permit -- $100.00.
(18) Wine importer permit -- $300.00.
(19) Wine wholesaler permit -- $300.00.
(20) Malt beverage importer permit -- $300.00.
(21) Malt beverage wholesaler permit -- $300.00.
(22) Bottler permit -- $300.00.
(23) Salesman permit -- $100.00.
(24) Vendor representative permit -- $50.00.
(25) Nonresident malt beverage vendor permit -- $100.00.
(26) Nonresident wine vendor permit -- $100.00.
(27) Any special one-time permit under G.S. 18B-1002 -- $50.00.
(28) Winery special event permit -- $200.00.
(29) Mixed beverages catering permit -- $200.00.
(30) Guest room cabinet permit -- $1,000.
(31) Liquor importer/bottler permit -- $500.00.
(32) Cider and vinegar manufacturer permit -- $200.00.
(33) Brew on premises permit -- $400.00.
(34) Casino boat permit -- $10,000."

Section 4. G.S. 105-228.90(b) is amended by adding a new subdivision to read:

"(4) Gambling boat voyage. -- A voyage of a commercial vessel transporting passengers engaged in gambling aboard the vessel, during which passengers embark in this State and disembark only in this State or a contiguous state."

Section 5. Article 2 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-40.1. Gambling boat voyages.**

A person engaged in the business of operating gambling boat voyages must pay a tax on the business at the rate of six dollars ($6.00) for each passenger who embarks on a gambling boat voyage in this State. Within the first 10 days of each month, the taxpayer must report to the Secretary the number of passengers who embarked on the

taxpayer's gambling boat voyages during the previous month and must pay the tax at the time the report is due."

Section 6. G.S. 105-163.1 is amended by adding a new subdivision to read:

"(5a) Gambling boat operator. -- A person engaged in the business of operating gambling boat voyages."

Section 7. G.S. 105-163.1(14) reads as rewritten:

"(14) Withholding agent. -- An ~~employer~~ employer, a gambling boat operator, or a payer."

Section 8. Article 4A of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-163.3A. Gambling boat operators must withhold taxes.**

(a) Requirement. -- Every gambling boat operator who pays a resident of this State more than six hundred dollars ($600.00) in gambling winnings during a gambling boat voyage must deduct and withhold from the winnings paid to the resident the State income taxes due on the winnings as provided in this section. The amount of taxes to be withheld is seven percent (7%) of the winnings paid to the resident. The taxes a gambling boat operator withholds are held in trust for the Secretary.

(b) Returns; due date. -- A gambling boat operator must file a return with the Secretary on a form prepared by the Secretary and must provide any information required by the Secretary. The return is due and the withheld taxes are payable by the last day of the first month after the end of each calendar quarter during which the gambling boat operator pays gambling winnings to a resident of this State. The Secretary may extend the time for filing the return or paying the tax as provided in G.S. 105-263.

(c) Annual statement. -- A gambling boat operator required to deduct and withhold from a resident's gambling winnings under this section must furnish to the resident duplicate copies of a written information statement. The statement is due by January 31 following the calendar year and must show the following:

(1) The gambling boat operator's name, address, and taxpayer identification number.

(2) The resident's name, address, and taxpayer identification number.

(3) The total amount of gambling winnings paid during the calendar year.

(4) The total amount deducted and withheld under this section during the calendar year.

(5) Any other information required by the Secretary.

(d) Report to Secretary. -- Each gambling boat operator must file with the Secretary an annual report that compiles the information contained in each of the operator's statements to residents and any other information required by the Secretary. This report is due on the date prescribed by the Secretary and is in lieu of the information report required by G.S. 105-154.

(e) Records. -- If a gambling boat operator does not withhold from any gambling winnings paid to an individual, the operator must obtain from the individual

documentation proving that he or she is not a resident of this State. The operator must retain this information with its records."

Section 9. G.S. 105-163.9 reads as rewritten:

"**§ 105-163.9. Refund of overpayment to withholding agent.**

A withholding agent who pays the Secretary more under this Article than the Article requires the agent to pay may obtain a refund of the overpayment by filing an application for a refund with the Secretary. No refund is allowed, however, if the withholding agent withheld the amount of the overpayment from the ~~wages~~ wages, winnings, or compensation of the agent's ~~employees~~ employees, passengers, or contractors. A withholding agent must file an application for a refund within the time period set in G.S. 105-266. Interest accrues on a refund as provided in G.S. 105-266."

Section 10. G.S. 105-163.10 reads as rewritten:

"**§ 105-163.10. Withheld amounts credited to taxpayer for calendar year.**

The amount deducted and withheld under this Article during any calendar year from the ~~wages~~ wages, winnings, or compensation of an individual ~~shall be~~ is allowed as a credit to that individual against the tax imposed by Article 4 of this Chapter for taxable years beginning in that calendar year. The amount deducted and withheld under this Article during any calendar year from the compensation of a nonresident entity ~~shall be~~ is allowed as a credit to that entity against the tax imposed by Article 4 of this Chapter for taxable years beginning in that calendar year. If the nonresident entity is a pass-through entity, the entity shall pass through and allocate to each owner the owner's share of the credit.

If more than one taxable year begins in the calendar year during which the withholding occurred, the amount ~~shall be~~ is allowed as a credit against the tax for the last taxable year so beginning. To obtain the credit allowed in this section, the individual or nonresident entity must file with the Secretary one copy of the withholding statement required by G.S. ~~105-163.3 or G.S.~~ 105-163.3, 105-163.3A, or 105-163.7 and any other information the Secretary requires."

Section 11. This act is effective when it becomes law. Sections 4 through 10 of this act become effective on the first day of the third calendar month after this act becomes law.

VISITOR REGISTRATION SHEET

Finance 3/18/99

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY
1. Chris Denning	Visitor
2. Steve Woodson	NC Farm Bureau
3. Susan Markham	EGHS
4. Ann Fulton	ABC Commission
5. Phyllis Ford	Carteret County Chamber of Com-
6. Beckie Street	PPAB
7. Eric Rudolph	Cherokee County
8. John Baily	D.O.R.
9. Cam Cuthrell	BPMHL
10. John Kuster	NCFPC
11. Kathi Caldwell	DOR
12. Jay Hall	DOR
13. Sabra Faires	DOR
14. Jerry Walters	Town of Long Beach
15. Mayor Tom Alton	" " "
16. Bonnie N.B. Williams	Senate Leader Duke University, L.T. Case
17. Rob Holladay	Intern - Rep. Luebke
18. Paul Zepp	OSBM
19. Terry Hancock	EGHS
20. Alice Garland	Electricities
21. BILL SCOGGIN	NC BAR ASSOC.

VISITOR REGISTRATION SHEET

Finance 3-18-99

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

	NAME	FIRM OR AGENCY
1.	Bernard Allen	SOS
2.	Butch Simmons	NC Soft Drink Assoc.
3.	Katherine Lewis	ElectriCities of NC
4.	Ted McBride	NCDA
5.	Joe Stott	Cue-Cola
6.	Jeff McMillan	Moore & Van Allen
7.	Mark	Citizen
8.	Walter Pria	Charlotte
9.	Alan Miller	Bailey & Dixon LLP
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		
21.		

AGENDA

HOUSE FINANCE COMMITTEE

Tuesday, March 23, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 259 – Home Inspector Amendments – Rep. Jarrell

HB 178 – Jonesville Accident Reports / Weeds – Rep. Brown

HB 149 – Reduce Pitt Co. Pistol Permit Fees – Rep. Warren

HB 375 – Oak Ridge Annexation – Rep. Decker

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Tuesday, March 23, 1999

The House Committee on Finance met on Tuesday, March 23, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairmen Allen, Luebke, Miller; Vice Chair Jarrell; Representatives Braswell, Bridgeman, Brown, Buchanan, Capps, Church, Cox, Creech, Cunningham, Decker, Dedmon, Eddins, Edwards, Goodwin, Hackney, Hill, McComas, McCombs, Morris, Neely, Ramsey, Rayfield, Starnes, Tucker, Wilson, Womble. Staff including Cindy Avrette, Richard Bostic, Linda Millsaps, and Ed Rossi were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Allen called the meeting to order to consider the following bills:

Representative Jarrell was recognized to explain HB 259, A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR THE LAPSE OF A HOME INSPECTOR'S LICENSE AND AN ASSOCIATE HOME INSPECTOR'S LICENSE UNDER CERTAIN CONDITIONS; TO ESTABLISH RECORD-KEEPING REQUIREMENTS FOR HOME INSPECTORS; AND TO AUTHORIZE THE HOME INSPECTOR LICENSURE BOARD TO ESTABLISH CONTINUING EDUCATION PROGRAMS AND CHARGE FEES FOR THOSE PROGRAMS. Rep. Jarrell made a motion to adopt the Proposed Committee Substitute for discussion purposes, and it passed. Rep. McComas sent forward an amendment. The Chair recognized Jim Hughes of the N.C. Homebuilders Association to answer questions for the members. The Chair recognized Mike Carpenter of the N.C. Homebuilders Association to answer questions for the members. Rep. McComas agreed to pull back his original amendment and substitute a clarifying amendment. The Chair recognized Henry Jones of the American Society of Home Inspectors to answer questions for the members. Rep McComas moved for adoption of his amendment and it failed after a roll call vote is taken: Seventeen votes against amendment and eight votes for amendment. Rep. Decker made a motion to give the Proposed Committee Substitute a favorable report, unfavorable as to original bill. The motion passed. Copy of original bill, Committee Sub, amendments, bill analysis, and fiscal note included in the Minutes.

Representative Brown was recognized to explain HB 178, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE TOWN OF JONESVILLE TO CHARGE A FEE NOT TO EXCEED FIVE DOLLARS FOR UNCERTIFIED COPIES OF POLICE INCIDENT OR ACCIDENT REPORTS AND TO AUTHORIZE THE TOWN TO GIVE ANNUAL NOTICE OF VIOLATION TO CHRONIC VIOLATORS OF THE CITY'S OVERGROWN VEGETATION ORDINANCE. Ed Rossi, a staff member, informed the committee that the bill was constitutionally suspect. The committee decided to go ahead and discuss the bill, leaving the matter of constitutionality to the courts. Rep. Decker made a motion to give the bill a favorable report. The motion passed. Copy of bill, bill analysis, and fiscal note included in the Minutes.

Representative Warren was recognized to explain HB 149, A BILL TO BE ENTITLED AN ACT TO REDUCE THE PISTOL PERMIT FEE IN PITT COUNTY FROM TWENTY DOLLARS TO FIVE DOLLARS. Rep. Luebke made a motion to give the bill a favorable report. The motion passed. Copy of bill, bill analysis, and fiscal note included in the Minutes.

Representative Decker was recognized to explain HB 375, A BILL TO BE ENTITLED AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF OAK RIDGE. Rep. Decker informed the committee that in 1997, the House Finance Committee passed a bill to incorporate the town of Oak Ridge in Guilford Co. which was effective in November 1998. The reason for HB 375 is to incorporate the territories of people who wished to be in Oak Ridge, but were left out in the original bill. Rep. Jarrell asked Rep. Decker who are the supporters and opponents to the bill. Rep. Decker explained that HB 375 keeps the agreement regarding boundaries with Greensboro that was in the original bill. The agreement was that the permanent southern boundary of Oak Ridge is Hall River Rd. Rep. Decker stated that supporters of the 1997 original incorporation bill supported incorporation of Oak Ridge all the way to the county line and that is what this bill is doing. Those supporters were the county commissioners of Guilford Co., Greensboro, those people in Guilford Co. who live in Guilford the bill pertained to, all the senators from Forsyth County, most all the House members supported it, and most all the Guilford Co. senators. Rep. Womble asked why did Forsyth County oppose the 1997 original incorporation bill. Rep. Decker said that there is a garbage dump in Forsyth County that wishes to expand into Guilford County. Some people wanted to keep that territory out of the hands of the Oak Ridge Incorporation so that dump might eventually be expanded under the control of the town of Kernersville. There were other smaller reasons, but this was purported to be the major one, but this explanation regarding the garbage dump is an assumption on many peoples' parts. Rep. Womble asked if Forsyth County's concerns have been addressed. Rep. Decker replied that the town of Kernersville lies in Forsyth County that is 99% in Decker's district that holds to the opinion that Oak Ridge should not be allowed to have this territory in Guilford County. Rep. Decker believed that territory belongs to the people of Guilford County, and those citizens should have the right to exercise the choice to be in the Oak Ridge city limits. That's why these people have requested this legislation and have an overwhelming support for it. Rep. Capps asked that if it weren't for the moratorium placed on the bill, would Rep. Decker have to do this. Rep. Decker replied that if it weren't for the moratorium, he wouldn't be doing this. Rep. Capps asked why the moratorium was placed on the bill. Rep. Decker replied that the people who were left out of the incorporation were unable to get a negotiated settlement, so the moratorium was the best they could get, so they took it. HB 375 will straighten that situation out and give those people back the rightful place they'd like to be. Rep. Creech made a motion to give the bill a favorable report. The motion passed. Copy of bill and bill analysis included in the Minutes.

There being no further business, the Chair adjourned the meeting at 9:35 a.m.

Respectfully submitted:

Representative Gordon Allen
Chair

Kristen L. Crosson

Kristen L. Crosson
Assistant to the Committee

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 149 A BILL TO BE ENTITLED AN ACT TO REDUCE THE PISTOL PERMIT FEE IN PITT COUNTY FROM TWENTY DOLLARS TO FIVE DOLLARS.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 149

Short Title: Reduce Pitt Co. Pistol Permit Fee. (Local)

Sponsors: Representatives Warren, McLawhorn, Tolson, Rogers, and Edwards.

Referred to: Local Government I.

February 25, 1999

A BILL TO BE ENTITLED

AN ACT TO REDUCE THE PISTOL PERMIT FEE IN PITT COUNTY FROM TWENTY DOLLARS TO FIVE DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 205 of the 1993 Session Laws reads as rewritten:

"Sec. 2. This act applies ~~only to Martin County and Pitt County.~~ to Martin County only."

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

H149:
Reduce Pitt Co. Pistol Fee

BILL ANALYSIS

Committee: House Finance Committee
Date: March 18, 1999
Version: 1st

Introduced by: Rep. Warren
Summary by: Ed Rossi
Committee Co-Counsel

SUMMARY: House bill 149 reduces the pistol permit fee in Pitt County from $20.00 to $5.00

CURRENT LAW: – State law requires anyone wanting to purchase or receive a handgun to first obtain a permit for that handgun from the sheriff of the county that they reside in. After receiving the fee, the sheriff must perform a criminal background check, and generally satisfy herself as to the applicant's good moral character.

BACKGROUND: The statewide fee for a handgun permit is $5.00. In 1993, Representative Rogers introduced House bill 715. That bill raised the pistol permit fees in Martin and Pitt counties to $20.00. It was ratified on June 23, 1993, as Chapter 205 of the 1993 Session Laws. Representative Warren's bill repeals that 1993, law as it applies to Pitt County.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 149

SHORT TITLE: Reduce Pitt Co. Pistol Permit Fee

SPONSOR(S): Reps. Warren, et al.

FISCAL IMPACT

Yes (X) No ( ) No Estimate Available ( )

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Pitt County	($19,500)	($19,500)	($19,500)	($19,500)	($19,500)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Pitt County Sheriff

EFFECTIVE DATE: The act is effective when it becomes law.

BILL SUMMARY: The pistol permit fee in Pitt County is reduced from $20 to $5.

ASSUMPTIONS AND METHODOLOGY:
The Pitt County Finance Officer provided data on the number of pistol permits issued in Pitt County in the last five years. The chart below contains data on both new and renewed permits (permits expire 5 years after date of issuance), but does not include concealed weapons permits.

FY	Revenue	Approx. # of Permits
98-99 (thru 1/28/99)	$14,600	730
97-98	$26,110	1305
96-97	$28,397	1420
95-96	$35,558	1777
94-95	$35,120	1756

Assuming Pitt County issues 1,300 pistol permits each year, then the annual revenue loss from a $15 fee reduction is $19,500.

FISCAL RESEARCH DIVISION (733-4910)
PREPARED BY: Richard Bostic
APPROVED BY:
DATE: March 22, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 178 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE TOWN OF JONESVILLE TO CHARGE A FEE NOT TO EXCEED FIVE DOLLARS FOR UNCERTIFIED COPIES OF POLICE INCIDENT OR ACCIDENT REPORTS AND TO AUTHORIZE THE TOWN TO GIVE ANNUAL NOTICE OF VIOLATION TO CHRONIC VIOLATORS OF THE CITY'S OVERGROWN VEGETATION ORDINANCE.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 178

Short Title: Jonesville Accident Reports/Weeds. (Local)

Sponsors: Representatives Brown; and Holmes.

Referred to: Local Government I, if favorable, Finance.

March 1, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF JONESVILLE TO CHARGE A FEE NOT TO EXCEED FIVE DOLLARS FOR UNCERTIFIED COPIES OF POLICE INCIDENT OR ACCIDENT REPORTS AND TO AUTHORIZE THE TOWN TO GIVE ANNUAL NOTICE OF VIOLATION TO CHRONIC VIOLATORS OF THE CITY'S OVERGROWN VEGETATION ORDINANCE.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of S.L. 1998-108 reads as rewritten:

"Section 3. This act applies to the Towns of ~~Denton and Farmville~~ Denton, Farmville, and Jonesville and the City of Greenville only."

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

H178:
Jonesville Accident Reports/Weeds

BILL ANALYSIS

Committee:	House Finance Committee	**Introduced by:**	Rep. Brown & Holmes
Date:	March 19, 1999	**Summary by:**	Ed Rossi
Version:	1st		Committee Co-Counsel

SUMMARY: House bill 178 allows the Town of Jonesville to:

1. *Charge a fee of up to $5.00 for uncertified copies of accident or incident reports.*
2. *Allows the town to place a lien on lands that allegedly violate the town's "vegetation ordinance."*

The provision relating to the imposition of liens on property that violates a "vegetation ordinance" is constitutionally suspect as being violative of Article II Sec. 24(a) of the North Carolina Constitution which prohibits the General Assembly from enacting local acts that relate to the abatement of nuisances.

CURRENT LAW: Public Records – The State's public records law provides that public records, "are the property of the people." [1] The State's official policy is that people should be able be able to obtain copies of public records free of charge or at minimal cost, "unless otherwise specifically provided by law." [2] To date, there are over 60 specific local modifications to this law.

Constitutional Limitations on Local Acts -- Article II Sec. 24(a) of the North Carolina Constitution prohibits the General Assembly from enacting local acts that relate to the abatement of nuisances. Any legislation that is enacted in violation of this proscription is void.

BACKGROUND: In 1998, the General Assembly passed legislation that allowed 3 municipalities to (i) charge a fee of up to $5.00 for accident or incident reports; (ii) place a lien on the property of persons that allegedly violate a "vegetation ordinance." See p.2. This bill seeks to amend that legislation by adding Jonesville to the list of municipalities that the 1998 law applies to.

The Town of Jonesville seeks to enforce this act through a set of public nuisance ordinances. These ordinances provide: (i) that grass on private property may not grow in excess of 18 inches; (ii) if it does the town may go on to the property and cut the grass; (iii) the cost of town's mowing will become a lien on the property that violated the nuisance ordinance. See p.2.

BILL ANALYSIS: House bill 178 is a local bill that relates, in part, to the removal of overgrown grass and weeds – something that the implementing town ordinance declared to "a public nuisance." Article II Sec. 24(a) of the North Carolina Constitution would appear to prohibit this legislation, as it is a local act relating to the abatement of a nuisance .

[1] G.S. § 132-1(b)
[2] Id.

1998 Legislation (Session Law 1998-108)

Section 1. A municipality may charge a fee not to exceed five dollars ($5.00) for an uncertified copy of a police incident or accident report, except that the operator of a vehicle involved in an accident shall be entitled to one free copy of an uncertified copy. The fees collected shall be used for law enforcement purposes only.

Section 2. A municipality may notify a chronic violator of the municipality's overgrown vegetation ordinance that, if the violator's property is found to be in violation of the ordinance, the municipality shall, without further notice in the calendar year in which notice is given, take action to remedy the violation and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The notice shall be served by registered or certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the municipality took remedial action at least three times under the overgrown vegetation ordinance.

Section 3. This act applies to the Towns of Denton and Farmville and the City of Greenville only.

Jonesville Ordinances

Section 8-4001.Uncontrolled growth of weeds and accumulation of refuse are declared public nuisance.

The existence of any of the following conditions on any vacant lot or other parcel of land within the corporate limits is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:

(1) The uncontrolled growth of noxious weeds or grass to a height in excess of 18 inches causing or threatening to cause a hazard detrimental to the public health or safety....

Section 8-4005.Removal by town.
Upon the occurrence of either of the following conditions:

(1) A hearing is requested and hold under section 8-4004 above result- in either a final order with modifications or the reinstatement of the initial order as a final order, and the order is not complied with; or

(2) No hearing is requested or held, and the person having been ordered to abate the public nuisance fails, neglects or refuses to abate or remove the condition constituting the nuisance within 15 days from receipt of the order;

then the town clerk shall cause the condition to be removed or otherwise remedied by having employees of the town go upon the premises and remove or otherwise abate the nuisance under the supervision of an officer or employee designated by the town clerk. Any person who has *boon finally* ordered to abate a public nuisance may within the time allowed by this chapter request the town in writing to remove the condition, the cost of which shall be paid by the person making the request.

Section 8-4006. Cost incurred by owner..
The actual cost incurred by the town in removing or otherwise remedying a public nuisance shall be charged to the owner of the lot or parcel of land, and it shall be the duty of the tax collector to mail a statement of the charges to the owner or other person in possession of the premises with instructions that the charges are due and payable within 30 days from the receipt thereof.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: H.B. 178

SHORT TITLE: Jonesville Accident Reports/Weeds

SPONSOR(S): Rep. Brown

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Jonesville		**NO GENERAL FUND IMPACT**			
EXPENDITURES					
Jonesville		**NO GENERAL FUND IMPACT**			

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Town of Jonesville.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: This bill adds the Town of Jonesville to a list of towns given special authority for two actions. First, the bill authorizes Jonesville to charge a five dollar ($ 5.00) fee for an uncertified copy of police incident or accident report. The operator of a vehicle involved in an accident is entitled to one free uncertified copy of the report. The fees provide additional law enforcement funding. The second part of the bill addresses overgrown lots. The bill authorizes Jonesville to notify the owner of a chronically overgrown lot of the municipality's overgrown vegetation ordinance. The bill authorizes the town to "remedy" the violation, (mow, etc.) once the owner is notified and again found in violation. The cost associated with mowing becomes the equivalent of a tax lien against the property. Under the bill, notice must be given at least once during the calendar year. The bill defines a chronic violator as a person who owns property cited at least three times during the previous calendar year for overgrown vegetation.

ASSUMPTIONS AND METHODOLOGY: According to the town manager, Jonesville currently charges $4.00 for police accident and incident reports. They also report issuing approximately 200 such reports each year. Because the bill would allow Jonesville to charge an extra $1.00 per report, the town would likely see a $200.00 increase in revenues ($1.00 X 200 reports). As far as the weedy lot provision is concerned, the town manager believes the town will see some decrease in their postal expenses as a result of this provision. However, they expect the fiscal impact to be minimal.

FISCAL RESEARCH DIVISION
733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY: Tom Covington

DATE: Monday, March 22, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 259 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR THE LAPSE OF A HOME INSPECTOR'S LICENSE AND AN ASSOCIATE HOME INSPECTOR'S LICENSE UNDER CERTAIN CONDITIONS; TO ESTABLISH RECORD-KEEPING REQUIREMENTS FOR HOME INSPECTORS; AND TO AUTHORIZE THE HOME INSPECTOR LICENSURE BOARD TO ESTABLISH CONTINUING EDUCATION PROGRAMS AND CHARGE FEES FOR THOSE PROGRAMS.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

Perfecting Amendment

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) McCorad
Sen.)

amendment

moves to amend the ~~bill~~ on page 1, lines 12-16

( ) WHICH CHANGES THE TITLE

by rewriting those lines to read

"(3) Have ~~minimum~~ net assets of a bond in an amt determined by the Board. The amount may not be less than ~~twenty thousand~~ ($20,000) bond in an amount of less than minimum ~~net~~ assets of ten thousand dollars ($10,000). ~~in a bi~~

"(3) Have minimum net assets of not less than twenty thousand ($20,000) on a bond in an amount not less less ten thousand dollars ($10,000), as determined by the Board. ~~determined by the Board.~~ ";

and on page 2, lines 4-5, by deleting those lines.

SIGNED _____

ADOPTED _____ FAILED ✓ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

ROLL CALL VOTE

8 YES 17 NO = 25 (TOTAL)

HB# 259
SB# ____

Re: Proposed Amendment by Rep. McComas

HOUSE STANDING COMMITTEE ON FINANCE

House Subcommittee on Finance

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
	✓	MILLER, GEORGE	✓		McALLISTER, MARY
✓		LUEBKE, PAUL	✓		McCOMAS, DANNY
✓		ALLEN, GORDON		✓	McCOMBS, GENE
	✓	JARRELL, MARY		✓	MINER, DAVID
	✓	WOOD, STEVE		✓	MORRIS, MIA
	✓	BRASWELL, JERRY			MOSLEY, JANE
	✓	BRIDGEMAN, JOHN		✓	NEELY, CHUCK
	✓	BROWN, JOHN		✓	RAMSEY, LISTON
	✓	BUCHANAN, MONROE	✓		RAYFIELD, JOHN
	✓	CAPPS, RUSSELL		✓	STARNES, EDGAR
	✓	CHURCH, WALT		✓	TALLENT, TIM
	✓	COX, LESLIE		✓	TUCKER, RUSSELL
	✓	CREECH, BILLY			WILSON, CONNIE
	✓	DECKER, MIKE			WOMBLE, LARRY
✓		DEDMON, ANDY			WRIGHT, TOM
✓		EDDINS, RICK			
✓		EDWARDS, ZENO			
		FITCH, TOBY			
		GOBSON, PRYOR			
	✓	GOODWIN, WAYNE			
		GRAY, LYONS	Ex officio Members		
✓	✓	HACKNEY, JOE		✓	CUNNINGHAM
✓		HILL, DEWEY			Majority Leader BADDOUR
		HOWARD, JULIA			Majority Whip EARLE

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. H259-CSRB-1 DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) McCormick
Sen.)

moves to amend the bill on page 1, line 5

(✓) WHICH CHANGES THE TITLE

by deleting the word "AND";

and on page 1, line 7, by adding immediately before the period the following:

", AND TO INCREASE THE BONDING REQUIREMENTS";

and on page 1, line 9, by rewriting the line to read:

"Section 1. G.S. 143-151.51(3) read as rewritten:

"(3) Have ~~minimum net assets of~~ a bond in an amount determined by the Board. The amount may not be less ~~than five thousand dollars ($5,000)~~ nor more than ten thousand dollars ($10,000)."

Section 2. G.S. 143-151.55 read as rewritten:"

and by renumbering the remaining sections accordingly.

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) _____
Sen.)

moves to amend the bill on page _____, line _____

( ) WHICH CHANGES THE TITLE

by _____

and on page 2, line 43, by deleting the words "minimum net assets or";

and on page 2, line 12, by deleting "hk" and substituting "hi";

and on page 2, line 14, by deleting "G.S." and substituting "G.S.".

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 259
Proposed Committee Substitute H259-PCS1087-RB

Short Title: Home Inspector Amendments/AB. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE LAPSE OF A HOME INSPECTOR'S LICENSE AND AN ASSOCIATE HOME INSPECTOR'S LICENSE UNDER CERTAIN CONDITIONS; TO ESTABLISH RECORD-KEEPING REQUIREMENTS FOR HOME INSPECTORS; AND TO AUTHORIZE THE HOME INSPECTOR LICENSURE BOARD TO ESTABLISH CONTINUING EDUCATION PROGRAMS AND CHARGE FEES FOR THOSE PROGRAMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-151.55 reads as rewritten:

"**§ 143-151.55. Renewal of license; inactive ~~licenses.~~ licenses; lapsed licenses.**

(a) Renewal. -- A license expires on September 30 of each year. A license may be renewed by filing an application for renewal with the Board and paying the required renewal fee. The Board must notify license holders at least 30 days before their licenses expire. The Board must renew the license of a person who files an application for renewal, pays the required renewal fee, has fulfilled the continuing education requirements set by the Board, and is not in violation of this Article when the application is filed. If the Board imposes a continuing education requirement as a condition of renewing a license, the Board must ensure that the courses needed to fulfill the requirement are available in all geographic areas of the State.

(b) Late Renewal. -- The Board may provide for the late renewal of a license upon the payment of a late fee, but no late renewal of a license may be granted more than five years after the license expires.

(c) Inactive License. -- A license holder may apply to the Board to be placed on inactive status. An applicant for inactive status must follow the procedure set by the Board. A license holder who is granted inactive status is not subject to the license renewal requirements during the period the license holder remains on inactive status.

A license holder whose application is granted and is placed on inactive status may apply to the Board to be reinstated to active status at any time. The Board may set conditions for reinstatement to active status. An individual who is on inactive status and applies to be reinstated to active status must comply with the conditions set by the Board.

(d) Lapsed License. -- The license of a licensed home inspector shall lapse if the licensee fails to continuously maintain minimum net assets or a bond as required by G.S. 143-151.58. The license of a licensed associate home inspector shall lapse if the licensee fails to continuously be employed by or affiliated with a licensed home inspector as required by G.S. 143-151.58."

Section 2. G.S. 143-151.57(a) reads as rewritten:

"(a) Maximum Fees. -- The Board may adopt fees that do not exceed the amounts set in the following table for administering this Article:

Item	Maximum Fee
Application for home inspector license	$25.00
Application for associate home inspector license	15.00
Home inspector examination	75.00
Issuance of home inspector license	150.00
Issuance of associate home inspector license	100.00
Late renewal of home inspector license	25.00
Late renewal of associate home inspector license inspector	15.00
Application for course approval	150.00
Renewal of course approval	75.00
Course fee, per credit hour per licensee	5.00
Credit for unapproved continuing education course	50.00
Copies of Board rules or licensure standards	Cost of printing and mailing."

Section 3. G.S. 143-151.58 reads as rewritten:

"**§ 143-151.58. Duties of licensed home inspector or licensed associate home inspector.**

(a) Home Inspection Report. -- A licensed home inspector or licensed associate home inspector must give to each person for whom the inspector performs a home inspection for compensation a written report of the home inspection. The inspector must give the person the report by the date set in a written agreement by the parties to the home inspection. If the parties to the home inspection did not agree on a date in a written agreement, the inspector must give the person the report within three business days after the inspection was performed.

(b) Bond Required. -- A licensed home inspector must continuously maintain minimum net assets or a bond as required in G.S. 143-151.51(3).

(c) Supervision. -- A licensed associate home inspector must be continuously employed by or affiliated with a licensed home inspector as required in G.S. 143-151.52(5).

(d) Record Keeping. -- All licensees under this Article shall make and keep full and accurate records of business done under their licenses. Records shall include the written, signed contract and the written report required by the standards of practice referred to in G.S. 143-151.49(a)(2) and any other information the Board requires by rule. Records shall be retained by licensees for not less than three years. Licensees shall furnish their records to the Board on demand."

Section 4. Article 9F of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-151.64. Continuing education requirements.**

(a) Requirements. -- The Board may establish programs of continuing education for licensees under this Article. A licensee subject to a program under this section shall present evidence to the Board upon the license renewal following initial licensure, and every renewal thereafter, that during the 12 months preceding the annual license expiration date the person has completed the required number of classroom hours of instruction in courses approved by the Board. Annual continuing education hour requirements shall be determined by the Board, but shall not be more than 12 credit hours.

(b) Fees. -- The Board may establish a nonrefundable course application fee to be charged to a course sponsor for the review and approval of a proposed continuing education course. Approval of a continuing education course must be renewed annually. The Board may also require a course sponsor to pay a fee for each licensee completing an approved continuing education course conducted by the sponsor.

(c) Credit for Unapproved Course. -- The Board may award continuing education credit for an unapproved course or related educational activity. The Board may prescribe procedures for a licensee to submit information on an unapproved course or related educational activity for continuing education credit. The Board may charge a fee to the licensee for each course or activity submitted.

(d) Extension of Time. -- The Board may, for good cause shown, grant extensions of time to licensees to comply with these requirements. Any licensee who, after obtaining an extension under this subsection, offers evidence satisfactory to the Board that the licensee has satisfactorily completed the required continuing education courses, is in compliance with this section.

(e) Rules. -- The Board may adopt rules governing continuing education requirements, including rules that govern:

(1) The content and subject matter of continuing education courses.

(2) The criteria, standards, and procedures for the approval of courses, course sponsors, and course instructors.

(3) The methods of instruction.

(4) The computation of course credit.

(5) The ability to carry forward course credit from one year to another.

(6) The waiver of or variance from the continuing education requirement for hardship or other reasons.

(7) The procedures for compliance and sanctions for noncompliance."

Section 5. This act becomes effective October 1, 1999, and applies to licenses applied for or renewed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 259

Short Title: Home Inspector Amendments/AB. (Public)

Sponsors: Representative Jarrell.

Referred to: Finance.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE LAPSE OF A HOME INSPECTOR'S LICENSE AND AN ASSOCIATE HOME INSPECTOR'S LICENSE UNDER CERTAIN CONDITIONS; TO ESTABLISH RECORD-KEEPING REQUIREMENTS FOR HOME INSPECTORS; AND TO AUTHORIZE THE HOME INSPECTOR LICENSURE BOARD TO ESTABLISH CONTINUING EDUCATION PROGRAMS AND CHARGE FEES FOR THOSE PROGRAMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-151.51 reads as rewritten:

"**§ 143-151.51. Requirements ~~to be licensed~~ for licensure as a home inspector.**

(a) To be licensed as a home inspector, an ~~applicant must~~ individual shall do all of the following:

(1) Submit a completed application to the Board upon a form provided by the Board.

(2) Pass a licensing examination prescribed by the Board.

(3) Have and continuously maintain minimum net assets or a bond in an amount determined by the Board. The amount may not be less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000).

(4) Pay the applicable fees.

(5) Meet one of the following three conditions:

a. Have a high school diploma or its equivalent, have been engaged as a licensed associate home inspector for at least

one year, and have completed 100 home inspections for compensation.

b. Have education and experience the Board considers to be equivalent to that required by subpart a. of this subdivision.

c. Be licensed as a general contractor under Article 1 of Chapter 87 of the General Statutes, as an architect under Chapter 83A of the General Statutes, or as a professional engineer under Chapter 89C of the General Statutes.

(b) The license of any person who fails to pay the annual license renewal fee or to comply with subdivision (a)(3) of this section shall lapse."

Section 2. G.S. 143-151.52 reads as rewritten:

"**§ 143-151.52. Requirements ~~to be licensed~~ for licensure as an associate home inspector.**

(a) To ~~be licensed as~~ obtain and maintain an associate home ~~inspector, a person must~~ inspector license, an individual shall do all of the following:

(1) Submit a completed application to the Board upon a form provided by the Board.

(2) Pass a licensing examination prescribed by the Board.

(3) Pay the applicable fees.

(4) Have a high school diploma or its equivalent.

(5) Be employed by or affiliated with or intend to be employed by or affiliated with a licensed home inspector and submit a sworn statement by that licensed home inspector certifying that the licensed home inspector will actively supervise and train the applicant.

(b) The license of any person who (i) fails to pay the annual license renewal fee or (ii) is not continuously employed by or affiliated with a licensed home inspector shall lapse."

Section 3. G.S. 143-151.54 reads as rewritten:

"**§ 143-151.54. Miscellaneous license ~~provisions.~~ provisions; record keeping; continuing education.**

(a) A license issued by the Board is the property of the Board. If the Board suspends or revokes a license issued by it, the individual to whom it is issued ~~must~~ shall give it to the Board upon demand. An individual who is licensed by the Board ~~must~~ shall display the license certificate in the manner prescribed by the Board. A license holder whose address changes ~~must~~ shall report the change to the Board.

(b) All licensees under this Article shall make and keep full and accurate records of business done under their licenses. Records shall include the written, signed contract and the written report required by the standards of practice referred to in G.S. 143-151.49(a)(2) and any other information the Board requires by rule. Records shall be retained by licensees for not less than three years. Licensees shall furnish their records to the Board on demand. The Board may adopt rules for record keeping by licensees.

(c) The Board may establish programs of continuing education for licensees under this Article. A licensee subject to a program under this section shall present evidence to the Board upon the license renewal following initial licensure, and every renewal thereafter, that during the 12 months preceding the annual license expiration date the person has completed the required number of classroom hours of instruction in courses approved by the Board. Annual continuing education hour requirements shall be determined by the Board, but shall not be more than 12 credit hours.

(d) The Board may establish a nonrefundable course application fee to be charged to a course sponsor for the review and approval of a proposed continuing education course. The fee shall not exceed one hundred fifty dollars ($150.00) per course. The Board may charge the sponsor of an approved course a nonrefundable fee not to exceed seventy-five dollars ($75.00) for the annual renewal of course approval.

The Board may also require a course sponsor to pay a fee for each licensee completing an approved continuing education course conducted by the sponsor. The fee shall not exceed five dollars ($5.00) per credit hour per licensee.

The Board may award continuing education credit for an unapproved course or related educational activity. The Board may prescribe procedures for a licensee to submit information on an unapproved course or related educational activity for continuing education credit. The Board may charge a fee to the licensee for each course or activity submitted. The fee shall not exceed fifty dollars ($50.00). To assure continued and proper administration of the program, any unexpended revenue from the fees shall not revert to the General Fund.

(e) The Board may adopt any reasonable rules not inconsistent with this Article to give purpose and effect to the continuing education requirement, including rules that govern:

(1) The content and subject matter of continuing education courses.

(2) The criteria, standards, and procedures for the approval of courses, course sponsors, and course instructors.

(3) The methods of instruction.

(4) The computation of course credit.

(5) The ability to carry forward course credit from one year to another.

(6) The waiver of or variance from the continuing education requirement for hardship or other reasons.

(7) The procedures for compliance and sanctions for noncompliance.

(f) The license of any person who fails to comply with the continuing education requirements under this section shall lapse. The Board may, for good cause shown, grant extensions of time to licensees to comply with these requirements.

(g) Any licensee who, after obtaining an extension under subsection (f) of this section, offers evidence satisfactory to the Board that the licensee has satisfactorily completed the required continuing education courses, is in compliance with this section."

Section 4. This act becomes effective October 1, 1999, and applies to licenses applied for or renewed on or after that date.

HOUSE BILL 259:
Home Inspector Amendments/AB

BILL ANALYSIS

Committee:	House Finance Committee	**Introduced by:**	Rep. Jarrell
Date:	March 23, 1999	**Summary by:**	Cindy Avrette
Version:	PCS for 1st Edition H259-CSRB-1		Committee Counsel

SUMMARY: House Bill 259 is an agency bill that proposes three changes to the home inspector licensure law:

- *It provides that a home inspector's license will lapse if the licensee does not continuously maintain net assets or a bond as required by the Board. It provides that a licensed associate home inspector's license will lapse if the licensee is not employed by or affiliated with a licensed home inspector.*
- *It establishes record-keeping requirements.*
- *It authorizes the Board to establish and approve continuing education programs and to charge fees for those programs.*

The bill becomes effective October 1, 1999, and applies to licenses applied for or renewed on or after that date.

CURRENT LAW: The General Assembly created the Home Inspector Licensure Act in 1994. Under that act, a person must be licensed as a home inspector in order to perform a home inspection for pay. To be a home inspector, a person must have a high school diploma and have been engaged as a licensed associated home inspector for at least 1 year and have completed 100 home inspections. The North Carolina Home Inspector Licensure Board is composed of seven members and is established in the Department of Insurance.

BILL ANALYSIS: To be licensed as a home inspector, the statute requires that the applicant have minimum net assets or a bond in an amount determined by the Board. The amount may not be less than $5,000 nor more than $10,000. To be licensed as an associate home inspector, the statute requires that the applicant be employed by or affiliated with a licensed home inspector. The current statute does not provide that these conditions be continuously met. This bill addresses this problem in two ways. First, it makes it a duty to continuously meet these requirements. If a licensee fails to meet these requirements, the Board may suspend or revoke the licensee's license. (Section 3) Second, it provides that a license will automatically lapse if these conditions fail to be met. (Section 1)

The current law requires a licensee to give each person for whom the inspector performs a home inspection for compensation a written report of the home inspection. The bill creates a new requirement for licensees. Under section 3 of the bill, a licensee would need to make and keep full and accurate records of the business the licensee has completed. The records would need to include the written

contracts for the work requested as well as the written home inspection reports. The licensee would need to maintain the records for at least three years.

Lastly, the bill gives the Board greater authority to establish a continuing education program and to charge fees for the program. Under current law, the Board has the general authority to require continuing education for licensure renewal. However, the Board does not have the authority to accredit continuing education programs or to charge fees for these programs. Section 4 of the bill gives the Board the specific authority to require licensees to complete no more than 12 hours of continuing education a year. The Board must approve the courses for which credit is awarded. Sections 2 and 4 of the bill allow the Board to charge the following fees:

• Application fee for course approval	$150.00
• Renewal fee for course approval	75.00
• A course fee paid per credit hour per licensee	5.00
• Fee for credit of an unapproved course	50.00

PROPOSED COMMITTEE SUBSTITUTE: The proposed committee substitute places all the fee provisions in one statute, it clarifies when a license will lapse, it makes it a duty to continuously meet the licensure requirements of net assets and supervision, and it makes other stylistic and organizational changes. It also deletes a sentence concerning the reversion of fees because it is unnecessary. The home inspector licensure fees are credited to a special revenue fund. Monies in a special revenue fund do not revert to any other fund at the end of the fiscal year.

H259-SMRB-1

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: H.B. 259

SHORT TITLE: Home Inspector Amendments/AB

SPONSOR(S): Rep. Jarrell

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available (X)**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES	See Assumptions and Methodology				
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Home Inspector Licensure Board.

EFFECTIVE DATE: October 1, 1999, and applies licenses applied for or renewed on or after that date.

Monday, March 22, 1999

BILL SUMMARY: The bill makes several changes to the requirements for licensure as a home inspector. First, it clarifies that an inspector must continuously maintain a minimum bond, or net assets, as determined by the board. The required amount can not exceed $10,000 or fall below $5,000. (Current law only requires that inspectors have such a bond). Second, it requires that an inspector's license be considered lapsed when they do not pay the renewal fee or maintain the bond or asset base. It also requires that an associate inspector's license be considered lapsed when the associate does not pay the renewal fee or is not continuously employed by or affiliated with a licensed home inspector. Third, the bill requires that all licensees maintain full and accurate records. Fourth, it authorizes the Home Inspector Licensure Board to establish continuing education courses, and require that inspectors and associates complete a set number of credit hours each year. While the board will determine the number of hours, the annual requirement can not exceed 12 credit hours. Fifth, the bill authorizes the board to charge fees to a course sponsor to review and approve a suggested course, and renew the approval for that course. It also authorizes the board to charge a course sponsor up to $5.00 per credit hour for each licensee that completes an approved course, and allows them to charge licensees up to

$50.00 to review an unapproved course or activity to determine if that activity meets the continuing education requirements. Sixth, the bill authorizes the board to adopt reasonable rules to carry out and enforce the continuing education program. Finally, the bill provides the board with the option to grant extensions to those who fail to meet the continuing education requirements.

ASSUMPTIONS AND METHODOLOGY: The bill has two potential areas for fiscal impact: creating a lapsed category, and authorizing continuing education and a series of associated fees.

The Department of Insurance reports that there are currently 96 home inspectors and 29 associate home inspectors who have not yet paid their renewal fee. (This does not include the inspectors and associates who have become "inactive"). The renewal fee for home inspectors is $150. The renewal fee for associate home inspectors is $100. Payment is due by October 1 of each year. Under the bill, in future years, the licenses of these inspectors and associate inspectors would be considered "lapsed". If "lapsed" status encourages these inspectors and associates to renew their license, the Department could see a $17,300 increase in renewal fees. However, it is unclear if the "lapsed" standing would actually cause these inspectors and associates to renew their license. It is also unclear how many of these inspectors will eventually pay their delinquent fee, with our without the law. As such, no fiscal estimate on this portion of the bill is possible.

The second potential area for fiscal impact is related to the continuing education requirements. At this time, neither the Home Inspection Licensure Board nor the Department of Insurance (which staffs the Board) have made any determinations or recommendations as to the number of courses to be offered, or the number of courses to approve. No estimate on this portion of the bill is possible. Neither body has determined or recommended what fee should be charged, per student, for each credit hour completed. The Department of Insurance reports that there are 1079 home inspectors and 110 associate home inspectors with active licenses. Assuming each active inspector and associate completes 12 credit hours of training, and the Board charges the maximum fee of $5, the Board might see a revenue increase of $71,300 (1189 inspectors and associates X $60 each in fees). The Department reports that the current number of inspectors and associates is about average. No significant revenue growth is expected. All revenue from continuing education program is non-reverting.

Given the above information it appears that the Home Inspectors Licensing Board will see some increase in revenue. It is unclear how much the exact fiscal impact may be, primarily because the Board has yet to determine the number of courses offered and approved.

FISCAL RESEARCH DIVISION 733-4910

PREPARED BY: Linda Struyk Millsaps

APPROVED BY: Tom Covington

DATE:

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 375 A BILL TO BE ENTITLED AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF OAK RIDGE.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 375

Short Title: Oak Ridge Annexation. (Local)

Sponsors: Representative Decker.

Referred to: Finance.

March 9, 1999

A BILL TO BE ENTITLED

AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF OAK RIDGE.

The General Assembly of North Carolina enacts:

Section 1. The following described property is added to the corporate limits of the Town of Oak Ridge:

At a point beginning on Haw River Road following the Stokesdale boundary West to the Guilford County line then South on the Guilford line to a point 300 feet South of Hwy. 150 then easterly maintaining the 300 feet to a point 300 feet West of Bridgehead Road maintaining 300 feet West proceed South to Kristi Lane then in a southerly direction to Beaver Creek then easterly to the East side of Beeson Road to the present boundaries of the Town of Oak Ridge; North along the present boundaries of the Town of Oak Ridge to the point of beginning.

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

H375:
Oak Ridge Annexation

BILL ANALYSIS

Committee:	House Finance Committee	**Introduced by:**	Rep. Decker.
Date:	March 22, 1999	**Summary by:**	Ed Rossi
Version:	1st. Ed.		Committee Co-Counsel

SUMMARY: House bill 375allows the Town to Oak Ridge to annex land as described in the bill.

BACKGROUND: In 1998, the General Assembly passed legislation (S.L. 1998-113) that permitted the incorporation of the Town Oak Ridge. A referendum was held pursuant to the 1998 act and 1,247 residents voted for incorporation and 62 voted against.

CURRENT LAW: Under current law, [1] a town that wishes to annex land must follow an annexation procedure set out by the General Statutes. The 1998 act that allowed the incorporation of this town also provided that the annexation procedure did not apply for 20 years. This in effect created a 20 year moratorium on annexations by the town; thereby necessitating that the town come to the General Assembly in order to annex the land described by the act.

[1] Article 4A of Chapter 160A.

VISITOR REGISTRATION SHEET

HOUSE FINANCE — 3/23/99
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Mike Arnault	NCHBA
Gregory Bissett	Town of OAK RIDGE
BILL PARRISH	" of OAK RIDGE
Betsy Harrison	Rep. Nesbitt
Jimmy Hughes	N.C. Home Insp. Lic. Bd. RALEIGH N/C
John HAMRICK	NC Home Insp. Lic. Bd Durham N/C
Henry Jones	Attorney Raleigh
Earl Lewis	OSBM
Jim Fitch	NCAFI
Andy Romanet	N.C.L.M.
V L McBride	NAA
Leanne Winner	NCSBA
Stephanie Marine	NC Assoc of Realtors
Alice Garland	Electricities

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
R. Paul Wilms	NCHSA
David Simmons	ZOA, PA
Susan Markham	EQHS
John Ball	D.O.R.

AGENDA

HOUSE FINANCE COMMITTEE

Wednesday, March 24, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 110 – Catawba 1% Local Sales Tax – Rep. Berry

HB 53 – Rowan 1% Sales Tax / Schools – Rep. McCombs

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Wednesday, March 24, 1999

The House Committee on Finance met on Wednesday, March 24, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairmen Allen, Luebke, Miller; Vice Chair Jarrell; Representatives Braswell, Bridgeman, Brown, Buchanan, Church, Cox, Cunningham, Decker, Dedmon, Edwards, Gibson, Goodwin, Gray, Hackney, Hill, Howard, McCombs, Morris, Ramsey, Rayfield, Starnes, Tucker, Womble. Staff including Cindy Avrette, Richard Bostic, Linda Millsaps, Ed Rossi, Martha Walston, David Crotts, and Terry Sullivan were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Luebke announced that the bills to be heard were to be for discussion purposes only and no vote would be taken on the bills today. Chair Luebke called the meeting to order to consider the following bills:

Representative Berry was recognized to explain HB 110, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE CATAWBA COUNTY TO LEVY A SALES AND USE TAX OF ONE PERCENT. Rep. Cunningham made a motion to adopt the proposed committee substitute for discussion purposes. The motion passed. Copies of the Proposed Committee Substitute, bill, Bill Summary, and Fiscal Note are included in these minutes.

Representative McCombs was recognized to explain HB 53, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE ROWAN COUNTY TO LEVY A TEMPORARY, ONE-CENT LOCAL SALES TAX FOR PUBLIC SCHOOL CAPITAL OUTLAY, IF APPROVED BY THE VOTERS OF THE COUNTY. Copies of the bill, Bill Summary, and Fiscal Note are included in these minutes.

The Chair recognized Jim Johnson of the Research Staff who deals with Education issues to explain some of the issues and answer committee members' questions.

The Chair recognized Rep. Berry to call upon her following constituents who voiced their support for HB 110: Kitty Barnes, the County Commissioner for Catawba County; Steve Wyatt, the Assistant County Manager for Catawba County; and Ed Burgeon, the City Manager for Newton.

The Chair recognized Rep. Buchanan, who represents part of Catawba County, to call upon on his constituent, J. Don Myers of Hickory who opposed the HB 110.

The Chair recognized Jim Blackburn of the County Commissioner's Association who answered committee members' questions and announced his organization's support for both bills. The Chair also recognized Dan Gerlach, the Director of the Budget and Tax Center, a non-profit research organization, who answered committee members' questions and explained his organization's handout which is attached to these minutes.

Rep. Buchanan announced his opposition to HB 110. Rep. Starnes also announced his opposition to HB 110. Rep. Church also announced his opposition to HB 110.

There being no further business, the Chair adjourned the meeting at 9:45 a.m.

Respectfully submitted:

Representative Paul Luebke
Chair

Kristen L. Crosson

Kristen L. Crosson
Assistant to the Committee

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 53

Short Title: Rowan 1% Sales Tax/Schools. (Local)

Sponsors: Representatives McCombs and Gardner (Primary Sponsors).

Referred to: Finance.

February 10, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE ROWAN COUNTY TO LEVY A TEMPORARY, ONE-CENT LOCAL SALES TAX FOR PUBLIC SCHOOL CAPITAL OUTLAY, IF APPROVED BY THE VOTERS OF THE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. This act applies only to Rowan County.

Section 2. Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 44.

"Second One-Cent (1¢) Local Government Sales and Use Tax.

"**§ 105-515. Short title.**

This Article is the Second One-Cent (1¢) Local Government Sales and Use Tax Act.

"**§ 105-516. Purpose.**

This Article gives the counties of this State an opportunity to obtain a temporary source of revenue with which to meet their public school construction needs. It provides all counties of the State that are subject to this Article with authority to levy one percent (1%) sales and use taxes.

"**§ 105-517. Limitations.**

This Article applies only to counties that levy the first one-cent (1¢) sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter.

"**§ 105-518. County election on adoption of tax.**

(a) Resolution. -- The board of commissioners of a county may, by resolution, after 10 days' public notice and a public hearing on the question, direct the county board of elections to conduct an advisory referendum on the question of whether a temporary local sales and use tax at the rate of one percent (1%) will be levied in accordance with this Article. The election must be on a date jointly agreed upon by the two boards and must be held in accordance with the procedures of G.S. 163-287.

(b) Ballot Question. -- The question to be presented on a ballot for a special election concerning the levy of the taxes authorized by this Article must be in the following form:

[ ] FOR [ ] AGAINST

temporary one percent (1%) local sales and use taxes, in addition to the current two percent (2%) local sales and use taxes, to be used only for public school capital projects.

"**§ 105-519. Levy and collection of tax.**

If the majority of those voting in a referendum held pursuant to this Article vote for the levy of the tax, the board of commissioners of the county may, by resolution, levy one percent (1%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter.

"**§ 105-520. Distribution and use of tax.**

(a) Distribution. -- The Secretary must, on a quarterly basis, distribute to each taxing county the net proceeds of the tax levied under this Article by that county. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary must allocate these taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article in that month and must include them in the quarterly distribution.

(b) Use. -- A county may use the proceeds of a tax levied under this Article only for public school capital outlay purposes as defined in G.S. 115C-426(f) or to retire any indebtedness incurred by the county for these purposes.

(c) Nonsupplant Restriction. -- It is the purpose of this Article for counties to appropriate funds generated under this Article to increase the level of county spending for public school capital outlay above the level of spending before the levy of the tax authorized in this Article. A county that levies a tax under this Article must continue to spend for public school capital outlay purposes in its local school administrative units the same amount of money it would have spent for those purposes if it had not levied the tax.

"**§ 105-521. Expiration.**

A tax levied under this Article expires seven years after the effective date of its levy. A county's authority to levy a tax under this Article expires seven years after the effective date of its levy of a tax under this Article. The expiration of a tax pursuant to this Article does not affect the rights or liabilities of the county, a

taxpayer, or another person arising under the expired tax before the effective date of its expiration; nor does it affect the right to any refund or credit of a tax that would otherwise have been available under the expired tax before the effective date of its expiration."

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

Section 4. A tax levied under Article 44 of Chapter 105 of the General Statutes, as enacted by this act, does not apply to construction materials purchased to fulfill a lump-sum or unit-price contract entered into or awarded before the effective date of the levy or entered into or awarded pursuant to a bid made before the effective date of the levy when the construction materials would otherwise be subject to the tax levied under Article 44 of Chapter 105 of the General Statutes.

HOUSE BILL 53:
Rowan 1% Sales Tax/Schools

BILL ANALYSIS

Committee: House Finance
Date: March 24, 1999
Version: 1st Edition

Introduced by: Rep. McCombs and Gardner
Summary by: Cindy Avrette
Committee Counsel

SUMMARY: ***House Bill 53 authorizes the Rowan County Board of Commissioners to levy an additional 1% sales and use tax within the county if approved by the voters of the county The net proceeds must be used for public school capital projects. The tax, if enacted, will expire seven years after the effective date of its levy.***

BILL ANALYSIS: House Bill 53 authorizes the Rowan County Board of Commissioners to levy an additional 1% sales and use tax within the county if aproved by the voters of the county. The board must pass a resolution directing the Board of Elections to hold a special election on whether the tax should be levied. If a majority of the voters approve, the board may levy the tax for a seven-year period. The tax would apply to all items that are currently in the local sales and use tax base.

Like the existing local sales taxes, the tax will be collected by the Department of Revenue. The net proceeds of the tax collected in the taxing county will be allocated to the county. This distribution is known as a point of collection or point of origin basis for distribution. The county may use the tax proceeds only for public school capital outlay purposes or to retire debt incurred by the county for these purposes..

The bill is effective when it becomes law. It is drafted so that other counties could be added on by amending Section 1 of the bill.

CURRENT LAW: Under current law, all counties are authorized to levy a total of two cents local sales and use taxes. The net proceeds of the first one-cent tax are distributed to counties on a point of origin basis and the net proceeds of the two additional half-cent taxes are distributed to counties on a per capita basis. This per capita distribution is probably unconstitutional, although it has never been challenged in court. The amount distributed to each county is divided between the county and its municipalities, on either an ad valorem tax basis or a per capita basis, as chosen by the county. Local governments may use the first one-cent tax for any lawful purpose. Counties must use part of the proceeds of the two additional half-cent taxes for public school capital outlay. Public school capital outlay, as defined in G.S. 115C-426(f), is very broad. It includes expenditures for all of the following:

- Acquisition of real property for school purposes, including school sites, playgrounds, athletic fields, administrative headquarters, and garages.
- Acquisition, constructoin, reconstruction, enlargement, renovation, or replacement of buildings and other structures, such as classrooms, laboratories, libraries, auditoriums, gymnasiums, adminsitrative offices, storage, and vehicle maintenance.
- Acquisition or replacement of furniture, instructional apparatus, data-processing equipment, and business machines.
- Acquisition of school buses as additions to the fleet.
- Acquisition of activity buses and other motor vehicles.

The following chart summarizes the existing local option sales tax laws:

Tax	Date Authorized	Use	Distribution Method
1 cent	1967 for Mecklenburg & 1971 for all counties	Any lawful purpose	Point of collection
First ½ cent	1983	Part of county share earmarked for public school capital outlay. Part of city share formerly earmarked for water and sewer capital outlay	Per capita
Second ½ cent	1986	Part of county share earmarked for public school capital outlay. Part of city share formerly earmarked for water and sewer capital outlay	Per capita

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 53 DRAFT

SHORT TITLE: Rowan 1% Sales Tax/Schools

SPONSOR (S): Representatives McCombs and Gardner

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	$ Millions				
	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
	NO GENERAL FUND IMPACT				
Rowan County	**7.0**	**9.7**	**10.2**	**10.7**	**11.2**

PRINCIPAL DEPARTMENT(S) & PROGRAM (S) AFFECTED: Department of Revenue, Sales Tax Division, Rowan County Government, and Rowan County Schools.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The bill authorizes Rowan County, after appropriate pubic hearings, to conduct a referendum on levying a 1% local sales and use tax. If the voters approve the referendum, the County Commission may levy a 1% local sales and use tax. The proceeds of the new tax must be used for public school capital outlays as defined in G.S. 115C-426(f). The bill also requires that the county use the additional revenue for new projects, and continue the capital investment anticipated before the sales tax increase. The bill also instructs the Department of Revenue to administer the tax, and forward the net proceeds to the county on a quarterly basis. The Secretary of Revenue can deduct from the quarterly payment the costs associated with administering the tax. Special provisions are made for certain contracts entered into or awarded before the effective date of the law or levy. The authority to levy the tax expires seven years after the effective date of the levy.

ASSUMPTIONS AND METHODOLOGY: Every county in the state currently levies a 1% point of origin sales tax. (The tax is point of origin because the money raised in a particular county is returned to that county, or its point of origin). Historical reports from the Department of Revenue indicate the amount of revenue returned to each county, by quarter, from this tax. These numbers suggest what an individual county would raise through their own local tax.

Rowan County, historically, has raised the following amounts through a 1% sales tax (excluding food):

1992-93	1993-94	1994-95	1995-96	1996-97
5,730,985	6,363,939	6,778,823	7,042,797	7,442,500

Assuming this revenue source continues to grow by 5% per year, income from the non-food portion of the tax will be as follows:

1992-93	1993-94	1994-95	1995-96	1996-97
8,043,574	8,445,753	8,868,040	9,311,442	9,777,015

The Department of Revenue reports distributing an additional $ 1,178,039 to Rowan County for the point of origin sales tax on food. This distribution was based on FY 1997-98 food sales. This is the first year for which this type of data is available. Assuming food sales grow at their historic rate of 3%, sales tax revenue, to Rowan County, from food will be:

1999-00	2000-01	2001-02	2002-03	2003-04
1,249,781	1,287,275	1,325,893	1,365,670	1,406,640

As such, the potential total new revenue generated from the bill is as follows:

	1999-00	2000-01	2001-02	2002-03	2003-04
General	8,043,574	8,445,753	8,868,040	9,311,442	9,777,015
Food	1,249,781	1,287,275	1,325,893	1,365,670	1,406,640
TOTAL	9,293,355	9,733,027	10,193,933	10,677,112	11,183,654

This note assumes that Rowan County tax will not be collected until July 1, 1999. As such, the county will not see additional revenue until the second quarter of FY 1999-00. The actual amount shown as the fiscal estimate has been adjusted for this lag. The estimate makes no assumptions about how the revenue will be distributed inside the county. The estimate only reflects the total amount generated for countywide use. The note also assumes the voters approve the tax increase. If it is not, there is no fiscal impact, except the cost of the election.

NOTE: The bill instructs the Secretary of Revenue to deduct the cost associated with administering the tax from the proceeds of the tax. This cost, however, has not been deducted from the estimate. The Department of Revenue is not prepared to offer an estimated cost at this time.

NOTE: The definition of capital outlays for schools, as defined in G.S. 115C-426(f) is very broad. While construction is certainly included, it appears the definition also includes capital equipment, the purchase of school buses, business machines, furnishings, equipment, cars, administrative buildings, etc.

FISCAL RESEARCH DIVISION
733-4910
PREPARED BY: Linda Struyk Millsaps
APPROVED BY:
DATE: March 23, 1999

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 110
H110-CSRB-1
PROPOSED COMMITTEE SUBSTITUTE
DO NOT USE FOR FLOOR AMENDMENTS; LINE NUMBERS MAY CHANGE

Short Title: Catawba 1% Local Sales Tax. (Local)

Sponsors:

Referred to: Finance.

February 18, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CATAWBA COUNTY TO LEVY A SALES AND USE TAX OF ONE PERCENT, SUBJECT TO APPROVAL BY THE VOTERS OF THE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. This act applies only to Catawba County.

Section 2. Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 44.

"Second One-Cent (1¢) Local Government Sales and Use Tax.

"§ 105-515. Short title.

This Article shall be known as the Second One-Cent (1¢) Local Government Sales and Use Tax Act.

"§ 105-516. Purpose.

This Article gives the counties of this State an opportunity to obtain an additional source of revenue with which to meet their growing financial needs. It provides all counties of the State that are subject to this Article with authority to levy one percent (1%) sales and use taxes.

"§ 105-517. Limitations.

This Article applies only to counties that levy the first one-cent (1¢) sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter.

"§ 105-518. Levy and administration of tax.

Subject to the conditions provided in G.S. 105-519, the board of commissioners of the county may, by resolution, after not less than 10 days' public notice and a public hearing held pursuant thereto, levy one percent (1%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter.

A tax levied under this Article does not apply to the sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but would be exempt from the State sales and use tax pursuant to G.S. 105-164.13 if it were purchased under the Food Stamp Program, 7 U.S.C. § 51.

"§ 105-519. County election on adoption of tax.

(a) Resolution. -- In order to levy the tax authorized by this Article, the board of commissioners of the county must hold a special election as provided in this section, either at a statewide general election before the effective date of the levy of the tax, or at the next statewide general election after the effective date of the levy of the tax. To hold the special election, the county must, by resolution, after 10 days' public notice and a public hearing on the question, direct the county board of elections to conduct a special election on the question of whether a local sales and use tax at the rate of one percent (1%) will be levied in accordance with this Article. The election must be held in accordance with the procedures of G.S. 163-287.

(b) Ballot Question. -- The question to be presented on a ballot for a special election concerning the levy of the taxes authorized by this Article must be in the following form:

[ ] FOR [ ] AGAINST

one percent (1%) local sales and use taxes, in addition to the current two percent (2%) local sales and use taxes, to be used for any public purpose.

(c) Effect of Special Election. -- If the majority of those voting in a special election held pursuant to this Article vote

for the levy of the tax, the tax levy is authorized. If the majority of those voting in a special election held pursuant to this Article vote against the levy of the tax, the tax levy and the authority of the county to levy the tax are repealed effective on the first day of the first month following the election. If the county fails to hold a special election before or at the next statewide general election following the effective date of the levy of the tax, the tax is repealed effective on the first day of the first month following that general election.

Repeal of a tax pursuant to this Article does not affect the rights or liabilities of the county, a taxpayer, or another person arising under the repealed tax before the effective date of its repeal; nor does it affect the right to any refund or credit of a tax that would otherwise have been available under the repealed tax before the effective date of its repeal.

If the Secretary receives a valid request for a refund of a tax levied under this Article after the tax has been repealed and the net proceeds have been distributed, the Secretary must draw the refund from the taxing county's share of the net proceeds of the tax it levies under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, as applicable.

"**§ 105-520. Distribution and use.**

The Secretary must, on a quarterly basis, distribute to each taxing county the net proceeds of the tax levied under this Article by that county. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary must allocate these taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article in that month and must include them in the quarterly distribution. The proceeds of a tax levied under this Article may be used for any lawful public purpose."

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

Section 4. A tax levied under Article 44 of Chapter 105 of the General Statutes, as enacted by this act, does not apply to construction materials purchased to fulfill a lump-sum or unit-price contract entered into or awarded before the effective date of the levy or entered into or awarded pursuant to a bid made before the effective date of the levy when the construction materials would otherwise be subject to the tax levied under Article 44 of Chapter 105 of the General Statutes.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

HOUSE BILL 110

Short Title: Catawba 1% Local Sales Tax. (Local)

Sponsors: Representatives Berry and Setzer (Primary Sponsors).

Referred to: Finance.

February 18, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CATAWBA COUNTY TO LEVY A SALES AND USE TAX OF ONE PERCENT.

The General Assembly of North Carolina enacts:

Section 1. This act applies only to Catawba County.

Section 2. Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 44.

"Second One-Cent (1¢) Local Government Sales and Use Tax.

"§ 105-515. Short title.

This Article shall be known as the Second One-Cent (1¢) Local Government Sales and Use Tax Act.

"§ 105-516. Purpose.

This Article gives the counties and cities of this State an opportunity to obtain an additional source of revenue with which to meet their growing financial needs. It provides all counties of the State that are subject to this Article with authority to levy one percent (1%) sales and use taxes.

"§ 105-517. Limitations.

This Article applies only to counties that levy the first one-cent (1¢) sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter.

"§ 105-518. Levy of tax.

Before levying the tax authorized by this Article, the board of commissioners must hold a public hearing on the question after at least 10 days' notice of the hearing. After the public hearing, the board of commissioners of the county may, by resolution, levy one percent (1%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter.

"§ 105-519. Distribution and use.

The Secretary must, on a quarterly basis, distribute to each taxing county the net proceeds of the tax levied under this Article by that county. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary must allocate these taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article in that month and must include them in the quarterly distribution. The proceeds of a tax levied under this Article may be used for any lawful public purpose."

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

Section 4. A tax levied under Article 44 of Chapter 105 of the General Statutes, as enacted by this act, does not apply to construction materials purchased to fulfill a lump-sum or unit-price contract entered into or awarded before the effective date of the levy or entered into or awarded pursuant to a bid made before the effective date of the levy when the construction materials would otherwise be subject to the tax levied under Article 44 of Chapter 105 of the General Statutes.

HOUSE BILL 110:
Catawba 1% Local Sales Tax

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Berry and Setzer
Date:	March 24, 1999	**Summary by:**	Cindy Avrette
Version:	PCS for 1st Edition H110-CSRB-1		Committee Counsel

SUMMARY: ***The proposed committee substitute for House Bill 110 authorizes the Catawba County Board of Commissioners to levy an additional 1% sales and use tax within the county, subject to a vote of the people. The net proceeds of the tax may be used for any public purpose. The proposed committee substitute adds a provision requiring a vote concerning the levy of the tax after it is adopted. If the people vote against the tax, then the tax levy and the authority of the county to levy the tax are repealed. The proposed committee substitute also exempts food from this 1% sales tax.***

BILL ANALYSIS: House Bill 110 authorizes the Catawba County Board of Commissioners to levy an additional 1% sales and use tax within the county to be used for any public purpose. The tax would apply to all items that are currently in the local sales and use tax base other than food that may be purchased with food stamps.

The board of county commissioners can levy the tax by adopting a resolution, after giving public notice of its intent to do so and holding a public hearing on the issue. However, after the levy of the tax, the board must direct the Board of Elections to hold a special election on whether the tax should be levied. The election must be held either at a statewide general election before the effective date of the levy of the tax or at the next statewide general election after the effective date of the levy of the tax. If the majority of the voters oppose the tax levy, then the tax levy and the authority of the county to levy the tax are repealed effective on the first day of the first month following the election. If the county fails to hold a special election, the tax is repealed effective on the first day of the first month following the next statewide general election after the effective date of the tax levy.

Like the existing local sales taxes, the tax will be collected by the Department of Revenue. The net proceeds of the tax collected in the taxing county will be allocated to the county. This distribution is known as a point of collection or point of origin basis for distribution.

The bill is effective when it becomes law. It is drafted so that other counties could be added on by amending Section 1 of the bill.

CURRENT LAW: Under current law, all counties are authorized to levy a total of two cents local sales and use taxes. The net proceeds of the first one-cent tax are distributed to counties on a point of origin basis and the net proceeds of the two additional half-cent taxes are distributed to counties on a per capita basis. This per capita distribution is probably unconstitutional, although it has never been challenged in

court. The amount distributed to each county is divided between the county and its municipalities, on either an ad valorem tax basis or a per capita basis, as chosen by the county. Local governments may use the first one-cent tax for any lawful purpose. Counties must use part of the proceeds of the two additional half-cent taxes for public school capital outlay. The following chart summarizes the existing local option sales tax laws:

Tax	Date Authorized	Use	Distribution Method
1 cent	1967 for Mecklenburg & 1971 for all counties	Any lawful purpose	Point of collection
First ½ cent	1983	Part of county share earmarked for public school capital outlay. Part of city share formerly earmarked for water and sewer capital outlay	Per capita
Second ½ cent	1986	Part of county share earmarked for public school capital outlay. Part of city share formerly earmarked for water and sewer capital outlay	Per capita

HOUSE BILL 110:
Catawba 1% Local Sales Tax

BILL ANALYSIS

Committee: House Finance
Date: March 24, 1999
Version: 1st Edition

Introduced by: Rep. Berry and Setzer
Summary by: Cindy Avrette
Committee Counsel

SUMMARY: ***House Bill 110 authorizes the Catawba County Board of Commissioners to levy an additional 1% sales and use tax within the county. The net proceeds of the tax may be used for any public purpose.***

BILL ANALYSIS: House Bill 110 authorizes the Catawba County Board of Commissioners to levy an additional 1% sales and use tax within the county to be used for any public purpose. The board of county commissioners can levy the tax by adopting a resolution, after giving public notice of its intent to do so and holding a public hearing on the issue. The tax would apply to all items that are currently in the local sales and use tax base.

Like the existing local sales taxes, the tax will be collected by the Department of Revenue. The net proceeds of the tax collected in the taxing county will be allocated to the county. This distribution is known as a point of collection or point of origin basis for distribution.

The bill is effective when it becomes law. It is drafted so that other counties could be added on by amending Section 1 of the bill.

CURRENT LAW: Under current law, all counties are authorized to levy a total of two cents local sales and use taxes. The net proceeds of the first one-cent tax are distributed to counties on a point of origin basis and the net proceeds of the two additional half-cent taxes are distributed to counties on a per capita basis. This per capita distribution is probably unconstitutional, although it has never been challenged in court. The amount distributed to each county is divided between the county and its municipalities, on either an ad valorem tax basis or a per capita basis, as chosen by the county. Local governments may use the first one-cent tax for any lawful purpose. Counties must use part of the proceeds of the two additional half-cent taxes for public school capital outlay. The following chart summarizes the existing local option sales tax laws:

Tax	Date Authorized	Use	Distribution Method
1 cent	1967 for Mecklenburg & 1971 for all counties	Any lawful purpose	Point of collection
First ½ cent	1983	Part of county share earmarked for public school capital outlay. Part of city share formerly earmarked for water and sewer capital outlay	Per capita
Second ½ cent	1986	Part of county share earmarked for public school capital outlay. Part of city share formerly earmarked for water and sewer capital outlay	Per capita

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 110 PCS DRAFT

SHORT TITLE: Catawba 1% Local Sales Tax

SPONSOR (S): Representatives Berry and Setzer

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	$ Millions				
	FY 1999-00	**FY 2000-01**	**FY 2001-02**	**FY 2002-03**	**FY 2003-04**
REVENUES					
	NO GENERAL FUND IMPACT				
Catawba Local Gov.	11.3*	15.7*	16.5*	17.4*	18.2*

PRINCIPAL DEPARTMENT(S) & PROGRAM (S) AFFECTED: Department of Revenue, Sales Tax Division, and Catawba County Governments.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The bill authorizes the Catawba County Commission to levy an additional 1% sales and use tax. Food is excluded from the tax. The Commission can approve such a tax levy through a resolution, once a public hearing is held. However, a countywide vote of the people is required at a statewide general election either directly before or after the tax is levied. If the vote fails, the tax is repealed. The bill also instructs the Department of Revenue to administer the tax, and forward the net proceeds to the county on a quarterly basis. The Secretary of Revenue can deduct from the quarterly payment the costs associated with administering the tax. Special provisions are made for certain contracts entered into or awarded before the effective date of the law or levy.

ASSUMPTIONS AND METHODOLOGY: Every county in the state currently levies a 1% point of origin sales tax. (The tax is point of origin because the money raised in a particular county is returned to that county, or its point of origin). Historical reports from the Department of Revenue indicate the amount of revenue returned to each county, by quarter, from this tax. Catawba County revenue from the 1% point of origin tax, less food tax revenues, have been as follows:

1992-93	1993-94	1994-95	1995-96	1996-97
10,982,831	12,476,912	13,621,824	13,549,717	14,343,200

Assuming this revenue source continues to grow by 5% per year, income from the tax will be as follows:

1999-00	2000-01	2001-02	2002-03	2003-04
14,994,891	15,744,636	16,531,867	17,358,461	18,226,384

This note assumes that Catawba County tax will not be collected until July 1, 1999. As such, the county will not see additional revenue until the second quarter of FY 1999-00. The actual amount shown as the fiscal estimate has been adjusted for this lag. The estimate makes no assumptions about how the revenue will be distributed inside the county. The estimate only reflects the total amount generated for countywide use.

NOTE: The bill instructs the Secretary of Revenue to deduct the cost associated with administering the tax from the proceeds of the tax. This cost, however, has not been deducted from the estimate. The Department of Revenue is not prepared to offer an estimated cost at this time.

FISCAL RESEARCH DIVISION
733-4910
PREPARED BY: Linda Struyk Millsaps
APPROVED BY:
DATE: March 23, 1999

Mr. Dan Gerloch

BTC Reports

THE NEWSLETTER OF THE NORTH CAROLINA BUDGET & TAX CENTER VOL. 5 NO.5 MARCH 1999

IS THIS THE TIME FOR LOCAL SALES TAX INCREASES?

BY KIMBERLY CARTRON, POLICY ANALYST

EXECUTIVE SUMMARY

- **The sales tax is regressive - that is, low income people pay more of their income in sales taxes than upper income people. An increase in the local sales tax would, therefore, disproportionately impact low income households. A recent study by the Institute on Taxation and Economic Policy shows that an increase in North Carolina's local sales tax would hit the least-affluent 20 percent of North Carolinians about three times as hard as the most-affluent 20 percent when viewed as a share of household income.[1]**

- **North Carolina local governments already receive more revenue from local sales tax than three quarters of states in the nation. North Carolina ranks twelfth in the nation in reliance on the sales tax for local government revenues.[2]**

- **North Carolina property taxes are not out of line - in fact they are low compared to other states. North Carolina ranks 41st in terms of property tax paid per capita.[3] In 1995-96, local taxpayers paid $789 per capita nationally in property tax while North Carolinians paid substantially less at $472 per capita. The property tax is less regressive (less burdensome on low income families) than the sales tax, though it still disproportionately impacts low income people.**

- **Property taxes are deductible from federal income taxes, but sales and use taxes are not. If local governments begin relying more heavily on sales tax instead of property taxes, they increase their residents' federal tax liability.**

OVERVIEW

North Carolina's local governments are searching for ways to increase revenue to fund their needs. During this session of the General Assembly, local governments will lobby for the authority or option to increase local sales taxes. This *BTC Reports* analyzes the proposal to give local governments the option to increase sales tax in terms of its fairness and concludes that increasing local sales tax would place an undue burden on low income families.

HOW IS THE LOCAL SALES TAX STRUCTURED CURRENTLY?

North Carolina gives local governments the power to tax sales and use of items included under the state's 4 percent levy. Currently all counties impose the full 2 percent rate.[4] The state collects sales tax on behalf of local governments and returns the revenues to counties minus administrative expenses. The revenue from the first one percent is returned to the county from which the tax was levied. The revenue from the remaining one percent is allocated to counties on a per capita basis.[5] The latter allocation method helps to offset inequities in the amount of revenue counties generate through sales tax due to disparities in retail sales and is more in the nature of state revenue sharing.

To distribute the funds between county and its municipalities, county commissions choose one of two options. One method allocates the revenue per capita based on population of the county and municipalities. The other method allocates revenue in proportion to the property tax paid by each municipality and the county.[6]

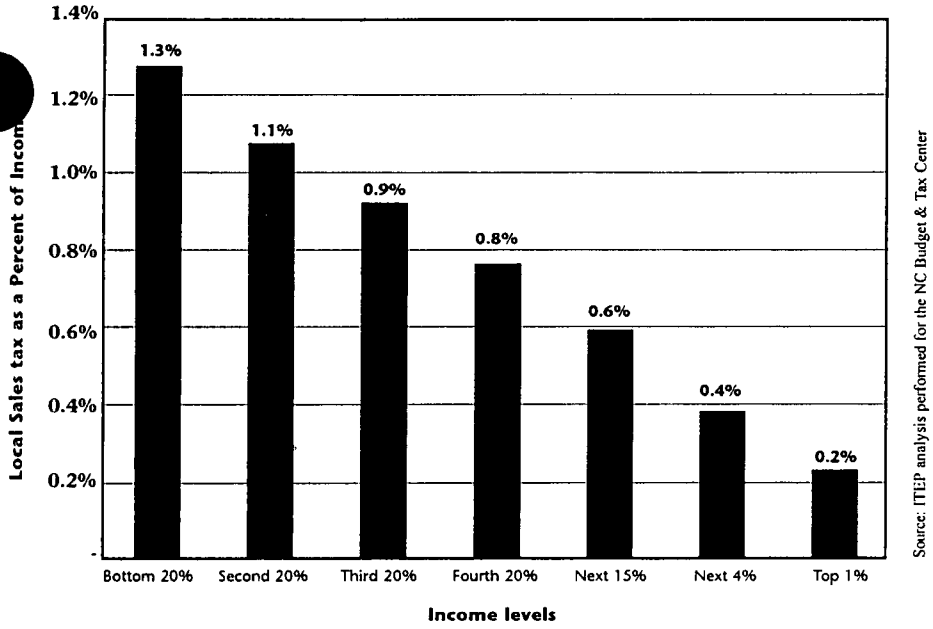
The North Carolina Budget & Tax Center

P.O. Box 28069
Raleigh, NC
27611-8068

919/856-2158
ncjustice.org

Editor: Dan Gerlach

Incidence of NC Local Government Sales Tax, 1998



When the General Assembly voted to repeal the state sales tax on groceries in the last session (effective May 1, 1999), legislators did not vote to remove groceries from the base of local sales taxes. Therefore, the local option sales tax currently includes groceries - as would an increase of the local sales tax -- unless the General Assembly were to pass legislation to the contrary.

Which Taxpayers Would Feel the Hit of Increased Local Sales Tax?

Sales taxes are regressive - that is, they disproportionately impact low income people. While the government imposes the same rate on every taxpayer, the inequity lies in what is being taxed. Sales taxes apply to the purchase of retail goods, but not to most services purchased at retail. For instance, the sales tax does not apply to maid services, legal services, or even spa memberships. Because low income families purchase a much larger percentage of goods like food and clothing than services, the sales tax burdens them much more heavily. Conversely, families with a higher standard of living spend less of their income on goods and more on services. Maid services are a good example. The sales tax applies when you buy a vacuum cleaner but not when you hire someone to clean your house.[7] In addition, higher income households can more easily afford to save rather than consume, while low income families must use a larger portion of their income to meet their immediate needs.

A comparison of the incidence (burden on different income levels) of the property tax to the sales tax levels reveals that the sales tax indeed places a more disproportionate burden on low income families. The effect of the local sales tax can be seen more clearly in the chart above.

Because sales taxes are regressive, increasing local government reliance on them for revenue hits low income families harder. The Institute on Taxation and Economic Policy (ITEP) estimates that an increase in North Carolina's local sales tax would hit the least-affluent 20 percent of North Carolinians about three times as hard as the most-affluent 20 percent when viewed as a share of household income.[8]

If Food is Excluded, Would an Increase in Local Sales Tax, Be Less Regressive?

The same study by ITEP finds that removing food from the local option tax base would mitigate the impact on low income North Carolinians slightly. The tax would, however, still be more regressive than a property tax increase.[9] In the study, researchers modeled two versions of an increase in the local sales tax that would generate one billion dollars in revenue: one version with food included in the base and one version that did not. Removing food from the base does provide a 7.5 percent tax cut to those with incomes in the bottom 20 percent. However, the property tax burden is still distributed more equitably across income levels.

How Much do Local Governments Already Rely on Sales Tax for Revenue?

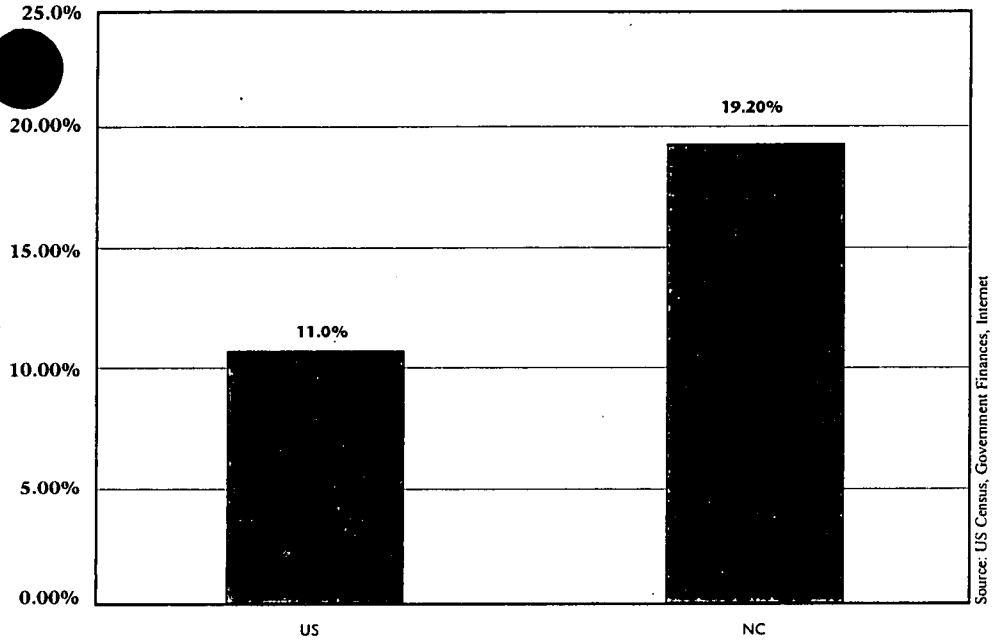
While North Carolina's reliance on sales taxes is about average at the state level, it is surprisingly high at the local level. In 1995-96, North Carolina ranked 12th in the percentage of local revenues derived from sales taxes.[10] Nationally, general sales taxes were 11 percent of total local government revenues compared to more than 19 percent in North Carolina, as shown by the chart at the top of page 3.[11] Local governments are already receiving a sizeable portion of the sales tax revenues. Increasing this amount would only exacerbate an imbalance in the tax structure.

North Carolina has lower per capita property tax collections than all but one of its bordering states. The state ranks 41st in per capita property tax collections and 30th in property tax as a percent of local revenue. The average per capita property tax for the nation is $789 compared to $472 in North Carolina, as shown in the chart at the bottom of page 3. This is 40 percent less than the national average.

It is also important to note that property tax rates have been declining in North Carolina in recent years. Generally, rates decreased between 1975 and 1988, increased over the period of 1988-94, and have dropped again between 1994-98, as shown at the top of page 5.[12] Therefore lower than average property tax rates are not only the product of failures to increase rates, but also political decisions to decrease rates.

Even compared to states in the Southeast, North Carolina has a relatively low local property tax and relatively high local sales tax. Were the state to adopt local option sales tax, North Carolina's balance of revenue sources might begin to mimic the heavy reliance on the sales tax of states like Alabama, Tennessee, and Louisiana where local governments have

NC Versus US: Comparison of Local General Sales Tax as a Percent of Local Tax Revenue, 1995-96

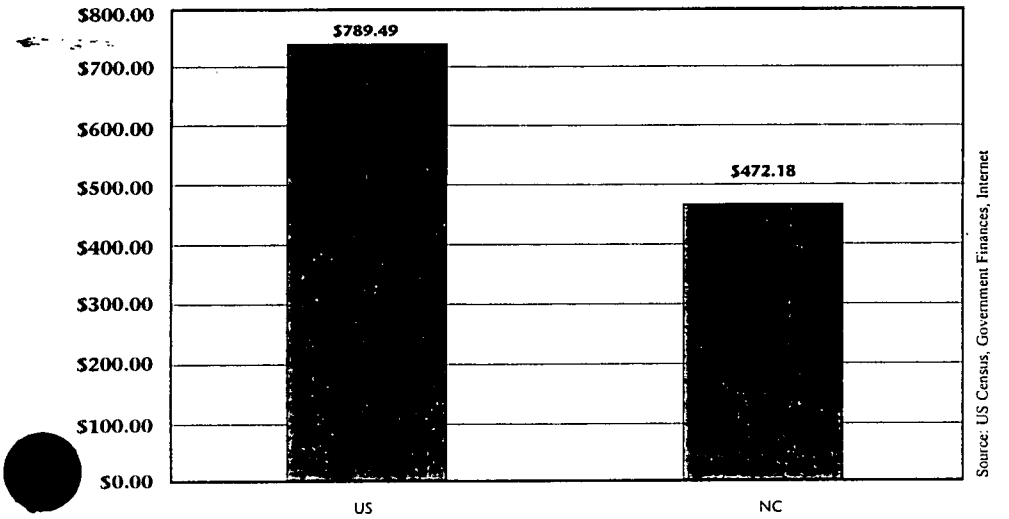


used their power to increase sales taxes.

For instance, the combined state, county, and local sales tax rate is 9 percent in New Orleans, Louisiana, and Mobile, Alabama. Currently, cities and counties in North Carolina have the same combined state, county and local rate of 6 percent with the exception of Mecklenburg County which recently enacted an additional ½ cent sales tax earmarked for transit.[13] Alabama, Louisiana, and Tennessee are all on the "top ten list" of most regressive state and local tax systems.[14] Because, sales taxes disproportionately impact low income people, increasing North Carolina local governments' reliance on them will only increase the tax burden on the poor.

Overall, North Carolina taxes its citizens less heavily at the local level than the majority of other states. The state's local taxes rank 39th per capita, and 40th as a percent of income.[15] North Carolina maintains these rankings despite a heavier reliance on sales tax than local governments in most other states. Therefore, these low rankings are largely attributable to low property tax rates and absence of a local income tax - not low local sales tax rates.[16] Likewise, local tax cuts have not all been broadly shared.

Comparison of US vs. NC: Local Property Tax Per Capita, 1995-96



What is fiscal illusion and how does it affect taxpayers?

Sales tax (whether state or local) creates the "fiscal illusion" that the taxpayer is paying less because the amount paid is spread out over various purchases every day. States and localities across the country are shifting their tax systems increasingly toward sales because taxpayers are deceived by the sales tax structure. Though the dollars of sales taxes mount up, the taxpayer never receives an aggregate bill for the sales tax paid in a year. As a result, local governments insulate themselves from complaints like those made each year over income and property tax bills.

"Transparency" and "accountability" are two important qualities for all tax structures. Taxes should not be hidden; taxpayers should readily understand what they are paying in taxes and for what purposes to determine whether they are receiving appropriate government services. They should also know which politicians (federal, state or local) are accountable for changes in their tax policy so that they can communicate their feelings about the decisions. The sales tax fails on both counts: it is not transparent and it sidesteps accountability. The administration of the sales tax does not provide a taxpayer with adequate information to judge whether they are receiving their money's worth. Likewise, the manner in which lawmakers would vote for a local sales tax increase presents an opportunity for politicians to sidestep accountability. State lawmakers would argue that they voted merely to give local government the authority to increase taxes. Local lawmakers would argue that the state implied its consent for an increase when they gave local governments the power. In the end, taxpayers would not have a clear sense of who was responsible for the tax increase.[17]

Are there other policy considerations related to the local option sales tax?

Recently, the National Conference on State Legislatures (NCSL) prepared a report titled "Critical Issues in State and

Ten Most Regressive State Tax Systems	Heavy Use of Sales and Excise Taxes
Washington	X
Florida	X
Texas	X
South Dakota	X
Tennessee	X
Louisiana	X
Pennsylvania	
Illinois	
Alabama	X
Michigan	

Source: Citizens for Tax Justice and the Institute on Taxation and Economic Policy, June 1996

Local Finance: A Guide to the Local Option Taxes" which enumerates issues involved with adopting a local option tax.[18] In addition to their concerns about regressivity and imbalanced tax structures, NCSL identified other potential problems related to sales tax as an adequate revenue source. North Carolina lawmakers should think carefully about opening up the existing tax system to the potential problems NCSL identified:

1. **Fiscal Inequities** - Disparities in tax base among localities exist. Giving localities the authority to increase local sales tax opens the door to inequitable funding for local services. School funding is a familiar example of local tax base inequities and consequences for states. State governments have taken a larger role in education funding because some localities simply could not generate the revenue necessary from the local property tax base. North Carolina's state government, for instance, funds 67 percent of the K-12 education, compared with a national average of 48 percent.[19] Though the property taxes that fund education have received a great deal of attention, similar inequities exist in the revenues local sales taxes can generate. The revenues from counties with significant retail centers would dwarf what rural, agrarian counties could generate. As a result, local leaders would be forced to compete aggressively for retail business and make decisions that might not otherwise be in the public interest.

2. **Limits state revenue options** - Providing local governments with the option to increase sales taxes can mean that the state might forgo its option to increase taxes. In other words, when localities raise taxes, it raises the combined rate of state and local taxation, possibly limiting the state's ability to raise tax rates in the future. It can also restrict the state's ability to provide needed tax relief because local governments become reliant on the additional revenues. This was the case when North Carolina legislators agreed to repeal the state sales tax on food, but not the local portion of the tax.

3. **Federal Refundability** - While local sales tax is not deductible from federal income tax, local property taxes can be itemized. Lawmakers should consider this increase in federal tax liability for citizens if localities look to increase sales tax instead of property tax.

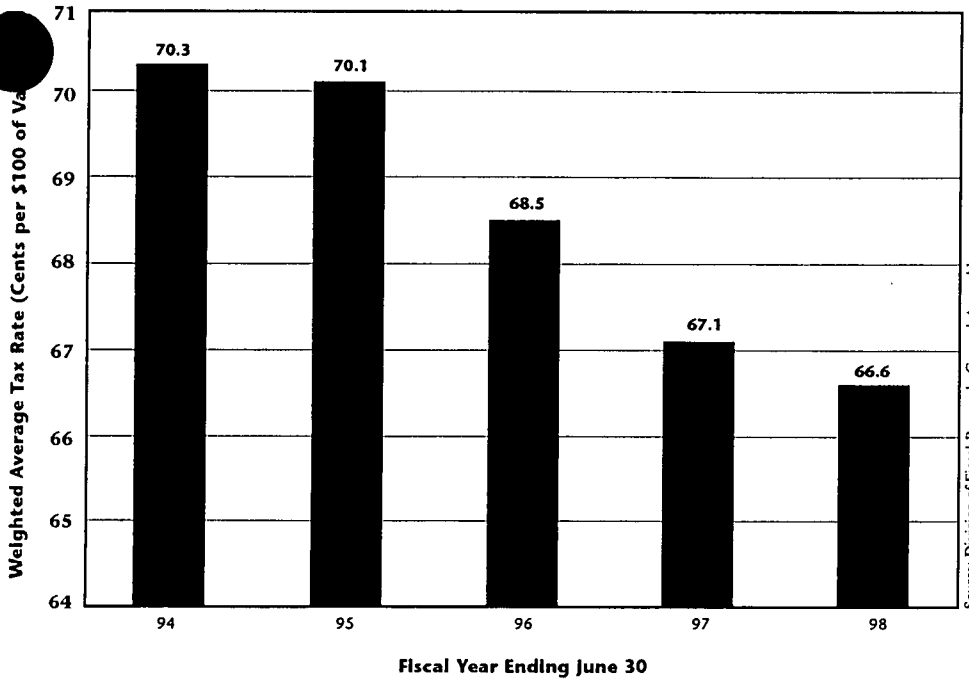
Conclusion and Options

Like the members of the General Assembly, local leaders in past years have been loath to increase taxes but willing to increase services and local government debt. In fact, local governments have reduced property tax rates over the last four years. When those factors converge, budget shortfalls are inevitable. With the pressure on local governments to pay for the increased demand for services, they are now looking to the most politically expedient but most unfair tax increase to solve their shortfall. The local option sales tax is questionable policy because it would not be equitable and makes government less accountable for the decision to raise taxes.

Lawmakers should look for ways to help local governments increase revenues while keeping the tax burden fairly distributed. Based on this analysis, it seems clear that an increase in the property tax could, in most counties, bring North Carolina up to levels consistent with its bordering states and would provide a more equitably distributed mix of taxes on the local level than an increase in local sales tax. The chart at bottom of page 5 shows how North Carolina compares to its neighbors. Broadening the sales tax base by closing certain loopholes might be another option to increase revenue for local governments if increasing property tax is politically infeasible.

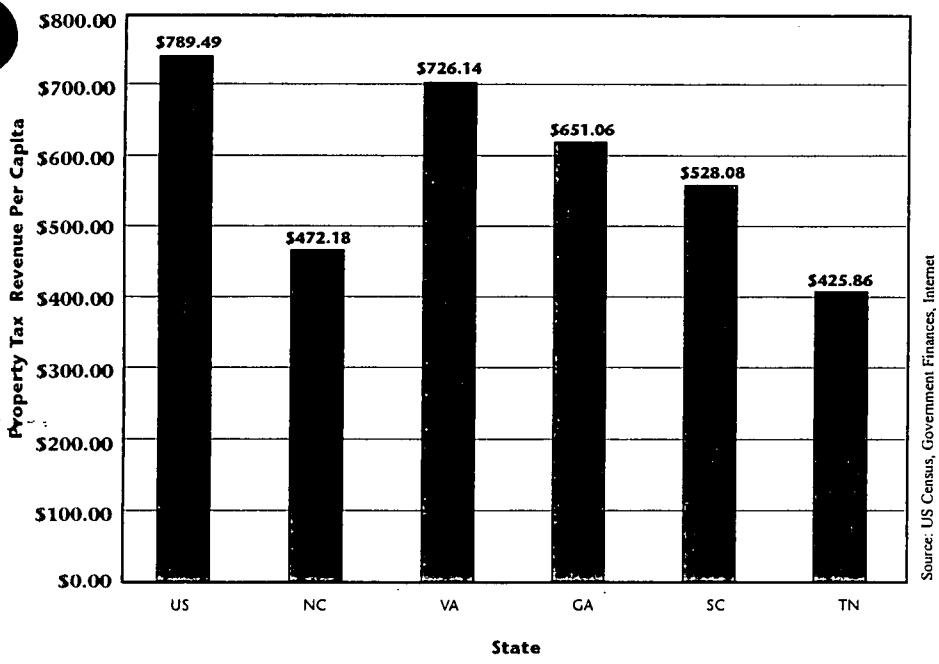
If, however, local sales tax is increased, it will be important to provide low income individuals with some form of tax relief to compensate for the disproportionate share of taxes they are paying. A State Earned Income Tax Credit would provide the appropriate targeted relief to low income families. The State EITC would be funded by state resources and would, therefore, not drain resources away from the local governments that are in need of new revenue. In addition, the State could use excess welfare funds to pay for the refundable portion of the cost of a State EITC. In order to make fulltime work pay above the poverty threshold, the refundable EITC provides the taxpayer with the portion of the credit that exceeds tax liability as a refund. ❖

Comparison of NC County Property Tax Rates (Cents Per $100 of Value) From 1994-98



Source: Division of Fiscal Research, General Assembly

Comparison of NC vs. Bordering States: Local Government Property Tax Revenues Per Capita, 1995-1996



Source: US Census, Government Finances, Internet

1 Dan Gerlach and John Hood, "A Higher Sales Tax Hurts N.C. Two Ways" Raleigh *N&O*, 1/28/99

Matthew W. Gardner, " The Relative Incidence of Property and Sales Taxes in North Carolina: A Comparative Analysis," Institute on Taxation and Economic Policy, January 1999

2 *Ibid.*.

3 BTC tabulations on state local government finance Census data 1995-96

4 Mecklenburg County has an additional ½ cent sales tax for transit.

5 This remaining one percent in local sales tax is usually talked about in terms of two, ½ percent rates, because the General assembly enacted these rates separately in 1983 and 1986. The General Assembly directed that some revenues from both of these ½ percent levies be directed to school construction and water and sewer projects for a period of years.

6 *Tax Guide 1996*, North Carolina Office of State Budget and Management

7 Gerlach and Hood

8 Gardner

9 *Ibid.*

10 *Ibid.*

11 BTC tabulations on state local government finance Census data 1995-96

12 Data provided to BTC by the Division of Fiscal Research, NC General Assembly

13 *Significant Features of Fiscal Federalism: Budget Processes and Tax Systems, Vol.1*, Advisory Commission on Intergovernmental Relations, September, 1995

14 *Who Pays? A Distributional Analysis of the Tax Systems in All 50 States*, Citizens for Tax Justice and the Institute on Taxation and Economic Policy: Washington, DC, 1996

15 *Tax Guide 1996*, North Carolina Office of State Budget and Management

16 *Ibid.*

17 Gerlach and Hood

18 *Critical Issues in State-Local Fiscal Policy: A guide to Local Option Sales Tax*, National Conference of State Legislatures: Denver, CO, November 1997

19 National Education Association, 1995-96 school finance data.

Notice

- **If you have not yet returned your BTC survey, please do so. Your input is valued!**

- **If you would like to receive *BTC Reports* by e-mail or by accessing our website, please e-mail us at:**

  btc@ncjustice.org

  so we can gauge interest in those services.

BTC *Reports*
The North Carolina Budget & Tax Center

P.O. Box 28068 • Raleigh, NC 27611-8068
919/856-2158 • btc@ncjustice.org

VISITOR REGISTRATION SHEET

FINANCE 3/24/99

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

	NAME	FIRM OR AGENCY
1.	JOE BARNHILL SR	FARM BUREAU
2.	Joann Barnhill	Farm Bureau
3.	Linda Cooley	Farm Bureau
4.	Sandra Allred	Farm Bureau
5.	Betty Garner	Farm Bureau
6.	O Reid Sink Jr	Farm Bureau
7.	Penny S. Sink	Farm Bureau
8.	Rita Mills	Farm Bureau
9.	Ronald Mills	Farm Bureau
10.	Earl Dongdrop	Farm Bureau
11.	Jim Roney	Farm Bureau
12.	William C Brandt	Farm Bureau
13.	Susan Markham	Eglts
14.	Charles Moore	guest
15.	W L Spencer	NCDOR
16.	Andy Sobol	NCDOR
17.	Anna J Pope	NCDOR
18.	Linda J. Lee	✓
19.	Ann Case	NCRMA
20.	Fran Preston	NCRMA
21.	Andy Eller	NCRMA

VISITOR REGISTRATION SHEET

FINANCE

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

	NAME	FIRM OR AGENCY
1.	Barbara Beatty	Catawba County
2.	NANCY R. MEEK	HICKORY PUBLIC SCHOOLS
3.	Kitty Barnes	Catawba County
4.	Steven Wyatt	Catawba County
5.	Lynne Connor	Catawba County Board of Educ.
6.	Paul Fogleman	City of Hickory
7.	Mike Carnes	NCHBA
8.	W Denham	N.C. Farm Bureau
9.	Jamie Noffsinger	NC Farm Bureau
10.	Steve Woodson	NC Farm Bureau
11.	Cami Owen	BPMC
12.	Ken Carlson	NC Budget & Tax Center
13.	Mark Hilton	Catawba County Christian Coal.
14.	Jean S Ballinger	NCSBA
15.	Patricia Ballinger	Lincoln County
16.	Joanne Rinner	NCSBA
17.	Jim Blackburn	County Commissioners
18.	Andy Romanet	League of Municipalities
19.	Don Meyers	Catawba County
20.	Alice Ballard	Electric Cities
21.	Billy Cauley	Farm Bureau

VISITOR REGISTRATION SHEET

Finance - House of Representatives

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

	NAME	FIRM OR AGENCY
1.	Paul Gossin	OSBM
2.	Bill Little	Duke Univ LTC
3.	Janice Williams	Duke Univ LTC
4.	Stuart Thompson	Hickory City Schools
5.	ED BURCHINS	CITY OF NEWTON
6.	Jim Fox	NCAFL
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		
21.		

AGENDA

HOUSE FINANCE COMMITTEE

Tuesday, March 30, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 486 – Parade Trailers-Permanent Plates – Rep. Moore
SB 29 - Cosmetology Fees – Sen. Kerr

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Tuesday, March 30, 1999

The House Committee on Finance met on Tuesday, March 30, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke, Miller; Vice Chair Jarrell; Representatives Bridgeman, Brown, Buchanan, Capps, Cox, Cunningham, Decker, Eddins, Gibson, Goodwin, Gray, Hackney, Hill, McCombs, Morris, Neely, Ramsey, Rayfield, Tucker, Womble. Rep. Mosley was excused. Staff including Cindy Avrette, Richard Bostic, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Allen called the meeting to order to consider the following bills:

Representative Moore was recognized to explain HB 486, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE PERMANENT REGISTRATION PLATES TO TRAILERS OWNED BY CHARITABLE ORGANIZATIONS AND USED ONLY IN PARADES. Rep. Bridgeman made a motion to adopt the Proposed Committee Substitute for discussion purposes only. Rep. Brown made a motion favorable to the Proposed Committee Substitute and unfavorable to original bill. Representatives Capps and Eddins asked questions of the bill sponsor. Rep. Brown's motion passed. Copies of the Proposed Committee Substitute, bill, Bill Summary, and Fiscal Note are included in these minutes.

Chair Miller entered the meeting and took control of the chair as it was his turn to chair on this date.

Senator Kerr was recognized to explain SB 29, A BILL TO BE ENTITLED AN ACT TO INCREASE THE EXAMINATION FEES COLLECTED UNDER THE COSMETIC ART ACT. The Chair recognized Mr. Doug Van Essen of the Cosmetic Arts Board to explain why his organization needs the increased examination fees. Rep. Womble and Rep. Cunningham questioned Senator Kerr and Mr.Van Essen about the increase in fees. Rep. Cunningham moved to remove the bill from the calendar today and re-calendar the bill. The motion passed. Copies of the bill, Bill Summary, and Fiscal Note are included in these minutes.

There being no further business, the Chair adjourned the meeting at 9:10 a.m.

Respectfully submitted:

Representative Gordon Allen
Chairman

Lillie Pearce
Assistant to the Committee

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 486 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE PERMANENT REGISTRATION PLATES TO TRAILERS OWNED BY CHARITABLE ORGANIZATIONS AND USED ONLY IN PARADES.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

minutes - KC

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 486
PROPOSED COMMITTEE SUBSTITUTE
H486-CSRB-1.1
DO NOT USE FOR FLOOR AMENDMENTS, LINE NUMBERS MAY CHANGE

Short Title: Parade Trailers--Permanent Plates. (Public)

Sponsors:

Referred to: Finance.

March 18, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE PERMANENT REGISTRATION PLATES TO TRAILERS OWNED BY CHARITABLE ORGANIZATIONS AND USED ONLY IN PARADES AND TO CONSOLIDATE AND MODERNIZE THE STATUTES PROVIDING FOR PERMANENT REGISTRATION PLATES.

The General Assembly of North Carolina enacts:

Section 1. The caption of Part 6 of Article 3 of Chapter 20 of the General Statutes reads as rewritten:

"Part 6. Vehicles of Nonresidents of ~~State, etc.~~ State; Permanent Plates; Highway Patrol.

Section 2. G.S. 20-79 is amended by adding a new subsection to read:

"(c) The Division shall not collect a fee for a certificate of title for a motor vehicle entitled to a permanent registration plate under G.S. 20-84."

Section 3. G.S. 20-84 reads as rewritten:

"§ 20-84. ~~Vehicles owned by State, municipalities or orphanages, etc.; certain vehicles operated by the local chapters of American~~

~~National Red Cross.~~ Permanent registration plates; State Highway Patrol.

(a) General. -- The Division may issue a permanent registration plate for a motor vehicle owned by one of the persons authorized to have a permanent registration plate in this section. To obtain a permanent registration plate, a person must provide proof of ownership, provide proof of financial responsibility as required by G.S. 20-309, and pay a fee of six dollars ($6.00). A permanent plate issued under this section may be transferred as provided in G.S. 20-78 to a replacement vehicle of the same classification. A permanent registration plate issued under this section must be a distinctive color and bear the word "permanent". In addition, a permanent registration plate issued under subsection (b)(1) of this section must have distinctive color and design that is readily distinguishable from all other permanent registration plates issued under this section.

(b) Permanent Registration Plates. -- The Division may issue permanent plates for the following motor vehicles:

(1) ~~The Division upon proper proof being filed with it that any motor vehicle for which registration is herein required is owned by the~~ A motor vehicle owned by the State or ~~any department thereof, or by any~~ one of its agencies.

(2) A motor vehicle owned by a county, ~~township,~~ city or ~~town, or by any~~ town.

(3) A motor vehicle owned by a board of ~~education, or by any~~ education.

(4) A motor vehicle owned by an ~~orphanage or civil~~ orphanage.

(5) A motor vehicle owned by the civil air ~~patrol, or incorporated~~ patrol.

(6) A motor vehicle owned by an incorporated emergency rescue ~~squad, or incorporated~~ squad.

(7) A motor vehicle owned by an incorporated REACT ("Radio Emergency Association of Citizen Teams") ~~Team, or for any~~ Team.

(8) A motor vehicle owned by a person and ~~involved~~ used exclusively in the support of a disaster relief ~~effort,~~ effort.

(9) A bus owned by a church and used exclusively for transporting individuals to Sunday school and church services.

(10) A motor vehicle owned by a rural fire department, agency, or association.

(11) A motor vehicle in the form of a mobile X-ray unit operated exclusively in this State for the purpose of diagnosis, treatment, and discovery of tuberculosis, and owned by the North Carolina Tuberculosis Association, Incorporated, or by a local chapter or association of the North Carolina Tuberculosis Association, Incorporated.

(12) A motor vehicle owned by a local chapter of the American National Red Cross and used for emergency or disaster work.

(13) A motor vehicle owned by a sheltered workshop recognized or approved by the Division of Vocational Rehabilitation Services.

(14) A motor vehicle owned by a nonprofit agency or organization that provides transportation for or operates programs subject to and approved in accordance with standards adopted by the Commission for Mental Health and Human Services.

(15) A bus or trackless trolley owned by a city and operated under a franchise authorizing the use of city streets. This subdivision does not apply to a bus or trackless trolley operated under a franchise authorizing an intercity operation.

(16) A trailer owned by a nationally chartered charitable organization and used exclusively for parade floats and for transporting vehicles and structures used only in parades.

~~shall collect six dollars ($6.00) for the registration of such motor vehicles, but shall not collect any fee for application for certificate of title in the name of the State or any department thereof, or by any county, township, city or town, or by any board of education or orphanage: Provided, that the term "owned" shall be construed to mean that such motor vehicle is the actual property of the State or some department thereof or of the county, township, city or town, or of the board of education, and no motor vehicle which is the property of any officer or employee of any department named herein shall be construed as being "owned" by such department. Provided, that the above exemptions from registration fees shall also apply to any church-owned bus used exclusively for transporting children and parents to Sunday school and church services and for no other purpose.~~

~~In lieu of the annual six dollars ($6.00) registration provided for in this section, the Division may for the license year 1950 and thereafter provide for a permanent registration of the~~

~~vehicles described in this section and issue permanent registration plates for such vehicles.~~

~~The permanent registration plates issued pursuant to this paragraph shall be of a distinctive color and shall bear thereon the word "permanent." Such plates may be transferred as provided in G.S. 20-78 to a replacement vehicle of the same classification. For the permanent registration and issuance of permanent registration plates provided for in this paragraph, the Division shall collect a fee of six dollars ($6.00) for each vehicle so registered and licensed.~~

~~The provisions of this section are hereby made applicable to vehicles owned by a rural fire department, agency or association.~~

~~The Division of Motor Vehicles shall issue to the North Carolina Tuberculosis Association, Incorporated, or any local chapter or association of said corporation, for a fee of six dollars ($6.00) for each plate a permanent registration plate which need not be thereafter renewed for each motor vehicle in the form of a mobile X-ray unit which is owned by said North Carolina Tuberculosis Association, Incorporated, or any local chapter or local association thereof and operated exclusively in this State for the purpose of diagnosis, treatment and discovery of tuberculosis. The initial six dollars ($6.00) fee required by this section and for this purpose shall be in full payment of the permanent registration plates issued for such vehicle operated as a mobile X-ray unit, and such plates need not thereafter be renewed, and such plates may be transferred as provided in G.S. 20-78 to replacement vehicles to be used for the purposes above described and for which the plates were originally issued.~~

~~The Division of Motor Vehicles shall issue to the American National Red Cross, upon application of any local chapter thereof and payment of a fee of six dollars ($6.00) for each plate, a permanent registration plate, which need not be thereafter renewed, for all disaster vans, bloodmobiles, handivans, and such sedans and station wagons as are used for emergency or disaster work, and operated by a local chapter in this State in the business of the American National Red Cross. Such plates may be transferred as provided in G.S. 20-78 to a replacement vehicle to be used for the purposes above described and for which the plates were originally issued. In the event of transfer of ownership to any other person, firm or corporation, or transfer or reassignment of any vehicle bearing such registration plate to any chapter or association of the American National Red Cross in any other state, territory or country, the registration plate~~

~~assigned to such vehicle shall be surrendered to the Division of Motor Vehicles.~~

(c) State Highway Patrol. -- In lieu of all other registration requirements, the Commissioner shall each year assign to the State Highway Patrol, upon payment of six dollars ($6.00) per registration plate, a sufficient number of regular registration plates of the same letter prefix and in numerical sequence beginning with number 100 to meet the requirements of the State Highway Patrol for use on Division vehicles assigned to the State Highway Patrol. The commander of the Patrol shall, when such plates are assigned, issue to each member of the State Highway Patrol a registration plate for use upon the Division vehicle assigned to ~~him~~ the member pursuant to G.S. 20-190 and assign a registration plate to each Division service vehicle operated by the Patrol. An index of such assignments of registration plates shall be kept at each State Highway Patrol radio station and a copy ~~thereof~~ of it shall be furnished to the registration division of the Division. Information as to the individual assignments of ~~such~~ the registration plates shall be made available to the public upon request to the same extent and in the same manner as regular registration information. The commander, when necessary, may reassign registration plates provided that ~~such~~ the reassignment shall ~~be made to~~ appear upon the index required ~~herein~~ under this subsection within 20 days after ~~such~~ the reassignment.

~~The Division of Motor Vehicles shall, upon appropriate certification of financial responsibility, issue to sheltered workshops recognized or approved by the Division of Vocational Rehabilitation Services and to public and nonprofit agencies or organizations which provide transportation for or operate programs subject to and approved in accordance with standards adopted by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services upon application and payment of a fee of six dollars ($6.00) for each plate, a permanent registration plate for vehicles registered to and operated by such agencies. The initial six dollars ($6.00) fee required by this section and for this purpose shall be in full payment of the permanent registration plate issued for such vehicle operated by a sheltered workshop and such plates need not thereafter be renewed, and such plates may be transferred as provided in G.S. 20-78 to a replacement vehicle to be used by the sheltered workshop designated on the registration card.~~

~~On and after January 1, 1972, permanent registration plates used on all vehicles owned by the State of North Carolina or a department thereof shall be of a distinctive color and design which shall be readily distinguishable from all other permanent registration plates issued pursuant to this section or G.S. 20-84.1. For the purpose of carrying out the intent of this paragraph, all vehicles owned by the State of North Carolina or a department thereof in operation as of October 1, 1971, and bearing a permanent registration shall be reregistered during the months of October, November and December, 1971, and upon reregistration, registration plates issued for such vehicles shall be of a distinctive color and design as provided for hereinabove.~~"

Section 4. G.S. 20-84.1 is repealed.

Section 5. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 486

Short Title: Parade Trailers--Permanent Plates. (Public)

Sponsors: Representatives Moore; Arnold, Barefoot, Bonner, Culp, Dedmon, Gulley, Hill, Jarrell, Jeffus, Mosley, Russell, Setzer, Sexton, Smith, Warwick, G. Wilson, and Yongue.

Referred to: Finance.

March 18, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE PERMANENT REGISTRATION PLATES TO TRAILERS OWNED BY CHARITABLE ORGANIZATIONS AND USED ONLY IN PARADES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-84 reads as rewritten:

"**§ 20-84. Vehicles owned by State, municipalities or orphanages, etc.; certain vehicles operated by the local chapters of American National Red Cross.**

The Division upon proper proof being filed with it that any motor vehicle for which registration is herein required is owned by the State or any department thereof, or by any county, township, city or town, or by any board of education, or by any orphanage or civil air patrol, or incorporated emergency rescue squad, or incorporated REACT ("Radio Emergency Association of Citizen Teams") Team, or for any motor vehicle involved exclusively in the support of a disaster relief effort, shall collect six dollars ($6.00) for the registration of such motor vehicles, but shall not collect any fee for application for certificate of title in the name of the State or any department thereof, or by any county, township, city or town, or by any board of education or orphanage: Provided, that the term "owned" shall be construed to mean that such motor vehicle is the actual property of the State or some department thereof or of the county, township, city or town, or of the board of education, and no motor vehicle which is the property of any officer or employee of any department named herein shall be construed as being "owned" by such department. Provided,

that the above exemptions from registration fees shall also apply to any church-owned bus used exclusively for transporting children and parents to Sunday school and church services and for no other purpose.

In lieu of the annual six dollars ($6.00) registration provided for in this section, the Division may for the license year 1950 and thereafter provide for a permanent registration of the vehicles described in this section and issue permanent registration plates for such vehicles. The permanent registration plates issued pursuant to this paragraph shall be of a distinctive color and shall bear thereon the word "permanent." Such plates may be transferred as provided in G.S. 20-78 to a replacement vehicle of the same classification. For the permanent registration and issuance of permanent registration plates provided for in this paragraph, the Division shall collect a fee of six dollars ($6.00) for each vehicle so registered and licensed.

The provisions of this section are hereby made applicable to vehicles owned by a rural fire department, agency or association.

The Division of Motor Vehicles shall issue to the North Carolina Tuberculosis Association, Incorporated, or any local chapter or association of said corporation, for a fee of six dollars ($6.00) for each plate a permanent registration plate which need not be thereafter renewed for each motor vehicle in the form of a mobile X-ray unit which is owned by said North Carolina Tuberculosis Association, Incorporated, or any local chapter or local association thereof and operated exclusively in this State for the purpose of diagnosis, treatment and discovery of tuberculosis. The initial six dollars ($6.00) fee required by this section and for this purpose shall be in full payment of the permanent registration plates issued for such vehicle operated as a mobile X-ray unit, and such plates need not thereafter be renewed, and such plates may be transferred as provided in G.S. 20-78 to replacement vehicles to be used for the purposes above described and for which the plates were originally issued.

The Division of Motor Vehicles shall issue to the American National Red Cross, upon application of any local chapter thereof and payment of a fee of six dollars ($6.00) for each plate, a permanent registration plate, which need not be thereafter renewed, for all disaster vans, bloodmobiles, handivans, and such sedans and station wagons as are used for emergency or disaster work, and operated by a local chapter in this State in the business of the American National Red Cross. Such plates may be transferred as provided in G.S. 20-78 to a replacement vehicle to be used for the purposes above described and for which the plates were originally issued. In the event of transfer of ownership to any other person, firm or corporation, or transfer or reassignment of any vehicle bearing such registration plate to any chapter or association of the American National Red Cross in any other state, territory or country, the registration plate assigned to such vehicle shall be surrendered to the Division of Motor Vehicles.

In lieu of all other registration requirements, the Commissioner shall each year assign to the State Highway Patrol, upon payment of six dollars ($6.00) per registration plate, a sufficient number of regular registration plates of the same letter prefix and in numerical sequence beginning with number 100 to meet the requirements of the State Highway Patrol for use on Division vehicles assigned to the

State Highway Patrol. The commander of the Patrol shall, when such plates are assigned, issue to each member of the State Highway Patrol a registration plate for use upon the Division vehicle assigned to him pursuant to G.S. 20-190 and assign a registration plate to each Division service vehicle operated by the Patrol. An index of such assignments of registration plates shall be kept at each State Highway Patrol radio station and a copy thereof shall be furnished to the registration division of the Division. Information as to the individual assignments of such registration plates shall be made available to the public upon request to the same extent and in the same manner as regular registration information. The commander, when necessary, may reassign registration plates provided that such reassignment shall be made to appear upon the index required herein within 20 days after such reassignment.

The Division of Motor Vehicles shall, upon appropriate certification of financial responsibility, issue to sheltered workshops recognized or approved by the Division of Vocational Rehabilitation Services and to public and nonprofit agencies or organizations which provide transportation for or operate programs subject to and approved in accordance with standards adopted by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services upon application and payment of a fee of six dollars ($6.00) for each plate, a permanent registration plate for vehicles registered to and operated by such agencies. The initial six dollars ($6.00) fee required by this section and for this purpose shall be in full payment of the permanent registration plate issued for such vehicle operated by a sheltered workshop and such plates need not thereafter be renewed, and such plates may be transferred as provided in G.S. 20-78 to a replacement vehicle to be used by the sheltered workshop designated on the registration card.

On and after January 1, 1972, permanent registration plates used on all vehicles owned by the State of North Carolina or a department thereof shall be of a distinctive color and design which shall be readily distinguishable from all other permanent registration plates issued pursuant to this section or G.S. 20-84.1. For the purpose of carrying out the intent of this paragraph, all vehicles owned by the State of North Carolina or a department thereof in operation as of October 1, 1971, and bearing a permanent registration shall be reregistered during the months of October, November and December, 1971, and upon reregistration, registration plates issued for such vehicles shall be of a distinctive color and design as provided for hereinabove.

The Division of Motor Vehicles shall issue to any nationally chartered charitable organization, upon application of any local North Carolina chapter of that organization and payment of a fee of six dollars ($6.00) for each plate, a permanent registration plate, which need not be renewed, for all trailers that are used only for parade floats and for transporting vehicles and structures used only in parades. These plates may be transferred as provided in G.S. 20-78 to a replacement vehicle to be used for the purposes above described and for which the plates were originally issued. In the event of transfer of ownership to any other person, firm, or corporation, or transfer or reassignment of any vehicle bearing the permanent registration plate to any chapter or association of the charitable organization in any

other state, territory or country, the registration plate assigned to that vehicle shall be surrendered to the Division of Motor Vehicles."

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

HOUSE BILL 486:
Parade Trailers -- Permanent Plates

BILL ANALYSIS

Committee: House Finance
Date: March 30, 1999
Version: 1st Edition

Introduced by: Rep. Moore
Summary by: Cindy Avrette
Committee Counsel

SUMMARY: House Bill 486 would authorize the Division of Motor Vehicles to issue a permanent registration plate for trailers owned by a nationally chartered charitable organization and used only for parade floats and for transporting vehicles and structures used only in parades. The cost of the plate would be six dollars ($6.00). The bill would become effective when the act becomes law.

CURRENT LAW: The registration fee for a trailer is $10.00. The fee is payable on or before January 1 of each year. The Division may issue a multiyear plate and registration card for a trailer for a fee of $75.00. The multiyear plate may not be transferred to a replacement vehicle.

BILL ANALYSIS: House Bill 486 would authorize the Division of Motor Vehicles to issue a permanent registration plate to a nationally chartered charitable organization for a trailer the organization owns and uses only for parade floats and for transporting vehicles and structures used only in parades. The Shriners appear to be the major organization that would benefit from this legislation. The cost of the permanent registration plate would be $6.00. The permanent plates could be transferred to another trailer that is bought to replace the one for which the plate was originally issued, so long as the use of the trailer is restricted to parades.

BACKGROUND: The Division is currently authorized to issue permanent registration plates to a variety of organizations. The cost of the plate is $6.00. The organizations entitled to a permanent $6.00 plate include:

- State and local governments.
- Orphanage.
- Civil air patrol.
- Incorporated emergency rescue squads.
- Incorporated Radio Emergency Association of Citizen Teams.
- Church owned buses used exclusively for transporting children and parents to Sunday school and church services.
- Rural fire departments.
- North Carolina Tuberculosis Association mobile X-ray units operated exclusively in this State for the purpose of diagnosis, treatment, and discovery of tuberculosis.

- American National Red Cross for disaster vans, bloodmobiles, handivans, and other vehicles used for emergency or disaster work.
- City buses and trackless trolleys.
- Sheltered workshops recognized or approved by the Division of Vocational Rehabilitation Services and to public and nonprofit agencies or organizations that provide transportation for or operate programs subject to and approved in accordance with standards adopted by the Commission of Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services.

TECHNICAL CONSIDERATIONS: The statute amended by the bill, G.S. 20-84, was originally written in 1937. It has been amended many times. Many of the paragraphs repeat the same general information, such as fee and transferability, for each entity entitled to a permanent plate. The statute could be rewritten to consolidate the general provisions and to list the entites entitled to a permanent plate.

H486-SMRB-1

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: H 486 (First Edition)
SHORT TITLE: Parade Trailers – Permanent Plates
SPONSOR(S): Rep. Richard Moore

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES	($152)	($380)	($380)	($380)	($380)
EXPENDITURES					
POSITIONS:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Division of Motor Vehicles (DMV)

EFFECTIVE DATE: Upon Enactment

BILL SUMMARY: DMV will make permanent registration plates available to nationally chartered charitable organizations, at a fee of $6.00, for all trailers that are used only for parade floats and for transporting vehicles and structures used only in parades.

ASSUMPTIONS AND METHODOLOGY: The Shriners appear to be the major organization that would be affected by this legislation and the three main Temples in North Carolina have a total of approximately 38 trailers that would qualify. For these trailers the annual fee of $10 would become a one time fee of $6. The loss in revenue would be $4 per trailer in the first year and $10 per trailer in subsequent years.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Robert Weiss

APPROVED BY: Tom Covington

DATE: Monday, March 22, 1999

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 29
Second Edition Engrossed 2/23/99

Short Title: Cosmetology Fees. (Public)

Sponsors: Senator Kerr.

Referred to: Finance.

February 4, 1999

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE EXAMINATION FEES COLLECTED UNDER THE COSMETIC ART ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 88B-20(a) reads as rewritten:

"(a) The Board may charge examination fees as follows:

(1) Cosmetologist ..... ~~$ 20.00~~ $ 50.00
(2) Apprentice ..... ~~$ 5.00~~ $ 50.00
(3) Manicurist ..... ~~$ 15.00~~ $ 50.00
(4) Esthetician ..... ~~$ 20.00~~ $ 50.00
(5) Teacher ..... ~~$ 25.00.~~ $ 50.00."

Section 2. This act becomes effective July 1, 1999.

SENATE BILL 29:
Cosmetology Fees

BILL ANALYSIS

Committee: House Finance
Date: March 30, 1999
Version: 2nd Edition

Introduced by: Sen. Kerr
Summary by: Cindy Avrette
Committee Counsel

SUMMARY: ***Senate Bill 29 would increase the examination fees the Cosmetology Board may charge applicants who wish to become licensed as cosmetologists, apprentices, manicurist, estheticians, and teachers. The bill would become effective July 1, 1999.***

BILL ANALYSIS: The North Carolina Board of Cosmetic Art Examiners has requested that the fees it may charge for examinations be increased because the expense of giving the examinations has become greater than the revenues generated by the examination fees. The increased fee amounts would bring the examination fees imposed by the Board of Cosmetic Art Examiners more in line with the examination fees collected by the State Board of Barber Examiners. That Board currently collects a $50 fee for examinations to become a registered barber or registered apprentice barber and $95 for the examination to become a barber school instructor.

The examination fees for cosmetologists and manicurists were last increased from $10 to $20 in 1995. The examination fee for a teacher was established in 1995 at $25. The fee increases proposed by Senate Bill 29 are as follows:

Examination	Current Fee	Proposed Fee
Cosmetologist	$20.00	$50.00
Apprentice	$5.00	$50.00
Manicurist	$15.00	$50.00
Esthetician	$20.00	$50.00
Teacher	$25.00	$50.00

BACKGROUND: Last year the General Assembly rewrote the Cosmetic Art Act. The major changes in the Act included the requirement for licensure of all manicurists and manicure shops, creation of a separate license for estheticians (persons licensed to practice skin care), setting out statutory standards for teachers, easing the requirements for obtaining a license when one is licensed in another state, and the application of late penalties to all licenses. SL 1998-230 did not increase the examination fees for cosmetologists, apprentices, manicurists, or teachers.

This summary was contributed to by Martha Walston
S29-SMRB-1

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 29 (First Edition)

SHORT TITLE: Cosmetology Fees

SPONSOR(S): Senator Kerr

FISCAL IMPACT

Yes (X) No ( ) No Estimate Available ( )

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Special Revenue Fund	$338,500	$216,000	$216,000	$216,000	$216,000
EXPENDITURES					
Special Revenue Fund	To be determined by the Board				
POSITIONS:	To be determined by the Board				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Board of Cosmetic Art Examiners

EFFECTIVE DATE: The act is effective when it becomes law.

BILL SUMMARY: The act increases the examination fees for cosmetologists, manicurists, estheticians, and teachers.

ASSUMPTIONS AND METHODOLOGY: The NC Board of Cosmetic Art Examiners estimates that 6,200 exams are given each year. The chart below shows the number of exams per profession, current exam fees, proposed exam fees, and anticipated revenues.

	Annual Exams	Current Exam Fee	Current Estimated Revenue	Proposed Exam Fee	Proposed Estimated Revenue	Annual Revenue Gain
Cosmetologist	2,280	$20	$45,600	$50	$114,000	$68,400
Apprentice	1,320	$5	$6,600	$50	$66,000	$59,400
Manicurist	2,220	$15	$33,300	$50	$111,000	$77,700
Esthetician	200	$20	$4,000	$50	$10,000	$6,000
Teacher	180	$25	$4,500	$50	$9,000	$4,500
Total	6,200		$94,000		$310,000	$216,000

The Board proposes to increase each exam fee to $50. Based on the current volume of business, the increased exam fees will yield $216,000 in additional revenue each year. Also, there will be a revenue windfall in FY 1999-2000, because a statute change in 1998 requires 3,000 to 4,000 existing manicurists to be licensed in 1999. Assuming 3,500 manicurists take the exam this fall, the fee increase from $15 to $50 will generate $122,500 in FY 1999-2000.

Fund Balance

The Board provided the General Assembly's Fiscal Research Division its 1998 financial statement showing a June 30, 1998 fund balance of $458,802.70. The Board also provided a "Cash Balance Forecast" that predicts the following fund balances:

June 1999	$1,281,088
June 2000	$626,416
June 2001	-$72,280

The 1999 balance is high due to the renewal of cosmetology licenses in 1998-99. These licenses are $39 and are renewed every three years. The Board uses these fees, along with annual renewals for other professions, to fund its annual budget. Without the recommended exam fee increases, the Board projects that it will not be able to cover current expenses in 2001.

FISCAL RESEARCH DIVISION
733-4910
PREPARED BY: Richard Bostic
APPROVED BY:
DATE: February 17, 1999

VISITOR REGISTRATION SHEET

30

House Finance — 3-~~31~~-99

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Douglas H. Van Essen	NC State Board of Cosmetic Art
Agnes Howard	DOT / DMV
Stephanie Mann	NC Assoc. of Realtors
Paul Zeglin	
Cam Cover	BPMHL
Steve Woodson	NC Farm Bureau
Doug Rogers	NCDOT

AGENDA

HOUSE FINANCE COMMITTEE

Thursday, April 1, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 312 – Code Officials Professionalism – Rep. Gibson
SB 269 – Huntersville Satellite Annexation – Sen. Odom
SB 270 – Huntersville Voluntary Annexation – Sen. Odom
SB 29 - Cosmetology Fees – Sen. Kerr

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Thursday, April 1, 1999

The House Committee on Finance met on Thursday, April 1, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke, Miller; Vice Chair Jarrell; Representatives Braswell, Bridgeman, Brown, Buchanan, Capps, Church, Cox, Creech, Cunningham, Decker, Edwards, Gibson, Goodwin, Gray, Hackney, Hill, McCombs, Morris, Neely, Ramsey, Rayfield, Starnes, Tucker, Wilson, Womble. Staff including Cindy Avrette, Richard Bostic, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Allen called the meeting to order to consider the following bills:

SB 29 was pulled from the agenda at the request of Senator Kerr and will be heard Thursday, April 8th.

Senator Odom was recognized to explain SB 269, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE TOWN OF HUNTERSVILLE TO MAKE ADDITIONAL VOLUNTARY SATELLITE ANNEXATIONS IF CERTAIN CRITERIA ARE MET. Rep. Brown moved for a favorable report. Rep. Starnes questioned Senator Odom. Rep. Cunningham sent forward an amendment and the amendment was adopted. Rep. Cunningham and Brown made a motion to roll the amended bill into a Committee Substitute and move favorable to Committee Substitute and unfavorable to the original bill. The motion passed. Copies of the Proposed Committee Subsitute, bill, amendment, and Bill Summary are included in these minutes.

Senator Odom was recognized to explain SB 270, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE TOWN OF HUNTERSVILLE TO PROVIDE FOR VOLUNTARY ANNEXATION OF PROPERTY SUBJECT TO PRESENT-USE VALUE APPRAISAL. Representatives Womble, Brown, Starnes, Rayfield, Hackney, Creech, Decker, and Bridgeman questioned Senator Odom. The Chair recognized Mr. Jim Blackburn of the County Commissioner's Association to answer members' questions. Cindy Avrette, of the legal staff, also answered questions. Rep. Cunningham moved for a favorable report and the motion passed. Copies of the bill and Bill Summary are included in these minutes.

Rep. Gibson was recognized to explain HB 312, A BILL TO BE ENTITLED AN ACT TO ESTABLISH A PROFESSIONAL DEVELOPMENT PROGRAM FOR CODE-ENFORCEMENT OFFICIALS AND FEES TO ADMINISTER THE PROGRAM, TO AUTHORIZE THE USE OF FUNDS FROM THE DEPARTMENT OF INSURANCE FUND FOR PROFESSIONAL DEVELOPMENT OF CODE-ENFORCEMENT OFFICIALS, AND TO APPROPRIATE FUNDS FROM THE DEPARTMENT OF INSURANCE FUND FOR THAT PURPOSE. Rep. Goodwin moved give a favorable report to the Committee Substitute, an unfavorable report to the original bill, and re-refer bill to the Committee on Appropriations. The motion passed. Copies of the Proposed Committee Substitute, bill, and Bill Summary are included in these minutes.

There being no further business, the Chair adjourned the meeting at 9:45 a.m.

Respectfully submitted:

Representative Gordon Allen
Chair

Kristen L. Crosson
Assistant to the Committee

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 312 A BILL TO BE ENTITLED AN ACT TO ESTABLISH A PROFESSIONAL DEVELOPMENT PROGRAM FOR CODE-ENFORCEMENT OFFICIALS AND FEES TO ADMINISTER THE PROGRAM, TO AUTHORIZE THE USE OF FUNDS FROM THE DEPARTMENT OF INSURANCE FUND FOR PROFESSIONAL DEVELOPMENT OF CODE-ENFORCEMENT OFFICIALS, AND TO APPROPRIATE FUNDS FROM THE DEPARTMENT OF INSURANCE FUND FOR THAT PURPOSE.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 312
Proposed Committee Substitute H312-PCS2174-RB

Short Title: Code Officials Professionalism/AB. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A PROFESSIONAL DEVELOPMENT PROGRAM FOR CODE-ENFORCEMENT OFFICIALS, TO AUTHORIZE THE USE OF FUNDS FROM THE DEPARTMENT OF INSURANCE FUND FOR PROFESSIONAL DEVELOPMENT OF CODE-ENFORCEMENT OFFICIALS, AND TO APPROPRIATE FUNDS FROM THE DEPARTMENT OF INSURANCE FUND FOR THAT PURPOSE.

The General Assembly of North Carolina enacts:

Section 1. Article 9C of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-151.13A. Professional development program for officials.**

(a) As used in this section, 'official' means a qualified Code-enforcement official, as defined in G.S. 143-151.8.

(b) The Board may establish professional development requirements for officials as a condition of the renewal or reactivation of their certificates. The purposes of these professional development requirements are to assist officials in maintaining professional competence in their enforcement of the Code and to assure the health, safety, and welfare of the citizens of North Carolina. An official subject to this section shall present evidence to the Board at each certificate renewal after initial certification, that during the 12 months before the certificate expiration date, the official has completed the required number of credit hours in courses approved by the Board. Annual continuing education hour requirements shall be determined by the Board, but shall not be more than six credit hours.

(c) The Board may require an individual who earns a standard certificate under the prequalification program established in G.S. 143-151.13(d) to complete professional development courses, not to exceed six hours in each technical area of certification, within one year after that individual is first employed by a city or county inspection department.

(d) As a condition of reactivating a standard or limited certificate, the Board may require the completion of professional development courses within one year after reemployment as an official as follows:

(1) An individual who has been on inactive status for more than two years and who has not been continuously employed by a city or county inspection department during the period of inactive status shall complete professional development courses not to exceed 12 hours for each technical area in which the individual is certified.

(2) An individual who has been on inactive status for more than two years but who has been continuously employed by a city or county inspection department during the period of inactive status shall complete professional development courses not to exceed six hours for each technical area in which the individual is certified.

(3) An individual who has been on inactive status for two years or less and who has been continuously employed by a city or county inspection department during the period of inactive status shall complete professional development courses not to exceed four hours for each technical area in which the individual is certified.

(e) The Board may, for good cause shown, grant extensions of time to officials to comply with these requirements. An official who, after obtaining an extension under this subsection, offers evidence satisfactory to the Board that the official has satisfactorily completed the required professional development courses, is in compliance with this section.

(f) The Board may adopt rules to give purpose and effect to the professional development requirements, including rules that govern:

(1) The content and subject matter of professional development courses.

(2) The criteria, standards, and procedures for the approval of courses, course sponsors, and course instructors.

(3) The methods of instruction.

(4) The computation of course credit.

(5) The ability to carryforward course credit from one year to another.

(6) The waiver of or variance from the professional development requirement for hardship or other reasons.

(7) The procedures for compliance and sanctions for noncompliance."

Section 2. G.S. 58-6-25(d) reads as rewritten:

"(d) Use of Proceeds. -- The Insurance Regulatory Fund is created in the State treasury, under the control of the Office of State Budget and Management. The proceeds of the charge levied in this section and all fees collected under Articles 69

through 71 of this Chapter and under Articles 9 and 9C of Chapter 143 of the General Statutes shall be credited to the Fund. The Fund shall be placed in an interest-bearing account and any interest or other income derived from the Fund shall be credited to the Fund. Moneys in the Fund may be spent only pursuant to appropriation by the General Assembly and in accordance with the line item budget enacted by the General Assembly. The Fund is subject to the provisions of the Executive Budget Act, except that no unexpended surplus of the Fund shall revert to the General Fund. All money credited to the Fund shall be used to reimburse the General Fund for the following:

(1) Money appropriated to the Department of Insurance to pay its expenses incurred in regulating the insurance industry and other industries in this State.

(2) Money appropriated to State agencies to pay the expenses incurred in regulating the insurance industry, in certifying statewide data processors under Article 11A of Chapter 131E of the General Statutes, and in purchasing reports of patient data from statewide data processors certified under that Article.

(3) Money appropriated to the Department of Revenue to pay the expenses incurred in collecting and administering the taxes on insurance companies levied in Article 8B of Chapter 105 of the General Statutes.

(4) Money appropriated to the Department of Insurance for the Code-enforcement officials professional development requirements under G.S. 143-151.13A."

Section 3. There is appropriated from the Department of Insurance Fund, established in G.S. 58-6-25, to the Department of Insurance the sum of one hundred thousand dollars ($100,000) for the 1999-2000 fiscal year for the Code Officials Qualification Board for the purpose of developing and implementing the Code officials professional development program established in G.S. 143-151.13A.

Section 4. Section 1 of this act applies to certificates issued or renewed on and after October 1, 1999. Section 3 of this act becomes effective July 1, 1999. The appropriation in Section 3 of this act is contingent upon the implementation of the program by the Code Officials Qualification Board and may be used only for the purpose of developing and implementing the program. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 312

Short Title: Code Officials Professionalism/AB. (Public)

Sponsors: Representative Gibson.

Referred to: Finance.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A PROFESSIONAL DEVELOPMENT PROGRAM FOR CODE-ENFORCEMENT OFFICIALS AND FEES TO ADMINISTER THE PROGRAM, TO AUTHORIZE THE USE OF FUNDS FROM THE DEPARTMENT OF INSURANCE FUND FOR PROFESSIONAL DEVELOPMENT OF CODE-ENFORCEMENT OFFICIALS, AND TO APPROPRIATE FUNDS FROM THE DEPARTMENT OF INSURANCE FUND FOR THAT PURPOSE.

The General Assembly of North Carolina enacts:

Section 1. Article 9C of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-151.13A. Professional development program for officials.**

(a) As used in this section, 'official' means a qualified Code-enforcement official, as defined in G.S. 143-151.8.

(b) The Board may establish professional development requirements for officials as a condition of the renewal or reactivation of their certificates. The purposes of these professional development requirements are to assist officials in maintaining professional competence in their enforcement of the Code and to assure the health, safety, and welfare of the citizens of North Carolina. An official subject to this section shall present evidence to the Board at each certificate renewal after initial certification, that during the 12 months before the certificate expiration date, the official has completed the required number of credit hours in courses approved by the Board. Annual continuing education hour requirements shall be determined by the Board, but shall not be more than six credit hours.

(c) The Board may establish nonrefundable fees not to exceed twenty-five dollars ($25.00) to be paid to the Board by officials who are required to comply with this section or by course vendors. The purpose of the fees is to offset the cost of additional staff and resources to administer the program authorized by this section. To assure continued and proper administration of the program, any unexpended revenue from the fees shall not revert to the General Fund.

(d) The Board may adopt rules to give purpose and effect to the professional development requirements, including rules that govern:

(1) The content and subject matter of professional development courses.

(2) The criteria, standards, and procedures for the approval of courses, course sponsors, and course instructors.

(3) The methods of instruction.

(4) The computation of course credit.

(5) The ability to carry forward course credit from one year to another.

(6) The waiver of or variance from the professional development requirement for hardship or other reasons.

(7) The procedures for compliance and sanctions for noncompliance.

(e) The certificate of any official who fails to comply with the professional development requirements under this section shall lapse. The Board may, for good cause shown, grant extensions of time to officials to comply with these requirements.

(f) Any official who, after obtaining an extension under subsection (d) of this section, offers evidence satisfactory to the Board that the official has satisfactorily completed the required professional development courses, is in compliance with this section.

(g) The Board may require an individual who earns a standard certificate under the prequalification program established in G.S. 143-151.13(d) to complete professional development courses, not to exceed six hours in each technical area of certification, within one year after that individual is first employed by a city or county inspection department.

(h) As a condition of reactivating a standard or limited certificate, the Board may require the completion of professional development courses within one year after reemployment as an official as follows:

(1) An individual who has been on inactive status for more than two years and who has not been continuously employed by a city or county inspection department during the period of inactive status shall complete professional development courses not to exceed 12 hours for each technical area in which the individual is certified.

(2) An individual who has been on inactive status for more than two years but who has been continuously employed by a city or county inspection department during the period of inactive status shall complete professional development courses not to exceed six hours for each technical area in which the individual is certified.

(3) An individual who has been on inactive status for two years or less and who has been continuously employed by a city or county inspection department during the period of inactive status shall complete professional development courses not to exceed four hours for each technical area in which the individual is certified."

Section 2. G.S. 58-6-25(d) reads as rewritten:

"(d) Use of Proceeds. -- The Insurance Regulatory Fund is created in the State treasury, under the control of the Office of State Budget and Management. The proceeds of the charge levied in this section and all fees collected under Articles 69 through 71 of this Chapter and under Articles 9 and 9C of Chapter 143 of the General Statutes shall be credited to the Fund. The Fund shall be placed in an interest-bearing account and any interest or other income derived from the Fund shall be credited to the Fund. Moneys in the Fund may be spent only pursuant to appropriation by the General Assembly and in accordance with the line item budget enacted by the General Assembly. The Fund is subject to the provisions of the Executive Budget Act, except that no unexpended surplus of the Fund shall revert to the General Fund. All money credited to the Fund shall be used to reimburse the General Fund for the following:

(1) Money appropriated to the Department of Insurance to pay its expenses incurred in regulating the insurance industry and other industries in this State.

(2) Money appropriated to State agencies to pay the expenses incurred in regulating the insurance industry, in certifying statewide data processors under Article 11A of Chapter 131E of the General Statutes, and in purchasing reports of patient data from statewide data processors certified under that Article.

(3) Money appropriated to the Department of Revenue to pay the expenses incurred in collecting and administering the taxes on insurance companies levied in Article 8B of Chapter 105 of the General Statutes.

(4) Money appropriated to the Department of Insurance for the Code-enforcement officials professional development requirements under G.S. 143-151.13A."

Section 3. The North Carolina Code Officials Qualification Board may adopt temporary rules to implement this act as a recent act of the General Assembly under G.S. 150B-21.1(a)(2).

Section 4. There is appropriated from the Department of Insurance Fund, established in G.S. 58-6-25, to the Department of Insurance the sum of one hundred thousand dollars ($100,000) for the 1999-2000 fiscal year for the Code Officials Qualification Board for the purpose of developing and implementing the Code officials professional development program established in G.S. 143-151.13A.

Section 5. Section 5 of this act becomes effective July 1, 1999, only if the Code Officials Qualification Board establishes the program authorized in Section 1 of this act prior to the ratification date of an act of the General Assembly appropriating

the funds. The remainder of this act becomes effective when it becomes law. Section 1 of this act applies to licenses applied for or renewed on or after October 1, 1999.

HOUSE BILL 312:
Code Officials Professionalism/AB

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Gibson
Date:	April 1, 1999	**Summary by:**	Cindy Avrette
Version:	PCS for 1st Edition		Committee Counsel
	H312-PCS2174-RB		

SUMMARY: House Bill 312 would allow the North Carolina Code Officials Qualification Board to establish a program of continuing education for those people who are certified by the Board to enforce the North Carolina State Building Code. The proposed committee substitute removes the fee provisions. The bill becomes effective for certificates issued or renewed on and after October 1, 1999. The bill will need to be re-referred to appropriations.

CURRENT LAW: A person must be certified by the North Carolina Code Officials Qualification Board before the person may enforce the North Carolina Building Code. There are different certificates issued for various levels and classes of buildings and structures. Code enforcement includes examining and approving plans and specifications, inspecting construction, workmanship, and materials used in the construction of buildings, and enforcing the fire code regulations. Most, if not all, of these code officials are employed by city and county inspection departments. The fee to obtain a certificate may not exceed $20.00. The certificate must be renewed on or before July 1 of each year. To renew a certificate, a person must pay a renewal fee. The fee for renewal may not exceed $10.00. The revenue generated by the fees is credited to the Department of Insurance Fund.

BILL ANALYSIS: House Bill 312 would establish continuing education courses as a prerequisite to certificate renewal. The Board would establish the number of credit hours needed to renew a certificate. The bill provides that the number of credit hours required each year could not exceed six hours.

The bill also allows the Board to require a person who earns a standard certificate under the prequalification program to complete up to six hours of courses in professional development, in each technical area of certification, within one year after the person is first employed by a city or county inspection department. The prequalification program allows a person who is newly hired or newly promoted to a position that requires a standard certification to perform the job without the standard certificate. The Board issues the person a probationary or temporary certificate. The Board may issue these certificates for a period up to three years and it may place whatever special conditions or requirements on the certificate that it deems necessary to protect the public safety and health.

Lastly, the bill allows the Board to require the completion of professional development courses as a condition of reactivating a standard or limited certificate. A person has one year to complete the courses after being reemployed as a Code official. The number of hours the person will need to complete varies

depending upon how long the person has been on an inactive status and whether the person has been continuously employed by a city or county inspection department during the period of inactive status.

The Department of Insurance plans to finance the professional development program through appropriations from the Department of Insurance Fund. Section 2 of the bill authorizes money in the Fund to be used for this purpose. Section 3 of the bill appropriates $100,000 from the Department of Insurance Fund to the Department of Insurance for the 1999-2000 fiscal year to be used to develop and implement the Code officials professional development program. This section of the bill becomes effective July 1, 1999.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 269 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE TOWN OF HUNTERSVILLE TO MAKE ADDITIONAL VOLUNTARY SATELLITE ANNEXATIONS IF CERTAIN CRITERIA ARE MET.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 269

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

S269-ARB-1

Date_____,1999

Comm. Sub. [ ]
Amends Title [ ]

Representative_____

moves to amend the bill on page 1, line 13, by rewriting the line to read:

"as the annexing municipality and in an area that another city in that county has:".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if **Senate** Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 269
Proposed House Committee Substitute S269-PCS6602-RB

Short Title: Huntersville Satellite Annexation. (Local)

Sponsors:

Referred to:

March 8, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF HUNTERSVILLE TO MAKE ADDITIONAL VOLUNTARY SATELLITE ANNEXATIONS IF CERTAIN CRITERIA ARE MET.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-58.1(b) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

(1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city. Notwithstanding this subdivision, if an area proposed for annexation is located entirely within the same county as the annexing municipality and in an area that another city in that county has: (i) agreed not to annex, or (ii) has given the annexing city the right of annexation under an agreement with the annexing city under Part 6 of this Article or similar local legislation authorizing such agreements, then this subdivision shall not apply.

(2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city. Notwithstanding this subdivision, if an area proposed for annexation under this Part is either: (i) in an area that another city has agreed not to annex

under an agreement with the annexing city under Part 6 of this Article or similar local legislation authorizing such agreements and the territory to be annexed is within the same county as the annexing city is located, or (ii) the closer city is located entirely within another county than the area being annexed, then the proximity to that other city shall not be considered in applying this subdivision.

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision which is located within the same county as the annexing municipality must be included.

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city."

Section 2. This act applies to the Town of Huntersville only.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 269

Short Title: Huntersville Satellite Annexation. (Local)

Sponsors: Senators Odom; Dannelly and Jordan.

Referred to: Finance.

March 8, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF HUNTERSVILLE TO MAKE ADDITIONAL VOLUNTARY SATELLITE ANNEXATIONS IF CERTAIN CRITERIA ARE MET.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-58.1(b) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

(1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city. Notwithstanding this subdivision, if an area proposed for annexation is located entirely within the same county as the annexing municipality and in an area that another city has: (i) agreed not to annex, or (ii) has given the annexing city the right of annexation under an agreement with the annexing city under Part 6 of this Article or similar local legislation authorizing such agreements, then this subdivision shall not apply.

(2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city. Notwithstanding this subdivision, if an area proposed for annexation under this Part is either: (i) in an area that another city has agreed not to annex under an agreement with the annexing city under Part 6 of this Article or similar local legislation authorizing such agreements and

the territory to be annexed is within the same county as the annexing city is located, or (ii) the closer city is located entirely within another county than the area being annexed, then the proximity to that other city shall not be considered in applying this subdivision.

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision which is located within the same county as the annexing municipality must be included.

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city."

Section 2. This act applies to the Town of Huntersville only.

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

SENATE BILL 269:
Huntersville Satellite Annexation

BILL ANALYSIS

Committee: House Finance
Date: April 1, 1999
Version: 1st Edition

Introduced by: Sen. Odom
Summary by: Cindy Avrette
Committee Counsel

SUMMARY: Senate Bill 269 authorizes the Town of Huntersville to make certain voluntary satellite annexations that it would not otherwise be able to make. House Bill 377, the Senate's companion bill, is also in the House Finance Committee. Rep. Saunders introduced House Bill 377. It received a favorable report from the Local Government I Committee. The bill becomes effective when it becomes law.

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation of noncontiguous property. Property owners may petition a city for voluntary annexation of noncontiguous property if the property meets all of the following standards.

1. The nearest point on the proposed satellite corporate limits must be not more than 3 miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation is a subdivision, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

BILL ANALYSIS: Senate Bill 269 modifies the first, second, and fourth standards for the Town of Huntersville so that it may annex property that meets the following standards:

1. The proposed area to be annexed may be more than 3 miles from the primary corporate limits of Huntersville if it is located within the same county as Huntersville and another city has agreed not to annex the area or has agreed to give Huntersville the right to annex.
2. The proposed area to be annexed may be closer to the primary corporate limits of another city than to the limits of Huntersville if either the other city has agreed not to annex the proposed area and the area is within the same county as Huntersville or the closer city is located entirely within another county than the proposed area being annexed.
3. If the proposed area to be annexed includes a subdivision or a portion of a subdivision, then only that portion of the subdivision located in the same county as Huntersville must be included in the annexation.

The bill does not release the proposed satellite annexation from meeting the other two standards listed in G.S. 160A-58.1(b).

TECHNICAL CONSIDERATION: The Town of Huntersville attorney requested that the bill be amended on Page 1, line 13, to limit the applicability of the bill to agreements between towns in Mecklenburg County. The House Local Government I Committee made this change in the House bill.

This summary was contributed to by Martha Walston.
S269-SMRB-1

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
S.B. 270 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE TOWN OF HUNTERSVILLE TO PROVIDE FOR VOLUNTARY ANNEXATION OF PROPERTY SUBJECT TO PRESENT-USE VALUE APPRAISAL.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 3

SENATE BILL 270
Finance Committee Substitute Adopted 3/10/99
Third Edition Engrossed 3/17/99

Short Title: Huntersville Voluntary Annexation. (Local)

Sponsors:

Referred to:

March 8, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF HUNTERSVILLE TO PROVIDE FOR VOLUNTARY ANNEXATION OF PROPERTY SUBJECT TO PRESENT-USE VALUE APPRAISAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-31 is amended by adding new subsections to read:

"(e1) Notwithstanding subsection (e) of this section, an annexation becomes effective as to the property pursuant to subsection (e2) if an area described in the annexation petition and ordinance includes agricultural land, horticultural land, or forestland, that on the effective date of annexation is:

(1) Land that is being taxed at present-use value pursuant to G.S. 105-277.4; or

(2) Land that:

a. Was on the date of the filing of the petition for annexation being used for actual production and is eligible for present-use value taxation under G.S. 105-277.4, but the land has not been in use for actual production for the required time under G.S. 105-277.3; and

b. The assessor for the county where the land subject to annexation is located has certified to the city that the land meets the requirements of this subdivision.

(e2) Annexation of property subject to annexation under subsection (e1) of this section shall become effective as to each tract of such property or such part thereof on the last day of the month in which that tract or part thereof becomes ineligible for classification pursuant to G.S. 105-227.4 and no longer meets the requirements of subdivision (e1)(2) of this section. Until annexation of a tract or a part of a tract becomes effective pursuant to this subsection, the tract or part of a tract is not subject to taxation by the city under Article 12 of Chapter 105 of the General Statutes, nor is the tract or part of the tract entitled to services provided by the city. When annexation becomes effective pursuant to this subsection as to a tract or part of a tract, the city shall provide all required services upon payment of city taxes.

(e3) The boundaries of the property prior to the effective date under subsection (e2) of this section shall be considered as primary corporate limits only (i) for the purpose of establishing city boundaries for additional annexations pursuant to this Article and (ii) for the exercise of city authority pursuant to Article 19 of this Chapter."

Section 2. This act applies to the Town of Huntersville only.

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

SENATE BILL 270:
Huntersville Voluntary Annexation

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Odom
Date:	April 1, 1999	**Summary by:**	Cindy Avrette
Version:	3rd Edition		Committee Counsel

SUMMARY: Senate Bill 270 would allow Huntersville to annex property subject to present use value classification upon a petition of the property owners. Unlike general law, this bill would allow the annexation to become effective at whatever point in time the property becomes ineligible for present use value classification. However, for purposes of the Town's extraterritorial jurisdiction and other annexing proceedings, the property would be considered part of the Town's primary corporate limits. The act becomes effective when it becomes law.

CURRENT LAW: The law provides that a municipality may annex by ordinance any area contiguous to its boundaries upon presentation to the governing board of a petition signed by the owners of all the real property located in the area. The annexation must become effective within six months from the date of the passage of the ordinance. From and after the effective date of the ordinance, the property becomes subject to municipal taxes and the municipality must offer the area the same privileges and benefits as other parts of the municipality receive.

A municipality may annex property that is not contiguous with its primary corporate limits if five different standards are met. Two of the five standards concern the proximity of the property proposed to be annexed to the primary corporate limits of the annexing city. One of the five standards provides that the area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, does not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

A municipality may annex property involuntarily if several different requirements are met. One of the requirements concerns the location of the property in relationship to the municipality's existing corporate boundaries: the area proposed to be annexed must be adjacent or contiguous to the municipality's boundaries and at least 1/8 of the aggregate external boundaries of the area must coincide with the municipal boundary.

Article 19 of the Chapter 160A of the General Statutes allows a municipality to enact zoning restrictions within its corporate limits. In addition, any municipality may exercise these same powers within a defined area extending not more than one mile beyond its limits. This is commonly known as the municipality's extraterritorial jurisdiction (ETJ). With the approval of the board of county commissioners, a municipality with a population greater than 10,000 but less than 25,000 may expand its

ETJ to two miles beyond its corporate limits; a municipality with a population of 25,000 or more may expand its ETJ to three miles beyond its corporate limits.

Article V, Section 2 of the North Carolina Constitution authorizes the General Assembly to classify property for taxation, so long as the classification is uniform throughout the State. In 1973, the General Assembly classified agricultural land, forestland, and horticultural land as a special class of property. To come within the classification, the property must meet certain ownership, usage, and income requirements. If the property comes within the classification, it is taxed on its present-use value as opposed to its true value. Present-use value is the value of the land in its current use as farmland.

BILL ANALYSIS: Senate Bill 270 would change the current law concerning annexation by petition for the Town of Huntersville. Under the bill, the effective date of an annexation ordinance could be at an indeterminable point in time in the future, as opposed to within six months after the passage of the annexation ordinance. The property in the annexation petition would not be subject to municipal taxes nor would it be entitled to municipal service until the effective date of the annexation. However, the property would be considered part of the municipality's primary corporate limits as of the effective date of the ordinance for purposes of establishing the Town's boundaries for additional annexations and its ETJ.

To come within the exception created by this local act, the property must be one of two types of property:

1. It must be currently classified as farmland and taxed at its present-use value.
2. It must be land that, on the date of the filing of the annexation petition, is being used for farm purposes and is eligible for the present-use value taxation except that it has not been in use for actual production for the required statutory time. The county tax assessor must certify that the land meets this requirement.

Annexation of the present-use value property described above becomes effective on the last day of the month in which the property no longer meets the above descriptions. Prior to the effective date of annexation, the boundaries of this property would be considered in establishing the primary corporate limits of Huntersville for the purposes of additional annexations and the Town's ETJ limits.

If the property in the annexation ordinance was determined to be part of the Town's corporate limits for all purposes on the date the ordinance was adopted, then the bill would probably be considered unconstitutional because it is a local classification of property for purposes of taxation. Such local, non-uniform, classifications of property are prohibited by Article V, Section 2 of the North Carolina Constitution. The classification that would be created by the local act is the exemption from municipal property taxes in the Town of Huntersville of present-use value property. However, if the bill was seen as creating a condition precedent to annexation, then the bill would probably withstand constitutional challenge. The condition precedent to annexation established in the bill is the taxable status of certain land – when the property currently classified as farmland no longer meets that property tax classification.

This summary was contributed to by Martha Walston.

S270-SMRB-1

VISITOR REGISTRATION SHEET

FINANCE
Name of Committee

4/1/99
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
John Rust	NCFPC
Ch Dail	NCFPC
Harmon Byrd	NCDOA-SCO
Alice Garland	Electricities
Mary Cirinlia	Mecklenburg County
And. Romanet	N.C.L.M.
DAschei1 Propes	NCDOI
Jim Bradley	NCDOT
Henry Ludwig Jr	NCDOI
Chris Sinclair	NCMHL
Tim KENT	Am. Institute of Architects
Mark Cannets	[illegible]
WS Hale	NCDOI
[illegible]	[illegible]
[illegible]	[illegible]

VISITOR REGISTRATION SHEET

FINANCE
Name of Committee

4-1-99
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Eugene Bone	Bone & Assoc.
Jim Blackburn	NC Association of County Commissioners
Walker Pria	Charlotte Chamber
Katherine Daire	ElectriCities
Stephanie Mann	NC Assoc. of Realtors
David Simmons	ZDA, PA

AGENDA

HOUSE FINANCE COMMITTEE

Thursday, April 8, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

SB 29 - Cosmetology Fees – Sen. Kerr
HB 105 – Butner Community Governance – Rep. Crawford
HB 301 – Auctioneer Education Requirements – Rep. Culpepper
HB 648 - Benson Charter Revised – Rep. Daughtry

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Thursday, April 8, 1999

The House Committee on Finance met on Thursday, April 8, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke, Miller; Vice Chair Jarrell; Representatives, Bridgeman, Brown, Buchanan, Capps, Church, Cox, Cunningham, Decker, Dedmon, Eddins, Edwards, Gibson, Goodwin, Gray, Hackney, Hill, McCombs, Morris, Mosley, Rayfield, Tucker, Womble. Staff including Cindy Avrette, Richard Bostic, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Luebke called the meeting to order to consider the following bills:

Senator Kerr was recognized to explain SB 29, A BILL TO BE ENTITLED AN ACT TO INCREASE THE EXAMINATION FEES COLLECTED UNDER THE COSMETIC ART ACT. Rep. Womble expressed his concerns over the fee increase. The Chair recognized Mr. Doug Van Essen, the Director of the Cosmetology Board and Ms. Bernetta Smith, the Operations Officer for the Cosmetology Board. Mr. Van Essen and Ms. Smith supported the bill and responded to committee members' questions. Rep. Hill moved for a favorable report, but was not voted on. Rep. Cunningham sent forward an amendment which amended p.1, line 12 by deleting "July 1, 1999" and substituting "July 1, 2000". The amendment was accepted. Rep. Hill moved to roll the amendment into the Proposed Committee Substitute and report the Proposed Committee Substitute as favorable and unfavorable as to original bill. The motion passed. Copies of the original Bill, Committee Substitute, Cunningham's amendment, Bill Analysis, Fiscal Note, and Cosmetology Board handouts are included in the Minutes.

Representative Daughtry was recognized to explain HB 648, A BILL TO BE ENTITLED AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF BENSON. Rep. Daughtry stated the town manager and attorney of Benson were present and that he knew of no opposition to HB 648. Rep. Brown moved to give the Proposed Committee Substitute a favorable report and unfavorable as to original bill. The motion passed. The Committee Substitute rewrites Article IX of Section 1 of the bill. Copies of the original Bill and Committee Substitute are included in the Minutes.

Representative Crawford was recognized to explain HB 105, A BILL TO BE ENTITLED AN ACT TO CREATE THE BUTNER ADVISORY COUNCIL AND TO ALLOW CERTAIN FEES TO BE PLACED IN A SPECIAL FUND FOR THE BUTNER PUBLIC SAFETY DIVISION. Rep. Crawford explained the uniqueness of Butner, including that it is owned by the State of North Carolina and is controlled by the Department of Human Resources. It has sixteen institutions, including mental institutions and federal prisons. Butner has a population of about 5,000 people and 5,000 to 6,000 more people in the institutions. Cindy Avrette, of the Research Staff, explained that the Proposed Committee Substitute makes three substantive changes:

1. Repeals the appointed council when the elected council comes into being.

2. Clarifies that one of the powers of the board would be to submit names from which the town manager would be selected when there is a vacancy in that position.
3. In the part creating the special fund, the PCS clarified what tax is meant. It is a tax the General Assembly enacted in 1983 on the residents of Butner of twenty cents.

Rep. Allen made a motion for a favorable report, but not voted on. Rep. Womble asked what problems the United States Justice Department had with Butner's election of the Advisory Council in 1997? Rep. Luebke answered that staff said the legal point was that Granville County was under the Voting Rights Act of 1965. Therefore, any new electoral process in Granville County has to be precleared through the Justice Dept. This time Butner will get clearance from the Justice Dept, before Butner sets up an election. Rep. Womble pointed out that the bill analysis stated that the U.S. Dept. of Justice found that the 1995 method of at-large elections with staggered terms violated the Voting Rights Act of 1965. Cindy Avrette explained that in 1995 the election was seven at-large positions. Later the U.S. Justice Department said it felt that the at large electoral process violated the Voting Rights Act because of potential polarized voting patterns that occur in Granville County. However the people of Butner, including the current advisory committee, believe that with more information the Justice Dept. may come to a different conclusion. This information includes the true figures of the small population, because when the Justice Dept originally looked at this, the population figures it considered included the people in the institutions as well as the residents of Butner. Also, the fact that there are no towns in Granville County with districts, etc., may result in a different conclusion from the Justice Dept. The bill before the Committee specifies that there can be no election until this matter has been pre-cleared through the Justice Department. Cindy affirmatively confirmed to Rep. Womble's question that when this bill is passed, it would have to be cleared before the Justice Department. Rep. Crawford answered Rep. Jarrell's question regarding the organization of the Butner community. The Chair recognized Mr. Tom McGee, the Butner Town Manager, as supporting HB 105. Rep. Allen moved to report the Proposed Committee Substitute as favorable and the original bill as unfavorable. The motion passed. Copies of original Bill, Proposed Committee Substitute, and Bill Analysis are included in the Minutes.

Representative Culpepper was recognized to explain HB 301, A BILL TO BE ENTITLED AN ACT TO AMEND THE EDUCATIONAL REQUIREMENTS FOR AUCTIONEERS, APPRENTICE AUCTIONEERS, AND PRINCIPALS IN AN AUCTION FIRM. Rep. Buchanan moved to adopt the Proposed Committee Substitute for adoption. The motion passed. The Proposed Committee Substitute updates and rewords the Auctioneer Commission's powers and duties, allows the Auctioneer Commission to assess a civil penalty for prohibited acts, allows the Auctioneer Commission to conduct criminal history record check of applicants for licensure, changes the education requirements to require a high school diploma, rewords several sections, allows the Auctioneer Commission to require annual education requirements, increases the Fund's amount, and increases fees.

Rep. Hackney sent forward three amendments. The first amendment moved to amend the bill on page 3, lines 42-43 by rewriting the lines (see attached amendment #1). The second amendment moved to amend the bill on page 4, line 34 by adding a section (see attached amendment #2). The third amendment moved to amend the bill on page 11, line 32 (see attached amendment #3). The amendments were adopted. The Chair recognized Mr. Bill Forbes, the chairman of the North Carolina Auctioneers Association, who answered committee members' questions. The Chair recognized Jeff Gray, the attorney for the Auctioneers Licensing Board, who offered a definition of the term "moral turpitude" for the members. Rep. Goodwin moved to roll

the amendments into a Committee Substitute and vote as favorable, and unfavorable as to original bill. Copies of the original Bill, Committee Substitute, Hackney's three amendments, Bill Analysis, Fiscal Note, and handout from the Auctioneers Association of North Carolina are included in the Minutes.

There being no further business, the Chair adjourned the meeting at 9:50 a.m.

Respectfully submitted:

Representative Paul Luebke
Chair

Kristen L. Crosson

Kristen L. Crosson
Assistant to the Committee

HOUSE BILL 105:
Butner Community Governance

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Crawford; and Allen
Date:	April 8, 1999	**Summary by:**	Mary Shuping, Research Asst.
Version:	Proposed Comm. Sub: H105-PCSSC-001		Cindy Avrette, Committee Counsel

SUMMARY: ***House Bill 105 establishes the Butner Advisory Council as an elected body. The Council will advise the Secretary of Health and Human Services on the operations of the Camp Butner reservation and the concerns of its residents. House Bill 105 also provides that the public safety fees currently assessed will be placed in a special fund to be used by the Department of Crime Control and Public Safety to fund the Butner Public Safety Division.***

CURRENT LAW: Butner is a community located in parts of Granville and Durham Counties. Several State institutions under the Department of Health and Human Services are located in Butner. The Camp Butner reservation, as it is commonly known, is administered primarily by the Secretary of Health and Human Services. The Secretary has many of the powers given to cities and towns in Chapter 160A of the General Statutes. To give the residents of Butner a voice in the decision making process, the General Assembly created the Butner Planning Council. The council consists of seven members: 3 appointed by the Secretary of Health and Human Services, and 4 appointed by the Granville County Board of Commissioners. The council advises the Secretary on the operations of Butner through the adoption of resolutions and recommends candidates to the Secretary for the position of Butner Town Manager. The council may only *advise* the Secretary.

The Secretary of Crime Control and Public Safety is authorized to employ special police officers for Butner, and also directed to establish an emergency management agency for Butner under the NC Emergency Management Act. To help pay for these services, the General Assembly created the Butner Police and Fire Protection District in 1983 and imposed a tax of 20 cents per $100.00 valuation of all real and personal property in the district. Durham and Granville Counties collect the tax and remit the proceeds to the State Treasurer, who credits the revenue to the General Fund. In 1987, the General Assembly authorized the Department of Crime Control and Public Safety to contract with industries in the vicinity of Butner to provide fire protection services. The contracts must provide for a payment equal to 20 cents per $100.00 assessed valuation. Through the appropriations process, money is appropriated to the Department of Crime Control and Public Safety to fund the Butner Public Safety Division.

BILL ANALYSIS AND BACKGROUND: House Bill 105 reestablishes the Butner Advisory Council as an elected body, as opposed to an appointed body. The 1995 General Assembly provided for the election of council members (SL 95-667). The election was held on November 5, 1996. In February of 1997, the U.S. Department of Justice found that the method of at-large elections with staggered terms violated the Voting Rights Act of 1965. The Department's objections were primarily based on what it felt was a pattern of racially polarized voting in Granville County. In 1997, the General Assembly reinstated

the council as an appointed body (SL 97-59). The members appointed to the council were the people elected to serve on the council in 1996. This bill would reestablish the council as an elected body. Unlike the 1995 legislation, this legislation requires that the election may not be held until after the U.S. Department of Justice has approved the contents of this bill.

The proposed committee substitute provides for the repeal of the appointed council upon the elected members taking office and makes other organizational and stylistic changes. Following is a section-by-section analysis of the proposed committee substitute:

Section 1 sets out the findings of the General Assembly.

Section 2 repeals the existing appointed Butner Planning Council.

Section 3 sets out a new Part entitled "Butner Advisory Council". This Part provides that the Butner Advisory Council is to be elected by the residents of the Butner territorial district. The election is to be nonpartisan and held on a date set by the Granville County Board of Elections after clearance from the federal Department of Justice. The council will continue to consist of 7 members. Section 3 also provides for the terms of the initial council members and the election of a chair by the council members. The council continues to be only advisory in nature.

In addition, Section 3 also sets out the powers and duties of the council. These powers and duties are substantially the same as the powers and duties of the current council and include, advising the Secretary of Health and Human Services by resolution on the operations of Butner, and submitting the names of candidates for the position of Butner Town Manager to the Secretary.

Section 4 makes conforming changes to G.S. 122C-403. This section also reorganizes existing law regarding the Secretary's duty to act on resolutions adopted by the council and the Secretary's authority to appoint the Butner Town Manager.

Section 5 makes conforming changes to G.S. 122C-405.

Section 6 adds new G.S. 122C-411.2, Butner Public Safety Division fees. This section directs that the tax revenue collected in the Butner Police and Fire Protection District, created by S.L 83-830, and the fees collected under contracts for fire protection between industries in the vicinity of Butner and the Department of Crime Control and Public Safety, will be credited to a special fund to be used by the Department of Crime Control and Public Safety to fund the Butner Public Safety Division.

Section 7 continues the Study Commission on the Transfer of Butner Public Safety until December 31, 2001. (The Study Commission is charged with examining the transfer of the responsibility for Butner Public Safety from the Department of Crime Control and Public Safety to other State or local entities; determining the most appropriate way to meets the needs of State institutions and residents that would be affected by a transfer; and, determining the most cost effective means of accomplishing a transfer.)

Section 8 sets out the effective dates. Sections dealing with the election of the council and the establishment of a special fund for the Butner Public Safety Division are effective when they become law. Sections repealing the existing council and making conforming changes are effective when the elected council takes office.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 105
Proposed Committee Substitute H105-PCSA111-SC

Short Title: Butner Community Governance. (Public)

Sponsors:

Referred to:

February 18, 1999

A BILL TO BE ENTITLED

AN ACT TO CREATE THE BUTNER ADVISORY COUNCIL, AND TO ALLOW CERTAIN FEES TO BE PLACED IN A SPECIAL FUND FOR THE BUTNER PUBLIC SAFETY DIVISION.

The General Assembly of North Carolina enacts:

Section 1. The General Assembly finds that the Camp Butner reservation and the Community of Butner, as regulated by Article 6 of Chapter 122C of the General Statutes, is a unique State resource that is and should continue to be administered by the State of North Carolina through the Office of the Secretary of Health and Human Services. The General Assembly finds that there is a resident population in the Community of Butner that, because of the unique relationship between the State of North Carolina and cities and counties, as provided in G.S. 122C-410, does not have elected representation with respect to public services, such as police and fire protection, and the provision of water and sewers, that would normally be under the control of an elected city council or board of county commissioners. The General Assembly finds that the citizens of the Camp Butner reservation should be permitted to elect a representative body to act as the voice of the affected people of Butner in dealing with the State of North Carolina through the Department of Health and Human Services with regard to the provision of public services and planning for the future of the Camp Butner reservation.

Section 2. Part 1A of Article 6 of Chapter 122C of the General Statutes is repealed.

Section 3. Article 6 of Chapter 122C of the General Statutes is amended by adding a Part to read:

"Part 1B. Butner Advisory Council.

"**§ 122C-413. Butner Advisory Council; created.**

(a) There is created a Butner Advisory Council to consist of seven members, to be elected by the residents of the territorial jurisdiction established by G.S. 122C-408(a), at a nonpartisan election administered by the Granville County Board of Elections to be set after preclearance from the federal Department of Justice.

(b) Members of the Butner Advisory Council shall be elected at large, and the election shall be held in accordance with all applicable federal and State constitutional and statutory provisions, including the Voting Rights Act of 1965. For the purpose of elections under this Part, the jurisdiction shall be considered a city under Chapters 160A and 163 of the General Statutes. In accordance with North Carolina law, a candidate for the Butner Advisory Council must be a resident of the territorial jurisdiction established by G.S. 122C-408(a).

(c) The candidates for the Butner Advisory Council shall file their notices of candidacy with the Granville County Board of Elections. Absentee voting by qualified voters residing in the territorial jurisdiction shall be in accordance with G.S. 163-302.

(d) The seven candidates receiving the highest numbers of votes shall be elected for the following terms:

(1) If the election is held in an even-numbered year, the four candidates receiving the highest numbers of votes shall be elected for terms of four years, and the three candidates receiving the next highest numbers of votes shall be elected for terms of two years.

(2) If the election is held in an odd-numbered year, the four candidates receiving the highest numbers of votes shall be elected for terms of five years, and the three candidates receiving the next highest numbers of votes shall be elected for terms of three years.

Biennially thereafter, in each even-numbered year, the members whose terms expire shall be elected to four-year terms.

(e) The Chair of the Butner Advisory Council shall be elected from among its members, shall serve a one-year term, may be reelected, and shall serve at the pleasure of the council.

(f) The Butner Advisory Council shall comply with the applicable and relevant provisions of Parts 1, 2, and 3 of Article 5 of Chapter 160A of the General Statutes with respect to the filling of vacancies and the organization and procedures of the council as if it were a city.

"**§ 122C-413.1. Butner Advisory Council; powers.**

(a) The Butner Advisory Council may advise the Secretary of Health and Human Services, through resolutions adopted by the council, on the operations of the Camp Butner reservation and the concerns of the residents of the Camp Butner reservation in connection with the exercise of the powers granted to the Secretary pursuant to G.S. 122C-403. A resolution adopted pursuant to this subsection shall be delivered to

the Office of the Secretary of Health and Human Services who shall act on the resolution in accordance with G.S. 122C-403(8a).

(b) When a vacancy occurs in the position of Butner Town Manager, the Butner Advisory Council shall submit the names of three candidates for the position to the Secretary of Health and Human Services. The candidates shall meet the qualifications set by the State Personnel Commission for the position. The Butner Town Manager shall be selected by the Secretary of Health and Human Services pursuant to G.S. 122C-403(9a)."

Section 4. G.S. 122C-403 reads as rewritten:

"**§ 122C-403. Secretary's authority over Camp Butner reservation.**

The Secretary shall administer the Camp Butner reservation. In performing this duty, the Secretary has the powers listed below. In exercising these powers the Secretary has the same authority and is subject to the same restrictions that the governing body of a city would have and would be subject to if the reservation was a city, unless this section provides to the contrary. The Secretary may:

(1) Regulate airports on the reservation in accordance with the powers granted in Article 4 of Chapter 63 of the General Statutes.

(2) Take actions in accordance with the general police power granted in Article 8 of Chapter 160A of the General Statutes.

(3) Regulate the development of the reservation in accordance with the powers granted in Article 19, Parts 2, 3, ~~3A, 3B,~~ 3C, 5, 6, and 7, of Chapter 160A of the General Statutes. The Secretary may not, however, grant a special use permit, a conditional use permit, or a special exception under Part 3 of that Article. In addition, the Secretary is not required to notify landowners of zoning classification actions under G.S. 160A-384, and the protest petition requirements in G.S. 160A-385, and 160A-386 do not apply. The Secretary may ~~appoint~~ designate the Butner ~~Planning~~ Advisory Council to act like a Board of Adjustment to make recommendations to the Secretary concerning implementation of plans for the development of the reservation. When acting as a Board of Adjustment, the Butner ~~Planning~~ Advisory Council shall be subject to subsections (b), (c), (d), (f), and (g) of G.S. 160A-388.

(4) Establish one or more planning agencies in accordance with the power granted in G.S. 160A-361 or designate the Butner ~~Planning~~ Advisory Council as the planning agency for the reservation.

(5) Regulate streets, traffic, and parking on the reservation in accordance with the powers granted in Article 15 of Chapter 160A of the General Statutes.

(6) Control erosion and sedimentation on the reservation in accordance with the powers granted in G.S. 160A-458 and Article 4 of Chapter 113A of the General Statutes.

(7) Contract with and undertake agreements with units of local government in accordance with the powers granted in G.S. 160A-

413 and Article 20, Part 1, of Chapter 160A of the General Statutes.

(8) Regulate floodways on the reservation in accordance with the powers granted in G.S. 160A-458.1 and Article 21, Part 6, of Chapter 143 of the General Statutes.

(8a) Act on resolutions adopted by the council pursuant to G.S. 122C-413.1(a). If the Secretary approves the resolution, it shall be carried out by the Butner Town Manager. The Secretary shall have no more than 30 days during which to disapprove any recommendation of the council contained in the resolution. Any disapproval shall be in writing, stating the reasons for the disapproval, and shall be returned to the council. If the Secretary does not disapprove a recommendation of the council within the prescribed period, the recommendation shall be deemed approved by the Secretary and shall be carried out by the Butner Town Manager.

(9) Assign duties given by the statutes listed in the preceding subdivisions to a local official to the Butner Town Manager. ~~Manager who shall be hired upon the recommendation of the Butner Planning Council and shall be assigned to the Office of the Secretary of Health and Human Services. The Butner Planning Council shall submit the names of three candidates for the position of Butner Town Manager to the Secretary of Health and Human Services and the Secretary shall select one of the candidates. The candidates shall meet the qualifications set by the State Personnel Commission for the position. The Butner Town Manager shall serve at the pleasure of the Secretary. The Secretary shall, through the Butner Town Manager, provide all necessary administrative assistance to the council in carrying out its duties.~~

(9a) Select the Butner Town Manager from the candidates submitted by the council pursuant to G.S. 122C-413.1(b). The Butner Town Manager shall serve at the pleasure of the Secretary. The Secretary shall, through the Butner Town Manager, provide all necessary administrative assistance to the council in carrying out its duties.

(10) Adopt rules to carry out the purposes of this Article."

Section 5. G.S. 122C-405 reads as rewritten:

"**§ 122C-405. Procedure applicable to rules.**

Rules adopted by the Secretary under this Article shall be adopted in accordance with the procedures for adopting a city ordinance on the same subject, shall be subject to review in the manner provided for a city ordinance adopted on the same subject, and shall be enforceable in accordance with the procedures for enforcing a city ordinance on the same subject. Violation of a rule adopted under this Article is punishable as provided in G.S. 122C-406.

Rules adopted under this Article may apply to part or all of the Camp Butner reservation. If a public hearing is required before the adoption of a rule, the ~~Butner Planning Council~~ Butner Advisory Council shall conduct the hearing."

Section 6. Part 1 of Article 6 of Chapter 122C is amended by adding a new section to read:

"**§ 122C-411.2. Butner Public Safety Division fees.**

The proceeds from the tax levied pursuant to S.L. 83-830 on real and personal property located in the Butner Police and Fire Protection District and fees collected under contracts entered into pursuant to G.S. 122C-411 shall be placed in a special fund to be used by the Department of Crime Control and Public Safety to fund the Butner Public Safety Division."

Section 7. The Study Commission on the Transfer of Butner Public Safety, created by Section 20.5 of Chapter 324 of the 1995 Session Laws and as amended by Section 7 of Chapter 667 of the 1995 Session Laws, is continued through December 31, 2001. The funds appropriated for the operation of the Commission by that section, and remaining unexpended, shall not revert and shall remain available to the Commission to continue its work. The Commission shall provide legislative oversight to ensure compliance with the provisions of this act.

Section 8. Sections 1, 3, and 6 through 8 of this act are effective when they become law. Sections 2, 4, and 5 of this act become effective when the members of the Butner Advisory Council created pursuant to G.S. 122C-413 as enacted by this act have been elected and qualified.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 105

Short Title: Butner Community Governance. (Public)

Sponsors: Representatives Crawford; and Allen (Primary Sponsors).

Referred to: Finance.

February 18, 1999

A BILL TO BE ENTITLED

AN ACT TO CREATE THE BUTNER ADVISORY COUNCIL AND TO ENUMERATE ITS DUTIES.

Whereas, the 1995 General Assembly created a Study Commission on the Transfer of Butner Public Safety Division to review the costs and provision of public safety services to the residents and public agencies at the Camp Butner reservation located, for the most part, in Granville and Durham Counties; and

Whereas, the Study Commission held meetings at Butner, toured the residential areas and the State and federal facilities located there, and determined that the Camp Butner reservation is a unique State resource requiring a novel approach to its governance and operations; and

Whereas, the Study Commission determined that the residents of the Camp Butner reservation desire increased involvement and input into the provision of the "municipal" services and planning for the future of Camp Butner, and that the concentration of State and federal facilities located at Butner are currently receiving "municipal" services from the State of North Carolina; and

Whereas, under current statutes, the State of North Carolina provides "municipal" services through the Department of Health and Human Services; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The General Assembly finds that the Camp Butner reservation and the Community of Butner, as regulated by Article 6 of Chapter 122C of the General Statutes, is a unique State resource that is and should continue to be administered by the State of North Carolina through the Office of the Secretary of

Health and Human Services. The General Assembly finds that there is a resident population in the Community of Butner that, because of the unique relationship between the State of North Carolina and cities and counties, as provided in G.S. 122C-410, does not have elected representation with respect to public services, such as police and fire protection, and the provision of water and sewers, that would normally be under the control of an elected city council or board of county commissioners. The General Assembly finds that the citizens of the Camp Butner reservation should be permitted to elect a representative body to act as the voice of the affected people of Butner in dealing with the State of North Carolina through the Department of Health and Human Services with regard to the provision of public services and planning for the future of the Camp Butner reservation.

Section 2. Article 6 of Chapter 122C of the General Statutes is amended by adding a Part to read:

"Part 1B. Butner Advisory Council.

"§ 122C-415. Butner Advisory Council; created.

(a) There is created a Butner Advisory Council to consist of seven members, to be elected by the residents of the territorial jurisdiction established by G.S. 122C-408(a), at a nonpartisan election administered by the Granville County Board of Elections to be set after clearance from the federal Department of Justice.

(b) Members of the Butner Advisory Council shall be elected at large, and the election shall be held in accordance with all applicable federal and State constitutional and statutory provisions, including the Voting Rights Act of 1965. For the purpose of elections under this Part, the jurisdiction shall be considered a city under Chapters 160A and 163 of the General Statutes. In accordance with North Carolina law, a candidate for the Butner Advisory Council must be a resident of the territorial jurisdiction established by G.S. 122C-408(a).

(c) The candidates for the Butner Advisory Council shall file their notices of candidacy with the Granville County Board of Elections. Absentee voting by qualified voters residing in the territorial jurisdiction shall be in accordance with G.S. 163-302.

(d) The seven candidates receiving the highest numbers of votes shall be elected for the following terms:

(1) If the election is held in an even-numbered year, the four candidates receiving the highest numbers of votes shall be elected for terms of four years, and the three candidates receiving the next highest numbers of votes shall be elected for terms of two years.

(2) If the election is held in an odd-numbered year, the four candidates receiving the highest numbers of votes shall be elected for terms of five years, and the three candidates receiving the next highest numbers of votes shall be elected for terms of three years.

Biennially thereafter, in each even-numbered year, the members whose terms expire shall be elected to four-year terms.

(e) The Chair of the Butner Advisory Council shall be elected from among its members, shall serve a one year term, may be reelected, and shall serve at the pleasure of the council.

(f) The Butner Advisory Council shall comply with the applicable and relevant provisions of Parts 1, 2, and 3 of Article 5 of Chapter 160A of the General Statutes with respect to the filling of vacancies and the organization and procedures of the council as if it were a city.

"§ 122C-415.1. Butner Advisory Council; powers.

(a) The Butner Advisory Council may advise the Secretary of Health and Human Services, through resolutions adopted by the council, on the operations of the Camp Butner reservation and the concerns of the residents of the Camp Butner reservation in connection with the exercise of the powers granted to the Secretary pursuant to G.S. 122C-403.

(b) When the council adopts a resolution relating to one of the specific powers referenced in G.S. 122C-403 and delivers the resolution to the Office of the Secretary of Health and Human Services, the Secretary may approve the resolution, and it shall be carried out by the Butner Town Manager. The Secretary shall have no more than 30 days during which to disapprove any recommendation of the council contained in the resolution. Any disapproval shall be in writing, stating the reasons for the disapproval, and shall be returned to the council. If the Secretary does not disapprove a recommendation of the council within the prescribed period, the recommendation shall be deemed approved by the Secretary and shall be carried out by the Butner Town Manager."

Section 3. G.S. 122C-403 reads as rewritten:

"**§ 122C-403. Secretary's authority over Camp Butner reservation.**

The Secretary shall administer the Camp Butner reservation. In performing this duty, the Secretary has the powers listed below. In exercising these powers the Secretary has the same authority and is subject to the same restrictions that the governing body of a city would have and would be subject to if the reservation was a city, unless this section provides to the contrary. The Secretary may:

(1) Regulate airports on the reservation in accordance with the powers granted in Article 4 of Chapter 63 of the General Statutes.

(2) Take actions in accordance with the general police power granted in Article 8 of Chapter 160A of the General Statutes.

(3) Regulate the development of the reservation in accordance with the powers granted in Article 19, Parts 2, 3, 3A, 3B, 5, 6, and 7, of Chapter 160A of the General Statutes. The Secretary may not, however, grant a special use permit, a conditional use permit, or a special exception under Part 3 of that Article. In addition, the Secretary is not required to notify landowners of zoning classification actions under G.S. 160A-384, and the protest petition requirements in G.S. 160A-385, and 160A-386 do not apply. The Secretary may appoint the Butner ~~Planning~~ Advisory Council to act like a Board of Adjustment to make recommendations to the

Secretary concerning implementation of plans for the development of the reservation. When acting as a Board of Adjustment, the Butner ~~Planning~~ Advisory Council shall be subject to subsections (b), (c), (d), (f), and (g) of G.S. 160A-388.

(4) Establish one or more planning agencies in accordance with the power granted in G.S. 160A-361 or designate the Butner ~~Planning~~ Advisory Council as the planning agency for the reservation.

(5) Regulate streets, traffic, and parking on the reservation in accordance with the powers granted in Article 15 of Chapter 160A of the General Statutes.

(6) Control erosion and sedimentation on the reservation in accordance with the powers granted in G.S. 160A-458 and Article 4 of Chapter 113A of the General Statutes.

(7) Contract with and undertake agreements with units of local government in accordance with the powers granted in G.S. 160A-413 and Article 20, Part 1, of Chapter 160A of the General Statutes.

(8) Regulate floodways on the reservation in accordance with the powers granted in G.S. 160A-458.1 and Article 21, Part 6, of Chapter 143 of the General Statutes.

(9) Assign duties given by the statutes listed in the preceding subdivisions to a local official to the Butner Town Manager who shall be hired upon the recommendation of the Butner ~~Planning~~ Advisory Council and shall be assigned to the Office of the Secretary of Health and Human Services. The Butner ~~Planning~~ Advisory Council shall submit the names of three candidates for the position of Butner Town Manager to the Secretary of Health and Human Services and the Secretary shall select one of the candidates. The candidates shall meet the qualifications set by the State Personnel Commission for the position. The Butner Town Manager shall serve at the pleasure of the Secretary. The Secretary shall, through the Butner Town Manager, provide all necessary administrative assistance to the council in carrying out its duties.

(10) Adopt rules to carry out the purposes of this Article."

Section 4. G.S. 122C-405 reads as rewritten:

"**§ 122C-405. Procedure applicable to rules.**

Rules adopted by the Secretary under this Article shall be adopted in accordance with the procedures for adopting a city ordinance on the same subject, shall be subject to review in the manner provided for a city ordinance adopted on the same subject, and shall be enforceable in accordance with the procedures for enforcing a city ordinance on the same subject. Violation of a rule adopted under this Article is punishable as provided in G.S. 122C-406.

Rules adopted under this Article may apply to part or all of the Camp Butner reservation. If a public hearing is required before the adoption of a rule, the ~~Butner Planning Council~~ Butner Advisory Council shall conduct the hearing."

Section 5. Part 1 of Article 6 of Chapter 122C is amended by adding a new section to read:

"**§ 122C-411.1. Butner Public Safety Division fees.**

All public safety fees assessed in the territorial jurisdiction established in G.S. 122C-408(a) and fees collected under contracts entered into pursuant to G.S. 122C-411 shall be placed in a special fund to be used by the Department of Crime Control and Public Safety to fund the Butner Public Safety Division."

Section 6. The Study Commission on the Transfer of Butner Public Safety, created by Section 20.5 of Chapter 324 of the 1995 Session Laws and as amended by Section 7 of Chapter 667 of the 1995 Session Laws, is continued through December 31, 2001. The funds appropriated for the operation of the Commission by that section, and remaining unexpended, shall not revert and shall remain available to the Commission to continue its work. The Commission shall provide legislative oversight to ensure compliance with the provisions of this act.

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

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 301 A BILL TO BE ENTITLED AN ACT TO AMEND THE EDUCATIONAL REQUIREMENTS FOR AUCTIONEERS, APPRENTICE AUCTIONEERS, AND PRINCIPALS IN AN AUCTION FIRM.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 301

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H301-ASC-001.1 Page 1 of __

Date 4/6/99 ,1999

Comm. Sub. [YES]
Amends Title []
H301-PCSSC-001

Representative _____

moves to amend the bill on page 3, lines 42 through 43 by rewriting the lines to read:
"reveals one or more convictions of a crime that is punishable as a felony offense, or the conviction of any crime involving fraud or moral turpitude, the Commission may deny the applicant's license. However,the conviction shall not automatically prohibit licensure, and the following factors".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 301

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H301-ASC-001.1

Page 1 of __

Date_____,1999

Comm. Sub. [YES]
Amends Title []
H301-PCSSC-001

Representative_____

moves to amend the bill on page 3, lines 42 through 43 .
by rewriting the lines to read:
"reveals one or more convictions of a crime that is punishable as a felony offense, or the conviction of any crime involving fraud or moral turpitude, the Commission may deny the applicant's license. However,the conviction shall not automatically prohibit licensure, and the following factors".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. H301-PCSSC-001

H. B. No. ~~H~~301 DATE 4/8/99

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE Yes

(Rep.) Sen.) Hackney

moves to amend the bill on page 4, line 34

( ) WHICH CHANGES THE TITLE

by adding the following sentence at the end of that line:

" However, a person licensed under this Chapter prior to July 1, 1999, does not need to meet this requirement. "

SIGNED Hackney

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. H301-PCSSC-001

H. B. No. 301 DATE 4/8/99

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) Hackney
(Sen.)

moves to amend the bill on page 11, line 32

( ) WHICH CHANGES THE TITLE

by rewriting the line to read: 6

"Section 10. Sections 3, 4, and 9 of this act become effective July 1, 1999. Sections 1, 2, 5, 7, and 8 of this act become effective October 1, 1999. The remainder of this act is effective when it becomes law.",

SIGNED Hackney

ADOPTED _____ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 301
Proposed Committee Substitute H301-PCS7148-SC

Short Title: Auctioneer Amendments. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE EDUCATIONAL REQUIREMENTS FOR AUCTIONEERS, APPRENTICE AUCTIONEERS, AND PRINCIPALS IN AN AUCTION FIRM, TO ALLOW THE AUCTIONEERS COMMISSION TO ASSESS A CIVIL PENALTY IN CERTAIN CIRCUMSTANCES, TO INCREASE FEES, AND TO AUTHORIZE CRIMINAL HISTORY CHECKS FOR APPLICANTS FOR AN AUCTIONEER'S LICENSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 85B-3 reads as rewritten:

"**§ 85B-3. Auctioneers Commission.**

(a) There shall be a five-member North Carolina Auctioneers Commission having the powers and responsibilities set out in this Chapter. The Governor shall appoint the members of the Commission, at least three of whom, and their successors, shall be from nominations submitted by the Auctioneers Association of North Carolina. The Auctioneers Association shall submit, within 45 days of when the vacancy occurs, at least three names for each position for which it is entitled to make a nomination. Of the initial five members of the Commission one shall be appointed for a one-year term, two shall be appointed for two-year terms and two for three-year terms; thereafter, each new member shall be appointed for a term of three years. Any vacancy shall be filled for the remainder of the unexpired term only. Each member shall continue in office until his successor is appointed and qualified. No member shall serve more than two complete consecutive terms.

(b) At least three members of the Commission shall be experienced auctioneers who are licensed under this Chapter. One member shall be a person who shall represent the public at large and shall not be licensed under this Chapter.

(c) The Commission shall employ an executive director and other employees as needed to carry out the duties of this Chapter. All employees shall serve at the pleasure of the Commission.

(d) Any action that may be taken by the Commission may be taken by vote of any three of its members.

(e) The members of the Commission shall elect from among themselves a chairman to serve a one-year term. No person shall serve more than two consecutive terms as chairman.

~~(f) The Commission shall receive and act upon applications for auctioneer licenses, issue and suspend and revoke licenses, adopt rules and regulations for auctioneers and auctions that are consistent with the provisions of this Chapter and the General Statutes, and issue declaratory rulings. The Commission may make and enforce reasonable rules and take other actions necessary to administer and enforce the provisions of this Chapter.~~

(g) Members of the Commission shall receive the compensation set for members of occupational licensing boards by G.S. 93B-5."

Section 2. Chapter 85B of the General Statutes is amended by adding a new section to read:

"**§ 85B-3.1. Auctioneers Commission; powers and duties.**

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

(1) To receive and act upon applications for licenses.

(2) To issue licenses.

(3) To deny, suspend, and revoke licenses pursuant to G.S. 85B-8.

(3) To adopt rules for auctioneers and auctions that are consistent with the provisions of this Chapter and the General Statutes.

(4) To issue declaratory rulings.

(b) The Commission may assess a civil penalty not in excess of two thousand dollars ($2,000) for acts prohibited in G.S. 85B-8. All civil penalties collected by the Commission shall be remitted to the school fund of the county in which the violation occurred. Before imposing and assessing a civil penalty and fixing the amount thereof, the Commission shall, as a part of its deliberations, take into consideration the following factors:

(1) The nature, gravity, and persistence of the particular violation.

(2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.

(3) Whether the violation was willful.

(4) Any other factors that would tend to mitigate or aggravate the violations found to exist."

Section 3. Chapter 85B of the General Statutes is amended by adding a new section to read:

"**§ 85B-3.2. Criminal history record checks of applicants for licensure.**

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

(1) Applicant -- An applicant for initial licensure as an auctioneer.

(2) Criminal history -- A State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon an applicant's fitness to be licensed as an auctioneer.

(b) The Commission shall ensure that the State criminal history of an applicant is checked. National criminal history checks are authorized for an applicant who has not resided in the State of North Carolina during the past five years. The Commission shall provide to the North Carolina Department of Justice the fingerprints of the applicant to be checked, a form signed by the applicant to be checked consenting to the check of the criminal history and to the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Justice.

(c) All releases of criminal history information to the Commission shall be subject to, and in compliance with, rules governing the dissemination of criminal history record checks as adopted by the North Carolina Division of Criminal Information. All of the information the Commission receives through the checking of the criminal history is for the exclusive use of the Commission and shall be kept confidential.

(d) If the applicant's verified criminal history record check reveals one or more convictions of a crime that is punishable as a felony offense, or the conviction of any crime involving fraud or moral turptitude, the Commission may deny the applicant's license. However, the conviction shall not automatically prohibit licensure, and the following factors shall be considered by the Commission in determining whether licensure shall be denied:

(1) The level and seriousness of the crime.

(2) The date of the crime.

(3) The age of the person at the time of the crime.

(4) The circumstances surrounding the commission of the crime, if known.

(5) The nexus between the criminal conduct of the applicant and the applicant's duties as an auctioneer.

(6) The prison, jail, probation, parole, rehabilitation, and employment records of the applicant since the date the crime was committed.

(7) The subsequent commission by the person of a crime.

(e) The Commission may deny licensure to an applicant who refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories.

(f) The Commission shall notify the applicant of the applicant's right to review the criminal history information, the procedure for challenging the accuracy of the criminal history, and the applicant's right to contest the Commission's denial of licensure."

Section 4. G.S. 85B-4 reads as rewritten:

"**§ 85B-4. Licenses required.**

(a) No person who is not exempt under G.S. 85B-2, shall sell, or offer to sell, goods or real estate at auction in this State or perform any act for which an auction firm license is required unless the person holds a currently valid license issued under this Chapter.

(b) No person shall be licensed as an apprentice auctioneer, auctioneer, or receive an auction firm license if the person:

(1) Is under 18 years of ~~age;~~ age.

(1a) Is not a high school graduate or the equivalent. However, a person licensed under this Chapter prior to July 1, 1999, does not need to meet this requirement.

(2) Repealed by Session Laws 1983, c. 751, s. 6.

(3) Has within the preceding five years pleaded guilty to, entered a plea of nolo contendere or been convicted of any felony, or committed or been convicted of any act involving fraud or moral ~~turpitude;~~ turpitude.

(4) Has had an auctioneer or apprentice auctioneer or auction firm license ~~revoked; or~~ revoked.

(5) Has, within the preceding five years, committed any act ~~which~~ that constitutes grounds for license suspension or revocation under this Chapter or a Commission rule.

(c) Each applicant for an apprentice auctioneer license shall submit a written application in a form approved by the Commission and containing at least two statements by residents of the community in which the applicant resides attesting to the applicant's good moral character.

(c1) Each apprentice auctioneer application and license shall name a licensed auctioneer to serve as the supervisor of the apprentice. No apprentice auctioneer may enter into an agreement to conduct an auction, or conduct an auction, without the express approval of his supervisor. The supervisor shall review all contracts before approving them and shall regularly review the records his apprentice is required to maintain under G.S. 85B-7 to see that they are accurate and current, and shall perform such other supervisory duties as may be required by the Commission.

(d) No person shall be licensed as an auctioneer unless the person has held an apprentice auctioneer license and served as an apprentice auctioneer for the two preceding years, accumulated sufficient knowledge and experience in such areas of the auctioneer profession as the Commission may deem appropriate, and has taken an examination approved by the Commission and performed on it to the satisfaction of the Commission. The examination shall test the applicant's understanding of the law relating to auctioneers and auctions, ethical practices for auctioneers, the mathematics applicable to the auctioneer business, and such other matters relating to auctions as the Commission considers appropriate. The examination shall be given at least twice each year in Raleigh, and at other times and places the Commission designates, but no person shall be allowed to take the examination within six months after having failed it a second time.

~~Any person who has been in the auctioneer business in this State for at least two years prior to the effective date of this act [July 1, 1973], and who makes proper application to the Commission within one year after July 1, 1973, may be licensed as an auctioneer without holding an apprentice license and serving as an apprentice of two years, and without taking the examination required by this subsection.~~ Any person who has successfully completed the equivalent of at least 80 hours of classroom instruction in a course in auctioneering at an institution ~~approved by the Commission~~ whose curriculum and instructors meet the qualifications approved or established by the Commission may be licensed as an auctioneer without holding an apprentice license and serving as an apprentice for two years, but ~~must~~ shall take the examination required by this subsection and perform on it to the satisfaction of the Commission.

Each applicant for an auctioneer license shall submit a written application in a form approved by the ~~Commission.~~ Commission, pay all applicable fees, and consent in writing to a criminal history check as required by G.S. 85B-3.2. If the applicant has been previously licensed as an apprentice auctioneer, the application shall contain an evaluation by the applicant's supervisor of the applicant's performance as an apprentice auctioneer and the applicant's performance in specific areas as required by the Commission. If the applicant is exempted from apprenticeship after completion of the equivalent of at least 80 hours of classroom instruction in auctioneering, the application shall contain a transcript of the applicant's course work in auctioneering. Each application shall be accompanied by statements of at least two residents of the community in which the applicant resides attesting to the applicant's good moral character. The Commission may require verification of any information included in an application for an auctioneer license and may request other information or verification of information provided to determine whether the applicant possesses the good moral character or other qualifications for licensure.

(e) Each license issued under this Chapter shall be valid from July 1 of the year issued, or from the date issued, whichever is later, to the following June 30 unless sooner revoked or suspended pursuant to this Chapter or a rule of the Commission. A license may be renewed for one year at a time, except an apprentice auctioneer license may not be renewed for more than three times. No examination shall be required for renewal of an auctioneer license if the application for renewal is made within 24 months of the expiration of the previous license.

(e1) The Commission may require licensees to complete annually not more than six hours of Commission-approved continuing education courses prior to license renewal. The Commission may impose different continuing education requirements, including no such requirements, upon the classes of licensees under this Chapter. The Commission may waive any or all continuing education requirements in cases of hardship, disability, or illness, or under other circumstances as the Commission deems appropriate.

(f) No person shall be issued an auctioneer or apprentice auctioneer license until the person has made the contribution to the Fund as required by G.S. 85B-4.1.

(g) An auction firm must be licensed by the Board even though no owner or officer of the firm acts as an auctioneer. To be licensed an auction firm must make the contribution to the Fund as required by G.S. 85B-4.1 and must pay the proper fees as set out in G.S. 85B-6. Auction firms are covered by the provisions of G.S. 85B-8.

An auction firm license issued by the Commission is restricted to the persons named in the license and does not inure to the benefit of any other person. Where a license is issued to an auction firm, authority to transact business under the license is limited to the person or persons designated in the application and named in the license.

The designated person or persons, prior to being licensed, shall be required to take a written examination, approved by the Commission, and demonstrate to the satisfaction of the Commission a thorough understanding of the law relating to the conduct of the auction business and other matters the Commission deems appropriate. An individual who is licensed as an auctioneer and who is the designated person applying for an auction firm license is not required to take the auction firm examination. Licensed real estate brokers and real estate firms may be exempt from the auction firm examination provided they employ or associate themselves with a licensed auctioneer to handle those aspects of the transactions peculiar to the auctioneer profession. Any person or entity, on the effective date of this Chapter, duly licensed as an auction firm in good standing is not required to take any examination in order to maintain or to renew an auction firm license provided that the license does not otherwise expire or lapse and is not suspended or revoked by the Commission.

(h) The Commission shall publish at least once a year a list of names and addresses of all persons, sole proprietorships, partnerships and corporations holding valid apprentice auctioneer, auctioneer, or auction firm licenses.

(i) The Commission may investigate as it deems necessary the ethical background of any applicant for licensure under this Chapter."

Section 5. G.S. 85B-4.1 reads as rewritten:

"**§ 85B-4.1. Auctioneer Recovery Fund.**

(a) In addition to license fees, upon application for a license or renewal of a license, the Commission may charge the applicant or licensee up to fifty dollars ($50.00) per year to be included in the Fund.

(b) The Commission shall maintain at least ~~one~~ two hundred thousand dollars ~~($100,000)~~ ($200,000) in the Fund for use as provided in this Chapter. The Fund may be invested by the State Treasurer in interest bearing accounts, and any interest accrued shall be added to the Fund. Sufficient liquidity shall be maintained to insure that funds will be available to satisfy claims processed through the Board. The Fund may be disbursed by a warrant drawn against the State Treasurer or by other method at the discretion of the State Treasurer.

(c) The Commission, in its discretion, may use contents of the Fund in excess of ~~one~~ two hundred thousand dollars ~~($100,000)~~ ($200,000) for the following purposes:

(1) To promote education and research in the auctioneer profession, in order to benefit persons licensed under this Chapter and to improve the efficiency of the ~~profession;~~ profession.

(2) To underwrite educational seminars, training centers, and other forms of educational projects for the use and benefit of ~~licensees;~~ licensees.

(3) To sponsor, contract for, or underwrite education and research projects in order to advance the auctioneer profession in ~~North Carolina; and~~ North Carolina.

(4) To cooperate with associations of auctioneers, or other groups, in order to promote the enlightenment and advancement of the auctioneer profession in North Carolina."

Section 6. G.S. 85B-6(a) reads as rewritten:

"**§ 85B-6. Fees; local governments not to charge fees or require licenses.**

(a) The Commission shall collect and remit to the State Treasurer fees in an amount not to exceed the following:

Item	Maximum Fee
Apprentice Auctioneers:	
Application for license	~~$50.00~~ $125.00
Issuance or renewal of license	~~50.00~~ 125.00
Auctioneers:	
Application for license	~~50.00~~ 125.00
Examination	~~25.00~~ 75.00
Issuance or renewal of license	~~100.00~~ 250.00
Auction Firms:	
Application for license	~~50.00~~ 125.00
Examination	~~25.00~~ 75.00
Issuance or renewal of license	~~100.00~~ 250.00
Reinstatement of License	~~25.00.~~ 75.00.

An application fee for a license and an examination fee are nonrefundable. The amount payable by a nonresident under G.S. 85B-5 to obtain a nonresident reciprocal auctioneer license is the greater of the amount set in the above table for an examination for and the issuance of an auctioneer's license and the amount the nonresident's state would charge a resident auctioneer of this State to obtain a comparable license from that state.

A reinstatement fee is payable when a person applies for renewal of a license after the license has lapsed for failure to renew it before it expired. The reinstatement of a lapsed license is not retroactive in effect and does not limit the authority of the courts or of the Commission to take disciplinary action against a person who engages in the auctioneer profession with a lapsed license."

Section 7. G.S. 85B-8 reads as rewritten:

"**§ 85B-8. Prohibited acts; assessment of civil penalty; denial, suspension, or revocation of license.**

(a) The following shall be grounds for the assessment of a civil penalty in accordance with G.S. 85B-3.1(b) or the denial, suspension, or revocation of an auctioneer, auctioneer apprentice, or auction firm license:

(1) Any violation of this Chapter or any violation of a rule or regulation duly adopted by the ~~Commission;~~ Commission.

(2) A continued and flagrant course of misrepresentation or making false promises, either by the licensee, an employee of the licensee, or by someone acting on behalf of and with the licensee's ~~consent;~~ consent.

(3) Any failure to account for or to pay over within a reasonable time, not to exceed 30 days, funds belonging to another which have come into the licensee's possession through an auction ~~sale;~~ sale.

(4) Any false, misleading, or untruthful ~~advertising;~~ advertising.

(5) Any act of conduct in connection with a sales transaction which demonstrates bad faith or ~~dishonesty;~~ dishonesty.

(6) Knowingly using false bidders, ~~cappers~~ cappers, or pullers, or knowingly making a material false statement or ~~representation;~~ representation.

(7) Commingling the funds or property of a client with the licensee's own or failing to maintain and deposit in a trust or escrow account in an insured bank or savings and loan association located in North Carolina funds received for another person through sale at ~~auction;~~ auction.

(8) Failure to make the required contribution to the ~~Fund;~~ Fund.

(9) The commission or conviction of a crime that is punishable as a felony offense under the laws of North Carolina or the laws of the jurisdiction where committed or convicted, or the commission of any act involving fraud or moral ~~turpitude;~~ turpitude.

(10) Failure to properly make any disclosures or to provide documents or information required by this Chapter or by the ~~Commission;~~ Commission.

(11) A demonstrated lack of financial responsibility.

(b) to (d) Repealed by Session Laws 1973, c. 1195, s. 5.

(e) The Commission may upon its own motion or upon the complaint in writing of any person, provided the complaint and any evidence presented with it establishes a prima facie case, hold a hearing and investigate the actions of any auctioneer, apprentice auctioneer, or auction firm, or any person who holds himself or herself out as an auctioneer or apprentice auctioneer, and shall have the power to impose a civil penalty on any licensee, suspend or revoke any license issued under the provisions of this Chapter, or to reprimand or censure any licensee. In all proceedings for the imposition of a civil penalty or the denial, suspension, or revocation of licenses, the provisions of Chapter 150B of the General Statutes including provisions relating to summary suspension shall be applicable. Any person who desires to appeal the denial of an application for any license authorized to be

issued under this Chapter shall file a written appeal with the Commission not later than 30 days following notice of denial.

(f) A person whose license has been denied, suspended, or revoked may not apply in that person's name or in any other manner within the period during which the order of denial, suspension, or revocation is in effect, and no firm, partnership, or corporation in which any person has a substantial interest or exercises management responsibility or control may be licensed during the period."

Section 8. G.S. 85B-9(a) reads as rewritten:

"(a) Any person, corporation or association of persons violating the provisions of G.S. 85B-4(a) shall be guilty of a Class 1 misdemeanor. The Attorney General of North Carolina, or the Attorney General's designee, shall have concurrent jurisdiction with the district attorneys of this State to prosecute violations of this Chapter."

Section 9. Article 4 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"**§ 114-19.8. Criminal record checks of applicants for auctioneer license.**

The Department of Justice may provide to the North Carolina Auctioneers Commission from the State and National Repositories of Criminal Histories the criminal history of any applicant for an auctioneer's license under Chapter 85B of the General Statutes. Along with the request, the Commission shall provide to the Department of Justice the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Justice. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a check of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Commission shall keep all information obtained pursuant to this section confidential. The Department of Justice may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

Section 10. Sections 3, 4, 6, and 9 of this act become effective July 1, 1999. Sections 1, 2, and 7 of this act become effective October 1, 1999. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

HOUSE BILL 301

Short Title: Auctioneer Education Requirements. (Public)

Sponsors: Representative Culpepper.

Referred to: Finance.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE EDUCATIONAL REQUIREMENTS FOR AUCTIONEERS, APPRENTICE AUCTIONEERS, AND PRINCIPALS IN AN AUCTION FIRM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 85B-3 reads as rewritten:

"**§ 85B-3. Auctioneers Commission.**

(a) There shall be a five-member North Carolina Auctioneers Commission having the powers and responsibilities set out in this Chapter. The Governor shall appoint the members of the Commission, at least three of whom, and their successors, shall be from nominations submitted by the Auctioneers Association of North Carolina. The Auctioneers Association shall submit, within 45 days of when the vacancy occurs, at least three names for each position for which it is entitled to make a nomination. Of the initial five members of the Commission one shall be appointed for a one-year term, two shall be appointed for two-year terms and two for three-year terms; thereafter, each new member shall be appointed for a term of three years. Any vacancy shall be filled for the remainder of the unexpired term only. Each member shall continue in office until his successor is appointed and qualified. No member shall serve more than two complete consecutive terms.

(b) At least three members of the Commission shall be experienced auctioneers who are licensed under this Chapter. One member shall be a person who shall represent the public at large and shall not be licensed under this Chapter.

(c) The Commission shall employ an executive director and other employees as needed to carry out the duties of this Chapter. All employees shall serve at the pleasure of the Commission.

(d) Any action that may be taken by the Commission may be taken by vote of any three of its members.

(e) The members of the Commission shall elect from among themselves a chairman to serve a one-year term. No person shall serve more than two consecutive terms as chairman.

(f) The Commission shall (i) receive and act upon applications for auctioneer ~~licenses, issue and suspend~~ licenses; (ii) issue, suspend, and revoke ~~licenses,~~ licenses; (iii) set reasonable fines for violating the provisions of this Chapter; (iv) adopt rules and regulations for auctioneers and auctions that are consistent with the provisions of this Chapter and the General ~~Statutes,~~ Statutes; and (v) issue declaratory rulings. The Commission may make and enforce reasonable rules and take other actions necessary to administer and enforce the provisions of this Chapter.

(g) Members of the Commission shall receive the compensation set for members of occupational licensing boards by G.S. 93B-5."

Section 2. G.S. 85B-4 reads as rewritten:

"**§ 85B-4. Licenses required.**

(a) No person who is not exempt under G.S. 85B-2, shall sell, or offer to sell, goods or real estate at auction in this State or perform any act for which an auction firm license is required unless the person holds a currently valid license issued under this Chapter.

(b) No person shall be licensed as an apprentice auctioneer, auctioneer, or receive an auction firm license if the person:

(1) Is under 18 years of ~~age;~~ age.

(1a) Is not a high school graduate or the equivalent.

(2) Repealed by Session Laws 1983, c. 751, s. 6.

(3) Has within the preceding five years pleaded guilty to, entered a plea of nolo contendere or been convicted of any felony, or committed or been convicted of any act involving fraud or moral ~~turpitude;~~ turpitude.

(4) Has had an auctioneer or apprentice auctioneer or auction firm license ~~revoked; or~~ revoked.

(5) Has, within the preceding five years, committed any act ~~which~~ that constitutes grounds for license suspension or revocation under this Chapter or a Commission rule.

(c) Each applicant for an apprentice auctioneer license shall submit a written application in a form approved by the Commission and containing at least two statements by residents of the community in which the applicant resides attesting to the applicant's good moral character.

(c1) Each apprentice auctioneer application and license shall name a licensed auctioneer to serve as the supervisor of the apprentice. No apprentice auctioneer may enter into an agreement to conduct an auction, or conduct an auction, without the

express approval of his supervisor. The supervisor shall review all contracts before approving them and shall regularly review the records his apprentice is required to maintain under G.S. 85B-7 to see that they are accurate and current, and shall perform such other supervisory duties as may be required by the Commission.

(d) No person shall be licensed as an auctioneer unless the person has held an apprentice auctioneer license and served as an apprentice auctioneer for the two preceding years, accumulated sufficient knowledge and experience in such areas of the auctioneer profession as the Commission may deem appropriate, and has taken an examination approved by the Commission and performed on it to the satisfaction of the Commission. The examination shall test the applicant's understanding of the law relating to auctioneers and auctions, ethical practices for auctioneers, the mathematics applicable to the auctioneer business, and such other matters relating to auctions as the Commission considers appropriate. The examination shall be given at least twice each year in Raleigh, and at other times and places the Commission designates, but no person shall be allowed to take the examination within six months after having failed it a second time.

~~Any person who has been in the auctioneer business in this State for at least two years prior to the effective date of this act [July 1, 1973], and who makes proper application to the Commission within one year after July 1, 1973, may be licensed as an auctioneer without holding an apprentice license and serving as an apprentice of two years, and without taking the examination required by this subsection.~~ Any person who has successfully completed the equivalent of at least 80 hours of classroom instruction in a course in auctioneering at an institution ~~approved by the Commission~~ whose curriculum and instructors meet the qualifications approved or established by the Commission may be licensed as an auctioneer without holding an apprentice license and serving as an apprentice for two years, but ~~must~~ shall take the examination required by this subsection and perform on it to the satisfaction of the Commission.

Each applicant for an auctioneer license shall submit a written application in a form approved by the Commission. If the applicant has been previously licensed as an apprentice auctioneer, the application shall contain an evaluation by the applicant's supervisor of the applicant's performance as an apprentice auctioneer and the applicant's performance in specific areas as required by the Commission. If the applicant is exempted from apprenticeship after completion of the equivalent of at least 80 hours of classroom instruction in auctioneering, the application shall contain a transcript of the applicant's course work in auctioneering. Each application shall be accompanied by statements of at least two residents of the community in which the applicant resides attesting to the applicant's good moral character. The Commission may require verification of any information included in an application for an auctioneer license and may request other information or verification of information provided to determine whether the applicant possesses the good moral character or other qualifications for licensure.

(e) Each license issued under this Chapter shall be valid from July 1 of the year issued, or from the date issued, whichever is later, to the following June 30 unless

sooner revoked or suspended pursuant to this Chapter or a rule of the Commission. A license may be renewed for one year at a time, except an apprentice auctioneer license may not be renewed for more than three times. No examination shall be required for renewal of an auctioneer license if the application for renewal is made within 24 months of the expiration of the previous license.

(e1) The Commission may require licensees to complete annually not more than six hours of Commission-approved continuing education courses prior to license renewal. The Commission may impose different continuing education requirements, including no such requirements, upon the classes of licensees under this Chapter. The Commission may waive any or all continuing education requirements in cases of hardship, disability, or illness, or under other circumstances as the Commission deems appropriate.

(f) No person shall be issued an auctioneer or apprentice auctioneer license until the person has made the contribution to the Fund as required by G.S. 85B-4.1.

(g) An auction firm must be licensed by the Board even though no owner or officer of the firm acts as an auctioneer. To be licensed an auction firm must make the contribution to the Fund as required by G.S. 85B-4.1 and must pay the proper fees as set out in G.S. 85B-6. Auction firms are covered by the provisions of G.S. 85B-8.

An auction firm license issued by the Commission is restricted to the persons named in the license and does not inure to the benefit of any other person. Where a license is issued to an auction firm, authority to transact business under the license is limited to the person or persons designated in the application and named in the license.

The designated person or persons, prior to being licensed, shall be required to take a written examination, approved by the Commission, and demonstrate to the satisfaction of the Commission a thorough understanding of the law relating to the conduct of the auction business and other matters the Commission deems appropriate. An individual who is licensed as an auctioneer and who is the designated person applying for an auction firm license is not required to take the auction firm examination. Licensed real estate brokers and real estate firms may be exempt from the auction firm examination provided they employ or associate themselves with a licensed auctioneer to handle those aspects of the transactions peculiar to the auctioneer profession. Any person or entity, on the effective date of this Chapter, duly licensed as an auction firm in good standing is not required to take any examination in order to maintain or to renew an auction firm license provided that the license does not otherwise expire or lapse and is not suspended or revoked by the Commission.

(h) The Commission shall publish at least once a year a list of names and addresses of all persons, sole proprietorships, partnerships and corporations holding valid apprentice auctioneer, auctioneer, or auction firm licenses.

(i) The Commission may investigate as it deems necessary the ethical background of any applicant for licensure under this Chapter."

Section 3. G.S. 85B-4.1 reads as rewritten:

"**§ 85B-4.1. Auctioneer Recovery Fund.**

(a) In addition to license fees, upon application for a license or renewal of a license, the Commission may charge the applicant or licensee up to fifty dollars ($50.00) per year to be included in the Fund.

(b) The Commission shall maintain at least ~~one~~ two hundred thousand dollars ~~($100,000)~~ ($200,000) in the Fund for use as provided in this Chapter. The Fund may be invested by the State Treasurer in interest bearing accounts, and any interest accrued shall be added to the Fund. Sufficient liquidity shall be maintained to insure that funds will be available to satisfy claims processed through the Board. The Fund may be disbursed by a warrant drawn against the State Treasurer or by other method at the discretion of the State Treasurer.

(c) The Commission, in its discretion, may use contents of the Fund in excess of ~~one~~ two hundred thousand dollars ~~($100,000)~~ ($200,000) for the following purposes:

(1) To promote education and research in the auctioneer profession, in order to benefit persons licensed under this Chapter and to improve the efficiency of the ~~profession;~~ profession.

(2) To underwrite educational seminars, training centers, and other forms of educational projects for the use and benefit of ~~licensees;~~ licensees.

(3) To sponsor, contract for, or underwrite education and research projects in order to advance the auctioneer profession in ~~North Carolina; and~~ North Carolina.

(4) To cooperate with associations of auctioneers, or other groups, in order to promote the enlightenment and advancement of the auctioneer profession in North Carolina."

Section 4. G.S. 85B-6(a) reads as rewritten:

"**§ 85B-6. Fees; local governments not to charge fees or require licenses.**

(a) The Commission shall collect and remit to the State Treasurer fees in an amount not to exceed the following:

Item	Maximum Fee	
Apprentice Auctioneers:		
Application for license	~~$50.00~~	$125.00
Issuance or renewal of license	~~50.00~~	125.00
Auctioneers:		
Application for license	~~50.00~~	125.00
Examination	~~25.00~~	75.00
Issuance or renewal of license	~~100.00~~	250.00
Auction Firms:		
Application for license	~~50.00~~	125.00
Examination	~~25.00~~	75.00
Issuance or renewal of license	~~100.00~~	250.00
Reinstatement of License	~~25.00.~~	75.00.

An application fee for a license and an examination fee are nonrefundable. The amount payable by a nonresident under G.S. 85B-5 to obtain a nonresident reciprocal

auctioneer license is the greater of the amount set in the above table for an examination for and the issuance of an auctioneer's license and the amount the nonresident's state would charge a resident auctioneer of this State to obtain a comparable license from that state.

A reinstatement fee is payable when a person applies for renewal of a license after the license has lapsed for failure to renew it before it expired. The reinstatement of a lapsed license is not retroactive in effect and does not limit the authority of the courts or of the Commission to take disciplinary action against a person who engages in the auctioneer profession with a lapsed license."

Section 5. G.S. 85B-8 reads as rewritten:

"**§ 85B-8. Prohibited acts; imposition of fine; denial, suspension, or revocation of license.**

(a) The following shall be grounds for the imposition of a fine or the denial, suspension, or revocation of an auctioneer, auctioneer apprentice, or auction firm license:

(1) Any violation of this Chapter or any violation of a rule or regulation duly adopted by the ~~Commission;~~ Commission.

(2) A continued and flagrant course of misrepresentation or making false promises, either by the licensee, an employee of the licensee, or by someone acting on behalf of and with the licensee's ~~consent;~~ consent.

(3) Any failure to account for or to pay over within a reasonable time, not to exceed 30 days, funds belonging to another which have come into the licensee's possession through an auction ~~sale;~~ sale.

(4) Any false, misleading, or untruthful ~~advertising;~~ advertising.

(5) Any act of conduct in connection with a sales transaction which demonstrates bad faith or ~~dishonesty;~~ dishonesty.

(6) Knowingly using false bidders, ~~cappers~~ cappers, or pullers, or knowingly making a material false statement or ~~representation;~~ representation.

(7) Commingling the funds or property of a client with the licensee's own or failing to maintain and deposit in a trust or escrow account in an insured bank or savings and loan association located in North Carolina funds received for another person through sale at ~~auction;~~ auction.

(8) Failure to make the required contribution to the ~~Fund;~~ Fund.

(9) The commission or conviction of a crime that is punishable as a felony offense under the laws of North Carolina or the laws of the jurisdiction where committed or convicted, or the commission of any act involving fraud or moral ~~turpitude;~~ turpitude.

(10) Failure to properly make any disclosures or to provide documents or information required by this Chapter or by the ~~Commission;~~ Commission.

(11) A demonstrated lack of financial responsibility.

(b) to (d) Repealed by Session Laws 1973, c. 1195, s. 5.

(e) The Commission may upon its own motion or upon the complaint in writing of any person, provided the complaint and any evidence presented with it establishes a prima facie case, hold a hearing and investigate the actions of any auctioneer, apprentice auctioneer, or auction firm, or any person who holds himself or herself out as an auctioneer or apprentice auctioneer, and shall have the power to impose a fine on any licensee, suspend or revoke any license issued under the provisions of this Chapter, or to reprimand or censure any licensee. In all proceedings for the imposition of a fine or the denial, suspension, or revocation of licenses, the provisions of Chapter 150B of the General Statutes including provisions relating to summary suspension shall be applicable. Any person who desires to appeal the denial of an application for any license authorized to be issued under this Chapter shall file a written appeal with the Commission not later than 30 days following notice of denial.

(f) A person whose license has been denied, suspended, or revoked may not apply in that person's name or in any other manner within the period during which the order of denial, suspension, or revocation is in effect, and no firm, partnership, or corporation in which any person has a substantial interest or exercises management responsibility or control may be licensed during the period."

Section 6. G.S. 85B-9 reads as rewritten:

"**§ 85B-9. Penalties and enforcement.**

(a) Any person, corporation or association of persons violating the provisions of G.S. 85B-4(a) shall be guilty of a Class 1 misdemeanor. The Attorney General of North Carolina, or the Attorney General's designee, shall have concurrent jurisdiction with the district attorneys of this State to prosecute violations of this Chapter.

(b) The Commission may in its own name seek injunctive relief in the General Court of Justice to restrain any violation or anticipated violation of the provisions of G.S. 85B-4(a) or any violation of this Chapter.

(c) The Commission shall be entitled to the services of the Attorney General of North Carolina in enforcing the provisions of this Chapter or may employ an attorney to assist and represent it in enforcement of specific matters."

Section 7. Article 4 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"**§ 114-19.8. Criminal record checks of applicants for auctioneer license.**

The Department of Justice may provide to the North Carolina Auctioneers Commission from the State and National Repositories of Criminal Histories the criminal history of any applicant for an auctioneer's license under Chapter 85B of the General Statutes. Along with the request, the Commission shall provide to the Department of Justice the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Justice. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a check of the State's criminal history record file, and the State Bureau of Investigation shall

forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Commission shall keep all information obtained pursuant to this section privileged. The Department of Justice shall charge a reasonable fee for conducting the check of the national criminal history records authorized by this section."

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

HOUSE BILL 301:
Auctioneer Amendments

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Culpepper
Date:	April 8, 1999	**Summary by:**	Mary Shuping
Version:	Proposed Comm. Sub: H301-PCSSC-001		Research Assistant

SUMMARY: House Bill 301 will allow the Auctioneers Commission to assess a civil penalty for certain violations, allow the Commission to conduct criminal history checks on applicants for initial licensure as an auctioneer, and authorize the Commission to require continuing education. House Bill 301 also raises the amount of money that must be maintained in the Auctioneer Recovery Fund and increases the fees charged to applicants for licensure.

CURRENT LAW: The Auctioneers Commission is made up of five members appointed by the Governor. Three of the members are nominated by the Auctioneers Association of NC, at least 3 must be experienced auctioneers, and one member must be from the public at large and not a licensed auctioneer. The Commission has the authority to license apprentice auctioneers, auctioneers, and auctioneer firms. The Commission may also deny, suspend or revoke licenses for certain violations. The Commission also administers the Auctioneers Recovery Fund for compensation to persons who have suffered a monetary loss as a direct result of the conversion of funds or property, or other fraudulent act or conduct by a licensed auctioneer, apprentice auctioneer, or auction firm. Finally, the Commission may also charge fees for licensure and an additional fee to be deposited in the Auctioneers Recovery Fund.

BILL ANALYSIS: House Bill 301 authorizes the Commission to charge a civil penalty for certain violations, conduct criminal history checks, require continuing education and raises the fees for applicants and the amount of money that must be maintained in the Auctioneers Recovery Fund. The proposed committee substitute caps the civil penalty at $2,000 and directs that those penalties be deposited in the appropriate school fund, adds additional language requiring the criminal history checks, and makes stylistic and conforming changes to the statutes. Following is a section-by-section analysis of the bill:

Section 1 deletes the powers and duties of the Auctioneers Commission and recodifies those powers and duties in new G.S. 85B-3.1 (see Section 2).

Section 2 reorganizes the powers and duties of the Commission in a separate section and adds the power to assess a civil penalty. The civil penalty is capped at $2,000, and must be remitted to the school fund of the county in which the violation occurred. Section 2 also establishes guidelines the Commission must use in assessing civil penalties.

Section 3 establishes the criminal history checks in G.S. 85B-3.2. Criminal history checks will be conducted only on applicants for initial licensure as an auctioneer. This section will not apply to applicants for relicensure as an auctioneer, apprentice auctioneers, and auction firms. This section defines "criminal history" and directs the Commission to conduct State criminal history checks on applicants and requires national criminal history checks on applicants who have not resided in NC during the past 5 years.

This section directs the Commission to provide to the Department of Justice the fingerprints of the applicant, a form signed by the applicant consenting to the check and to the use of fingerprints and other identifying information as required by the State or National Repositories, and any additional information required by the Department of Justice. All information the Commission receives through the checks must be kept confidential.

Section 3 also provides that a criminal history will not automatically prohibit licensure and gives guidelines that must be used by the Commission in determining whether a license will be denied. Licensure may, however, be denied to an applicant who refuses to consent to the criminal history check. Finally, the Commission must notify the applicant of the applicant's right to review the criminal history information, the procedure for challenging the accuracy of the criminal history, and the applicant's right to contest the Commission's denial of licensure.

Section 4 provides that no person shall be licensed as an auctioneer, apprentice auctioneer, or receive an auction firm license unless that person is a high school graduate or equivalent.

Section 4 also authorizes the Commission to require not more than 6 hours of continuing education. It also permits the Commission to impose different or no continuing education requirements on different classes of licensees. The Commission may also waive continuing education requirements for hardship, disability, illness, or under other circumstances as the Commission deems appropriate.

Section 4 also clarifies that an applicant for initial licensure must comply with the criminal history checks in G.S. 85B-3.2.

Finally, Section 4 also makes stylistic changes and repeals obsolete law.

Section 5 increases the amount of money the Commission must maintain in the Auctioneers Recovery Fund from $100,000 to $200,000. Funds in excess of $200,000 may continue to be used to promote education about the profession, to underwrite educational projects for licensees and to advance the auctioneer profession, and to work with auctioneers' associations to promote the auctioneer profession in NC.

Section 6 increases the fees for auctioneers, apprentice auctioneers, and auction firms.

Type of Fee	Current	Proposed Fee
Apprentice Auctioneers		
Application for license	$50.00	$125.00
Issuance or renewal of license	$50.00	$125.00
Auctioneers		
Application for license	$50.00	$125.00
Examination	$25.00	$75.00
Issuance or renewal of license	$100.00	$250.00
Auction Firms		
Application for license	$50.00	$125.00
Examination	$25.00	$75.00
Issuance or renewal of license	$100.00	$250.00
Reinstatement of license	$25.00	$75.00

Section 7 provides that, in addition to the denial, suspension, or revocation of licenses, the Commission may also assess a civil penalty in accordance with G.S. 85B-3.1(b) for the prohibited acts enumerated in G.S. 85B-8.

Section 8 clarifies that the Attorney General's Office has concurrent jurisdiction with the district attorneys in the State to prosecute violations of this Chapter.

Section 9 adds conforming language to the Department of Justice statutes which permits the DOJ to release information from the criminal history checks to the Commission. The Department of Justice may charge a fee to offset the cost incurred by it to conduct a criminal history check. The fee may not exceed the actual cost of locating, editing, researching, and retrieving the information. The current cost for conducting a State criminal history check is $14.00. The current cost of conducting a national criminal history check is $24.00.

Section 10 makes this act effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 301 (House Proposed Committee Substitute)

SHORT TITLE: Auctioneer Education Requirements

SPONSOR(S): Rep. Culpepper

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Special Revenue Fund		see **ASSUMPTIONS AND METHODOLOGY**			
Auctioneer Recovery Fund		see **ASSUMPTIONS AND METHODOLOGY**			
County School Fund		$25,000 to $50,000 per year			
General Fund -					
Department of Justice	$266	$266	$266	$266	$266

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Auctioneer Licensing Board, North Carolina Auctioneers Commission

EFFECTIVE DATE: The act is effective when it becomes law.

BILL SUMMARY: The act makes several changes in Chapter 85B of the General Statutes concerning auctioneers. Sections 1, 2 and 7 of the bill allow the North Carolina Auctioneers Commission to assess civil penalties up to $2,000 for violations detailed in G.S. 85B-8. Section three establishes the procedures for doing a state criminal record check. Section four requires auctioneer licensees to have a high school diploma or its equivalent. This section also gives the North Carolina Auctioneers Commission the power to require licensees to complete 6 hours of continuing education courses each year for license renewal. Section five requires a minimum balance of $200,000 in the Auctioneer Recovery Fund. Section six increases the maximum fee that the Board can charge for licenses and exams. Section eight authorizes the Attorney General to prosecute anyone acting as an auctioneer without a license. Section nine allows the Department of Justice to do federal criminal record checks for the North Carolina Auctioneers Commission.

ASSUMPTIONS AND METHODOLOGY:

FINES/PENALTIES

The North Carolina Auctioneer Licensing Board receives approximately 80 complaints a year from the public. The Board's interim Executive Director believes that as many as 50 cases a year will be subject to a civil penalty. The bill authorizes a penalty of up to $2,000, but the Executive Director believes the Board will follow the example of other states and charge between $500 and $1,000 per violation. Based on this estimate, between $25,000 and $50,000 each year will be deposited into the school fund of the county in which the violation occurred.

CRIMINAL RECORD CHECKS

This bill allows the Department of Justice to charge a reasonable fee for conducting state and national criminal-history record checks. Presently, the Federal Bureau of Investigation charges $24 for each criminal record check and the North Carolina State Bureau of Investigation charges $14. In 1998-99, the North Carolina Auctioneer Licensing Board had 131 applicants for licensure. The Board currently receives a criminal record check from the home county of the applicant. The Board's Executive Director estimates that the Board will ask for a state and national criminal record check for only 5% of applicants. In 1998-99, five percent of the caseload would have been seven record checks. The Board will pay the $266 in record check fees to the Department of Justice.

EDUCATION REQUIREMENTS

Section 4 of the bill requires that applicants for an auctioneer license be a high school graduate or have an equivalent degree. From July 1, 1997 to April 1, 1999, licenses were issued to 18 persons without a high school diploma. Since it is unknown whether this requirement will discourage application for licensing or encourage potential applicants to obtain their GEDs, no revenue estimate is available.

Another part of section 4 allows the N. C. Auctioneer Licensing Board to impose a continuing education requirement of up to 6 hours of courses on auctioneers seeking to renew their licenses. Although these courses are offered free to auctioneers twice a year at conventions of the Auctioneers Association of North Carolina, the Board's Executive Director feels the requirement could discourage part-time auctioneers from renewing their license and thus reduce revenue for the Board's Special Revenue Fund. An unofficial estimate by the Board's Executive Director projects the loss could be one fourth of current licensees. Since the language in HB 301 is permissive, this fiscal note assumes the Commission will not implement the continuing ed requirements within the next five years and thus no change in revenues.

AUCTIONEER RECOVERY FUND

Section 5 of the bill increases the minimum balance in the Auctioneer Recovery Fund from $100,000 to $200,000. The Fund is used to compensate persons who have suffered monetary losses from the fraudulent acts of auctioneers. In effect, this change puts into the statutes a practice that the Board has deemed prudent and sound fiscal policy for several years. In 1995, the fund balance in the Auctioneer Recovery Fund was $220,837. In 1996, the balance dipped to $188,977 primarily due to $30,521 in claims paid that year. The Board has the authority to assess all auctioneers a fee to insure the Fund has a sufficient balance and did so in FY 1998-99. With

the $141,400 in fees assessed in 1998-99, the balance in the Auctioneer Recovery Fund is now $294,343.

FEES

Section 6 of the bill increases the maximum fee the Board can charge for licenses and exams for deposit into the Board's Special Revenue Fund for its operating budget. The Board has not increased the statutory maximum license fee since 1973, but did add exam and application fees in 1993. The Board raised fees to their maximum amount on September 1, 1998. When the fee increase was discussed in 1997 and 1998, the Board's previous Executive Director said the fee increase would provide sufficient revenue for Board operations for the next five years. The Board has stated again in an April 7 fax to the Fiscal Research Division of the General Assembly that "it is not the Board's intention to raise fees in the near future". The chart below shows the fiscal impact of raising all fees to the maximum with the authority under HB 301.

	FY 1998-99	Current Fee	Current Revenue	HB 301 Maximum Fee	HB 301 Maximum Revenue
Apprentice Auctioneers					
Application for License	19	$50	$950	$125	$2,375
Issuance or Renewal of License	43	$50	$2,150	$125	$5,375
Auctioneers					
Application for License	131	$50	$6,550	$125	$16,375
Examination	125	$25	$3,125	$75	$9,375
Issuance or Renewal of License	2438	$100	$243,800	$250	$609,500
Auction Firms					
Application for License	27	$50	$1,350	$125	$3,375
Examination	5	$25	$125	$75	$375
Issuance or Renewal of License	347	$100	$34,700	$250	$86,750
Reinstatement of License	170	$25	$4,250	$75	$12,750
Total			$297,000		$746,250

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic RB

APPROVED BY:

DATE:

NC Auctioneer Law - Why It Needs Amending

By: Bill Forbes, CAI
Chairman, NC Auctioneers Commission
Past President, Auctioneers Association of North Carolina

During the 1973 Session of the North Carolina General Assembly, Chapter 85B of the NC General Statutes was enacted. This law was known as the NC Auctioneer Licensing Act and provided for the licensing of auctioneers statewide. This law became a model for other states that soon began enacting similar auctioneer licensing laws. These laws had several objectives, all of which were designed to "protect the public."

1. The law required auctioneers to be licensed and bonded to assure sellers would be paid for property they sold at auction.

2. By licensing auctioneers statewide, this law gave much more uniformity in auction law and its enforcement.

3. By requiring auction school education or an apprenticeship prior to licensing, this law required persons who held themselves out to the public as auctioneers to demonstrate the knowledge necessary to be entrusted with the control of the sale of the public's property at auction.

   A. Item number three above is the most important provision to the protection of the public. An unqualified auctioneer or dishonest auctioneer is one of the greatest threats to the public of any profession. When most auctioneers are hired, they are often entrusted with the total control and sale of almost all of someone's assets. There are several auctioneers in NC who have written checks from their escrow accounts to a seller for over a million dollars. Many more have written checks in the tens and hundreds of thousands of dollars. Regardless of the amount, or whether the auction was an estate auction, a farmer retiring or a business liquidation, the proceeds of the auction represented what the seller worked a lifetime to accumulate.

   In all of the situations outlined above, the sellers should have confidence that the person they hire has at least some minimum educational requirements on a continuing basis to be entrusted with their property. The auction profession is like any other profession in America. We must be able to adapt to change. Auction markets like all other markets are not the same as they were in 1973. It's time for an upgrade. HB 301 is supported by the Auctioneers Association of North Carolina.

B. Continuing Education is important to NC Auctioneers for another reason. Currently, North Carolina has auctioneer license reciprocity with 13 states. Of these thirteen, six currently require continuing education for license renewal. These six states are as follows: Alabama - 8 hours every two years; Georgia - 6 hours per year; Indiana - 12 hours every 24 months; Kentucky - 6 hours per year; South Carolina - 4 hours per year; and West Virginia - 3 hours per year. The other states that reciprocate with North Carolina are: Florida, Louisiana, Ohio, Pennsylvania, Texas and Virginia. It is just a matter of time before some of these states will require continuing education for license renewal. If other states have continuing education requirements for license renewal and NC does not, NC auctioneers could be in danger of losing their reciprocal licenses in those states. This would put NC auctioneer as a comparative economic advantage with auctioneers in adjoining states.

Fifteen NC counties border SC. Three border GA. Ten border Tennessee and 17 border Virginia for a total of forty five NC counties bordering an adjoining state. That is nearly half. When you consider how many counties are just inside these counties, there are probably seventy five percent of NC Counties that are 50 miles or less from an adjoining state border Many of the auctioneers in these counties have reciprocal licenses with adjoining states and depend on doing business in those states as well as NC.

If continuing education passes in NC, it will not put any undue burden on these auctioneers, because currently the seminars that are sponsored by the Auctioneers Association of NC are recognized by those states. That same seminar will count as well for NC continuing education. Auctioneers who sell automobiles (At Dealer Only Auto Auctions), livestock and tobacco are exempt from the NC Auctioneer Licensing Act. However, these auctioneers are not exempt from the licensing law in the states of South Carolina and Kentucky and are currently required to do continuing education to renew their licenses in those states. Passing continuing education will not create any new hardships for most full time auctioneers in NC.

NC currently has reciprocity with 13 states. Of these 13 states, 6 currently require continuing education to renew an auctioneer license.

AL - 8 hours every 2 years
GA - 6 hours every year
IN - 12 hours every 24 months
KY - 6 hours per year
SC - 4 hours per year
WV - 3 hours per year

Tennessee will require 6 hours per year effective 1/1/00. The remaining states do not require continuing education. (FL, LA, OH, PA, TX, VA)

Other Important Provisions In NC House Bill 301

1. **Requires a high school diploma or equivalent.**

2. **Raises the statutory limit for fees the NC Auctioneers Commission may charge.** All Fees are at their current statutory limit. The statutory limits have not been raised in twenty five years. No business or government agency can operate at the same costs as they did twenty five years ago.

3. **Gives the NC Auctioneers Commission jurisdiction over minimum requirements of auction school curriculum and instructors.**

4. **Raises the amount of money required to be in the Recovery Fund to $200,000.00**

5. **Provides for the NC Auctioneers Commission to have the authority to levy fines.** The purpose of this provision is to attempt to make punishments better fit the offenses. Many times license suspension is too much and just a letter of reprimand is not enough. Fines collected will go into the general fund. **Like all other punishments levied by the commission, levying of fines will be subject to appeal to Superior Court and the Due Process Provisions provided in GS150B.**

6. **Gives the NC Attorney General or his designee concurrent jurisdiction over violations of this law.**

7. **Allows the NC Auctioneers Commission access to criminal records checks from the State and National Repositories of Criminal Histories.**

For More Information, Please Call Bill Forbes @ (252) 797-4528
(252) 766-1006 Mobile
(252) 797-4182 Fax
or E-Mail bforbes@creswellnc.com

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 648 A BILL TO BE ENTITLED AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF BENSON.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 648*
Proposed Committee Substitute H648-PCS3283-RB

Short Title: Benson Charter Revised. (Local)

Sponsors:

Referred to:

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF BENSON.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Benson is revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF BENSON.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Section 1.1. **Incorporation.** The Town of Benson, North Carolina, in Johnston County and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the 'Town of Benson', hereinafter at times referred to as the 'Town'.

"Section 1.2. **Powers.** The Town shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Town of Benson specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Section 1.3. **Corporate Boundaries.** The corporate boundaries shall be those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with law. An official map of the Town, showing the current municipal boundaries, shall be maintained permanently in the office of the Town Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the

office of the Secretary of State, the Johnston County Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Section 2.1. **Town Governing Body; Composition.** The Board of Commissioners, hereinafter referred to as the 'Board', and the Mayor shall be the governing body of the Town.

"Section 2.2. **Town Board; Composition; Terms of Office.** The Board shall be composed of six members to be elected in the manner provided in Article III for terms of four years, or until their successors are elected and qualified.

"Section 2.3. **Mayor; Duties.** The Mayor shall be elected by and from the qualified voters of the Town voting at large in the manner provided in Article III for a term of two years or until his or her successor is elected and qualified. The Mayor shall be the official head of the Town government and shall preside at meetings of the Board. Where there is an equal division upon any question, or upon the appointment of officers, the Mayor shall determine the matter by his or her vote, but he or she shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him or her by the general laws of North Carolina, by this Charter, and by the ordinances of the Town.

"Section 2.4. **Mayor Pro Tempore.** The Board shall choose one of its members to act as Mayor Pro Tempore, and he or she shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

"Section 2.5. **Meetings; Quorum.** In accordance with general law, the Board shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law. The quorum provisions of G.S. 160A-74 shall apply.

"Section 2.6. **Voting.** Four affirmative votes, which may include the vote of the Mayor in the event of equal division among the Board, shall be necessary to adopt any ordinance or any resolution or motion having the effect of an ordinance. All other matters to be voted upon shall be decided by a majority vote of those present and voting.

"Section 2.7. **Ordinances and Resolutions.** The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws not inconsistent with this Charter. The yeas and nays shall be taken upon all ordinances and resolutions and entered upon the minutes of the Board. The enacting clause of all ordinances shall read: 'Be it ordained by the Board of Commissioners of the Town of Benson'. All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"Section 2.8. **Qualifications for Office; Compensation; Vacancies.** The qualifications and compensation of the Mayor and the Board shall be in accordance with general law. In the event a vacancy occurs in the office of Mayor, the Board shall by a majority vote appoint some qualified person to fill the same for the remainder of the unexpired term. Any vacancy on the Board shall be filled by

majority vote of the remaining members of the Board for the remainder of the unexpired term. The person appointed to fill a vacancy in the office of Board member for District 1, 2, or 3 must reside in the district for which appointed.

"ARTICLE III. ELECTIONS.

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined using the nonpartisan plurality election method as provided in G.S. 163-279(a)(1) and G.S. 163-292.

"Section 3.2. **Election of Mayor.** A Mayor shall be elected in each regular municipal election.

"Section 3.3. **Election of Commissioners.** The Commissioners serving on the date of ratification of this Charter shall serve until the expiration of their terms or until their successors are elected and qualified. In the 1999 election and every four years thereafter, three Commissioners shall be elected, one each for Districts 1, 2, and 3 as the same are described in Section 3.5 of this Article. Only voters residing in a district may vote for the Commissioner for that district. In the 2001 election and every four years thereafter, three Commissioners shall be elected by the voters of the entire Town.

"Section 3.4. **Voting.** In each election, each voter shall be entitled to vote for one candidate for Mayor. In each election in which Commissioners for Districts 1, 2, and 3 are being chosen, each voter shall be entitled to vote for one candidate for Commissioner for the district in which the voter resides. In each election in which the three Commissioners to be elected by the entire Town are being chosen, the names of all candidates for those offices shall be placed on a single ballot and each voter shall be entitled to vote for one candidate only.

"Section 3.5. **District Boundaries.** The Districts for the election of Commissioners are:

District 1. The eastern side of Town included within the following line beginning at the intersection of Market Street with the southern Town limits and running clockwise to the same point as follows: North on Market Street to Brocklyn Street, east on Brocklyn to the western side of Interstate 95, north along the western side of Interstate 95 one block to Harnett Street, west on Harnett one block to George Street, north on George (or the line George would follow if extended north at that point) one block to Parrish Street, west on Parrish to Dunn Street, north on Dunn three blocks to Hill Street, east on Hill to Catherine Street, north on Catherine to Morris Avenue, east on Morris to Hall Street, north on Hall two blocks to Branch Street, west on Branch to Johnson Street, north on Johnson to U.S. Highway 301, east on 301 to the Town limits, then south and clockwise along the Town limits to the starting point.

District 2. The middle portion of the Town included between the western boundary of District 1 and the following line running south to north from its beginning at the intersection of Ryals Street and Mann Street at the southern Town limits: North on Ryals Street four blocks to Harnett Street, east on Harnett to Farmer

Road, north on Farmer two blocks to Main Street, east on Main one block to Wall Street, north on Wall one block to Church Street, east on Church one block to the railroad tracks, north on the railroad tracks to the Town limits at U.S. Highway 301.

District 3. The western side of Town including all of the Town west of the line described above as the boundary for District 2.

"Section 3.6. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

"Section 4.1. **Form of Government.** The Town shall operate under the council-manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 4.2. **Town Manager; Appointment; Powers and Duties.** The Board shall appoint a Town Manager who shall be responsible for the administration of all departments of the Town government. The Town Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter, and the additional powers and duties conferred by the Board, so far as authorized by general law.

"Section 4.3. **Town Clerk.** The Board shall appoint a Town Clerk to keep a journal of the proceedings of the Board, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Board may direct.

"Section 4.4. **Finance Director.** The Board shall appoint a Finance Director to perform the duties designated in G.S. 159-25 and such other duties as may be prescribed by law or assigned by the Board.

"Section 4.5. **Tax Collector.** The Board shall appoint a Tax Collector pursuant to G.S. 105-349 to collect all taxes owed to the Town, subject to general law, this Charter, and Town ordinances.

"Section 4.6. **Town Attorney.** The Board shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Board may direct. The Town Attorney shall serve at the pleasure of the Board and shall receive such compensation as the Board shall determine.

"Section 4.7. **Other Administrative Officers and Employees.** The Board may authorize other positions to be filled by appointment by the Town Manager, and may organize the Town government as deemed appropriate, subject to the requirements of general law.

"ARTICLE V. REGULATORY JURISDICTION.

"Section 5.1. **Effect of Ordinances on Town Property.** All applicable ordinances of the Town shall have full force and effect upon and within all property, rights-of-way, and facilities owned or leased by the Town, whether located within or outside the corporate limits.

"ARTICLE VI. POLICE.

"Section 6.1. **Jurisdiction Extended.** In addition to their authority within the corporate limits, Town police shall have all the powers invested in law-enforcement officers by statute or common law within one and one-half miles of the corporate limits of the Town, and on all property owned by or leased to the Town wherever located.

"ARTICLE VII. STREETS AND SIDEWALKS.

"Section 7.1. **Assessments for Street Improvements.** In addition to any authority that is now or may hereafter be granted by general law for making street improvements, the Board is authorized to order to be made or to make street improvements according to the standards and specifications of the Town and to assess the total costs, or a portion thereof, against abutting property owners in accordance with the provisions of this Article.

"Section 7.2. **When Petition Unnecessary.** The Board may order street improvements and assess the total costs or a portion thereof, exclusive of the costs incurred at street intersections, against the abutting property owners according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes, without the necessity of a petition, upon the finding by the Board of one of the following:

(1) That such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvement.

(2) That it is in the public interest to connect two streets or portions of a street already improved.

(3) That it is in the public interest to widen a street, or part thereof, that is already improved, except that assessments for widening any street or portion of a street without petition shall be limited to the cost of widening and otherwise improving the street in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

"Section 7.3. **Street Improvement Defined.** 'Street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, and repaving streets, the acquisition of rights-of-way, and the construction or reconstruction of curbs, gutters, and street drainage facilities.

"Section 7.4. **Sidewalk Improvements.** In addition to any authority that is now or may hereafter be granted by general law for making sidewalk improvements, the Board is authorized to order to be made or to make sidewalk improvements or repairs according to the standards and specifications of the Town, and to assess the total costs, or a portion thereof, against abutting property owners according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes, except that the Board may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of the street.

"Section 7.5. **Assessment Procedure.** In ordering street or sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board shall comply with the procedure provided by Article 10 of Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Section 7.6. **Effect of Assessments.** The effect of the act of levying assessments under authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"Section 7.7. **Acceptance of Conveyance in Satisfaction of Assessments.** The Town Tax Collector or other official or employee of the Town having charge of the collection of special assessments, shall have the right, power, and authority, by and with the approval of the Board first had and obtained, to receive and accept a fee simple conveyance to the Town of any lot or parcel of land in the Town, free and clear of other encumbrances, in full settlement and satisfaction of any street or sidewalk assessments outstanding and unpaid against the property. Such right, power, and authority shall be limited to conveyance of the whole of the lot or parcel of land against which the particular assessments involved were levied. No lot or tract of land may be divided and such right, power, and authority exercised as to a part of the property originally embraced in and covered by the assessments. In the case of such conveyance, it shall not be necessary that the street or sidewalk assessments against the property be foreclosed, but the Town, upon the receipt of any such conveyance, shall become and be the absolute fee simple owner of the property as fully to all intents and purposes as if purchased in and through foreclosure proceedings for the enforcement of such street or sidewalk assessments.

"ARTICLE VIII. WATER AND SEWER.

"Section 8.1. **Corner Lot Exemptions.** The Board is hereby authorized to establish, by ordinance or resolution, schedules of exemptions for assessments for water and sewer line extensions for corner lots when water or sewer lines, or both, are installed along both sides of such lots and when the cost of such installation along both sides were or are financed in whole or in part by assessments. The schedules of exemptions may be classified as to land uses (residential, commercial, industrial, institutional, or agricultural) and shall be uniform for each such classification used, except that no schedule of exemptions may provide for exemption of more than fifty percent (50%) of the frontage on any side of a corner lot, or 150 feet, whichever is greater.

"Section 8.2. **Alternative Method of Assessment.** In addition to, and as an alternative, to the methods provided in G.S. 160A-218 for assessing the costs of water and sewer lines and laterals, the Board, if in its opinion it would be more equitable to do so, is hereby authorized in its discretion to levy any such assessments according to either of the following methods: (1) equally against each of the lots capable of being served by the lines, or (2) on the basis of the footage of land upon a public street by an equal rate per foot of such frontage.

Instead of assessing the total cost of a particular project as herein provided, the Board may annually, between the first days of January and July of each year,

determine the average cost of installing water and sewer mains or lines and on the basis of the determination may make assessments of the average cost during the following fiscal year beginning July 1. The average cost of the installation shall include the cost of the particular size and material of lines completed during the preceding calendar year. It may also include the anticipated increase in labor and material costs based upon the average of such increases during the preceding five calendar years. The assessment of the average cost of the line shall not be made until after the particular assessment project has been completed. The purpose of this section is to: (1) distribute more equitably the cost of the installation of water and sewer lines throughout the Town; (2) permit a property owner to know in advance what the cost of installation of water and sewer lines benefiting his or her property will be; and (3) permit the most expeditious assessment of cost against property after completion of the installation of the lines. The actual cost of acquisition of rights-of-way may also be assessed as part of the cost of an individual project. If the right-of-way costs have not been determined and assessed with the assessment of the average installation costs at the time of the completion of the project, the costs may be assessed separately when they are determined.

"ARTICLE IX. WATER AND SEWER LINE CHARGES.

"Section 9.1. **Water and Sewer Line Charges.** The authority of the Town to impose water and sewer line charges shall continue as authorized by S.L. 1989-477.

"ARTICLE X. CLAIMS AGAINST THE TOWN.

"Section 10.1. **Settlement of Claims by Town Manager.** The Board may authorize the Town Manager to settle claims against the Town for: (1) personal injuries or damages to property when the amount involved does not exceed the sum of five thousand dollars ($5,000) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expenses actually incurred, and (2) the taking of small portions of private property that are needed for the rounding of corners at intersections of streets when the amount involved in any such settlement does not exceed five thousand dollars ($5,000) and does not exceed the actual loss sustained. Settlement of a claim by the Town Manager pursuant to this section shall constitute a complete release of the Town from any and all damages sustained by the person involved in the settlement in any manner arising out of the incident, occasion, or taking complained of. All such settlements and all such releases shall be approved by the Town Attorney.

"ARTICLE XI. EXTRATERRITORIAL JURISDICTION.

"Section 11.1. **Jurisdiction Extended.** The area over which the Town exercises its extraterritorial jurisdiction may be extended pursuant to Chapter 804 of the 1986 Session Laws, any subsequent local acts, and any applicable general laws."

Section 2. The purpose of this act is to revise the Charter of the Town of Benson and to consolidate certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts that are expressly consolidated into this act so that all rights and liabilities that have accrued are preserved and may be enforced.

Section 3. This act does not repeal or affect any acts concerning the property, affairs, or government of public schools or any acts validating official actions, proceedings, contracts, or obligations of any kind.

Section 4. The provisions of Article III of this act are intended to codify and continue, without change, the terms of the election plan ordered by the United States District Court for the Eastern District of North Carolina on November 22, 1988, in Johnson v. Town of Benson, No. 88-240.CIV-5.

Section 5. The following acts, having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

Chapter 623 of the 1971 Session Laws, except Section 4.

Chapter 71 of the 1989 Session Laws.

Section 6. The Mayor and Board serving on the date of ratification of this act shall serve until the expiration of their terms or until their successors are elected and qualified.

Section 7. This act does not affect any rights or interests that arose under any provisions repealed by this act.

Section 8. All existing ordinances, resolutions, and other provisions of the Town of Benson not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

Section 9. No action or proceeding pending on the effect date of this act by or against the Town or any of its departments or agencies shall be abated or otherwise affected by this act.

Section 10. If any provision of this act or application thereof is held invalid, such invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Section 11. Whenever a reference is made in this act to a particular provision of the General Statutes and such provision is later amended, superseded, or recodified, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute that most clearly corresponds to the statutory provision that is superseded or recodified.

Section 12. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 648*

Short Title: Benson Charter Revised. (Local)

Sponsors: Representative Daughtry.

Referred to: Finance.

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF BENSON.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Benson is revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF BENSON.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Section 1.1. **Incorporation.** The Town of Benson, North Carolina, in Johnston County and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the 'Town of Benson', hereinafter at times referred to as the 'Town'.

"Section 1.2. **Powers.** The Town shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Town of Benson specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Section 1.3. **Corporate Boundaries.** The corporate boundaries shall be those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with law. An official map of the Town, showing the current municipal boundaries, shall be maintained permanently in the office of the Town Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the

office of the Secretary of State, the Johnston County Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Section 2.1. **Town Governing Body; Composition.** The Board of Commissioners, hereinafter referred to as the 'Board', and the Mayor shall be the governing body of the Town.

"Section 2.2. **Town Board; Composition; Terms of Office.** The Board shall be composed of six members to be elected in the manner provided in Article III for terms of four years, or until their successors are elected and qualified.

"Section 2.3. **Mayor; Duties.** The Mayor shall be elected by and from the qualified voters of the Town voting at large in the manner provided in Article III for a term of two years or until his or her successor is elected and qualified. The Mayor shall be the official head of the Town government and shall preside at meetings of the Board. Where there is an equal division upon any question, or upon the appointment of officers, the Mayor shall determine the matter by his or her vote, but he or she shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him or her by the general laws of North Carolina, by this Charter, and by the ordinances of the Town.

"Section 2.4. **Mayor Pro Tempore.** The Board shall choose one of its members to act as Mayor Pro Tempore, and he or she shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

"Section 2.5. **Meetings; Quorum.** In accordance with general law, the Board shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law. The quorum provisions of G.S. 160A-74 shall apply.

"Section 2.6. **Voting.** Four affirmative votes, which may include the vote of the Mayor in the event of equal division among the Board, shall be necessary to adopt any ordinance or any resolution or motion having the effect of an ordinance. All other matters to be voted upon shall be decided by a majority vote of those present and voting.

"Section 2.7. **Ordinances and Resolutions.** The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws not inconsistent with this Charter. The yeas and nays shall be taken upon all ordinances and resolutions and entered upon the minutes of the Board. The enacting clause of all ordinances shall read: 'Be it ordained by the Board of Commissioners of the Town of Benson'. All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"Section 2.8. **Qualifications for Office; Compensation; Vacancies.** The qualifications and compensation of the Mayor and the Board shall be in accordance with general law. In the event a vacancy occurs in the office of Mayor, the Board shall by a majority vote appoint some qualified person to fill the same for the remainder of the unexpired term. Any vacancy on the Board shall be filled by

majority vote of the remaining members of the Board for the remainder of the unexpired term. The person appointed to fill a vacancy in the office of Board member for District 1, 2, or 3 must reside in the district for which appointed.

"ARTICLE III. ELECTIONS.

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined using the nonpartisan plurality election method as provided in G.S. 163-279(a)(1) and G.S. 163-292.

"Section 3.2. **Election of Mayor.** A Mayor shall be elected in each regular municipal election.

"Section 3.3. **Election of Commissioners.** The Commissioners serving on the date of ratification of this Charter shall serve until the expiration of their terms or until their successors are elected and qualified. In the 1999 election and every four years thereafter, three Commissioners shall be elected, one each for Districts 1, 2, and 3 as the same are described in Section 3.5 of this Article. Only voters residing in a district may vote for the Commissioner for that district. In the 2001 election and every four years thereafter, three Commissioners shall be elected by the voters of the entire Town.

"Section 3.4. **Voting.** In each election, each voter shall be entitled to vote for one candidate for Mayor. In each election in which Commissioners for Districts 1, 2, and 3 are being chosen, each voter shall be entitled to vote for one candidate for Commissioner for the district in which the voter resides. In each election in which the three Commissioners to be elected by the entire Town are being chosen, the names of all candidates for those offices shall be placed on a single ballot and each voter shall be entitled to vote for one candidate only.

"Section 3.5. **District Boundaries.** The Districts for the election of Commissioners are:

District 1. The eastern side of Town included within the following line beginning at the intersection of Market Street with the southern Town limits and running clockwise to the same point as follows: North on Market Street to Brocklyn Street, east on Brocklyn to the western side of Interstate 95, north along the western side of Interstate 95 one block to Harnett Street, west on Harnett one block to George Street, north on George (or the line George would follow if extended north at that point) one block to Parrish Street, west on Parrish to Dunn Street, north on Dunn three blocks to Hill Street, east on Hill to Catherine Street, north on Catherine to Morris Avenue, east on Morris to Hall Street, north on Hall two blocks to Branch Street, west on Branch to Johnson Street, north on Johnson to U.S. Highway 301, east on 301 to the Town limits, then south and clockwise along the Town limits to the starting point.

District 2. The middle portion of the Town included between the western boundary of District 1 and the following line running south to north from its beginning at the intersection of Ryals Street and Mann Street at the southern Town limits: North on Ryals Street four blocks to Harnett Street, east on Harnett to Farmer

Road, north on Farmer two blocks to Main Street, east on Main one block to Wall Street, north on Wall one block to Church Street, east on Church one block to the railroad tracks, north on the railroad tracks to the Town limits at U.S. Highway 301.

District 3. The western side of Town including all of the Town west of the line described above as the boundary for District 2.

"Section 3.6. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

"Section 4.1. **Form of Government.** The Town shall operate under the council-manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 4.2. **Town Manager; Appointment; Powers and Duties.** The Board shall appoint a Town Manager who shall be responsible for the administration of all departments of the Town government. The Town Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter, and the additional powers and duties conferred by the Board, so far as authorized by general law.

"Section 4.3. **Town Clerk.** The Board shall appoint a Town Clerk to keep a journal of the proceedings of the Board, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Board may direct.

"Section 4.4. **Finance Director.** The Board shall appoint a Finance Director to perform the duties designated in G.S. 159-25 and such other duties as may be prescribed by law or assigned by the Board.

"Section 4.5. **Tax Collector.** The Board shall appoint a Tax Collector pursuant to G.S. 105-349 to collect all taxes owed to the Town, subject to general law, this Charter, and Town ordinances.

"Section 4.6. **Town Attorney.** The Board shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Board may direct. The Town Attorney shall serve at the pleasure of the Board and shall receive such compensation as the Board shall determine.

"Section 4.7. **Other Administrative Officers and Employees.** The Board may authorize other positions to be filled by appointment by the Town Manager, and may organize the Town government as deemed appropriate, subject to the requirements of general law.

"ARTICLE V. REGULATORY JURISDICTION.

"Section 5.1. **Effect of Ordinances on Town Property.** All applicable ordinances of the Town shall have full force and effect upon and within all property, rights-of-way, and facilities owned or leased by the Town, whether located within or outside the corporate limits.

"ARTICLE VI. POLICE.

"Section 6.1. **Jurisdiction Extended.** In addition to their authority within the corporate limits, Town police shall have all the powers invested in law-enforcement officers by statute or common law within one and one-half miles of the corporate limits of the Town, and on all property owned by or leased to the Town wherever located.

"ARTICLE VII. STREETS AND SIDEWALKS.

"Section 7.1. **Assessments for Street Improvements.** In addition to any authority that is now or may hereafter be granted by general law for making street improvements, the Board is authorized to order to be made or to make street improvements according to the standards and specifications of the Town and to assess the total costs, or a portion thereof, against abutting property owners in accordance with the provisions of this Article.

"Section 7.2. **When Petition Unnecessary.** The Board may order street improvements and assess the total costs or a portion thereof, exclusive of the costs incurred at street intersections, against the abutting property owners according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes, without the necessity of a petition, upon the finding by the Board of one of the following:

(1) That such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvement.

(2) That it is in the public interest to connect two streets or portions of a street already improved.

(3) That it is in the public interest to widen a street, or part thereof, that is already improved, except that assessments for widening any street or portion of a street without petition shall be limited to the cost of widening and otherwise improving the street in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

"Section 7.3. **Street Improvement Defined.** 'Street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, and repaving streets, the acquisition of rights-of-way, and the construction or reconstruction of curbs, gutters, and street drainage facilities.

"Section 7.4. **Sidewalk Improvements.** In addition to any authority that is now or may hereafter be granted by general law for making sidewalk improvements, the Board is authorized to order to be made or to make sidewalk improvements or repairs according to the standards and specifications of the Town, and to assess the total costs, or a portion thereof, against abutting property owners according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes, except that the Board may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of the street.

"Section 7.5. **Assessment Procedure.** In ordering street or sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board shall comply with the procedure provided by Article 10 of Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Section 7.6. **Effect of Assessments.** The effect of the act of levying assessments under authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"Section 7.7. **Acceptance of Conveyance in Satisfaction of Assessments.** The Town Tax Collector or other official or employee of the Town having charge of the collection of special assessments, shall have the right, power, and authority, by and with the approval of the Board first had and obtained, to receive and accept a fee simple conveyance to the Town of any lot or parcel of land in the Town, free and clear of other encumbrances, in full settlement and satisfaction of any street or sidewalk assessments outstanding and unpaid against the property. Such right, power, and authority shall be limited to conveyance of the whole of the lot or parcel of land against which the particular assessments involved were levied. No lot or tract of land may be divided and such right, power, and authority exercised as to a part of the property originally embraced in and covered by the assessments. In the case of such conveyance, it shall not be necessary that the street or sidewalk assessments against the property be foreclosed, but the Town, upon the receipt of any such conveyance, shall become and be the absolute fee simple owner of the property as fully to all intents and purposes as if purchased in and through foreclosure proceedings for the enforcement of such street or sidewalk assessments.

"ARTICLE VIII. WATER AND SEWER.

"Section 8.1. **Corner Lot Exemptions.** The Board is hereby authorized to establish, by ordinance or resolution, schedules of exemptions for assessments for water and sewer line extensions for corner lots when water or sewer lines, or both, are installed along both sides of such lots and when the cost of such installation along both sides were or are financed in whole or in part by assessments. The schedules of exemptions may be classified as to land uses (residential, commercial, industrial, institutional, or agricultural) and shall be uniform for each such classification used, except that no schedule of exemptions may provide for exemption of more than fifty percent (50%) of the frontage on any side of a corner lot, or 150 feet, whichever is greater.

"Section 8.2. **Alternative Method of Assessment.** In addition to, and as an alternative, to the methods provided in G.S. 160A-218 for assessing the costs of water and sewer lines and laterals, the Board, if in its opinion it would be more equitable to do so, is hereby authorized in its discretion to levy any such assessments according to either of the following methods: (1) equally against each of the lots capable of being served by the lines, or (2) on the basis of the footage of land upon a public street by an equal rate per foot of such frontage.

Instead of assessing the total cost of a particular project as herein provided, the Board may annually, between the first days of January and July of each year

determine the average cost of installing water and sewer mains or lines and on the basis of the determination may make assessments of the average cost during the following fiscal year beginning July 1. The average cost of the installation shall include the cost of the particular size and material of lines completed during the preceding calendar year. It may also include the anticipated increase in labor and material costs based upon the average of such increases during the preceding five calendar years. The assessment of the average cost of the line shall not be made until after the particular assessment project has been completed. The purpose of this section is to: (1) distribute more equitably the cost of the installation of water and sewer lines throughout the Town; (2) permit a property owner to know in advance what the cost of installation of water and sewer lines benefiting his or her property will be; and (3) permit the most expeditious assessment of cost against property after completion of the installation of the lines. The actual cost of acquisition of rights-of-way may also be assessed as part of the cost of an individual project. If the right-of-way costs have not been determined and assessed with the assessment of the average installation costs at the time of the completion of the project, the costs may be assessed separately when they are determined.

"ARTICLE IX. WATER AND SEWER LINE CAPACITY CHARGES.

"Section 9.1. **Definitions.** The following definitions apply in this Article:

(1) Capital costs. -- Costs spent for upgrading, expanding, and developing water and sewer lines intended to serve the customers of the Town's water and sewer treatment system.

(2) Developer. -- An individual, corporation, partnership, organization, association, firm, political subdivision, or other legal entity constructing or creating new construction.

(3) New construction. -- Any new development, construction, or installation that results in the use of the Town's water and sewer lines and includes current users of that system that require additional capacity from the lines.

(4) Capacity charge. -- The charge imposed upon new construction as defined herein pursuant to the grant of regulatory authority contained herein.

"Section 9.2. **Imposition of Capacity Charge.** Subject to the conditions set forth in this Article, the Board may adopt ordinances imposing and collecting a capacity charge on developers of all new construction, and may enact such other ordinances, resolutions, rules, and regulations that are necessary or expedient to implement such charges.

"Section 9.3. **Basis of Capacity Charge.** The amount of each capacity charge imposed and collected shall be based upon reasonable and uniform consideration of capital costs ultimately to be incurred by the Town as a result of the new construction, but the charge may differ from line to line. The capacity charge must bear a direct relationship to the additional or expanded capital costs incurred or ultimately to be incurred for the upgrading, expanding, or developing of water and sewer lines. The amount of each capacity charge shall be based on qualified needs

and specific classifications and rates, which shall be uniformly applied to all members of a class, but the Town may vary the charges from line to line.

"Section 9.4. **Procedure.** Before adopting or amending any capacity charge ordinance authorized by this Article, the Board shall hold a public hearing. A notice of the public hearing shall be given so as to conform with G.S. 160A-364, as it may be amended from time to time. No capacity charge ordinance shall be adopted or amended without first giving the planning board a reasonable opportunity to make comments and recommendations to the Board.

"Section 9.5. **Use of Capacity Charges.** Monies collected as capacity charges from a developer shall be placed in a separate trust fund. All such revenues shall be spent for the capital facilities for which they were collected.

"ARTICLE X. CLAIMS AGAINST THE TOWN.

"Section 10.1. **Settlement of Claims by Town Manager.** The Board may authorize the Town Manager to settle claims against the Town for: (1) personal injuries or damages to property when the amount involved does not exceed the sum of five thousand dollars ($5,000) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expenses actually incurred, and (2) the taking of small portions of private property that are needed for the rounding of corners at intersections of streets when the amount involved in any such settlement does not exceed five thousand dollars ($5,000) and does not exceed the actual loss sustained. Settlement of a claim by the Town Manager pursuant to this section shall constitute a complete release of the Town from any and all damages sustained by the person involved in the settlement in any manner arising out of the incident, occasion, or taking complained of. All such settlements and all such releases shall be approved by the Town Attorney.

"ARTICLE XI. EXTRATERRITORIAL JURISDICTION.

"Section 11.1. **Jurisdiction Extended.** The area over which the Town exercises its extraterritorial jurisdiction may be extended pursuant to Chapter 804 of the 1986 Session Laws, any subsequent local acts, and any applicable general laws."

Section 2. The purpose of this act is to revise the Charter of the Town of Benson and to consolidate certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts that are expressly consolidated into this act so that all rights and liabilities that have accrued are preserved and may be enforced.

Section 3. This act does not repeal or affect any acts concerning the property, affairs, or government of public schools or any acts validating official actions, proceedings, contracts, or obligations of any kind.

Section 4. The provisions of Article III of this act are intended to codify and continue, without change, the terms of the election plan ordered by the United States District Court for the Eastern District of North Carolina on November 22, 1988, in Johnson v. Town of Benson, No. 88-240.CIV-5.

Section 5. The following acts, having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

Chapter 623 of the 1971 Session Laws, except Section 4.

Chapter 71 of the 1989 Session Laws.
Chapter 477 of the 1989 Session Laws.

Section 6. The Mayor and Board serving on the date of ratification of this act shall serve until the expiration of their terms or until their successors are elected and qualified.

Section 7. This act does not affect any rights or interests that arose under any provisions repealed by this act.

Section 8. All existing ordinances, resolutions, and other provisions of the Town of Benson not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

Section 9. No action or proceeding pending on the effect date of this act by or against the Town or any of its departments or agencies shall be abated or otherwise affected by this act.

Section 10. If any provision of this act or application thereof is held invalid, such invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Section 11. Whenever a reference is made in this act to a particular provision of the General Statutes and such provision is later amended, superseded, or recodified, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute that most clearly corresponds to the statutory provision that is superseded or recodified.

Section 12. This act is effective when it becomes law.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 29 A BILL TO BE ENTITLED AN ACT TO INCREASE THE EXAMINATION FEES COLLECTED UNDER THE COSMETIC ART ACT.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 4/8/99

S. B. No. 29 - V2 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) Sen.) Cunningham

1 moves to amend the bill on page 1, line 12
2 ( ) WHICH CHANGES THE TITLE
3 by deleting " July 1, 1999. " and substituting
4 " July 1, 2000. ".
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 29
Second Edition Engrossed 2/23/99
Proposed House Committee Substitute S29-PCS2670-RB

Short Title: Cosmetology Fees. (Public)

Sponsors:

Referred to:

February 4, 1999

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE EXAMINATION FEES COLLECTED UNDER THE COSMETIC ART ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 88B-20(a) reads as rewritten:

"(a) The Board may charge examination fees as follows:

(1) Cosmetologist ..... ~~$ 20.00~~ $ 50.00
(2) Apprentice ..... ~~$ 5.00~~ $ 50.00
(3) Manicurist ..... ~~$ 15.00~~ $ 50.00
(4) Esthetician ..... ~~$ 20.00~~ $ 50.00
(5) Teacher ..... ~~$ 25.00.~~ $ 50.00."

Section 2. This act becomes effective July 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 29
Second Edition Engrossed 2/23/99

Short Title: Cosmetology Fees. (Public)

Sponsors: Senator Kerr.

Referred to: Finance.

February 4, 1999

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE EXAMINATION FEES COLLECTED UNDER THE COSMETIC ART ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 88B-20(a) reads as rewritten:

"(a) The Board may charge examination fees as follows:

(1) Cosmetologist ..... ~~$ 20.00~~ $ 50.00
(2) Apprentice ..... ~~$ 5.00~~ $ 50.00
(3) Manicurist ..... ~~$ 15.00~~ $ 50.00
(4) Esthetician ..... ~~$ 20.00~~ $ 50.00
(5) Teacher ..... ~~$ 25.00.~~ $ 50.00."

Section 2. This act becomes effective July 1, 1999.

SENATE BILL 29:
Cosmetology Fees

BILL ANALYSIS

Committee: House Finance
Date: March 30, 1999
Version: 2nd Edition

Introduced by: Sen. Kerr
Summary by: Cindy Avrette
Committee Counsel

SUMMARY: ***Senate Bill 29 would increase the examination fees the Cosmetology Board may charge applicants who wish to become licensed as cosmetologists, apprentices, manicurist, estheticians, and teachers. The bill would become effective July 1, 1999.***

BILL ANALYSIS: The North Carolina Board of Cosmetic Art Examiners has requested that the fees it may charge for examinations be increased because the expense of giving the examinations has become greater than the revenues generated by the examination fees. The increased fee amounts would bring the examination fees imposed by the Board of Cosmetic Art Examiners more in line with the examination fees collected by the State Board of Barber Examiners. That Board currently collects a $50 fee for examinations to become a registered barber or registered apprentice barber and $95 for the examination to become a barber school instructor.

The examination fees for cosmetologists and manicurists were last increased from $10 to $20 in 1995. The examination fee for a teacher was established in 1995 at $25. The fee increases proposed by Senate Bill 29 are as follows:

Examination	Current Fee	Proposed Fee
Cosmetologist	$20.00	$50.00
Apprentice	$5.00	$50.00
Manicurist	$15.00	$50.00
Esthetician	$20.00	$50.00
Teacher	$25.00	$50.00

BACKGROUND: Last year the General Assembly rewrote the Cosmetic Art Act. The major changes in the Act included the requirement for licensure of all manicurists and manicure shops, creation of a separate license for estheticians (persons licensed to practice skin care), setting out statutory standards for teachers, easing the requirements for obtaining a license when one is licensed in another state, and the application of late penalties to all licenses. SL 1998-230 did not increase the examination fees for cosmetologists, apprentices, manicurists, or teachers.

This summary was contributed to by Martha Walston
S29-SMRB-1

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 29 (First Edition)

SHORT TITLE: Cosmetology Fees

SPONSOR(S): Senator Kerr

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Special Revenue Fund	$338,500	$216,000	$216,000	$216,000	$216,000
EXPENDITURES					
Special Revenue Fund	To be determined by the Board				
POSITIONS:	To be determined by the Board				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Board of Cosmetic Art Examiners

EFFECTIVE DATE: The act is effective when it becomes law.

BILL SUMMARY: The act increases the examination fees for cosmetologists, manicurists, estheticians, and teachers.

ASSUMPTIONS AND METHODOLOGY: The NC Board of Cosmetic Art Examiners estimates that 6,200 exams are given each year. The chart below shows the number of exams per profession, current exam fees, proposed exam fees, and anticipated revenues.

	Annual Exams	Current Exam Fee	Current Estimated Revenue	Proposed Exam Fee	Proposed Estimated Revenue	Annual Revenue Gain
Cosmetologi		$20	$45,600	$50	$114,000	$68,400

st	2,280					
Apprentice		$5	$6,600	$50	$66,000	$59,400
	1,320					
Manicurist		$15	$33,300	$50	$111,000	$77,700
	2,220					
Esthetician		$20	$4,000	$50	$10,000	$6,000
	200					
Teacher		$25	$4,500	$50	$9,000	$4,500
	180					
Total			$94,000		$310,000	$216,00
	6,200					0

The Board proposes to increase each exam fee to $50. Based on the current volume of business, the increased exam fees will yield $216,000 in additional revenue each year. Also, there will be a revenue windfall in FY 1999-2000, because a statute change in 1998 requires 3,000 to 4,000 existing manicurists to be licensed in 1999. Assuming 3,500 manicurists take the exam this fall, the fee increase from $15 to $50 will generate $122,500 in FY 1999-2000.

Fund Balance

The Board provided the General Assembly's Fiscal Research Division its 1998 financial statement showing a June 30, 1998 fund balance of $458,802.70. The Board also provided a "Cash Balance Forecast" that predicts the following fund balances:

June 1999	$1,281,088
June 2000	$626,416
June 2001	-$72,280

The 1999 balance is high due to the renewal of cosmetology licenses in 1998-99. These licenses are $39 and are renewed every three years. The Board uses these fees, along with annual renewals for other professions, to fund its annual budget. Without the recommended exam fee increases, the Board projects that it will not be able to cover current expenses in 2001.

FISCAL RESEARCH DIVISION
733-4910
PREPARED BY: Richard Bostic

APPROVED BY:
DATE: February 17, 1999

COSMETIC ART EXAMINATION FEE INCREASE

IMPACT ON JUNE 2001 FUND RESERVE

	FY 1999-00	FY 2000-01	
Revenue Gain:	$338,500	+ $216,000	= $554,500 gain

Personnel Expenses:
(3 inspectors to be hired)

$23,000	Salary (per inspector)
1,760	Social Security Contribution
264	Health, Life, Disability Insurance
2,300	Retirement Contribution
$27,324	Personnel Expense

$27,324 x 3 inspectors = $81,972 total personnel expense

Additional Operations Expense (annual):

$4,800 lodging, subsist. x 3 inspectors	=	$14,400
$6,000 vehicle expense x 3 inspectors	=	18,000
		$32,400

Total inspector expense:

$81,972	personnel
32,400	operations
$114,372	annual additional expense

Expense incurred over 2 years: $114,372 x 2 years = $228,744

Expected 2 year revenue gain:	$554,500
New inspectors expense:	- 228,744
	$325,756
Expected June 2001 Deficit:	- 72,280
Available Reserve June 2001:	$253,476

Preferred State Budget Reserve is 2 - 3 months of operating expenses.
Anticipated 2001 monthly operating expense: $115,911

Preferred Reserve: $231,822 - $347,733

SENATE BILL 29 JUSTIFICATION

COSMETIC ARTS BOARD PER EXAM COSTS

Miscellaneous Exam Expenses (per applicant)

Testing Materials:	$22.50
Test Examiners:	5.60
Test Proctors:	.80
Travel, Lodging:	1.93
Postage:	.66
Shipping:	.68
Office Supplies:	.20
Total	$32.37

Exam Staff Section Expenses (4 personnel, per exam applicant)

Salaries, Social Security, Retirement	$17.65
Employee Benefits (Health & Life Insurance, Long Term Disability)	1.96
Total	$19.61

Total Expenses (per exam)

Miscellaneous Expenses:	$32.37
Staff Expenses:	19.61
Total Board Expense:	$51.98

Income Received (per exam)

Using an average of 500 monthly student applications:

Cosmetologist	Apprentice	Manicurist	Teacher
38%	22%	37%	3%
190 x $20=$3,800	110 x $5=$550	185 x $15=$2,775	15 x $25=$375

$3,800
550
2,775
375
$7,500 per month

Average monthly income received per applicant: $\frac{\$7,500}{500} = \$15$

Actual costs incurred: $51.98 expense - $15 income = $36.98 loss per exam

The per exam loss is made up through licensing fees. The licensing funds are needed to increase the inspections staff based on the anticipated increase in manicuring and esthetic (skin care) salons, which were required by law to become licensed last year. We cannot continue to operate the exams program at a loss indefinitely. Students need to pay for the exam on an "at cost basis".

Requested Fee Increase

Passing the State Board Exam is required for an individual to become licensed in the profession. Once licensed, the licensee is not required to retake the exam as a condition for normal license renewal. The same costs are incurred by the Board no matter what type of exam is conducted. Therefore, we request an increase in exam fees to **$50** per exam. Based on the cost of each individual exam, we feel this increase is reasonable and just to meet the direct costs of the Board.

We anticipate absolutely **no** proposed increase in individual or shop licensing fees, which are as follows:

cosmetologist:	$39 every 3 years
apprentice	$10 per year
esthetician	$10 per year
manicurist	$10 per year
teacher	$10 every 2 years
cosmetic art shop	$ 3 per active booth per year

VISITOR REGISTRATION SHEET

4/8/99

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

	NAME	FIRM OR AGENCY
1.	Jim Edwards	Board of Barbers DAHS
2.	Pam McLeod	Cosmetic Art Bd.
3.	Benitta Smith	Cosmetic Arts Bd
4.	Douglas H. Van Essen	NCFB
5.	Richard Reiegor	NCFB
6.	Bobbie L. Williams	NCFB
7.	George McCauley	N.C.F.B
8.	Agnes D. Shipley	NC7B
9.	R.J. Shipley	NCFB
10.	Nancy Smyre	N.C.F.B.
11.	Ann Clemi	N.C.F.B.
12.	WCB. Jenkins	NCFB
13.	Neil Smith	NCFB
14.	Jan L. Stebbins	NCFB
15.	Charles E Davis	NCHBA
16.	Mike Cooperka	NCAR
17.	Stephanie Mann	N.C. Auctioneer Licensing Board.
18.	BRUCE MARSHBURN	N.C. Auc. Lic. Bd.
19.	J. H. Hall	NC Auctioneers Commission
20.	Julian R Justice Jr	NCLM
21.	John Phelps	

VISITOR REGISTRATION SHEET

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

	NAME	FIRM OR AGENCY
1.	Keith Langdon	Town of Benson
2.	Alice Garland	Electricities
3.	Andy Romanet	N.C.L.M.
4.	[illegible]	[illegible]
5.	Paul Spain	OSBM
6.	Kelli Kukura	DuPont
7.	John M Mayo	NC CWA Council
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		
21.		

AGENDA

HOUSE FINANCE COMMITTEE

Tuesday, April 13, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 239 – Community College Property Transfers – Rep. Haire
HB 833 – Waxhaw Annexations – Rep. Melton
HB 852 – Hickory/Mocksville Annexations – Rep. Buchanan
HB 275 – Zero ESC Tax Rate – Rep. Redwine
HB 651 – Brunswick Fire Fees – Rep. Redwine
HB 863 – St. James Incorporation – Rep. Redwine

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Tuesday, April 13, 1999

The House Committee on Finance met on Tuesday, April 13, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke, Miller; Vice Chair Jarrell; Representatives Bridgeman, Brown, Buchanan, Cox, Creech, Cunningham, Decker, Eddins, Edwards, Gibson, Goodwin, Gray, Hackney, Hill, Howard, McCombs, Morris, Rayfield, Starnes, Tucker, Womble. Staff including Cindy Avrette, Richard Bostic, David Crotts and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Miller called the meeting to order to consider the following bills:

HB 833 – Waxhaw Annexations was pulled from the agenda at the request of the sponsor Representative Melton and will be rescheduled.

Representative Haire was recognized to explain SB 239, A BILL TO BE ENTITLED AN ACT TO AMEND THE LAW GOVERNING PROPERTY TRANSFERS BETWEEN COMMUNITY COLLEGE BOARDS OF TRUSTEES AND COUNTIES FOR COMMUNITY COLLEGE PURPOSES. Rep. Buchanan moved for a favorable report. Members questioned REp. Haire. The Chair recognized Mr. Kenneth Briggs, Vice President of Finance in the Community College System who commented and answered members' questions. Cindy Avrette answered members' questions. The Chair recognized Ms. Patricia Rossler of the County Commissioners' Association who stated her organization supported the bill. Rep. Buchanan's motion passed. The bill, Bill Summary, and Fiscal Note are included in these minutes.

Representative Redwine was recognized to explain HB 651, A BILL TO BE ENTITLED AN ACT TO ALLLOW BRUNSWICK COUNTY TO ASSESS A FIRE PROTECTION FEE. Rep. Hackney sent forward an amendment and moved for its adoption. The amendment was adopted. The Chair recognized Mr. Huey Marshall, the town attorney for Brunswick county who commented. Rep. Luebke moved to roll the amendment into a Proposed Committee Substitute and then give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. Members questioned Rep. Redwine. Rep. Luebke's motion passed. The bill, Proposed Committee Substitute, amendment, and Fiscal Note are included in these minutes.

Representative Redwine was recognized to explain HB 863, A BILL TO BE ENTITLED AN ACT TO INCORPORATE THE TOWN OF ST. JAMES. Cindy Avrette explained the bill. Members questioned Rep. Redwine. The Chair recognized Mr. Earl Day, the proposed mayor of St. James to comment and answer members' questions. Rep. Hill moved for a favorable report. The motion passed. The bill is included in these minutes.

Representative Buchanan was recognized to explain HB 863, A BILL TO BE ENTITLED AN ACT CONCERNING ANNEXATION OF NONCONTIGUOUS AREAS BY THE CITY OF HICKORY AND ANNEXATION OF CERTAIN DESCRIBED PROPERTY BY THE TOWN OF MOCKSVILLE. Rep. Buchanan stated this bill would only be discussed and not voted on today. Rep. Tucker moved to adopt the Proposed Committee Substitute for discussion only. Rep. Buchanan sent forward a technical amendment and moved for its adoption. The amendment was adopted. Rep. Buchanan moved to roll the amendment into a Proposed Committee Substitute and reschedule for next Tuesday, April 20. The motion passed. The bill, Proposed Committee Substitute, and amendment are included in these minutes.

Representative Redwine was recognized to explain HB 863, A BILL TO BE ENTITLED AN ACT TO IMPLEMENT A ZERO UNEMPLOYMENT INSURANCE TAX RATE FOR MORE EMPLOYERS WITH POSITIVE EXPERIENCE RATINGS. Richard Bostic explained the fiscal impact. Members questioned Rep. Redwine. The Chair recognized Mr. Parker Chesson of the Employment Security Commission who answered questions. Rep. Hill moved for a favorable report. The motion passed. The bill, Bill Summary, and Fiscal Note are included in these minutes.

There being no further business, the Chair adjourned the meeting at 9:45 a.m.

Respectfully submitted:

George Miller

Representative George Miller
Chair

Kristen L. Crosson

Kristen L. Crosson
Assistant to the Committee

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☒ Committee Substitute for
H.B. 239 A BILL TO BE ENTITLED AN ACT AN ACT TO AMEND THE LAW GOVERNING PROPERTY TRANSFERS BETWEEN COMMUNITY COLLEGE BOARDS OF TRUSTEES AND COUNTIES FOR COMMUNITY COLLEGE PURPOSES.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 239
Committee Substitute Favorable 4/1/99

Short Title: Community College Property Transfers/AB. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW GOVERNING PROPERTY TRANSFERS BETWEEN COMMUNITY COLLEGE BOARDS OF TRUSTEES AND COUNTIES FOR COMMUNITY COLLEGE PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. Article 8 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-158.2. Acquisition and improvement of community college property.**

(a) Acquisition. -- A county may acquire, by any lawful method, any interest in real or personal property for use by a community college within the county. In exercising the power of eminent domain for real property, a county shall use the procedures of Chapter 40A of the General Statutes.

(b) Construction; Disposition. -- A county may construct, equip, expand, improve, renovate, repair, or otherwise make available property for use by a community college within the county and may lease, sell, or otherwise dispose of property for use by a community college within the county for any price and on any terms negotiated by the board of county commissioners and the board of trustees of the community college.

(c) Public Hearing. -- A county may use its authority under this section to acquire an interest in real or personal property for use by a community college within the county only upon request of the board of trustees of the community college for which property is to be made available. The board of county commissioners shall hold a

public hearing prior to final action. A notice of the public hearing shall be published at least once at least 10 days before the date fixed for the hearing."

Section 2. Article 2 of Chapter 115D of the General Statutes is amended by adding a new section to read:

"**§ 115D-15.1. Disposition, acquisition, and construction of property by community college.**

(a) Disposition. -- Notwithstanding the provisions of G.S. 115D-14, 115D-15, and 160A-274, the board of trustees of a community college may, in connection with additions, improvements, renovations, or repairs to all or part of its property, lease, sell, or otherwise dispose of any of its property to the county in which the property is located for any price and on any terms negotiated between the board of trustees of the community college and the board of county commissioners.

(b) Transfer. -- An agreement under subsection (a) of this section shall require the county to transfer the property back to the board of trustees of the community college when any financing agreement entered into by the county to finance the additions, improvements, renovations, and repairs has been satisfied. If the county did not enter into a financing agreement, the agreement under subsection (a) of this section shall require the county to transfer the property back to the board of trustees of the community college upon the completion of the additions, improvements, renovations, and repairs.

(c) Acquisition and Construction. -- Notwithstanding the provisions of G.S. 115D-14 and G.S. 115D-20(3), the board of trustees of a community college may acquire, by any lawful method, any interest in real or personal property from the county in which the community college is located for use by the board of trustees and may contract for the construction, equipping, expansion, improvement, renovation, repair, or otherwise making available for use by the board of trustees of the community college of all or part of the property upon any terms negotiated between the board of trustees of the community college and the board of county commissioners.

(d) Approval. -- The actions of a board of trustees of a community college taken pursuant to this section are subject to the approval of the State Board of Community Colleges.

(e) Contract Responsibility. -- A county's obligations under a financing contract entered into by the county to finance improvements to real or personal property pursuant to this section shall be the responsibility of the county and not the responsibility of the board of trustees of the community college."

Section 3. The following laws are repealed:

(1) Chapter 613 of the 1993 Session Laws

(2) Section 3 of Chapter 154 of the 1995 Session Laws

(3) Sections 1, 2, 3, and 4 of Chapter 399 of the 1995 Session Laws

(4) Chapter 706 of the 1995 Session Laws

(5) Chapter 42 of the 1997 Session Laws.

Section 4. Section 3 of this act becomes effective January 1, 2000, and shall not be construed to alter any agreements entered into before that date. The

remainder of this act is effective when it becomes law and applies to agreements entered into on or after that date.

HOUSE BILL 239:
Community College Transfers/AB

BILL ANALYSIS

Committee: House Finance
Date: April 12, 1999
Version: 2nd Edition

Introduced by: Representative Haire
Summary by: Cindy Avrette
Committee Counsel

SUMMARY: House Bill 239 makes several changes to the law in order to facilitate installment financings entered into by counties to make improvements to community college property. Gaston, Green, Halifax, Harnett, Montgomery, Nash, Sampson, and Wilson Counties currently have this authority through local acts passed by the General Assembly since 1993. Seventy-five counties also have similar authority for public school construction and renovation. The bill received a favorable report from the Ways and Means Committee on April 1, 1999.

BILL ANALYSIS: The bill makes the following changes concerning the acquisition and financing of community college facilities:

1. It authorizes counties to acquire real or personal property for use by a community college within the county when requested to do so by the board of trustees for the college and after a public hearing is held on the issue. Under general law, a county is authorized to acquire real or personal property only on behalf of the county or an agency of the county and a community college is not an agency of the county. (G.S. §160A-274)
2. It authorizes the community colleges' boards of trustees to contract with the county for the erection, improvement, renovation, or repair of buildings located on property owned by the county. Under general law, local boards of trustees of community colleges are required to hold title to all community college property that was donated to the college or acquired with tax revenue and therefore have no authority to make contracts concerning the construction or repair of buildings located on sites not owned by them. (G.S. §115D-14)
3. It authorizes the community college's board of trustees to transfer to the county property on which a community college building in need of renovation or repair is located for any price agreed to by the board of trustees and the county. Under general law, a board of trustees may not transfer property unless it is undesirable or unnecessary for the purposes of the community college. (G.S. §115D-15)

The effect of these changes is twofold:

- To allow certain installment financing to be used for community college construction or renovation.
- To allow a sales tax refund to counties on materials and supplies. Community colleges are not entitled to a refund of sales and use taxes paid.

The installment financing that can be used is an installment contract secured by a security interest in the building constructed or renovated. This type of financing is available to counties but is not generally available to community colleges. One type of installment financing is the issuance of certificates of participation. A certificate of participation is a document setting out the share of a local unit's debt that is owed to that person. In practice, the holder of the certificate receives interest and principal payments in a manner similar to interest and principal payments on a bond issued by the borrowing unit. Unlike the issuance of a bond, however, the issuance of a certificate of participation is not subject to a vote of the people.

FISCAL ANALYSIS MEMORANDUM

DATE: April 12, 1999

TO: House Finance Committee

FROM: David Crotts & Linda Struyk Millsaps
Fiscal Research Division

RE: HB 239 (Comm. Sub. Favorable 4/1/99)
Community College Property Transfers/AB

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

BILL SUMMARY: Allows any county to acquire an interest in real or personal property for use by a community college and to construct, equip, expand, improve, renovate, repair or otherwise make available property for use by a community college. Once these activities are completed, the county must transfer the property back to the college. This authority is currently allowed in 8 counties under local legislation. The bill is effective when it becomes law.

The practical effect is to allow the county to use installment purchase arrangements or certificates of participation to finance community college capital outlay. A secondary negative impact on State and local sales tax revenue will occur **if a county not having this authority under current law uses the financing.** The impact results from a refund of taxes paid on materials and supplies. Under current law a county is eligible for a refund but a community colleges is not.

ASSUMPTIONS AND METHODOLOGY: According to the Community College System, North Carolina Community Colleges and Center for Applied Textile Technology paid $6.0 million in sales and use taxes in FY 1997-98. Assuming a 5% annual growth rate the projected community college sales tax liability for the 1999-00 fiscal year is $6.6 million (State portion would be $4.4 million and the local amount is $2.2 million).

These numbers represent a maximum potential. The actual impact will be much lower due to the fact that some counties already have the authority, some counties may be receiving refunds through in interlocal agreement with a community college, and the fact the not all counties will use the financing tools.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 275 A BILL TO BE ENTITLED AN ACT TO IMPLEMENT A ZERO UNEMPLOYMENT INSURANCE TAX RATE FOR MORE EMPLOYERS WITH POSITIVE EXPERIENCE RATINGS.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 275
Committee Substitute Favorable 4/1/99

Short Title: Zero ESC Tax Rate for More/AB. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT A ZERO UNEMPLOYMENT INSURANCE TAX RATE FOR MORE EMPLOYERS WITH POSITIVE EXPERIENCE RATINGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-9(b)(3)d3. reads as rewritten:

"d3. The standard contribution rate set by subdivision (b)(1) of this section applies to an employer unless the employer's account has a credit balance. Beginning January 1, ~~1995,~~ 1999, the contribution rate of an employer whose account has a credit balance is determined in accordance with the rate set in the following Experience Rating Formula table for the applicable rate schedule. The contribution rate of an employer whose contribution rate is determined by this Experience Rating Formula table shall be reduced by fifty percent (50%) for any year in which the balance in the Unemployment Insurance Fund equals or exceeds eight hundred million dollars ($800,000,000) on the computation date and the fund ratio determined on that date is less than five percent (5%) and shall be reduced by sixty percent (60%) for any year in which the balance in the Unemployment Insurance Fund equals or exceeds eight hundred million dollars ($800,000,000) on the computation

date, and the fund ratio determined on that date is five percent (5%) or more.

EXPERIENCE RATING FORMULA

When The Credit Ratio Is: As Much As	But Less Than	Rate Schedules (%) A	B	C	D	E	F	G	H	I
0.0%	0.2%	2.70%	2.70%	2.70%	2.70%	2.50%	2.30%	2.10%	1.90%	1.70%
0.2%	0.4%	2.70%	2.70%	2.70%	2.50%	2.30%	2.10%	1.90%	1.70%	1.50%
0.4%	0.6%	2.70%	2.70%	2.50%	2.30%	2.10%	1.90%	1.70%	1.50%	1.30%
0.6%	0.8%	2.70%	2.50%	2.30%	2.10%	1.90%	1.70%	1.50%	1.30%	1.10%
0.8%	1.0%	2.50%	2.30%	2.10%	1.90%	1.70%	1.50%	1.30%	1.10%	0.90%
1.0%	1.2%	2.30%	2.10%	1.90%	1.70%	1.50%	1.30%	1.10%	0.90%	0.80%
1.2%	1.4%	2.10%	1.90%	1.70%	1.50%	1.30%	1.10%	0.90%	0.80%	0.70%
1.4%	1.6%	1.90%	1.70%	1.50%	1.30%	1.10%	0.90%	0.80%	0.70%	0.60%
1.6%	1.8%	1.70%	1.50%	1.30%	1.10%	0.90%	0.80%	0.70%	0.60%	0.50%
1.8%	2.0%	1.50%	1.30%	1.10%	0.90%	0.80%	0.70%	0.60%	0.50%	0.40%
2.0%	2.2%	1.30%	1.10%	0.90%	0.80%	0.70%	0.60%	0.50%	0.40%	0.30%
2.2%	2.4%	1.10%	0.90%	0.80%	0.70%	0.60%	0.50%	0.40%	0.30%	0.20%
2.4%	2.6%	0.90%	0.80%	0.70%	0.60%	0.50%	0.40%	0.30%	0.20%	0.15%
2.6%	2.8%	0.80%	0.70%	0.60%	0.50%	0.40%	0.30%	0.20%	0.15%	0.10%
2.8%	3.0%	0.70%	0.60%	0.50%	0.40%	0.30%	0.20%	0.15%	0.10%	0.09%
3.0%	3.2%	0.60%	0.50%	0.40%	0.30%	0.20%	0.15%	0.10%	0.09%	0.08%
3.2%	3.4%	0.50%	0.40%	0.30%	0.20%	0.15%	0.10%	0.09%	0.08%	0.07%
3.4%	3.6%	0.40%	0.30%	0.20%	0.15%	0.10%	0.09%	0.08%	0.07%	0.06%
3.6%	3.8%	0.30%	0.20%	0.15%	0.10%	0.09%	0.08%	0.07%	0.06%	0.05%
3.8%	4.0%	0.20%	0.15%	0.10%	0.09%	0.08%	0.07%	0.06%	0.05%	0.04%
~~4.0%~~	~~4.2%~~	~~0.15%~~	~~0.10%~~	~~0.09%~~	~~0.08%~~	~~0.07%~~	~~0.06%~~	~~0.05%~~	~~0.04%~~	~~0.03%~~
~~4.2%~~	~~4.4%~~	~~0.10%~~	~~0.09%~~	~~0.08%~~	~~0.07%~~	~~0.06%~~	~~0.05%~~	~~0.04%~~	~~0.03%~~	~~0.02%~~
~~4.4%~~	~~4.6%~~	~~0.09%~~	~~0.08%~~	~~0.07%~~	~~0.06%~~	~~0.05%~~	~~0.04%~~	~~0.03%~~	~~0.02%~~	~~0.01%~~
~~4.6%~~	~~4.8%~~	~~0.08%~~	~~0.07%~~	~~0.06%~~	~~0.05%~~	~~0.04%~~	~~0.03%~~	~~0.02%~~	~~0.01%~~	~~0.01%~~
~~4.8%~~	~~5.0%~~	~~0.07%~~	~~0.06%~~	~~0.05%~~	~~0.04%~~	~~0.03%~~	~~0.02%~~	~~0.01%~~	~~0.01%~~	~~0.01%~~
~~5.0%~~										
4.0% & OVER		0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%

"

Section 2. This act is effective with respect to calendar quarters beginning on or after April 1, 1999.

HOUSE BILL 275:
Zero ESC Tax Rate for More/AB

BILL ANALYSIS

Committee: H-Finance
Date: April 13, 1999
Version: 2

Introduced by: Rep. Redwine
Summary by: Mary Shuping
Research Assistant

SUMMARY: Based on the current Experience Rating Formula table, employers who have a credit ratio of 5% and over have a 0% rate schedule. House Bill 275 would amend the ratio of employers who are granted a zero tax rate by changing the ratio to 4%.

CURRENT LAW: Under current law, employers having a 5% or greater credit ratio pay the zero unemployment insurance tax rate.

BILL ANALYSIS: House Bill 275 would grant a zero unemployment insurance tax rate to employers with a credit ratio of 4% or greater rather than the credit ratio of 5% or greater required by current law. The credit ratio is the ratio of an employer's credit balance in the Unemployment Insurance (UI) Fund relative to the employer's payroll. The UI Fund is maintained by the U.S. Treasury and funded by the State unemployment insurance tax.

House Bill 275 would **amend G.S. 96-9(b)d3** to provide that, beginning with respect to calendar quarters beginning on or after April 1, 1999, employers who have a credit ratio of *4% or greater* would be granted a zero tax rate.

This bill was given a favorable report by the House Ways and Means Committee on April 1, 1999.

BACKGROUND: According to information provided by the ESC, this change is recommended due to the solvency of North Carolina's UI Fund and the increasing stability of labor markets. ESC estimates this change would impact over 10,000 employers, with a tax savings to employers of over $1,000,000 in the first year.

Unemployment Insurance Trust Fund Balance
January 31, 1998 – January 31, 1999

Year	Month	Trust Fund Balance
1998	January	$1,264,295,937
	February	$1,252,689,860
	March	$1,212,493,406
	April	$1,219,735,151
	May	$1,296,147,183
	June	$1,264,293,625
	July	$1,272,798,480
	August	$1,308,267,705
	September	$1,279,410,432
	October	$1,285,822,207
	November	$1,300,039,548
	December	$1,272,033,191
1999	January	$1,257,077,160

Source: Employment Security Commission Legislative Agenda 1999, March 8, 1999.

Legislative History: Since 1992, the General Assembly has enacted the following legislation to reduce the amount of money in the Unemployment Insurance Fund:

- **1992** - suspended the 20% surcharge on unemployment taxes.
- **1993** - cut unemployment taxes for positive rated employers by an average of 30% for any calendar year in which the balance in the Fund equals or exceeds $800,000,000.
- **1994** - cut the unemployment taxes for positive rated employers by an average of 38.7% and cut the unemployment taxes for new employers by 20%.
- **1995** - cut the unemployment taxes for positive rated employers by an average of 23%, set a zero rate for employers with credit ratios of 5.0 or over, and reduced from 60% to 50% the percentage of annual average wages used to calculate the taxable wage base.
- **1996** - reduced unemployment taxes in three ways by (1) assigning a one-year zero unemployment insurance tax rate for all positive rated employers, (2) giving overdrawn employers additional time to make contributions to their accounts so that they may qualify for the zero tax rate in 1996, and (3) permanently reducing the tax rate for new employers from 1.8% to 1.2%.

EFFECTIVE DATE: House Bill 275 is effective with respect to calendar quarters beginning on or after April 1, 1999.

Jeff Hudson, Staff Atty., Research Division, and Martha Walston, Staff Atty., Fiscal Research Division, contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 275 (Second Edition)

SHORT TITLE: Zero ESC Rate for More/AB

SPONSOR(S): Representative Redwine

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Unemployment Insurance Trust Fund	($937,120)	($1,152,760)	($1,288,360)	($1,381,520)	($1,474,600)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Employment Security Commission (ESC)

EFFECTIVE DATE: The act is effective with respect to calendar quarters beginning on or after April 1, 1999.

BILL SUMMARY: The bill will grant a zero unemployment insurance tax rate to employers with a credit ratio of 4% or greater. Currently, those employers with a 5% or greater credit ratio pay the zero tax rate.

ASSUMPTIONS AND METHODOLOGY:
As of January 31, 1999, the balance in the Unemployment Insurance Trust Fund stood at $1,257,077,160. Due to the Fund's solvency and North Carolina's low unemployment rate, the Employment Security Commission (ESC) recommends a zero tax rate for an additional group of employers with a credit ratio. A credit ratio means that an employer has paid in more money to the Unemployment Insurance Trust Fund than has been deducted from its account for UI benefits paid to employees. ESC estimates that this bill will reduce unemployment insurance taxes for 10,000 employers with a 4% credit ratio in 1999. With an additional 6,400 employers reaching the 4% credit ratio each year, ESC estimates that 38,000 employers will benefit from this zero tax rate by 2004.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic
APPROVED BY:
DATE: April 9, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 651 A BILL TO BE ENTITLED AN ACT TO ALLOW BRUNSWICK COUNTY TO ASSESS A FIRE PROTECTION FEE.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 651

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H651-ARB-1 Page 1 of __

Date 4/13/ ,1999

Comm. Sub. []
Amends Title []

Representative Hackney

moves to amend the bill on page 1, line 24, by deleting the phrase "of this Chapter" and substituting the following: "of Chapter 153A of the General Statutes";

and on page 3, line 41, by deleting "subsection (c)," and substituting "subsection (c) of this section,"

and on page 4, line 3, by deleting "subsection (c)" and substituting "subsection (c) of this section".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 651
Proposed Committee Substitute H651-PCS3349-RB

Short Title: Brunswick Fire Fees. (Local)

Sponsors:

Referred to:

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO ALLOW BRUNSWICK COUNTY TO ASSESS A FIRE PROTECTION FEE.

The General Assembly of North Carolina enacts:

Section 1. **Fee-supported fire districts.**

Section 1.(a) Request for Fee-Supported District. -- A county may create a fee-supported fire district for insurance grading purposes if it receives one of the following:

(1) A written request to create the district signed by at least two-thirds of the members of the board of directors of a fire department that contracts with the county to provide fire protection within an area of the county.

(2) A petition requesting creation of a district signed by fifteen percent (15%) of the resident freeholders living in an area in the county. The petition must describe the area to be designated as the district.

Section 1.(b) Creation of Fee-Supported District. -- Upon receipt of a request as provided in subsection (a), the county may adopt a resolution establishing a fee-supported fire district and imposing annual fees for the provision of fire protection services within the district. The fee may be established or changed only after the county board of commissioners has received the recommendations of the committee for that district, established under subsection (b1) of this section. The district may not include any area that is within (i) a tax-supported fire district established under Article 3A of Chapter 69 of the General Statutes; (ii) a county

service district established under Article 16 of Chapter 153A of the General Statutes for fire protection purposes; or (iii) another fee-supported fire district. The district may not include any area that is within the corporate limits of a municipality unless the governing body of the municipality agrees to the inclusion. However, it is not necessary to obtain the consent of a municipality if the municipality has not levied a tax, performed any official act, nor held any elections within a period of 10 years preceding the adoption of the resolution including the area within the district.

Section 1.(b1) Committee for District. -- Each district shall have a committee to allow local control over the fee-setting process. In each district that does not include any territory in a participating municipality, the committee shall consist of five members as follows: The Fire Chief, the member of the board of county commissioners in whose electoral district more than fifty percent (50%) of the land area of the district lies, a community member chosen by the Fire Department Board of Directors, a community member chosen by the board of county commissioners, and the Fire Marshal. In each district that does include any territory in a participating municipality, the committee shall consist of members as follows: The Fire Chief, the mayor of each participating municipality in the district, the member of the board of county commissioners in whose electoral district more than fifty percent (50%) of the land area of the district lies, a community member chosen by the Fire Department Board of Directors, a community member chosen by the board of county commissioners, and the Fire Marshal. In either type of district, the Fire Marshal shall chair the committee, but may vote only to break a tie. The committee shall conduct an inquiry into the amount of funds required by the district to meet its needs, and shall make findings on the issue. The committee will communicate these findings to the board of county commissioners and recommend a fee. The board of county commissioners will then set the fee. The same process shall be used for changes to the fee once established.

Section 1.(c) Fees. -- The fees imposed by the county may not exceed the cost of providing fire protection services within the district and may be imposed on owners of all real property that benefits from the availability of fire protection and on owners of all manufactured or mobile homes that benefit from the availability of fire protection. For the purpose of this section, the term 'fire protection' includes furnishing emergency medical, rescue, and ambulance services to protect persons in the district from injury or death. The county shall establish a schedule of fees for different classes of property and the fee for each class of property shall be proportional to the estimated cost of providing fire protection services to that class of property. The schedule of fees shall include the following classes of property and the fee on each class of property shall not exceed the following maximums:

(1) A single-family dwelling or manufactured or mobile home, and appurtenant structures, plus up to five acres of surrounding land. The fee on this class of property may not exceed fifty dollars ($50.00) per site per year.

(2) Unimproved land other than the five acres of land classified as part of a single-family dwelling or manufactured or mobile home. The

county may establish a maximum fee for unimproved land of not more than five dollars ($5.00) per year.

(3) An animal production or horticultural operation. The fee on this class of property may not exceed ten dollars ($10.00) per site per year.

(4) A commercial facility other than an animal production or horticultural operation. The fee on this class of property may not exceed fifty dollars ($50.00) per site per year for commercial facilities with structures encompassing less than 5,000 square feet and one hundred dollars ($100.00) per site per year for commercial facilities with structures encompassing 5,000 square feet or more.

(5) A multiple-family dwelling. Each unit in a multiple-family dwelling shall be treated as a single-family dwelling under subdivision (1) of this subsection.

(6) Any other class of property selected by the county. The fee on these classes of property may not exceed fifty dollars ($50.00) per year.

Section 1.(d) Billing of Fees. -- The county may include a fee imposed under this section on the property tax bill for the real property, or the manufactured or mobile home, on which the fee is imposed.

Section 1.(e) Use of Fees. -- The county shall credit the fees collected within the district to a separate fund to be used only to furnish fire protection in the district. The board of commissioners shall administer the fund to provide fire protection by one or more of the following methods:

(1) Contracting with any municipality, any incorporated nonprofit volunteer or community fire department, or the Department of Environment and Natural Resources.

(2) Furnishing fire protection itself if it maintains an organized fire department.

(3) Establishing a fire department in the district.

Section 1.(f) Audit of Fire Department. -- If the county contracts with a fire department to provide fire protection services in a fee-supported fire district, the fire department shall prepare an annual budget based on anticipated revenues and shall submit the budget to the county for processing and approval through the county's regular budget procedure. Upon request of the county, the fire department shall make quarterly or semiannual reports to the county detailing its revenues, expenditures, and activities. The county may audit the fire department's financial records upon reasonable notice to the fire department.

Section 1.(g) Extension of Area of District. -- The county may by resolution annex to any fee-supported fire district any territory that it could include in a new district under subsection (c) of this section, upon finding that:

(1) The area to be annexed is contiguous to the district, with at least one-eighth of the area's aggregate external boundary coincident with the existing boundary of the district; and

(2) The area to be annexed requires the services of the district.

The county may also by resolution annex to any fee-supported fire district any territory it could include in a new district under subsection (c) of this section if one hundred percent (100%) of the real property owners in the territory to be annexed have petitioned the board of commissioners for annexation to the service district.

The area of any fee-supported fire district may be increased by including within the boundaries of the district any adjoining territory lying within a municipality if the territory is not already included in another fire protection district, and both the municipal governing body and the county commissioners of the county in which the district is located agree by resolution to the inclusion. However, it is not necessary to obtain the consent of a municipality if the municipality has not levied a tax, performed any official act, nor held any elections within a period of 10 years preceding the adoption of the resolution including the area within the district.

Section 1.(h) Annexation of District. -- When any portion of a fee-supported fire district has been annexed by a municipality furnishing fire protection to its citizens, and the municipality has not agreed to allow territory within it to be in the district, then the portion of the district annexed is no longer part of a fee-supported district. For the purposes of this section and regardless of the actual effective date of annexation, the date of annexation shall be considered to be a date in the month of June.

Section 1.(i) Abolition of District. -- Upon finding that there is no longer a need for a given fee-supported fire district, the board of commissioners may repeal the resolution establishing the district and thus abolish the district."

Section 2. This act applies to Brunswick County only.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 651

Short Title: Brunswick Fire Fees. (Local)

Sponsors: Representatives Redwine; and Hill.

Referred to: Finance.

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO ALLOW BRUNSWICK COUNTY TO ASSESS A FIRE PROTECTION FEE.

The General Assembly of North Carolina enacts:

Section 1. **Fee-supported fire districts.**

Section 1.(a) Request for Fee-Supported District. -- A county may create a fee-supported fire district for insurance grading purposes if it receives one of the following:

(1) A written request to create the district signed by at least two-thirds of the members of the board of directors of a fire department that contracts with the county to provide fire protection within an area of the county.

(2) A petition requesting creation of a district signed by fifteen percent (15%) of the resident freeholders living in an area in the county. The petition must describe the area to be designated as the district.

Section 1.(b) Creation of Fee-Supported District. -- Upon receipt of a request as provided in subsection (a), the county may adopt a resolution establishing a fee-supported fire district and imposing annual fees for the provision of fire protection services within the district. The fee may be established or changed only after the county board of commissioners has received the recommendations of the committee for that district, established under subsection (b1) of this section. The district may not include any area that is within (i) a tax-supported fire district established under Article 3A of Chapter 69 of the General Statutes; (ii) a county service district established under Article 16 of this Chapter for fire protection

purposes; or (iii) another fee-supported fire district. The district may not include any area that is within the corporate limits of a municipality unless the governing body of the municipality agrees to the inclusion. However, it is not necessary to obtain the consent of a municipality if the municipality has not levied a tax, performed any official act, nor held any elections within a period of 10 years preceding the adoption of the resolution including the area within the district.

Section 1.(b1) Committee for District. -- Each district shall have a committee to allow local control over the fee-setting process. In each district that does not include any territory in a participating municipality, the committee shall consist of five members as follows: The Fire Chief, the member of the board of county commissioners in whose electoral district more than fifty percent (50%) of the land area of the district lies, a community member chosen by the Fire Department Board of Directors, a community member chosen by the board of county commissioners, and the Fire Marshal. In each district that does include any territory in a participating municipality, the committee shall consist of members as follows: The Fire Chief, the mayor of each participating municipality in the district, the member of the board of county commissioners in whose electoral district more than fifty percent (50%) of the land area of the district lies, a community member chosen by the Fire Department Board of Directors, a community member chosen by the board of county commissioners, and the Fire Marshal. In either type of district, the Fire Marshal shall chair the committee, but may vote only to break a tie. The committee shall conduct an inquiry into the amount of funds required by the district to meet its needs, and shall make findings on the issue. The committee will communicate these findings to the board of county commissioners and recommend a fee. The board of county commissioners will then set the fee. The same process shall be used for changes to the fee once established.

Section 1.(c) Fees. -- The fees imposed by the county may not exceed the cost of providing fire protection services within the district and may be imposed on owners of all real property that benefits from the availability of fire protection and on owners of all manufactured or mobile homes that benefit from the availability of fire protection. For the purpose of this section, the term 'fire protection' includes furnishing emergency medical, rescue, and ambulance services to protect persons in the district from injury or death. The county shall establish a schedule of fees for different classes of property and the fee for each class of property shall be proportional to the estimated cost of providing fire protection services to that class of property. The schedule of fees shall include the following classes of property and the fee on each class of property shall not exceed the following maximums:

(1) A single-family dwelling or manufactured or mobile home, and appurtenant structures, plus up to five acres of surrounding land. The fee on this class of property may not exceed fifty dollars ($50.00) per site per year.

(2) Unimproved land other than the five acres of land classified as part of a single-family dwelling or manufactured or mobile home. The

county may establish a maximum fee for unimproved land of not more than five dollars ($5.00) per year.

(3) An animal production or horticultural operation. The fee on this class of property may not exceed ten dollars ($10.00) per site per year.

(4) A commercial facility other than an animal production or horticultural operation. The fee on this class of property may not exceed fifty dollars ($50.00) per site per year for commercial facilities with structures encompassing less than 5,000 square feet and one hundred dollars ($100.00) per site per year for commercial facilities with structures encompassing 5,000 square feet or more.

(5) A multiple-family dwelling. Each unit in a multiple-family dwelling shall be treated as a single-family dwelling under subdivision (1) of this subsection.

(6) Any other class of property selected by the county. The fee on these classes of property may not exceed fifty dollars ($50.00) per year.

Section 1.(d) Billing of Fees. -- The county may include a fee imposed under this section on the property tax bill for the real property, or the manufactured or mobile home, on which the fee is imposed.

Section 1.(e) Use of Fees. -- The county shall credit the fees collected within the district to a separate fund to be used only to furnish fire protection in the district. The board of commissioners shall administer the fund to provide fire protection by one or more of the following methods:

(1) Contracting with any municipality, any incorporated nonprofit volunteer or community fire department, or the Department of Environment and Natural Resources.

(2) Furnishing fire protection itself if it maintains an organized fire department.

(3) Establishing a fire department in the district.

Section 1.(f) Audit of Fire Department. -- If the county contracts with a fire department to provide fire protection services in a fee-supported fire district, the fire department shall prepare an annual budget based on anticipated revenues and shall submit the budget to the county for processing and approval through the county's regular budget procedure. Upon request of the county, the fire department shall make quarterly or semiannual reports to the county detailing its revenues, expenditures, and activities. The county may audit the fire department's financial records upon reasonable notice to the fire department.

Section 1.(g) Extension of Area of District. -- The county may by resolution annex to any fee-supported fire district any territory that it could include in a new district under subsection (c), upon finding that:

(1) The area to be annexed is contiguous to the district, with at least one-eighth of the area's aggregate external boundary coincident with the existing boundary of the district; and

(2) The area to be annexed requires the services of the district.

The county may also by resolution annex to any fee-supported fire district any territory it could include in a new district under subsection (c) if one hundred percent (100%) of the real property owners in the territory to be annexed have petitioned the board of commissioners for annexation to the service district.

The area of any fee-supported fire district may be increased by including within the boundaries of the district any adjoining territory lying within a municipality if the territory is not already included in another fire protection district, and both the municipal governing body and the county commissioners of the county in which the district is located agree by resolution to the inclusion. However, it is not necessary to obtain the consent of a municipality if the municipality has not levied a tax, performed any official act, nor held any elections within a period of 10 years preceding the adoption of the resolution including the area within the district.

Section 1.(h) Annexation of District. -- When any portion of a fee-supported fire district has been annexed by a municipality furnishing fire protection to its citizens, and the municipality has not agreed to allow territory within it to be in the district, then the portion of the district annexed is no longer part of a fee-supported district. For the purposes of this section and regardless of the actual effective date of annexation, the date of annexation shall be considered to be a date in the month of June.

Section 1.(i) Abolition of District. -- Upon finding that there is no longer a need for a given fee-supported fire district, the board of commissioners may repeal the resolution establishing the district and thus abolish the district."

Section 2. This act applies to Brunswick County only.

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

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 651 (First Edition)

SHORT TITLE: Brunswick Fire Fees

SPONSOR(S): Representatives Redwine and Hill

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES	See Assumptions and Methodology				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Brunswick County Commissioners

EFFECTIVE DATE: The act is effective when it becomes law.

BILL SUMMARY: The bill allows Brunswick County to create fee-supported fire districts if it receives either 1) a written request to create a district by at least 2/3 of the members of a fire department's board of directors or 2) a petition requesting creation of a district signed by 15% of the residents living in the proposed district area.

ASSUMPTIONS AND METHODOLOGY: The twenty-one fire departments in Brunswick County have requested the creation of fire districts. However, the anticipated revenue per fire district has not been calculated. There are approximately 100,000 parcels of property detailed on 1,400 tax maps in Brunswick County. The County Tax Assessor estimates that it will take five to six months for his staff to manually match parcels to fire districts. No work has begun on the proposed fire districts, because all tax office resources are now directed toward a revaluation process and its resulting appeals. The Tax Assessor believes the first fire district tax would not be collected until FY 2000-01.

Although individual fire district revenues can't be determined, the tax revenue for all 21 fire districts can be estimated as follows:

Single-family dwelling	35,000 parcels	X $25 per parcel	$875,000
Commercial property	2,000 parcels	X $50 per parcel	$100,000
Vacant property	63,000 parcels	X $2.50 per parcel	$157,500
			$1,132,500

The County Tax Assessor provided the breakdown of parcels by property type. The tax values per parcel are those used in preliminary staff projections reviewed by the Brunswick County Commissioners. The estimate assumes all 21 fire districts choose to impose a tax.

FISCAL RESEARCH DIVISION: 733-4910
PREPARED BY: Richard Bostic RB

APPROVED BY:

DATE:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 833

Short Title: Waxhaw Annexations. (Local)

Sponsors: Representatives Melton and Tallent.

Referred to: Finance.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF WAXHAW AND EXEMPTING THAT PROPERTY FROM THE CEILING ON SATELLITE ANNEXATIONS.

The General Assembly of North Carolina enacts:

Section 1. The following described property is added to the corporate limits of the Town of Waxhaw:

TRACT 1

LYING AND BEING in Sandy Ridge Township, Union County, North Carolina and being more particularly described as follows:

To find the point or place of BEGINNING, commence at a point located at the intersection of the centerline of N.C. Highway #16 and the centerline of the sixty-foot (60') right-of-way of Cuthbertson Road (S.R. No. 1321) and proceed North 63-55-05 East a distance of 4193.55 feet to a railroad spike located on the centerline of the aforesaid right-of-way of Cuthbertson Road, said railroad spike also being located on a northern boundary line of that property owned by Rosly Pfister (now or formerly) as described in that document recorded in Book 251 at Page 267 of the Union County Public Registry, said railroad spike being the point or place of BEGINNING; running thence from the point or place of BEGINNING along a portion of the aforesaid northern boundary line of that property owned by Rosly Pfister South 69-30-00 West, passing a 3/4-inch iron rod located on the western

margin of the aforesaid right-of-way of Cuthbertson Road at a distance of 48.12 feet, a total distance of 809.62 feet to a 5/8-inch iron rod in old stone pile located at a corner of that property owned by George E. Holland and wife Joanne R. Holland (now or formerly); running thence along a northern boundary line of that property owned by George E. Holland and wife, Joanne R. Holland South 70-31-30 West a distance of 303.62 feet to an old 27-inch diameter beech on east bank of the West Fork of Twelve Mile Creek, said beech also being located at a corner of that property owned by Mrs. W. J. Lewis (now or formerly) as described in that document recorded in Book 98 at Page 242, aforesaid registry; running thence along the boundary of the aforesaid property owned by Mrs. W. J. Lewis North 04-13-50 West a distance of 159.68 feet to a point located in the creek channel of the aforesaid West Fork of Twelve Mile Creek; running thence within the aforesaid creek channel of the West Fork of Twelve Mile Creek and along the aforesaid boundary of that property owned by Mrs. W. J. Lewis the following eleven (11) courses and distances:

(1) North 18-41-10 East a distance of 307.71 feet to a point;
(2) North 27-05-20 West a distance of 141.60 feet to a point;
(3) North 19-32-00 West a distance of 164.90 feet to a point;
(4) North 07-42-30 West a distance of 166.13 feet to a point;
(5) North 08-27-00 East a distance of 114.94 feet to a point;
(6) North 24-26-40 West a distance of 289.60 feet to a point;
(7) North 41-49-20 West a distance of 250.93 feet to a point;
(8) North 46-18-40 West a distance of 200.33 feet to a point;
(9) North 21-22-40 West a distance of 242.32 feet to a point;
(10) North 37-21-30 West a distance of 661.79 feet to a point;
(11) North 58-07-10 West a distance of 137.41 feet to a point; thence leaving the aforesaid creek channel of the West Fork of Twelve Mile Creek and continuing along the aforesaid boundary of that property owned by Mrs. W. J. Lewis the following four (4) courses and distances: (1) North 84-59-00 West a distance of 59.23 feet to a 1-inch iron rod (formerly a P.O. stump); (2) South 87-25-40 West a distance of 705.80 feet to a 3/4-inch iron in old stone pile; (3) North 19-24-00 West a distance of 413.43 feet to a 1-inch iron rod in stone pile (North 47 West a distance of 36 feet from spring); and (4) North 58-17-30 East a distance of 774.01 feet to a 3/4-inch iron in mouth of spring branch, said point also being located in the creek channel of Big Branch; running thence within the aforesaid creek channel of Big Branch and continuing along the aforesaid boundary of that property owned by Mrs. W. J. Lewis the following four (4) courses and distances: (1) South 46-10-30 East a distance of 84.16 feet to a point; (2) South 77-41-50 East a distance of 168.53 feet to a point; (3) North 64-31-50 East a distance of 134.22 feet to a point; and (4) North 27-06-50 East a distance of 95.57 feet to a point located in the aforesaid creek channel of the West Fork of Twelve Mile Creek; running thence within the aforesaid creek channel of the West Fork of Twelve Mile Creek and continuing along the aforesaid boundary of that property owned by Mrs. W. J. Lewis the following seven (7) courses and distances:

(1) North 81-42-30 West a distance of 83.00 feet to a point;
(2) North 41-30-10 West a distance of 135.63 feet to a point;

(3) North 76-16-10 West a distance of 49.21 feet to a point;
(4) North 16-47-40 East a distance of 57.07 feet to a point;
(5) North 67-43-30 East a distance of 135.16 feet to a point;
(6) North 59-29-20 East a distance of 268.53 feet to a point; and
(7) North 82-57-50 East a distance of 117.06 feet to a 1/2-inch iron rod in large rock outcropping in creek; thence leaving the aforesaid creek channel of the West Fork of Twelve Mile Creek and continuing along the aforesaid boundary of that property owned by Mrs. W. J. Lewis the following four (4) courses and distances: (1) South 70-13-00 East a distance of 520.85 feet to a 3/4-inch iron rod in stone pile; (2) North 12-21-20 East a distance of 454.27 feet to a 3/4-inch iron rod in stone pile (1-foot northwest of a white maple); (3) North 62-06-30 East a distance of 322.50 feet to a 3/4-inch iron rod with stones on bank on south side of drain; and (4) North 51-36-00 East a distance of 72.75 feet to the highest point on northernmost rock of rock outcropping in creek, said point being located within the aforesaid creek channel of the West Fork of Twelve Mile Creek; thence running within the aforesaid creek channel of the West Fork of Twelve Mile Creek and continuing along the aforesaid boundary of that property owned by Mrs. W. J. Lewis the following three (3) courses and distances: (1) North 11-55-00 West a distance of 361.95 feet to a 5/8-inch iron rod in creek; (2) North 07-20-00 West a distance of 350.47 feet to a 5/8-inch iron rod in creek; and (3) North 11-10-00 East a distance of 250.36 feet to a 5/8-inch iron rod in creek; thence leaving the aforesaid creek channel of the West Fork of Twelve Mile Creek and continuing along the aforesaid boundary of that property owned by Mrs. W. J. Lewis North 02-39-00 West a distance of 268.20 feet to a 3/4-inch iron rod in stone pile in old road bed; running thence South 65-50-40 East a distance of 1554.55 feet to a 5/8-inch iron rod in old stone pile at fence corner, all or a part of which line adjoins a boundary of that property owned by W. J. Lewis Heirs (now or formerly) as described in that document recorded in Book 109 at Page 631, aforesaid Registry (Correction Deed referring to that document recorded in Book 105 at Page 20, aforesaid Registry) and as shown on plat recorded in Plat Book 3 at Page 9, aforesaid Registry; thence continuing along the aforesaid boundary of that property owned by W. J. Lewis Heirs the following two (2) courses and distances: (1) South 18-31-30 West a distance of 1929.96 feet to an old 3/4-inch square shaft in stone pile at fence corner; and (2) South 86-30-00 East, passing a 3/4-inch iron rod with stones located on the western margin of the aforesaid right-of-way of Cuthbertson Road at a distance of 891.88 feet, a total distance of 922.37 feet to a railroad spike located on the centerline of the aforesaid right-of-way of Cuthbertson Road; thence continuing along a portion of the aforesaid boundary of that property owned by W. J. Lewis Heirs and a boundary line of that property owned by James A. Mullis and wife, Nancy F. Mullis (now or formerly) as shown on that plat recorded in Plat Book 3 at Page 9, aforesaid Registry the following four (4) courses and distances: (1) South 86-30-00 East, passing a 1/2-inch iron rod located on the eastern margin of the aforesaid right-of-way of Cuthbertson Road at a distance of 30.49 feet, a total distance of 1669.81 feet to an old 3/4-inch square shaft; (2) North 25-23-30 West a distance of 305.26 feet to an old 3/4-inch square shaft; (3) North 35-27-30 East a distance of

180.09 feet to an old 1-inch strap iron; and (4) North 37-15-00 East a distance of 145.48 feet to an old 1-1/2-inch diameter iron pipe located at a southern corner of that property owned by William E. Farmer and wife, Barbara L. Farmer (now or formerly) as described in that document recorded in Book 363 at Page 525, aforesaid Registry; running thence along a southeastern boundary line of the aforesaid property owned by William E. Farmer and wife, Barbara L. Farmer and along the southeastern boundary line of those properties owned by (1) Frank Forest (now or formerly) as described in that document recorded in Book 363 at Page 598, aforesaid Registry, (2) Lyle Dean (now or formerly), (3) Lyle Dean and wife, Winnie Mae D. Dean (now or formerly) as described in that document recorded in Book 214 at Page 583, aforesaid Registry, and (4) Samuel B. Boatright and wife, Velma S. Boatright as described in that document recorded in Book 137 at Page 491, aforesaid Registry North 35-33-40 East a distance of 1510.41 feet to a 3/4-inch iron rod in old stone pile by a dead black jack, said iron rod also being located at a western corner of that property owned by Carole E. Bookhart (now or formerly) as described in that document recorded in Will Book 13-E at Page 227 of the Office of the Clerk of Superior Court of Union County; running thence along the boundary of the aforesaid property owned by Carole E. Bookhart the following three (3) courses and distances: (1) South 66-39-10 East a distance of 348.59 feet to a 3/4-inch iron rod in old stone pile on west edge of old road; (2) South 07-29-40 East a distance of 827.67 feet to a 3/4-inch iron rod by an old stone in fork of road (formerly a pine stump); (3) South 42-55-30 East a distance of 1006.06 feet to a 3/4-inch iron rod in stone pile located at the northwesternmost corner of that property known as a "church lot" (no deed found); running thence along the boundary of the aforesaid "church lot" the following three (3) courses and distances: (1) South 02-42-30 East a distance of 387.88 feet to a 3/4-inch iron rod (formerly a stone); (2) North 89-33-40 East a distance of 505.87 feet to a 3/4-inch iron rod in old stone pile; and (3) North 28-24-20 West a distance of 141.52 feet to a 3/4-inch iron rod in old stone pile located on a boundary line of the aforesaid property owned by Carole E. Bookhart; running thence along the aforesaid boundary of that property owned by Carole E. Bookhart the following three (3) courses and distances: (1) South 88-36-10 East a distance of 536.81 feet to a 3/4-inch iron rod in old stone pile; (2) South 27-03-40 West a distance of 127.80 feet to a 3/4-inch iron rod in old stone pile; and (3) South 04-36-30 East a distance of 418.91 feet to a 3/4-inch iron rod on north bank (formerly a stone) of the East Fork of Twelve Mile Creek, said iron rod also being located at a corner of that property owned by Harry H. Williams (now or formerly) as described in that document recorded in Book 414 at Page 917, aforesaid Registry; running thence within the aforesaid creek channel of the East Fork of Twelve Mile Creek and along the aforesaid boundary of that property owned by Harry H. Williams and along the boundary of those properties owned by (1) Jack T. Hamilton and wife, Paula B. Hamilton (now or formerly) as described in that document recorded in Book 299 at Page 648 (Tract I), aforesaid Registry, and (2) William Carl Bennett as described in that document recorded in Book 253 at Page 408, aforesaid Registry the following fifteen (15) courses and distances:

(1) South 80-35-50 West a distance of 603.74 feet to a point;
(2) South 20-09-50 West a distance of 97.68 feet to a point;
(3) South 22-32-50 East a distance of 346.19 feet to a point;
(4) South 09-34-10 East a distance of 179.36 feet to a point;
(5) South 36-52-00 West a distance of 85.82 feet to an old 1-inch iron shaft located at a western corner of that property owned by Harry Hood Williams (now or formerly) as described in that document recorded in Book 213 at Page 567, aforesaid Registry;
(6) South 54-38-20 West a distance of 373.52 feet to a point;
(7) South 73-42-00 West a distance of 109.41 feet to a point;
(8) South 84-49-00 West a distance of 202.57 feet to a point;
(9) North 80-39-40 West a distance of 136.33 feet to a point;
(10) North 38-25-30 West a distance of 140.71 feet to a point;
(11) North 25-26-30 West a distance of 191.44 feet to a point;
(12) South 81-57-30 West a distance of 72.48 feet to a point;
(13) South 27-30-20 West a distance of 217.04 feet to a point;
(14) South 37-49-20 West a distance of 827.69 feet to a point;
and (15) South 37-49-20 West a distance of 114.60 feet to a point located at a corner of that property owned by Mrs. Bleeka Boatright (now or formerly) as described in that document recorded in Book 100 at Page 519, aforesaid Registry; thence running along the boundary of the aforesaid property owned by Mrs. Bleeka Boatright the following five (5) courses and distances: (1) North 47-48-50 West a distance of 33.87 feet to a 3/4-inch iron rod on north bank (formerly a stone) of the East Fork of Twelve Mile Creek; (2) North 47-48-50 West a distance of 1282.39 feet to the highest point of two old Negro head rocks; (3) North 48-06-10 West a distance of 392.62 feet to the highest point of two old Negro head rocks; (4) South 43-59-30 West a distance of 543.38 feet to a 3/4-inch iron rod in stone pile (formerly a P.O. stump); (5) South 69-30-00 West a distance of 1553.68 feet to an axle (set) located at a corner of that property owned by Rosly Pfister (now or formerly) as described in that document recorded in Book 251 at Page 267, aforesaid Registry; running thence along a portion of a boundary line of that property owned by Rosly Pfister South 69-30-00 West, passing a 3/4-inch iron rod located on the eastern margin of the aforesaid right-of-way of Cuthbertson Road at a distance of 333.14 feet, a total distance of 381.26 feet to a railroad spike located in the centerline of the right-of-way of Cuthbertson Road, said railroad spike being located at the point or place of BEGINNING and containing 462.828 acres as shown on that certain survey entitled "Map Showing Boundary Survey for Cuthbertson Road Joint Venture" dated September 3, 1976, last revised October 15, 1990, and prepared by William A. Soiset, Registered Land Surveyor, RLS-1415, reference to which survey is hereby made for a more particular description.

TRACT 2

LYING AND BEING in Sandy Ridge Township, Union County, North Carolina and being more particularly described as follows:

To find the point or place of BEGINNING, commence at that point located at the intersection of the centerline of the right-of-way of N.C. Highway #16 and the centerline of the sixty-(60) foot right-of-way of Cuthbertson Road (S.R. No. 1321) and proceed North 63-55-05 East a distance of 4193.55 feet to a railroad spike located on the centerline of the aforesaid right-of-way of Cuthbertson Road, said railroad spike also being located on a boundary line of that property owned by Harry DeLaney (now or formerly) as described in that document recorded in Book 430 at Page 836 of the Union County Public Registry; thence leaving the centerline of the aforesaid right-of-way of Cuthbertson Road and continuing along the aforesaid boundary line of that property owned by Harry DeLaney North 69-30-00 East, passing a 3/4 inch iron rod located on the eastern margin of the aforesaid right-of-way of Cuthbertson Road at a distance of 48.12 feet, a total distance of 381.26 feet to an axle (set), said axle (set) being the point or place of BEGINNING; running thence from said Beginning Point along the aforesaid boundary line of that property owned by Harry DeLaney the following four (4) courses and distances: (1) North 69-30-00 East a distance of 1553.68 feet to a 3/4-inch rod in stone pile (found); (2) North 43-59-30 East a distance of 543.38 feet to the highest point of two old Negro head rocks; (3) South 48-06-10 East a distance of 392.62 feet to the highest point of two old Negro head rocks; and (4) South 47-48-50 East, passing a 3/4-inch iron rod on North Bank (found) at a distance of 1282.39 feet, a total distance of 1316.26 feet to a point located in the centerline of the East Fork of Twelve Mile Creek, said point also being located on the boundary of that property owned by William Carl Bennett (now or formerly) as described in that document recorded in Book 253 at Page 408, aforesaid Registry; running thence along the centerline of the aforesaid East Fork of Twelve Mile Creek and along the boundary of the aforesaid property owned by William Carl Bennett and the boundaries of Lots 22 and 21 of Eastfield Plantation as shown on that plat recorded in Plat Cabinet B at File 5A, aforesaid Registry the following seventeen (17) courses and distances:

(1) South 45-24-00 West a distance of 400.00 feet to a point;
(2) South 41-11-00 West a distance of 400.00 feet to a point;
(3) South 47-14-00 West a distance of 356.00 feet to a point;
(4) south 51-09-15 West a distance of 365.00 feet to a point;
(5) South 43-18-20 West a distance of 191.65 feet to a point;
(6) South 54-39-00 West a distance of 40.00 feet to a point;
(7) South 77-42-30 West a distance of 61.41 feet to a point;
(8) North 81-23-00 West a distance of 194.34 feet to a point;
(9) North 61-57-00 West a distance of 47.28 feet to a stone outcropping at west end of remains of old dam;
(10) North 5-03-00 West a distance of 205.97 feet to a point;
(11) North 61-26-15 East a distance of 106.00 feet to a point;
(12) North 18-41-45 West a distance of 77.00 feet to a point;
(13) South 73-42-15 West a distance of 222.00 feet to a point;
(14) North 87-24-45 West a distance of 235.00 feet to a point;

(15) North 73-50-45 West a distance of 152.00 feet to a point;
(16) South 73-29-15 West a distance of 107.00 feet to a point;
and (17) South 45-29-15 West a distance of 75.43 feet to a point located on the boundary of that property owned by Rosly Pfister (now or formerly) as described in that document recorded in Book 251 at Page 267, aforesaid Registry; running thence along the aforesaid boundary of that property owned by Rosly Pfister the following five (5) courses and distances: (1) North 68-41-00 West a distance of 54.36 feet to a P.K. nail (set) in fissure in large rock; (2) North 68-41-00 West a distance of 696.83 feet to a hole (set) in large stone; (3) North 11-00-00 West a distance of 530.00 feet to a 3/4-inch iron rod (set); (4) North 4-02-00 East a distance of 165.00 feet to a 3/4-inch iron rod (set); and (5) North 17-00-00 West a distance of 202.81 feet to an axle (set), said axle being located at the point or place of BEGINNING and containing 95.339 acres (total) as shown on that certain survey entitled "Map Showing a Boundary Survey for Cuthbertson Road Joint Venture" dated November 2, 1990, revised November 30, 1990, and prepared by William A. Soiset, RLS-1415, reference to which survey is hereby made for a more particular description.

Section 2. The property described in Section 1 of this act shall not be included in any calculations made under G.S. 160A-58.1(b)(5).

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

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 852 - PCS6140-SC

DATE 4/13/99

S. B. No. _____

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

COMMITTEE SUBSTITUTE _____

(Rep.) Buchanan
Sen.)

1 moves to amend the bill on page 1, line 12

2 ( ) WHICH CHANGES THE TITLE

3 by deleting "April 6" and substituting "May 7".

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 852
Proposed Committee Substitute H852-PCS6140-SC

Short Title: Hickory/Mocksville Annexations. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT CONCERNING ANNEXATION OF NONCONTIGUOUS AREAS BY THE CITY OF HICKORY, AND ANNEXATION OF CERTAIN DESCRIBED PROPERTY BY THE TOWN OF MOCKSVILLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-58.1(b)(2) shall not apply to the City of Hickory or the Town of Brookford as to any property if the City or Town has entered into an annexation agreement pursuant to Part 6 of Article 4A of Chapter 160A of the General Statutes with the city to which a point on the proposed satellite corporate limits is closer and that agreement states that the other city will not annex the property, except that this modification shall not apply to the boundary agreement between the City of Hickory and the City of Newton dated April 6, 1996.

Section 2. The following described property is added to the corporate limits of the Town of Mocksville:

Beginning at a concrete monument set, said monument being located N 59° 50' 17" W 2511.7' from the intersection of North Main St. and Campbell Road in the Town of Mocksville, North Carolina, also being further located N° 02 27' 33" E 71.62' from the Southeast corner of a Mocksville Annexation Map as recorded in Plat Book 6, page 131, Davie County Registry, thence;

N 02°27'33" E	549.70', TO A CONCRETE MON. FOUND
N 02°27'33" E	996.50', TO A POINT CL CAMPBELL RD.
N 02°27'33" E	586.50', TO A .75" IRON NORTH SIDE CREEK
S 61°04'29" E	120.56', TO A POINT IN CREEK

	N 71°42'10" E	327.39', TO A POINT IN CREEK
	N 63°23'29" E	291.04', TO A POINT IN CREEK
	N 77°18'07" E	401.50', TO A POINT IN CREEK
	N 61°34'10" E	240.46', TO A POINT IN CREEK
	N 39°26'56" E	244.24', TO A POINT IN CREEK
	N 58°10'43" E	442.61', TO A POINT IN CREEK
	N 62°22'28" E	193.44', TO A POINT IN CREEK
	N 58°47'38" E	280.10', TO AN AXLE NORTH SIDE CREEK
	S 01°32'31" W	1644.56', TO AN IRON PLACED
	S 40°24'40" W	455.40', TO AN IRON PLACED
	S 31°14'59" W	132.00', TO A 0.75" SOLID IRON FOUND
	N 68°45'01" W	167.34', TO A LEAF SPRING FOUND
	S 42°14'59" W	87.12', TO AN UNMARKED POINT
	S 30°05'50" W	138.05', TO AN UNMARKED POINT
	S 82°30'57" E	211.20', TO A 0.5" IRON FOUND
	S 04°59'04" E	82.78', TO A 0.5" IRON FOUND
	S 28°26'07" E	95.35', TO A 0.5" IRON FOUND
	S 28°12'02" E	100.28', TO A 0.5" IRON FOUND
	S 28°32'14" E	77.59', TO A 0.5" IRON FOUND
	S 53°29'41" E	160.61', TO AN UNMARKED POINT
	S 58°03'55" E	613.64', TO AN IRON PLACED
	S 21°59'37" W	32.15', TO A CONCRETE MON. FOUND
	S 58°16'00" E	33.33', TO A 0.75" IRON FOUND
	S 27°17'18" W	120.04', TO A 1.5" IRON FOUND
	S 27°22'16" W	125.14', TO A CONCRETE MON. FOUND
	S 25°31'34" W	24.55', TO A 0.5" IRON FOUND
	N 62°48'48" W	260.19', TO AN IRON PLACED
	S 27°03'32" W	100.14', TO A 0.5" REBAR FOUND
	S 27°03'46" W	99.65', TO A 0.5" IRON FOUND
	S 27°03'19" W	99.83', TO A 0.5" IRON FOUND
	S 26°59'36" W	296.54', TO A 0.75" IRON FOUND
	S 26°59'46" W	206.54', TO A 0.5" IRON FOUND
	S 01°24'53" W	55.08', TO A CONCRETE MON. SET
	N 59°52'17" W	566.80', TO A CONCRETE MON. SET
(ARC =	567.07, RADIUS =	5280.00)
	N 28°59'18" E	29.26', TO AN UNMARKED POINT
	N 45°50'52" W	107.94', TO AN UNMARKED POINT
	N 47°20'22" W	107.50', TO A 0.5" IRON FOUND
	S 39°58'19" W	71.28', TO A POINT IN HILLCREST ST.
	S 48°24'43" E	88.38', TO A POINT IN HILLCREST ST.
	N 71°52'36" W	1369.48', TO A CONCRETE MON. SET
(ARC =	1373.35, RADIUS =	5280.00).

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 852

Short Title: Hickory/Mocksville Annexations. (Local)

Sponsors: Representatives Buchanan and Howard.

Referred to: Finance.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT CONCERNING ANNEXATION OF NONCONTIGUOUS AREAS BY THE CITY OF HICKORY AND ANNEXATION OF CERTAIN DESCRIBED PROPERTY BY THE TOWN OF MOCKSVILLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-58.1(b)(2) shall not apply to the City of Hickory as to any property if the City has entered into an annexation agreement pursuant to Part 6 of Article 4A of Chapter 160A of the General Statutes with the city to which a point on the proposed satellite corporate limits is closer and that agreement states that the other city will not annex the property.

Section 2. The following described property is added to the corporate limits of the Town of Mocksville:

Beginning at a concrete monument set, said monument being located N 59° 50' 17" W 2511.7' from the intersection of North Main St. and Campbell Road in the Town of Mocksville, North Carolina, also being further located N° 02 27' 33" E 71.62' from the Southeast corner of a Mocksville Annexation Map as recorded in Plat Book 6, page 131, Davie County Registry, thence;

N 02°27'33" E	549.70', TO A CONCRETE MON. FOUND
N 02°27'33" E	996.50', TO A POINT CL CAMPBELL RD.
N 02°27'33" E	586.50', TO A .75" IRON NORTH SIDE CREEK
S 61°04'29" E	120.56', TO A POINT IN CREEK
N 71°42'10" E	327.39', TO A POINT IN CREEK
N 63°23'29" E	291.04', TO A POINT IN CREEK
N 77°18'07" E	401.50', TO A POINT IN CREEK

N 61°34'10" E 240.46', TO A POINT IN CREEK
N 39°26'56" E 244.24', TO A POINT IN CREEK
N 58°10'43" E 442.61', TO A POINT IN CREEK
N 62°22'28" E 193.44', TO A POINT IN CREEK
N 58°47'38" E 280.10', TO AN AXLE NORTH SIDE CREEK
S 01°32'31" W 1644.56', TO AN IRON PLACED
S 40°24'40" W 455.40', TO AN IRON PLACED
S 31°14'59" W 132.00', TO A 0.75" SOLID IRON FOUND
N 68°45'01" W 167.34', TO A LEAF SPRING FOUND
S 42°14'59" W 87.12', TO AN UNMARKED POINT
S 30°05'50" W 138.05', TO AN UNMARKED POINT
S 82°30'57" E 211.20', TO A 0.5" IRON FOUND
S 04°59'04" E 82.78', TO A 0.5" IRON FOUND
S 28°26'07" E 95.35', TO A 0.5" IRON FOUND
S 28°12'02" E 100.28', TO A 0.5" IRON FOUND
S 28°32'14" E 77.59', TO A 0.5" IRON FOUND
S 53°29'41" E 160.61', TO AN UNMARKED POINT
S 58°03'55" E 613.64', TO AN IRON PLACED
S 21°59'37" W 32.15', TO A CONCRETE MON. FOUND
S 58°16'00" E 33.33', TO A 0.75" IRON FOUND
S 27°17'18" W 120.04', TO A 1.5" IRON FOUND
S 27°22'16" W 125.14', TO A CONCRETE MON. FOUND
S 25°31'34" W 24.55', TO A 0.5" IRON FOUND
N 62°48'48" W 260.19', TO AN IRON PLACED
S 27°03'32" W 100.14', TO A 0.5" REBAR FOUND
S 27°03'46" W 99.65', TO A 0.5" IRON FOUND
S 27°03'19" W 99.83', TO A 0.5" IRON FOUND
S 26°59'36" W 296.54', TO A 0.75" IRON FOUND
S 26°59'46" W 206.54', TO A 0.5" IRON FOUND
S 01°24'53" W 55.08', TO A CONCRETE MON. SET
N 59°52'17" W 566.80', TO A CONCRETE MON. SET
(ARC= 567.07, RADIUS= 5280.00)
N 28°59'18" E 29.26', TO AN UNMARKED POINT
N 45°50'52" W 107.94', TO AN UNMARKED POINT
N 47°20'22" W 107.50', TO A 0.5" IRON FOUND
S 39°58'19" W 71.28', TO A POINT IN HILLCREST ST.
S 48°24'43" E 88.38', TO A POINT IN HILLCREST ST.
N 71°52'36" W 1369.48', TO A CONCRETE MON. SET
(ARC= 1373.35, RADIUS= 5280.00).

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

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 863 A BILL TO BE ENTITLED AN ACT TO INCORPORATE THE TOWN OF ST. JAMES.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 863

Short Title: St. James Incorporation. (Local)

Sponsors: Representatives Redwine; and Hill.

Referred to: Finance.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE TOWN OF ST. JAMES.

The General Assembly of North Carolina enacts:

Section 1. A Charter for the Town of St. James is enacted to read:

"CHARTER OF THE TOWN OF ST. JAMES.

"CHAPTER I.

"INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation.** The inhabitants of the Town of St. James are a body corporate and politic under the name 'Town of St. James'. Under that name they shall have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"CHAPTER II.

"CORPORATE BOUNDARIES.

"Section 2.1. **Corporate Boundaries.** Until modified in accordance with the law, the corporate boundaries of the Town of St. James are as follows:

Beginning at a point in Brunswick County in the southern right-of-way of N.C. Highway 211 (150' right-of-way) where it intersects the eastern right-of-way of St. James Drive (60' right-of-way), said point having the following NCGS (NAD 1983) coordinates: (N) 78344.141 (E) 2276451.136 and being located N 77° 16'46"W 2,027.09' from NCGS Monument "System" having NCGS (NAD 1983) coordinates: (N) 77897.789 (E) 2278428.469 thence from said beginning point and with the southern right-of-way of N.C. Highway 211 N74°25'16"W a distance of 99.99' to a point; thence leaving the right-of-way of N.C. 211 S 15°34'51" W a distance of 800.35' to a point; thence with a curve turning to the left with an arc length of

587.75', with a radius of 1680.00', with a chord bearing of S 05^33'29" W, with a chord length of 584.76' to a point, thence S 04^27'52" E a distance of 148.27' to a point; thence with a curve turning to the left with an arc length of 236.19', with a radius of 550.00', with a chord bearing of S 16^46'00" E, with a chord length of 234.38' to a point, thence S 29^04'08" E a distance of 66.08' to a point; thence with a curve turning to the right with an arc length of 182.71', with a radius of 450.00', with a chord bearing of S 17^26'15" E, with a chord length of 181.46' to a point, thence S 05^48'21" E a distance of 527.02' to a point; thence with a curve turning to the right with an arc length of 207.11', with a radius of 600.00', with a chord bearing of S 04^04'59" W, with a chord length of 206.09' to a point, thence S 13^57'20" W a distance of 402.85' to a point; thence with a curve turning to the right with an arc length of 148.95', with a radius of 300.00', with a chord bearing of S 28^10'45" W, with a chord length of 147.42' to a point, thence S 42^24'10" W a distance of 12.48' to a point; thence with a curve turning to the left with an arc length of 90.86', with a radius of 400.00', with a chord bearing of S 35^53'45" W, with a chord length of 90.66' to a point, thence S 29^23'19" W a distance of 517.06' to a point; thence with a curve turning to the right with an arc length of 42.51', with a radius of 450.00', with a chord bearing of S 32^05'42" W, with a chord length of 42.50' to a point, thence S 34^48'06" W a distance of 237.35' to a point; thence with a curve turning to the left with an arc length of 32.93', with a radius of 550.00', with a chord bearing of S 33^05'11" W, with a chord length of 32.93' to a point, thence S 31^22'15" W a distance of 183.56' to a point; thence with a curve turning to the right with an arc length of 215.42', with a radius of 450.00', with a chord bearing of S 45^05'06" W with a chord length of 213.37' to a point, thence S 58^47'57" W a distance of 260.77' to a point; thence with a curve turning to the left with an arc length of 314.67', with a radius of 328.00', with a chord bearing of S 31^18'57" W, with a chord length of 302.74' to a point, thence S 03^49'57" W a distance of 147.44' to a point; thence with a curve turning to the right with an arc length of 124.44', with a radius of 450.00', with a chord bearing of S 11^45'04" W, with a chord length of 124.05' to a point, thence S 19^40'24" W a distance of 170.28' to a point; thence with a curve turning to the right with an arc length of 60.46', with a radius of 450.00', with a chord bearing of S 23^31'17" W, with a chord length of 60.42' to a point, thence S 27^22'15" W a distance of 138.07' to a point; thence with a curve with a curve turning to the right with an arc length of 83.11', with a radius of 125.00', with a chord bearing of S 46^25'01" W, with a chord length of 81.58' to a point, thence S 65^27'48" W a distance of 123.95' to a point; thence with a curve turning to the left with an arc length of 243.93', with a radius of 360.00', with a chord bearing of S 46^03'06" W, with a chord length of 239.29' to a point, thence leaving the western right-of-way of St. James Drive S 26^38'25" W a distance of 1361.82' to a point; thence N 83^47'32" W a distance of 76.07' to a point; thence N 40^40'56" W a distance of 389.99' to a point; thence S 89^54'30" W a distance of 595.97' to a point; thence N 57^29'54" W a distance of 381.45' to a point; thence N 61^14'54" W a distance of 748.22' to a point; thence N 67^14'54" W a distance of 498.86' to a point; thence N 61^59'54" W a distance of 698.34' to a point; thence N 68^59'54" W a distance of 868.05' to a

point; thence N 71^44'54" W a distance of 798.25' to a point; thence S 35^45'39" W a distance of 1597.66' to a point; thence N 72^33'51" W a distance of 334.89' to a point; thence N 22^03'26" W a distance of 63.98' to a point; thence N 34^28'38" W a distance of 406.82' to a point; thence N 61^10'21" W a distance of 529.33' to a point; thence S 68^51'52" W a distance of 404.85' to a point; thence N 45^42'34" W a distance of 286.92' to a point; thence S 39^00'35" W a distance of 1149.41' to a point; thence N 52^51'07" W a distance of 245.46' to a point; thence N 66^04'17" W a distance of 387.18' to a point; thence S 88^51'54" W a distance of 641.57' to a point; thence S 64^35'37" W a distance of 888.62' to a point; thence S 08^35'12" E a distance of 162.83' to a point; thence S 14^40'o7" E a distance of 51.93' to a point; thence S 16^48'58" W a distance of 172.04' to a point; thence S 14^59'46" W a distance of 60.34' to a point; thence S 35^15'21" W a distance of 213.23' to a point; thence N 39^03'27" W a distance of 74.23' to a point; thence S 82^56'36" W a distance of 129.24' to a point; thence S 16^00'33" W a distance of 157.32' to a point; thence S 05^00'25" E a distance of 573.17' to a point; thence S 26^37'19" E a distance of 69.25' to a point; thence N 88^50'46" E a distance of 127.72' to a point; thence S 26^26'11" E a distance of 379.07' to a point; thence S 29^18'59" W a distance of 70.19' to a point; thence S 21^44'24" E a distance of 460.72' to a point; thence S 35^06'09" W a distance of 693.95' to a point; thence S 80^09'13" W a distance of 138.01' to a point; thence S 54^51'56" W a distance of 523.31' to a point; thence N 83^48'10" W a distance of 374.97' to a point; thence S 89^20'38" W a distance of 632.24' to a point; thence N 81^36'14" W a distance of 267.30' to a point; thence S 73^37'12" W a distance of 120.84' to a point; thence S 10^29'33" W a distance of 1059.23' to a point; thence S 10^26'52" W a distance of 2270.42' to a point; thence S 10^38'39" W a distance of 435.51' to the high water line of the Atlantic Intracoastal Waterway; thence along the high water line of said waterway S 81^26'39" E approximately 9626' to a point where said high water line intersects the centerline of Beaver Dam Creek; thence up the run of said creek the following courses and distances; thence N 10^39'50" E a distance of 664.72' to a point; thence N 18^40'49" E a distance of 1432.05' to a point; thence N 22^15'28" E a distance of 2039.03' to a point; thence N 43^48'33" E a distance of 948.32' to a point; thence N 42^52'26" E a distance of 1522.17' to a point; thence N 68^08'26" E a distance of 1452.60' to a point; thence leaving Beaver Dam Creek runs S 23^10'45" E a distance of 88.75' to a point; thence S 78^14'49" E a distance of 797.09' to a point; thence N 59^31'41" E a distance of 662.46' to a point; thence S 00^15'02" E a distance of 1047.01' to a point; thence N 89^03'59" E a distance of 210.00' to a point; thence N 88^56'40" E a distance of 873.45' to a point; thence N 89^04'29" E a distance of 867.18' to a point; thence N 00^18'37" W a distance of 1803.88' to a point in the run of Potter's Branch; thence up the run of Potter's Branch the following courses and distances; N 50^49'02" E a distance of 190.05' to a point; thence N 56^42'21" E a distance of 188.26' to a point; thence N 84^44'46" E a distance of 208.46' to a point; thence N 86^28'01" E a distance of 187.48' to a point; thence N 88^55'48" E a distance of 380.47' to a point; thence N 85^06'54" E a distance of 251.03' to a point; thence S 86^26'56" E a distance of 183.19' to a point; thence N 70^06'46" E a

distance of 137.97' to a point; thence S 89°02'13" E a distance of 382.85' to a point; thence leaving the run of Potter's Branch runs N 16°54'14" E a distance of 806.35' to a point; thence N 73°02'44" W a distance of 700.00' to a point; thence N 17°09'58" E a distance of 491.73' to a point; thence N 62°34'11" W a distance of 2005.89' to a point; thence S 71°20'44" W a distance of 114.00' to a point; thence S 08°08'11" E a distance of 120.00' to a point; thence S 43°22'41" W a distance of 760.00' to a point; thence S 80°45'54" W a distance of 330.00' to a point; thence S 38°31'29" W a distance of 210.00' to a point; thence N 85°44'21" W a distance of 461.62' to a point; thence S 15°16'24" W a distance of 320.00' to a point; thence N 83°33'24" W a distance of 140.00' to a point; thence S 44°52'03" W a distance of 260.00' to a point; thence S 15°24'13" W a distance of 80.83' to a point; thence S 80°18'26" W a distance of 229.77' to a point; thence N 37°25'39" W a distance of 464.86' to a point in the centerline of Beaver Dam Creek; thence up the run of said creek the following courses and distances; N 38°32'50" W a distance of 42.26' to a point; thence N 07°42'45" E a distance of 26.22' to a point; thence N 19°15'32" E a distance of 972.45' to a point; thence N 19°35'28" E a distance of 120.47' to a point; thence N 25°52'47" E a distance of 1255.95' to a point; thence N 21°13'23" E a distance of 409.89' to a point; thence N 19°25'25" E a distance of 518.51' to a point; thence N 34°12'30" E a distance of 59.41' to a point; thence N 22°57'53" E a distance of 137.07' to a point; thence N 75°17'57" E a distance of 53.72' to a point; thence N 10°34'41" E a distance of 9.60' to a point; thence leaving Beaver Dam Creek runs N 72°56'48" W a distance of 899.70' to a point in the eastern right-of-way of St. James Drive (60' right-of-way); thence with the eastern right-of-way of St. James Drive N 05°48'21" W a distance of 302.71' to a point; thence with a curve turning to the left with an arc length of 223.31', with a radius of 550.00', with a chord bearing of N 17°26'15" W, with a chord length of 221.78' to a point, thence N 29°04'08" W a distance of 66.08' to a point; thence with a curve turning to the right with an arc length of 193.24', with a radius of 450.00', with a chord bearing of N 16°46'00" W, with a chord length of 191.76' to a point, thence N 04°27'52" W a distance of 148.27' to a point; thence with a curve turning to the right with an arc length of 552.76', with a radius of 1580.00', with a chord bearing of N 05°33'29" E, with a chord length of 549.95' to a point, thence N 15°34'50" E a distance of 800.35', to the place and point of beginning. Containing 2,343.1 acres more or less.

"CHAPTER III.

"GOVERNING BODY.

"Section 3.1. **Town Governing Body; Temporary Officers.** The Town Council shall be the governing body of the Town of St. James. Until such time as a Town election is held in accordance with the provisions of this Charter, the governing body of the Town shall be: Earl Dye, who shall also serve as the Mayor, Dennis Becker, Harry Comer, Joan Madsen, and Henry Ulrichs.

"Section 3.2. **Town Council; Composition; Terms of Office; Vacancies.** The Town Council shall be composed of five members who shall be elected by all the qualified voters of the Town. Council members shall be elected at large and shall serve two-year terms. If a member cannot fully serve his or her term, the remaining Council

members shall appoint a person to fill the vacancy and that person shall serve until the next biennial election.

"Section 3.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by the Council from among its membership at the first organizational meeting after the biennial election and the Mayor shall serve a two-year term. The Mayor shall be the official head of the Town government and shall preside at meetings of the Council and shall have the right to vote on all matters before the Council.

"Section 3.4. **Meetings.** In accordance with general law, the Council shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

"Section 3.5. **Quorum; Voting Requirements.** Official actions of the Council and all votes shall be taken in accordance with applicable provisions of general law, particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

"Section 3.6. **Qualifications for Office; Compensation.** The qualifications of Mayor and Council members shall be in accordance with general law. The Mayor and Council members shall be reimbursed for ordinary and necessary expenses and may receive salaries and honoraria only upon a majority vote of all qualified voters of the Town in a special referendum with respect thereto.

"CHAPTER IV.

"ELECTIONS.

"Section 4.1. **Regular Municipal Elections.** Regular municipal elections shall be held every two years in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined using the nonpartisan plurality method as provided in G.S. 163-292.

"Section 4.2. **Election of Council Members.** Council members appointed upon ratification of this Charter shall serve until their successors are elected and qualified. Council members shall first be elected at a regular municipal election to be held in 1999. Thereafter, elections shall be held biennially.

"Section 4.3. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly or as provided for in this Charter.

"CHAPTER V.

"ORGANIZATION AND ADMINISTRATION.

"Section 5.1. **Form of Government.** The Town shall operate under the Council-Manager form of government in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 5.2. **Town Manager; Appointment; Powers and Duties.** The Council may appoint a Town Manager who shall be responsible for all operating departments of the Town government, except as otherwise directed by the Council. The Town Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter, and shall have additional powers and duties conferred by the Council insofar as they are authorized by general law.

"Section 5.3. **Manager's Personnel Authority; Role of Elected Officials.** As chief administrative officer, the Town Manager shall have the power to appoint, suspend,

and remove all officers, department heads, and employees in the administrative service of the Town, with the exception of the Town Attorney, the Town Clerk, and any other official whose appointment or removal is vested in the Council by this Charter or by general law. Neither the Council nor any of its members shall take part in the appointment or removal of officers or employees in the administrative service of the Town, except as provided by this Charter. Except for the purpose of inquiry or for consultation with the Town Attorney, the Council and its members shall address issues related to administrative service only through contact with the Town Manager or Acting Manager, and neither the Council nor any of its members shall give any specific orders to any subordinates of the Town Manager or Acting Manager either publicly or privately.

"Section 5.4. **Town Attorney.** The Town Council shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Council may direct.

"Section 5.5. **Town Clerk.** The Town Council shall appoint a Town Clerk to keep a journal of the proceedings of the Council, to maintain official records and documents, to give notice of meetings, and to perform such other duties as are required by law or as the Council may direct.

"Section 5.6. **Other Administrative Officers and Employees.** The Council may authorize other offices and positions, appoint persons to fill such offices and positions, or authorize such offices and positions to be filled by appointment by the Town Manager, and may organize the Town government as deemed appropriate subject to the requirements of general law.

"Section 5.7. **Consolidation of Functions.** The Council may consolidate any two or more positions subject to the provisions of the laws and regulations of this State.

"CHAPTER VI.

"TAXATION.

"Section 6.1. **Powers of the Council.** The Council may levy taxes and fees as authorized by law. The ad valorem tax rate may be changed from the rate of the prior year only when a majority of the entire legally constituted Council votes in favor of such a change.

"Section 6.2. **Commencement of Collection of Taxes.** From and after the effective date of this act, the citizens and property of the Town of St. James shall be subject to municipal taxes levied for the year beginning July 1, 1999, and for that purpose the Town shall obtain from Brunswick County a record of property in the area herein incorporated which was listed for taxes as of January 1, 1999. The Town may adopt a budget ordinance for fiscal year 1999-2000 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 1999-2000 ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance, and thereafter in accordance with the schedule in G.S. 105-360 as if the taxes had been due and payable on September 1, 1999. If this act is ratified before July 1, 1999, the Town may adopt a budget ordinance for fiscal year 1998-1999

without following the timetable in the Local Government and Budget Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical, but no ad valorem taxes may be levied for the 1998-1999 fiscal year.

"CHAPTER VII.

"ORDINANCES.

"Section 7.1. **Ordinances.** Except as otherwise provided in this Charter, the Town is authorized to adopt such ordinances as the Council deems necessary for the governance of the Town, in accordance with and subject to the provisions of general law.

"Section 7.2. **Planning and Regulation of Development.** Notwithstanding any other provisions of this Charter or the provisions of general law, including the provisions of Article 19 of Chapter 160A of the General Statutes, the Town shall not, prior to December 31, 2009, adopt any ordinance creating a planning agency, regulating or restricting the subdivision, zoning, or use of any land, or providing for building inspections. During such time, all planning duties, regulation of development, and building inspections within the jurisdiction of the Town shall be conducted by Brunswick County and governed by the applicable ordinances of Brunswick County as if the area was not in the corporate limits of any municipality. As of December 31, 2009, either the Town or Brunswick County may terminate such powers of Brunswick County within the jurisdiction of the Town upon 60 days' notice whereupon the Town may adopt subdivision and zoning ordinances and shall become responsible for building inspections in accordance with general law.

"CHAPTER VIII.

"MISCELLANEOUS.

"Section 8.1. **Conflicts of Interest.** No person or immediate family member of such person who is employed by or an official of the Town shall do business with the Town unless the Council specifically approves such activity. All appointed officials shall apprise the Council of any and all conflicts of interest, and failure to do so shall constitute grounds for immediate dismissal for cause. No official may accept any gratuity from any business, person, or other official if such gratuity is related to his or her official duties.

"Section 8.2. **Enlargement of Council.** The Council may vote to enlarge its numbers in accordance with the provisions of Part 4 of Article 5 of Chapter 160A of the General Statutes. The electorate may seek to enlarge the number of members on the Council by submitting to the Council a petition to the effect signed by twenty percent (20%) of the registered voters of the Town. Upon passage of a resolution or receipt of a valid petition, the Council shall take those steps provided in Part 4 of Article 5 of Chapter 160A of the General Statutes to determine by referendum whether the number of Council members should be increased. The referendum shall be held at the earliest possible date to elect the new Council members.

"Section 8.3. **Changes to Charter.** The Council may propose and enact changes to the Charter in accordance with Part 4 of Article 5 of Chapter 160A of the General Statutes. However, no change to the Charter shall become final until the residents of the Town have been notified of the proposed change and afforded an opportunity to

comment thereon. Notwithstanding the provisions of G.S. 160A-103, residents may file a petition requesting a change to the Charter, but the Council need not consider the proposed change unless it is determined that twenty percent (20%) of the qualified voters of the Town have signed the petition.

"Section 8.4. **Provision of Services and Administration of Functions.** The Council may enter into agreements with other governmental bodies and private enterprises for the provision of services and the administration of corporate functions in order to provide such services and administer such functions in the most efficient and cost-effective manner possible."

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

VISITOR REGISTRATION SHEET

House Finance — April 13, 1999
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Philip Albano	DCC
Kennon Briggs	DCC
Parker Denn	ESC
Tom Christaker	ESC
[illegible]	ESC
Lockhart Taylor	ESC
Earl Dye	St. James
Henry Ellicks	St. James
HUEY MARSHALL	BRUNSWICK CO.
[illegible]	NCCC
[illegible]	CSBM
[illegible]	Electricities
Patricia Roeder	NCACC
John Phelps	NCLM
Hal Miller	NCACCT
Ethesine Davis	Electricities
[illegible]	NCBeer & Wine
Rosie Benders	NCCBI
John Cyrus	N.C. State Grange
Lloyd WATKINS	Wilmington NC
Mac Cunin	Raleigh
Bill Brown	GREENVILLE NC
Lynda Cypress	Commerce

AGENDA

HOUSE FINANCE COMMITTEE

Tuesday, April 20, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 755 – Highway Lighting Service Districts - Rep. Yongue
HB 222 – Strengthen Littering Law – Rep. Mitchell
HB 280 – Motor Vehicle Technical Amendments – Rep. Cole
HB 504 – Carteret Planning/Zoning Changes – Rep. Preston
HB 852 – Hickory/Mocksville Annexations – Rep. Buchanan

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Tuesday, April 20, 1999

The House Committee on Finance met on Tuesday, April 20, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke, Miller; Vice Chair Jarrell; Representatives Braswell, Bridgeman, Brown, Buchanan, Capps, Cox, Cunningham, Decker, Dedmon, Eddins, Edwards, Gibson, Goodwin, Hackney, Hill, McComas, McCombs, Morris, Mosley, Ramsey, Rayfield, Starnes, Tucker, Wilson, Womble. Staff including Cindy Avrette, Richard Bostic, Linda Millsaps, Charles Perusse, Mary Shuping, and Elisa Wolper were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Allen called the meeting to order to consider the following bills:

Representative Buchanan was recognized to explain HB 852, A BILL TO BE ENTITLED AN ACT CONCERNING ANNEXATION OF NONCONTIGUOUS AREAS BY THE CITY OF HICKORY AND ANNEXATION OF CERTAIN DESCRIBED PROPERTY BY THE TOWN OF MOCKSVILLE. The Chair recognized Mayor Bill McDonald of Hickory who supported the bill. Rep. Brown moved for a favorable report, but was not voted on. Rep. Starnes said he had received mailings opposing the bill and mentioning a lawsuit against Hickory. Mayor Bill McDonald replied that the lawsuit in question pertained to property that had already been annexed previously and which had nothing to do with HB 852. Rep. McComas asked if there was any opposition to the bill and whether the delegation was agreed on the bill, and Rep. Buchanan replied that there was no opposition that he was aware of and the delegation supported the bill. Rep Brown's motion was to give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. The motion passed. Copies of the original Bill and Committee Substitute are included in the Minutes.

Representative Yongue was recognized to explain HB755, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE CERTAIN MUNICIPALITIES TO CREATE SERVICE DISTRICTS TO FINANCE LIGHTING AT INTERSTATE HIGHWAY INTERCHANGES. Rep. Yongue said this bill was at the request of the town of St. Pauls'. Rep. Hill made a motion to give the Proposed Committee Substitute a favorable report and an unfavorable as to original bill. The motion passed. Copies of the original Bill, Committee Substitute, and Fiscal Note are included in the Minutes.

Representative Mitchell was recognized to explain HB 222, A BILL TO BE ENTITLED AN ACT TO STRENGTHEN THE LITTERING LAW BY INCREASING THE MINIMUM AND MAXIMUM FINES AND BY REQUIRING COMMUNITY SERVICE IN THOSE INSTANCES WHERE IT IS CURRENTLY PERMISSIVE. Rep. Mitchell explained the differences between the current law and the bill, which mainly involved the fine amounts. The Proposed Committee Substitute made clarifying and technical changes to the bill. Rep. Cox made a motion to adopt the Proposed Committee Substitute for discussion. The motion passed. Rep. Miller asked if there was information on the number of citations and convictions under the present law. Charles Perusse of the Fiscal Research Staff responded by referring to the fiscal note which included information on

the fines collected and the projected fines to be collected if the law is adopted. Rep. Mosley requested the Chair to recognize Ms. Louise Nixon, Director of the Wake County chapter of Keep America Beautiful. The Chair recognized Ms. Nixon, who stated that her organization had been researching litter problems and they found that law enforcement finds the current litter laws difficult to enforce. Ms. Nixon also answered representatives' questions. Rep. Mosley sent forward an amendment and explained that it will strengthen Rep. Mitchell's bill and make it more enforceable. Rep. Braswell expressed his concerns on the bill that the large fine will encourage judges to ignore the fine and assign community service instead. Rep. Hackney stated that he was concerned with page 1, lines 10-16 of the Amendment, "If any litter disposed of in violation of subsection (d) or (e) of this section is identified as having last belonged to been in the possession of, sent to, received by, or been the property of a person, this identification is prima facie evidence that this person violated this section." He said he doesn't think it's fair for somebody to be hauled into court under investigation and charged with a serious littering offense, just because a letter addressed to that person was found at the site of the dumping. Rep. Miller also commented to this concern, and asked if there is a better way to deal with the penalty provision. Rep. Brown spoke against the amendment, and asked other members' for their opposition to the amendment. Rep. Mosley said that the amendment came from Keep America Beautiful's 3 year study, and she would like Ms. Nixon to speak on the amendment. Ms. Nixon explained why the amendment was needed. Rep. Hackney said that page 1, lines 10-16 went too far. Ms. Nixon said that revising it to correctly reflect the concern with punishing the dumpers would be fine. The Chair took a vote on the Amendment, which failed. Rep. McCombs moved for a favorable report on the Proposed Committee Substitute and an unfavorable as to the original bill. The motion passed. Copies of the original Bill, Committee Substitute, Mosley's amendment, Bill Analysis, and Fiscal Note are included in these minutes.

Representative Cole was recognized to explain HB 280, A BILL TO BE ENTITLED AN ACT TO MAKE TECHNICAL, CLARIFYING, AND OTHER CHANGES TO THE MOTOR VEHICLE LAWS. Rep. Brown moved to adopt the Proposed Committee Substitute for purposes of discussion. Rep. Cole explained that the changes in the Proposed Committee Substitute correct some red-lining errors and clarify some sections with rewording. The Chair recognized Carolyn Howard, Director of Vehicle Registration with the Department of Motor Vehicles, to answer an insurance coverage question from Rep. Dedmon. Rep. Hackney sent forward an amendment. Research staffperson Cindy Avrette read the amendment. Hackney's amendment inserts a new Section 5, which reads GS 20-11, (e)(2)(a), is amended by deleting the words 5 a.m. to 9 p.m. and substituting 5 a.m. to 9:30 p.m. and by amending the effective date to make it effective July 1, 1999. Rep. Hackney moved for adoption of his amendment. The motion passed and amendment adopted. Rep. Goodwin expressed his concern for Section 20, which did not list peaches as one of the specified products not subject to light traffic road limitations. The Chair recognized Ruth Sappie, legislative liaison for the Department of Transportation and Captain Ziegler of DMV Enforcement. They consider peaches to be included under the current law exemption for agricultural products. Rep. Miller moved for favorable report with the incorporation of the amendment into the Proposed Committee Substitute and unfavorable for original bill. The motion passed. Copies of the original Bill, Committee Substitute, Hackney's amendment, Bill Analysis, and Fiscal Note are included in these Minutes.

Representative Preston was recognized to explain HB 504, A BILL TO BE ENTITLED AN ACT RELATING TO THE ADOPTION OF PLANNING, ZONING, AND SUBDIVISION ORDINANCES IN CARTERET COUNTY. Rep. Preston said the delegation and county commissioners supported the bill. Rep. Dedmon moved for a favorable report. Rep. Cox asked if there have been public inputs on the bill and Rep. Preston said there was no opposition. Rep. Dedmon's motion for a favorable report passed. Copies of the original Bill are included in these Minutes.

There being no further business, the Chair adjourned the meeting at 9:50 a.m.

Respectfully submitted:

Representative Gordon Allen
Chair

Kristen L. Crosson
Assistant to the Committee

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☒ Committee Substitute for
H.B. 222 A BILL TO BE ENTITLED AN ACT TO STRENGTHEN THE LITTERING LAW BY INCREASING THE MINIMUM AND MAXIMUM FINES AND BY REQUIRING COMMUNITY SERVICE IN THOSE INSTANCES WHERE IT IS CURRENTLY PERMISSIVE.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

not passed

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 222

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H222-CSRB-1

Date 4/20 ,1999

Comm. Sub. [PROPOSED]
Amends Title [YES]
H222-PCS8107-SC

Representative Mosley

moves to amend the bill on page 1, line 4, by deleting "PERMISSIVE." and substituting "PERMISSIVE, AND TO IMPROVE THE ENFORCEMENT OF THE LAWS TO PREVENT LITTERING.";

and on page 1, line 17, by deleting "thereof" and substituting "~~thereof~~ of the State";

and on page 2, lines 3 through 5, by striking through those lines;

and on page 2, lines 40 and 41, by inserting between those lines a new subsection to read:

"(e1) If any litter disposed of in violation of subsection (d) or (e) of this section is identified as having last belonged to, been in the possession of, sent to, received by, or been the property of a person, this identification is prima facie evidence that this person violated this section.";

and on page 2, line 42, by inserting immediately before the word "violation" the following: "second or subsequent";

and on page 3, line 30, by deleting the word "Department" and substituting "~~Department~~ Department of Environment and Natural Resources";

and on page 4, line 1, by inserting immediately before the word "political" the word "individual";

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 222

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H222-CSRB-1 Page 2 of __

and on page 4, lines 11 and 12, by inserting a new section between those lines to read:

"Section 2. G.S. 20-116(g) reads as rewritten:

'(g) No vehicle shall be driven or moved on any highway unless ~~such~~ the vehicle is ~~so constructed or loaded as~~ constructed or loaded, or the load is covered, to prevent any of its load from dropping, sifting, leaking, blowing, or otherwise escaping ~~therefrom,~~ from the vehicle. ~~except that sand~~ Sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining ~~such~~ the roadway.

Trucks, ~~trailers~~ trailers, or other vehicles when loaded with rock, gravel, ~~stone~~ stone, or other similar substances ~~which~~ that could blow, leak, ~~sift~~ sift, or drop shall not be driven or moved on any highway unless the height of the load against all four walls does not extend above a horizontal line six inches below their tops when loaded at the loading point, or if not so loaded, unless the load shall be securely covered by tarpaulin or some other suitable ~~covering, or unless it is otherwise constructed so as~~ covering to prevent any of its load from dropping, sifting, leaking, blowing, or otherwise escaping ~~therefrom.~~ from the vehicle.

If a law enforcement officer stops a vehicle and finds that the load is being transported in violation of this subsection, the officer may prohibit the operator of the vehicle from continuing until the load has been made to comply with this subsection.

~~Provided this section shall not be applicable~~ This section does not apply to or ~~in any manner restrict~~ does not restrict in any manner the transportation of ~~seed cotton, of~~ live poultry or ~~livestock or silage or other feed grain used in the feeding of poultry or livestock.~~ livestock.

Upon conviction for a violation of this subsection, the court shall forward a record of the finding to the Department of Transportation, Division of Motor Vehicles, which shall record a penalty of one point on the violator's drivers license pursuant to the point system established by G.S. 20-16. There shall be no insurance premium surcharge or assessment of points under the classification plan adopted pursuant to G.S. 58-36-65 for a finding of guilt under this subsection.'";

and by renumbering the remaining sections accordingly.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 222

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H222-CSRB-1 Page 3 of __

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

not passed

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 222

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H222-CSRB-1 Page 1 of __

Date_____,1999

Comm. Sub. [PROPOSED]
Amends Title [YES]
H222-PCS8107-SC

Representative_____

moves to amend the bill on page 1, line 4, by deleting "PERMISSIVE." and substituting "PERMISSIVE, AND TO IMPROVE THE ENFORCEMENT OF THE LAWS TO PREVENT LITTERING.";

and on page 1, line 17, by deleting "thereof" and substituting "~~thereof~~ of the State";

and on page 2, lines 3 through 5, by striking through those lines;

and on page 2, lines 40 and 41, by inserting between those lines a new subsection to read:

"(e1) If any litter disposed of in violation of subsection (d) or (e) of this section is identified as having last belonged to, been in the possession of, sent to, received by, or been the property of a person, this identification is prima facie evidence that this person violated this section.";

and on page 2, line 42, by inserting immediately before the word "violation" the following: "second or subsequent";

and on page 3, line 30, by deleting the word "Department" and substituting "~~Department~~ Department of Environment and Natural Resources";

and on page 4, line 1, by inserting immediately before the word "political" the word "individual";

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 222

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H222-CSRB-1

and on page 4, lines 11 and 12, by inserting a new section between those lines to read:

"Section 2. G.S. 20-116(g) reads as rewritten:

'(g) No vehicle shall be driven or moved on any highway unless ~~such~~ the vehicle is ~~so constructed or loaded as~~ constructed or loaded, or the load is covered, to prevent any of its load from dropping, sifting, leaking, blowing, or otherwise escaping ~~therefrom,~~ from the vehicle. ~~except that sand~~ Sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining ~~such~~ the roadway.

Trucks, ~~trailers~~ trailers, or other vehicles when loaded with rock, gravel, ~~stone~~ stone, or other similar substances ~~which~~ that could blow, leak, ~~sift~~ sift, or drop shall not be driven or moved on any highway unless the height of the load against all four walls does not extend above a horizontal line six inches below their tops when loaded at the loading point, or if not so loaded, unless the load shall be securely covered by tarpaulin or some other suitable ~~covering, or unless it is otherwise constructed so as~~ covering to prevent any of its load from dropping, sifting, leaking, blowing, or otherwise escaping ~~therefrom.~~ from the vehicle.

If a law enforcement officer stops a vehicle and finds that the load is being transported in violation of this subsection, the officer may prohibit the operator of the vehicle from continuing until the load has been made to comply with this subsection.

~~Provided this section shall not be applicable~~ This section does not apply to or ~~in any manner restrict~~ does not restrict in any manner the transportation of ~~seed cotton, of~~ live poultry or ~~livestock or silage or other feed grain used in the feeding of poultry or livestock.~~ livestock.

Upon conviction for a violation of this subsection, the court shall forward a record of the finding to the Department of Transportation, Division of Motor Vehicles, which shall record a penalty of one point on the violator's drivers license pursuant to the point system established by G.S. 20-16. There shall be no insurance premium surcharge or assessment of points under the classification plan adopted pursuant to G.S. 58-36-65 for a findin of guilt under this subsection.'";

and by renumbering the remaining sections accordingly.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 222

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H222-CSRB-1

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 222
Committee Substitute Favorable 3/22/99
Proposed Committee Substitute H222-PCS8107-SC

Short Title: Strengthen Littering Law. (Public)

Sponsors:

Referred to:

March 3, 1999

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN THE LITTERING LAW BY INCREASING THE MINIMUM AND MAXIMUM FINES AND BY REQUIRING COMMUNITY SERVICE IN THOSE INSTANCES WHERE IT IS CURRENTLY PERMISSIVE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-399 reads as rewritten:

"**§ 14-399. Littering.**

(a) No person, including but not limited to, any firm, organization, private corporation, or governing body, agents or employees of any municipal corporation shall intentionally or recklessly throw, scatter, spill or place or intentionally or recklessly cause to be blown, scattered, spilled, thrown or placed or otherwise dispose of any litter upon any public property or private property not owned by him within this State or in the waters of this State including, but not limited to, any public highway, public park, lake, river, ocean, beach, campground, forest land, recreational area, trailer park, highway, road, street or alley except:

(1) When such property is designated by the State or political subdivision thereof for the disposal of garbage and refuse, and such person is authorized to use such property for such purpose; or

(2) Into a litter receptacle in such a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of such private or public property or waters.

(b) When litter is blown, scattered, spilled, thrown or placed from a vehicle or watercraft, the operator thereof shall be presumed to have committed such offense. This presumption, however, does not apply to a vehicle transporting agricultural products or supplies when the litter from that vehicle is a nontoxic, biodegradable agricultural product or supply.

(c) Any person who violates this section in an amount not exceeding 15 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than ~~one hundred dollars ($100.00)~~ two hundred fifty dollars ($250.00) nor more than ~~five hundred dollars ($500.00)~~ one thousand dollars ($1,000) for the first offense. In addition, the court ~~may~~ shall require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. Any second or subsequent offense within three years after the date of a prior offense is punishable by a fine of not less than ~~one hundred dollars ($100.00)~~ five hundred dollars ($500.00) nor more than ~~one thousand dollars ($1,000).~~ two thousand dollars ($2,000). In addition, the court ~~may~~ shall require the violator to perform community service of not less than 16 hours nor more than 50 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed.

(d) Any person who violates this section in an amount exceeding 15 pounds but not exceeding 500 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than ~~one hundred dollars ($100.00)~~ five hundred dollars ($500.00) nor more than ~~one thousand dollars ($1,000).~~ two thousand dollars ($2,000). In addition, the court shall require the violator to perform community service of not less than 24 hours nor more than 100 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other community service commensurate with the offense committed.

(e) Any person who violates this section in an amount exceeding 500 pounds or in any quantity for commercial purposes, or who discards litter that is a hazardous waste as defined in G.S. 130A-290 is guilty of a Class I felony. In addition, the court ~~may~~ shall order the violator to:

(1) Remove, or render harmless, the litter that he discarded in violation of this section;

(2) Repair or restore property damaged by, or pay damages for any damage arising out of, his discarding litter in violation of this section; or

(3) Perform community public service relating to the removal of litter discarded in violation of this section or to the restoration of an area polluted by litter discarded in violation of this section.

(f) A court may enjoin a violation of this section.

(f1) If a violation of this section involves the operation of a motor vehicle, upon a finding of guilt, the court shall forward a record of the finding to the Department of Transportation, Division of Motor Vehicles, which shall record a penalty of one point

on the violator's drivers license pursuant to the point system established by G.S. 20-16. There shall be no insurance premium surcharge or assessment of points under the classification plan adopted pursuant to ~~G.S. 58-30.4~~ G.S. 58-36-65 for a finding of guilt under this section.

(g) A motor vehicle, vessel, aircraft, container, crane, winch, or machine involved in the disposal of more than 500 pounds of litter in violation of this section is declared contraband and is subject to seizure and summary forfeiture to the State.

(h) If a person sustains damages arising out of a violation of this section that is punishable as a felony, a court, in a civil action for such damages, shall order the person to pay the injured party threefold the actual damages or two hundred dollars ($200.00), whichever amount is greater. In addition, the court shall order the person to pay the injured party's court costs and attorney's fees.

(i) For the purpose of the section, unless the context requires otherwise:

(1) "Aircraft" means a motor vehicle or other vehicle that is used or designed to fly, but does not include a parachute or any other device used primarily as safety equipment.

~~(2) "Commercial vehicle" means a vehicle that is owned or used by a business, corporation, association, partnership, or sole proprietorship or any other entity conducting business for economic gain.~~

(2a) "Commercial purposes" means litter discarded by a business, corporation, association, partnership, sole proprietorship, or any other entity conducting business for economic gain, or by an employee or agent of such entity.

(3) "Law enforcement officer" means any officer of the North Carolina Highway Patrol, the State Bureau of Investigation, the Division of Motor Vehicles of the Department of Transportation, a county sheriff's department, a municipal law enforcement department, a law enforcement department of any other political subdivision, the Department, or the North Carolina Wildlife Resources Commission. In addition, and solely for the purposes of this section, "law enforcement officer" means any employee of a county or municipality designated by the county or municipality as a litter enforcement officer; or wildlife protectors as defined in G.S. 113-128(9);

(4) "Litter" means any garbage, rubbish, trash, refuse, can, bottle, box, container, wrapper, paper, paper product, tire, appliance, mechanical equipment or part, building or construction material, tool, machinery, wood, motor vehicle or motor vehicle part, vessel, aircraft, farm machinery or equipment, sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility, dead animal, or discarded material in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. "Litter" does not include

political pamphlets, handbills, religious tracts, newspapers, and other such printed materials the unsolicited distribution of which is protected by the Constitution of the United States or the Constitution of North Carolina.

(5) "Vehicle" has the same meaning as in G.S. 20-4.01(49); and

(6) "Watercraft" means any boat or vessel used for transportation across the water.

(j) It shall be the duty of all law enforcement officers to enforce the provisions of this section.

(k) This section does not limit the authority of any State or local agency to enforce other laws, rules or ordinances relating to litter or solid waste management."

Section 2. The Commissioner of Motor Vehicles is directed to include at least one question relating to littering on the next drivers license examination prepared by the Division of Motor Vehicles.

Section 3. This act becomes effective December 1, 1999, and applies to offenses committed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 222
Committee Substitute Favorable 3/22/99

Short Title: Strengthen Littering Law. (Public)

Sponsors:

Referred to:

March 3, 1999

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN THE LITTERING LAW BY INCREASING THE MINIMUM AND MAXIMUM FINES AND BY REQUIRING COMMUNITY SERVICE IN THOSE INSTANCES WHERE IT IS CURRENTLY PERMISSIVE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-399 reads as rewritten:

"**§ 14-399. Littering.**

(a) No person, including but not limited to, any firm, organization, private corporation, or governing body, agents or employees of any municipal corporation shall intentionally or recklessly throw, scatter, spill or place or intentionally or recklessly cause to be blown, scattered, spilled, thrown or placed or otherwise dispose of any litter upon any public property or private property not owned by him within this State or in the waters of this State including, but not limited to, any public highway, public park, lake, river, ocean, beach, campground, forest land, recreational area, trailer park, highway, road, street or alley except:

(1) When such property is designated by the State or political subdivision thereof for the disposal of garbage and refuse, and such person is authorized to use such property for such purpose; or

(2) Into a litter receptacle in such a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of such private or public property or waters.

(b) When litter is blown, scattered, spilled, thrown or placed from a vehicle or watercraft, the operator thereof shall be presumed to have committed such offense.

This presumption, however, does not apply to a vehicle transporting agricultural products or supplies when the litter from that vehicle is a nontoxic, biodegradable agricultural product or supply.

(c) Any person who violates this section in an amount not exceeding 15 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than ~~one hundred dollars ($100.00)~~ two hundred fifty dollars ($250.00) nor more than ~~five hundred dollars ($500.00)~~ one thousand dollars ($1,000) for the first offense. In addition, the court ~~may~~ shall require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. Any second or subsequent offense within three years after the date of a prior offense is punishable by a fine of not less than ~~one hundred dollars ($100.00)~~ five hundred dollars ($500.00) nor more than ~~one thousand dollars ($1,000).~~ two thousand dollars ($2,000). In addition, the court ~~may~~ shall require the violator to perform community service of not less than 16 hours nor more than 50 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed.

(d) Any person who violates this section in an amount exceeding 15 pounds but not exceeding 500 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than ~~one hundred dollars ($100.00)~~ five hundred dollars ($500.00) nor more than ~~one thousand dollars ($1,000).~~ two thousand dollars ($2,000). In addition, the court shall require the violator to perform community service of not less than 24 hours nor more than 100 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other community service commensurate with the offense committed.

(e) Any person who violates this section in an amount exceeding 500 pounds or in any quantity for commercial purposes, or who discards litter that is a hazardous waste as defined in G.S. 130A-290 is guilty of a Class I felony. In addition, the court ~~may~~ shall order the violator to:

(1) Remove, or render harmless, the litter that he discarded in violation of this section;

(2) Repair or restore property damaged by, or pay damages for any damage arising out of, his discarding litter in violation of this section; or

(3) Perform community public service relating to the removal of litter discarded in violation of this section or to the restoration of an area polluted by litter discarded in violation of this section.

(f) A court may enjoin a violation of this section.

(f1) If a violation of this section involves the operation of a motor vehicle, upon a finding of guilt, the court shall forward a record of the finding to the Department of Transportation, Division of Motor Vehicles, which shall record a penalty of one point on the violator's drivers license pursuant to the point system established by G.S. 20-16. There shall be no insurance premium surcharge or assessment of points under the

classification plan adopted pursuant to ~~G.S. 58-30.4~~ G.S. 58-36-65 for a finding of guilt under this section.

(g) A motor vehicle, vessel, aircraft, container, crane, winch, or machine involved in the disposal of more than 500 pounds of litter in violation of this section is declared contraband and is subject to seizure and summary forfeiture to the State.

(h) If a person sustains damages arising out of a violation of this section that is punishable as a felony, a court, in a civil action for such damages, shall order the person to pay the injured party threefold the actual damages or two hundred dollars ($200.00), whichever amount is greater. In addition, the court shall order the person to pay the injured party's court costs and attorney's fees.

(i) For the purpose of the section, unless the context requires otherwise:

(1) "Aircraft" means a motor vehicle or other vehicle that is used or designed to fly, but does not include a parachute or any other device used primarily as safety equipment.

(2) "Commercial vehicle" means a vehicle that is owned or used by a business, corporation, association, partnership, or sole proprietorship or any other entity conducting business for economic gain.

(2a) "Commercial purposes" means an offense under this section committed by a business, corporation, association, partnership, sole proprietorship, or any other entity conducting business for economic gain, or by an employee or agent of such entity.

(3) "Law enforcement officer" means any officer of the North Carolina Highway Patrol, the State Bureau of Investigation, the Division of Motor Vehicles of the Department of Transportation, a county sheriff's department, a municipal law enforcement department, a law enforcement department of any other political subdivision, the Department, or the North Carolina Wildlife Resources Commission. In addition, and solely for the purposes of this section, "law enforcement officer" means any employee of a county or municipality designated by the county or municipality as a litter enforcement officer; or wildlife protectors as defined in G.S. 113-128(9);

(4) "Litter" means any garbage, rubbish, trash, refuse, can, bottle, box, container, wrapper, paper, paper product, tire, appliance, mechanical equipment or part, building or construction material, tool, machinery, wood, motor vehicle or motor vehicle part, vessel, aircraft, farm machinery or equipment, sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility, dead animal, or discarded material in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. "Litter" does not include political pamphlets, handbills, religious tracts, newspapers, and other such printed materials the unsolicited distribution of which is

protected by the Constitution of the United States or the Constitution of North Carolina.

(5) "Vehicle" has the same meaning as in G.S. 20-4.01(49); and

(6) "Watercraft" means any boat or vessel used for transportation across the water.

(j) It shall be the duty of all law enforcement officers to enforce the provisions of this section.

(k) This section does not limit the authority of any State or local agency to enforce other laws, rules or ordinances relating to litter or solid waste management."

Section 1.1. The Commissioner of Motor Vehicles is directed to include at least one question relating to littering on the next drivers license examination prepared by the Division of Motor Vehicles.

Section 2. This act becomes effective December 1, 1999, and applies to offenses committed on or after that date.

HOUSE BILL 222:
Strengthen Littering Law

BILL ANALYSIS

Committee: House Finance
Date: April 20, 1999
Version: H222-PCSSC-001
PCS for 2nd Edition

Introduced by: Representative Mitchell
Summary by: Mary Shuping
Research Assistant

SUMMARY: **House Bill 222, Strengthen Littering Law, will increase the minimum and maximum fines for discarding litter in any amount and also require community service.**

CURRENT LAW: Current law requires the following:

Amount of Litter Discarded	Classification	Fine	Community Service
15 lbs. or less; not for commercial purposes – *1st offense*	Class 3 Misdemeanor	$100 - $500	*May* require 8 – 24 hours of picking up litter or other labor commensurate with the offense
15 lbs. or less; not for commercial purposes – *2nd or subsequent offense committed within 3 years*	Class 3 Misdemeanor	$100 - $1,000	*May* require 16 - 50 hours of picking up litter or other labor commensurate with the offense
15 lbs. – 500 lbs.; not for commercial purposes	Class 3 Misdemeanor	$100 - $1,000	*Shall* require 24 – 100 hours of picking up litter or other labor commensurate with the offense.
> 500 lbs. ; or for commercial purposes; or hazardous waste	Class I Felony	Discretion of the court	*May* order the violator to remove or render harmless the litter; repair, restore, or pay for any property damage; or perform community service.

BILL ANALYSIS: House Bill 222 would increase the fines for littering and make community service mandatory as follows:

Amount of Litter Discarded	Classification	Fine	Community Service
15 lbs. or less; not for commercial purposes – *1st offense*	Class 3 Misdemeanor	**$250 – $1,000**	***Shall*** require 8 – 24 hours of picking up litter or other labor commensurate with the offense
15 lbs. or less; not for commercial purposes – *2nd or subsequent offense committed within 3 years*	Class 3 Misdemeanor	**$500 – $2,000**	***Shall*** require 15 - 50 hours of picking up litter or other labor commensurate with the offense
15 lbs. – 500 lbs.; not for commercial purposes	Class 3 Misdemeanor	**$500 – $2,000**	*(Required under current law)*
> 500 lbs.; or for commercial purposes; or hazardous waste	Class I Felony	Discretion of the court	***Shall*** order the violator to remove or render harmless the litter; repair, restore, or pay for any property damage; or perform community service.

"Commercial purposes" is used throughout existing law, but was not defined. The PCS for House Bill 222 clarifies the definition of "commercial purposes" added by the House Judiciary III Committee and removes the definition of "commercial vehicle" since the term was not used in this section.

EFFECTIVE DATE: House Bill 222 would become effective December 1, 1999, and apply to offenses committed on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 222—PCSSC-001 Strengthen Littering Laws

SHORT TITLE: Strengthen Littering Laws

SPONSOR(S): Rep. William Mitchell

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES	$666,675	$666,675	$666,675	$666,675	$666,675
EXPENDITURES		NONE			
POSITIONS:		NONE			

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Administrative Office of the Courts, Community Service Work Program (Crime Control and Public Safety); Division of Motor Vehicles

EFFECTIVE DATE: December 1, 1999

BILL SUMMARY: H 222. STRENGTHEN LITTERING LAW. TO STRENGTHEN THE LITTERING LAW BY INCREASING THE MINIMUM AND MAXIMUM FINES, BY REQUIRING COMMUNITY SERVICE IN THOSE INSTANCES WHERE IT IS CURRENTLY PERMISSIVE, AND BY AUTHORIZING AN INSURANCE PREMIUM SURCHARGE AND ASSESSMENT OF POINTS PURSUANT TO G.S. 58-30.4 FOR PERSONS CONVICTED OF LITTERING. Amends GS 14-399 (basic prohibition against littering) to raise the minimum and maximum fines for each kind (first or subsequent offense, size of litter) of offense and to require community service (picking up litter, if feasible) where it is now discretionary. For amounts exceeding 500 pounds or for commercial purposes or hazardous waste, the court must (now, may) order removal and repair and community service relating to removal of litter and repair of damaged areas. Bill also removes provision specifying that no insurance premium surcharge or assessment of points may be made for a finding of guilt for littering . Defines "commercial purposes" as an offense committed by a business, corporation, association, partnership, sole proprietorship, or any other entity conducting business for economic gain, or by an employee or agent of such entity.

Also directs DMV to include at least one question on littering on next drivers license exam.

ASSUMPTIONS AND METHODOLOGY:

I. Fine Increase

This bill does not affect the criminal penalty for littering (Class 3 Misdemeanor for quantities through 500 pounds; Class I Felony for higher quantities, commercial or hazardous) but raises the fines for the misdemeanor penalty. The statute specifies the minimum and maximum fine for each violation but the judge has some discretion in setting the exact amount. The amounts are changed as follows:

Not exceeding 15 pounds/1st offense	raise minimum from $100 to $250 Maximum from $500 to $1000
Not exceeding 15 pounds/subse offense	minimum from $100 to $500 Maximum from $1000 to $2000
Exceeding 15 pounds Not exceeding 500 pounds/1st offense	mimimum from $100 to $500 Maximum from $1000 to $2000

In Calendar Year 1998, there were 3,229 charges for misdemeanor littering and 1,944 convictions. The Administrative Office of the Courts does not keep data broken down by specific criminal fines so we do not know the total amount of fine collected.

1,851 of the convictions were for amounts not exceeding 15 pounds. Assuming judges have on average used the midpoint of the range of possible fines, the average fine will increase from $300 to $625. Assuming all 1,851 convictions were first offenses, this increases fines levied by $601,575 (=1851*325).

An additional 93 convictions were for amounts from 15 pounds-500 pounds. Again assuming the midpoint of the range of fines, the average fine will increase from $550 to $1250, increasing total fines levied by $65,100.

The total increase in fines	**$601,575**
	$ 65,100
	$666,675

To the extent that more of the CY 1998 convictions were subsequent offenses or that judges levy fines closer to the maximum, this figure will increase. (If judges have been and continue levying the maximum fine, the total increase would be $1.02 Million. If they choose the minimum fines, increase would be $314,850)

II. Community Service Work Requirement

Current statute allows the judge to order community service for all categories of the offense, specifying the range of possible hours and that the service shall be picking up litter if feasible. The Community Service Work Program reports that they currently have only a handful of offenders sentenced for littering. Based on 1,994 convictions and assuming judges will use the

midpoint of the range of possible hours, this section would increase total community service work hours as follows:

Amounts less than 15#/1st offense	**@ 16 hours:**	**29,616**
Amounts greater than 15#	**@ 33 hours:**	**3,069**
Over 500 or commercial	**hours not specified**	
Total Increase in Hours		**32,685**

(If judges choose the minimum hours, increase would be 17,040; if they choose the maximum it will be 53,724)

In 1997-98, hours worked in the Community Service Work Program totalled 2.35 Million. Increases in the number of offenders and hours can be absorbed by the Department within current resources.

III. License Exam

Because the statute specifies a question on littering shall be included in the next examination, there is no fiscal impact of this section. The new question will be added at the time of next redesign/reprinting of the exams.

IV. Administrative Office of the Courts

The higher fines and mandatory community service requirement may cause defendants to mount a more vigorous defense which would increase the workload in the court system. However, no data is available to estimate this impact.

TECHNICAL CONSIDERATIONS

Most offenders sentenced to Community Service must pay a $100 fee which goes to the General Fund. The statutes governing different aspects (for DWI offenders, for parolees, etc) of the Community Service program specify this fee. Since GS 14-399 does not specify the fee, littering offenders would not be obligated to pay it unless the judge specifically includes it in their order. If all littering offenders sentenced to Community Service paid the fee, it would generate an additional $194,400 .

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Elisa Wolper

APPROVED BY: Tom Covington

DATE: Monday, April 19, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 280 A BILL TO BE ENTITLED AN ACT TO MAKE TECHNICAL, CLARIFYING, AND OTHER CHANGES TO THE MOTOR VEHICLE LAWS.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

passed

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 2SU 1HCS DATE 4/20/99

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Hackney
)
Sen.)

moves to amend the bill on page 2, line 33-34

( ) WHICH CHANGES THE TITLE

by adding a new section 5 and renumbering the following sections:

"Section 5. G.S. 20-11(e)(2)(a) amended by deleting the words "From 5:00 a.m. to 9 p.m." and substituting "From 5:00 a.m. to 9:30 p.m."

and on page 11, line 35, by deleting "section 5" and substituting "Sections 5 and 6".

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 280
Committee Substitute Favorable 4/12/99
PROPOSED COMMITTEE SUBSTITUTE
H280-CSRB-1

Short Title: Motor Vehicle Tech. Amendments/AB. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND OTHER CHANGES TO THE MOTOR VEHICLE LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-4.01 is amended by adding a new subdivision to read:

"(4b) Crash. -- Any event that results in injury or property damage attributable directly to the motion of a motor vehicle or its load. The terms collision, accident, and crash and their cognates are synonymous."

Section 2. G.S. 20-4.01(12a) reads as rewritten:

"(12a) Gross Vehicle Weight Rating (GVWR). -- The value specified by the manufacturer as the maximum loaded weight of a vehicle. The GVWR of a combination vehicle is the GVWR of the power unit plus the GVWR of the towed unit or units. When a vehicle is determined by an enforcement officer to be structurally altered from the manufacturer's original design, the license weight or the total weight of the

vehicle or combination of vehicles may be deemed as the GVWR for the purpose of enforcing this Chapter."

Section 3. G.S. 20-4.01(33b) reads as rewritten:

"(33b) Reportable ~~Accident.~~ Crash. -- ~~An accident or collision~~ A crash involving a motor vehicle that results in ~~either~~ one or more of the following:

a. Death or injury of a human being.

b. Total property damage of one thousand dollars ($1,000) or more, or property damage of any amount to a vehicle seized pursuant to G. S. 20-28.3."

Section 4. G.S. 20-9(g)(1) reads as rewritten:

"(1) The Division may issue a license to any person who is afflicted with or suffering from a physical or mental disability set out in subsection (e) of this section who is otherwise qualified to obtain a license, provided such person submits to the Division a certificate in the form prescribed in subdivision (2). Until a license issued under this subdivision expires or is revoked, the license continues in force as long as the licensee presents to the Division ~~one year from the date of issuance of such license and at yearly intervals thereafter a certificate in the form prescribed in subdivision (2), provided the Commissioner may require the submission of such certificate at six-month intervals where in his opinion public safety demands.~~ a certificate in the form prescribed in subdivision (2) of this subsection at the intervals determined by the Division to be in the best interests of public safety."

Section 5. G.S. 20-11(k) reads as rewritten:

"(k) Supervising Driver. -- A supervising driver ~~must~~ shall be a parent or guardian of the permit holder or license holder or a responsible person approved by the parent or guardian or the Division. A supervising driver ~~must~~ shall be a licensed driver who has been licensed for at least five years. ~~A~~ At least one supervising driver ~~must~~ shall sign the application for a permit or license. ~~Each permit or license issued pursuant to this section shall be limited to a maximum of two supervising drivers.~~"

Section 6. G.S. 20-16(d) reads as rewritten:

"(d) Upon suspending the license of any person as authorized in this section, the Division shall immediately notify the licensee in writing and upon his request shall afford him an opportunity for a hearing, not to exceed 60 days after receipt of the request, unless a preliminary hearing was held before his license was ~~suspended, as early as practical within not to exceed 30 days after receipt of such request. The hearing shall be conducted in the district court district as defined in G.S. 7A-133 wherein the licensee resides. Hearings shall be rotated among all the counties within that district if the district contains more than one county unless the Division and the licensee agree that such hearing may be held in some other district, and such notice shall contain the provisions of this section printed thereon.~~ suspended. Upon such hearing the duly authorized agents of the Division may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. Upon such hearing the Division shall either rescind its order of suspension, or good cause appearing therefor, may extend the suspension of such license. Provided further upon such hearing, preliminary or otherwise, involving subsections (a)(1) through (a)(10a) of this section, the Division may for good cause appearing in its discretion substitute a period of probation not to exceed one year for the suspension or for any unexpired period of suspension. Probation shall mean any written agreement between the suspended driver and a duly authorized representative of the Division and such period of probation shall not exceed one year, and any violation of the probation agreement during the probation period shall result in a suspension for the unexpired remainder of the suspension period. The authorized agents of the Division shall have the same powers in connection with a preliminary hearing prior to suspension as this subsection provided in connection with hearings held after suspension. These agents shall also have the authority to take possession of a surrendered license on behalf of the Division if the suspension is upheld and the licensee requests that the suspension begin immediately."

Section 7. G.S. 20-19(d) reads as rewritten:

"(d) When a person's license is revoked under ~~subdivision (2) of G.S. 20-17~~ G.S. 20-17(a)(2) and the person has another offense involving impaired driving for which he has been convicted, which offense occurred within three years immediately preceding the date of the offense for which his license is being revoked, the period of revocation is four years, and this period may be

reduced only as provided in this section. The Division may conditionally restore the person's license after it has been revoked for at least two years under this subsection if he provides the Division with satisfactory proof that:

(1) He has not in the period of revocation been convicted in North Carolina or any other state or federal jurisdiction of a motor vehicle offense, an alcoholic beverage control law offense, a drug law offense, or any other criminal offense involving the possession or consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for the duration of the original revocation period."

Section 8. G.S. 20-19(e) reads as rewritten:

"(e) When a person's license is revoked under ~~subdivision (2) of G.S. 20-17~~ G.S. 20-17(a)(2) and the person has two or more previous offenses involving impaired driving for which he has been convicted, and the most recent offense occurred within the five years immediately preceding the date of the offense for which his license is being revoked, the revocation is permanent. The Division may, however, conditionally restore the person's license after it has been revoked for at least three years under this subsection if he provides the Division with satisfactory proof that:

(1) In the three years immediately preceding the person's application for a restored license, he has not been convicted in North Carolina or in any other state or federal court of a motor vehicle offense, an alcohol beverage control law offense, a drug law offense, or any criminal offense involving the consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for any period up to three years from the date of restoration."

Section 9. G.S. 20-63(g) reads as rewritten:

"(g) Alteration, Disguise, or Concealment of Numbers. -- Any operator of a motor vehicle who shall willfully mutilate, bend, twist, cover or cause to be covered or partially covered by any bumper, light, spare tire, tire rack, strap, or other device, or

who shall paint, enamel, emboss, stamp, print, perforate, or alter or add to or cut off any part or portion of a registration plate or the figures or letters thereon, or who shall place or deposit or cause to be placed or deposited any oil, grease, or other substance upon such registration plates for the purpose of making dust adhere thereto, or who shall deface, disfigure, change, or attempt to change any letter or figure thereon, or who shall display a number plate in other than a horizontal upright position, or who shall cover any number or sticker on a registration plate with any material that makes the number or sticker illegible, shall be guilty of a Class 2 misdemeanor."

Section 10. G.S. 20-63 is amended by adding a new subsection that reads:

"(i) Electronic Applications and Collections. -- The Division is authorized to accept electronic applications for the issuance of registration plates, registration certificates, and certificates of title, and to electronically collect fees and penalties."

Section 11. G.S. 20-78(b) reads as rewritten:

"(b) The Division shall maintain a record of certificates of title ~~issued, maintaining at all times the records of the last two owners.~~ issued by the Division for a period of 20 years. After 20 years, the Division shall maintain a record of the last two owners.

The Commissioner is hereby authorized and empowered to provide for the photographic or photostatic recording of certificate of title records in such manner as he may deem expedient. The photographic or photostatic copies herein authorized shall be sufficient as evidence in tracing of titles of the motor vehicles designated therein, and shall also be admitted in evidence in all actions and proceedings to the same extent that the originals would have been admitted."

Section 12. G.S. 20-79.4(a) reads as rewritten:

"(a) General. -- Upon application and payment of the required registration fees, a person may obtain from the Division a special registration plate for a motor vehicle registered in that person's name if the person qualifies for the registration plate. Except as otherwise provided in this Part, the Division may not develop and issue a special registration plate unless it receives at least 1,000 applications for that plate. A special registration plate may not be issued for a vehicle registered under the International Registration Plan. A special registration plate may be issued for a commercial vehicle that is not registered under the International Registration Plan. A holder of

a special registration plate who becomes ineligible for the plate, for whatever reason, ~~must~~ shall return the special plate within 30 days."

Section 13. G.S. 20-79.4(b)(27) reads as rewritten:

"(27) Military Retiree. -- Issuable to an individual who has retired from the armed forces of the United States. The plate shall bear the word "Retired" and the name and insignia of the branch of service from which the individual retired. ~~The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.~~"

Section 14. G.S. 20-87(2) reads as rewritten:

"(2) U-Drive-It Passenger Vehicles. -- U-drive-it passenger vehicles shall pay the following tax:

Motorcycles:	1-passenger capacity	$18.00
	2-passenger capacity	22.00
	3-passenger capacity	26.00

~~Automobiles: Forty-one dollars ($41.00) per year for each vehicle of fifteen-passenger capacity or less, and vehicles of over fifteen-passenger capacity shall be classified as buses and shall pay one dollar and forty cents ($1.40) per hundred pounds empty weight of each vehicle.~~

Automobiles:	15 or fewer passengers	$41.00
Buses:	16 or more passengers	$ 1.40 per hundred pounds of empty weight
Trucks under 7,000 pounds that do not haul products for hire:	4,000 pounds	$41.50
	5,000 pounds	$51.00
	6,000 pounds	$61.00".

Section 15. G.S. 20-96 reads as rewritten:

"§ 20-96. ~~Collection of delinquent penalties and taxes.~~ Detaining property-hauling vehicles until penalties and taxes are collected.

~~A law enforcement officer who discovers that a vehicle used for the transportation of property is being operated on the highways~~

~~and that the owner of the vehicle is more than 30 days overdue in paying any of the following may detain the vehicle:~~

~~(1) A penalty previously assessed under this Chapter against the owner for a violation attributable to the failure of a vehicle to comply with this Chapter.~~

~~(2) A tax or penalty previously assessed against the owner under Article 36B of Chapter 105 of the General Statutes.~~

~~The officer may detain the vehicle until the delinquent penalties and taxes are paid.~~

(a) Authority to Detain Vehicles. -- A law enforcement officer may seize and detain the following property-hauling vehicle operating on the highways of the State:

(1) A property-hauling vehicle with an overload in violation of G.S. 20-88(k) and G.S. 20-118.

(2) A property-hauling vehicle that does not have a proper registration plate as required under G.S. 20-118.3.

(3) A property-hauling vehicle that is owned by a person liable for any overload penalties or assessments due and unpaid for more than 30 days.

(4) A property hauling vehicle that is owned by a person liable for any taxes or penalties under Article 36B of Chapter 105 of the General Statutes.

The officer may detain the vehicle until the delinquent penalties and taxes are paid and, in the case of a vehicle that does not have the proper registration plate, until the proper registration plate is secured.

(b) Storage; Liability. -- When necessary, an officer who detains a vehicle under this section may have the vehicle stored. The owner of a vehicle that is detained or stored under this section is responsible for the care of any property being hauled by the vehicle and for any storage charges. The State ~~is~~ shall not be liable for damage to the vehicle or loss of the property being hauled."

Section 16. G.S. 20-166.1(h) reads as rewritten:

"(h) Forms. -- The Division ~~must~~ shall provide forms or procedures for submitting crash data to persons required to make reports under this section and the reports ~~must~~ shall be made ~~on the forms provided.~~ in a format approved by the Commissioner. ~~The forms must ask for the~~ The following information shall be included about a reportable ~~accident:~~ crash:

(1) The cause of the ~~accident.~~ crash.

(2) The conditions existing at the time of the ~~accident.~~ crash.
(3) The persons and vehicles involved.
(4) Whether the vehicle has been seized and is subject to forfeiture under G.S. 20-28.2."

Section 17. G.S. 20-309(e) reads as rewritten:

"(e) Upon termination by cancellation or otherwise of an insurance policy provided in subsection (b) of this section, the insurer shall notify the Division of ~~such termination;~~ the termination within 10 business days; provided, no cancellation notice is required if the same insurer issues a ~~new~~ replacement insurance policy complying with this Article at the same time the insurer cancels or otherwise terminates the old policy, no lapse in coverage results, and the insurer sends the certificate of insurance form for the new policy to the Division. The insurer shall notify the Division of any new policy for insurance within 10 working days of its issuance unless the new coverage is a replacement insurance policy for a policy terminated by the same insurer. Any insurance company with twenty-five million dollars ($25,000,000) or more in annual vehicle insurance premium volume must submit the notices required under this section by electronic means. All other insurance companies may submit the notices required under this section by either paper or electronic means.

The Division, upon receiving notice of ~~cancellation or termination of an owner's financial responsibility as required by this Article,~~ a lapse in insurance coverage, shall notify ~~such~~ the owner of ~~such cancellation or termination,~~ the lapse in coverage, and ~~such~~ the owner shall, to retain the registration plate for the vehicle registered or required to be registered, within 10 days from date of notice given by the Division either:

(1) Certify to the Division that he had financial responsibility effective on or prior to the date of such termination; or
(2) In the case of a lapse in financial responsibility, pay a fifty dollar ($50.00) civil penalty; and certify to the Division that he now has financial responsibility effective on the date of certification, that he did not operate the vehicle in question during the period of no financial responsibility with the knowledge that there was no financial responsibility, and that the vehicle in question was not involved in a motor vehicle ~~accident~~ crash during the period of no financial responsibility.

Failure of the owner to certify that he has financial responsibility as herein required shall be prima facie evidence that no financial responsibility exists with regard to the vehicle concerned and unless the owner's registration plate has on or prior to the date of termination of insurance been surrendered to the Division by surrender to an agent or representative of the Division designated by the Commissioner, or depositing the same in the United States mail, addressed to the Division of Motor Vehicles, Raleigh, North Carolina, the Division shall revoke the vehicle's registration for 30 days.

In no case shall any vehicle, the registration of which has been revoked for failure to have financial responsibility, be reregistered in the name of the registered owner, spouse, or any child of the spouse, or any child of such owner within less than 30 days after the date of receipt of the registration plate by the Division of Motor Vehicles, except that a spouse living separate and apart from the registered owner may register such vehicle immediately in such spouse's name. Additionally, as a condition precedent to the reregistration of the vehicle by the registered owner, spouse, or any child of the spouse, or any child of such owner, except a spouse living separate and apart from the registered owner, the payment of a restoration fee of fifty dollars ($50.00) and the appropriate fee for a new registration plate is required. Any person, firm or corporation failing to give notice of termination shall be subject to a civil penalty of two hundred dollars ($200.00) to be assessed by the Commissioner of Insurance upon a finding by the Commissioner of Insurance that good cause is not shown for such failure to give notice of termination to the Division."

Section 18. G.S. 20-376 reads as rewritten:

"**§ 20-376. Definitions.**

The following definitions apply in this Article:

(1) Federal safety and hazardous materials regulations. -- The federal motor carrier safety regulations contained in 49 C.F.R. Parts ~~170 through 190,~~ 171 through 180, 382, and 390 through 398.

(2) Foreign commerce. -- Commerce between any of the following:

a. A place in the United States and a place in a foreign country.

b. Places in the United States through any foreign country.

(3) Interstate commerce. -- As defined in 49 C.F.R. Part 390.5.~~Commerce between any of the following:~~

~~a. A place in a state and a place in another state.~~
~~b. Places in the same state through another state.~~

(4) Intrastate commerce. -- As defined in 49 C.F.R. Part 390.5.~~Commerce that is between points and over a route wholly within this State and is not part of a prior or subsequent movement to or from points outside of this State in interstate or foreign commerce.~~"

Section 19. G.S. 20-381(b) reads as rewritten:

"(b) The definitions set out in 49 Code of Federal Regulations § 171.8 apply to this subsection. ~~Citations to the Code of Federal Regulations (CFR) in this subsection refer to the 1 October 1997 Edition of the CFR.~~ The transportation of an agricultural product, other than a Class 2 material, over local roads between fields of the same farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Parts 171 through 180 of 49 CFR as provided in 49 CFR § 173.5(a). The transportation of an agricultural product to or from a farm within 150 miles of the farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Subparts G and H of Part 172 of 49 CFR as provided in 49 CFR § 173.5(b)."

Section 20. G.S. 20-118(c)(5) reads as rewritten:

"(5) The light-traffic road limitations provided for pursuant to subdivision (b)(4) of this section do not apply to a vehicle while that vehicle is transporting only the following from its point of origin on a light-traffic road to the nearest highway that is not a light-traffic road:

a. Processed or unprocessed seafood transported from boats or any other point of origin to a processing plant or a point of further distribution.
b. Meats or agricultural crop products transported from a farm to first market.
c. Forest products originating and transported from a farm or from woodlands to first market without interruption or delay for further packaging or processing after initiating transport.
d. Livestock or poultry transported from their point of origin to first market.

e. Livestock by-products or poultry by-products transported from their point of origin to a rendering plant.

f. Recyclable material transported from its point of origin to a scrap-processing facility for processing. As used in this subpart, the terms ~~"recyclable"~~ "recyclable material" and "processing" have the same meaning as in G.S. 130A-290(a).

g. Garbage collected by the vehicle from residences or garbage dumpsters if the vehicle is fully enclosed and is designed specifically for collecting, compacting, and hauling garbage from residences or from garbage dumpsters. As used in this subpart, the term "garbage" does not include hazardous waste as defined in G.S. 130A-290(a), spent nuclear fuel regulated under G.S. 20-167.1, low-level radioactive waste as defined in G.S. 104E-5, or radioactive material as defined in G.S. 104E-5.

h. Treated sludge collected from a wastewater treatment facility.

i. Apples when transported from the orchard to the first processing or packing point.

j. Trees grown as Christmas trees from the field, farm, stand, or grove to first processing point."

Section 21. The Division of Motor Vehicles shall develop a plan to improve the system of collecting and maintaining proof of financial responsibility for newly licensed drivers classified as inexperienced operators. The Division shall submit its report to the Joint Legislative Transportation Oversight Committee by December 1, 1999.

Section 22. Section 5 of this act becomes effective July 1, 1999. Section 12 of this act becomes effective January 1, 2000. Section 17 of this act becomes effective October 1, 2000. The remainder of this act becomes effective October 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 280
Committee Substitute Favorable 4/12/99

Short Title: Motor Vehicle Tech. Amendments/AB. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND OTHER CHANGES TO THE MOTOR VEHICLE LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-4.01(33b) reads as rewritten:

"(33b) Reportable ~~Accident.~~ Crash. -- ~~An accident or collision~~ A crash involving a motor vehicle that results in ~~either~~ one or more of the following:

a. Death or injury of a human being.

b. Total property damage of one thousand dollars ($1,000) or more, or property damage of any amount to a vehicle seized pursuant to G. S. 20-28.3."

Section 2. G.S. 20-4.01 is amended by adding a new subdivision to read:

"(4b) Crash. -- Any event that results in injury or property damage attributable directly to the motion of a motor vehicle or its load. The terms collision, accident, and crash and their cognates are synonymous."

Section 3. G.S. 20-9(g)(1) reads as rewritten:

"(1) The Division may issue a license to any person who is afflicted with or suffering from a physical or mental disability set out in subsection (e) of this section who is otherwise qualified to obtain a license, provided such person submits to the Division a certificate in the form prescribed in subdivision (2). Until a license issued

under this subdivision expires or is revoked, the license continues in force as long as the licensee presents to the Division ~~one year from the date of issuance of such license and at yearly intervals thereafter a certificate in the form prescribed in subdivision (2), provided the Commissioner may require the submission of such certificate at six month intervals where in his opinion public safety demands.~~ a certificate in the form prescribed in subdivision (2) of this subsection at the intervals determined by the Division to be in the best interests of public safety."

Section 4. G.S. 20-16(d) reads as rewritten:

"(d) Upon suspending the license of any person as authorized in this section, the Division shall immediately notify the licensee in writing and upon his request shall afford him an opportunity for a hearing, not to exceed 60 days after receipt of the request, unless a preliminary hearing was held before his license was ~~suspended, as early as practical within not to exceed 30 days after receipt of such request. The hearing shall be conducted in the district court district as defined in G.S. 7A-133 wherein the licensee resides. Hearings shall be rotated among all the counties within that district if the district contains more than one county unless the Division and the licensee agree that such hearing may be held in some other district, and such notice shall contain the provisions of this section printed thereon.~~ suspended. Upon such hearing the duly authorized agents of the Division may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. Upon such hearing the Division shall either rescind its order of suspension, or good cause appearing therefor, may extend the suspension of such license. Provided further upon such hearing, preliminary or otherwise, involving subsections (a)(1) through (a)(10a) of this section, the Division may for good cause appearing in its discretion substitute a period of probation not to exceed one year for the suspension or for any unexpired period of suspension. Probation shall mean any written agreement between the suspended driver and a duly authorized representative of the Division and such period of probation shall not exceed one year, and any violation of the probation agreement during the probation period shall result in a suspension for the unexpired remainder of the suspension period. The authorized agents of the Division shall have the same powers in connection with a preliminary hearing prior to suspension as this subsection provided in connection with hearings held after suspension. These agents shall also have the authority to take possession of a surrendered license on behalf of the Division if the suspension is upheld and the licensee requests that the suspension begin immediately."

Section 5. G.S. 20-63(g) reads as rewritten:

"(g) Alteration, Disguise, or Concealment of Numbers. -- Any operator of a motor vehicle who shall willfully mutilate, bend, twist, cover or cause to be covered or partially covered by any bumper, light, spare tire, tire rack, strap, or other device, or who shall paint, enamel, emboss, stamp, print, perforate, or alter or add to or cut off any part or portion of a registration plate or the figures or letters thereon, or who

shall place or deposit or cause to be placed or deposited any oil, grease, or other substance upon such registration plates for the purpose of making dust adhere thereto, or who shall deface, disfigure, change, or attempt to change any letter or figure thereon, or who shall display a number plate in other than a horizontal upright position, or who shall cover any number or sticker on a registration plate with any material that makes the number or sticker illegible, shall be guilty of a Class 2 misdemeanor."

Section 6. G.S. 20-63 is amended by adding a new subsection that reads:

"(i) Electronic Applications and Collections. -- The Division is authorized to accept electronic applications for the issuance of registration plates, registration certificates, and certificates of title, and to electronically collect fees and penalties."

Section 7. G.S. 20-78(b) reads as rewritten:

"(b) The Division shall maintain a record of certificates of title ~~issued, maintaining at all times the records of the last two owners.~~ issued by the Division for a period of 20 years. After 20 years, the Division shall maintain a record of the last two owners.

The Commissioner is hereby authorized and empowered to provide for the photographic or photostatic recording of certificate of title records in such manner as he may deem expedient. The photographic or photostatic copies herein authorized shall be sufficient as evidence in tracing of titles of the motor vehicles designated therein, and shall also be admitted in evidence in all actions and proceedings to the same extent that the originals would have been admitted."

Section 8. G.S. 20-79.4(a) reads as rewritten:

"(a) General. -- Upon application and payment of the required registration fees, a person may obtain from the Division a special registration plate for a motor vehicle registered in that person's name if the person qualifies for the registration plate. A special registration plate may not be issued for a vehicle registered under the International Registration Plan. A special registration plate may be issued for a commercial vehicle that is not registered under the International Registration Plan. A holder of a special registration plate who becomes ineligible for the plate, for whatever reason, ~~must~~ shall return the special plate within 30 days. On or after January 1, 2000, all special plates shall require 1,000 applications prior to issuance of a new plate series by the Division."

Section 8.1. G.S. 20-79.4(b)(27) reads as rewritten:

"(27) Military Retiree. -- Issuable to an individual who has retired from the armed forces of the United States. The plate shall bear the word "Retired" and the name and insignia of the branch of service from which the individual retired. ~~The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.~~"

Section 9. G.S. 20-96 reads as rewritten:

"**§ 20-96. ~~Collection of delinquent penalties and taxes.~~ Detaining property-hauling vehicles until penalties and taxes are collected.**

~~A law enforcement officer who discovers that a vehicle used for the transportation of property is being operated on the highways and that the owner of the vehicle is more than 30 days overdue in paying any of the following may detain the vehicle:~~

~~(1) A penalty previously assessed under this Chapter against the owner for a violation attributable to the failure of a vehicle to comply with this Chapter.~~

~~(2) A tax or penalty previously assessed against the owner under Article 36B of Chapter 105 of the General Statutes.~~

~~The officer may detain the vehicle until the delinquent penalties and taxes are paid.~~

(a) Authority to Detain Vehicles. -- A law enforcement officer may seize and detain the following property-hauling vehicle operating on the highways of the State:

(1) A property-hauling vehicle with an overload in violation of G.S. 20-88(k) or G.S. 20-118, until the penalty is paid;

(2) A property-hauling vehicle that is equipped with improper registration plates, until the proper plates are secured for the vehicle and the penalty due under G.S. 20-118.3 is paid;

(3) A property-hauling vehicle that is owned by a person liable for any overload penalties or assessments due and unpaid for more than 30 days; and

(4) A property hauling vehicle that is owned by a person liable for any taxes or penalties under Article 36B of Chapter 105 of the General Statutes, until the overdue penalties or taxes are paid.

(b) Storage; Liability. -- When necessary, an officer who detains a vehicle under this section may have the vehicle stored. The owner of a vehicle that is detained or stored under this section is responsible for the care of any property being hauled by the vehicle and for any storage charges. The State ~~is~~ shall not be liable for damage to the vehicle or loss of the property being hauled."

Section 10. G.S. 20-166.1(h) reads as rewritten:

"(h) Forms. -- The Division ~~must~~ shall provide forms or procedures for submitting crash data to persons required to make reports under this section and the reports ~~must~~ shall be made ~~on the forms provided.~~ in a format approved by the Commissioner. ~~The forms must ask for the~~ The following information shall be included about a reportable ~~accident:~~ crash:

(1) The cause of the ~~accident.~~ crash.

(2) The conditions existing at the time of the ~~accident.~~ crash.

(3) The persons and vehicles involved.

(4) Whether the vehicle has been seized and is subject to forfeiture under G.S. 20-28.2."

Section 11. G.S. 20-309(e) reads as rewritten:

"(e) Upon termination by cancellation or otherwise of an insurance policy provided in subsection (b) of this section, the insurer shall electronically notify the Division of ~~such termination;~~ the termination within 10 business days; provided, no cancellation notice is required if the same insurer issues a ~~new~~ replacement insurance

policy complying with this Article at the same time the insurer cancels or otherwise terminates the old policy, no lapse in coverage results, and the insurer sends the certificate of insurance form for the new policy to the Division. The insurer shall electronically notify the Division of any new policy for insurance within 10 working days of its issuance; provided a new coverage is not a replacement insurance policy for a policy terminated by the same insurer.

The Division, upon receiving notice of ~~cancellation or termination of an owner's financial responsibility as required by this Article,~~ a lapse in insurance coverage, shall notify ~~such~~ the owner of ~~such cancellation or termination,~~ the lapse in coverage, and ~~such~~ the owner shall, to retain the registration plate for the vehicle registered or required to be registered, within 10 days from date of notice given by the Division either:

(1) Certify to the Division that he had financial responsibility effective on or prior to the date of such termination; or

(2) In the case of a lapse in financial responsibility, pay a fifty dollar ($50.00) civil penalty; and certify to the Division that he now has financial responsibility effective on the date of certification, that he did not operate the vehicle in question during the period of no financial responsibility with the knowledge that there was no financial responsibility, and that the vehicle in question was not involved in a motor vehicle ~~accident~~ crash during the period of no financial responsibility.

Failure of the owner to certify that he has financial responsibility as herein required shall be prima facie evidence that no financial responsibility exists with regard to the vehicle concerned and unless the owner's registration plate has on or prior to the date of termination of insurance been surrendered to the Division by surrender to an agent or representative of the Division designated by the Commissioner, or depositing the same in the United States mail, addressed to the Division of Motor Vehicles, Raleigh, North Carolina, the Division shall revoke the vehicle's registration for 30 days.

In no case shall any vehicle, the registration of which has been revoked for failure to have financial responsibility, be reregistered in the name of the registered owner, spouse, or any child of the spouse, or any child of such owner within less than 30 days after the date of receipt of the registration plate by the Division of Motor Vehicles, except that a spouse living separate and apart from the registered owner may register such vehicle immediately in such spouse's name. Additionally, as a condition precedent to the reregistration of the vehicle by the registered owner, spouse, or any child of the spouse, or any child of such owner, except a spouse living separate and apart from the registered owner, the payment of a restoration fee of fifty dollars ($50.00) and the appropriate fee for a new registration plate is required. Any person, firm or corporation failing to give notice of termination shall be subject to a civil penalty of two hundred dollars ($200.00) to be assessed by the Commissioner of Insurance upon a finding by the Commissioner of Insurance that good cause is not shown for such failure to give notice of termination to the Division.

Any insurance company with less than twenty-five million dollars ($25,000,000) in annual vehicle insurance premium volume may submit notices required under this section by paper or electronic means."

Section 12. G.S. 20-376 reads as rewritten:

"**§ 20-376. Definitions.**

The following definitions apply in this Article:

(1) Federal safety and hazardous materials regulations. -- The federal motor carrier safety regulations contained in 49 C.F.R. Parts ~~170 through 190,~~ 171 through 180, 382, and 390 through 398.

(2) Foreign commerce. -- Commerce between any of the following:

a. A place in the United States and a place in a foreign country.

b. Places in the United States through any foreign country.

~~(3) Interstate commerce. -- Commerce between any of the following:~~

~~a. A place in a state and a place in another state.~~

~~b. Places in the same state through another state.~~

~~(4) Intrastate commerce. -- Commerce that is between points and over a route wholly within this State and is not part of a prior or subsequent movement to or from points outside of this State in interstate or foreign commerce.~~

(3) Interstate commerce. -- As defined in 49 C.F.R. Part 390.5.

(4) Intrastate commerce. -- As defined in 49 C.F.R. Part 390.5."

Section 13. G.S. 20-381(b) reads as rewritten:

"(b) The definitions set out in 49 Code of Federal Regulations § 171.8 apply to this subsection. ~~Citations to the Code of Federal Regulations (CFR) in this subsection refer to the 1 October 1997 Edition of the CFR.~~ The transportation of an agricultural product, other than a Class 2 material, over local roads between fields of the same farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Parts 171 through 180 of 49 CFR as provided in 49 CFR § 173.5(a). The transportation of an agricultural product to or from a farm within 150 miles of the farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Subparts G and H of Part 172 of 49 CFR as provided in 49 CFR § 173.5(b)."

Section 14. G.S. 20-4.01(12a) reads as rewritten:

"(12a) Gross Vehicle Weight Rating (GVWR). -- The value specified by the manufacturer as the maximum loaded weight of a vehicle. The GVWR of a combination vehicle is the GVWR of the power unit plus the GVWR of the towed unit or units. When a vehicle is determined by an enforcement officer to be structurally altered from the manufacturer's original design, the license weight or the total weight of the vehicle or combination of vehicles may be deemed as the GVWR for the purpose of enforcing this Chapter."

Section 15. G.S. 20-118(c)(5) reads as rewritten:

"(5) The light-traffic road limitations provided for pursuant to subdivision (b)(4) of this section do not apply to a vehicle while that vehicle is transporting only the following from its point of origin on a light-traffic road to the nearest highway that is not a light-traffic road:

a. Processed or unprocessed seafood transported from boats or any other point of origin to a processing plant or a point of further distribution.

b. Meats or agricultural crop products transported from a farm to first market.

c. Forest products originating and transported from a farm or from woodlands to first market without interruption or delay for further packaging or processing after initiating transport.

d. Livestock or poultry transported from their point of origin to first market.

e. Livestock by-products or poultry by-products transported from their point of origin to a rendering plant.

f. Recyclable material transported from its point of origin to a scrap-processing facility for processing. As used in this subpart, the terms ~~"recyclable"~~ "recyclable material" and "processing" have the same meaning as in G.S. 130A-290(a).

g. Garbage collected by the vehicle from residences or garbage dumpsters if the vehicle is fully enclosed and is designed specifically for collecting, compacting, and hauling garbage from residences or from garbage dumpsters. As used in this subpart, the term "garbage" does not include hazardous waste as defined in G.S. 130A-290(a), spent nuclear fuel regulated under G.S. 20-167.1, low-level radioactive waste as defined in G.S. 104E-5, or radioactive material as defined in G.S. 104E-5.

h. Treated sludge collected from a wastewater treatment facility.

i. Apples when transported from the orchard to the first processing or packing point.

j. Trees grown as Christmas trees from the field, farm, stand, or grove to first processing point."

Section 16. G.S. 20-87(2) reads as rewritten:

"(2) U-Drive-It Passenger Vehicles. -- U-drive-it passenger vehicles shall pay the following tax:

Motorcycles:	1-passenger capacity	$18.00
	2-passenger capacity	22.00
	3-passenger capacity	26.00

~~Automobiles: Forty-one dollars ($41.00) per year for each vehicle of fifteen-passenger capacity or less, and vehicles of over~~

~~fifteen-passenger capacity shall be classified as buses and shall pay one dollar and forty cents ($1.40) per hundred pounds empty weight of each vehicle.~~

Automobiles:	15 or fewer passengers	41.00
Buses:	16 or more passengers	1.40 per hundred pounds of empty weight
Trucks:	Under 7,000 lbs. that do not haul products for-hire	41.50 (4,000 lbs.) 51.00 (5,000 lbs.) 61.00 (6,000 lbs.)".

Section 17. G.S. 20-19(d) reads as rewritten:

"(d) When a person's license is revoked under ~~subdivision (2) of G.S. 20-17~~ G.S. 20-17(a)(2) and the person has another offense involving impaired driving for which he has been convicted, which offense occurred within three years immediately preceding the date of the offense for which his license is being revoked, the period of revocation is four years, and this period may be reduced only as provided in this section. The Division may conditionally restore the person's license after it has been revoked for at least two years under this subsection if he provides the Division with satisfactory proof that:

(1) He has not in the period of revocation been convicted in North Carolina or any other state or federal jurisdiction of a motor vehicle offense, an alcoholic beverage control law offense, a drug law offense, or any other criminal offense involving the possession or consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for the duration of the original revocation period."

Section 18. G.S. 20-19(e) reads as rewritten:

"(e) When a person's license is revoked under ~~subdivision (2) of G.S. 20-17~~ G.S. 20-17(a)(2) and the person has two or more previous offenses involving impaired driving for which he has been convicted, and the most recent offense occurred within the five years immediately preceding the date of the offense for which his license is being revoked, the revocation is permanent. The Division may, however, conditionally restore the person's license after it has been revoked for at least three years under this subsection if he provides the Division with satisfactory proof that:

(1) In the three years immediately preceding the person's application for a restored license, he has not been convicted in North Carolina

or in any other state or federal court of a motor vehicle offense, an alcohol beverage control law offense, a drug law offense, or any criminal offense involving the consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for any period up to three years from the date of restoration."

Section 19. G.S. 20-11(k) reads as rewritten:

"(k) Supervising Driver. -- A supervising driver ~~must~~ shall be a parent or guardian of the permit holder or license holder or a responsible person approved by the parent or guardian or the Division. A supervising driver ~~must~~ shall be a licensed driver who has been licensed for at least five years. ~~A~~ At least one supervising driver ~~must~~ shall sign the application for a permit or license. ~~Each permit or license issued pursuant to this section shall be limited to a maximum of two supervising drivers.~~"

Section 20. The Division of Motor Vehicles shall develop a plan to improve the system of collecting and maintaining proof of financial responsibility for newly licensed drivers classified as inexperienced operators. The Division shall submit its report to the Joint Legislative Transportation Oversight Committee by December 1, 1999.

Section 21. Section 11 of this act becomes effective October 1, 2000. Section 19 of this act becomes effective July 1, 1999. The remainder of this act becomes effective October 1, 1999.

HOUSE BILL 280:
Motor Vehicle Technical Amendments/AB

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Cole
Date:	April 20, 1999	**Summary by:**	Cindy Avrette
Version:	PCS for 2nd Edition H280-CSRB-1		Committee Counsel

SUMMARY: ***House Bill 280 several changes to the motor vehicle laws. It makes two changes that require it to come before the House Finance Committee: it would require 1,000 applications for a special plate before DMV could issue the plate and it authorizes DMV to issue U-Drive-It plates for small daily rental trucks. The 2nd edition of the bill received a favorable report from the House Transportation Committee. The proposed committee substitute clarifies the number of special plates that must be requested before DMV may issue one, lists the statutes in numerical order, and makes a couple of technical changes. Except for sections 5, 12, and 17, this act becomes effective October 1, 1999.***

BILL ANALYSIS: House Bill 280 makes the following changes to the motor vehicle laws:

- Section 1 adds a definition for the term "crash" to Chapter 20. Sections 3 and 16 delete the term "accident" and substitute it with the newly defined term "crash".
- Sections 2, 18, and 19 make changes in the North Carolina law so that it will be consistent with the federal safety regulations governing the operation of commercial vehicles. Section 2 amends the definition of "Gross Vehicle Weight Rating" to allow DMV enforcement officers to use the license weight or total weight of a structurally altered vehicle when enforcing motor carrier safety regulations, and when determining if the driver requires a CDL. Sections 18 and 19 cross-reference definitions in the federal law.
- Section 4 authorizes DMV to require a disabled person with a drivers license to present a medical certificate at an interval deemed appropriate by the Division, instead of every year, as required under current law.
- Section 5 allows a Level 1 and Level 2 driver under the graduated drivers license system to have more than two supervising drivers and it requires only one of the supervising drivers to sign the driver's application for a permit or license. A supervising driver must still be a licensed driver who has been licensed for at least five years and the supervising driver must be a parent or guardian of the driver or a responsible person approved by the parent, guardian, or Division. This section becomes effective July 1, 1999.
- Section 6 requires DMV to offer a hearing within 60 days to a person whose license is suspended without a preliminary hearing. Under current law, the hearing must be held within 30 days. DMV notifies a driver before it suspends the driver's license. The driver may request a preliminary hearing. If the driver does not request a preliminary hearing, the suspension goes into effect on the given day. At that point, the driver may request a hearing if one has not already been heard. With the increase in

the number of post-suspension hearing requested, DMV needs more time for its 22 hearing officers to prepare for and schedule hearings.

- Section 6 also removes the requirement that the hearing be held in the county in which the licensee resides. DMV requests this change to help it better schedules the hearings its hearing officers must conduct. The change does not affect the "refusal" hearings under G.S. 20-16.2 for refusing to consent to a chemical analysis. These hearings will continue to be scheduled in the county in which the licensee resides.
- Sections 7 and 8 correct an incorrect statutory reference.
- Section 9 prohibits covering numbers and stickers on license plates with any material that makes the number or sticker illegible. A violation of this offense would be punishable as a Class 2 misdemeanor.
- Section 10 allows DMV to accept electronic applications for registration plates, registration certificates, and certificates of title and to collect fees and penalties electronically. Processing transactions and collecting fees electronically may allow the Division to offer customers additional service options. DMV currently has a pilot program to allow automobile dealers to enter information for DMV through a third party service provider. The pilot program is working well with one dealer and the Division plans to expand the pilot to nine other dealers in the next few weeks. Lending institutions have also indicated that they are ready to process liens electronically.
- Section 11 requires DMV to maintain title records for 20 years. After 20 years, DMV would only be required to maintain a record of the last two owners. Under current law, title records are maintained for the life of a vehicle. The storage costs of these records are high. Since less than 2% of the inquiries received are for vehicles over 15 years old, the 20-year retention schedule should be adequate to address the publics needs.
- Section 12 would require DMV to receive 1,000 applications for a special plate before issuing the special plate, effective January 1, 2000. The change in the number of plates is requested for two reasons: The vast number of special registration plates is becoming an inventory concern for the Division. Second, and of more concern, is the potential impact of the special plates on the State's unique numbering system. Under that system, no two plates have the same alphanumeric combination. With the increasing number of special plates, there may be multiple plates on the road with the same alphanumeric combination. This means that there may be an ABC123 regular license plate and an ABC123 special license plate. Under current law, the requirement is 300 applications. The plates that must receive at least 300 applications before the Division can issue the plate are: American Legion, Civic Clubs, Combat Veterans, County Commissioners, 82nd Airborne Division, Future Farmers of America, Military Retirees, Professional Sports Fans, Square Dance Clubs, Street Rod owners, Veterans of Foreign Wars, Vietnam Veterans, Collegiate Insignia, Historical Attraction, Girl Scouts, Eagle Scouts, Special Olympics, State Attraction, Wildlife Resources, Olympic Games, March of Dimes, School Technology, Scenic Rivers, and Soil and Water Conservation.
- Section 13 removes the requirement that the Division must receive 300 applications for a military retiree plate before it can issue one. The effect of this section would be to require DMV to issue a retired Coast Guard plate even though the Division has only 60 applications for the plate.
- Section 14 changes the vehicle registration category for small daily rental trucks. Currently, small daily rental trucks are issued a "for-hire" plate. The cost of a "for-hire" plate is determined under G.S.

20-88 based upon its weight. The plate is required to be issued annually. A "for-hire" vehicle is also required to carry a higher insurance liability amount Other daily rental vehicles are issued "u-drive-it plate" and are only required to have minimum insurance coverage. The cost of a "u-drive-it" plate for an automobile is $41.00. To standardize the treatment of daily rental cars and small trucks, this section establishes a "u-drive-it" category and fee schedule for small trucks that ranges from $41.50 to $61. As a "u-drive-it" vehicle, the registration plate costs would be higher; however, the insurance costs would be greatly reduced since the insurance classification for small daily rental trucks would change so they could be insured under a minimum liability policy.

- Section 15 authorizes a law enforcement officer to seize and detain property hauling vehicles that are found to be overweight until the penalties are paid and property hauling vehicles that do not have proper registration plates until the proper registration plates are obtained and the penalties are paid. Under current law, a law enforcement officer can seize and detain property-hauling vehicles owned by a person who owes any overweight penalties or unpaid motor fuels taxes or penalties until the taxes and penalties are paid. A law enforcement officer may also detain property hauling vehicles that are overweight until the overload is reduced. The clarifying changes in this section are requested by the Attorney General's office.
- Section 17 requires insurance companies to notify DMV when they terminate policies and issue new ones within 10 working days. Under current law, an insurer must notify DMV when it cancels a policy, but it does not notify DMV when it issues a policy. The section also provides that a company does not have to notify DMV if the company is issuing a replacement policy. The changes in this section of the bill will hopefully reduce by 50% the number of vehicle owners contacted by DMV who have not experienced a lapse in coverage but have only "shopped around" for a lower premium.
- Section 17 also would require companies with $25,000,000 or more in annual vehicle insurance premium volume to submit the notifications electronically. This section becomes effective October 1, 2000.
- Section 20 replaces the term "recyclable" with the defined term "recyclable material".
- Section 21 requires DMV to develop a plan to improve the collection and maintenance of proof of financial responsibility for newly licensed drivers classified as inexperienced operators and to submit the plan to the Joint Legislative Transportation Oversight Committee by December 1, 1999.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 280 (House Finance Committee Substitute)

SHORT TITLE: Motor Vehicle Technical Amendments/AB

SPONSOR(S): Representative Cole

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Highway Fund					
U-Drive-it trucks	$27,937	$37,995	$38,754	$39,529	$40,319
Internet registration	see ASSUMPTIONS AND METHODOLOGY				
EXPENDITURES					
Highway Fund					
Insurance notices		($78,300)	($104,400)	($104,400)	($104,400)
Internet registration	see ASSUMPTIONS AND METHODOLOGY				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation – Division of Motor Vehicles

EFFECTIVE DATE: Section 5 (graduated drivers license change) becomes effective July 1, 1999. Section 17 (notification of terminated insurance policies) becomes effective October 1, 2000. The remainder of the act becomes effective October 1, 1999.

BILL SUMMARY: The bill makes numerous changes to the motor vehicle laws found in Chapter 20 of the North Carolina General Statutes.

ASSUMPTIONS AND METHODOLOGY:

REVENUES

Section 14 of the bill has a direct fiscal impact on the Highway Fund. Small daily rental trucks are now issued a "for-hire" plate that is renewed annually. This "for-hire" status requires the vehicle owner to carry a high insurance liability policy. The proposal is to classify small daily rental trucks as U-drive-it passenger vehicles, a category that now includes cars and buses. These

daily rentals will require lower insurance liability policies, but will pay higher fees for the privilege.

The Division of Motor Vehicles (DMV) estimates that 2,500 small trucks are licensed each year as daily rentals. The chart below shows the estimated number of trucks by weight class. The chart also shows the current and proposed fees. The first year revenue gain is reduced by one fourth due to an October 1, 1999 starting date. DMV estimates that the number of trucks licensed in future years will grow by 2% annually.

Truck Weight	# of Trucks	Current Fees	Current Revenue	Proposed Fees	Proposed Revenue	Net Gain
4,000 lbs	1000	$21.50	$21,500	$41.50	$41,500	$20,000
5,000 lbs	1000	$40.75	$40,750	$51.00	$51,000	$10,250
6,000 lbs	500	$47.00	$23,500	$61.00	$30,500	$7,000
	2,500		$85,750		$123,000	$37,250

Section 10 has the potential to both lose revenues and to decrease expenditures. The section allows DMV "to accept electronic applications for the issuance of registration plates, registration certificates, and certificates of title, and to electronically collect fees and penalties". Currently registration renewal can be done by mail or by a visit to a contract tag agent. Renewal by mail requires the payment of a $1 processing fee in addition to the registration renewal fee. There were 1.2 million mail-in renewals last year and thus $1.2 million in administrative fees paid to the Highway Fund. If vehicle owners that now renew by mail are allowed to renew over the internet, then DMV will lose a portion of this revenue. To be revenue neutral, the bill must be amended to allow DMV to charge a $1 processing fee to use this electronic service. However, electronic renewal is a moot point since DMV does not have the authority to accept credit cards for payment and it is uncertain when this approval will be granted.

EXPENDITURES

As mentioned above, Section 10 also has the potential to reduce expenditures. A 1995 study by the NCDOT Productivity Management unit reported that registration renewals performed by DMV were less expensive than those completed by contract tag agents. In 1995, DMV paid $1.73 for renewals by contract agents and spent $1.44 for in-house processing. Most of the cost for contract agents was the $1.20 transaction fee (now $1.35). If a vehicle owner that now uses a tag agent chooses to renew electronically, then DMV saves 29 cents per transaction. With the increase in internet commerce, it is likely that consumers will choose on-line payment versus a trip to a tag agent for simple transactions. The problem is that registration renewals are the easiest and most profitable transactions for branch agents. The smaller volume contract agents unable to absorb the lost revenue may have to close. Again, the General Assembly has to give DMV the authority to use credit cards for payment. In turn, the General Assembly must decide the role of contract tag agents under electronic commerce.

Section 17 requires insurance companies to notify DMV when they terminate policies and issue new ones within 10 days. This section will reduce the number of vehicle owners contacted by DMV who have not experienced a lapse in coverage, but have only "shopped around" for lower premiums. DMV estimates that 400,000 unnecessary letters will be eliminated due to this change

in policy. At a pre-sort postage rate of 26.1 cents per letter, this will create annual savings of $104,400. The section is effective beginning October 1, 2000, thus first year savings in FY 2000-01 are for nine months. No postal rate increases are included in this note.

Section 11 requires DMV to maintain records for 20 years instead of the life of the vehicle. This could save DMV computer storage space, but no savings have been estimated for this item.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY:

DATE:

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 504 A BILL TO BE ENTITLED AN ACT RELATING TO THE ADOPTION OF PLANNING, ZONING, AND SUBDIVISION ORDINANCES IN CARTERET COUNTY.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 504
Committee Substitute Favorable 4/7/99

Short Title: Carteret Planning/Zoning Changes. (Local)

Sponsors:

Referred to:

March 18, 1999

A BILL TO BE ENTITLED

AN ACT RELATING TO THE ADOPTION OF PLANNING, ZONING, AND SUBDIVISION ORDINANCES IN CARTERET COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The County of Carteret may adopt and enforce planning, zoning, and subdivision ordinances and regulations pursuant to Chapter 1033 of the 1959 Session Laws or, in accordance with G.S. 153A-3, pursuant to Article 18 of Chapter 153A of the General Statutes. County ordinances adopted under the local act shall remain in effect until the adoption of ordinances under the general law.

Section 2. After the County of Carteret adopts ordinances, in accordance with G.S. 153A-3, pursuant to Article 18 of Chapter 153A of the General Statutes, all current members of the Carteret County Planning Board shall continue to serve as members until their respective terms expire or they resign. After the current planning board members' terms expire, then the County may replace those members pursuant to the Planning/Zoning and Subdivision ordinances or regulations that have been adopted in accordance with G.S. 153A-3 pursuant to Article 18 of Chapter 153A of the General Statutes.

Section 3. This act becomes effective October 15, 1999.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 755 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE CERTAIN MUNICIPALITIES TO CREATE SERVICE DISTRICTS TO FINANCE LIGHTING AT INTERSTATE HIGHWAY INTERCHANGES.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 755
Proposed Committee Substitute H755-PCS3293-RB

Short Title: Highway Lighting Service Districts. (Public)

Sponsors:

Referred to:

March 31, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CERTAIN MUNICIPALITIES TO CREATE SERVICE DISTRICTS TO FINANCE LIGHTING AT INTERSTATE HIGHWAY INTERCHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-536 is amended by adding a new subdivision to read:

"(3b) Lighting at interstate highway interchange ramps."

Section 2. This act applies only to towns that, at the time the district is created, have a population of between 2,000 and 2,500 and are located in a county that has an area of more than 945 square miles.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

HOUSE BILL 755

Short Title: Highway Lighting Service Districts. (Public)

Sponsors: Representative Yongue.

Referred to: Finance.

March 31, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CERTAIN MUNICIPALITIES TO CREATE SERVICE DISTRICTS TO FINANCE LIGHTING AT INTERSTATE HIGHWAY INTERCHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-536 is amended by adding a new subdivision to read:

"(3b) Lighting at interstate highway interchange ramps."

Section 2. This act applies only to towns that, at the time the district is created, have a population of between 20,000 and 25,000 and are located in a county that has an area of more than 945 square miles.

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

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 755 (Proposed House Finance Committee Substitute)

SHORT TITLE: Highway Lighting Service Districts

SPONSOR(S): Representative Yongue

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Special District Fund	$6,000	$6,000	$6,000	$6,000	$6,000

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Town of St. Pauls in Robeson County

EFFECTIVE DATE: The act is effective when it becomes law.

BILL SUMMARY: The bill authorizes the creation of a service district to finance lighting at interstate highway interchanges for municipalities with a population between 2,000 and 2,500 and located in a county that has an area more than 945 square miles.

ASSUMPTIONS AND METHODOLOGY: This bill applies specifically to St. Pauls in Robeson County. The town wishes to create a service district to install lights in the area of the on and off ramps of Exit 31 on Interstate 95. The town has the approval of the 10 property owners in the proposed district. The proposed tax is 10 cents per $100 of property value. With a property value of $6 million in the proposed district, the tax will generate $6,000 a year. The town has contracted with CP&L to install and maintain the street lights for $7,500 a year. The town will pay the remaining $1,500 a year from its General Fund.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY:

DATE:

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 852 A BILL TO BE ENTITLED AN ACT CONCERNING ANNEXATION OF NONCONTIGUOUS AREAS BY THE CITY OF HICKORY AND ANNEXATION OF CERTAIN DESCRIBED PROPERTY BY THE TOWN OF MOCKSVILLE.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 852
Proposed Committee Substitute H852-PCS6163-SC

Short Title: Hickory/Mocksville Annexations. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT CONCERNING ANNEXATION OF NONCONTIGUOUS AREAS BY THE CITY OF HICKORY, AND ANNEXATION OF CERTAIN DESCRIBED PROPERTY BY THE TOWN OF MOCKSVILLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-58.1(b)(2) shall not apply to the City of Hickory or the Town of Brookford as to any property if the City or Town has entered into an annexation agreement pursuant to Part 6 of Article 4A of Chapter 160A of the General Statutes with the city to which a point on the proposed satellite corporate limits is closer and that agreement states that the other city will not annex the property, except that this modification shall not apply to the boundary agreement between the City of Hickory and the City of Newton dated May 7, 1996.

Section 2. The following described property is added to the corporate limits of the Town of Mocksville:

Beginning at a concrete monument set, said monument being located N 59° 50' 17" W 2511.7' from the intersection of North Main St. and Campbell Road in the Town of Mocksville, North Carolina, also being further located N° 02 27' 33" E 71.62' from the Southeast corner of a Mocksville Annexation Map as recorded in Plat Book 6, page 131, Davie County Registry, thence;

N 02°27'33" E	549.70', TO A CONCRETE MON. FOUND
N 02°27'33" E	996.50', TO A POINT CL CAMPBELL RD.
N 02°27'33" E	586.50', TO A .75" IRON NORTH SIDE CREEK
S 61°04'29" E	120.56', TO A POINT IN CREEK

N 71°42'10" E 327.39', TO A POINT IN CREEK
N 63°23'29" E 291.04', TO A POINT IN CREEK
N 77°18'07" E 401.50', TO A POINT IN CREEK
N 61°34'10" E 240.46', TO A POINT IN CREEK
N 39°26'56" E 244.24', TO A POINT IN CREEK
N 58°10'43" E 442.61', TO A POINT IN CREEK
N 62°22'28" E 193.44', TO A POINT IN CREEK
N 58°47'38" E 280.10', TO AN AXLE NORTH SIDE CREEK
S 01°32'31" W 1644.56', TO AN IRON PLACED
S 40°24'40" W 455.40', TO AN IRON PLACED
S 31°14'59" W 132.00', TO A 0.75" SOLID IRON FOUND
N 68°45'01" W 167.34', TO A LEAF SPRING FOUND
S 42°14'59" W 87.12', TO AN UNMARKED POINT
S 30°05'50" W 138.05', TO AN UNMARKED POINT
S 82°30'57" E 211.20', TO A 0.5" IRON FOUND
S 04°59'04" E 82.78', TO A 0.5" IRON FOUND
S 28°26'07" E 95.35', TO A 0.5" IRON FOUND
S 28°12'02" E 100.28', TO A 0.5" IRON FOUND
S 28°32'14" E 77.59', TO A 0.5" IRON FOUND
S 53°29'41" E 160.61', TO AN UNMARKED POINT
S 58°03'55" E 613.64', TO AN IRON PLACED
S 21°59'37" W 32.15', TO A CONCRETE MON. FOUND
S 58°16'00" E 33.33', TO A 0.75" IRON FOUND
S 27°17'18" W 120.04', TO A 1.5" IRON FOUND
S 27°22'16" W 125.14', TO A CONCRETE MON. FOUND
S 25°31'34" W 24.55', TO A 0.5" IRON FOUND
N 62°48'48" W 260.19', TO AN IRON PLACED
S 27°03'32" W 100.14', TO A 0.5" REBAR FOUND
S 27°03'46" W 99.65', TO A 0.5" IRON FOUND
S 27°03'19" W 99.83', TO A 0.5" IRON FOUND
S 26°59'36" W 296.54', TO A 0.75" IRON FOUND
S 26°59'46" W 206.54', TO A 0.5" IRON FOUND
S 01°24'53" W 55.08', TO A CONCRETE MON. SET
N 59°52'17" W 566.80', TO A CONCRETE MON. SET
(ARC = 567.07, RADIUS = 5280.00)
N 28°59'18" E 29.26', TO AN UNMARKED POINT
N 45°50'52" W 107.94', TO AN UNMARKED POINT
N 47°20'22" W 107.50', TO A 0.5" IRON FOUND
S 39°58'19" W 71.28', TO A POINT IN HILLCREST ST.
S 48°24'43" E 88.38', TO A POINT IN HILLCREST ST.
N 71°52'36" W 1369.48', TO A CONCRETE MON. SET
(ARC = 1373.35, RADIUS = 5280.00).

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 852

Short Title: Hickory/Mocksville Annexations. (Local)

Sponsors: Representatives Buchanan and Howard.

Referred to: Finance.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT CONCERNING ANNEXATION OF NONCONTIGUOUS AREAS BY THE CITY OF HICKORY AND ANNEXATION OF CERTAIN DESCRIBED PROPERTY BY THE TOWN OF MOCKSVILLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-58.1(b)(2) shall not apply to the City of Hickory as to any property if the City has entered into an annexation agreement pursuant to Part 6 of Article 4A of Chapter 160A of the General Statutes with the city to which a point on the proposed satellite corporate limits is closer and that agreement states that the other city will not annex the property.

Section 2. The following described property is added to the corporate limits of the Town of Mocksville:

Beginning at a concrete monument set, said monument being located N 59° 50' 17" W 2511.7' from the intersection of North Main St. and Campbell Road in the Town of Mocksville, North Carolina, also being further located N° 02 27' 33" E 71.62' from the Southeast corner of a Mocksville Annexation Map as recorded in Plat Book 6, page 131, Davie County Registry, thence;

N 02°27'33" E	549.70', TO A CONCRETE MON. FOUND
N 02°27'33" E	996.50', TO A POINT CL CAMPBELL RD.
N 02°27'33" E	586.50', TO A .75" IRON NORTH SIDE CREEK
S 61°04'29" E	120.56', TO A POINT IN CREEK
N 71°42'10" E	327.39', TO A POINT IN CREEK
N 63°23'29" E	291.04', TO A POINT IN CREEK
N 77°18'07" E	401.50', TO A POINT IN CREEK

N 61°34'10" E 240.46', TO A POINT IN CREEK
N 39°26'56" E 244.24', TO A POINT IN CREEK
N 58°10'43" E 442.61', TO A POINT IN CREEK
N 62°22'28" E 193.44', TO A POINT IN CREEK
N 58°47'38" E 280.10', TO AN AXLE NORTH SIDE CREEK
S 01°32'31" W 1644.56', TO AN IRON PLACED
S 40°24'40" W 455.40', TO AN IRON PLACED
S 31°14'59" W 132.00', TO A 0.75" SOLID IRON FOUND
N 68°45'01" W 167.34', TO A LEAF SPRING FOUND
S 42°14'59" W 87.12', TO AN UNMARKED POINT
S 30°05'50" W 138.05', TO AN UNMARKED POINT
S 82°30'57" E 211.20', TO A 0.5" IRON FOUND
S 04°59'04" E 82.78', TO A 0.5" IRON FOUND
S 28°26'07" E 95.35', TO A 0.5" IRON FOUND
S 28°12'02" E 100.28', TO A 0.5" IRON FOUND
S 28°32'14" E 77.59', TO A 0.5" IRON FOUND
S 53°29'41" E 160.61', TO AN UNMARKED POINT
S 58°03'55" E 613.64', TO AN IRON PLACED
S 21°59'37" W 32.15', TO A CONCRETE MON. FOUND
S 58°16'00" E 33.33', TO A 0.75" IRON FOUND
S 27°17'18" W 120.04', TO A 1.5" IRON FOUND
S 27°22'16" W 125.14', TO A CONCRETE MON. FOUND
S 25°31'34" W 24.55', TO A 0.5" IRON FOUND
N 62°48'48" W 260.19', TO AN IRON PLACED
S 27°03'32" W 100.14', TO A 0.5" REBAR FOUND
S 27°03'46" W 99.65', TO A 0.5" IRON FOUND
S 27°03'19" W 99.83', TO A 0.5" IRON FOUND
S 26°59'36" W 296.54', TO A 0.75" IRON FOUND
S 26°59'46" W 206.54', TO A 0.5" IRON FOUND
S 01°24'53" W 55.08', TO A CONCRETE MON. SET
N 59°52'17" W 566.80', TO A CONCRETE MON. SET
(ARC = 567.07, RADIUS = 5280.00)
N 28°59'18" E 29.26', TO AN UNMARKED POINT
N 45°50'52" W 107.94', TO AN UNMARKED POINT
N 47°20'22" W 107.50', TO A 0.5" IRON FOUND
S 39°58'19" W 71.28', TO A POINT IN HILLCREST ST.
S 48°24'43" E 88.38', TO A POINT IN HILLCREST ST.
N 71°52'36" W 1369.48', TO A CONCRETE MON. SET
(ARC = 1373.35, RADIUS = 5280.00).

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

VISITOR REGISTRATION SHEET

House Finance — April 20, 1999
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Rosa U. Lee	DMV
Jesse Heffner	DMV
Steve Gill	DMV
Doug Burcar	NCFA
Charles Case	Hunton & Williams
Bob Slocum	NC Forestry Assoc
Bill McDonald	City of Hickory
Paul Zagkanas	City of Hickory
Tom Carr	City of Hickory
VL McBride	NCAA
Jerry Lofton	NCAFT
[illegible] Rogers	NCDOT
Hugh Bryson Hall	MCNS
Robert Williams	NCHBA
Robert A Woods	N.C. DMV ENFORCEMENT
Gordon W. Smith	N.C DMV Enforcement
Ruth Sanders	NCDOT
Steve Woodson	NC Farm Bureau
Mike Gonnerton	NCCMA
Butch Gunnells	NC Soft Drink Assoc
John Baldwin	NCHBA
Lois Nixon	Wake Co. Keep America Beautiful
Andy Romanet	N.C.L.M.
Katherine Davis	Electricities
Wallace English	NC Agribusiness Council
Cam Crew	BPOHL
Ann Cruse	NCRMA
[illegible]	NCADA

VISITOR REGISTRATION SHEET

House Finance — April 20, 1999
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Andy Ellen	NC Retail Merchants
Frank Porter	NC Retail Merchants

AGENDA

HOUSE FINANCE COMMITTEE

Thursday, April 22, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 120 – Tax Lien Advertisement and Collection – Rep. Owens
HB 450 – Make Car Tax Progressive – Rep. Edwards
HB 251 – Bakersville Delinquent Taxes – Rep. Thompson
HB 765 – Wesley Chapel Boundaries – Rep. Melton
HB 665 – Modify Currituck Room Tax – Rep. Owens
HB 672 – Various Local Occupancy Taxes – Rep. Gibson
HB 764 – Raise Mooresville Room Tax – Rep. Setzer
HB 812 – Modify Craven Room Tax Use – Rep. Thomas
HB 830 – Transylvania Room Tax Penalties – Rep. Walend

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Thursday, April 22, 1999

The House Committee on Finance met on Thursday, April 22, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke, Miller; Vice Chair Jarrell; Representatives Braswell, Bridgeman, Brown, Buchanan, Capps, Church, Cox, Creech, Cunningham, Decker, Dedmon, Eddins, Edwards, Gibson, Goodwin, Gray, Hackney, Hill, McComas, McCombs, Miner, Mosley, Pope, Ramsey, Rayfield, Starnes, Tucker, Wilson, Womble. Staff including Cindy Avrette, Richard Bostic, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Luebke called the meeting to order to consider the following bills:

Representative Church, chairman of the subcommittee which studied HB 120, A BILL TO BE ENTITLED AN ACT TO IMPROVE THE PROCEDURES FOR NOTIFYING OWNERS AND ADVERTISING TAX LIENS ON REAL PROPERTY AND TO AUTHORIZE COUNTIES TO PROHIBIT REGISTRATION OF DEEDS IF DELINQUENT TAXES ARE OWED ON THE PROPERTY, presented the subcommittee report. The subcommittee removed the section of the bill requiring delinquent taxes to be paid before the deed could be recorded. Rep. Owens, the sponsor of HB 120 briefly explained the bill. Rep. Brown moved to give the Proposed Committee Substitute a favorable report, and unfavorable report to the original bill. The motion passed. Copies of the original Bill, Committee Substitute, Bill Analysis, and Fiscal Note are included in these minutes.

Representative Owens was recognized to explain HB 665, A BILL TO BE ENTITLED AN ACT TO MODIFY THE CURRITUCK COUNTY ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX. The Chair stated that the chairs had decided that all bills dealing with occupancy tax are to be referred to a subcommittee for review and which will be chaired by Rep. Jarrell.

Rep. Gibson was recognized to explain HB 672 – A BILL TO BE ENTITLED AN ACT TO AUTHORIZE VARIOUS COUNTIES AND TOWNS TO LEVY ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAXES. Rep. Gibson briefly explained the bill.

Rep. Setzer was recognized to explain HB 764, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE TOWN OF MOORESVILLE TO LEVY AN ADDITIONAL ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX. Rep. Setzer declined to speak on the bill in reference to the brevity of time for the committee meeting.

Rep. Dedmon asked when to send forward an amendment to Rep. Gibson's HB 672, and the Chair stated to send that forward in the subcommittee meeting. Rep. Walend could not attend the meeting, but HB 830 will also be sent to the subcommittee. The Chair stated that HB 830, 764, 672, 665 will be sent to Rep. Jarrell's subcommittee. Rep. Gibson moved to send HB 665, 672, 764, 830 to the subcommittee chaired by Rep. Jarrell. The motion passed. Copies of the bills are included in the Minutes.

Representative Edwards was recognized to explain HB 450, A BILL TO BE ENTITLED AN ACT TO REMOVE THE HIGHWAY USE TAX LOOPHOLE FOR LUXURY AUTOMOBILES. Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion. The motion passed. The Chair asked staff if there is a use tax obligation for when someone makes a vehicle purchase in South Carolina and then returns the vehicle purchase to North Carolina. Cindy Avrette stated there is a use tax obligation. Rep. Edwards presented a letter from the North Carolina Automobile Dealers which stated they have no objection to the bill since the committee substitute will phase in the tax (original bill had no phase-in). The Chair recognized Cindy Avrette of the Research Division to comment on the changes from the original bill to the committee substitute. Cindy explained that this committee substitute phases out the cap over three years and the revenue generated from this is credited to the General Fund instead of the Highway Trust Fund. The Chair recognized Richard Bostic of the Fiscal Research Division. Richard explained that other vehicles besides luxury automobiles are covered by this bill, and that members need to examine that regarding their communities. Rep. Creech asked if just the additional money or is all of the tax going to the General Fund. Cindy Avrette stated it is just the money generated by the increase, as written on page 2, lines 19-22, which specifies exactly what amounts will be transferred to the General Fund. Rep. Allen sent forward an amendment and moved for its adoption. Cindy explained the amendment leaves ambulances and buses (public, school) subject to the $1,500 cap as they currently are. The Allen amendment (#1 attachment) was adopted. Rep. Creech sent forward an amendment to transfer the generated money to the Highway Trust Fund instead of the General Fund. Rep. Creech moved for adoption of his amendment. The motion passed and the Creech amendment was adopted (#2 attachment). Rep. Decker made a statement opposing the bill. Rep. Pope sent forward an amendment which moved to amend the bill as amended by amendment #1 (Allen) by rewriting line 4 of amendment #1(#3 attachment). Rep. Pope moved for adoption of the amendment(#3). The motion passed and the Pope amendment adopted(#3 attachment).

Rep. Pope requested that the ayes/nays votes be recorded when bill will be voted on. Rep. Edwards moved for favorable adoption of the Proposed Committee Substitute as amended, unfavorable to original bill. Kristen Crosson, the Finance Committee Assistant called the roll for the aye/nay vote. The roll call vote sheet is attachment #4. The recorded vote was ayes=10 and nays=16. The motion for favorable report fails. Rep. Pope moved for an unfavorable report to the bill. Rep. Pope called division. The Chair called for those in favor of the motion for an unfavorable report for HB 450 to raise their hands. The Chair called for those not in favor of the motion for an unfavorable report for HB 450 to raise their hands. The Chair stated that the motion passed 14 to 12 to give the PCS for HB 450 an unfavorable report.

Rep. Thomas was recognized to explain HB 812 - A BILL TO BE ENTITLED AN ACT TO REMOVE THE SUNSET ON A REQUIREMENT THAT PART OF CERTAIN CRAVEN COUNTY PROCEEDS BE USED FOR A CONVENTION CENTER AND A TOURIST CENTER. Rep. Thomas stated that all parties involved (Tourism Development Authority, City of Havelock, and Craven County) supported the bill. Rep. Dedmon moved for a favorable report. Rep. Ramsey asked if the bill would have any effect on the way other counties operated. Cindy Avrette stated that this bill covered only Craven County and would not affect any other counties. Rep. Dedmon's motion for a favorable report passed. A copy of the bill is included in these minutes.

Representative Buchanan was recognized to explain HB 251, A BILL TO BE ENTITLED AN ACT TO REQUIRE PAYMENT OF DELINQUENT TAXES FOR THE TOWN OF BAKERSVILLE BEFORE RECORDING DEEDS CONVEYING PROPERTY SUBJECT TO THE DELINQUENT TAXES. Rep. Womble asked if all the parties were in support of the bill. Rep. Buchanan replied that everyone supported the bill. Cindy Avrette commented on the substance of the bill. She stated the bill requires delinquent taxes to be paid before the deed can be recorded, and the General Assembly has given this similar type of local legislation to other counties and towns. Rep. Goodwin asked about the effective date of the bill. Rep. Buchanan replied that the new budget must be in effect by June 30 and the town wants this in effect by June 1 so they can implement this for fiscal year beginning July 1, 1999. Rep. Womble moved for a favorable report on HB 251. The motion passed.

Representative Melton was recognized to explain HB 765, A BILL TO BE ENTITLED AN ACT AMENDING THE BOUNDARIES OF THE VILLAGE OF WESLEY CHAPEL. Rep. Goodwin moved for a favorable report. The motion passed. Copies of the bill and map are included in these Minutes.

There being no further business, the Chair adjourned the meeting at 9:50 a.m.

Respectfully submitted:

_____

Representative Paul Luebke
Chair

/Kristen L. Crosson

Kristen L. Crosson
Assistant to the Committee

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 120 A BILL TO BE ENTITLED AN ACT TO IMPROVE THE PROCEDURES FOR NOTIFYING OWNERS AND ADVERTISING TAX LIENS ON REAL PROPERTY AND TO AUTHORIZE COUNTIES TO PROHIBIT REGISTRATION OF DEEDS IF DELINQUENT TAXES ARE OWED ON THE PROPERTY.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 120
Proposed Committee Substitute H120-PCS1220-RB

Short Title: Tax Lien Advertisement and Collection. (Public)

Sponsors:

Referred to:

February 22, 1999

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE PROCEDURES FOR NOTIFYING OWNERS AND ADVERTISING TAX LIENS ON REAL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-369 reads as rewritten:

"**§ 105-369. Advertisement of tax liens on real property for failure to pay taxes.**

(a) Report of unpaid Taxes that are Liens on Real Property. -- ~~On the first Monday in February in each year, each county tax collector and on the second Monday in February in each year, each municipal tax collector shall~~ In February of each year, the tax collector must report to the governing body the total amount of unpaid taxes for the current fiscal year that are liens on real ~~property, and the governing body shall thereupon~~ property. A county tax collector's report is due the first Monday in February, and a municipal tax collector's report is due the second Monday in February. Upon receipt of the report, the governing body may order the tax collector to advertise ~~such~~ the tax liens. For purposes of this section, district taxes collected by county tax collectors shall be regarded as county taxes and district taxes collected by municipal tax collectors shall be regarded as municipal taxes.

(b) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1013.

(b1) Notice to Owner. -- If the governing body orders the tax collector to advertise the tax liens, the tax collector must send a notice to the listing owner and to the record owner of each affected parcel of property, as determined as of December 31 of the fiscal year for which the taxes are due. The notice must be sent to each owner's last known address by first-class mail at least 30 days before the date the

advertisement is to be published. The notice must state the principal amount of unpaid taxes that are a lien on the parcel to be advertised and inform the owner that the names of the listing owner and the record owner will appear in a newspaper advertisement of delinquent taxes if the taxes are not paid before the publication date.

(c) Time and Contents of Advertisement. -- If the governing body orders the tax collector to advertise the tax liens, this subsection governs the advertisement. A tax collector's failure to comply with this subsection does not affect the validity of the taxes or tax liens. The county tax collector shall advertise county tax liens by posting a notice of the liens at the county courthouse and by publishing each lien at least one time in one or more newspapers having general circulation in the taxing unit. The municipal tax collector shall advertise municipal tax liens by posting a notice of the liens at the city or town hall and by publishing each lien at least one time in one or more newspapers having general circulation in the taxing unit. Advertisements of tax liens shall be made during the period March 1 through June 30. The costs of newspaper advertising shall be paid by the taxing unit. ~~(If~~ If the taxes of two or more taxing units are collected by the same tax collector, the tax liens of each unit shall be advertised separately unless, under the provisions of a special act or contractual agreement between the taxing units, joint advertisement is ~~permitted.)~~ permitted.

The posted notice and newspaper advertisement shall set forth the following information:

(1) ~~The~~ In the case of property that the listing owner has not transferred after January 1 preceding the fiscal year for which the tax liens are advertised, the name of each person to whom is listed real property on which the taxing unit has a lien for unpaid ~~taxes,~~ taxes, in alphabetical order.

(1a) In the case of property that the listing owner has transferred after January 1 preceding the fiscal year for which the tax liens are advertised, the name of the record owner as of December 31 of each parcel on which the taxing unit has a lien for unpaid taxes, in alphabetical order, followed by a notation that the property was transferred to the record owner and a notation of the name of the listing owner.

(1b) ~~together with a~~ After the information required by subdivision (1) or (1a) of this subsection for each parcel, a brief description of each parcel of land to which ~~such~~ a lien has attached and a statement of the principal amount of the taxes constituting a lien against the parcel.

(2) A statement that the amounts advertised will be increased by interest and costs and that the omission of interest and costs from the amounts advertised will not constitute waiver of the taxing unit's claim for those items.

(3) In the event the list of tax liens has been divided for purposes of advertisement in more than one newspaper, a statement of the

names of all newspapers in which advertisements will appear and the dates on which they will be published.

(4) A statement that the taxing unit may foreclose the tax liens and sell the real property subject to the liens in satisfaction of its claim for taxes.

~~Failure to comply with this subsection does not affect the validity of the taxes or tax liens.~~

(d) Costs. -- Each parcel of real property advertised pursuant to this section shall be assessed an advertising fee to cover the actual cost of the advertisement. Actual advertising costs per parcel shall be determined by the tax collector on any reasonable basis. Advertising costs assessed pursuant to this ~~subdivision (d) shall be deemed to be~~ subsection are taxes.

(e) Payments during Advertising Period. -- At any time during the advertisement period, any parcel may be withdrawn from the list by payment of the taxes plus interest that has accrued to the time of payment and a proportionate part of the advertising fee to be determined by the tax collector. Thereafter, the tax collector shall delete that parcel from any subsequent advertisement, but ~~if he fails to do so he shall not be liable for his~~ the tax collector is not liable for failure to make the deletion.

(f) Listing and Advertising in Wrong Name. -- No tax lien ~~shall be~~ is void because the real property to which the lien attached was listed or advertised in the name of a person other than the person in whose name the property should have been listed for taxation or because the record owner's name was omitted from the advertisement, if the property was in other respects correctly described on the abstract or in the advertisement.

(g) Wrongful Advertisement. -- Any tax collector or deputy tax collector who ~~shall willfully advertise~~ willfully advertises any tax lien knowing that the property is not subject to taxation or that the taxes advertised have been paid ~~shall be~~ is guilty of a Class 3 misdemeanor, and shall be required to pay the injured party all damages sustained in consequence."

Section 2. Article 26 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-370. Notice of delinquent taxes.**

If the governing body of a taxing unit decides not to advertise tax liens for a fiscal year, the tax collector must, at least 30 days before initiating any lien foreclosure action under G.S. 105-374, send a notice to the listing owner and the record owner of the affected parcel of property, as determined as of December 31 of the fiscal year for which the taxes are due. The notice must be sent to each owner's last known address by first-class mail. The notice must state the principal amount of unpaid taxes that are a lien on the property and inform the owner that the lien may be foreclosed to enforce collection of those taxes. Failure to mail the notice required by this section to the correct listing owner or record owner does not affect the validity of the tax lien or of any foreclosure action."

Section 3. G.S. 105-375(b) reads as rewritten:

"(b) Docketing Certificate of Taxes as Judgment. -- In lieu of following the procedure set forth in G.S. 105-374, the governing body of any taxing unit may direct the tax collector to ~~file, no earlier than six months following the advertisement of tax liens, with the clerk of superior court~~ file with the clerk of superior court, no earlier than 30 days after the tax liens were advertised or May 6 following the delinquency date, whichever occurs first, a certificate showing the following: the name of the taxpayer listing real property on which the taxes are a lien, together with the amount of taxes, penalties, interest, and costs that are a lien thereon; the year or years for which the taxes are due; and a description of the property sufficient to permit its identification by parol testimony. The fees for docketing and indexing the certificate shall be payable to the clerk of superior court at the time the taxes are collected or the property is sold."

Section 4. G.S. 105-375(e) reads as rewritten:

"(e) Special Assessments. -- Street, sidewalk, and other special assessments may be included in any judgment for taxes taken under this ~~section; or such~~ section, or the special assessments may be included in a separate judgment docketed under this ~~section, which is hereby declared to be made available~~ section. The tax collector may use such a judgment as a method of foreclosing the lien of special assessments. When used to foreclose the lien of special assessments, the procedure may be instituted at any time after the assessment or installment falls due and remains unpaid; the ~~six months'~~ waiting period required by subsection ~~(b), above, shall~~ (b) of this section does not apply to the foreclosure of special assessments."

Section 5. This act becomes effective January 1, 2001.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 120

Short Title: Tax Lien Advertisement and Collection. (Public)

Sponsors: Representative Owens.

Referred to: Finance.

February 22, 1999

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE PROCEDURES FOR NOTIFYING OWNERS AND ADVERTISING TAX LIENS ON REAL PROPERTY AND TO AUTHORIZE COUNTIES TO PROHIBIT REGISTRATION OF DEEDS IF DELINQUENT TAXES ARE OWED ON THE PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-369 reads as rewritten:

"**§ 105-369. Advertisement of tax liens on real property for failure to pay taxes.**

(a) Report of unpaid Taxes that are Liens on Real Property. -- ~~On the first Monday in February in each year, each county tax collector and on the second Monday in February in each year, each municipal tax collector shall~~ In February of each year, the tax collector must report to the governing body the total amount of unpaid taxes for the current fiscal year that are liens on real ~~property, and the governing body shall thereupon~~ property. A county tax collector's report is due the first Monday in February, and a municipal tax collector's report is due the second Monday in February. Upon receipt of the report, the governing body may order the tax collector to advertise ~~such~~ the tax liens. For purposes of this section, district taxes collected by county tax collectors shall be regarded as county taxes and district taxes collected by municipal tax collectors shall be regarded as municipal taxes.

(b) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1013.

(b1) Notice to Owner. -- If the governing body orders the tax collector to advertise the tax liens, the tax collector must send a notice to the listing owner and to the record owner of each affected parcel of property, as determined as of December 31 of the fiscal year for which the taxes are due. The notice must be sent to each owner's

last known address by first-class mail at least 30 days before the date the advertisement is to be published. The notice must state the principal amount of unpaid taxes that are a lien on the parcel to be advertised and inform the owner that the names of the listing owner and the record owner will appear in a newspaper advertisement of delinquent taxes if the taxes are not paid before the publication date.

(c) Time and Contents of Advertisement. -- If the governing body orders the tax collector to advertise the tax liens, this subsection governs the advertisement. A tax collector's failure to comply with this subsection does not affect the validity of the taxes or tax liens. The county tax collector shall advertise county tax liens by posting a notice of the liens at the county courthouse and by publishing each lien at least one time in one or more newspapers having general circulation in the taxing unit. The municipal tax collector shall advertise municipal tax liens by posting a notice of the liens at the city or town hall and by publishing each lien at least one time in one or more newspapers having general circulation in the taxing unit. Advertisements of tax liens shall be made during the period March 1 through June 30. The costs of newspaper advertising shall be paid by the taxing unit. ~~(If~~ If the taxes of two or more taxing units are collected by the same tax collector, the tax liens of each unit shall be advertised separately unless, under the provisions of a special act or contractual agreement between the taxing units, joint advertisement is ~~permitted.)~~ permitted.

The posted notice and newspaper advertisement shall set forth the following information:

(1) ~~The~~ In the case of property that the listing owner has not transferred after January 1 preceding the fiscal year for which the tax liens are advertised, the name of each person to whom is listed real property on which the taxing unit has a lien for unpaid ~~taxes;~~ taxes, in alphabetical order.

(1a) In the case of property that the listing owner has transferred after January 1 preceding the fiscal year for which the tax liens are advertised, the name of the record owner as of December 31 of each parcel on which the taxing unit has a lien for unpaid taxes, in alphabetical order, followed by a notation that the property was transferred to the record owner and a notation of the name of the listing owner.

(1b) ~~together with a~~ After the information required by subdivision (1) or (1a) of this subsection for each parcel, a brief description of each parcel of land to which ~~such~~ a lien has attached and a statement of the principal amount of the taxes constituting a lien against the parcel.

(2) A statement that the amounts advertised will be increased by interest and costs and that the omission of interest and costs from the amounts advertised will not constitute waiver of the taxing unit's claim for those items.

(3) In the event the list of tax liens has been divided for purposes of advertisement in more than one newspaper, a statement of the names of all newspapers in which advertisements will appear and the dates on which they will be published.

(4) A statement that the taxing unit may foreclose the tax liens and sell the real property subject to the liens in satisfaction of its claim for taxes.

~~Failure to comply with this subsection does not affect the validity of the taxes or tax liens.~~

(d) Costs. -- Each parcel of real property advertised pursuant to this section shall be assessed an advertising fee to cover the actual cost of the advertisement. Actual advertising costs per parcel shall be determined by the tax collector on any reasonable basis. Advertising costs assessed pursuant to this ~~subdivision (d) shall be deemed to be~~ subsection are taxes.

(e) Payments during Advertising Period. -- At any time during the advertisement period, any parcel may be withdrawn from the list by payment of the taxes plus interest that has accrued to the time of payment and a proportionate part of the advertising fee to be determined by the tax collector. Thereafter, the tax collector shall delete that parcel from any subsequent advertisement, but ~~if he fails to do so he shall not be liable for his~~ the tax collector is not liable for failure to make the deletion.

(f) Listing and Advertising in Wrong Name. -- No tax lien ~~shall be~~ is void because the real property to which the lien attached was listed or advertised in the name of a person other than the person in whose name the property should have been listed for taxation or because the record owner's name was omitted from the advertisement, if the property was in other respects correctly described on the abstract or in the advertisement.

(g) Wrongful Advertisement. -- Any tax collector or deputy tax collector who ~~shall willfully advertise~~ willfully advertises any tax lien knowing that the property is not subject to taxation or that the taxes advertised have been paid ~~shall be~~ is guilty of a Class 3 misdemeanor, and shall be required to pay the injured party all damages sustained in consequence."

Section 2. Article 26 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-370. Notice of delinquent taxes.**

If the governing body of a taxing unit decides not to advertise tax liens for a fiscal year, the tax collector must, at least 30 days before initiating any lien foreclosure action under G.S. 105-374, send a notice to the listing owner and the record owner of the affected parcel of property, as determined as of December 31 of the fiscal year for which the taxes are due. The notice must be sent to each owner's last known address by first-class mail. The notice must state the principal amount of unpaid taxes that are a lien on the property and inform the owner that the lien may be foreclosed to enforce collection of those taxes. Failure to mail the notice required by this section

to the correct listing owner or record owner does not affect the validity of the tax lien or of any foreclosure action."

Section 3. G.S. 105-375(b) reads as rewritten:

"(b) Docketing Certificate of Taxes as Judgment. -- In lieu of following the procedure set forth in G.S. 105-374, the governing body of any taxing unit may direct the tax collector to ~~file, no earlier than six months following the advertisement of tax liens, with the clerk of superior court~~ file with the clerk of superior court, no earlier than six months after the tax liens were advertised or May 6 following the delinquency date, whichever is later, a certificate showing the following: the name of the taxpayer listing real property on which the taxes are a lien, together with the amount of taxes, penalties, interest, and costs that are a lien thereon; the year or years for which the taxes are due; and a description of the property sufficient to permit its identification by parol testimony. The fees for docketing and indexing the certificate shall be payable to the clerk of superior court at the time the taxes are collected or the property is sold."

Section 4. G.S. 105-375(e) reads as rewritten:

"(e) Special Assessments. -- Street, sidewalk, and other special assessments may be included in any judgment for taxes taken under this ~~section; or such~~ section, or the special assessments may be included in a separate judgment docketed under this ~~section, which is hereby declared to be made available~~ section. The tax collector may use such a judgment as a method of foreclosing the lien of special assessments. When used to foreclose the lien of special assessments, the procedure may be instituted at any time after the assessment or installment falls due and remains unpaid; the ~~six months'~~ waiting period required by subsection ~~(b), above, shall~~ (b) of this section does not apply to the foreclosure of special assessments."

Section 5. Article 2 of Chapter 161 of the General Statutes is amended by adding a new section to read:

"**§ 161-31. Tax certification.**

The board of commissioners of a county may, by resolution, require the register of deeds not to accept any deed for registration unless the county tax collector has certified that no delinquent ad valorem county taxes, ad valorem municipal taxes, or taxes with which the collector is charged are a lien on the property described in the deed."

Section 6. This act becomes effective January 1, 2000.

HOUSE BILL 120:
Tax Lien Advertisement and Collection

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Owens
Date:	April 22, 1999	**Summary by:**	Cindy Avrette Committee Counsel
Version:	PCS for 1st Edition H120-PCS1220-RB		

SUMMARY: The Proposed Committee Substitute for House Bill 120 would make three changes to the laws concerning property tax collection. The changes would become effective January 1, 2001.

- *It would require property tax collectors to notify both the listing owner and the record owner before advertising tax delinquencies in the newspaper.*
- *It would give counties the option to not advertise tax delinquencies before beginning tax foreclosure proceedings.*
- *It would allow counties to begin tax foreclosure proceedings sooner if the tax delinquency is advertised in the newspaper.*

BACKGROUND: The House Finance Committee heard this bill on March 16, 1999. The Committee expressed concern over the part of the bill that would authorize the board of county commissioners to adopt a resolution requiring delinquent taxes to be paid before a deed maybe accepted for registration in the county Register of Deeds. The bill was sent to a subcommittee chaired by Representative Church and composed of Representatives Bridgeman, Braswell, and McComas. ***The subcommittee recommends the proposed committee substitute which removes the section from the bill that would require delinquent taxes to be paid before a deed could be recorded.*** Several local units of government have this authority through local legislation the General Assembly has enacted over the years: the counties of Alleghany, Ashe, Avery, and Mitchell, and the Towns of Banner Elk, Newland, and Spruce Pine.

CURRENT LAW: Property must be listed for property tax in January of each year. The listing owner is the taxpayer who owned the property as of January 1. The taxes become due in September and become delinquent on January 6 of the following year. Although most counties send tax listing notices and tax bills to the taxpayer, they are not required by law to do so. Property owners are charged with notice that they must list their property for taxes and pay the taxes; otherwise, enforcement measures will be taken against the property. The legal effect of this law is to prevent a taxpayer from using lack of notice as an excuse for not paying property taxes or as a defense to a collection remedy against the property. If property taxes remain unpaid, the tax collector is required by statute to advertise the tax liens in a local newspaper under the name of the listing owner. If the taxes remain unpaid for six months following the advertisement, the tax collector may begin a foreclosure proceeding against the property.

BILL ANALYSIS: The bill removes the requirement that tax delinquencies be advertised in the newspaper. Under the bill, the advertising of tax delinquencies would be optional. The bill sets forth new

standards for collecting the delinquent taxes through a tax foreclosure proceeding against the property if the county chooses not to advertise the tax delinquency. The tax collector may not initiate an in rem foreclosure proceeding until May 6, which is six months following the delinquency date of January 6. The tax collector must also send a notice to both the listing owner and the record owner as of December 31 if the record owner is different than the listing owner. The notice must be sent at least 30 days before initiating any foreclosure action. The notice must state the principal amount of unpaid taxes that are a lien on the property and inform the owner that the lien may be foreclosed to enforce collection of those taxes. Failure to send the notice would not invalidate the tax lien or any foreclosure action.

For counties that continue to choose to advertise tax delinquencies in a local newspaper, the bill adds a requirement that local taxing units must notify both the listing owner and the record owner as of December 31, if the record owner is different than the listing owner, of the intent to advertise. The notice must state the principal amount of tax due and inform the persons that the tax delinquency will be advertised in a local newspaper under the name of the record owner, with a notation of the name of the listing owner. The notice must be sent by first class mail at least 30 days before the date the advertisement is to be published. If a county advertises, then it may begin an in rem foreclosure proceeding sooner than it could under current law. Under the current law, a county cannot begin an in rem foreclosure proceeding until six months following the date the tax liens were advertised. The earliest tax liens can be advertised is March; therefore, September is the earliest an in rem foreclosure proceeding may be initiated under current law. Under the bill, a county that advertises tax liens may begin an in rem foreclosure proceeding as early as 30 days after the tax liens were advertised. The earlier date allows counties to begin collection proceedings during the fiscal year in which the taxes are due.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 120 (Proposed House Finance Committee Substitute)

SHORT TITLE: Tax Lien Advertisement and Collection

SPONSOR(S): Rep. Owens

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
EXPENDITURES					
Local Governments	**($30,000)**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: County Governments.

EFFECTIVE DATE: This act becomes effective January 1, 2000.

BILL SUMMARY: The bill intends to improve the procedures for advertising tax liens on real property and for notifying delinquent taxpayers.

ASSUMPTIONS AND METHODOLOGY: This bill may have a small one-time impact on the costs of county operations, primarily in the area of computer programming and data entry. Virtually all counties will have to change their computer software to enable the advertisement of both the January 1 and the December 31 owner of real property (if different). A majority of counties will need to make minor software changes to allow notices to be mailed to both the January 1 and December 31 property owner (if different).

When working on a similar bill in 1998, Fiscal Research Division staff interviewed a sample of county tax collectors, a professor in the Institute of Government, and the chairman of the North Carolina Association of Assessing Officers. It was found that approximately 75 counties lack a fully automated way to send deed transfer information between the Register of Deeds Office and the Tax Assessor's Office, in a timely manner. The Registers of Deeds provide copies of deeds to the Tax Assessors in the form of paper, microfilm, microfiche, or CD. The tax professionals contacted in 1998 estimated that only 25 counties might incur one-time costs for computer

programming in the first year of implementing HB 120. These 25 counties might expend an average of $800 each ($20,000) for computer vendors to program county databases for this data transfer.

Data entry was another cost identified by tax professionals interviewed in 1998. It was estimated that 25 county Tax Assessors might spend approximately $400 each ($10,000) for temporary clerks to do data entry on deed transfer files in order to update the county tax files. Small counties with few land transactions do not experience a backlog in deed transfer filings. It was suggested in 1998 that temporary clerks would be needed each year due to this bill, but this fiscal note assumes that keeping deed and tax files current should be standard operating procedure for the tax listing process and is not a new requirement on county governments.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY:

DATE:

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 251 A BILL TO BE ENTITLED AN ACT TO REQUIRE PAYMENT OF DELINQUENT TAXES FOR THE TOWN OF BAKERSVILLE BEFORE RECORDING DEEDS CONVEYING PROPERTY SUBJECT TO THE DELINQUENT TAXES.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 251

Short Title: Bakersville Delinquent Taxes. (Local)

Sponsors: Representatives Thompson and Buchanan (Primary Sponsors).

Referred to: Local Government I.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO REQUIRE PAYMENT OF DELINQUENT TAXES FOR THE TOWN OF BAKERSVILLE BEFORE RECORDING DEEDS CONVEYING PROPERTY SUBJECT TO THE DELINQUENT TAXES.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 537 of the 1987 Session Laws, as amended by S.L. 1997-410, reads as rewritten:

"Section 1. The Register of Deeds of Mitchell County shall not receive for recordation any deed unless the following conditions are met:

(1) The deed is accompanied by a certificate from the Mitchell County Tax Collector to the effect that all delinquent county taxes and all delinquent taxes for municipalities for which the county collects taxes have been paid with respect to the property described in the deed.

(2) If the property described in the deed is located in whole or in part in the Town of Spruce ~~Pine,~~ Pine or the Town of Bakersville, the deed is accompanied by a certificate from the tax collector for ~~the town~~ each of these towns in which it is located to the effect that all delinquent municipal taxes have been paid with respect to the property."

Section 2. This act becomes effective June 1, 1999, and applies to deeds recorded on or after that date.

#1

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 450

AMENDMENT NO. _____
(to be filled in by Principal Clerk)

H450-ARB-2.1

Page 1 of __

Date 4/22 ,1999

Comm. Sub. [PROPOSED]
Amends Title []
H450-PCS8111-LC

Representative Allen

moves to amend the bill on page 1, line 11, by inserting the following new sentence immediately before the word "The":
"The tax may not exceed one thousand five hundred dollars ($1,500) for an ambulance, as defined in G.S. 20-4.01, or for a motor vehicle that has a capacity for more than 15 passengers and is entitled to a permanent registration plate under G.S. 20-84.";

and on page 2, line 1 by inserting the following immediately before the word "~~The~~":
"The tax may not exceed one thousand five hundred dollars ($1,500) for an ambulance, as defined in G.S. 20-4.01, or for a motor vehicle that has a capacity for more than 15 passengers and is entitled to a permanent registration plate under G.S. 20-84."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if **Senate** Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

#2

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 450

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H450-ARB-1 Page 1 of __

Date 4/22 ,1999

Comm. Sub. [PROPOSED]
Amends Title [YES]
H450-PCS8111-LC

Representative Creech

moves to amend the bill on page 1, lines 3 and 4, by rewriting the lines to read:
"LUXURY AUTOMOBILES.";

and on page 2, lines 6 through 22, by deleting those lines;

and on page 2, line 23, by deleting "Section 4." and substituting "Section 3.".

SIGNED Bill Creech
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED V FAILED _____ TABLED _____

#3

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 450 DATE 4/22/99

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Pope
Sen.)

as amended by Amendment #1,

moves to amend the bill on ~~page~~ _____ line _____

( ) ~~WHICH CHANGES THE TITLE~~

by rewriting line 4 of Amendment #1 to read:

" for an ambulance, as defined in G.S. 20-4.01,
for a motor vehicle equipped with ~~special~~ special
devices that are designed ~~for individual personal~~
~~use~~ to correct or alleviate a physical incapacity,
or for a motor vehicle

SIGNED Art Pope

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

ROLL CALL VOTE

10 YES 16 NO = 26 (TOTAL)

HB# 450
SB# ____

HOUSE STANDING COMMITTEE ON FINANCE

House Subcommittee on PCS w/ all 3 amendments

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
✓		MILLER, GEORGE			McALLISTER, MARY
✓		LUEBKE, PAUL		✓	McCOMAS, DANNY
✓		ALLEN, GORDON	✓		McCOMBS, GENE
✓		JARRELL, MARY		✓	MINER, DAVID
✓		WOOD, STEVE			MORRIS, MIA
✓		BRASWELL, JERRY			MOSLEY, JANE
	✓	BRIDGEMAN, JOHN	~~NEELY, CHUCK~~	✓	Pope, Art
	✓	BROWN, JOHN	✓		RAMSEY, LISTON
	✓	BUCHANAN, MONROE		✓	RAYFIELD, JOHN
✓		CAPPS, RUSSELL		✓	STARNES, EDGAR
	✓	CHURCH, WALT			TALLENT, TIM
	✓	COX, LESLIE		✓	TUCKER, RUSSELL
	✓	CREECH, BILLY	✓		WILSON, CONNIE
	✓	DECKER, MIKE	✓		WOMBLE, LARRY
	✓	DEDMON, ANDY			WRIGHT, TOM
	✓	EDDINS, RICK			
✓		EDWARDS, ZENO			
		FITCH, TOBY			
		GOBSON, PRYOR			
		GOODWIN, WAYNE			
✓		GRAY, LYONS	Ex officio Members		
✓		HACKNEY, JOE			CUNNINGHAM
	✓	HILL, DEWEY			Majority Leader BADDOUR
		HOWARD, JULIA			Majority Whip EARLE

ROLL CALL VOTE

10 YES 16 NO = 26 (TOTAL)

HB# 450
SB# ____

HOUSE STANDING COMMITTEE ON
FINANCE

House Subcommittee on motion to: fav rept PCS w/ all 3 amendments
unfav as to original bill

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
✓		MILLER, GEORGE			McALLISTER, MARY
✓		LUEBKE, PAUL		✓	McCOMAS, DANNY
✓		ALLEN, GORDON	✓		McCOMBS, GENE
✓		JARRELL, MARY		✓	MINER, DAVID
✓		WOOD, STEVE			MORRIS, MIA
✓		BRASWELL, JERRY			MOSLEY, JANE
	✓	BRIDGEMAN, JOHN	~~✓~~	✓	~~NEELY, CHUCK~~ Pope, Art
	✓	BROWN, JOHN	✓		RAMSEY, LISTON
	✓	BUCHANAN, MONROE		✓	RAYFIELD, JOHN
✓		CAPPS, RUSSELL		✓	STARNES, EDGAR
	✓	CHURCH, WALT			TALLENT, TIM
	✓	COX, LESLIE		✓	TUCKER, RUSSELL
	✓	CREECH, BILLY			WILSON, CONNIE
	✓	DECKER, MIKE	✓		WOMBLE, LARRY
	✓	DEDMON, ANDY			WRIGHT, TOM
	✓	EDDINS, RICK			
✓		EDWARDS, ZENO			
		FITCH, TOBY			
		GOBSON, PRYOR			
		GOODWIN, WAYNE			
		GRAY, LYONS	Ex officio Members		
✓		HACKNEY, JOE			CUNNINGHAM
	✓	HILL, DEWEY			Majority Leader BADDOUR
		HOWARD, JULIA			Majority Whip EARLE

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 450
Proposed Committee Substitute H450-PCS8111-LC

Short Title: Make Car Tax Progressive. (Public)

Sponsors:

Referred to:

March 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PHASE OUT THE HIGHWAY USE TAX LOOPHOLE FOR LUXURY AUTOMOBILES AND TO TRANSFER THE RESULTING REVENUE GAIN TO THE GENERAL FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-187.3(a) reads as rewritten:

"(a) Amount. -- The rate of the use tax imposed by this Article is three percent (3%) of the retail value of a motor vehicle for which a certificate of title is issued. The tax is payable as provided in G.S. 105-187.4. The tax may not be more than one thousand dollars ($1,000) for each certificate of title issued for a Class A or Class B motor vehicle that is a commercial motor vehicle, as defined in G.S. 20-4.01. The tax may not be more than one thousand ~~five hundred dollars ($1,500)~~ nine hundred fifty dollars ($1,950) for each certificate of title issued before July 1, 2000, for any other motor vehicle. The tax may not be more than two thousand four hundred dollars ($2,400) for each certificate of title issued on or after July 1, 2000, for any other motor vehicle."

Section 2. Effective July 1, 2001, G.S. 105-187.3(a), as amended by Section 1 of this act, reads as rewritten:

"(a) Amount. -- The rate of the use tax imposed by this Article is three percent (3%) of the retail value of a motor vehicle for which a certificate of title is issued. The tax is payable as provided in G.S. 105-187.4. The tax may not be more than one thousand dollars ($1,000) for each certificate of title issued for a Class A or Class B

motor vehicle that is a commercial motor vehicle, as defined in G.S. 20-4.01. ~~The tax may not be more than one thousand nine hundred fifty dollars ($1,950) for each certificate of title issued before July 1, 2000, for any other motor vehicle. The tax may not be more than two thousand four hundred dollars ($2,400) for each certificate of title issued on or after July 1, 2000, for any other motor vehicle.~~"

Section 3. G.S. 105-187.9 reads as rewritten:

"**§ 105-187.9. Disposition of tax proceeds.**

(a) Taxes collected under this Article at the rate of eight percent (8%) shall be credited to the General Fund. Taxes collected under this Article at the rate of three percent (3%) shall be credited to the North Carolina Highway Trust Fund.

(b) In each fiscal year the State Treasurer shall transfer ~~the sum of one hundred seventy million dollars ($170,000,000)~~ part of the taxes deposited in the Trust Fund to the General Fund. The amount to be transferred each year is the appropriate annual amount provided in the table below. The transfer of funds authorized by this section may be made by transferring one-fourth of the annual amount at the end of each quarter in the fiscal year or by transferring the full annual amount annually on July 1 of each fiscal year, subject to the availability of revenue. Interest earned on the annual amount to be transferred shall be credited to the General Fund.

Fiscal Year	Annual Amount
1999-2000	$170,350,000
2000-2001	$170,750,000
Thereafter	$171,100,000".

Section 4. Section 2 of this act becomes effective July 1, 2001, and applies to certificates of title issued on or after that date. The remainder of this act becomes effective July 1, 1999. Section 1 of this act applies to certificates of title issued on or after July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 450

Short Title: Make Car Tax Progressive. (Public)

Sponsors: Representatives Edwards; Dedmon, Gardner, Luebke, Melton, and Warner.

Referred to: Finance.

March 15, 1999

A BILL TO BE ENTITLED

AN ACT TO REMOVE THE HIGHWAY USE TAX LOOPHOLE FOR LUXURY AUTOMOBILES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-187.3(a) reads as rewritten:

"(a) Amount. -- The rate of the use tax imposed by this Article is three percent (3%) of the retail value of a motor vehicle for which a certificate of title is issued. The tax is payable as provided in G.S. 105-187.4. The tax may not be more than one thousand dollars ($1,000) for each certificate of title issued for a Class A or Class B motor vehicle that is a commercial motor vehicle, as defined in G.S. 20-4.01. ~~The tax may not be more than one thousand five hundred dollars ($1,500) for each certificate of title issued for any other motor vehicle.~~"

Section 2. This act becomes effective July 1, 1999, and applies to certificates of title issued on or after that date.

HOUSE BILL 450:
Make Car Tax Progressive

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Edwards
Date:	April 21, 1999	**Summary by:**	Cindy Avrette
Version:	PCS for 1st Edition H450-PCS8111-LC		Committee Counsel

SUMMARY: ***The proposed committee substitute for House Bill 450 phases out the $1,500 maximum highway use tax over a three year period and transfers the resulting revenue gain to the General Fund. The phase out begins for certificates of titles issued on or after July 1, 1999. The original bill eliminated the maximum tax effective July 1, 1999.***

CURRENT LAW: The General Assembly enacted the highway use tax in 1989 as part of the Highway Trust Fund legislation to provide revenue for that Fund. The highway use tax is payable when a certificate of title is issued for a motor vehicle. The highway use tax is 3% of the retail value of a motor vehicle, subject to a maximum tax of $1,500 for automobiles and other vehicles that weigh no more than 26,000 pounds and of $1,000 for Class A or Class B commercial vehicles that weigh more than 26,000 pounds. In general, the commercial vehicles subject to the $1,000 maximum tax are truck tractors and large trucks and, to drive them, a person must have the appropriate class of commercial driver's license. The maximum tax of $1,500 on all other motor vehicles means that a vehicle valued at an amount over $50,000 does not pay the highway use tax at a full 3% rate because the cap is reached once the vehicle's value reaches $50,000. The General Assembly repealed the $40 minimum highway use tax in 1995, effective July 1, 1996. The highway use tax is in addition to the $35.00 fee that is charged for the issuance of a title and the $10.00 or $20.00 fee that is charged for the transfer or issuance of a license plate.

The highway use tax replaced the former sales tax on motor vehicles. Sales tax revenue is credited to the General Fund. Revenue from the highway use tax is credited to the Highway Trust Fund. Each year, $170 million is transferred from the Highway Trust Fund to the General Fund. This amount was chosen by the General Assembly in 1989 because it was the amount of sales tax revenue the General Fund received from the sale of motor vehicles before the repeal of the sales tax on motor vehicles.

BILL ANALYSIS: House Bill 450 phases out the $1,500 maximum highway use tax as follows:

Year	Maximum Tax Amount	Vehicle Value at which The Cap is Reached
Prior to July 1, 1999	$1,500	$50,000
July 1, 1999 – July 1, 2000	$1,950	$65,000
July 1, 2000 – July 1, 2001	$2,400	$80,000
After July 1, 2001	No cap	No limit

Section 3 of the bill provides that the revenue generated from the removal of the cap on the tax rate is credited to the General Fund as opposed to the Highway Trust Fund. To accomplish this, the bill increases the amount of money that must be transferred from the Highway Trust Fund to the General Fund each year. The chart below shows the amount of money that would be transferred each year from the Highway Trust Fund to the General Fund under this bill:

Year	Amount Transferred to General Fund From Highway Trust Fund
1998-1999	$170,000,000
1999-2000	$170,350,000
2000-2001	$170,750,000
Each Fiscal Year Thereafter	$171,100,000

The transfer of funds from the Highway Trust Fund to the General Fund may be made in one of two ways:

1. By transferring one-fourth of the amount at the end of each quarter in the fiscal year.
2. By transferring the full amount on July 1 of each fiscal year, subject to the availability of revenue.

The General Assembly provided for the possibility of a one-time transfer at the beginning of a fiscal year so that the General Fund would be the beneficiary of any interest earned on the money to be transferred. At the time this change was made in 1993, the General Assembly also enacted an uncodified provision stating that the interest earned on the $170,000,000 to be transferred to the General Fund would be credited to the General Fund. SL 1993-321, § 164(b) The General Assembly enacted this provision so that the General Fund is the beneficiary of the interest income on quarterly transfers as well as one-time transfers. The proposed committee substitute codifies this provision since the amount to be transferred annually exceeds the $170,000,000 amount specifically stated in the 1993 Session Law.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 450 (Proposed House Committee Substitute)

SHORT TITLE: Make Car Tax Progressive

SPONSOR(S): Rep. Edwards

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
General Fund Transfer from Highway Trust Fund	$350,000	$750,000	$1,100,000	$1,100,000	$1,100,000

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation – Division of Motor Vehicles

EFFECTIVE DATE: Section 2 of the bill (remove cap) becomes effective July 1, 2001, and applies to certificates of title issued on or after that date. The remainder of the bill becomes effective July 1, 1999. Section 1 of the bill applies to certificates of title issued on or after July 1, 1999.

BILL SUMMARY:
The bill proposes a three year phase out of the $1,500 limit on the highway use tax paid on Class C motor vehicles. The resulting revenue gain is transferred each year to the General Fund.

ASSUMPTIONS AND METHODOLOGY:
The Division of Motor Vehicles (DMV) keeps a computerized listing of vehicles by body style, make, series, and the amount of highway use tax paid. In 1997-98, the Division of Motor Vehicles reported that owners of 3,051 vehicles paid the maximum highway use tax of $1,500 (equal to a 3% tax on a vehicle valued at $50,000 or more). Table 1 lists the types of vehicles taxed at $1,500 in 1997-98. Table 1 shows that vehicles other than luxury automobiles are subject to the $1,500 maximum highway use tax.

Table 1

Vehicles Exceeding $50,000 in Value ($1,500 tax)

Cars	
4 Door	784
Convertible	156
Roadster	115
Coupe	95
2 Door	80
Station Wagon	74
Sub Total	1,304
House Car/RV	644
Truck	414
Bus	374
Trailer	127
Multi-Purpose Vehicle	51
Ambulance	45
Hearse	35
Wrecker	22
Camping Trailer	16
Van	8
Limousine	6
Utility Trailer	3
Cattle/Horse Trailer	1
Special Mobile Equipment	1
Total Vehicles	**3,051**

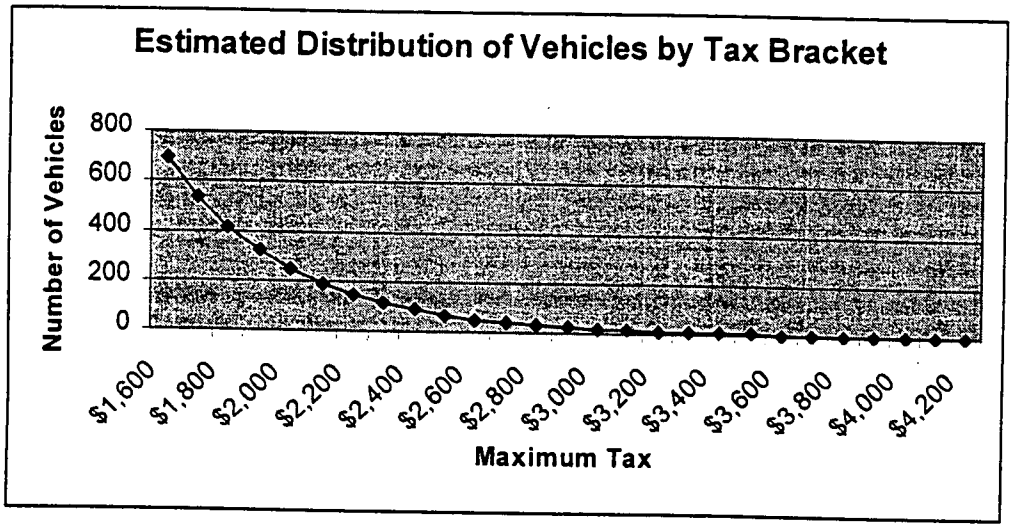
Table 2, provided by DMV, shows the distribution of vehicles by tax bracket for 1997-98.

Table 2
Number of Vehicles by Tax Bracket (1997-98)

Maximum Tax	Maximum Value	Number of vehicles
$100	$3,333	806,945
$200	$6,667	326,370
$300	$10,000	186,210
$400	$13,333	158,587
$500	$16,667	130,364
$600	$20,000	90,609
$700	$23,333	53,945
$800	$26,667	34,103
$900	$30,000	18,420
$1,000	$33,333	13,245
$1,100	$36,667	5,886
$1,200	$40,000	3,227
$1,300	$43,333	2,341
$1,400	$46,667	1,498
$1,500	$50,000	894

Since DMV does not collect data on the sales price of vehicles valued at $50,000 or more, a statistical method must be used to estimate vehicle values. It is assumed that the distribution of the 3,051 vehicles with unknown values will decline at a constant rate from 894, the number of vehicles in the $1,400 to $1,500 tax bracket of Table 2, down to zero. In order to accomplish this result, the number of vehicles in each tax bracket has to decline by 22.65%. This is the only number that gives a constant rate of decline and accounts for all 3051 vehicles. This assumed distribution phases out at a vehicle value of $140,000. (See Chart 1) While there are vehicles whose value is greater than $140,000, the results would not be affected significantly.

Chart 1. Distribution of Vehicles by Tax Bracket Assuming Cap is Removed



Because the number of vehicles in each tax bracket decreases as the tax brackets increase, the average tax paid is something less than the midpoint of the bracket. That is, in each bracket it is assumed that most of the vehicles are clustered toward the lower end. It is assumed that in each bracket the average vehicle will have a tax due of $30 more than the minimum of the bracket, e.g. it is assumed that vehicles in the $1500 to $1600 bracket will have a tax due of $1530. With only 3,051 vehicles involved, changing this assumption by $10 would have an impact of only about $30,000, or less than three percent of the estimated total fiscal impact.

Using this methodology, the average value of the vehicles that are now taxed at the $1,500 maximum is $62,296. The owners of these vehicles would have paid additional highway use tax averaging $369 in 1997-98 if this law were in effect. The total revenue increase to the Highway Trust Fund is approximately $1.1 million per year.

The proposed House Committee Substitute for HB 450 raises the highway use tax cap for two years, then repeals the cap altogether on July 1, 2001. When the highway use tax cap is increased to $1,950 (3% tax on vehicle value of $65,000) in FY 99-00, the Highway Trust Fund will gain $350,000 in additional revenue. There will be approximately 2,084 vehicles purchased in FY 1999-00 with values between $50,000 and $65,000. Increasing the tax cap to $2,400 in FY 2000-01 will generate Highway Trust Fund revenue of $750,000. There will be an estimated 2,750 vehicles with values between $50,000 and $80,000 in FY 2000-01.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic and Robert Weiss

APPROVED BY:

DATE:

HB 450

JOHNSON, MERCER, HEARN & VINEGAR, PLLC
ATTORNEYS AT LAW
TWO HANNOVER SQUARE, SUITE 2200
RALEIGH, NORTH CAROLINA 27601

TELEPHONE (919) 743-2200
FACSIMILE (919) 743-2201
E-MAIL: jmhv@jmhvlaw.com

SAMUEL H. JOHNSON
CHARLES H. MERCER, JR.
GEORGE G. HEARN
RICHARD J. VINEGAR
M. BLEN GEE, JR.
WILLIAM G. ALEXANDER
SHAWN D. MERCER
REED J. HOLLANDER
DANIEL G. KATZENBACH

MAILING ADDRESS:
POST OFFICE BOX 1776
RALEIGH, NORTH CAROLINA 27602

RESEARCH TRIANGLE PARK OFFICE
1000 PARK FORTY PLAZA, SUITE 280
DURHAM, N.C. 27713
TELEPHONE (919) 544-3302

April 5, 1999

Sen. Allen Wellons
NC General Assembly
1026 Legislative Building
Raleigh, NC 27601-2808

Rep. Zeno Edwards
NC General Assembly
637 Legislative Office Building
Raleigh, NC 27601-1096

Re: Auto Tax Phase In

Dear Allen and Zeno:

We have discussed this and a phase in bill seems appropriate and agreeable to all parties.

Sen. Wellons, please make a copy available to Rep. Edwards, Bob Glaser and me for review.

Sincerely,

Sam Johnson

cc: Bob Glaser, NCADA

SHJ/bjr
F:\DOCS\SHJ\AUTO\Legislation 99\Wellons and Edwards ltr.wpd

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 665

Short Title: Modify Currituck Room Tax. (Local)

Sponsors: Representative Owens.

Referred to: Finance.

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE CURRITUCK COUNTY ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 209 of the 1987 Session Laws, as amended by Chapter 155 of the 1991 Session Laws, reads as rewritten:

"Section 1. Occupancy tax. (a) Authorization and scope. The Currituck County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3), or from the rental of a campsite within the county. This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

(a1) Additional occupancy tax. In addition to the tax authorized by subsection (a) of this section, the Currituck County Board of Commissioners may levy a room occupancy tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under subsection (a). The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this act. Currituck County may not levy a tax under this subsection unless it also levies the tax under subsection (a).

(b) A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 do not apply to a tax levied under this section.

~~Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The Currituck County Tax Collector shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county tax collector in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A return filed with the county tax collector under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

(d) Penalties. Except as otherwise provided by law, the following penalties apply:

(1) Failure to File. -- A person, firm, corporation, or association who fails or refuses to file the return required by this section ~~shall pay~~ is liable for a penalty of ten dollars ($10.00) for each day's omission. This penalty does not apply, however, if the return is filed within 10 business days after its due date or if no tax is due with the return. The penalty begins with the 11th business day after the return's due date and may not exceed twenty-five percent (25%) of the tax due with the return.

(2) Failure to Collect Tax or Pay Tax When Due. -- In case of failure ~~or refusal to file the return or~~ to collect the tax or to pay the tax ~~for a period of 30 days after the time required for filing the return or for paying the tax,~~ by the end of the calendar month in which it is due, there shall be an additional tax, as a penalty, of ~~five percent (5%)~~ two percent (2%) of the tax due in addition to any other ~~penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid.~~ penalty. If the tax remains unpaid on the first day of the second calendar month after it is due, there shall be an additional tax, as a penalty, of two percent (2%) of the tax for each calendar month or fraction thereof until the tax is paid.

(3) Willful Failure to Collect or Pay Over Tax. -- The penalties of G.S. 105-236(8) for willful failure to collect or pay over tax apply to the tax levied in this section.

(4) Penalty for Bad Checks. -- The penalties of G.S. 105-236(1) for bad checks apply to the tax levied in this section.

(5) Criminal Penalties. -- Any person who willfully attempts in any manner to evade a tax imposed under this section or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both.

(6) Postmark. -- The provisions of G.S. 105-360(d) apply for the purpose computing penalties under this section.

(7) Forgiveness. -- The Board of Commissioners may, for good cause shown, compromise or forgive the tax penalties imposed by this subsection.

(e) Use of tax revenue. Currituck County shall use at least seventy-five percent (75%) of the net proceeds of the tax levied under subsection (a) of this section only for tourist related purposes, including construction and maintenance of public facilities and buildings, garbage, refuse, and solid waste collection and disposal, police protection, and emergency services. The remainder of the net proceeds of the tax levied under subsection (a) shall be deposited in the Currituck County General Fund and may be used for any lawful purpose. Currituck County may use the net proceeds of the tax levied under subsection (a1) of this section, to the extent that they are needed, for capital costs, operation, and maintenance of the Currituck Wildlife Museum. Whatever is not needed for the capital costs, operation, and maintenance of the Currituck Wildlife Museum shall be used for tourist-related purposes. As used in this subsection, 'net proceeds' means gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer.

~~(f) Effective date of levy. A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this section may be repealed by a resolution adopted by the Currituck County Board of Commissioners. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~"

Section 2. County Administrative Provisions. Section 3(b) of S.L. 1997-102, as amended by Section 2 of S.L. 1997-255, Section 2 of S.L. 1997-342, Section 3 of S.L. 1997-364, Section 6 of S.L. 1997-410, and Section 2 of S.L. 1998-14, reads as rewritten:

"(b) This section applies only to Avery, Brunswick, Currituck, Davie, Madison, Nash, Person, Randolph, and Scotland Counties."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 672

Short Title: Various Local Occupancy Taxes. (Local)

Sponsors: Representative Gibson.

Referred to: Finance.

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE VARIOUS COUNTIES AND TOWNS TO LEVY ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAXES.

The General Assembly of North Carolina enacts:

PART I. TOWN OF NORWOOD

Section 1. Occupancy tax. (a) Authorization and scope. The Board of Commissioners of the Town of Norwood may levy a room occupancy tax of up to five percent (5%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 1.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 1.(c) Distribution and use of tax revenue. The town shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Norwood Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Norwood and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance

officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 2. Tourism Development Authority. (a) Appointment and membership. When the Norwood Board of Commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The Norwood Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Norwood shall be the ex officio finance officer of the Authority.

Section 2.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 1 of this Part. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

Section 2.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Norwood Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 3. Town administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton,

Mount Airy, Shelby, and Statesville, to the ~~Town of~~ Towns of Norwood and St. ~~Pauls~~ Pauls, and to the municipalities in Brunswick County."

PART II. ANSON COUNTY

Section 4. Occupancy tax. (a) Authorization and scope. The Anson County Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 4.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

Section 4.(c) Distribution and use of tax revenue. Anson County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Anson Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Anson County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.

Section 5. Tourism Development Authority. (a) Appointment and membership. When the board of commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be

individuals who are affiliated with businesses that collect the tax in the city and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the city. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Anson County shall be the ex officio finance officer of the Authority.

Section 5.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 4 of this Part. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

Section 5.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 6. County Administrative Provisions. Section 3(b) of S.L. 1997-102, as amended by Section 2 of S.L. 1997-255, Section 2 of S.L. 1997-342, Section 3 of S.L. 1997-364, Section 6 of S.L. 1997-410, and Section 2 of S.L. 1998-14, reads as rewritten:

"(b) This section applies only to Anson, Avery, Brunswick, Davie, Madison, Nash, Person, Randolph, and Scotland Counties."

PART III. TOWN OF WADESBORO

Section 7. Occupancy tax. (a) Authorization and scope. The Board of Commissioners of the Town of Wadesboro may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 7.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 7.(c) Distribution and use of tax revenue. The town shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Wadesboro Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Wadesboro and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year

and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 8. Tourism Development Authority. (a) Appointment and membership. When the Wadesboro Board of Commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The Wadesboro Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Wadesboro shall be the ex officio finance officer of the Authority.

Section 8.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 7 of this Part. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

Section 8.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Wadesboro Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 9. Town administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy, Shelby, and Statesville, to the ~~Town of~~ Towns of St. Pauls and Wadesboro, and to the municipalities in Brunswick County."

PART IV. MONTGOMERY COUNTY

Section 10. Occupancy tax. (a) Authorization and scope. The Montgomery County Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 10.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

Section 10.(c) Distribution and use of tax revenue. Montgomery County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Montgomery Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Montgomery County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.

Section 11. Tourism Development Authority. (a) Appointment and membership. When the board of commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the city and at least three-fourths of the members must be individuals who are currently active in the

promotion of travel and tourism in the city. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Montgomery County shall be the ex officio finance officer of the Authority.

Section 11.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 10 of this Part. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

Section 11.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 12. County Administrative Provisions. Section 3(b) of S.L. 1997-102, as amended by Section 2 of S.L. 1997-255, Section 2 of S.L. 1997-342, Section 3 of S.L. 1997-364, Section 6 of S.L. 1997-410, and Section 2 of S.L. 1998-14, reads as rewritten:

"(b) This section applies only to Avery, Brunswick, Davie, Madison, Montgomery, Nash, Person, Randolph, and Scotland Counties."

PART V. TOWN OF BISCOE

Section 13. Occupancy tax. (a) Authorization and scope. The Board of Commissioners of the Town of Biscoe may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 13.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 13.(c) Distribution and use of tax revenue. The town shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Biscoe Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Biscoe and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 14. Tourism Development Authority. (a) Appointment and membership. When the Biscoe Board of Commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The Biscoe Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Biscoe shall be the ex officio finance officer of the Authority.

Section 14.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 13 of this Part. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

Section 14.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Biscoe Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 15. Town administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy, Shelby, and Statesville, to the ~~Town of~~ Towns of Biscoe and St. ~~Pauls~~ Pauls, and to the municipalities in Brunswick County."

PART VI. TOWN OF TROY

Section 16. Occupancy tax. (a) Authorization and scope. The Board of Commissioners of the Town of Troy may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 16.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 16.(c) Distribution and use of tax revenue. The town shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Troy Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Troy and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 17. Tourism Development Authority. (a) Appointment and membership. When the Troy Board of Commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The Troy Board of Commissioners

shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Troy shall be the ex officio finance officer of the Authority.

Section 17.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 16 of this Part. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

Section 17.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Troy Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 18. Town administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy, Shelby, and Statesville, to the ~~Town of~~ Towns of St. Pauls and Troy, and to the municipalities in Brunswick County."

PART VII. EFFECTIVE DATES

Section 19. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 764

Short Title: Raise Mooresville Room Tax. (Local)

Sponsors: Representative Setzer.

Referred to: Finance.

March 31, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF MOORESVILLE TO LEVY AN ADDITIONAL ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 296 of the 1991 Session Laws, as amended by Section 4 of Chapter 577 of the 1991 Session Laws, reads as rewritten:

"Section 1. Occupancy tax. (a) Authorization and scope. The Mooresville Town Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of up to two percent (2%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(a1) Authorization of Additional Tax. In addition to the tax authorized by subsection (a) of this section, the Mooresville Town Board of Commissioners may levy an additional room occupancy tax of up to two percent (2%) of the gross receipts derived from the rental of accommodations taxable under subsection (a). The total rate of tax levied under subsections (a) and (a1) of this section, when combined with the rate of room occupancy tax levied by Iredell County, may not exceed six percent (6%). The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this

section. The Town of Mooresville may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

~~Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the town. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The town shall design, print, and furnish to all appropriate businesses and persons in the town the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~(c) Administration. The town shall administer a tax levied under this section. A tax levied under this section is due and payable to the town finance officer in monthly installments on or before the fifteenth day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the fifteenth day of each month, prepare and render a return on a form prescribed by the town. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the town finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this section shall pay a penalty of ten dollars ($10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid. The board of commissioners may, for good cause shown, compromise or forgive the additional tax penalties imposed by this subsection.~~

~~Any person who willfully attempts in any manner to evade a tax imposed under this section or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both.~~

(e) Disposition of tax proceeds. The Town of Mooresville shall set aside in a special account fifty percent (50%) of the net proceeds of the occupancy tax levied under subsection (a) of this section and one hundred percent (100%) of the net proceeds of the tax levied under subsection (a1) of this section and shall spend these funds to promote travel and tourism. The Town of Mooresville shall remit the remaining proceeds of the tax levied under subsection (a) of this section to its general

fund and may use these funds for any lawful purpose. ~~As used in this subsection, "net proceeds" means gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer.~~

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

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

~~Effective date of levy. A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this section may be repealed by a resolution adopted by the Mooresville Town Board of Commissioners. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~ "

Section 2. Section 2 of Chapter 296 of the 1991 Session Laws reads as rewritten:

"Sec. 2. Travel and Tourism Authority. (a) Appointment and membership. After the Town of Mooresville adopts a resolution levying an occupancy tax under this act, it shall also adopt a resolution creating a Travel and Tourism Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The membership of the Authority shall consist of: two members representing the Mooresville-South Iredell Chamber of Commerce; two members representing the motel or travel and tourism industry; and one member of the Mooresville Town Board. The resolution shall provide for terms of office, and for the filling of vacancies on the Authority. The Mooresville Town Board shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority. Members shall serve at the pleasure of the Mooresville Town Board.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for the Town of Mooresville shall be the ex officio finance officer of the Authority.

(b) Duties. The Authority shall promote travel, tourism, and conventions in the Greater Mooresville area; sponsor tourism related events and activities; and finance tourism related capital projects in the Greater Mooresville area with the ~~fifty percent (50%) of the net proceeds~~ proceeds of the taxes levied under Section 1 of this act, set aside by the Town of ~~Mooresville,~~ Mooresville for this purpose, all disbursements from which shall be subject to approval by the Mooresville Town Board.

(c) Reports. The Authority shall report at the close of the fiscal year to the Mooresville Town Board, or more often if required by said Board, on its receipts and expenditures for the preceding year in such detail as the Board may require."

Section 3. Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy, Shelby, and Statesville, to the ~~Town of St. Pauls~~ Towns of Mooresville and St. Pauls, and to the municipalities in Brunswick County."

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

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 765 A BILL TO BE ENTITLED AN ACT AMENDING THE BOUNDARIES OF THE VILLAGE OF WESLEY CHAPEL.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 765

Short Title: Wesley Chapel Boundaries. (Local)

Sponsors: Representative Melton.

Referred to: Local Government I.

March 31, 1999

A BILL TO BE ENTITLED

AN ACT AMENDING THE BOUNDARIES OF THE VILLAGE OF WESLEY CHAPEL.

The General Assembly of North Carolina enacts:

Section 1. Section 2.1 of the Charter of the Village of Wesley Chapel, being S.L. 1998-43, reads as rewritten:

"Sec. 2.1. **Village Boundaries.** Until modified in accordance with the law, the boundaries of the Village of Wesley Chapel are as follows:

BEGINNING at a point in the centerline of Wesley Chapel-Stouts Road (SR 1377) that intersects with the northwestern extension of the northern property boundary line of parcel 001 as shown on tax map 7-096; thence southeasterly with said property boundary line approximately 3,630 feet to the centerline of the ~~East Fork~~ Twelve Mile Creek; thence southerly with said creek to a point being the centerline of Goldmine Road (SR 1162); thence with the centerline of Goldmine Road in an easterly direction to the intersection of the extension of the centerline of Birmingham Lane; thence with the centerline of Birmingham Lane in a southerly direction to the northeast corner of the property boundary line of parcel 26-A as shown on tax map 7-096; thence southeastward approximately 300 feet to the northeast corner of the property boundary line of parcel 26 as shown on tax map 7-096; thence southwestward approximately 250 feet to the centerline of Birmingham Lane; thence southeastward along the centerline of Birmingham Lane approximately 800 feet to the extension of the southeast corner property boundary line of parcel 4-F as shown on tax map 7-096; thence southwestward with said property boundary line approximately 1,020 feet and then westward with said property boundary line

approximately 1,204 feet to the centerline of East Fork Twelve Mile Creek; thence following the southwesterly direction of said creek approximately 2,517 feet with the intersection of N.C. Highway 84; thence following the southerly direction of said creek approximately 1,650 feet to a point being the northernmost corner property boundary line of parcel 7-A as shown on tax map 6-006; thence easterly approximately 333 feet to a point being the northernmost corner of property boundary line of parcel 9 as shown on tax map 6-006; thence southeasterly then southwesterly and then northwesterly with said parcel until it intersects with the centerline of Potter Road (SR 1162); thence southward on said road approximately 247 feet to the intersection of the extension of the centerline of Parkside Drive; thence westward with the centerline of said road approximately 412 feet to a point being the northernmost property boundary corner of parcel 41 as shown on tax map 6-027; thence southeasterly with the eastern property boundary line of said parcel approximately 825 feet to a point being the easternmost property boundary line of parcel 31 as shown on tax map 6-027; thence southwesterly with the southern property boundary line of said parcel approximately 810 feet to a point being the southernmost property boundary line of parcel 28 as shown on tax map 6-027; thence northwesterly with the western property boundary line of said parcel approximately 1,155 feet to a point being the southernmost property boundary line of parcel 11 as shown on tax map 6-027; thence northerly and then southwesterly with said parcel approximately 1,002 feet to a point being the northeastern corner property boundary line of parcel 5-A as shown on tax map 6-027; thence southeasterly with said parcel approximately 736 feet to the intersection with the centerline of the East Fork Twelve Mile Creek; thence southwestward with said creek approximately 4,785 feet to a point being the centerline of Chambwood Road (SR 1336); thence northeasterly with the centerline of Chambwood Road approximately 2,475 feet to a point being the southernmost property boundary line of parcel 42 as shown on tax map 6-027; thence northwesterly with the southern property line of said parcel approximately 1,155 feet to a point being the intersection with the southern boundary line of parcel 4-C as shown on tax map 6-027; thence westerly with the southern property line of said parcel approximately 1,072 feet and then northwesterly with the western property line of said parcel approximately 1,815 feet to a point being the northernmost property boundary line of parcel 4-B as shown on tax map 6-027; thence northwesterly with the western property boundary line of parcel 8-B as shown on tax map 6-048 approximately 853 feet to a point being the southeastern property boundary line of parcel 20 as shown on tax map 6-045; thence westerly with said parcel approximately 786 feet and then northwesterly with said parcel approximately 509 feet to a point being the intersection of the extension of said line northwestward and the centerline of N. C. Highway 84; thence easterly with the centerline of N. C. Highway 84 approximately 577 feet to a point being the intersection of said centerline and the southeastward extension of the western property boundary line of parcel 16 as shown on tax map 6-045, thence northwesterly then southeasterly and then northwesterly with said parcel approximately 620 feet to a point being the northwestern most property boundary line of parcel 11 as shown on tax map 6-045; thence northwesterly

approximately 1,155 feet to a point being the northeast corner of parcel 7-B as shown on tax map 6-045; thence southerly and then northwesterly with said parcel approximately 1,017 feet to a point being the southwestern most property boundary line of parcel 15-A as shown on tax map 6-045; thence northerly with said parcel approximately 247 feet to a point being the southeastern most property boundary line of parcel 22-B as shown on tax map 6-045; thence westerly and then northerly with said parcel approximately 660 feet to a point being the intersection with the southern property boundary line of parcel 24 as shown on tax map 6-045; thence westerly then northerly with said parcel approximately 577 feet to a point being the intersection with the centerline of Underwood Road (SR 1377); thence southeasterly with the centerline of said road approximately 1,139 feet to a point being the extension of the western property boundary line of parcel 16 as shown on tax map 6-045; thence northerly and then southeasterly with said parcel to a point being the intersection of the centerline of Little Twelve Mile Creek; thence northerly with said creek approximately 2,145 feet to a point being the intersection with Potter Road (SR 1346); thence northerly with said creek approximately 1,520 feet to a point being a corner in the southwestern property boundary line of parcel 2 as shown on tax map 6-021; thence northeasterly, then northerly, then westerly, and then northerly with said property line to a point being the southern property boundary line of parcel 3 as shown on tax map 6-021; thence westerly with said parcel approximately 330 feet to a point being the corner of the southwest property boundary line of said parcel; thence northeasterly approximately 1,815 feet to a point being the intersection with the southwestward property boundary line of parcel 5 as shown on tax map 7-120; thence northwesterly then northeasterly and then southeasterly with said property line to a point being the northernmost corner property boundary line of parcel 7 as shown on tax map 7-120; thence with the extension of said property boundary line to the centerline of Hawfield Road (SR 1354); thence southeasterly with the centerline of said road approximately 2,145 feet to the intersection with the centerline of Wesley Chapel-Stouts Road (SR 1377); thence northeasterly with the centerline of said road approximately 1,980 feet to the point and place of BEGINNING. Excluded from this description are Tracts IV, V, and VI annexed to the Town of Indian Trail under Part 4 of Article 4A of Chapter 160A of the General Statutes by Annexation Ordinance 40 adopted May 25, 1998, more particularly described as follows:

TRACT IV:

BEGINNING at a point where the centerline of the right-of-way of S.R. 1162 (known as Goldmine Road) intersects the centerline of the right-of-way of S.R. 1377 (known as Wesley Chapel-Stouts Road) (the right-of-way for each road being 60 feet wide), and running from said beginning point with the center of the right-of-way of S.R. 1377 as follows: (1) N 44-22-25 E 148.77 feet to a point; (2) N 40-39-45 E 528.84 feet to a point, a corner of Lot 8 of Houston Farm Subdivision, Phase III (Plat Cabinet B, File 306-A, Union County Registry); thence with the southwestern boundary of Lot 8 of said subdivision, South 35-01-09 E 231.18 feet to a point, a corner of Lot 9 of Houston Farm Subdivision, Phase III; thence with southwest boundary of Lot 9 of said subdivision, S 34-51-04 E 249.94 feet to a point in the

center of the right-of-way of S.R. 1162; thence with the center of the right-of-way of S.R. 1162 as follows: (1) S 82-52-40 W 134.60 feet to a point; (2) S 80-44-44 W 558.83 feet to a point; (3) S 80-32-27 W 39.54 feet to the point of BEGINNING, and containing 3.54 acres, more or less, as shown on copy of map of survey prepared by F. Donald Lawrence & Associates, P.A., NCRLS, dated October 27, 1986, and recorded in Plat Cabinet B, at Page 306-A, Union County Registry.

TRACT V:

BEGINNING at a point where the centerline of the right-of-way of S.R. 1162 (known as Goldmine Road) intersects with the centerline of the right-of-way of S.R. 1377 (known as Wesley Chapel-Stouts Road), and running from said beginning point with the centerline of the right-of-way of S.R. 1162 as follows: (1) S 80-32-25 W 320.00 feet to a point; (2) S 80-33-44 W 591.51 feet to a point; (3) S 75-37-55 W 89.30 feet to a point; (4) S 47-08-50 W 60.77 feet to a point; (5) S 11-11-50 W 64.16 feet to a point near the center of the intersection of S.R. 1162 and S.R. 1355; thence N 15-46-08 W 35.86 feet to a point within the right-of-way of S.R. 1162; thence N 32-02-38 W 181.80 feet to a point in the center of the right-of-way of S.R. 1355; thence with the center of the right-of-way of S.R. 1355 as follows: (1) N 29-11-30 W 293.99 feet to a point; (2) N 32-02-58 W 431.58 feet to a point; (3) N 32-38-20 W 364.15 feet to a point in the center of said road right-of-way; thence N 45-02-45 E 3329.74 feet to a point in the southwestern boundary of the right-of-way of S.R. 1354 (known as Hawfield Road); thence within the right-of-way of S.R. 1354 (but not the centerline thereof), S 36-43-29 E 1656.35 feet to the point where the centerline of S.R. 1354 intersects the centerline of the right-of-way of S.R. 1377; thence with the center of the right-of-way of S.R. 1377 as follows: (1) S 51-43-45 W 98.35 feet to a point; (2) S 47-36-55 W 68.82 feet to a point; (3) S 41-39-39 W 102.57 feet to a point; (4) S 38-38-51 W 105.59 feet to a point; (5) S 38-07-38 W 270.65 feet to a point; (6) S 39-00-58 W 103.56 feet to a point; (7) S 40-22-09 W 110.27 feet to a point; (8) S 40-39-45 W 1471.25 feet to a point; (9) S 44-22-25 W 148.77 feet to the point of BEGINNING, and containing 129.06 acres, more or less, as shown on copy of unrecorded map of survey prepared by F. Donald Lawrence & Associates, P.A., NCRLS, dated March 6, 1986.

TRACT VI:

Beginning at a point in the centerline of Goldmine Road (S.R. 1162) the common corner of Lot #12 and #11 of Houston Farms, Phase I as shown on plat recorded in Plat Cabinet A, File 101-A, Union County Registry. Thence with the centerline of said road as follows: 1st N12-56-05W 122.27', 2nd N13-03-20W 105.36', 3rd N07-14-55W 76.96', 4th N11-11-50W 64.16', 5th N47-08-50W 60.77', 6th N76-37-55E 80.30', 7th N80-33-40E 419.44' to a point in the centerline of said road, the common corner of Lot #11 and #10, thence S33-44-00W 358.84' to an iron stake the common corner of Lot #10, #11, #12, thence S53-00-00W 366.35' to the point and place of BEGINNING, being all of Lot #11 and containing 3.34 acres.

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

BAUCOM DRIVE NORTH
BAUCOM DRIVE
RED CEDAR LANE
BRADFORD PLACE
FOREST
PLGRM
EAST FORK
12 MILE CREEK
Howard Street
Barry Street
McCORKLE
Rinehart
Hughes
Thomas
Graham
Cohen
Godwin
Marlowe
Hyatt
Newman
Cooper
Hawkins
Jim's
6-003-3A
6-003 4-H
648
150
149
148
147
373
233
260
834
939
727

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 812 A BILL TO BE ENTITLED AN ACT TO REMOVE THE SUNSET ON A REQUIREMENT THAT PART OF CERTAIN CRAVEN COUNTY PROCEEDS BE USED FOR A CONVENTION CENTER AND A TOURIST CENTER.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 812
Committee Substitute Favorable 4/20/99

Short Title: Remove Sunset/Craven Proceeds Use. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO REMOVE THE SUNSET ON A REQUIREMENT THAT PART OF CERTAIN CRAVEN COUNTY PROCEEDS BE USED FOR A CONVENTION CENTER AND A TOURIST CENTER.

The General Assembly of North Carolina enacts:

Section 1. Chapter 980 of the 1983 Session Laws, as amended by Chapter 710 of the 1985 Session Laws and Chapter 721 of the 1995 Session Laws, reenacted by Chapter 20 of the 1996 Second Extra Session, reads as rewritten:

"AN ACT TO ALLOW CRAVEN COUNTY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

"Section 1. Levy of Tax. -- (a) The Board of Commissioners of Craven County may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy and tourism development ~~tax.~~

~~(b) Collection of the tax, and liability therefor, shall begin and continue only on and after the first day of a calendar month set by the board of county commissioners in the resolution levying the tax, which in no case may be earlier than the first day of the second succeeding calendar month after the date of adoption of the resolution.~~

~~"Sec. 2. Rate of Tax. The room occupancy and tourism development~~ tax ~~that may be levied under Section 1 of this act shall be~~ at the rate of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, or other similar enterprise within the county now subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any local sales tax.

"Sec. 2.1. Additional Occupancy Tax. -- In addition to the tax authorized by Section 1 of this act, the Craven County Board of Commissioners may levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any accommodations taxable under Section 1 of this act. The levy, collection, administration, and repeal of the tax authorized by this section shall be in accordance with the provisions of this act. Craven County may not levy a tax under this section unless it also levies the tax under Section 1 of this act.

"Sec. 3. -- Exemptions. The tax authorized by this act does not apply to gross receipts derived by the following entities from accommodations furnished by them:

(1) religious organizations;

(2) a business that offers to rent fewer than five units;

(3) educational organizations; and

(4) summer camps.

"Sec. 4. Administration of Tax. -- A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section. Any repeal of the tax authorized in Section 2.1 of this act may not become effective before June 30, 2018.

~~(a) Returns. -- Any tax levied under this act is due and payable to the county in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by Craven County. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. An operator of a business who collects the occupancy tax levied under this act may deduct from the amount remitted to the county a discount equal to the discount the State allows the operator for State sales and use tax.~~

~~The county shall design, print, and furnish to all affected businesses in Craven County the necessary forms for filing returns and instructions to ensure the collection of the tax. A return filed with the county tax collector under this act is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.~~

~~(b) Penalties. -- A person, firm, corporation, or association who fails or refuses to file the return or pay the tax required by this act is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The Craven County Board of Commissioners has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.~~

~~"Sec. 5. Collection of Tax. -- Every operator of a business subject to the tax levied by this act shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of Craven County. The tax levied pursuant to this act shall be~~

~~added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business.~~

"Sec. 6. Disposition of Taxes Collected. -- (a) 'Net Proceeds' Defined. -- As used in this act, the term 'net proceeds' means gross proceeds less the cost to the county of administering and collecting the tax, not to exceed three percent (3%) of the gross proceeds of the tax.

(a1) Tax Levied Under Section 1. -- Craven County shall remit the net proceeds of the occupancy tax levied under Section 1 of this act to the Craven County Tourism Development Authority. The County Tourism Development Authority shall allocate the occupancy tax revenue remitted to it for the following purposes:

(1) Direct advertising costs for visitor promotions, conventions, or tourism, including outdoor advertising, print media, broadcast media, and brochures;

(2) Marketing and promotions expenses, including test market programs, consultant fees, entertainment, housing expenses, travel expenses, and registration fees;

(3) Operating expenses for the Visitor Information Center, including postage, telephone, supplies, dues, subscriptions, equipment, rent, and overhead allocation;

(4) Salaries, benefits, and expenses for Visitor Information Center personnel; and

(5) Other expenses that aid and encourage visitor promotions, conventions, or tourism.

~~Effective until June 30, 2013, thirty-five~~ Thirty-five percent (35%) of the net proceeds in excess of one hundred thousand dollars ($100,000) remitted to the Authority pursuant to this subsection in a fiscal year shall be allocated to the Room Tax Trust Fund created pursuant to subsection (c) of this section.

(b) Authority May Contract. -- The County Tourism Development Authority may contract with appropriate organizations or agencies to assist it in carrying out the purposes provided in this section.

(c) Tax Levied Under Section 2.1. -- Craven County shall credit the net proceeds of the tax levied under Section 2.1 of this act to a separate Room Tax Trust Fund. Monies in the Room Tax Trust Fund may be used only to construct, maintain, operate, or market a convention or meeting facility in New Bern and a tourist center in Havelock. Any monies distributed to the City of New Bern or the City of Havelock from the Room Tax Trust Fund shall be maintained in and disbursed from a separate trust fund within the respective city's organizational chart of accounts.

"Sec. 7. Appointment, Duties of Tourism Development Authority. -- (a) When the board of county commissioners adopts a resolution levying a room occupancy tax pursuant to this act, it shall also adopt a resolution creating a County Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act and shall be composed of the following members:

(1) One county commissioner appointed by the Board of Commissioners of Craven County;
(2) After the first full year of collections under this act, one person appointed by the governing board of each municipality from which, during the previous 12-month period, at least ten percent (10%) of the gross proceeds of the occupancy tax were collected;
(3) One person representing motel operators, appointed by the board of commissioners;
(4) One person with demonstrated interest in and support of tourism development, appointed by the New Bern-Craven Chamber of Commerce;
(4a) One person with demonstrated interest in and support of tourism development, appointed by the Havelock Chamber of Commerce;
(5) One person representing Tryon Palace Complex, appointed by the Tryon Palace Commission;
(6) Two at-large members with a demonstrated interest in conventions and tourism development, appointed by the other members of the Authority;
(7) The finance officer of Craven County, who shall serve as a nonvoting, ex officio member; and
(8) The Executive Director of the Authority, who shall serve as a nonvoting, ex officio member.

(b) All members of the Authority shall serve without compensation. Vacancies in the Authority shall be filled by the appointing authority of the member creating the vacancy. Members appointed to fill vacancies shall serve for the remainder of the unexpired term for which they are appointed to fill. Members shall serve three-year terms, except the initial members who shall serve the following terms:
(1) Members appointed pursuant to subdivisions (a)(1) and (a)(2) shall serve a one-year term;
(2) Members appointed pursuant to subdivisions (a)(3) and (a)(4) shall serve a two-year term; and
(3) Members appointed pursuant to subdivisions (a)(5) and (a)(6) shall serve a three-year term.

(c) A member appointed under subdivision (a)(2) shall serve his full term, regardless whether, during a 12-month period of his term, the percentage of the gross proceeds of the occupancy tax that are collected from the municipality he represents is less than ten percent (10%).

(d) Members may serve no more than two consecutive three-year terms. The members shall elect a ~~chairman,~~ chair, who shall serve for a term established in the bylaws of the Authority. The Authority shall meet at the call of the ~~chairman~~ chair and shall adopt rules of procedure to govern its meetings. The finance officer for Craven County shall be the ex officio finance officer of the Authority.

(e) The Tourism Development Authority shall report at the close of the fiscal year to the board of county commissioners on its receipts and expenditures for the preceding year in such detail as the board may require.

~~"Sec. 8. Repeal of Levy. -- (a) The board of county commissioners may by resolution repeal the levy of the room occupancy tax authorized in Section 1 of this act, but the repeal of taxes levied under Section 1 of this act shall not become effective until the end of the fiscal year in which the resolution was adopted.~~

~~(a1) The board of county commissioners may by resolution repeal the levy of the room occupancy tax authorized in Section 2.1 of this act, but the repeal of taxes levied under Section 2.1 of this act shall not become effective until the later of June 30, 2018, or the end of the fiscal year in which the resolution was adopted.~~

~~(b) No liability for any tax levied under this act that attached prior to the date on which a levy is repealed is discharged as a result of the repeal, and no right to a refund of a tax that accrued prior to the effective date on which a levy is repealed may be denied as a result of the repeal.~~

"Sec. 9. This act is effective upon ratification."

Section 2. County Administrative Provisions. Section 3(b) of S.L. 1997-102, as amended by Section 2 of S.L. 1997-255, Section 2 of S.L. 1997-342, Section 3 of S.L. 1997-364, Section 6 of S.L. 1997-410, and Section 2 of S.L. 1998-14, reads as rewritten:

"(b) This section applies only to Avery, Brunswick, Craven, Davie, Madison, Nash, Person, Randolph, and Scotland Counties."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 830

Short Title: Transylvania Room Tax Penalties. (Local)

Sponsors: Representative Walend.

Referred to: Finance.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE PENALTIES FOR THE TRANSYLVANIA COUNTY ROOM OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 969 of the 1985 Session Laws, as it applies to Transylvania County, reads as rewritten:

"Section 1. Transylvania Occupancy Tax. (a) Authorization and Scope. The board of commissioners of ~~a county~~ Transylvania County may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section. ~~Collection. Every operator of a business subject to the tax levied under this act shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the~~

~~operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~(c) Administration. The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars ($10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due for each additional month or fraction thereof until the tax is paid.~~

~~Any person who willfully attempts in any manner to evade a tax imposed under this act or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both. The board of commissioners may, for good cause shown, compromise or forgive the penalties imposed by this subsection.~~

(e) Use of Tax Revenue. ~~Except as provided in Section 2 of this act for Durham County, a taxing county~~ Transylvania County shall place revenue collected from a tax levied under this act in a special Travel and Tourism Fund. Revenue in this Fund may be used only to promote travel and tourism in the county.

~~(f) Effective Date of Levy. A tax levied under this act shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this act may be repealed by a resolution adopted by the board of commissioners of the county. Repeal of a tax levied under this act shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this act does not affect a liability for a tax that attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~"

Section 2. County Administrative Provisions. Section 3(b) of S.L. 1997-102, as amended by Section 2 of S.L. 1997-255, Section 2 of S.L. 1997-342, Section 3 of S.L. 1997-364, Section 6 of S.L. 1997-410, and Section 2 of S.L. 1998-14, reads as rewritten:

"(b) This section applies only to Avery, Brunswick, Davie, Madison, Nash, Person, Randolph, ~~and Scotland~~ Scotland, and Transylvania Counties."

Section 3. This act becomes effective July 1, 1999, and applies to taxes due on or after that date.

HOUSE BILLS 665, 672, 764, 812, 830: Room Occupancy Tax Bills

BILL ANALYSIS

Committee: House Finance
Date: April 22, 1999
Version:

Introduced by:
Summary by: Cindy Avrette
Committee Counsel

SUMMARY: House Bills 665, 672, 764, 812, and 830 are all of the room occupancy tax bills in the House Finance Committee at this time. Some of the localities represented in the bills currently have an occupancy tax and others seek to create one. Following is a chart summarizing the bills in the committee:

BILL NUMBER	*SPONSOR*	*LOCAL GOVERNMENT UNIT*	*BRIEF EXPLANATION*
House Bill 665	*Rep. Owens*	*Currituck County*	*Modify penalty provisions*
House Bill 672	*Rep. Gibson*	*Towns of Biscoe, Norwood, Troy, and Wadesboro* *Anson and Montgomery Counties,*	*Authorize a 5% occupancy tax in Norwood; authorize a 3% occupancy tax in all of the other localities*
House Bill 764	*Rep. Setzer*	*Mooresville*	*Authorize an additional 2% occupancy tax; currently has a 2% occupancy tax*
House Bill 812	*Rep. Thomas*	*Craven County*	*Modify the use of the tax proceeds*
House Bill 830	*Rep. Walend*	*Transylvania County*	*Modify penalty provisions*

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. *Attached you will find a map and a chart indicating the counties and cities that currently have the authority to levy and collect an occupancy tax.*

The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably. Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1993, a House Finance Committee subcommittee on occupancy taxes established several principles that have been applied to most of the

occupancy tax bills in the House since that time. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

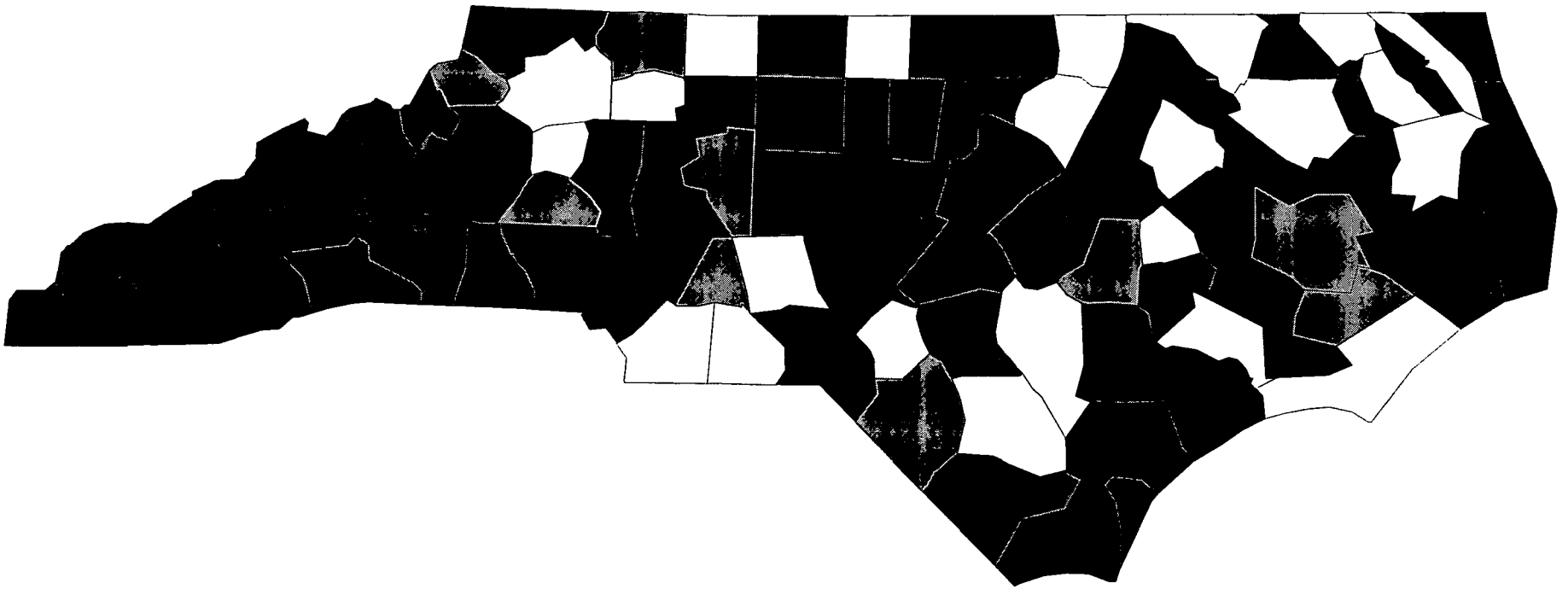
The North Carolina Travel and Tourism Coalition has a policy statement for legislation authorizing local occupancy taxes. Many of the principles contained in its statement are similar to the ones established by the House Finance subcommittee in 1993. Those principles include:

- **Rate.** – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
- **Use.** – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism-related purposes.
- **Definitions.** – The terms "net revenues" "promote travel and tourism", and "tourism-related expenditures" are defined terms.
- **Administration.** – The net revenues must be administered by a local tourism promotion agency that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least ¾ of the members must be currently active in the promotion of travel and tourism in the taxing district and 1/3 of the members must be affiliated with organizations that collect the tax.
- **Costs of Collection.** – The taxing authority may retain from the revenues it actual costs of collection, not to exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.

There is a 32-page chart detailing the occupancy taxes authorized in North Carolina. The chart can be accessed on the North Carolina General Assembly's web page under "Latest Staff Reports". There is also a chart detailing the amount of occupancy tax revenue collected by the various localities. This chart can be accessed on the North Carolina General Assembly's Intranet web page under "Information Center", "Fiscal Research Division".

Nationally, state or local governments in every state impose an occupancy tax. The taxes are usually earmarked for tourist-related activities. The taxes are usually levied in addition to the general rate of sales tax. The combined state and local occupancy taxes average more than 10%.

Occupancy Tax in NC Counties



White: No Occupancy Tax

Light Gray: Only Certain Cities have Occupancy Tax

Dark Gray: Only County has Occupancy Tax

Black: Both County and Certain Cities have Occupancy Tax

Occupancy Tax Breakup by County, City, County & City

COUNTIES	County Only	City Only	County & City
Alamance	Alamance		
Alexander			
Alleghany	Alleghany		
Anson			
Ashe	Ashe		
Avery			Banner Elk
Beaufort		Washington	
Bertie			
Bladen			
Brunswick			Bald Head Island, Caswell Beach, Holden Beach, Long Beach, Ocean Isle Beach, Shallotte, Southport, Sunset Beach, Yaupon Beach
Buncombe	Buncombe		
Burke	Burke		
Cabarrus	Cabarrus		
Caldwell	Caldwell		
Camden			
Carteret			
Caswell			
Catawba		Claremont, Conover, Hickory	
Chatham	Chatham		
Cherokee	Cherokee		
Chowan	Chowan		
Clay	Clay		
Cleveland			Shelby
Columbus	Columbus		
Craven	Craven		
Cumberland	Cumberland		
Currituck	Currituck		
Dare	Dare		
Davidson		Lexington, Thomasville	
Davie	Davie		
Duplin	Duplin		
Durham	Durham		
Edgecombe			
Forsyth	Forsyth		
Franklin			

Gaston	Gaston		
Gates			
Graham	Graham		
Granville	Granville		
Greene			
Guilford			Greensboro, High Point
Halifax	Halifax		
Harnett			Aversboro Township
Haywood	Haywood		
Henderson			Hendersonville
Hertford	Hertford		
Hoke			
Hyde	Hyde		
Iredell			Mooresville, Statesville
Jackson	Jackson		
Johnston	Johnston		
Jones			
Lee	Lee		
Lenoir			Kinston
Lincoln	Lincoln		
Macon	Macon		
Madison	Madison		
Martin	Martin		
McDowell	McDowell		
Mecklenburg	Mecklenburg		
Mitchell	Mitchell		
Montgomery			
Moore	Moore		
Nash	Nash		
New Hanover	New Hanover		
Northampton			
Onslow	Onslow		
Orange			Chapel Hill
Pamlico		Oriental	
Pasquotank			Elizabeth City
Pender			Surf City, Topsail Beach
Perquimans			
Person	Person		
Pitt	Pitt		
Polk			Columbus
Randolph	Randolph		
Richmond	Richmond		
Robeson		Lumberton, Rowland, St. Pauls	
Rockingham	Rockingham		

Rowan	Rowan		
Rutherford	Rutherford		
Sampson			
Scotland	Scotland		
Stanly		Albemarle	
Stokes			
Surry		Mount Airy	
Swain	Swain		
Transylvania	Transylvania		
Tyrrell			
Union			
Vance	Vance		
Wake			Cary, Garner, Raleigh, Wake Forest
Warren			
Washington	Washington		
Watauga		Beech Mountain, Blowing Rock, Boone	
Wayne		Goldsboro	
Wilkes			
Wilson	Wilson		
Yadkin			
Yancey	Yancey		

Kristen Crosson
House Finance Committee Assistant
April 19, 1999

Background Information: Businesses Potentially Impacted by a Change in Occupancy Tax Rates

Locality	Facility	Rooms	Curent Tax Rate	Proposed Tax Rate
	H.B. 672 - Various Local Occupancy Taxes			
Norwood	Norwood Camping Resort*	0	0%	5%
Biscoe	Days Inn	43	0%	3%
	Anticipated Revenue	**$ 15,000**		
Troy	Uwharrie Mt. Lodge	22	0%	3%
Wadesboro	Anson Inn	32	0%	3%
	Days Inn Wadesboro	48	0%	3%
	Eagle Inn	16	0%	3%
	Sullivan Place	4	0%	3%
	Valley Motel	?	0%	3%
	Samaratin Inn	?	0%	3%
Selma	Comfort Inn	80	0%	3%
	Days Inn	120	0%	3%
	Hampton Inn	77	0%	3%
	Holday Inn	60	0%	3%
	Luxury Inn	48	0%	3%
	Masters Inn	118	0%	3%
	Royal Inn	117	0%	3%
	TOTAL	620		
	Anticipated Revenue	**$ 125,000**		
Kings Mountain	Comfort Inn	73	0%	3%
	Crowders Mountain State Park*	0	0%	3%
	Moss Lake Campground*	0	0%	3%
	Motel Royal	16	0%	3%
	Ramada Limited	101	0%	3%
	TOTAL	190		
Anson County	Anson Inn	32	0%	3%
	Days Inn Wadesboro	48	0%	3%
	Eagle Inn	16	0%	3%
	Sullivan Place	4	0%	3%
	Valley Motel	?	0%	3%
	Samaratin Inn	?	0%	3%
Montgomery County	Days Inn	43	0%	3%
	Uwharrie Mt. Lodge	22	0%	3%
	McRae Industries (Mt. Gilead)	?	0%	3%
	Lake Tillery Family Camp Site*	0	0%	3%
	H.B. 764 - Raise Mooresville Room Tax			
Mooresville	Days Inn-Mooresville	101	2%	4%
	Lake Norman Vacation Station	21	2%	4%
	Oak Ridge Farm Bed & Breakfast	2	2%	4%
	Spring Run Bed & Breakfast	2	2%	4%
	Super 8 Motel	54	2%	4%
	TOTAL	180		
	Anticipated Revenue	**$ 55,000**		

* Indicates Campground.

VISITOR REGISTRATION SHEET

FINANCE — Name of Committee

4/22, 1999 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bill Lynn	DOC
Bill Connelly	DOR
John Rail	"
Jim Blackburn	County Commrs Assoc
JIM HOBBS	N.C. HOTEL MOTEL ASSN.
Stephanie Marsicek	NC Assoc. of Realtors
Gary Segal	Revenue
Patti Seawell	"
	ESNS
Charles Collins	REVENUE
Amy Hobbs	NC Hotel Motel Assoc.
Kelli KUKURA	DUPONT
Mary Carmichael	Mecklenburg County
Alice Garland	Electricities
John Bowdish	Zeb Alley P.A.
V L McBride	NCMA
LYMAN LOOPER	CSX
Katherine Davis	ElectriCities
FRAN REESE	NCRMA
ANDY ELLEN	NCRMA
Mike Carpenter	NCMA
Pat Adcock	County Com. Assoc
Keysha Redd	intern
K Hollowell	Rep. Trudi Walend
Heslip Bevacqua	NCCBI

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Tuesday, April 27, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 293 - Proprietary Sch./Civil Penalties - Rep. Bridgeman
HB 315 - Motor Vehicle Tax Value - Rep. Wilson
HB 358 - Fair Automobile Property Taxes - Rep. Allred
HB 1237 - Landscape Architects Exam Fee - Rep. McMahan
HB 1308 - Government Sales Tax Exemption - Rep. Allen

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Tuesday, April 27, 1999

The House Committee on Finance met on Tuesday, April 27, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke, Miller; Vice Chair Wood; Representatives Braswell, Bridgeman, Brown, Buchanan, Capps, Church, Cox, Creech, Cunningham, Decker, Dedmon, Eddins, Edwards, Gibson, Hackney, Hill, McComas, McCombs, Miner, Morris, Mosley, Pope, Ramsey, Rayfield, Starnes, Tucker, Wilson, Womble, and Wright. Staff including Cindy Avrette, Richard Bostic, David Crotts, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Miller called the meeting to order to consider the following bills:

Rep. Wilson was recognized to explain HB 315, A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT A MOTOR VEHICLE'S PROPERTY TAX VALUE MAY NOT EXCEED ITS TRADE-IN VALUE. The Chair stated this bill would be discussed and not voted on today. Rep. Wilson moved to adopt the Proposed Committee Substitute for discussion purposes only. Rep. Wilson explained the bill and stated she would the bill to be sent to a subcommittee for further study. The Chair recognized Mr. Jim Blackburn of the County Commissioners' Association who stated his organization would address the bill's content when it is assigned to a subcommittee. Linda Millsaps explained the fiscal note and its impact. Members questioned Rep. Wilson. Members commented. A copy of the bill, Proposed Committee Substitute, Bill Summary, Fiscal Note, and Rep. Wilson's handouts are included in these minutes.

Rep. Allred was recognized to explain HB 358, A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT A MOTOR VEHICLE'S PROPERTY TAX VALUE MAY NOT EXCEED ITS TRADE-IN VALUE, AND TO EXTEND THE TIME PERIOD FOR APPEALING A VEHICLE'S APPRAISED VALUE. Cindy Avrette explained the bill. Rep. Luebke moved to send HB 315 and HB 358 to a subcommittee. The motion passed. A copy of the bill and Bill Summary are included in these minutes.

Rep. Allen was recognized to explain HB 1308, A BILL TO BE ENTITLED AN ACT TO EXEMPT CERTAIN GOVERNMENT PURCHASES FROM STATE AND LOCAL SALES TAX. The bill was discussed and not voted on. David Crotts explained the fiscal note. Members questioned David Crotts and Cindy Avrette. Members questioned Rep. Allen. The Chair recognized Ms. Leanne Winter with the N.C. School Board Association who supported the bill. The Chair recognized Mr. Jim Blackburn of the County Commissioners' Association who supported the bill. The Chair recognized Mr. Andy Romany of the League of Municipalities who supported the bill. The Chair recognized Mr. Kenneth Briggs, Vice President of Business and Finance for the Community College System who supported the bill. The Chair recognized Ms. Sabra Faires of the Department of Revenue who stated her department supported the bill. Members questioned Rep. Allen and staff. Members commented. A copy of the bill, Proposed Committee Substitute, Bill Summary, and Fiscal Note are included in these minutes.

Rep. Cox moved to immediately reconsider HB 450 - Make Car Tax Progressive. Cindy Avrette explained the Proposed Committee Substitute and amendments for HB 450 which was discussed last week. The motion to give the bill a favorable report failed. Rep. Pope had then moved to give the bill an unfavorable report which had passed. The Chair stated the bill still remained in the committee. Reps. Pope and Creech questioned Chair Miller. Rep. Cox's motion is to place HB 450 on the agenda for immediate consideration. Rep. Luebke commented. Rep. Hill commented. Rep. Decker questioned Chair Miller. Rep. Rayfield asked to have the ayes and nayes recorded. Rep. Pope asked for a divided motion, and then commented. The motion to reconsider HB 450 failed by a vote of 15 ayes, 18 nays. The vote count sheet is included in these minutes.

Rep. Bridgeman was recognized to explain HB 293, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE STATE BOARD OF COMMUNITY COLLEGES TO ASSESS MONETARY PENALTIES AGAINST PROPRIETARY SCHOOLS THAT OPERATE WITHOUT A LICENSE OR OPERATE OUTSIDE THE SCOPE OF THEIR LICENSE. Cindy Avrette explained the bill. The Chair recognized Mr. Kenneth Briggs of the UNC System who supported the bill. Rep. Rayfield moved for a favorable report. The motion passed. A copy of the bill and Bill Summary are included in these minutes.

Rep. McMahan was recognized to explain HB 1237, A BILL TO BE ENTITLED AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF LANDSCAPE ARCHITECTS TO CHARGE APPLICANTS FOR LICENSURE THE ACTUAL COST OF EXAMINATION SERVICES. Rep. Brown moved to for a favorable report. The motion passed. A copy of the bill, Bill Summary, and Fiscal Note are included in these minutes.

There being no further business, the Chair adjourned the meeting at 9:50 a.m.

Respectfully submitted:

Representative George Miller
Chair

Kristen L. Crosson
Assistant to the Committee

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☒ Committee Substitute for
H.B. 293 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE STATE BOARD OF COMMUNITY COLLEGES TO ASSESS MONETARY PENALTIES AGAINST PROPRIETARY SCHOOLS THAT OPERATE WITHOUT A LICENSE OR OPERATE OUTISDE THE SCOPE OF THEIR LICENSE.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 293
Committee Substitute Favorable 4/14/99

Short Title: Proprietary Sch./Civil Penalties/AB. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE STATE BOARD OF COMMUNITY COLLEGES TO ASSESS MONETARY PENALTIES AGAINST PROPRIETARY SCHOOLS THAT OPERATE WITHOUT A LICENSE OR OPERATE OUTSIDE THE SCOPE OF THEIR LICENSE.

The General Assembly of North Carolina enacts:

Section 1. Article 8 of Chapter 115D of the General Statutes is amended by adding a new section to read:

"**§ 115D-93.1. Operation without a license or outside scope of license; penalty.**

The State Board may assess a civil penalty not to exceed five thousand dollars ($5,000) against any person who owns or operates a proprietary school before receiving a license from the State Board. The State Board also may assess a civil penalty not to exceed five thousand dollars ($5,000) against any person who owns or operates a proprietary school that offers programs of instruction, courses, or subjects that were not specifically indicated in the proprietary school's application for a license. A civil penalty assessed under this section may be in addition to any other penalties or sanctions the State Board may impose for violation of this Article. This section shall be subject to Articles 3 and 4 of Chapter 150B of the General Statutes. The clear proceeds of civil penalties assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

Section 2. G.S. 115D-87 is amended by adding a new subdivision to read:

"(3a) 'Proprietary school' means a correspondence school, a proprietary business school, a proprietary trade school, or a proprietary technical school as defined in this section."

Section 3. This act becomes effective October 1, 1999, and applies to offenses occurring on or after that date.

HOUSE BILL 293:
Proprietary Sch./Civil Penalties/AB

BILL ANALYSIS

Committee: House Finance
Date: April 27, 1999
Version: 2nd Edition

Introduced by: Rep. Bridgeman
Summary by: Cindy Avrette
Committee Counsel

SUMMARY: House Bill 293 is an agency bill that authorizes the State Board of Community Colleges to assess a penalty of up to $5,000 against any person who owns or operates a proprietary school prior to being issued a license. The State Board would also be able to assess a fine against any person who owns or operates a proprietary school that offers instruction or courses not included in the school's application for its license. The bill becomes effective October 1, 1999, and applies to offenses occurring on or after that date

CURRENT LAW: The State Board of Community Colleges is charged with licensing all proprietary business schools, proprietary trade schools, proprietary technical schools, and correspondence schools. These are private institutions operated for a profit and do not include established universities, colleges, or private schools operating under Chapter 115C. The State Board must formulate the criteria and the standards for approving proprietary schools based upon the course or courses of study that will be offered. G.S. 115D-90(a) provides that no person shall operate a proprietary school until the State Board has issued a license for its operation. G.S. 115D-90(d) provides that a license is restricted to the programs, courses, and subjects included in the proprietary school's application, and the holder of the license must submit a supplementary application if it intends to expand its program of instruction.

The State Board may suspend, revoke, or refuse to issue or renew a license under specified circumstances. These circumstances include failure to comply with applicable laws and rules, providing false or misleading information on the license application, committing fraud in advertising, failing to maintain the school premises in a safe condition, employing teachers who have not been approved by the State Board, and failing to obtain and maintain a guaranty bond or its equivalent.

If a school offers courses or subjects that were not specifically indicated in the school's application for license, the State Board may suspend, revoke, or refuse to renew its license. If a school does not obtain the necessary license, the only course of action the State Board has is to prevail upon a district attorney to prosecute the owner of the school on a Class 3 misdemeanor offense.

BILL ANALYSIS: House Bill 293 gives the State Board another enforcement tool. It authorizes the State Board to assess fines of up to $5,000 against a person who owns or operates a proprietary school before receiving a license. The State Board could also assess a fine of up to $5,000 against a person who owns or operates a proprietary school that expands its program of instruction beyond the scope of the school's existing license. This authority would be in addition to the other penalties and sanctions described above. Both the contested case provisions and the judicial review provisions of the Administrative Procedures Act would apply to the State Board's actions.

Pursuant to Article IX, Section 7 of the Constitution, and Article 31A of Chapter 115C, the clear proceeds of any fine would be remitted to the Civil Penalty and Forfeiture Fund. These funds are then transferred to the School Technology Trust fund and allocated to local school administrative units on the basis of average daily membership.

The bill also defines the term "proprietary school" in the Article governing proprietary schools. The term is defined as "a correspondence school, a proprietary business school, a proprietary trade school, or a proprietary technical school." All of those terms are currently defined in that article.

Kory Goldsmith, Research Division staff to the House Education Committee, contributed to this summary.

H293-SMRB-001

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 315
Proposed Committee Substitute H315-CSLC-3/5
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Motor Vehicle Tax Value. (Public)

Sponsors:

Referred to: Finance.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A MOTOR VEHICLE'S PROPERTY TAX VALUE MAY NOT EXCEED ITS WHOLESALE VALUE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-330.2 reads as rewritten:

"**§ 105-330.2. Appraisal, ownership, and situs.**

(a) Date Determined. -- The value of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) (registered vehicles) shall be determined as follows:

(1) For a vehicle registered under the staggered system, the value shall be determined annually as of January 1 preceding the date a new registration is applied for or the current registration expires.

(2) For a vehicle newly registered under the annual system, the value shall be determined as of January 1 of the year the new registration is obtained. For a vehicle whose registration is renewed under the annual system, the value shall be determined as of January 1 following the date the registration expires.

If the value of a new motor vehicle cannot be determined as of the date specified above, the value of that vehicle shall be determined for that year as of the date that model vehicle is first offered for sale at retail in this State. The ownership, situs, and taxability of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) (registered vehicles) shall be determined annually as of the day on which a new

registration is applied for or the day on which the current vehicle registration is renewed, regardless of whether the registration is renewed after it has expired.

The value of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(2) (unregistered vehicles) shall be determined as of January 1 of the year in which the motor vehicle is required to be listed pursuant to G.S. 105-330.3(a)(2). The ownership, situs, and taxability of a classified motor vehicle listed or discovered pursuant to G.S. 105-330.3(a)(2) (unregistered vehicles) shall be determined as of January 1 of the year in which the motor vehicle is required to be listed.

(b) Value; Appeal. -- A classified motor vehicle shall be appraised by the assessor at the lesser of its true value in money as prescribed by G.S. ~~105-283.~~ 105-283 or its wholesale value. The wholesale value of a motor vehicle is presumed to be the value of the vehicle set in a schedule of motor vehicle values adopted by the Department of Revenue, whose values do not exceed the wholesale values of motor vehicles as published in a recognized automotive reference manual. The owner of a classified motor vehicle may appeal the appraised value of the vehicle in the manner provided by G.S. 105-312(d) for appeals in the case of discovered property and may appeal the situs or taxability of the vehicle in the manner provided by G.S. 105-381. The owner of a classified motor vehicle must file an appeal of appraised value with the assessor within 30 days after the date of the tax notice prepared pursuant to G.S. 105-330.5. Notwithstanding G.S. 105-312(d), an owner who appeals the appraised value of a classified motor vehicle shall pay the tax on the vehicle when due, subject to a full or partial refund if the appeal is decided in the owner's favor.

(c) Administration. -- The Department of Revenue, acting through the Property Tax Division, and the Department of Transportation, acting through the Division of Motor Vehicles, shall enter into a memorandum of understanding concerning the vehicle identification information, name and address of the owner, and other information that will be required on the motor vehicle registration forms to implement the tax listing and collection provisions of this Article."

Section 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 315

Short Title: Motor Vehicle Tax Value. (Public)

Sponsors: Representatives C. Wilson; Brown, Cansler, Clary, Creech, Davis, Decker, Gardner, Hill, Russell, and Walend.

Referred to: Finance.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A MOTOR VEHICLE'S PROPERTY TAX VALUE MAY NOT EXCEED ITS TRADE-IN VALUE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-330.2 reads as rewritten:

"**§ 105-330.2. Appraisal, ownership, and situs.**

(a) Date Determined. -- The value of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) (registered vehicles) shall be determined as follows:

(1) For a vehicle registered under the staggered system, the value shall be determined annually as of January 1 preceding the date a new registration is applied for or the current registration expires.

(2) For a vehicle newly registered under the annual system, the value shall be determined as of January 1 of the year the new registration is obtained. For a vehicle whose registration is renewed under the annual system, the value shall be determined as of January 1 following the date the registration expires.

If the value of a new motor vehicle cannot be determined as of the date specified above, the value of that vehicle shall be determined for that year as of the date that model vehicle is first offered for sale at retail in this State. The ownership, situs, and taxability of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) (registered vehicles) shall be determined annually as of the day on which a new registration is applied for or the day on which the current vehicle registration is renewed, regardless of whether the registration is renewed after it has expired.

The value of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(2) (unregistered vehicles) shall be determined as of January 1 of the year in which the motor vehicle is required to be listed pursuant to G.S. 105-330.3(a)(2). The ownership, situs, and taxability of a classified motor vehicle listed or discovered pursuant to G.S. 105-330.3(a)(2) (unregistered vehicles) shall be determined as of January 1 of the year in which the motor vehicle is required to be listed.

(b) Value; Appeal. -- A classified motor vehicle shall be appraised by the assessor at the lesser of its true value in money as prescribed by G.S. ~~105-283.~~ 105-283 or the applicable retail trade-in value, if any, determined under the National Automobile Dealers Association Official Used Car Guide. The owner of a classified motor vehicle may appeal the appraised value of the vehicle in the manner provided by G.S. 105-312(d) for appeals in the case of discovered property and may appeal the situs or taxability of the vehicle in the manner provided by G.S. 105-381. The owner of a classified motor vehicle must file an appeal of appraised value with the assessor within 30 days after the date of the tax notice prepared pursuant to G.S. 105-330.5. Notwithstanding G.S. 105-312(d), an owner who appeals the appraised value of a classified motor vehicle shall pay the tax on the vehicle when due, subject to a full or partial refund if the appeal is decided in the owner's favor.

(c) Administration. -- The Department of Revenue, acting through the Property Tax Division, and the Department of Transportation, acting through the Division of Motor Vehicles, shall enter into a memorandum of understanding concerning the vehicle identification information, name and address of the owner, and other information that will be required on the motor vehicle registration forms to implement the tax listing and collection provisions of this Article."

Section 3. This act is effective for taxes imposed for taxable years beginning on or after July 1, 1999.

HOUSE BILL 315:
Motor Vehicle Tax Value

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Connie Wilson
Date:	April 27, 1999	**Summary by:**	Cindy Avrette
Version:	PCS for 1st Edition H315-CSLC-3/5		Committee Counsel

SUMMARY: ***The proposed committee substitute for House Bill 315 provides that the value of a classified motor vehicle for property tax purposes would be its true value or its wholesale value, whichever is less. The bill is effective for taxes imposed for taxable years beginning on or after July 1, 1999.***

CURRENT LAW: The General Assembly classified motor vehicles registered with the Division of Motor Vehicles as a special class of property in 1991. Classified vehicles are taxed on a revolving, year-round schedule. Every month, DMV provides each county a list of the motor vehicles in the county for which registration was renewed or obtained two months earlier. The county lists and appraises the vehicles and send the vehicle owners a bill for the county, city, and special district taxes due. If the owner does not pay the taxes due on a classified, registered vehicle, DMV will refuse to renew the vehicle registration the following year unless the owner obtains a receipt showing that the taxes have been paid.

For classified motor vehicles, the ownership, situs, and taxability of the vehicle is determined annually as of the day on which a new registration is applied for or the day on which the current vehicle registration is renewed. However, the value of the vehicle is determined annually as of Janaury 1 preceding the date the new registration is applied for or the current registration expires. Therefore, property tax bills that a taxpayer receives in January through April of each year are based on the value of the vehicle as of the preceding Janaury.

The value of a vehicle, like all other tangible personal property, is based upon it true value in money as prescribed by G.S. 105-283. The words "true value in money" mean the price at which the property would change hands between a willing and financially able buyer and a willing seller. To determine "true value", counties use a pricing guide. Most counties use a pricing guide developed by Tax Equity Consultants. The pricing guides used by counties reflect the average retail prices paid for motor vehicles. In determining retail prices, all costs that are necessary to acquire and operate a motor vehicle are considered. A taxpayer who disagrees with the appraised value of a vehicle has 30 days after the date the tax notice was prepared to appeal the value. Counties will adjust an appraised value for reasons such as the vehicle's condition or excessive mileage.

BILL ANALYSIS: The proposed committee substitute for HB 315 provides that a classified motor vehicle's property tax value may not exceed its wholesale value. The wholesale value is presumed to be the value of the vehicle set in a schedule of vehicle values adopted by the Department of Revenue. The schedule of values may not exceed the wholesale values of motor vehicles published in a recognized automotive reference manual. The proposed committee substitute differs from the original bill in that its reference to wholesale values is more generic. The original bill provided that the value of a classified

motor vehicle could not exceed the applicable retail trade-in value determined under the National Automobile Dealers Association Official Used Car Guide.

BACKGROUND: The General Assembly enacted the classification to improve the collection rate for property taxes on motor vehicles. Millions of dollars in property tax revenue was being lost each year because of noncompliance with the requirement to list motor vehicles for property taxes. By tying the listing of most motor vehicles to the registration of the vehicles, the 1991 act eliminated most of the opportunity for noncompliance.

H315-SMRB-001

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: H.B. 315 PCS DRAFT

SHORT TITLE: Motor Vehicle Tax Value

SPONSOR(S): Rep. C. Wilson

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	$ Millions				
	FY 1999-00	**FY 2000-01**	**FY 2001-02**	**FY 2002-03**	**FY 2003-04**
REVENUES					
General Fund	No General Fund Impact				
Local Governments	(86.0)	(110.5)	(118.2)	(126.5)	(135.3)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: County and City Governments.

EFFECTIVE DATE: July 1, 1999.

BILL SUMMARY: Currently the law states that vehicles, as well as other forms of property, must be assesses at their true value. It also states that "true value shall be interpreted as meaning market value" (G.S. 105-283). This bill redefines true value for automobiles as either the market value or the wholesale value, whichever is less.

ASSUMPTIONS AND METHODOLOGY: At present one data company, TEC Data Systems, provides vehicle tax values to all county assessors statewide. This information is generally used to determine the value for property tax purposes, and reflects a value that is equivalent to or slightly less than retail. This is the amount most counties use to determine the "market value" of a vehicle.

The total statewide value of all vehicles, as reported to the Department of Revenue, for fiscal years 1995-96 through 1998-99 is as follows:

	1995-96	1996-97	1997-98	1998-99*
Vehicle Value	33,430,604,088	37,563,953,946	45,081,633,555	45,456,523,592

** Indicates this is preliminary data, with only 95 of 100 counties reporting.*

While growth in this sector has been very strong, it is expected to level off in the next few years. As such, this note assumes a 7% growth rate.

The 1997-98 weighted average property tax rate for all governmental jurisdictions in the state (cities and counties) was $0.968 per $100.00 of assessed value. The rate has varied from in the past ten years from a low of $0.938 per $100.00 (1988-89) to a high of $0.994 per $100.00 (1993-94 and 1994-95). Because of increasing pressures to build schools and provide other services, this note assumes a rate of $1.00 per $100.00 of assessed value for the five year period of the note.

Assuming 7% annual growth in the motor vehicle tax base, and a flat weighted average tax rate of $1.00 per $100.00 of assessed value, the expected property tax revenue from motor vehicles is as follows:

	1999-00	2000-01	2001-02	2002-03	2003-04
Vehicle Value	$51,613,962,257	$55,226,939,615	$59,092,825,388	$63,229,323,165	$67,655,375,787
Property Tax	$516,139,623	$552,269,396	$590,928,254	$632,293,232	$676,553,758

TEC Data Systems also provides a value estimate to the Division of Motor Vehicles. The estimated values given to the Division of Motor Vehicles are considered to be representations of "wholesale" value. According to TEC Data Systems, those wholesale numbers are, on average, 20% lower than the market value numbers delivered to the county assessors. As such, changing to wholesale values would reduce the motor vehicle tax base by approximately 20%.

	1999-00	2000-01	2001-02	2002-03	2003-04
Total Wholesale Value	$41,291,169,806	$44,181,551,692	$47,274,260,311	$50,583,458,532	$54,124,300,630
Property Tax	$ 412,911,698	$ 441,815,517	$ 472,742,603	$ 505,834,585	$ 541,243,006

The net loss per fiscal year would be as follows:

	1999-00	2000-01	2001-02	2002-03	2003-04
Property Tax Loss	($103,227,925)	($110,453,879)	($118,185,651)	($126,458,646)	($135,310,752)

The fiscal impact for FY 1999-00 would actually be slightly less than the above number to account for the lag in tax payments.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY:

DATE: April 22, 1999

City-County Tax Collector
PO Box 32247
Charlotte, NC 28232-2247

VEHICLE TAX STATEMENT

TAX YEAR :1998
BILLING DATE :03/31/1999
DUE DATE :UPON RECEIPT
INTEREST BEGINS:05/01/1999 *

* Pay before this date to avoid interest.

(See reverse for important information.)

Bill Number	Account Number	Billing Date	Due Date	Interest Begins
1998-9786047	1998-12-384274	03/31/1999	UPON RECEIPT	05/01/1999

Year	Make	Model	Type	Vehicle ID Number	Plate	Tax Value
1998	HOND	ACCORD EXVL	4S	1HGCG1656WA037186	DYJ6283	23,090

Owner Name and Address

WILSON CONSTANCE KRAMER
WILSON THOMAS SINGLETON
726 LANSDOWNE RD
CHARLOTTE NC 28270-5902

1998 TAX RATE USED

DESCRIPTION	RATE	TAX/FEE
CHAR TAX	.4720	$108.98
CHAR AUTO	30.0000	$30.00
MECK TAX	.6850	$158.17
TOTAL >>>		$297.15

Due UPON RECEIPT Interest Begins 05/01/1999

-MAKE CHECK PAYABLE TO:
CITY-COUNTY TAX COLLECTOR

-IF YOU HAVE QUESTIONS ABOUT YOUR BILL, CALL TAX CUSTOMER SERVICE AT (704) 336-4600.

-INTEREST ACCRUES AT THE RATE OF 3/4% PER MONTH.

-FAILURE TO PAY MAY RESULT IN:

1) DMV'S REFUSAL TO RENEW YOUR PLATE.

2) GARNISHMENT OR LEVY after the "Interest Begins" date.

-TAX IS BASED ON VEHICLE OWNED AT TIME OF TAG RENEWAL.

-IMPORTANT INFORMATION ON REVERSE SIDE

Payment can be made in person to: CITY-COUNTY TAX COLLECTOR
720 EAST 4TH STREET, SUITE 414, CHARLOTTE, NC
HOURS 8:00 a.m. - 5:00 p.m. MONDAY - FRIDAY

DETACH AND RETAIN THIS PORTION FOR YOUR RECORDS

RETURN THIS PORTION WITH PAYMENT V/T

Billing Date	Year/Bill Number	Account Number	TOTAL DUE
03/31/1999	1998-9786047	1998-12-384274	$297.15

(60)

RETURN THIS PORTION WITH PAYMENT. ------>>>

FOR RECEIPT, SEND SELF-ADDRESSED STAMPED ENVELOPE.

DO NOT SEND CASH.

Remit payment to:
CITY-COUNTY TAX COLLECTOR
PO BOX 32247
CHARLOTTE, NC 28232-2247

#BWNFLWM AUTO ********** 5-DIGIT 28270
#199897860474#

☐ Check here for elderly application(see back)

WILSON CONSTANCE KRAMER
WILSON THOMAS SINGLETON
726 LANSDOWNE RD
CHARLOTTE NC 28270-5902

022245

00002971509897860470000297150989786047 4

Kelley Blue Book
kbb.com – guiding the car buyer

USED CAR VALUES
NEW CAR PRICING
MOTORCYCLES

BUY A CAR
SELL YOUR CAR
GET FINANCING
GET INSURANCE

REVIEWS
HOT 50 CARS
LEMON CHECK

BUY THE BOOK
ABOUT US
CONTACT US
FAQ
HOME

Click on the image above to visit this advertiser

Blue Book Retail Report

North Carolina • April 26, 1999

1998 Honda Accord EX Sedan 4D

Engine: V6 3.0 Liter VTEC
Trans: Automatic Trans.
Drive: Front Wheel Drive
Mileage: 30,000

Local Dealer Internet Price
Sell Your Car
Online Financing Quote
Online Insurance Quote
Another Report

Equipment

Air Conditioning	Cruise Control	ABS (4-Wheel)
Power Steering	AM/FM Stereo	Leather
Power Windows	Cassette	Power Seat
Power Door Locks	Compact Disc	Sliding Sun Roof
Tilt Wheel	Dual Air Bags	Alloy Wheels

Retail Value **$21,515**

Suggested retail represents the price a dealership might ask for this make and model vehicle. This represents a fully reconditioned vehicle in excellent condition with a clean title history. This retail price is not a trade-in or private-party value, but rather assumes that a dealer has absorbed the cost of making the vehicle ready for sale, reconditioning, advertising, sales commissions, arranging for financing and insurance and standing behind the vehicle for any mechanical or safety problems. Many late model vehicles at this price have passed an inspection program or carry a warranty. Actual dealer selling price may vary from this price.

Copyright © 1999 by Kelley Blue Book Co., All Rights Reserved. Mar-Apr 1999 Edition.
The information in this report was printed from the Kelley Blue Book Web Site (www.kbb.com) and is intended for the personal use of the customer only and may not be sold or transmitted to another party. We assume no responsibility for errors or omissions.

Click on the image above to visit this advertiser

classifieds2000 The Internet Classifieds. back to Classifieds2000

Speedlane
WARNING: Your browser is going too slow

Click on the image above to visit this advertiser

Blue Book Trade-In Report

North Carolina • April 26, 1999

1998 Honda Accord EX Sedan 4D

Local Dealer Internet Price
Sell Your Car
Online Financing Quote
Online Insurance Quote
Another Report

Engine: V6 3.0 Liter VTEC
Trans: Automatic Trans.
Drive: Front Wheel Drive
Mileage: 30,000

Equipment

Air Conditioning	Cruise Control	ABS (4-Wheel)
Power Steering	AM/FM Stereo	Leather
Power Windows	Cassette	Power Seat
Power Door Locks	Compact Disc	Sliding Sun Roof
Tilt Wheel	Dual Air Bags	Alloy Wheels

Consumer Rated Condition: Excellent

An "excellent" vehicle rating means that the vehicle looks excellent, is in excellent mechanical condition and needs no reconditioning. It should pass a smog inspection. The engine compartment should be clean, with no fluid leaks. The paint is glossy and the paint, body and interior are free of any wear or visible defects. There is no rust. The tires are new or nearly new. A clean title history is assumed.

Trade-In Value (Excellent) $16,635

Trade-in value represents what you might expect to receive from a dealer for this consumer owned vehicle. Keep in mind that the dealer must then absorb the cost of making the vehicle ready for sale, advertising, sales commissions, arranging financing and insurance and standing behind the vehicle for any mechanical or safety problems.

Copyright © 1999 by Kelley Blue Book Co., All Rights Reserved. Mar-Apr 1999 Edition.
The information in this report was printed from the Kelley Blue Book Web Site (www.kbb.com) and is intended for the personal use of the customer only and may not be sold or transmitted to another party. We assume no responsibility for errors or omissions.

Speedlane
WARNING: Your browser is going too slow

Click on the image above to visit this advertiser

classifieds2000 The Internet Classifieds. back to Classifieds2000

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

HOUSE BILL 358

Short Title: Fair Automobile Property Taxes. (Public)

Sponsors: Representatives Allred; Arnold, Brown, Cansler, Capps, Creech, Davis, Hill, Justus, Morris, Rayfield, Russell, Sherrill, Walend, Warner, and Wood.

Referred to: Finance.

March 8, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A MOTOR VEHICLE'S PROPERTY TAX VALUE MAY NOT EXCEED ITS TRADE-IN VALUE, AND TO EXTEND THE TIME PERIOD FOR APPEALING A VEHICLE'S APPRAISED VALUE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-330.2 reads as rewritten:

"**§ 105-330.2. Appraisal, ownership, and situs.**

(a) Date Determined. -- The value of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) (registered vehicles) shall be determined as follows:

(1) For a vehicle registered under the staggered system, the value shall be determined annually as of January 1 preceding the date a new registration is applied for or the current registration expires.

(2) For a vehicle newly registered under the annual system, the value shall be determined as of January 1 of the year the new registration is obtained. For a vehicle whose registration is renewed under the annual system, the value shall be determined as of January 1 following the date the registration expires.

If the value of a new motor vehicle cannot be determined as of the date specified above, the value of that vehicle shall be determined for that year as of the date that model vehicle is first offered for sale at retail in this State. The ownership, situs, and taxability of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) (registered vehicles) shall be determined annually as of the day on which a new

registration is applied for or the day on which the current vehicle registration is renewed, regardless of whether the registration is renewed after it has expired.

The value of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(2) (unregistered vehicles) shall be determined as of January 1 of the year in which the motor vehicle is required to be listed pursuant to G.S. 105-330.3(a)(2). The ownership, situs, and taxability of a classified motor vehicle listed or discovered pursuant to G.S. 105-330.3(a)(2) (unregistered vehicles) shall be determined as of January 1 of the year in which the motor vehicle is required to be listed.

(b) Value; Appeal. -- A classified motor vehicle shall be appraised by the assessor at the lesser of its true value in money as prescribed by G.S. ~~105-283.~~ 105-283 or the applicable retail trade-in value, if any, determined under the National Automobile Dealers Association Official Used Car Guide. The owner of a classified motor vehicle may appeal the appraised value of the vehicle in the manner provided by G.S. 105-312(d) for appeals in the case of discovered property and may appeal the situs or taxability of the vehicle in the manner provided by G.S. 105-381. The owner of a classified motor vehicle must file an appeal of appraised value with the assessor within 30 days after the date of the tax notice prepared pursuant to G.S. ~~105-330.5.~~ 105-330.5 or by the date the tax on the vehicle is due, whichever is later. Notwithstanding G.S. 105-312(d), an owner who appeals the appraised value of a classified motor vehicle shall pay the tax on the vehicle when due, subject to a full or partial refund if the appeal is decided in the owner's favor.

(c) Administration. -- The Department of Revenue, acting through the Property Tax Division, and the Department of Transportation, acting through the Division of Motor Vehicles, shall enter into a memorandum of understanding concerning the vehicle identification information, name and address of the owner, and other information that will be required on the motor vehicle registration forms to implement the tax listing and collection provisions of this Article."

Section 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 1999.

HOUSE BILL 358:
Fair Automobile Property Taxes

BILL ANALYSIS

Committee: House Finance
Date: April 27, 1999
Version: 1st Edition

Introduced by: Rep. Allred
Summary by: Cindy Avrette
Committee Counsel

SUMMARY: House Bill 358 changes the property tax law concerning motor vehicles in two ways. It provides that the value of a classified motor vehicle for property tax purposes would be its true value or its retail trade-in value determined under the National Automobile Dealers Association Official Used Car Guide, whichever is less. It also extends the time a taxpayer has to appeal the appraised value of a motor vehicle. The bill is effective for taxes imposed for taxable years beginning on or after July 1, 1999.

CURRENT LAW: The General Assembly classified motor vehicles registered with the Division of Motor Vehicles as a special class of property in 1991. Classified vehicles are taxed on a revolving, year-round schedule. Every month, DMV provides each county a list of the motor vehicles in the county for which registration was renewed or obtained two months earlier. The county lists and appraises the vehicles and sends the vehicle owners a bill for the county, city, and special district taxes due. Taxes on registered motor vehicles are due four months after the registration is obtained or renewed. If the taxes on a registered vehicle are not paid within four months after they become due, the county includes the motor vehicle on a list that is sent to DMV and DMV cannot renew the vehicle's registration the following year unless the taxpayer obtains a receipt showing that the previous year's taxes have been paid

For classified motor vehicles, the ownership, situs, and taxability of the vehicle is determined annually as of the day on which a new registration is applied for or the day on which the current vehicle registration is renewed. However, the value of the vehicle is determined annually as of January 1 preceding the date the new registration is applied for or the current registration expires. Therefore, property tax bills that a taxpayer receives in January through April of each year are based on the value of the vehicle as of the preceding January.

The value of a vehicle, like all other tangible personal property, is based upon it true value in money as prescribed by G.S. 105-283. The words "true value in money" mean the price at which the property would change hands between a willing and financially able buyer and a willing seller. To determine "true value", counties use a pricing guide. Most counties use a pricing guide developed by Tax Equity Consultants. The pricing guides used by counties reflect the average retail prices paid for motor vehicles. In determining retail prices, all costs that are necessary to acquire and operate a motor vehicle are considered. A taxpayer who disagrees with the appraised value of a vehicle has 30 days after the date the tax notice was prepared to appeal the value. Counties will adjust an appraised value for reasons such as the vehicle's condition or excessive mileage.

BILL ANALYSIS: House Bill 358 provides that a classified motor vehicle's property tax value may not exceed the applicable retail trade-in value determined under the National Automobile Dealers Association Official Used Car Guide. It also gives a taxpayer additional time to appeal the appraised value of a motor vehicle by extending the time for appeal from 30 days after the date the tax notice is prepared until the date the tax on the vehicle is due.

BACKGROUND: The General Assembly enacted the classification to improve the collection rate for property taxes on motor vehicles. Millions of dollars in property tax revenue was being lost each year because of noncompliance with the requirement to list motor vehicles for property taxes. By tying the listing of most motor vehicles to the registration of the vehicles, the 1991 act eliminated most of the opportunity for noncompliance.

H358-SMRB-001

1st

ROLL CALL VOTE

15 YES 18 NO = _____(TOTAL)

HB# 450
SB# _____

HOUSE STANDING COMMITTEE ON
FINANCE

House Subcommittee on Finance

Req. Cert to hear motion to bring bill before Comm
~~HB~~ 450

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
√		MILLER, GEORGE			McALLISTER, MARY
√		LUEBKE, PAUL		√	McCOMAS, DANNY
√		ALLEN, GORDON		√	McCOMBS, GENE
	√	JARRELL, MARY		√	MINER, DAVID
	√	WOOD, STEVE		√	MORRIS, MIA
√		BRASWELL, JERRY			MOSLEY, JANE
√		BRIDGEMAN, JOHN		√	~~NEELY, CHUCK~~ Pope, Art
	√	BROWN, JOHN	√		RAMSEY, LISTON
	√	BUCHANAN, MONROE		√	RAYFIELD, JOHN
	√	CAPPS, RUSSELL		√	STARNES, EDGAR
	√	CHURCH, WALT	√		TALLENT, TIM
√		COX, LESLIE	√		TUCKER, RUSSELL
	√	CREECH, BILLY		√	WILSON, CONNIE
	√	DECKER, MIKE	√		WOMBLE, LARRY
√		DEDMON, ANDY	√		WRIGHT, TOM
	√	EDDINS, RICK			
√		EDWARDS, ZENO			
		FITCH, TOBY			
√		GOBSON, PRYOR			
		~~GOODWIN, WAYNE~~			
	√	GRAY, LYONS	Ex officio Members		
√		HACKNEY, JOE	√		CUNNINGHAM
	√	HILL, DEWEY			Majority Leader BADDOUR
		HOWARD, JULIA			Majority Whip EARLE

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1237 A BILL TO BE ENTITLED AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF LANDSCAPE ARCHITECTS TO CHARGE APPLICANTS FOR LICENSURE THE ACTUAL COST OF EXAMINATION SERVICES.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

HOUSE BILL 1237

Short Title: Landscape Architects Exam Fee. (Public)

Sponsors: Representative McMahan.

Referred to: Finance.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF LANDSCAPE ARCHITECTS TO CHARGE APPLICANTS FOR LICENSURE THE ACTUAL COST OF EXAMINATION SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 89A-6 reads as rewritten:

"**§ 89A-6. Fees.**

Fees are to be determined by the Board, but shall not exceed the amounts specified herein, however; fees must reflect actual expenses of the Board.

Application	$100.00
~~Examination~~	~~450.00~~
License by reciprocity or comity	250.00
Annual license renewal	100.00
Late renewal penalty	50.00
Reissue of certificate	25.00
Corporate certificate	250.00

In all instances where the Board uses the services of a testing service for preparation, administration, or grading of examinations, the Board may charge the applicant the actual cost of the examination services, in addition to its other fees. Fees shall be paid to the Board at the times specified by the Board."

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

HOUSE BILL 1237:
Landscape Architects Exam Fee

BILL ANALYSIS

Committee: House Finance
Date: April 27, 1999
Version: 1st Edition

Introduced by: Rep. McMahan
Summary by: Cindy Avrette
Committee Counsel

SUMMARY: ***House Bill 1237 removes the $450 maximum limit on the examination fee the North Carolina Board of Landscape Architects may impose and replaces it with language that will allow the Board to recover its actual examination costs. The bill is effective when it becomes law.***

CURRENT LAW: In North Carolina, a person may not engage in landscape architecture unless the person is licensed to be a landscape architect by the North Carolina Board of Landscape Architects. Landscape architecture is the preparation of plans and specifications for, and the supervision of, projects involving the arranging of land and the elements used on it for drainage, soil conservation, grading and planting plans, and erosion control. To be licensed as a landscape architect by the Board, a person must meet all of the following conditions:

- Be at least 18 years old.
- Be of good moral character.
- Be a graduate of a Landscape Architect's Accreditation Board accredited collegiate curriculum in landscape architecture and have at least four years experience in landscape architecture. **OR** Have a minimum of 10 years of education and experience in landscape architecture.
- Pass a Board examination.

The license must be renewed annually. The current application fee is $100. The current examination fee is $450. The current renewal fee is $100.

BILL ANALYSIS: The bill removes the $450 maximum limit on the examination fee and replaces it with language that will allow the Board to recover its actual examination costs. The Board uses a testing service for the preparation, administration, and grading of its examinations. The current cost of this service is $560 per exam. This cost does not include the Board's administrative costs.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1237 (First Edition)

SHORT TITLE: Landscape Architects Exam Fee

SPONSOR(S): Representative McMahan

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Bd. Operating Fund					
National Exam	$4,400	$4,400	$4,400	$4,400	$4,400
Admin. Expense		Not Yet Determined By Board			

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Board of Landscape Architects

EFFECTIVE DATE: The act is effective when it becomes law.

BILL SUMMARY: The bill authorizes the North Carolina Board of Landscape Architects to charge applicants for licensure the actual cost of examination services.

ASSUMPTIONS AND METHODOLOGY:
The Board of Landscape Architects purchases a national exam from the Council of Landscape Architectural Registration Boards for $560 per exam. The current statute only allows the Board to charge exam applicants $450 for the test. The Board is attempting to recover the $110 additional cost of the exam. The Board may also recoup the cost of administering the exam, but this decision has not yet been decided.

The exam has six sections. Applicants may take the entire exam or may take sections of the exam. Approximately 20 applicants take the entire exam each year and 40 applicants take an average of three exam sections. The price of the exam is prorated based on the number of exam sections taken. The 20 applicants paying $560 for the total exam will produce an additional $2200 in revenue for the Board. The 40 applicants taking 3 sections of the exam and paying $280 will also produce $2200 in additional revenue for the Board.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic
APPROVED BY:
DATE:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1308
PROPOSED COMMITTEE SUBSTITUTE
H1308-PCSRB-1

Short Title: Government Sales Tax Exemption. (Public)

Sponsors:

Referred to: Finance.

April 22, 1999

A BILL TO BE ENTITLED

AN ACT TO EXEMPT CERTAIN GOVERNMENT PURCHASES FROM STATE AND LOCAL SALES TAX AND TO ALLOW COMMUNITY COLLEGES REFUNDS OF SALES TAXES PAID BY THEM ON TANGIBLE PERSONAL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.13 is amended by adding a new subdivision to read:

"(46) Tangible personal property purchased by a local government unit as defined in G.S. 105-164.29A, if the purchase is made by unit check or credit account and accompanied by a local government exemption certificate signed by the finance officer of the unit and describing the property purchased."

Section 2. G.S. 105-164.14(c) reads as rewritten:

"(c) Certain Governmental Entities. -- A governmental entity listed in this subsection is allowed an annual refund of sales and use taxes paid by it under this Article, except under G.S. 105-164.4(a)(4a) and G.S. 105-164.4(a)(4c), on direct purchases of tangible personal property. Sales and use tax liability indirectly incurred by a governmental entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered, or repaired for use by the governmental entity is considered a sales or use tax liability incurred on direct

purchases by the governmental entity for the purpose of this subsection. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the governmental entity's fiscal year.

This subsection applies only to the following governmental entities:

(1) A county.

(2) A city as defined in G.S. 160A-1.

(2a) A consolidated city-county as defined in G.S. 160B-2.

(2b) A local school administrative unit.

(3) A metropolitan sewerage district or a metropolitan water district in this State.

(4) A water and sewer authority created under Chapter 162A of the General Statutes.

(5) A lake authority created by a board of county commissioners pursuant to an act of the General Assembly.

(6) A sanitary district.

(7) A regional solid waste management authority created pursuant to G.S. 153A-421.

(8) An area mental health, developmental disabilities, and substance abuse authority, other than a single-county area authority, established pursuant to Article 4 of Chapter 122C of the General Statutes.

(9) A district health department.

(10) A regional council of governments created pursuant to G.S. 160A-470.

(11) A regional planning and economic development commission or a regional economic development commission created pursuant to Chapter 158 of the General Statutes.

(12) A regional planning commission created pursuant to G.S. 153A-391.

(13) A regional sports authority created pursuant to G.S. 160A-479.

(14) A public transportation authority created pursuant to Article 25 of Chapter 160A of the General Statutes.

(14a) A facility authority created pursuant to Part 4 of Article 20 of Chapter 160A of the General Statutes.

(15) A regional public transportation authority created pursuant to Article 26 of Chapter 160A of the General Statutes.

(16) A local airport authority that was created pursuant to a local act of the General Assembly and has at least one of the following characteristics:

a. It has all of the rights of a municipality.

b. A local act of the General Assembly declares it to be a municipality.

c. A local act of the General Assembly specifically authorizes it to receive a refund under this section.

(17) A joint agency created by interlocal agreement pursuant to G.S. 160A-462 to operate a public broadcasting television station.

(18) The North Carolina Low-Level Radioactive Waste Management Authority created pursuant to Chapter 104G of the General Statutes.

(19) The North Carolina Hazardous Waste Management Commission created pursuant to Chapter 130B of the General Statutes.

(20) A constituent institution of The University of North Carolina, but only with respect to sales and use tax paid by it for tangible personal property acquired by it through the expenditure of contract and grant funds.

(21) The University of North Carolina Hospitals at Chapel Hill.

(22) An institution of the community college system established in Chapter 115D of the General Statutes.

(23) The North Carolina Center for Applied Textile Technology created in Article 6 of Chapter 115D of the General Statutes."

Section 3. Part 5 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.29A. Local government exemption.**

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

(1) Finance officer. -- Any of the following:

a. The finance officer of a county or a city.

b. The school finance officer of a local school administrative unit.

c. In the case of a community college, a bonded official designated under G.S. 115D-58.8.

(2) Local government unit. -- Any of the following:

a. (Effective July 1, 2001) A local school administrative unit.

b. (Effective July 1, 2001) An institution of the community college system established in Chapter 115D of the General Statutes.

c. (Effective July 1, 2002) A county.

d. (Effective July 1, 2003) A city as defined in G.S. 160A-1.

(b) Registration. -- To be eligible for the exemption provided in G.S. 105-164.13(46), a local government unit must register with the Department of Revenue. The application for registration must be in the form required by the Secretary, be signed by the finance officer, and contain any information required by the Secretary. Upon registration, the Secretary must assign a registration number to the local government unit.

(c) Local Government Exemption Certificate. -- To obtain the exemption provided in G.S. 105-164.13(46) for a purchase, a local government unit must make the

purchase by unit check or unit credit card or account and provide the seller a local government exemption certificate that meets the following conditions:

(1) It is in the form required by the Secretary.

(2) It is signed by the finance officer of the local government unit.

(3) It contains the name, address, and registration number of the local government unit.

(4) It describes the tangible personal property purchased.

(d) Liability. -- A seller of property sold under a local government exemption certificate is jointly liable with the purchaser of the property for any tax subsequently determined to be due on the sale unless all of the conditions of subsection (c) of this section were met."

Section 4. G.S. 159-28 is amended by adding a new subsection to read:

"(d1) Tax-Exempt Purchases. -- The finance officer of a county or city is the official responsible for registering the county or city for sales tax exemption in accordance with G.S. 105-164.29A, signing local government exemption certificates for exempt purchases, and verifying that all property purchased with a local government exemption certificate is for use by the county or city as provided in G.S. 105-164.13(46)."

Section 5. G.S. 115C-441 is amended by adding a new subsection to read:

"(d1) Tax-Exempt Purchases. -- The school finance officer is the official responsible for registering the local school administrative unit for sales tax exemption in accordance with G.S. 105-164.29A, signing local government exemption certificates for exempt purchases, and verifying that all property purchased with a local government exemption certificate is for use by the local school administrative unit as provided in G.S. 105-164.13(46)."

Section 6. G.S. 115D-58.8 reads as rewritten:

"**§ 115D-58.8. Facsimile ~~signatures.~~ signatures; tax-exempt purchases.**

(a) Facsimile Signatures. -- The board of trustees may provide by appropriate resolution for the use of facsimile signature machines, signature stamps, or similar devices in signing checks and drafts. The board shall charge some bonded officer or employee with the custody of the necessary machines, stamps, plates, or other devices, and that person and the sureties on ~~his~~ that person's official bond are liable for any illegal, improper, or unauthorized use of them. Rules and regulations governing the use and control of the facsimile signature shall be adopted by the State Board of Community Colleges.

(b) Exemption Certificate. -- If the board of trustees wishes to take advantage of the sales tax exemption provided in G.S. 105-164.29A, the board must charge some bonded officer or employee with responsibility for the program. This officer is responsible for registering the institution for sales tax exemption in accordance with G.S. 105-164.29A, signing local government exemption certificates for exempt purchases, and verifying that all property purchased with a local government exemption certificate is for use by the institution as provided in G.S. 105-164.13(46).

The official and the sureties liable on the official's bond are liable for any illegal, improper, or unauthorized use of a local government exemption certificate."

Section 7. G.S. 159-25(a) reads as rewritten:

"(a) The finance officer shall have the following powers and duties:

(1) ~~He shall~~ To keep the accounts of the local government or public authority in accordance with generally accepted principles of governmental accounting and the rules ~~and regulations~~ of the Commission.

(2) ~~He shall~~ To disburse all funds of the local government or public authority in strict compliance with this Chapter, the budget ordinance, and each project ordinance and ~~shall~~ to preaudit obligations and disbursements as required by this Chapter.

(3) As often as may be requested by the governing board or the manager, ~~he shall~~ to prepare and file with the board a statement of the financial condition of the local government or public authority.

(4) ~~He shall~~ To receive and deposit all moneys accruing to the local government or public authority, or supervise the receipt and deposit of money by other duly authorized officers or employees.

(5) ~~He shall~~ To maintain all records concerning the bonded debt and other obligations of the local government or public authority, determine the amount of money that will be required for debt service or the payment of other obligations during each fiscal year, and maintain all sinking funds.

(6) ~~He shall~~ To supervise the investment of idle funds of the local government or public authority.

(7) ~~He shall~~ To perform ~~such~~ any other duties ~~as~~ that may be assigned ~~to him~~ by law, by the manager, budget officer, or governing board, or by rules ~~and regulations~~ of the Commission.

All references in other portions of the General Statutes, local acts, or city charters to county, city, special district, or public authority accountants, treasurers, or other officials performing any of the duties conferred by this section on the finance officer shall be deemed to refer to the finance officer."

Section 8. G.S. 105-236 is amended by adding a new subdivision to read:

"(5c) Misuse of Local Government Exemption Certificate. -- For misuse of a local government exemption certificate by a purchaser, the Secretary shall assess an additional tax, as a penalty, of two hundred fifty dollars ($250.00) or 10 times the sales price of the property purchased, whichever is greater."

Section 9. Sections 4 and 7 of this act and G.S. 105-164.29A(a)(2)c., as enacted by Section 3 of this act, become effective July 1, 2002, and apply to taxes paid on or after that date. G.S. 105-164.29A(a)(2)d., as enacted by Section 3 of this act, becomes effective July 1, 2003, and applies to taxes paid on or after that date.

The remainder of this act becomes effective July 1, 2001, and applies to taxes paid on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1308

Short Title: Government Sales Tax Exemption. (Public)

Sponsors: Representatives Allen; Miller and Luebke.

Referred to: Finance.

April 22, 1999

A BILL TO BE ENTITLED

AN ACT TO EXEMPT CERTAIN GOVERNMENT PURCHASES FROM STATE AND LOCAL SALES TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.13 is amended by adding a new subdivision to read:

"(46) Tangible personal property purchased by a local government unit as defined in G.S. 164.29A, if the purchase is made by unit check or credit account and accompanied by a local government exemption certificate signed by the finance officer of the unit and describing the property purchased."

Section 2. Part 5 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.29A. Local government exemption.**

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

(1) Finance officer. -- Any of the following:

a. The finance officer of a county or a city.

b. The school finance officer of a local school administrative unit.

c. In the case of a community college, a bonded official designated under G.S. 115D-58.8.

(2) Local government unit. -- Any of the following:

a. (Effective July 1, 2001) A local school administrative unit.

b. (Effective July 1, 2001) An institution of the community college system established in Chapter 115D of the General Statutes.
c. (Effective July 1, 2002) A county.
d. (Effective July 1, 2003) A city as defined in G.S. 160A-1.

(b) Registration. -- To be eligible for the exemption provided in G.S. 105-164.13(46), a local government unit must register with the Department of Revenue. The application for registration must be in the form required by the Secretary, be signed by the finance officer, and contain any information required by the Secretary. Upon registration, the Secretary must assign a registration number to the local government unit.

(c) Local Government Exemption Certificate. -- To obtain the exemption provided in G.S. 105-164.13(46) for a purchase, a local government unit must make the purchase by unit check or unit credit card or account and provide the seller a local government exemption certificate that meets the following conditions:

(1) It is in the form required by the Secretary.
(2) It is signed by the finance officer of the local government unit.
(3) It contains the name, address, and registration number of the local government unit.
(4) It describes the tangible personal property purchased.

(d) Liability. -- A seller of property sold under a local government exemption certificate is jointly liable with the purchaser of the property for any tax subsequently determined to be due on the sale unless all of the conditions of subsection (c) of this section were met."

Section 3. G.S. 159-28 is amended by adding a new subsection to read:

"(d1) Tax-Exempt Purchases. -- The finance officer of a county or city is the official responsible for registering the county or city for sales tax exemption in accordance with G.S. 105-164.29A, signing local government exemption certificates for exempt purchases, and verifying that all property purchased with a local government exemption certificate is for use by the county or city as provided in G.S. 105-164.13(46)."

Section 4. G.S. 115C-441 is amended by adding a new subsection to read:

"(d1) Tax-Exempt Purchases. -- The school finance officer is the official responsible for registering the local school administrative unit for sales tax exemption in accordance with G.S. 105-164.29A, signing local government exemption certificates for exempt purchases, and verifying that all property purchased with a local government exemption certificate is for use by the local school administrative unit as provided in G.S. 105-164.13(46)."

Section 5. G.S. 115D-58.8 reads as rewritten:

"**§ 115D-58.8. Facsimile ~~signatures.~~ signatures; tax-exempt purchases.**

(a) Facsimile Signatures. -- The board of trustees may provide by appropriate resolution for the use of facsimile signature machines, signature stamps, or similar devices in signing checks and drafts. The board shall charge some bonded officer or

employee with the custody of the necessary machines, stamps, plates, or other devices, and that person and the sureties on ~~his~~ that person's official bond are liable for any illegal, improper, or unauthorized use of them. Rules and regulations governing the use and control of the facsimile signature shall be adopted by the State Board of Community Colleges.

(b) Exemption Certificate. -- If the board of trustees wishes to take advantage of the sales tax exemption provided in G.S. 105-164.29A, the board must charge some bonded officer or employee with responsibility for the program. This officer is responsible for registering the institution for sales tax exemption in accordance with G.S. 105-164.29A, signing local government exemption certificates for exempt purchases, and verifying that all property purchased with a local government exemption certificate is for use by the institution as provided in G.S. 105-164.13(46). The official and the sureties liable on the official's bond are liable for any illegal, improper, or unauthorized use of a local government exemption certificate."

Section 6. G.S. 159-25(a) reads as rewritten:

"(a) The finance officer shall have the following powers and duties:

(1) ~~He shall~~ To keep the accounts of the local government or public authority in accordance with generally accepted principles of governmental accounting and the rules ~~and regulations~~ of the Commission.

(2) ~~He shall~~ To disburse all funds of the local government or public authority in strict compliance with this Chapter, the budget ordinance, and each project ordinance and ~~shall~~ to preaudit obligations and disbursements as required by this Chapter.

(3) As often as may be requested by the governing board or the manager, ~~he shall~~ to prepare and file with the board a statement of the financial condition of the local government or public authority.

(4) ~~He shall~~ To receive and deposit all moneys accruing to the local government or public authority, or supervise the receipt and deposit of money by other duly authorized officers or employees.

(5) ~~He shall~~ To maintain all records concerning the bonded debt and other obligations of the local government or public authority, determine the amount of money that will be required for debt service or the payment of other obligations during each fiscal year, and maintain all sinking funds.

(6) ~~He shall~~ To supervise the investment of idle funds of the local government or public authority.

(7) ~~He shall~~ To perform ~~such~~ any other duties ~~as~~ that may be assigned ~~to him~~ by law, by the manager, budget officer, or governing board, or by rules ~~and regulations~~ of the Commission.

All references in other portions of the General Statutes, local acts, or city charters to county, city, special district, or public authority accountants, treasurers, or other

officials performing any of the duties conferred by this section on the finance officer shall be deemed to refer to the finance officer."

Section 7. G.S. 105-236 is amended by adding a new subdivision to read:

"(5c) Misuse of Local Government Exemption Certificate. -- For misuse of a local government exemption certificate by a purchaser, the Secretary shall assess an additional tax, as a penalty, of two hundred fifty dollars ($250.00) or 10 times the sales price of the property purchased, whichever is greater."

Section 8. Sections 3 and 6 of this act and G.S. 105-164.29A(a)(2)c., as enacted by Section 2 of this act, become effective July 1, 2002, and apply to taxes paid on or after that date. G.S. 105-164.29A(a)(2)d., as enacted by Section 2 of this act, becomes effective July 1, 2003, and applies to taxes paid on or after that date. The remainder of this act becomes effective July 1, 2001, and applies to taxes paid on or after that date.

HOUSE BILL 1308:
Government Sales Tax Exemption

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Allen
Date:	April 27, 1999	**Summary by:**	Cindy Avrette
Version:	PCS for 1st Edition H1308-PCSRB-1		Committee Counsel

SUMMARY: House Bill 1308 would phase-in a State and local sales and use tax exemption for the following governmental purchases:

- *Effective for purchases made on or after July 1, 2001, local school administrative units and community colleges.*
- *Effective for purchases made on or after July 1, 2002, counties.*
- *Effective for purchases made on or after July 1, 2003, cities.*

The proposed committee substitute adds community colleges to the list of governmental entities that may obtain an annual refund of the State and local sales and use taxes paid by them, effective July 1, 2001.

CURRENT LAW: Counties, cities, and local school administrative units may obtain an annual refund of the State and local sales and use taxes paid by them. The General Assembly authorized local school administrative units to obtain a refund in 1998, effective for purchases made on or after July 1, 1998. To obtain a sales and use tax refund, the entities must request the refund in writing within six months after the end of the unit's fiscal year. Community colleges are not entitled to either an exemption from sales and use tax or a refund of sales and use tax under the current law. The State is allowed quarterly refunds of local sales and use taxes paid by it. The General Assembly enacted this refund provision in 1991.

BACKGROUND: Until 1961, a sales tax exemption was allowed to the State, counties, cities, rural fire protection districts, and nonprofit fire protection corporations. The exemption also applied to contractors' purchases of building materials to be used for construction or repair on behalf of an exempt entity. In 1961, the exemption was converted to a refund limited to counties and cities and contractors purchasing building materials on their behalf. The rationale for this change was that the exemption could be easily abused by someone making purchases for private use but misrepresenting the purchases as being by or for an exempt entity. The State had no effective way of verifying that retailers were exempting only purchases that actually qualified for the exemption.

BILL ANALYSIS: House Bill 1308 has safeguards that were not part of the pre-1961 law in order to prevent abuse of the exemption. The bill limits the exemption to tangible personal property purchased:

1. Directly by the local government unit.
2. With a local government unit check or credit account; and
3. With a local government exemption certificate signed by the finance officer of the unit.

The bill defines a local government unit as a local school administrative unit, a community college, a county, or a city. The city exemption is limited to cities as defined in G.S. 160A-1. Under this statute, a city is an incorporated city, town, or village that either was incorporated before 1945 or is regularly electing officers, levying and collecting property taxes at more than a minimal rate, and adopting an annual budget.

A local government unit that wishes to obtain the local government exemption certificates must register with the Department of Revenue. Each exemption certificate used to purchase property must contain the local government's registration number and a description of the property purchased. This information will be retained by retailers to enable the Department of Revenue's auditors to verify that the exemption is not allowed improperly. If all of these conditions are met, a retailer who honors a local government exemption certificate is not liable for any tax subsequently determined to be due. The local government finance officer would be liable under the Local Government Budget and Fiscal Control Act for misusing an exemption certificate. Existing criminal and civil penalties would apply as well to any person who violates the tax law.

For those purchases that do not qualify for the tax exemption, a city, county, or local school administrative unit may receive a sales tax refund under existing law. **Section 2** of the bill gives community colleges the same ability to request a refund of State and local sales and use taxes paid by it on purchases that do not qualify for the exemption granted in this bill. Under the refund statute, certain government entities are entitled to receive an annual sales tax refund for their purchases of tangible personal property, including purchases on their behalf by contractors of building materials and other items that become part of a local government building being built or repaired by the contractor for the local government. The local government entity keeps records of its purchases and files for the refund each year. Refunds of local sales taxes are deducted from distributions to the taxing county.

Converting the refund to an exemption for certain purchases will reduce the State's interest earnings on the General Fund because the State sales taxes paid by local government taxes under current law are held for a year or so before being refunded.

FISCAL ANALYSIS MEMORANDUM

DATE: April 26, 1999

TO: House Finance Committee

FROM: David Crotts
Fiscal Research Division

RE: HB 1308 – Government Sales Tax Exemption

FISCAL IMPACT

Yes (X) No ( ) No Estimate Available ( )

NOTE: BILL HAS NO FISCAL IMPACT FOR THE 1999-00 OR 2000-01 FISCAL YEARS.

	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05	FY 2005-06
REVENUES ($Million)					
State General Fund:					
Loss of Interest Income	-1.0	-3.0	-5.6	-5.9	-6.2
Comm. Coll. Exempt.	-4.9	-5.1	-5.4	-5.6	-5.9
Net Impact	**-5.9**	**-8.1**	**-11.0**	**-11.5**	**-12.1**
Local Government:					
Gain In Interest Income	+1.0	+3.0	+5.6	+5.9	+6.2
Comm. Coll. Exempt.	-2.5	-2.6	-2.7	-2.8	-3.0
Net Impact	**-1.5**	**+ .4**	**+2.9**	**+3.1**	**+3.2**

Note: In addition to recurring impact shown, there would be a one-time negative budget impact to the State General Fund, explained in the methodology section, as follows:

2001-02 -$19.0 mill.
2002-03 -$34.4 mill.
2003-04 -$43.5 mill.

Expenditures: Due to the delayed implementation, there should be no additional mailing costs to the Department of Revenue as notice of the proposed change could be included in the normal annual mailing to merchants and other interested parties.

BILL SUMMARY: (1) **Replaces the annual refund of state and local sales taxes allowed counties, cities, and school boards with an exemption, phased-in according to the following schedule:**

School Boards	**Purchases made on or after July 1, 2001**
Counties	**Purchases made on or after July 1, 2002**
Cities	**Purchases made on or after July 1, 2003**

To be eligible the local unit must register with the Department of Revenue, make the purchase by the unit's check or credit account, and provide the seller with the exemption certificate. In addition, the finance officer of the unit shall have the duties of registering for the exemption, signing the exemption certificate, and verifying that all property purchased with the exemption is for use by the unit. In addition, the bill sets out penalties for misuse of a local government exemption certificate.

(2) Exempts community college purchases from state and local sales tax, effective for purchases made on or after July 1, 2001.

ASSUMPTIONS AND METHODOLOGY: Local Government Tax Refund:

The shift from a refund to an exemption would reduce interest income for the State and add to investment earnings of local units. The reason has to do with the fact that refunds are paid the year after the purchase is made. A review of the refunds paid by month for a recent fiscal year indicates that the average refund to local units is paid in November of the fiscal year following the purchase of taxable personal property. In analyzing the cost of the exemption, it was assumed that exempt purchases would be made at an even rate through the fiscal year. Thus, the "average purchase" is made around January 1. This meant that a sales tax exemption for local units would accelerate sales tax relief from November back to January, a period of 11 months. The assumed interest rate used for the calculation of the interest income loss to the State (and gain to local units) was 6%, based on a recent estimate by the Office of State Treasurer for the 1999-00 fiscal year. This means that the effective interest loss is equal to 5.5% (6% for 11 months) times the exemption amount.

The actual refunds paid to local units during the 1997-98 fiscal year were $52.4 million, according to the Department of Revenue. This amount was grown by 6% for 1998-99 and 5% for future years. The refund amount was then moved back one year to obtain an estimate of the exemption dollars.

For public school purchases, the 1997 session model developed to cost out the new refund for public school was used. This model separately estimated the refunds for current expense purchases and capital outlay. The capital number was adjusted upward to account for the $1.8 billion state school bond authorization. For capital purchases, it was assumed that 50% of the cost was for taxable purchases of tangible personal property (versus exempt labor charges). In

addition, the 1997 analysis assumed that for each of the $450 million installments of the $1.8 billion school bond authorization, 30% of the proceed would be spend in the first year after the bonds were sold, 40% the next year, and 30% the following year.

Community College Exemption. The Department of Community Colleges has indicated that a review of their accounting records shows state and local sales tax of $6.0 million paid on purchases during the 1997-98 fiscal year. This amount was grown by 5% per year to come up with cost estimates for future years.

One Time Impact:
The state general fund budget is prepared on a cash basis and under current law refunds to local units are made in the year after the actual purchases. These two factors mean that for the first year of the change to an exemption, the State General Fund would see reduced sales tax revenue stemming from the combination of an exemption **plus the refunds to local units for purchases made the prior year.** The phased-in implementation of the change means that the one-time negative impact on the General Fund budget will occur over a 3-year period. The affects the budget availability for capital improvements and one-time expenditures such as employee bonuses and litigation costs. Since most counties and cities count the potential refund as a "receivable" in the year of the purchase, there should be no one-time gain or loss to local units.

VISITOR REGISTRATION SHEET

House Finance — April 27, 1999
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ken Bridges	DCC
Mark Bissett	Capital Group
Charles Collie	REVGNNE
Patty Stanwell	"
Andy Sabb	"
David Bruce	"
Jim Blackburn	County commrs
Mike SALANIK	Roanoke Rapids Board of Education
John Baity	Dept. of Rev.
[illegible]	N.C. Retail Merch.
Rocky Barrett	NCCCC
Jim Speed	Louisburg
Lonnie Mann	NCSBA
Andy Romanet	NCLM.
Mark Hawks	LOLA
Hugh Tilson	NCHA
[illegible]	[illegible]
Cathryn Grantham	NCCCS
Andy Ellen	NCRMA
Paul Preston	NCRMA
Jean Shaw	NCAFL
Bob ALLEY	ZDA PA
V L McBride	NCTA
Alexis Richards	Electric Cities
Dwight Spencer	TMHEC / Public Affairs Consultant
Peter Stoltz	NC BANKERS ASSN.
[illegible]	Gov. Edwards
Katherine Davis	Electricities
John Nichols	NCFBC

VISITOR REGISTRATION SHEET

HOUSE FINANCE COMMITTEE 4/27/99

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Hal D. Miller	NC ACCT
Charles V. Lathan	NC State Cyberculture Society
Elizabeth Johns	NCCS
[illegible]	Bode Call & Stroupe

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Tuesday, May 4, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 237 - Boat Agent Fees/AB - Rep. Gulley
HB 419 - Mount Airy Satellite Annexation - Rep. Hiatt
HB 708 - Sanford-Lee Airport Authority Refunds - Rep. Cox
HB 738 - Greenville Satellite Annextions - Rep. Rogers
HB 1308 - Government Sales Tax Exemption - Rep. Allen

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Tuesday, May 4, 1999

The House Committee on Finance met on Tuesday, May 4, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Miller; Vice Chair Jarrell; Representatives Braswell, Bridgeman, Brown, Buchanan, Capps, Church, Cox, Eddins, Edwards, Gibson, Goodwin, Gray, Hill, McCombs, Pope, Ramsey, Rayfield, and Tucker. Staff including Cindy Avrette, Richard Bostic, David Crotts, Mary Shuping, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Allen called the meeting to order to consider the following bills:

Representative Gulley was recognized to explain HB 237, A BILL TO BE ENTITLED AN ACT TO INCREASE THE FEE PAID TO AGENTS OF THE WILDLIFE RESOURCES COMMISSION TO AWARD CERTIFICATES OF BOAT NUMBER OR OTHER VESSEL TRANSACTION AND TO AMEND THE DUTIES OF THE WILDLIFE RESOURCES COMMISSION WITH REGARD TO THE APPOINTMENT OF AGENTS FOR THE ISSUANCE OF BOAT NUMBERS, TO RAISE THE REPORTING REQUIREMENT FOR BOATING ACCIDENTS TO DAMAGES IN EXCESS OF FIVE HUNDRED DOLLARS, AND TO REPEAL THE LAW REQUIRING PERMITS FROM THE WILDLIFE RESOURCES COMMISSION TO HOLD REGATTAS AND OTHER EVENTS. Rep. Hill moved for a favorable report and the motion passed. The bill is included in these minutes.

Rep. Rogers was recognized to explain HB 738, A BILL TO BE ENTITLED AN ACT CONCERNING ANNEXATION OF NONCONTIGUOUS AREAS BY THE CITY OF GREENVILLE. Rep. Church moved for a favorable report and the motion passed. The bill is included in these minutes.

Rep. Hiatt was recognized to explain HB 419, A BILL TO BE ENTITLED AN ACT CONCERNING SATELLITE ANNEXATION AND REMOVING A CERTAIN TRACT OF PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF MOUNT AIRY. Rep. Jarrell moved for a favorable report and the motion passed. The bill is included in these minutes.

Representative Allen was recognized to explain HB 1308, A BILL TO BE ENTITLED AN ACT TO EXEMPT CERTAIN GOVERNMENT PURCHASES FROM STATE AND LOCAL SALES TAX. Rep. Jarrell moved to adopt the Proposed Committee Substitute for discussion purposes and the motion passed. Cindy Avrette explained the content and differences of the bill and the Proposed Committee Substitute. The Chair recognized Sabra Faires, Assistant Secretary of the Revenue Department whom answered members' questions and explained the proposed committee substitute. David Crotts, a fiscal researcher, explained the fiscal impact of the bill. Rep. Buchanan moved for a favorable report to the Proposed Committee Substitute and unfavorable to the original bill. The Chair recognized Jim Blackburn of the County Commissioner's Association

who said his organization supported the bill. The Chair recognized Allison Schaeffer who is legal counsel for the N.C. School Board Association who said her organization supported the bill. The Chair recognized Kenneth Briggs, the Vice President of Finance for the Community College System who announced his organization supported the bill. Cindy Avrette explained the four types of government entities eligible for exemption within this bill in response to a question from Rep. Ramsey. The Chair recognized Andy Romanet of the League of Municipalities who announced his organization supported the bill. The Chair recognized Fran Preston of the N.C. Retail Association who said her organization supported the bill. Rep. Jarrell questioned Sabra Faires about the exemptions. Rep. Allen explained the exemptions in the bill. David Crotts explained the fiscal impact again. Rep. Brown questioned Sabra Faires about the impact of the Department of Revenue personnel. Rep. Buchanan's motion for a favorable report to the Proposed Committee Substitute and unfavorable to the original bill passed. Copies of the bill, Committee Substitute, Bill Summary, and Fiscal Note are included in these minutes.

Rep. Cox was recognized to explain HB 708, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE SANFORD-LEE REGIONAL AIRPORT AUTHORITY TO RECEIVE SALES TAX REFUNDS. Rep. Jarrell asked whether there was precedence for this bill. Cindy Avrette explained the precedence for the bill and that this airport will be qualified to receive sales tax refunds if this bill is passed. Rep. Jarrell moved to give HB 708 a favorable report. The motion passed. Copies of the bill, Bill Summary, and Fiscal Note are included in these minutes.

Rep. Fitch was not present to handle HB 867. Rep. Gulley pulled HB 851 and reschedule it for another day.

There being no further business, the Chair adjourned the meeting at 9:30 a.m.

Respectfully submitted:

Representative Gordon Allen
Chair

Kristen L. Crosson
Assistant to the Committee

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 237 A BILL TO BE ENTITLED AN ACT TO INCREASE THE FEE PAID TO AGENTS OF THE WILDLIFE RESOURCES COMMISSION TO AWARD CERTIFICATES OF BOAT NUMBER OR OTHER VESSEL TRANSACTION AND TO AMEND THE DUTIES OF THE WILDLIFE RESOURCES COMMISSION WITH REGARD TO THE APPOINTMENT OF AGENTS FOR THE ISSUANCE OF BOAT NUMBERS, TO RAISE THE REPORTING REQUIREMENT FOR BOATING ACCIDENTS TO DAMAGES IN EXCESS OF FIVE HUNDRED DOLLARS, AND TO REPEAL THE LAW REQUIRING PERMITS FROM THE WILDLIFE RESOURCES COMMISSION TO HOLD REGATTAS AND OTHER EVENTS.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 237

Short Title: Boat Agent Fees/AB. (Public)

Sponsors: Representative Gulley.

Referred to: Wildlife Resources, if favorable, Finance.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE FEE PAID TO AGENTS OF THE WILDLIFE RESOURCES COMMISSION TO AWARD CERTIFICATES OF BOAT NUMBER OR OTHER VESSEL TRANSACTION AND TO AMEND THE DUTIES OF THE WILDLIFE RESOURCES COMMISSION WITH REGARD TO THE APPOINTMENT OF AGENTS FOR THE ISSUANCE OF BOAT NUMBERS, TO RAISE THE REPORTING REQUIREMENT FOR BOATING ACCIDENTS TO DAMAGES IN EXCESS OF FIVE HUNDRED DOLLARS, AND TO REPEAL THE LAW REQUIRING PERMITS FROM THE WILDLIFE RESOURCES COMMISSION TO HOLD REGATTAS AND OTHER EVENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 75A-5(e) reads as rewritten:

"(e) The Wildlife Resources Commission may ~~award~~ issue any ~~certificate of number~~ vessel transaction pursuant to the provisions of Article 1 or 4 of this Chapter directly or may authorize any person qualified as prescribed in subsection (l) of this section to act as agent for the ~~awarding thereof.~~ issuance of vessel transactions subject to the requirements set forth in this Chapter. ~~In the event that a person accepts such authorization, he may be assigned a block of numbers and certificates therefor which upon award,~~ Upon acceptance of this authorization, an agent's actions in issuing any vessel transaction pursuant to this Chapter ~~in conformity with this Chapter and with any rules and regulations of the Commission,~~ shall be valid as if ~~awarded~~ issued directly by the Commission. As compensation for ~~his services any such agent shall be allowed to retain for his own use fifty cents (50¢).~~ services rendered to the

Commission and to the general public, the agent shall receive the following specified commission from the statutory fee for each listed transaction:

(1) Renewal of vessel registration - $1.25.
(2) Transfer of ownership and registration of a vessel - $3.00.
(3) Issuance of new certificate of vessel number and registration - $3.00.
(4) Issuance of duplicate vessel registration - $0.50.
(5) Issuance, transfer, duplication, or lien recordation of vessel title - $3.00.

It is a Class 1 misdemeanor for any such agent to charge or accept any additional fee, remuneration, or other thing of value for such services."

Section 2. G.S. 75A-5(l) reads as rewritten:

"(l) When certificates of number are to be issued by agents as provided by subsection (e) of this section, the Wildlife Resources Commission ~~is authorized by regulation to establish the qualifications of such agents, including, but not limited to, their financial responsibility, the locations and types of business operated by them and their facilities for safekeeping of unused certificates of number, validation decals, and the monetary proceeds of certificates which have been issued; to prescribe the duties of such agents, including, but not limited to, the methods of issuing certificates of number and validation decals, the evidence of ownership of vessels to be numbered by applicants for number, the times and methods of making periodic and final reports of certificates and decals issued and remaining unissued and remittances of public moneys and unissued certificates and decals; to establish methods and procedures of ensuring accountability of such agents for the proceeds of certificates and decals issued and for certificates and decals remaining unissued; to require individual or blanket bonds of such agents in amounts sufficient to protect the State against loss of public moneys and unissued certificates and decals, the premiums for such bonds to be paid by the agents; to permit such agents to issue both original certificates of number and validation decals and renewals thereof or to limit such agents, or any of them, to the issuance of the originals only; to authorize some or all of such agents to issue temporary certificates of number for use during a limited time pending delivery of regular certificates of number and validation decals; to establish methods and procedures, including submission of the amounts and kinds of evidence which the Commission may deem sufficient, whereby any such agent may be relieved of accountability for the value of unissued certificates and validation decals, or of the monetary proceeds of those which have been issued, which have been lost or destroyed as the result of any occurrence which is beyond the control of such agent; and to prescribe such other reasonable requirements and conditions as the Commission may, in its discretion, deem necessary or desirable to expedite and control the issuance of certificates of number by such agents.~~ may establish administrative guidelines that prescribe:

(1) The qualifications of agents;
(2) The duties of agents;

(3) Methods and procedures to ensure accountability and security for proceeds and unissued certificates of number;
(4) Requirements for security bonds in amounts sufficient to protect the State against loss of public funds or documents;
(5) Methods and procedures, including submission of the kinds and amounts of evidence deemed sufficient to relieve an agent of responsibility for losses due to occurrences beyond the agent's control; and
(6) Any other reasonable requirement or condition deemed necessary and desirable to expedite and control the issuance of certificates of boat number by agents.

In accordance with ~~such regulations,~~ administrative guidelines developed pursuant to this section, the executive director ~~is authorized to prepare and distribute all forms necessary or convenient for application for and the appointment and bonding of such agents and for receipts, reports and remittances by such agents; to select and appoint such agents in areas most convenient to the boating public and to limit the number of such agents in any locality; to require prompt and accurate reporting and remission of public moneys and unissued certificates and decals by such agents, and to require periodic or special audits of their accounts; to revoke or terminate any such agency for failure to make timely reports and remittances or to comply with any administrative directive or regulation of the Commission, or when he has reason to believe that State money or property is in jeopardy; and to require immediate surrender of all agency accounts, forms, certificates, decals and State moneys in the event of such revocation or termination of any such agency.~~ may:

(1) Select and appoint agents in the areas most convenient to the boating public and limit the number of agents in any one area if necessary for efficiency of operation;
(2) Require prompt and accurate reporting and remittance of public funds or documents by agents;
(3) Conduct periodic and special audits of accounts;
(4) Terminate the authorization of any agent found to be in noncompliance with administrative guidelines or directives of the Commission or when State funds or property are reasonably believed to be in jeopardy; and
(5) Demand the immediate surrender of all accounts, forms, certificates, decals, records, and State funds and property in the event of the termination of an agency.

A person who is denied the authority to act as an agent for the issuance of certificates of number and validation decals or whose authority to do so is revoked may not commence a contested case under G.S. 150B-23. ~~Any violation of the regulations authorized by this subsection shall be a Class 1 misdemeanor.~~ If any check or draft of any agent for the issuance of certificates of boat number shall be returned by the banking facility upon which the same is drawn for lack of funds, such agent shall be liable to the Wildlife Resources Commission for a penalty of five

percent (5%) of the amount of such check or draft, but in no event shall such penalty be less than five dollars ($5.00) or more than two hundred dollars ($200.00). Agents shall be assessed a penalty of twenty-five percent (25%) of their issuing fee on all remittances to the Commission after the fifteenth day of the month immediately following the month of sale."

Section 3. G.S. 75A-11(b) reads as rewritten:

"(b) In the case of collision, accident, or other casualty involving a vessel, the operator thereof, if the collision, accident, or other casualty results in death or injury to a person or damage to property in excess of ~~one~~ five hundred dollars ~~($100.00),~~ ($500.00), shall, within 10 days, file with the Wildlife Resources Commission a full description of the collision, accident, or other casualty, including such information as said agency may, by regulation, require. Such report shall not be admissible as evidence."

Section 4. G.S. 75A-14 is repealed.

Section 5. This act becomes effective July 1, 1999.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☒ Committee Substitute for
H.B. 419 A BILL TO BE ENTITLED AN ACT CONCERNING SATELLITE ANNEXATION AND REMOVING A CERTAIN TRACT OF PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF MOUNT AIRY.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

HOUSE BILL 419
Committee Substitute Reported Without Prejudice 4/21/99
Committee Substitute #2 Favorable 4/27/99

Short Title: Mount Airy Satellite Annexation. (Local)

Sponsors:

Referred to:

March 11, 1999

A BILL TO BE ENTITLED

AN ACT CONCERNING SATELLITE ANNEXATION AND REMOVING A CERTAIN TRACT OF PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF MOUNT AIRY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-58.1(b)(5) does not apply to the City of Mount Airy.

Section 2. The following described property is removed from the corporate limits of the City of Mount Airy:

BEING a 25.954 Acre tract of land recorded in Plat Book 14 Page 98 of the Surry County Register of Deeds. Said plat is entitled "The City of Mount Airy Annexation of May 15, 1997 Index # AX93" and was surveyed by Owen Lee Osborne, Registered Land Surveyor, license number 3295. Property is shown as parcel 7162 on map 5919 of the Surry County Tax Maps.

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

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 708 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE SANFORD-LEE REGIONAL AIRPORT AUTHORITY TO RECEIVE SALES TAX REFUNDS.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 708*

Short Title: Sanford-Lee Airport Authority Refunds. (Local)

Sponsors: Representative Cox.

Referred to: Local Government II.

March 30, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE SANFORD-LEE REGIONAL AIRPORT AUTHORITY TO RECEIVE SALES TAX REFUNDS.

The General Assembly of North Carolina enacts:

Section 1. Section 3(a) of Chapter 903 of the 1991 Session Laws is amended by adding a new subdivision to read:

"Sec. 3. (a) The authority shall, in addition to the powers conferred in Chapter 63 of the General Statutes of North Carolina, have the following powers:

(11) To receive refunds of sales and use taxes under G.S. 105-164.14(c)."

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

HOUSE BILL 708:
Sanford-Lee Airport Authority Refunds

BILL ANALYSIS

Committee: House Finance
Date: May 4, 1999
Version: 1st Edition

Introduced by: Rep. Cox
Summary by: Cindy Avrette
Committee Counsel

SUMMARY: ***House Bill 708 allows the Sanford-Lee regional airport authority to receive an annual refund of State and local sales taxes paid by it. The bill is effective when it becomes law.***

CURRENT LAW: A local airport authority created by the General Assembly is entitled to an annual refund of State and local sales taxes paid by it if it has at least one of the following characteristics:

- It has all of the rights of a municipality.
- A local act of the General Assembly declares it to be a municipality.
- A local act of the General Assembly specifically authorizes it to receive a refund.

The refunds apply to direct purchases of tangible personal property. They also apply to sales and use tax liability indirectly incurred by a local regional airport authority on building materials, supplies, fixtures, and equipment that become a part of any building that is owned or leased by the authority and is being built, altered, or repaired for use by the authority. To obtain a sales and use tax refund, an authority must request the refund in writing within six months after the end of its fiscal year. The request must include any information and documentation required by the Secretary of Revenue.

BILL ANALYSIS: House Bill 708 amends the local act that created the Sanford-Lee regional airport authority in 1991 to specify that it may receive refunds of sales and use taxes paid under G.S. 105-164.14(c). Under this statute, 25 types of governmental entities, including local regional airport authorities that meet one of the conditions listed above, may receive a sales tax refund of the taxes paid on items they purchased subject to sales and use tax, other than sales of electricity, piped natural gas, and telecommunications services. There are approximately 35 local regional airport authorities. At least half of those are entitled to an annual sales tax refund.

BACKGROUND: Prior to 1961, the State granted sales and use tax exemptions to State and local governmental entities, including public schools, and nonprofit entities. Because of the number of abuses involving the exemption and the difficulty of auditing these transactions, the legislature changed the law in 1961 to allow refunds as opposed to outright exemptions. The statute lists those entities that are entitled to a refund. Nonprofit educational institutions, as well as most other nonprofit entities, are entitled to a semiannual refund of State and local sales and use tax.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: H.B. 708 Sanford-Lee Airport Authority Refunds

SHORT TITLE: Sanford-Lee Airport Authority Refunds

SPONSOR(S): Rep. Cox

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
General Fund	**($600)**	**($600)**	**($600)**	**($600)**	**($600)**
Local Governments	**($300)**	**($300)**	**($300)**	**($300)**	**($300)**
Sanford-Lee Airport Auth.	**$900**	**$900**	**$900**	**$900**	**$900**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue, Sales Tax Division, and Sanford-Lee Airport Authority.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: Under G.S. 105-164.14(c), certain government entities are eligible for refund of the sales taxes they paid on purchases in the previous fiscal year. This refund is issued annually. The types of government organizations that are currently eligible for the refund include city and county governments, municipal sewer districts, water and sewer authorities, public health authorities, a council of government, schools, and regional pubic transportation authorities. The law also states that local airport authorities, created by the General Assembly, may be eligible for the refund if the authority meets at least one of the following criteria: it has all the rights of a municipality, a local act of the General Assembly declares it to be a municipality, or a local act of the General Assembly specifically authorizes it to receive the refund. This bill is a local act that would specifically authorize the Sanford – Lee Airport Authority to receive the sales tax refund.

ASSUMPTIONS AND METHODOLOGY: Prior to FY 1995-96 the Sanford – Lee Airport Authority has been receiving a sales tax refund. Airport officials estimate that this refund was

approximately $500 - $700 per year. In 1996 the Sales Tax Division of the Department of Revenue notified the Sanford – Lee Airport Authority that they were ineligible to receive the refund. The Airport Authority has not received a refund since that time.

According to the Sanford Director of Finance, who maintains the authority's financial records, in FY 1997-98 the Authority made taxable purchases of $12,185. As such, the total sales tax charged was $731 ($12,185 X 6%). While the Authority has only paid $578 in sales taxes this year, this number is expected to return to near $750. (The airport authority is in the process of closing their existing facility, and opening a new airport. As such, it appears they are delaying many of their taxable purchases until the new facility is open. The construction costs are being funded primarily through federal grants and are handled as a federal government purchase. As such, a change in the status of the airport authority will have no impact on construction related purchases).

Assuming the authority continues to make approximately $12,500 to $15,000 in taxable purchases each year, total lost tax revenue would be approximately $750 to $900 per year. Two-thirds of this revenue loss ($500 to $600) will be to the State and one-third ($250 to $300) will be to local governments. The larger number in the range in used for estimate purposes.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY: Tom Covington

DATE:
Wednesday, March 31, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 738 A BILL TO BE ENTITLED AN ACT CONCERNING ANNEXATION OF NONCONTIGUOUS AREAS BY THE CITY OF GREENVILLE.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

HOUSE BILL 738

Short Title: Greenville Satellite Annexations. (Local)

Sponsors: Representative Rogers.

Referred to: Local Government I.

March 30, 1999

A BILL TO BE ENTITLED

AN ACT CONCERNING ANNEXATION OF NONCONTIGUOUS AREAS BY THE CITY OF GREENVILLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-58.1(b)(2) shall not apply to the City of Greenville as to any property if the City has entered into an annexation agreement pursuant to Part 6 of Article 4A of Chapter 160A of the General Statutes with the city to which a point on the proposed satellite corporate limits is closer and that agreement states that the other city will not annex the property.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

HOUSE BILL 851

Short Title: Matthews Annexations. (Local)

Sponsors: Representative Gulley.

Referred to: Finance.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF MATTHEWS.

The General Assembly of North Carolina enacts:

Section 1. The following described property is added to the corporate limits of the Town of Matthews:

Tax Parcel	Size
193-161-01	30.00 acres
193-181-05	10.94 acres
193-181-29	6.00 acres
193-231-03	25.10 acres
193-432-01	8.21 acres
193-432-02	1.08 acres
193-311-14	3.00 acres
193-311-37	0.37 acres
193-311-38	0.70 acres
193-312-05	6.90 acres
193-312-04	0.47 acres
193-312-03	8.50 acres
193-141-07	2.02 acres
193-161-04	15.06 acres
193-161-07	7.78 acres

193-171-33	6.91 acres
193-204-23	14.60 acres
215-111-15	3.05 acres
215-111-16	3.03 acres
215-141-08	6.33 acres
215-163-01	72.29 acres
215-162-38	0.46 acres
215-042-16	1.00 acres
215-101-10	1.97 acres
227-027-31	6.38 acres
227-027-42	3.28 acres
227-026-04	13.77 acres
227-027-44	4.22 acres
227-151-14	16.37 acres
227-151-23	2.88 acres
227-151-21	2.29 acres
227-151-22	8.22 acres
227-151-24	2.12 acres
227-152-01	3.85 acres
227-291-01	19.01 acres
227-292-55	0.83 acres
227-311-34/36	10.99 acres
227-292-63	1.68 acres
227-292-64	0.40 acres

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 867
Committee Substitute Favorable 4/26/99

Short Title: Wilson Annexations. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT EXEMPTING THE CITY OF WILSON FROM CERTAIN SATELLITE ANNEXATION REQUIREMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-58.1(b) shall not apply to the City of Wilson.

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

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 1308 A BILL TO BE ENTITLED AN ACT AN ACT TO EXEMPT CERTAIN GOVERNMENT PURCHASES FROM STATE AND LOCAL SALES TAX.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1308
PROPOSED COMMITTEE SUBSTITUTE
H1308-PCSRB-2

Short Title: Government Sales Tax Exemption. (Public)

Sponsors:

Referred to: Finance.

April 22, 1999

A BILL TO BE ENTITLED

AN ACT TO EXEMPT CERTAIN GOVERNMENT PURCHASES FROM STATE AND LOCAL SALES TAX AND TO ALLOW A SALES TAX REFUND TO COMMUNITY COLLEGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.13 is amended by adding a new subdivision to read:

"(46) Items subject to sales and use tax under G.S. 105-164.4, other than items taxed under G.S. 105-164.4(a)(4a) and G.S. 105-164.4(a)(4c), if all of the following conditions are met:

a. The items are purchased by a local government unit, as defined in G.S. 105-164.29A, for its use.

b. The items purchased are paid for by a check, credit card, procurement card, or credit account of the local government unit.

c. The items are purchased pursuant to a signed purchase order of the local government unit that contains the exemption number of the unit and a description of the property purchased."

Section 2. G.S. 105-164.14(c) reads as rewritten:

"(c) Certain Governmental Entities. -- A governmental entity listed in this subsection is allowed an annual refund of sales and use taxes paid by it under this

Article, except under G.S. 105-164.4(a)(4a) and G.S. 105-164.4(a)(4c), on direct purchases of tangible personal property. Sales and use tax liability indirectly incurred by a governmental entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered, or repaired for use by the governmental entity is considered a sales or use tax liability incurred on direct purchases by the governmental entity for the purpose of this subsection. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the governmental entity's fiscal year.

This subsection applies only to the following governmental entities:

(1) A county.
(2) A city as defined in G.S. 160A-1.
(2a) A consolidated city-county as defined in G.S. 160B-2.
(2b) A local school administrative unit.
(3) A metropolitan sewerage district or a metropolitan water district in this State.
(4) A water and sewer authority created under Chapter 162A of the General Statutes.
(5) A lake authority created by a board of county commissioners pursuant to an act of the General Assembly.
(6) A sanitary district.
(7) A regional solid waste management authority created pursuant to G.S. 153A-421.
(8) An area mental health, developmental disabilities, and substance abuse authority, other than a single-county area authority, established pursuant to Article 4 of Chapter 122C of the General Statutes.
(9) A district health department.
(10) A regional council of governments created pursuant to G.S. 160A-470.
(11) A regional planning and economic development commission or a regional economic development commission created pursuant to Chapter 158 of the General Statutes.
(12) A regional planning commission created pursuant to G.S. 153A-391.
(13) A regional sports authority created pursuant to G.S. 160A-479.
(14) A public transportation authority created pursuant to Article 25 of Chapter 160A of the General Statutes.
(14a) A facility authority created pursuant to Part 4 of Article 20 of Chapter 160A of the General Statutes.
(15) A regional public transportation authority created pursuant to Article 26 of Chapter 160A of the General Statutes.

(16) A local airport authority that was created pursuant to a local act of the General Assembly and has at least one of the following characteristics:
a. It has all of the rights of a municipality.
b. A local act of the General Assembly declares it to be a municipality.
c. A local act of the General Assembly specifically authorizes it to receive a refund under this section.
(17) A joint agency created by interlocal agreement pursuant to G.S. 160A-462 to operate a public broadcasting television station.
(18) The North Carolina Low-Level Radioactive Waste Management Authority created pursuant to Chapter 104G of the General Statutes.
(19) The North Carolina Hazardous Waste Management Commission created pursuant to Chapter 130B of the General Statutes.
(20) A constituent institution of The University of North Carolina, but only with respect to sales and use tax paid by it for tangible personal property acquired by it through the expenditure of contract and grant funds.
(21) The University of North Carolina Hospitals at Chapel Hill.
(22) A regional natural gas district created pursuant to Article 28 of Chapter 160A of the General Statutes.
(23) An institution of the community college system established in Chapter 115D of the General Statutes."

Section 3. Part 5 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.29A. Local government exemption process.**

(a) Definitions. -- The following definitions apply in this section:
(1) Finance officer. -- Any of the following:
a. The finance officer of a county or a city.
b. The school finance officer of a local school administrative unit.
c. A bonded official of a community college designated by a resolution of the Board of Trustees of the community college.
(2) Local government unit. -- Any of the following:
a. (Effective July 1, 2001) A local school administrative unit.
b. (Effective July 1, 2001) An institution of the community college system established in Chapter 115D of the General Statutes.
c. (Effective July 1, 2002) A county.
d. (Effective July 1, 2003) A city as defined in G.S. 160A-1.

(b) Application. -- To be eligible for the exemption provided in G.S. 105-164.13(46), a local government unit must obtain from the Department of Revenue

a sales tax exemption number. The application for exemption must be in the form required by the Secretary, be signed by the local government unit's finance officer, and contain any information required by the Secretary. The Secretary must assign a sales tax exemption number to a local government unit that sumbits a proper application.

(c) Liability. -- A local government unit that does not use the items purchased with its exemption number must pay the tax that should have been paid on the items purchased, plus interest calculated from the date the tax would otherwise have been paid."

Section 4. G.S. 105-164.29A(a)(2)c., as enacted by Section 3 of this act, becomes effective July 1, 2002, and applies to taxes paid on or after that date. G.S. 105-164.29A(a)(2)d., as enacted by Section 3 of this act, becomes effective July 1, 2003, and applies to taxes paid on or after that date. The remainder of this act becomes effective July 1, 2001, and applies to taxes paid on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1308

Short Title: Government Sales Tax Exemption. (Public)

Sponsors: Representatives Allen; Miller and Luebke.

Referred to: Finance.

April 22, 1999

A BILL TO BE ENTITLED

AN ACT TO EXEMPT CERTAIN GOVERNMENT PURCHASES FROM STATE AND LOCAL SALES TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.13 is amended by adding a new subdivision to read:

"(46) Tangible personal property purchased by a local government unit as defined in G.S. 164.29A, if the purchase is made by unit check or credit account and accompanied by a local government exemption certificate signed by the finance officer of the unit and describing the property purchased."

Section 2. Part 5 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.29A. Local government exemption.**

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

(1) Finance officer. -- Any of the following:

a. The finance officer of a county or a city.

b. The school finance officer of a local school administrative unit.

c. In the case of a community college, a bonded official designated under G.S. 115D-58.8.

(2) Local government unit. -- Any of the following:

a. (Effective July 1, 2001) A local school administrative unit.

b. (Effective July 1, 2001) An institution of the community college system established in Chapter 115D of the General Statutes.

c. (Effective July 1, 2002) A county.

d. (Effective July 1, 2003) A city as defined in G.S. 160A-1.

(b) Registration. -- To be eligible for the exemption provided in G.S. 105-164.13(46), a local government unit must register with the Department of Revenue. The application for registration must be in the form required by the Secretary, be signed by the finance officer, and contain any information required by the Secretary. Upon registration, the Secretary must assign a registration number to the local government unit.

(c) Local Government Exemption Certificate. -- To obtain the exemption provided in G.S. 105-164.13(46) for a purchase, a local government unit must make the purchase by unit check or unit credit card or account and provide the seller a local government exemption certificate that meets the following conditions:

(1) It is in the form required by the Secretary.

(2) It is signed by the finance officer of the local government unit.

(3) It contains the name, address, and registration number of the local government unit.

(4) It describes the tangible personal property purchased.

(d) Liability. -- A seller of property sold under a local government exemption certificate is jointly liable with the purchaser of the property for any tax subsequently determined to be due on the sale unless all of the conditions of subsection (c) of this section were met."

Section 3. G.S. 159-28 is amended by adding a new subsection to read:

"(d1) Tax-Exempt Purchases. -- The finance officer of a county or city is the official responsible for registering the county or city for sales tax exemption in accordance with G.S. 105-164.29A, signing local government exemption certificates for exempt purchases, and verifying that all property purchased with a local government exemption certificate is for use by the county or city as provided in G.S. 105-164.13(46)."

Section 4. G.S. 115C-441 is amended by adding a new subsection to read:

"(d1) Tax-Exempt Purchases. -- The school finance officer is the official responsible for registering the local school administrative unit for sales tax exemption in accordance with G.S. 105-164.29A, signing local government exemption certificates for exempt purchases, and verifying that all property purchased with a local government exemption certificate is for use by the local school administrative unit as provided in G.S. 105-164.13(46)."

Section 5. G.S. 115D-58.8 reads as rewritten:

"**§ 115D-58.8. Facsimile ~~signatures.~~ signatures; tax-exempt purchases.**

(a) Facsimile Signatures. -- The board of trustees may provide by appropriate resolution for the use of facsimile signature machines, signature stamps, or similar devices in signing checks and drafts. The board shall charge some bonded officer or

employee with the custody of the necessary machines, stamps, plates, or other devices, and that person and the sureties on ~~his~~ that person's official bond are liable for any illegal, improper, or unauthorized use of them. Rules and regulations governing the use and control of the facsimile signature shall be adopted by the State Board of Community Colleges.

(b) Exemption Certificate. -- If the board of trustees wishes to take advantage of the sales tax exemption provided in G.S. 105-164.29A, the board must charge some bonded officer or employee with responsibility for the program. This officer is responsible for registering the institution for sales tax exemption in accordance with G.S. 105-164.29A, signing local government exemption certificates for exempt purchases, and verifying that all property purchased with a local government exemption certificate is for use by the institution as provided in G.S. 105-164.13(46). The official and the sureties liable on the official's bond are liable for any illegal, improper, or unauthorized use of a local government exemption certificate."

Section 6. G.S. 159-25(a) reads as rewritten:

"(a) The finance officer shall have the following powers and duties:

(1) ~~He shall~~ To keep the accounts of the local government or public authority in accordance with generally accepted principles of governmental accounting and the rules ~~and regulations~~ of the Commission.

(2) ~~He shall~~ To disburse all funds of the local government or public authority in strict compliance with this Chapter, the budget ordinance, and each project ordinance and ~~shall~~ to preaudit obligations and disbursements as required by this Chapter.

(3) As often as may be requested by the governing board or the manager, ~~he shall~~ to prepare and file with the board a statement of the financial condition of the local government or public authority.

(4) ~~He shall~~ To receive and deposit all moneys accruing to the local government or public authority, or supervise the receipt and deposit of money by other duly authorized officers or employees.

(5) ~~He shall~~ To maintain all records concerning the bonded debt and other obligations of the local government or public authority, determine the amount of money that will be required for debt service or the payment of other obligations during each fiscal year, and maintain all sinking funds.

(6) ~~He shall~~ To supervise the investment of idle funds of the local government or public authority.

(7) ~~He shall~~ To perform ~~such~~ any other duties ~~as~~ that may be assigned ~~to him~~ by law, by the manager, budget officer, or governing board, or by rules ~~and regulations~~ of the Commission.

All references in other portions of the General Statutes, local acts, or city charters to county, city, special district, or public authority accountants, treasurers, or other

officials performing any of the duties conferred by this section on the finance officer shall be deemed to refer to the finance officer."

Section 7. G.S. 105-236 is amended by adding a new subdivision to read:

"(5c) Misuse of Local Government Exemption Certificate. -- For misuse of a local government exemption certificate by a purchaser, the Secretary shall assess an additional tax, as a penalty, of two hundred fifty dollars ($250.00) or 10 times the sales price of the property purchased, whichever is greater."

Section 8. Sections 3 and 6 of this act and G.S. 105-164.29A(a)(2)c., as enacted by Section 2 of this act, become effective July 1, 2002, and apply to taxes paid on or after that date. G.S. 105-164.29A(a)(2)d., as enacted by Section 2 of this act, becomes effective July 1, 2003, and applies to taxes paid on or after that date. The remainder of this act becomes effective July 1, 2001, and applies to taxes paid on or after that date.

HOUSE BILL 1308:
Government Sales Tax Exemption

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Allen
Date:	May 4, 1999	**Summary by:**	Cindy Avrette
Version:	PCS for 1st Edition H1308-PCSRB-2		Committee Counsel

SUMMARY: House Bill 1308 would phase-in a State and local sales and use tax exemption for the following governmental purchases:

- *Effective for purchases made on or after July 1, 2001, local school administrative units and community colleges.*
- *Effective for purchases made on or after July 1, 2002, counties.*
- *Effective for purchases made on or after July 1, 2003, cities.*

The proposed committee substitute adds community colleges to the list of governmental entities that may obtain an annual refund of the State and local sales and use taxes paid by them, effective July 1, 2001, and it simplifies the exemption process.

CURRENT LAW: Counties, cities, and local school administrative units may obtain an annual refund of the State and local sales and use taxes paid by them. The General Assembly authorized local school administrative units to obtain a refund in 1998, effective for purchases made on or after July 1, 1998. To obtain a sales and use tax refund, the entities must request the refund in writing within six months after the end of the unit's fiscal year. Community colleges are not entitled to either an exemption from sales and use tax or a refund of sales and use tax under the current law. The State is allowed quarterly refunds of local sales and use taxes paid by it. The General Assembly enacted this refund provision in 1991 to benefit the General Fund.

BACKGROUND: Until 1961, the State granted sales and use tax exemptions to State and local governmental entities, including counties, cities, public schools, and nonprofit entities. The exemption applied to contractors' purchases of building materials to be used for construction or repair on behalf of an exempt entity. In 1961, the exemption was converted to a refund limited to counties and cities and contractors purchasing building materials on their behalf. The rationale for this change was that the exemption could be easily abused by someone making purchases for private use but misrepresenting the purchases as being by or for an exempt entity. The State had no effective way of verifying that retailers were exempting only purchases that actually qualified for the exemption.

Today, 25 types of governmental entities are entitled to an annual refund of sales and use taxes. Nonprofit educational institutions, as well as charitable nonprofit entities, are entitled to a semiannual refund. The list of governmental entities entitled to a refund is mostly limited to local governmental entities. The General Assembly did not include State agencies in the list of entities because the refund process would not benefit the General Fund, from which the agencies receive their appropriations, and

would create unnecessary paperwork for the agencies. The only State agencies entitled to an annual refund are:

- The constituent institutions of the University of North Carolina, but only with respect to sales and use tax paid by them for tangible personal property acquired by them through the expenditure of contract and grant funds.
- The University of North Carolina Hospitals at Chapel Hill

Since 1986, sales to the Department of Transportation have been exempt from State and local sales and use taxes. The effect of the Department's exemption was to increase the Highway Fund at the expense of the General Fund. To offset the General Fund loss due to the Department's sales tax exemption, the 1991 General Assembly provided for a quarterly transfer from the Highway Fund to the General Fund of an amount equal to the amount of sales and use taxes the Department would have paid to the General Fund had its purchases not been exempt. The transfers have the same fiscal effect on the State as repealing the tax exemption, but do not place on the Department the administrative and accounting burden it predicted would result from repeal of the exemption.

BILL ANALYSIS: House Bill 1308 grants a sales and use tax exemption for counties, cities, local school administrative units, and community colleges. The first three governmental entities are currently receiving an annual sales tax refund. Converting the refund to an exemption for certain purchases will reduce the State's interest earnings on the General Fund because the State sales taxes paid by local government units under current law are held for a year or so before being refunded.

House Bill 1308 has safeguards that were not part of the pre-1961 law in order to prevent abuse of the exemption. The bill limits the exemption to items purchased subject to sales and use tax, other than sales of electricity, piped natural gas, and telecommunications services. The items for which a local government unit may receive an exemption mirror those for which it can receive a refund under current law. The bill also provides the following safeguards:

1. The items must be purchased directly by the local government unit for its use.
2. The items must be purchased with a check, credit card, procurement card, or credit account of the local government unit.
3. The items must be purchased with a signed purchase order that contains the unit's exemption number and a description of the property to be purchased.

The bill defines a local government unit as a local school administrative unit, a community college, a county, or a city. The city exemption is limited to cities as defined in G.S. 160A-1. Under this statute, a city is an incorporated city, town, or village that either was incorporated before 1945 or is regularly electing officers, levying and collecting property taxes at more than a minimal rate, and adopting an annual budget.

A local government unit must obtain a sales tax exemption number from the Department of Revenue. That exemption number must be included on the purchase order before a retailer can exempt the purchases from sales tax. If the conditions of the exemption are met, the retailer is not liable for any tax subsequently determined to be due. If the conditions of the exemption are not met, then the retailer is liable for the tax due, interest, and any applicable penalties. If the property purchased with the local government unit's exemption number is used by someone other than the local government unit, then the local government unit is liable for the tax due, as well as interest from the date the tax would otherwise

have been paid. The proposed committee substitute does not provide for a penalty against the purchaser if the exemption is misused. The Department of Revenue asked that this provision be deleted from the bill, and in its place, the Department is authorized to seek the tax due, plus interest, from the local government unit. The unit may seek redress from the person who misused the exemption.

For those purchases that do not qualify for the tax exemption, a city, county, or local school administrative unit may receive a sales tax refund under existing law. **Section 2** amends the law to give a community college the same ability to receive a sales tax refund as a city, county, and local school administrative unit have under current law. Under the refund statute, these governmental entities are entitled to receive an annual sales tax refund for the taxes paid by them on their purchases of items that are subject to a sales tax, other than sales of electricity, piped natural gas, and telecommunications services. To receive the refund, an entity must keep records of their purchases and file for the refund each year. Refunds of local sales taxes are deducted from distributions to the taxing county.

FISCAL ANALYSIS MEMORANDUM

DATE: April 26, 1999

TO: House Finance Committee

FROM: David Crotts
Fiscal Research Division

RE: HB 1308 – Government Sales Tax Exemption

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

NOTE: BILL HAS NO FISCAL IMPACT FOR THE 1999-00 OR 2000-01 FISCAL YEARS.

	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05	FY 2005-06
REVENUES ($Million)					
State General Fund:					
Loss of Interest Income	-1.0	-3.0	-5.6	-5.9	-6.2
Comm. Coll. Exempt.	-4.9	-5.1	-5.4	-5.6	-5.9
Net Impact	**-5.9**	**-8.1**	**-11.0**	**-11.5**	**-12.1**
Local Government:					
Gain In Interest Income	+1.0	+3.0	+5.6	+5.9	+6.2
Comm. Coll. Exempt.	-2.5	-2.6	-2.7	-2.8	-3.0
Net Impact	**-1.5**	**+ .4**	**+2.9**	**+3.1**	**+3.2**

Note: In addition to recurring impact shown, there would be a one-time negative budget impact to the State General Fund, explained in the methodology section, as follows:

2001-02 -$19.0 mill.
2002-03 -$34.4 mill.
2003-04 -$43.5 mill.

Expenditures: Due to the delayed implementation, there should be no additional mailing costs to the Department of Revenue as notice of the proposed change could be included in the normal annual mailing to merchants and other interested parties.

BILL SUMMARY: (1) **Replaces the annual refund of state and local sales taxes allowed counties, cities, and school boards with an exemption, phased-in according to the following schedule:**

School Boards	**Purchases made on or after July 1, 2001**
Counties	**Purchases made on or after July 1, 2002**
Cities	**Purchases made on or after July 1, 2003**

To be eligible the local unit must register with the Department of Revenue, make the purchase by the unit's check or credit account, and provide the seller with the exemption certificate. In addition, the finance officer of the unit shall have the duties of registering for the exemption, signing the exemption certificate, and verifying that all property purchased with the exemption is for use by the unit. In addition, the bill sets out penalties for misuse of a local government exemption certificate.

(2) Exempts community college purchases from state and local sales tax, effective for purchases made on or after July 1, 2001.

ASSUMPTIONS AND METHODOLOGY: **Local Government Tax Refund:**

The shift from a refund to an exemption would reduce interest income for the State and add to investment earnings of local units. The reason has to do with the fact that refunds are paid the year after the purchase is made. A review of the refunds paid by month for a recent fiscal year indicates that the average refund to local units is paid in November of the fiscal year following the purchase of taxable personal property. In analyzing the cost of the exemption, it was assumed that exempt purchases would be made at an even rate through the fiscal year. Thus, the "average purchase" is made around January 1. This meant that a sales tax exemption for local units would accelerate sales tax relief from November back to January, a period of 11 months. The assumed interest rate used for the calculation of the interest income loss to the State (and gain to local units) was 6%, based on a recent estimate by the Office of State Treasurer for the 1999-00 fiscal year. This means that the effective interest loss is equal to 5.5% (6% for 11 months) times the exemption amount.

The actual refunds paid to local units during the 1997-98 fiscal year were $52.4 million, according to the Department of Revenue. This amount was grown by 6% for 1998-99 and 5% for future years. The refund amount was then moved back one year to obtain an estimate of the exemption dollars.

For public school purchases, the 1997 session model developed to cost out the new refund for public school was used. This model separately estimated the refunds for current expense purchases and capital outlay. The capital number was adjusted upward to account for the $1.8 billion state school bond authorization. For capital purchases, it was assumed that 50% of the cost was for taxable purchases of tangible personal property (versus exempt labor charges). In

addition, the 1997 analysis assumed that for each of the $450 million installments of the $1.8 billion school bond authorization, 30% of the proceed would be spend in the first year after the bonds were sold, 40% the next year, and 30% the following year.

Community College Exemption. The Department of Community Colleges has indicated that a review of their accounting records shows state and local sales tax of $6.0 million paid on purchases during the 1997-98 fiscal year. This amount was grown by 5% per year to come up with cost estimates for future years.

One Time Impact:
The state general fund budget is prepared on a cash basis and under current law refunds to local units are made in the year after the actual purchases. These two factors mean that for the first year of the change to an exemption, the State General Fund would see reduced sales tax revenue stemming from the combination of an exemption **plus the refunds to local units for purchases made the prior year.** The phased-in implementation of the change means that the one-time negative impact on the General Fund budget will occur over a 3-year period. The affects the budget availability for capital improvements and one-time expenditures such as employee bonuses and litigation costs. Since most counties and cities count the potential refund as a "receivable" in the year of the purchase, there should be no one-time gain or loss to local units.

VISITOR REGISTRATION SHEET

HOUSE FINANCE COMMITTEE MAY 4

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dick Hamilton	Wildlife
Barbara Rote	"
Charles Collins	Revenue
Andy Sabol	"
Lacy Morgan	NCCCS
Kevin Byrd	"
Allison Schafer	NCSBA
Laura DeVivo	DENR
Roz Sawyer	NCCCC
Sabra Faires	DOR
Charles Collins	DOR
Jim Blackburn	COUNTIES
Andy Romanet	N.C.L.M.
Garland Garrett	Gov Office
Patrice Roesler	NCACC
Fran Preston	NCRM
Jeffrey Williams	NCCCS
Myra Smith	NASWNC
Susan Markham	Eqhs
Hal Miller	NCACCT
Ed Rego	N.C.A.C.C.

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Thursday, May 6, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 678 – Acupuncturist Reimbursement – Rep. Sherill/Rep. Luebke
HB 900 – Gates County Fire Protection – Rep. Hunter
HB 1009 – Funds for Agricultural Research – Rep. Hill
HB 1096 – Register of Deed Amends – Rep. Hill
SB 18 – Carthage Charter Consolidation – Sen. Lee
SB 44 – Lake Waccamaw Annexation – Rep. Hill
SB 59 – Mobile Pharmacies – Sen. Foxx
SB 249 – Core Sound Moratorium – Sen. Albertson
SB 313 – Mecklenburg Stormwater Fees – Sen. Clodfelter
SB 691 - Bermuda Run Incorporation - Sen. Cochrane

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Thursday, May 6, 1999

The House Committee on Finance met on Thursday, May 6, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke, Miller; Vice Chairs Jarrell and Wood; Representatives Bridgeman, Brown, Buchanan, Capps, Church, Cunningham, Dedmon, Eddins, Edwards, Gibson, Goodwin, Gray, Hackney, Hill, McCombs, Morris, Pope, Ramsey, Rayfield, Starnes, Tucker, and Womble. Staff including Cindy Avrette, Richard Bostic, Mary Shuping, Linda Millsaps, and Sam Byrd were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Luebke called the meeting to order to consider the following bills:

Representative Sherrill was recognized to explain HB 678, A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR EQUAL TREATMENT FOR ACUPUNCTURISTS WITH RESPECT TO INSURANCE REIMBURSEMENT AND TO INCREASE THE LATE RENEWAL FEE FOR AN ACUPUNCTURIST LICENSE. Rep. Jarrell commented on the insurance coverage of acupuncturists. Rep. Jarrell moved for a favorable report. Richard Bostic explained the fiscal impact of the bill. The Chair recognized Joe Fister, a licensed acupuncturist from Durham, who spoke on the insurance coverage, training requirements, and benefits of acupuncture. Rep. Gray inquired about the health benefits and Joe Fister responded. Rep. Gray inquired about the fiscal impact stated in the actuarial note. There was confusion as the actuarial note was for the first edition of the bill and the bill in this Finance committee was the third edition. Sam Byrd, the writer of the actuarial note, stated that the third edition of the bill, which was the committee substitute from the Insurance Committee, incurred no fiscal impact on the state health plan. The Chair recognized Steve Keane of the Medical Society who commented on the benefits of acupuncture and directed attention to pg. 2, lines 20-27 of the bill. Rep. Cunningham commented on the reimbursement aspects of the bill. Rep. Jarrell's motion to give HB 678 a favorable report was passed. The bill, Bill Summary, and original bill's Actuarial note are included in these minutes.

Senator Lee was recognized to explain SB 18, A BILL TO BE ENTITLED AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF CARTHAGE. Jerry Cohen, a staff member, explained Senator Lee's amendment to the bill. Rep. Buchanan moved for for adoption of amendment #1a. The amendment carried. Rep. Brown moved for a favorable report of SB 18 as amended and that it be rolled into a Committee Substitute and unfavorable to original bill. The motion passed. Copies of the bill, amendment, and Bill Summary are included in these minutes.

Representative Hill was recognized to explain HB 1009, A BILL TO BE ENTITLED AN ACT TO PROVIDE FUNDS FOR AGRICULTURAL RESEARCH BY INCREASING THE ASSESSMENT ON FERTILIZER, COMMERCIAL FEED, OR THEIR INGREDIENTS. The Chair recognized Keith Oakley, Executive Director of the N.C. Agricultural Foundation, who stated his organization supported the bill. Keith Oakley stated his organization consulted farmers, the N.C. State Grange, and the Farm Bureau about this bill. Rep. McCombs moved for a favorable

report on the bill. The motion passed. The bill, Bill Summary, Fiscal Note, and handout from N.C. State are included in these minutes.

Representative Hill was recognized to explain HB 1096, A BILL TO BE ENTITLED AN ACT TO IMPROVE THE QUALITY OF DOCUMENTS RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS. The Chair recognized Ann Shaw, the Register of Deeds for Randolph County, who explained the content and purpose of the bill. Rep. Buchanan moved for adoption of the Proposed Committee Substitute for discussion purposes. The motion passed. Rep. Brown moved for a favorable report to the Proposed Committee Substitute and unfavorable to the original bill. The motion passed. Copies of the bill, Proposed Committee Substitute, Bill Summary, and Fiscal Note are included in these minutes.

Representative Hill was recognized to explain SB 44, A BILL TO BE ENTITLED AN ACT TO ANNEX CERTAIN DESCRIBED TERRITORY TO THE TOWN OF LAKE WACCAMAW. Rep. Hill explained that this bill had come up in a previous session, but unfortunately it did not annex part of the town of Lake Waccamaw. The bill corrects that problem. Rep. Buchanan moved for a favorable report. The motion passed. A copy of the bill is included in these minutes.

Representative Hunter was recognized to explain HB 900, A BILL TO BE ENTITLED AN ACT ALLOWING GATES COUNTY TO IMPOSE FEES FOR FIRE PROTECTION SERVICES. Rep. Womble moved for a favorable report. The motion passed. The bill, Bill Summary, and Fiscal Note are included in these minutes.

Senator Foxx was recognized to explain SB 59, A BILL TO BE ENTITLED AN ACT TO AMEND THE PHARMACY PRACTICE ACT TO PERMIT CERTAIN NONPROFIT CORPORATIONS TO OPERATE MOBILE PHARMACIES AND TO ALLOW SUCH PHARMACIES TO REGISTER ANNUALLY WITH THE BOARD OF PHARMACY. Sen. Foxx explained that the Proposed Committee Substitute clarifies parts of the original bill. Rep. Buchanan moved for adoption of the Proposed Committee Substitute for discussion. The motion passed. Mary Shuping, a staff researcher, explained the impact and need for the bill. Mary Shuping stated that the bill clarified that mobile pharmacies may only be charged the pharmacy registration fee once a year. Currently, mobile pharmacies are charged the registration fee for each stop. Rep. Womble moved for a favorable report for the Proposed Committee Substitute and an unfavorable report for original bill. Rep. Rayfield questioned how the pharmacists determine eligibility for mobile pharmacy services. Sen. Foxx answered that low-income persons are eligible for these services and this eligibility is determined through income tax statements and other previous certifications. Rep. Jarrell questioned the need for a licensed pharmacist on the mobile pharmacies. Sen. Foxx answered that since mobile pharmacies are classified as pharmacies, the law requires a licensed pharmacist be present. Rep. Womble's motion for a favorable report for the Proposed Committee Substitute and an unfavorable report for original bill passed. Copies of the bill, Proposed Committee Substitute, Bill Summary, and Fiscal Note are included in these minutes.

Senator Clodfelter was recognized to explain SB 313, A BILL TO BE ENTITLED AN ACT TO ALLOW MECKLENBURG COUNTY TO CONTINUE TO LEVY STORMWATER FEES IF REVENUE BONDS HAVE BEEN ISSUED AND ARE OUTSTANDING. Rep. Bridgeman moved for a favorable report. Rep. Capps questioned whether the fee would be used for outstanding bonds. Sen. Clodfelter answered that the fee would be levied to pay the current outstanding bonds. Rep. Bridgeman's motion for a favorable report passed. Copies of the bill and Bill Summary are included in these minutes.

Senator Cochrane was recognized to explain SB 691 – A BILL TO BE ENTITLED AN ACT TO INCORPORATE THE TOWN OF BERMUDA RUN AND TO SIMULTANEOUSLY DISSOLVE THE BERMUDA CENTER SANITARY DISTRICT. Rep. Brown moved for a favorable report. Rep. Rayfield questioned whether the sanitary district had any outstanding bills. Sen. Cochrane answered the sanitary district does have outstanding bills, but that these will be absorbed by the Incorporation which will take responsibility. Rep. Jarrell questioned what services would be provided by the Incorporation. Sen. Cochrane answered that services would be contracted, such as police protection. Currently the town's fire protection is provided by volunteer departments which are supported by a fire tax paid to the county. Rep. Tucker questioned whether the fire tax would continue to be paid to the county once the Incorporation occurred. Sen. Cochrane was unsure. Staff stated they would research that issue before the bill went to the House Floor. Rep. Brown's motion for a favorable report passed. A copy of the bill is included in these minutes.

Rep. Jarrell announced the Occupancy Tax Bills subcommittee would meet in Rm. 612 after Session today. Chair Luebke announced that Secretary Rick Carlisle of the N.C. Commerce Department and Professor Mike Luger would discuss and present the effectiveness of the Bill Lee Act tax incentives at the House Finance meeting Tuesday, May 11, 1999. Rep. Miller announced that the President of the New York Stock Exchange would give a presentation on Friday, May 7, 1999 at 9:30 a.m. in Rm. 544.
Senator Albertson pulled SB 249 and will reschedule.

There being no further business, the Chair adjourned the meeting at 9:45 a.m.

Respectfully submitted:

Representative Paul Luebke
Chair

Kristen L. Crosson

Kristen L. Crosson
Assistant to the Committee

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☒ Committee Substitute for
H.B. 678 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR EQUAL TREATMENT FOR ACUPUNCTURISTS WITH RESPECT TO INSURANCE REIMBURSEMENT AND TO INCREASE THE LATE RENEWAL FEE FOR AN ACUPUNCTURIST LICENSE.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 3

HOUSE BILL 678
Committee Substitute Favorable 4/26/99
Committee Substitute #2 Favorable 4/28/99

Short Title: Acupuncturist Reimbursement. (Public)

Sponsors:

Referred to:

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR EQUAL TREATMENT FOR ACUPUNCTURISTS WITH RESPECT TO INSURANCE REIMBURSEMENT AND TO INCREASE THE LATE RENEWAL FEE FOR AN ACUPUNCTURIST LICENSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-50-30 reads as rewritten:

"**§ 58-50-30. (Effective July 1, 1999) Discrimination forbidden; right to choose services of optometrist, podiatrist, certified clinical social worker, dentist, chiropractor, psychologist, pharmacist, or advanced practice registered ~~nurse:~~ nurse, or acupuncturist.**

(a) Discrimination between individuals of the same class in the amount of premiums or rates charged for any policy of insurance covered by Articles 50 through 55 of this Chapter, or in the benefits payable thereon, or in any of the terms or conditions of the policy, or in any other manner whatsoever, is prohibited.

Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter provides for payment of or reimbursement for any service rendered in connection with a condition or complaint that is within the scope of practice of a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly licensed psychologist, a duly licensed pharmacist, ~~or~~ an advanced practice registered nurse, or a duly licensed acupuncturist, the insured or other persons entitled to benefits under the policy shall be entitled to payment of or reimbursement for the services, whether

the services be performed by a duly licensed physician, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly licensed psychologist, a duly licensed pharmacist, ~~or~~ an advanced practice registered nurse, or a duly licensed acupuncturist, notwithstanding any provision contained in the policy. Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter provides for certification of disability that is within the scope of practice of a duly licensed physician, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly licensed psychologist, ~~or~~ an advanced practice registered nurse, or a duly licensed acupuncturist, the insured or other persons entitled to benefits under the policy shall be entitled to payment of or reimbursement for the disability whether the disability be certified by a duly licensed physician, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly licensed psychologist, ~~or~~ an advanced practice registered nurse, or a duly licensed acupuncturist, notwithstanding any provisions contained in the policy. The policyholder, insured, or beneficiary shall have the right to choose the provider of the services notwithstanding any provision to the contrary in any other statute.

Whenever any policy of insurance provides coverage for medically necessary treatment, the insurer shall not impose any limitation on treatment or levels of coverage if performed by a duly licensed chiropractor acting within the scope of the chiropractor's practice as defined in G.S. 90-151 or a duly licensed acupuncturist acting within the scope of the acupuncturist's practice as defined in Article 30 of Chapter 90 of the General Statutes unless a comparable limitation is imposed on such medically necessary treatment if performed or authorized by any other duly licensed physician.

(b) For the purposes of this section, a "duly licensed psychologist" shall be defined only to include a psychologist who is duly licensed in the State of North Carolina and has a doctorate degree in psychology and at least two years clinical experience in a recognized health setting, or has met the standards of the National Register of Health Service Providers in Psychology. After January 1, 1995, a duly licensed psychologist shall be defined as a licensed psychologist who holds permanent licensure and certification as a health services provider psychologist issued by the North Carolina Psychology Board.

(c) For the purposes of this section, a "duly certified clinical social worker" is a "certified clinical social worker" as defined in G.S. 90B-3(2) and certified by the North Carolina Certification Board for Social Work pursuant to Chapter 90B of the General Statutes.

(c1) Expired.

(c2) For purposes of this section, a "duly licensed acupuncturist" means an acupuncturist licensed by the Acupuncture Licensing Board pursuant to Article 30 of Chapter 90 of the General Statutes.

(d) Payment or reimbursement is required by this section for a service performed by an advanced practice registered nurse only when:

(1) The service performed is within the nurse's lawful scope of practice;

(2) The policy currently provides benefits for identical services performed by other licensed health care providers;

(3) The service is not performed while the nurse is a regular employee in an office of a licensed physician;

(4) The service is not performed while the registered nurse is employed by a nursing facility (including a hospital, skilled nursing facility, intermediate care facility, or home care agency); and

(5) Nothing in this section is intended to authorize payment to more than one provider for the same service.

No lack of signature, referral, or employment by any other health care provider may be asserted to deny benefits under this provision.

For purposes of this section, an "advanced practice registered nurse" means only a registered nurse who is duly licensed or certified as a nurse practitioner, clinical specialist in psychiatric and mental health nursing, or nurse midwife.

(e) Payment or reimbursement is required by this section for a service performed by a duly licensed pharmacist only when:

(1) The service performed is within the lawful scope of practice of the pharmacist;

(2) The service performed is not initial counseling services required under State or federal law or regulation of the North Carolina Board of Pharmacy;

(3) The policy currently provides reimbursement for identical services performed by other licensed health care providers; and

(4) The service is identified as a separate service that is performed by other licensed health care providers and is reimbursed by identical payment methods.

Nothing in this subsection authorizes payment to more than one provider for the same service."

Section 2. G.S. 58-65-1 reads as rewritten:

"**§ 58-65-1. (Effective July 1, 1999) Regulation and definitions; application of other laws; profit and foreign corporations prohibited.**

(a) Any corporation heretofore or hereafter organized under the general corporation laws of the State of North Carolina for the purpose of maintaining and operating a nonprofit hospital and/or medical and/or dental service plan whereby hospital care and/or medical and/or dental service may be provided in whole or in part by said corporation or by hospitals and/or physicians and/or dentists participating in such plan, or plans, shall be governed by this Article and Article 66 of this Chapter and shall be exempt from all other provisions of the insurance laws of this State, heretofore enacted, unless specifically designated herein, and no laws hereafter enacted shall apply to them unless they be expressly designated therein.

The term "hospital service plan" as used in this Article and Article 66 of this Chapter includes the contracting for certain fees for, or furnishing of, hospital care, laboratory facilities, X-ray facilities, drugs, appliances, anesthesia, nursing care, operating and obstetrical equipment, accommodations and/or any and all other services authorized or permitted to be furnished by a hospital under the laws of the State of North Carolina and approved by the North Carolina Hospital Association and/or the American Medical Association.

The term "medical service plan" as used in this Article and Article 66 of this Chapter includes the contracting for the payment of fees toward, or furnishing of, medical, obstetrical, surgical and/or any other professional services authorized or permitted to be furnished by a duly licensed physician, except that in any plan in any policy of insurance governed by this Article and Article 66 of this Chapter that includes services which are within the scope of practice of a duly licensed optometrist, a duly licensed chiropractor, a duly licensed psychologist, a duly licensed pharmacist, an advanced practice registered nurse, a duly certified clinical social worker, a duly licensed acupuncturist, and a duly licensed physician, then the insured or beneficiary shall have the right to choose the provider of the care or service, and shall be entitled to payment of or reimbursement for such care or service, whether the provider be a duly licensed optometrist, a duly licensed chiropractor, a duly licensed psychologist, a duly licensed pharmacist, an advanced practice registered nurse, a duly certified clinical social worker, a duly licensed acupuncturist, or a duly licensed physician notwithstanding any provision to the contrary contained in such policy. The term "medical services plan" also includes the contracting for the payment of fees toward, or furnishing of, professional medical services authorized or permitted to be furnished by a duly licensed provider of health services licensed under Chapter 90 of the General Statutes.

(b) Payment or reimbursement is required by this section for a service performed by an advanced practice registered nurse only when:

(1) The service performed is within the nurse's lawful scope of practice;

(2) The policy currently provides benefits for identical services performed by other licensed health care providers;

(3) The service is not performed while the nurse is a regular employee in an office of a licensed physician;

(4) The service is not performed while the registered nurse is employed by a nursing facility (including a hospital, skilled nursing facility, intermediate care facility, or home care agency); and

(5) Nothing in this section is intended to authorize payment to more than one provider for the same service.

No lack of signature, referral, or employment by any other health care provider may be asserted to deny benefits under this provision.

(b1) Payment or reimbursement is required by this section for a service performed by a duly licensed pharmacist only when:

(1) The service performed is within the lawful scope of practice of the pharmacist;
(2) The service performed is not initial counseling services required under State or federal law or regulation of the North Carolina Board of Pharmacy;
(3) The policy currently provides reimbursement for identical services performed by other licensed health care providers; and
(4) The service is identified as a separate service that is performed by other licensed health care providers and is reimbursed by identical payment methods.

Nothing in this subsection authorizes payment to more than one provider for the same service.

(c) For purposes of this section, an "advanced practice registered nurse" means only a registered nurse who is duly licensed or certified as a nurse practitioner, clinical specialist in psychiatric and mental health nursing, or nurse midwife.

For the purposes of this section, a "duly certified clinical social worker" is a "certified clinical social worker" as defined in G.S. 90B-3(2) and certified by the North Carolina Certification Board for Social Work pursuant to Chapter 90B of the General Statutes.

For the purposes of this section, a "duly licensed psychologist" shall be defined only to include a psychologist who is duly licensed in the State of North Carolina and has a doctorate degree in psychology and at least two years clinical experience in a recognized health setting, or has met the standards of the National Register of Health Providers in Psychology. After January 1, 1995, a duly licensed psychologist shall be defined as a licensed psychologist who holds permanent licensure and certification as a health services provider psychologist issued by the North Carolina Psychology Board.

For purposes of this section, a "duly licensed acupuncturist" means an acupuncturist licensed by the Acupuncture Licensing Board pursuant to Article 30 of Chapter 90 of the General Statutes.

The term "dental service plan" as used in this Article and Article 66 of this Chapter includes contracting for the payment of fees toward, or furnishing of dental and/or any other professional services authorized or permitted to be furnished by a duly licensed dentist.

The insured or beneficiary of every "medical service plan" and of every "dental service plan," as those terms are used in this Article and Article 66 of this Chapter, or of any policy of insurance issued thereunder, that includes services which are within the scope of practice of both a duly licensed physician and a duly licensed dentist shall have the right to choose the provider of such care or service, and shall be entitled to payment of or reimbursement for such care or service, whether the provider be a duly licensed physician or a duly licensed dentist notwithstanding any provision to the contrary contained in any such plan or policy.

The term "hospital service corporation" as used in this Article and Article 66 of this Chapter is intended to mean any nonprofit corporation operating a hospital

and/or medical and/or dental service plan, as herein defined. Any corporation heretofore or hereafter organized and coming within the provisions of this Article and Article 66 of this Chapter, the certificate of incorporation of which authorizes the operation of either a hospital or medical and/or dental service plan, or any or all of them, may, with the approval of the Commissioner of Insurance, issue subscribers' contracts or certificates approved by the Commissioner of Insurance, for the payment of either hospital or medical and/or dental fees, or the furnishing of such services, or any or all of them, and may enter into contracts with hospitals for physicians and/or dentists, or any or all of them, for the furnishing of fees or services respectively under a hospital or medical and/or dental service plan, or any or all of them.

The term "preferred provider" as used in this Article and Article 66 of this Chapter with respect to contracts, organizations, policies or otherwise means a health care service provider who has agreed to accept, from a corporation organized for the purposes authorized by this Article and Article 66 of this Chapter or other applicable law, special reimbursement terms in exchange for providing services to beneficiaries of a plan administered pursuant to this Article and Article 66 of this Chapter. Except to the extent prohibited either by G.S. 58-65-140 or by regulations promulgated by the Department of Insurance not inconsistent with this Article and Article 66 of this Chapter, the contractual terms and conditions for special reimbursement shall be those which the corporation and preferred provider find to be mutually agreeable.

(d) No foreign or alien hospital or medical and/or dental service corporation as herein defined shall be authorized to do business in this State."

Section 3. Article 30 of Chapter 90 of the General Statutes is amended by adding the following new section:

"**§ 90-460. Free choice by patient guaranteed.**

No agency of the State, county, or municipality, nor any commission or clinic, nor any board administering relief, social security, health insurance, or health service under the laws of the State of North Carolina shall deny to the recipients or beneficiaries of their aid or services the freedom to choose a duly licensed acupuncturist as the provider of care or services which are within the scope of practice of the profession of acupuncture as defined in this Article."

Section 4. G.S. 90-459 is repealed.

Section 5. G.S. 135-40.6(8) is amended by adding a new sub-subdivision to read:

"u. Acupuncture: Allowable charges for the treatment of pain and the production of regional anesthesia when performed by a medical doctor or an acupuncturist licensed or certified in the state in which he or she practices."

Section 5.1. G.S. 90-457 reads as rewritten:

"**§ 90-457. Fees.**

The Board may establish fees, not to exceed the following amounts, to cover the cost of services rendered:

(1) For an application and an examination, one hundred dollars ($100.00).

(2) For issuance of a license, five hundred dollars ($500.00).
(3) For renewal of a license, three hundred dollars ($300.00).
(4) For the late renewal of a license, an additional late fee of ~~seventy-five dollars ($75.00).~~ one hundred dollars ($100.00)."

Section 6. This act becomes effective January 1, 2000. Sections 1, 2, and 3 apply to plans issued, amended, or renewed on or after that date. Section 5 applies to treatment and services provided on or after January 1, 2000.

HB 678:
Acupuncturist Reimbursement

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Sherrill
Date:	April 27, 1999	**Summary by:**	Cindy Avrette
Version:	3rd Edition		Committee Counsel

SUMMARY: House Bill 678 provides that insurance companies must reimburse acupuncturists to the same extent they would reimburse physicians for the same service. It also increases the additional fee imposed for a late renewal by $25. The bill becomes effective January 1, 2000.

BILL ANALYSIS: Sections 1 and 2 of House Bill 678 add acupuncturists to the list of providers under the anti-discrimination laws. The anti-discrimination laws prohibit insurance companies and service corporations from refusing to reimburse the listed providers when they perform a service for which a physician would be reimbursed under the insurance plan. These changes would not require health insurance plans to cover acupuncture. However, if a health insurance plan does cover an acupuncture service performed by a physician, the plan would also be required to cover the same acupuncture service when performed by a licensed acupuncturist. Section 1 applies to commercial insurance companies, and Section 2 applies to service corporations (Blue Cross). By virtue of G.S. 58-50-56, these changes would also apply to preferred provider plans offered by insurance companies or service corporations. In addition, if an insurance plan does cover acupuncture services, any restrictions it places on that treatment must be the same for physicians as it is for acupuncturists.

Section 3 of the bill provides that governmental health plans cannot deny to their beneficiaries the right to choose an acupuncturist as the provider of care or services within the scope of practice of acupuncture.

Section 4 of the bill repeals a provision in the acupuncture licensing law that says that nothing in the acupuncture licensing law requires third-party reimbursement of acupuncturists.

Section 5 requires the Teachers and State Employees Health Plan to cover acupuncture in two instances: (1) when used to treat pain or (2) when used to produce a regional anesthesia. If the acupuncture service falls within one of these two categories, then it is to be covered by the State Health Plan whether provided by a medical doctor or by a licensed acupuncturist.

Section 5.1 increases the maximum late renewal fee for an acupuncturist license from $75 to $100.

Section 6 makes this act effective January 1, 2000, and applicable to policies issued, renewed, or amended on or after that date or to treatment or services provided under the State Health Plan on or after that date.

Linwood Jones, Counsel to the House Rules Committee and the House Insurance Committee, contributed to this summary.

For original bill

NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE ACTUARIAL NOTE

BILL NUMBER: House Bill 678, Sections 5 & 6 Acupuncturist Reimbursement

SHORT TITLE: Acupuncturist Reimbursement

SPONSOR(S): Rep. Wilma Sherrill & Rep. Paul Luebke

SYSTEM OR PROGRAM AFFECTED: Teachers' and State Employees' Comprehensive Major Medical Plan.

FUNDS AFFECTED: State General Fund, State Highway Fund, Other State Employer Receipts, Premium Payments for Dependents by Active and Retired Teachers and State Employees, and Premium Payments for Coverages Selected by Eligible Former Teachers and State Employees.

BILL SUMMARY: Sections 5 and 6 of the bill provide coverage under the Plan's self-insured indemnity program for acupuncture when the practice of acupuncture is performed by a doctor of medicine or an acupuncturist licensed by the North Carolina Acupuncture Licensing Board. The Plan's nine health maintenance organization (HMO) alternatives to the indemnity program do not however appear to be covered by the bill.

EFFECTIVE DATE: January 1, 2000.

ESTIMATED IMPACT ON STATE: Based upon information supplied by the Teachers' and State Employees' Comprehensive Major Medical Plan, the consulting actuary for the Plan, Aon Consulting, estimates the additional cost to the Plan's indemnity program to be $349,000 for fiscal year 1999-2000 and $1,152,000 for fiscal year 2000-2001. Based upon the same information, the consulting actuary for the General Assembly's Fiscal Research Division, Hartman & Associates, estimates the additional cost to the Plan's indemnity program to be $420,000 for fiscal year 1999-2000 and $1,565,000 for fiscal year 2000-2001. A combined estimate from the two actuaries would be an additional cost to the Plan's indemnity program of $385,000 for fiscal year 1999-2000 and $1,359,000 for fiscal year 2000-2001. This combined estimate for the Plan's indemnity program would be financed as follows:

Source of Funds	1999-2000	2000-2001
General Fund	$ 242,600	$ 856,200
Highway Fund	19,300	68,000
Other Employer Funds	38,400	135,800
Total Employer Funds	$ 300,300	$1,060,000
Employee Paid Funds	80,900	285,400
Former Employee Funds	3,800	13,600
Total	$ 385,000	$1,359,000

The estimated additional costs for the Plan's indemnity program for outlying years are $1,699,000 for fiscal year 2001-2002, $2,124,000 for fiscal year 2002-2003, and $2,655,000 for fiscal year 2003-2004

Including the same amount of 1999-2001 increased employer costs for employees and retired employees covered in the nine health maintenance organizations (HMOs) would result in revised employer-funded costs as follows:

Source of Funds	1999-2000	2000-2001
General Fund	$ 315,400	$1,113,100
Highway Fund	25,100	88,400
Other Employer Funds	49,900	176,500
Total Employer Funds	$ 390,400	$1,378,000

ASSUMPTIONS AND METHODOLOGY: The Comprehensive Major Medical Plan for Teachers and State Employees is divided into two programs. From October, 1982, through June, 1986, the Plan had only a self-funded indemnity type of program which covered all employees, retired employees, eligible dependents of employees and retired employees, and eligible former employees and their eligible dependents authorized to continue coverage past a termination of employment other than for retirement or disability purposes. A prepaid program of coverage by health maintenance organizations (HMOs) was offered in July, 1986, as an alternative to the Plan's self-insured indemnity program. The benefits of the self-insured indemnity type of program are spelled out in Part 3 of Article 3 of Chapter 135 of the North Carolina General Statutes (i.e., $250 annual deductible, 20% coinsurance up to $1,000 annually, etc. paid by the program's members). HMOs are required to offer benefits that are comparable to those provided by the self-insured indemnity program. Employer-paid non-contributory premiums are only authorized for the indemnity program's coverage for employees and retired employees. Whenever employees and office holders first employed or taking office on and after October 1, 1995 become eligible for health benefits as retired employees, the amount of premium paid by the State for individual coverage will be based upon the retiree's amount of retirement service credit at the time of retirement. Only retired employees with 20 or more years of service credit at retirement will be eligible for non-contributory health benefit premiums. Retirees with 10 or more years of service credit at retirement will be eligible for 50% partially contributory health benefit premiums. Retired employees with 5 or more year of service credit at retirement will be eligible to continue their health benefits on a fully contributory basis. All other types of premium in the indemnity program are fully contributory. Premiums paid by employers to HMOs are limited to like amounts paid to the indemnity program with employees and retired employees paying any HMO amounts above the indemnity program's non-contributory rates. Both types of coverage continue to be available in the Plan with nine HMOs currently covering about 25% of the Plan's total population in 66 of the State's 100 counties. The Plan's employees and retired employees select the type of program that they wish for themselves and their dependents during the months of August and September of each year for coverage beginning in October. The demographics of the Plan as of December 31, 1998, include:

	Self-Insured Indemnity Program	Alternative HMOs	Plan Total
Number of Participants			
Active Employees	192,800	74,400	267,200
Active Employee Dependents	107,400	52,200	159,600
Retired Employees	91,600	6,700	98,300
Retired Employee Dependents	15,600	1,300	16,900
Former Employees & Dependents with Continued Coverage	2,700	700	3,400
Total Enrollments	410,100	135,300	545,400
Number of Contracts			
Employee Only	217,400	55,100	272,500
Employee & Child(ren)	30,600	16,500	47,100
Employee & Family	38,400	9,900	48,300
Total Contracts	286,400	81,500	367,900
Percentage of Enrollment by Age			
29 & Under	27.0%	44.3%	31.3%
30-44	20.2	26.5	21.7
45-54	20.8	18.5	20.2
55-64	14.6	8.0	13.0
65 & Over	17.4	2.7	13.8
Percentage of Enrollment by Sex			
Male	39.5%	39.2%	39.5%
Female	60.5	60.8	60.5

Assumptions for the Self-Insured Indemnity Program: For the fiscal year beginning July 1, 1998, the self-insured program started its operations with a beginning cash balance of $334.1 million. Receipts for the year are estimated to be $590 million from premium collections, $20 million from investment earnings, and $15 million in risk adjustment and administrative fees from HMOs, for a total of $625 million in receipts for the year. Disbursements from the self-insured program are expected to be $720 million in claim payments and $19 million in administration and claims processing expenses for a total of $739 million for the year beginning July 1, 1998. For the fiscal year beginning July 1, 1999, the self-insured indemnity program is expected to have an operating cash balance of over $220 million with a net operating loss of $185 million for the 1999-2000 fiscal year. For the fiscal year beginning July 1, 2000, the self-insured indemnity program is expected to have an operating cash balance of $35 million with a net operating loss of $270 million for the 2000-2001 fiscal year. The self-insured indemnity program is consequently assumed to be unable to carry out its operations for the 1999-2001 biennium without increases in its current premium rates or a reduction in existing benefits or both. This assumption is further predicated upon the fact that the program's cost containment strategies (hospital DRG reimbursements, pre-admission hospital testing, pre-admission hospital inpatient certification with length-of-stay approval, hospital bill audits, required second surgical opinions, mental health case management, coordination of benefits with other payers, Medicare benefit "carve-outs", cost reduction contracts with participating physicians and

other providers, prescription drug manufacturer rebates from voluntary formularies, and fraud detection) are maintained and improved where possible. Current non-contributory premium rates are $110.08 monthly for employees whose primary payer of health benefits is Medicare and $144.60 month for employees whose primary payer of health benefits is not Medicare. Fully contributory premium amounts for employee and child(ren) contracts are $68.50 monthly for children whose primary payer of health benefits is Medicare and $90.12 monthly for other covered children, and $164.30 per month for family contracts whose dependents have Medicare as the primary payer of health benefits and $216.18 per month for other family contract dependents. Claim cost trends are expected to increase 8-10% annually. Total enrollment in the program is expected to decrease about one percent (1.0%) annually due to competition from alternative HMOs. The number of enrolled active employees is expected to show a 1-2% loss annually, whereas the growth in the number of retired employees is assumed to be 4% per year. The program is expected to lose about 2-3% of its number of active employee dependents each year, whereas the number of enrolled retiree dependents is assumed to grow 1-2% from year to year. Investment earnings are based upon a 5-6% monthly return on available cash balances. The self-insured indemnity program maintains a claim stabilization reserve for claim cost fluctuations equal to 7.5% of annual claim payments without reserving additional funds for incurred but unreported claims.

Assumptions for the Self-Insured Indemnity Program's Acupuncture Claims and Use of Licensed Acupuncturists: Under Article 30 of Chapter 90 of the General Statutes, the North Carolina Acupuncture Licensing Board is empowered to establish parameters for the general and specialty practice of acupuncture in North Carolina and to adopt rules under the State's Administrative Procedures Act to implement these parameters. Chapter 21-1 of the North Carolina Administrative Code consequently requires acupuncturists to practice within the scope of training offered by a college accredited, or in the process of being accredited, by the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine. According to the Commission, there are some 35 programs nationwide that are either accredited or in the process of being accredited. Chapter 21-1 of the Administrative Code also specifies that the parameters for the diagnosis and treatment of patients include the five elements and eight principles of acupuncture and oriental medicine, the Yin Yang theory, the channel theory, the Zang Fu organ theory, and the six stages and four aspects of disease progression. Under these parameters, treatment modalities include acupuncture, moxibustion, cupping, Gua Sha, massage therapy, herbal therapy, and dietary interventions. Some of the conditions treated by these modalities include: accidental injuries, acne vulgaris, acute sprains, adnexitis, agitation, alcohol addiction, allergies, amenorrhea, anal fissures, angina pectoris, ankle joint pain, anxiety, arthrosis of jaw joint, asthma, bacillary dysentery, back pain, Bell's Palsy, biliary colic, biliary dyskinsea, bladder problems, bronchitis, cardiac arrhythmia, cardiac neurosis, cardiovascular disorders, carpal tunnel syndrome, cataracts, cervicobrachial syndrome, chemotherapy nausea, childbirth analgesia, cholangitis, cholecystitis, colitis, collapse, common cold, conjunctivitis, constipation, coronary heart disease, coxarthritis, coxarthrosis, cystitis, deafness, depression, diarrhea, digestive problems, dizziness, drug addiction, duodenal ulcers, Dupuytren's contraction,

dysmenorrhea, dysphagia, eczema, emergencies, enuresis, epicondylitis, epilepsy, epileptic seizures, esophagatis, fainting, fatigue, fibromyalgia, frozen shoulder, gastric hyperacidity, gastric ulcers, gastritis, gastroenteritis, gastroenterological disorders, gastroptosis, gingivitis, glandular exhaustion, glandular swelling, glaucoma simplex, gonarthrosis, grand mal, gum problems, gynecological disorders, gynecological tumors, hand pain, headaches, heart palpitations, hemiparesis, hemorrhoids, hepatitis, herpes simplex, herpes zoster, high blood pressure, hives, hyperemesis gravidarum, hypertension, hypotension, immune system deficiency, impotence, infertility, insomnia, intercostal neuralgia, irritable bowel disease, kidney problems, knee joint pain, labyrinthitis, lactation deficiency, laryngitis, leg ulcers, locomotor disorders, lumbar pain, male infertility, Meniere's syndrome, menopausal syndrome, menstral cramps, mental disturbances, mental illness, migraines, motion sickness, myofascial pain,myopia,neck pain, nervous tension, neuralgia, neurodermitis, neurogenic bladder dysfunction, neurological disorders, nicotine addiction, oesophagus spasms, painful menses, paralysis, paralytic ileus, neuropathies, pharyngitis, poliomyelitis sequelae, post-extraction tooth pain, post-operative dental pain, post-operative nausea, post-operative pain, pregnancy nausea, pre-mentstrual syndrome, prostatitis, pruritus vulvae, psoriasis, renal colic, respiratory disorders, retinitis, rheumatoid arthritis, rhinitis, salpingitis, schizophrenia, sciatica, sexual disturbances, shingles, sinusitis, skin disorders, skin scars, sleep disturbances, smoking cessation, spondylitis (ankylosing), spondylitis (cervical), sports disorders, sprains, strains, stress, stroke pareses, stroke rehabilitation,tennis elbow, thorax trauma, tinnitus, TMJ, toe pain, tonsillitis, torticollis, trigeminal neuralgia,uncontrolled urination, urological disorders, urological psychogenic, visual deficiencies, weight reduction, whiplash, wrist joint pain, zoster neuralgia. At the end of March, 1999, the North Carolina Acupuncture Licensing Board had licensed 119 acupuncturists; 95 practicing within the State and 24 practicing outside of the State. Of those practicing within the State, 73% reside in Buncombe, Durham, Mecklenburg, New Hanover, Orange, and Wake Counties. Approximately 23% of the indemnity program's members reside in these six counties. Licensed acupuncturists at the end of March resided in only 22 of the State's 100 counties. Four years earlier, the Board had licensed only 53 acupuncturists; 46 practicing within the State and 5 practicing outside of the State.

In contrast, the Plan's indemnity program has covered acupuncture only when performed by a doctor of medicine for the treatment of pain and for producing regional anesthesia. For fiscal year 1997-98, the program paid $30,401 on behalf of 261 patients. For fiscal year 1996-97, the program paid $10,077 on behalf of 109 patients. For fiscal year 1995-96, the program paid $3,386 on behalf of 74 patients.

SOURCES OF DATA:

-Actuarial Note, Hartman & Associates, House Bill 678, Sections 5 & 6, April 22, 1999, original of which is on file in the General Assembly's Fiscal Research Division.

-Actuarial Note, Aon Consulting, House Bill 678, Sections 5 & 6, April 15, 1999, original of which is on file with the Comprehensive Major Medical Plan for Teachers and State Employees and the General Assembly's Fiscal Research Division.

TECHNICAL CONSIDERATIONS: Since some 12,600 of the indemnity program's members reside outside of North Carolina, Section 5 of the bill might be amended to include acupuncturists that are licensed or certified in the states in which they practice.

FISCAL RESEARCH DIVISION733-4910
PREPARED BY: Sam Byrd

APPROVED BY: Tom Covington

DATE:
Monday, April 26, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 900 A BILL TO BE ENTITLED AN ACT ALLOWING GATES COUNTY TO IMPOSE FEES FOR FIRE PROTECTION SERVICES.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

HOUSE BILL 900

Short Title: Gates County Fire Protection. (Local)

Sponsors: Representative Hunter.

Referred to: Local Government II.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT ALLOWING GATES COUNTY TO IMPOSE FEES FOR FIRE PROTECTION SERVICES.

The General Assembly of North Carolina enacts:

Section 1. Article 11 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-236.1. County fire protection fees.**

(a) The board of county commissioners of a county may by ordinance impose a fee for the availability and use of fire protection services within the county. The fee imposed by the county shall not exceed the cost of providing the fire protection services.

(b) A county may adopt an ordinance providing that any fee imposed under subsection (a) of this section may be billed with property taxes, may be payable in the same manner as property taxes, and, in the case of nonpayment, may be collected in any manner by which delinquent personal or real property taxes can be collected. If an ordinance states that delinquent fees can be collected in the same manner as delinquent real property taxes, the fees are a lien on the real property described on the bill that includes the fee."

Section 2. This act applies to Gates County only.

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

HOUSE BILL 900:
Gates County Fire Protection

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Hunter
Date:	May 6, 1999	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: House Bill 900 authorizes Gates County to impose a fee for the availability and use of fire protection services within the county. The bill would become effective when it becomes law.

CURRENT LAW: Fire protection in areas outside cities is provided through the establishment of fire protection districts. The statutes provide for the creation of three types of rural fire districts:

- **Insurance districts.** G.S. 153A-233 authorizes counties to designate fire districts and prescribe their boundaries for insurance-grading purposes. To pay for this protection, the county is authorized to appropriate funds "not otherwise limited as to use by law."
- **Tax-supported fire districts.** Article 3A of Chapter 69 of the General Statutes authorizes tax-supported fire districts. They are created by a petition and an election. To pay for this protection, a special tax is levied and collected on all taxable property in the district at a rate not exceeding 15¢ on the $100 valuation of property.
- **County service districts for fire protection.** Article 16 of Chapter 153A of the General Statutes authorizes the county commissioners to define service districts for fire protection after a public hearing. To pay for this protection, a county may levy an additional property tax within the district for the purpose of financing fire protection services. The county may also use revenues whose use is not otherwise restricted by law and it may issue general obligation bonds.

BILL ANALYSIS: House Bill 900 establishes a fourth mechanism for Gates County – **a fire protection fee.** Under the legislation, the Gates County Commissioners could, by ordinance, impose a fee for the availability and use of fire protection services within the county. The amount of the fees may not exceed the cost of providing the service. The fee may be included on the property owner's property tax bill.

The General Assembly has enacted similar legislation for Union County in 1992, Halifax County in 1993, and Richmond County in 1995. The House Finance passed a similar bill for Brunswick County last month. All of the bills mentioned above differ from House Bill 900 in the following respects:

- They allow the county to create districts. House Bill 900 appears to be countywide. It does not allow for the creation of different fire districts within the county.
- They provide for a schedule of fees that vary depending upon the estimated cost of providing fire protection services to that class of property. House Bill 900 provides that the fee cannot

exceed the cost of providing the fire protection services. Arguably, this language may give the county the authority to create a fee schedule.

- They establish a maximum fee amount.
- They restrict the use of the fee revenue to fire protection in that district.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: H.B. 900 Gates County Fire Protection

SHORT TITLE: Gates County Fire Protection

SPONSOR(S): Representative Hunter

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Gates County	**$160,000***	**$160,000**	**$160,000**	**$160,000**	**$160,000**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Gates County Government

EFFECTIVE DATE: When it becomes law.

*** If enacted by County Comissioners at the rate expected by county manager (see Assumptions, below)**

BILL SUMMARY: The legislation authorizes the Gates County Commission to establish a fire protection fee. The fees, in total, can not exceed the cost of providing fire protection services for the county. This fee can be billed with property taxes and, in the case of nonpayment, can be collected in the same manner as delinquent personal or real property taxes. It also authorizes the commission to adopt an ordinance to place a lien on the property for delinquent fire fees.

ASSUMPTIONS AND METHODOLOGY: The Gates County Manager anticipates that the county will levy an annual fire fee of approximately $40.00 per household. They expect the fee to generate about $160,000 per year for fire protection services.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY: Tom Covington

DATE: Monday, May 03, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1009 A BILL TO BE ENTITLED AN ACT TO PROVIDE FUNDS FOR AGRICULTURAL RESEARCH BY INCREASING THE ASSESSMENT ON FERTILIZER, COMMERCIAL FEED, OR THEIR INGREDIENTS.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

HOUSE BILL 1009*

Short Title: Funds for Agriculture Research. (Public)

Sponsors: Representatives Hill, Brown, Mitchell; Yongue, and Bonner.

Referred to: Agriculture.

April 13, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FUNDS FOR AGRICULTURAL RESEARCH BY INCREASING THE ASSESSMENT ON FERTILIZER, COMMERCIAL FEED, OR THEIR INGREDIENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-568.2 reads as rewritten:

"**§ 106-568.2. Policy as to referendum and assessment.**

It is declared to be in the public interest and highly advantageous to the economic development of the State that farmers, producers, and growers of agricultural commodities using commercial feed and/or fertilizers or their ingredients be permitted by referendum held among themselves to levy upon themselves an assessment of ~~ten cents (10¢)~~ fifteen cents (15¢) per ton on mixed fertilizers, commercial feed, and their ingredients (except lime and land plaster) to provide funds through the Agricultural Foundation to supplement the established program of agricultural research and dissemination of research facts.

It is further declared to be in the public interest and highly advantageous to the economic development of the State that tobacco producers be permitted by referendum to levy upon themselves an assessment not to exceed ten cents (10¢) per hundred pounds of tobacco marketed to provide funds through the North Carolina Tobacco Research Commission for research and dissemination of research facts concerning tobacco."

Section 2. G.S. 106-568.8(a) reads as rewritten:

"(a) Fertilizer and feed assessments. In the event two-thirds or more of the eligible farmers and producers participating in said referendum vote in favor of such

assessment, then said assessment shall be collected for a period of six years under rules, regulations, and methods as provided for in this Article. The assessments shall be added to the wholesale purchase price of each ton of fertilizer, commercial feed, and/or their ingredients (except lime and land plaster) by the manufacturer of said fertilizer and feed. The assessment so collected shall be paid by the manufacturer into the hands of the North Carolina Commissioner of Agriculture on the same tonnage and at the same time and in the same manner as prescribed for the reporting of the inspection tax on commercial feeds and fertilizers as prescribed by G.S. 106-284.40 and 106-671. The Commissioner shall then remit ~~said ten cents (10¢) per ton~~ the assessment for the total tonnage as reported by all manufacturers of commercial feeds, fertilizers, and their ingredients to the treasurer of the North Carolina Agricultural Foundation, Inc., who shall disburse such funds for the purposes herein enumerated and not inconsistent with provisions contained in the charter and bylaws of the North Carolina Agricultural Foundation, Inc. Signed copies of the receipts for such remittances made by the Commissioner to the treasurer of the North Carolina Agricultural Foundation, Inc., shall be furnished the Commissioner of Agriculture, the North Carolina Farm Bureau Federation, and the North Carolina State Grange. The treasurer of the North Carolina Agricultural Foundation, Inc., shall make an annual report at each annual meeting of the Foundation directors of total receipts and disbursements for the year and shall file a copy of said report with the Commissioner of Agriculture and shall make available a copy of said report for publication.

It shall be the duty of the Commissioner of Agriculture to audit and check the remittances of ~~ten cents (10¢) per ton~~ the assessment by the manufacturer to the Commissioner in the same manner and at the same time as audits and checks are made of remittances of the inspection tax on commercial feeds and fertilizers.

Any commercial feed excluded from the payment of the inspection fee required by G.S. 106-284.40 shall nevertheless be subject to the assessment provided for by this Article and to quarterly tonnage reports to the Department of Agriculture and Consumer Services as provided for in G.S. 106-284.40(c)."

Section 3. This act is effective when it becomes law; however, the increased assessment of five cents (5¢) per ton under G.S. 106-568.2, as amended by Section 1 of this act, shall not be levied nor collected before January 1, 2001.

HOUSE BILL 1009:
Funds for Agriculture Research

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Hill
Date:	May 6, 1999	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: House Bill 1009 would allow farmers to vote on whether to levy an assessment of fifteen cents (15¢) per ton on mixed fertilizers, commercial fee, and their ingredients. This assessment would be a five cent (5¢) increase over the current assessment amount. The proceeds of the assessment would be used by the Agricultural Foundation for agricultural research and dissemination of research facts. The bill becomes effective when it becomes law; however, the increased assessment of five cents (5¢) per ton could not be levied before January 1, 2001.

CURRENT LAW AND BILL ANAYSIS: In 1951, the General Assembly gave North Carolina farmers the ability to levy upon themselves as assessment on mixed fertilizers, commercial feed, and their ingredients, except lime and land plaster. The purpose of the assessment is to provide funds for agricultural research and dissemination of research facts through the North Carolina Agricultural Foundation. For the assessment to be levied, two thirds or more of the farmers voting in the referendum must vote in favor of the levying and collection of the assessment. If two thirds of the farmers vote in favor of the assessment, the assessment is levied annually for the next six years. A new referendum may be called and conducted during the sixth year on the question of whether or not the assessment shall be continued for the next ensuing six years. The sixth year period ends this year. In the past, the assessment has been supported by a 90% vote in favor of the assessment. The current assessment amount is ten cents (10¢). **House Bill 1009 would increase the assessment amount five cents (5¢), from ten cents (10¢) to fifteen cents (15¢).** This amount has not been increased since 1951.

The governing boards of the North Carolina Farm Bureau Federation, the North Carolina State Grange, and the North Carolina Agricultural Foundation, Inc., arrange for and manage the referendum. They must publicly announce in each county the date, hours, and polling places in that county for voting in the referendum at least 60 days before the date the referendum will be held. They must also disclose the amount of the proposed assessment and the general purposes for which the funds collected will be used.

The manufacturer of the fertilizer and feed adds the assessment to the wholesale purchase price of each ton of fertilizer, commercial feed, and their ingredients. The manufacturer collects the assessment amount and remits it to the North Carolina Commissioner of Agriculture on the same tonnage and at the same time and in the same manner as prescribed for the reporting of the inspection tax on commercial feed. The inspection tax is due by the last day of January, April, July, and October of each year. The Commissioner then remits the assessment to the treasurer of the North Carolina Agricultural Foundation, Inc. If a farmer does not want to pay the assessment, the farmer may request a refund in writing from the North Carolina Agricultural Foundation. The refund must be requested within 30 days from the date the assessment is paid.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: H.B. 1009 DRAFT

SHORT TITLE: Funds for Agricultural Research

SPONSOR(S): Representatives Hill, Brown, Mitchell, Yongue, and Bonner.

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
General Fund	*** No General Fund Impact ***				
N.C. Agricultural Foundation		**$187,500**	**$375,000**	**$375,000**	**$375,000**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: N.C. Department of Agriculture, N.C. Agricultural Foundation, North Carolina State University.

EFFECTIVE DATE: The act is effective when it becomes law. The increased assessment shall not be levied nor collected before January 1, 2001.

BILL SUMMARY: Currently farmers, producers, and growers of agricultural commodities pay a $0.10 assessment on each ton of mixed fertilizers, commercial feed, and the ingredients for feed and fertilizer. This assessment is added to the wholesale purchase price. Lime and land plasters are exempt from the assessment. The assessment was levied after a required referendum vote of eligible farmers and producers. The levy must be renewed by referendum every six years. The proceeds of the assessment are collected by the Department of Agriculture and deposited in the North Carolina Agricultural Foundation. The bill increases the assessment on these items to $0.15 per ton.

ASSUMPTIONS AND METHODOLOGY: Funds from the assessment are deposited with the North Carolina Agricultural Foundation, Inc. The Agricultural Foundation is a non-profit, charitable and educational corporation as defined in Internal Revenue Service code 501(c) 3. The Agricultural Foundation was formed in 1944 "to aid and promote, by financial assistance and otherwise, all types of education and research in agriculture at or through the North Carolina State University at Raleigh." North Carolina State University administers the program.

According to documents from N.C. State University, total cash receipts for the Foundation were approximately $9.5 million in 1998. This was a significant increase from the $6.2 million

experienced the previous year. Approximately $700,000 - $775,000 of this amount came from the $0.10 assessment on mixed fertilizers and commercial feed. This assessment is generally referred to in the agricultural community as "nickels for know how".

Officials at N.C. State University expect "nickels for know how" income to continue to hover at the $700,000 - $775,000 range for the next five years. Assuming the farmers approve the fifty-percent increase (from $0.10 to $0.15 per ton), the added revenue generated by the bill will be approximately $375,000.

Under current law farmers must vote on the "nickels for know now" funding every six years. The next referendum must be held in 1999. Generally voting is done in October or November. For the new rate, or any rate, to apply the measure must pass with a 2/3-majority vote. N.C. State reports that the referendum has always been endorsed by at least 90% of those voting. Therefore, Fiscal Research assumes, for the purposes of the note, that this measure will also be approved. The 2000-01 fiscal impact has been adjusted to account for the January 1 effective date.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY:

DATE:

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 1096 A BILL TO BE ENTITLED AN ACT TO IMPROVE THE QUALITY OF DOCUMENTS RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS.

History and Current Information on the North Carolina Agricultural Foundation, Inc. and the "Nickels for Know-How" Program

AG FOUNDATION HISTORY

The North Carolina Agricultural Foundation, Inc. was incorporated on November 24, 1944 in Raleigh, NC as a means of supporting agricultural research, extension, and teaching activities in the College of Agriculture and Life Sciences at NC State University. Some of the names associated with the creation on the Foundation were: L. Y. Ballentine (President), A. G. Floyd (Secretary), R. J. Reynolds, W. H. Belk, T. B. Upchurch, Clarence Poe, W. Kerr Scott, Harry B. Caldwell, Thomas J. Pearsall, and J. M. Brougton.

CURRENT AG FOUNDATION INFORMATIO

The Foundation is currently directed by a 148 membe. Board of Directors. There is a representative from every county in North Carolina and 48 agribusiness members. (*See the back page of this brochure for a current list of Ag Foundation officers.*) Mr. Sam Brake, Jr., a farmer from Beaufort, North Carolina, is the President, and Dr. Paul Dew, Retired Executive Vice President of the North Carolina Agribusiness Council, serves as Vice President. Ms. Jan Dorsey, Executive Director of the NC Egg Association, is the Secretary.

AG FOUNDATION FINANCIAL HISTORY

Over the past ten years, assets in the Ag Foundation have grown from $5.0 million in 1988 to over $16.5 million in 1997. **At the same time, total revenues (contributions, "Nickels" income, investment income and other income) have grown from $1.36 million in 1988 to $6.76 million in 1997.**

In addition to support from "Nickels," the Ag Foundation receives support from private individuals (alumni and friends), corporations, and commodity and other organizations including philanthropic foundations. These donors support a variety of efforts in the College of Agriculture and Life Sciences, including student scholarships and fellowships, faculty support and professorships, and specific research and/or extension activities in the College. **The increase in private support over the past ten years reflects the confidence and affinity supporters have for the College. In today's climate of decreasing federal and state support, these private dolla are more important to the College's support of agriculture in North Carolina than at any time in our history. This funding provides the College with a "competitive edge" that is invaluable.**

"NICKELS FOR KNOW-HOW" HISTORY

The "Nickels for Know-How" program was created on November 19, 1951 as a $.05 voluntary collection on every ton of feed and fertilizer produced in North Carolina. It was stated in the first minutes of the Foundation that "Nickels" was not to serve as a substitute, but rather as a supplement, to state appropriations for agricultural programs in the College. **In the first full year of the "Nickels" program, ending August 31, 1952, $105,368.37 was collected through the program. In today's dollars, that $105,368.37 would be equivalent to $657,149 for one and $1,314,298 under the current two nickels ed by the NC Department of Agriculture and Consumer Services.**

"NICKELS FOR KNOW-HOW" REFERENDUM

Every six years since 1951 there has been a state-wide referendum on "Nickels," as required by state law. **The "Nickels" referendum has always passed by more than a 90% favorable vote.** "Nickels" is a voluntary program; however, there has never been a refund of "Nickels" contributions since it was created in 1951.

1999 "NICKELS" REFERENDUM

The next referendum for "Nickels" is scheduled for late fall 1999. At that time, all of the producers or users of feed or fertilizer in North Carolina will again vote as to whether to continue the "Nickels" program. **A proposal to consider increasing the number of "Nickels" collected has been approved by the Board of Directors of the North Carolina Agricultural Foundation.** This proposal is being shared with leaders of the agricultural community in North Carolina for their feedback and input.

"NICKELS FOR KNOW-HOW" REVENUES

Over the past five years, contributions to "Nickels" have been as follows:

Year	Total "Nickels" Support
1994	$608,328.44
1995	$638,926.43
1996	$657,242.80
1997	$704,710.43
1998	$797,766.43

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1096
Proposed Committee Substitute H1096-PCS1265-RBX

Short Title: Register of Deeds Amends. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE QUALITY OF DOCUMENTS RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-54.3(b) reads as rewritten:

"(b) The Secretary of State, in cooperation with the Secretary of Cultural Resources and in accordance with G.S. 121-5(c) and G.S. 132-8.1, shall establish minimum standards and provide advice and technical assistance to local governments in implementing and maintaining minimum standards with regard to the following aspects of land records management:

(1) Uniform indexing of land ~~records;~~ records.

(2) Uniform recording and indexing procedures for maps, plats and ~~condominiums; and~~ condominiums.

(3) Security and reproduction of land records.

(4) Uniform recording standards for land records."

Section 2. G.S. 147-54.3(b1) reads as rewritten:

"(b1) The Department of Secretary of State, in cooperation with the North Carolina Association of Registers of Deeds, Inc., and the Real Property Section of the North Carolina Bar Association, shall adopt, pursuant to Chapter 150B of the General Statutes, rules specifying the minimum indexing and recording standards established pursuant to subsection (b) of this section and procedures for complying with those minimum standards in land records management. A copy of the standards

adopted shall be posted in the office of the register of deeds in each county of the State."

Section 3. G.S. 161-10(a) reads as rewritten:

"(a) Except as provided in G.S. 161-11.1 or 161-11.2, all fees collected under this section shall be deposited into the county general fund. In the performance of his duties, the register of deeds shall collect the following fees which shall be uniform throughout the State:

. . .

(19) Nonstandard document. -- For registering a land records document not in compliance with the recording standards adopted pursuant to G.S. 147-54.3 -- thirty dollars ($30.00), in addition to all other applicable recording fees."

Section 4. G.S. 161-14 reads as rewritten:

"**§ 161-14. Registration of instruments.**

(a) ~~The~~ After the register of deeds determines that all statutory and local law prerequisites for registration have been met, the register of deeds shall immediately register all written instruments presented to him for registration. When an instrument is presented for registration, the register of deeds shall endorse upon it the day and hour on which it was presented. This endorsement forms a part of the registration of the instrument. All instruments shall be registered in the precise order in which they were presented for registration. Immediately after endorsing the day and hour of presentation upon an instrument, the register of deeds shall index and cross-index it in its proper sequence. He shall then proceed to register it on the day that it is presented unless a temporary index has been established.

The register of deeds may, in his discretion, establish a temporary index in which all instruments presented for registration shall be indexed until they are registered and entered in the permanent indexes. A temporary index shall operate in all respects as the permanent index. All instruments presented for registration shall be registered and indexed and cross-indexed on the permanent indexes not later than 30 days after the date of presentation.

(b) ~~All instruments presented for registration shall be on paper and in ink of a color, quality, size, and condition that will permit the production of legible and permanent reproductions thereof by photographic or microphotographic processes. If an instrument presented for registration is in a condition that will not permit such reproduction, the register of deeds shall endorse thereon the following notation: "Record of poor quality due to condition of original document." He shall then register the instrument in the usual manner.~~

(c) Transportation corridor official maps authorized under Article 2E of Chapter 136 shall be registered and indexed by the end of the third business day after the business day the map is presented to the Register of Deeds."

Section 5. Section 3 of this act becomes effective January 1, 2000. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1096
PROPOSED COMMITTEE SUBSTITUTE
H1096-PCSRBX-1
DO NOT USE FOR FLOOR AMENDMENTS; LINE NUMBERS MAY CHANGE

Short Title: Register of Deeds Amends. (Public)

Sponsors:

Referred to: Judiciary II.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE QUALITY OF DOCUMENTS RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-54.3(b) reads as rewritten:

"(b) The Secretary of State, in cooperation with the Secretary of Cultural Resources and in accordance with G.S. 121-5(c) and G.S. 132-8.1, shall establish minimum standards and provide advice and technical assistance to local governments in implementing and maintaining minimum standards with regard to the following aspects of land records management:

(1) Uniform indexing of land ~~records;~~ records.

(2) Uniform recording and indexing procedures for maps, plats and ~~condominiums; and~~ condominiums.

(3) Security and reproduction of land records.

(4) Uniform recording standards for land records."

Section 2. G.S. 147-54.3(b1) reads as rewritten:

"(b1) The Department of Secretary of State, in cooperation with the North Carolina Association of Registers of Deeds, Inc., and the Real Property Section of the North Carolina Bar Association, shall adopt, pursuant to Chapter 150B of the General

Statutes, rules specifying the minimum indexing and recording standards established pursuant to subsection (b) of this section and procedures for complying with those minimum standards in land records management. A copy of the standards adopted shall be posted in the office of the register of deeds in each county of the State."

Section 3. G.S. 161-10(a) reads as rewritten:

"(a) Except as provided in G.S. 161-11.1 or 161-11.2, all fees collected under this section shall be deposited into the county general fund. In the performance of his duties, the register of deeds shall collect the following fees which shall be uniform throughout the State:

. . .

(19) Nonstandard document. -- For registering a land records document not in compliance with the recording standards adopted pursuant to G.S. 147-54.3 -- thirty dollars ($30.00), in addition to all other applicable recording fees."

Section 4. G.S. 161-14 reads as rewritten:

"**§ 161-14. Registration of instruments.**

(a) ~~The~~ After the register of deeds determines that all statutory and local law prerequisites for registration have been met, the register of deeds shall immediately register all written instruments presented to him for registration. When an instrument is presented for registration, the register of deeds shall endorse upon it the day and hour on which it was presented. This endorsement forms a part of the registration of the instrument. All instruments shall be registered in the precise order in which they were presented for registration. Immediately after endorsing the day and hour of presentation upon an instrument, the register of deeds shall index and cross-index it in its proper sequence. He shall then proceed to register it on the day that it is presented unless a temporary index has been established.

The register of deeds may, in his discretion, establish a temporary index in which all instruments presented for registration shall be indexed until they are registered and entered in the permanent indexes. A temporary index shall operate in all respects as the permanent index. All instruments presented for registration shall be registered and indexed and cross-indexed on the permanent indexes not later than 30 days after the date of presentation.

(b) ~~All instruments presented for registration shall be on paper and in ink of a color, quality, size, and condition that will permit the production of legible and permanent reproductions~~

~~thereof by photographic or microphotographic processes. If an instrument presented for registration is in a condition that will not permit such reproduction, the register of deeds shall endorse thereon the following notation: "Record of poor quality due to condition of original document." He shall then register the instrument in the usual manner.~~

(c) Transportation corridor official maps authorized under Article 2E of Chapter 136 shall be registered and indexed by the end of the third business day after the business day the map is presented to the Register of Deeds."

Section 5. Section 3 of this act becomes effective January 1, 2000. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1096

Short Title: Register of Deeds Amends. (Public)

Sponsors: Representatives Hill; and Redwine.

Referred to: Judiciary II.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE QUALITY OF DOCUMENTS RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-54.3(b) reads as rewritten:

"(b) The Secretary of State, in cooperation with the Secretary of Cultural Resources and in accordance with G.S. 121-5(c) and G.S. 132-8.1, shall establish minimum standards and provide advice and technical assistance to local governments in implementing and maintaining minimum standards with regard to the following aspects of land records management:

(1) Uniform indexing of land records;

(2) Uniform recording and indexing procedures for maps, plats and condominiums; ~~and~~

(2a) Uniform recording standards for land records; and

(3) Security and reproduction of land records."

Section 2. G.S. 147-54.3(b1) reads as rewritten:

"(b1) The Department of Secretary of State, in cooperation with the North Carolina Association of Registers of Deeds, Inc., and the Real Property Section of the North Carolina Bar Association, shall adopt, pursuant to Chapter 150B of the General Statutes, rules specifying the minimum indexing and recording standards established pursuant to subsection (b) of this section and procedures for complying with those minimum standards in land records management. A copy of the standards adopted shall be posted in the office of the register of deeds in each county of the State."

Section 3. G.S. 161-10(a) reads as rewritten:

"(a) Except as provided in G.S. 161-11.1 or 161-11.2, all fees collected under this section shall be deposited into the county general fund. In the performance of his duties, the register of deeds shall collect the following fees which shall be uniform throughout the State:

. . .

(19) Nonstandard document. -- For registering a land records document not in compliance with the recording standards adopted pursuant to G.S. 147-54.3(b1) thirty dollars ($30.00), in addition to all other applicable recording fees."

Section 4. G.S. 161-14 reads as rewritten:

"**§ 161-14. Registration of instruments.**

(a) ~~The~~ After the register of deeds determines that all statutory requirements for registration have been met, the register of deeds shall immediately register all written instruments presented to him for registration. When an instrument is presented for registration, the register of deeds shall endorse upon it the day and hour on which it was presented. This endorsement forms a part of the registration of the instrument. All instruments shall be registered in the precise order in which they were presented for registration. Immediately after endorsing the day and hour of presentation upon an instrument, the register of deeds shall index and cross-index it in its proper sequence. He shall then proceed to register it on the day that it is presented unless a temporary index has been established.

(b) The register of deeds may, in his discretion, establish a temporary index in which all instruments presented for registration shall be indexed until they are registered and entered in the permanent indexes. A temporary index shall operate in all respects as the permanent index. All instruments presented for registration shall be registered and indexed and cross-indexed on the permanent indexes not later than 30 days after the date of presentation.

~~(b) All instruments presented for registration shall be on paper and in ink of a color, quality, size, and condition that will permit the production of legible and permanent reproductions thereof by photographic or microphotographic processes. If an instrument presented for registration is in a condition that will not permit such reproduction, the register of deeds shall endorse thereon the following notation: "Record of poor quality due to condition of original document." He shall then register the instrument in the usual manner.~~"

Section 5. This act is effective when it becomes law.

HOUSE BILL 1096:
Register of Deeds Amends.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Hill
Date:	May 6, 1999	**Summary by:**	Cindy Avrette Committee Counsel

SUMMARY: House Bill 1096 requires the establishment of uniform recording standards for land records and imposes a $30 additional recording fee for documents that do not meet the uniform standard. It also clarifies that a register of deeds cannot record a document until the statutory requirements for registration have been met. The proposed committee substitute makes technical and clarifying changes to the bill.

MINIMAL RECORDING STANDARDS: Over the past several years, the number of documents recorded has increased significantly. Registers of deeds have become dependent on technology to help them keep up with the increasing number of documents being recorded. Current law provides for the uniform indexing and recording of land records; however , it does not provide uniform recording standards for land records. It is oftentimes difficult and time-consuming to use the computer scanning technologies for registration if certain minimal document standards are not met.

The National Association of County Recorders, Election Officials, and Clerks and the International Association of Clerks, Recorders, Election Oficials and Treasurers have organized a Property Records Industry Joint Task Force to study issues related to property records. One of its committees is recommending uniform standards for real estate document formatting. The items included in its document formatting recommendations include the following: legibility, paper specificiations, margins, document specifications, print specifications, and administrative content.

To help achieve minimal recording standards in North Carolina, Sections 1 and 2 of the bill require the Secretary of State, in cooperation with the Secretary of Cultural Resources , the North Carolina Association of Registers of Deeds, Inc., and the Real Property Section of the North Carolina Bar Association, to establish rules providing for minimal recording standards for land records. Section 4 of the bill repeals the recording standards contained in G.S. 161-14(b). The standards of G.S. 161-14(b) may be included in the rules established by the Secretary of State.

Effective January 1, 2000, Section 3 of the bill imposes an additional $30 recording fee on a land records document that does not meet the minimal recording standards established by rule. The purpose for the increased fee is twofold: To encourage document preparers to conform to the minimal recording standards and to help offset the costs involved in the increased time it takes to record and preserve a document that does not meet the minimal recording standards. The $30 fee would be deposited into the county's general fund.

REGISTRATION OF INSTRUMENTS: Section 4 of the bill clarifies that a register of deeds cannot record a doucment until all the statutory and local law prerequisites for registration have been met. The

statutes and certain local laws require the following conditions to be met before a register of deeds can register or record a document:

- Acknowledgement of grantor, lessor, or the person executing the instrument. G.S. 47-17
- Certification of acknowledgement. G.S. 47-14
- Name of the person who drafted the instrument. G.S. 47-17.1
- Payment of the excise tax on conveyances. G.S. 105-228.30
- Payment of recording fees. G.S.. 161-10
- Payment of applicable local transfer taxes. S.L. 85-670, S.L. 89-393 (Currituck, Pasquotank, Perquimans, and Washington Counties)
- Payment of delinquent property taxes. S.L. 63-305, 87-537, 93-288, 93-657, 97-410, and 98-73 (Alleghany, Ashe, Avery, and Mitchell, and the Towns of Banner Elk, Newland, and Spruce Pine.)
- Name of person conveying the property, name and address of person to whom the property is being conveyed, a description of the property, and a statement as to whether the parcel is conveyed in whole or in part. G.S. 105-303(a)
- Name and address of the person to whom the instrument is to be returned is on the document. G.S. 161-30(a)
- Parcel identification number. G.S. 161-30(b)
- Notation by the county tax assessor that the assessor has the information desired from the conveyance. G.S. 105-303(b)

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1096 (Proposed House Finance Committee Substitute)

SHORT TITLE: Register of Deeds Amendments

SPONSOR(S): Representatives Hill and Redwine

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
County General Fund	see ASSUMPTIONS AND METHODOLOGY				
EXPENDITURES					
General Fund					
Secretary of State	No fiscal impact				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Secretary of State, County Registers of Deeds

EFFECTIVE DATE: Section 3 of this act becomes effective January 1, 2000. The remainder of this act is effective when it becomes law.

BILL SUMMARY:
This bill directs the Secretary of State to establish minimum standards for recording land records and creates a $30 fee for registering land documents that do not comply with these minimum recording standards.

ASSUMPTIONS AND METHODOLOGY:
Section 1 requires the Secretary of State to establish minimum standards for recording land records. Given the existing resources in the Secretary of State's Office, this requirement will not impose any additional cost on the agency. However, there is a proposed reduction in personnel in the Land Records Management Section that could delay the writing of standards. The Joint Appropriations Committee on General Government is considering the elimination of the position that will work on this standard. Since this action has not been enacted, this fiscal note assumes the status quo and thus no impact from the requirement of HB 1096.

Section 3 creates a new fee for registering non-standard land records documents. This $30 fee is a recommendation of the North Carolina Association of Registers of Deeds in their attempt to

discourage the filing of non-standard documents. Discussion with Registers of Deeds in Columbus, Randolph, and Wake counties revealed that as many as one-third of the deeds of trust recorded by Registers of Deeds are non-standard. Unfortunately there is no source of data on the number of standard or non-standard documents filed each year with Registers of Deeds.

To gauge the potential impact of this bill, this note examines the workload of the Randolph County Register of Deeds Office and applies the results to the other 99 counties. Of the 30,000 documents recorded in Randolph County in 1998, approximately 40% or 12,000 were deeds of trusts. Dividing the 12,000 deeds of trusts by the Randolph County population of 119,306 (1997 estimate), Randolph County had .10058 deeds of trust for each resident. Applying this per capita amount to the state population of 7,436,690 (1997 estimate), yields 747,982 deeds of trusts issued in 1998 statewide. Assuming that one-third of deeds of trusts are recorded in a nonstandard format, then there were 246,834 non-standard deeds of trusts filed in the state in 1998. If lenders continue to submit non-standard deeds of trusts after the passage of HB 1096, then county revenues could increase $7.4 million each year as follows:

246,834 non-standard deeds of trusts X $30 = $7,405,020

This $7.4 million in county revenue will be realized if lenders choose not to comply with the standardized format. Lenders may choose to do business as usual and pass this fee on to the consumer.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY:

DATE:

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☒ Committee Substitute for
S.B. 18 A BILL TO BE ENTITLED AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF CARTHAGE.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 18

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S18-ALB-1A

Date_____,1999

Comm. Sub. [YES]
Amends Title [YES]
Seconed Edition

moves to amend the bill on page 1, line 3,
by inserting the following immediately before the period, ", AND
CONCERNING AN ANNEXATION AGREEMENT BETWEEN THAT TOWN AND THE VILLAGE
OF PINEHURST"

further moves to amend the bill on page 6, line 3, by rewriting that
line to read:
"Section 11. (a) The Village of Pinehurst and the Town of
Carthage may enter into an annexation agreement under Part 6 of
Article 4A of Chapter 160A of the General Statutes which includes
any or all of the following:
(1) Notwithstanding G.S. 160A-58.24(d), the agreement may
not be terminated by the two municipalities before its
set expiration; and
(2) G.S. 160A-58.27(i) shall not apply.
Section 11. (b)The boundary under any annexation agreement
including any of the provisions of subsection (a) of this section
shall be:
McNeill Township, Moore County, North Carolina, lying on the east
side of Murdocksville Road (S.R. 1209), north side of the channel of
Little River, and the centerlines of U.S. Highway 15-501 and
McCaskill Road (S.R. 1838); described as follows;
Beginning at a point in the centerline of Murdocksville Road (S.R.
1209) at the point where Little River crosses the road, said point

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 18

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S18-ALB-1A

being 4,960.00 feet south of the intersection of Murdocksville Road (S.R. 1209) and Doub's Chapel Road (S.R. 1224); running thence in an easterly direction 9,840.00 feet along the north bank of the channel of Little River to a point in the centerline of U.S. Highway 15-501 at the point where Little River crosses the road, said point being 875.00 feet south of the intersection of U.S. Highway 15-501 and Doub's Chapel Road (S.R. 1224); running thence in a southerly direction 5,760.00 feet to a point in the centerline of U.S. Highway 15-501 at the intersection of U.S. Highway 15-501 and McCaskill Road (S.R. 1838); running thence in an easterly direction 2,405.00 feet to a point in the centerline of McCaskill Road (S.R. 1838) at the intersection of McCaskill Road (S.R. 1838) and Napier Road (S.R. 1839).

Section 12. This act is effective when it becomes law.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 18
State and Local Government Committee Substitute Adopted 3/29/99

Short Title: Carthage Charter Consolidation. (Local)

Sponsors:

Referred to:

February 2, 1999

A BILL TO BE ENTITLED

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF CARTHAGE.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Carthage is revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF CARTHAGE.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Section 1.1. **Incorporation.** The Town of Carthage, North Carolina, in Moore County and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the 'Town of Carthage,' hereinafter at times referred to as the 'Town.'

"Section 1.2. **Powers.** The Town shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Town of Carthage specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Section 1.3. **Corporate Limits.** The corporate limits shall be those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with law. An official map of the Town, showing the current municipal boundaries, shall be maintained permanently in the office of the Town Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the

Secretary of State, the Moore County Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Section 2.1. **Town Governing Body; Composition.** The Town Council, hereinafter referred to as the 'Council,' and the Mayor shall be the governing body of the Town.

"Section 2.2. **Town Council; Composition; Terms of Office.** The Council shall be composed of five members, to be elected by all the qualified voters of the Town, for staggered terms of four years or until their successors are elected and qualified.

"Section 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by all the qualified voters of the Town for a term of four years or until his or her successor is elected and qualified. The Mayor shall be the official head of the Town government and preside at meetings of the Council, shall have the right to vote only when there is an equal division on any question or matter before the Council, and shall exercise the powers and duties conferred by law or as directed by the Council.

"Section 2.4. **Mayor Pro Tempore.** The Council shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or disability, in accordance with general law. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the Council.

"Section 2.5. **Meetings.** In accordance with general law, the Council shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

"Section 2.6. **Quorum; Voting.** Official actions of the Council and all votes shall be taken in accordance with the applicable provisions of general law, particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

"Section 2.7. **Compensation; Qualifications for Office; Vacancies.** The compensation and qualifications of the Mayor and Council members shall be in accordance with general law. Vacancies that occur in any elective office of the Town shall be filled by majority vote of the remaining members of the Council and shall be filled for the remainder of the unexpired term, despite the contrary provisions of G.S. 160A-63.

"ARTICLE III. ELECTIONS.

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined using the nonpartisan plurality method as provided in G.S. 163-292.

"Section 3.2. **Election of Mayor.** A Mayor shall be elected in the regular municipal election in 1999 and each four years thereafter.

"Section 3.3. **Election of Council Members.** In the regular municipal election in 1997, the three candidates for Council member who received the highest numbers of votes shall be elected for four-year terms, while the two candidates who receive the next highest numbers of votes shall be elected for two-year terms. In the regular municipal election in 1999, and in each regular municipal election thereafter, persons

shall be elected to serve four-year terms in those positions whose terms are then expiring.

"Section 3.4. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE IV. TOWN MANAGER.

"Section 4.1. **Form of Government.** The Town shall operate under the council-manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 4.2. **Town Manager; Appointment; Powers and Duties.** The Council shall appoint a Town Manager who shall be responsible for the administration of all departments of the Town government. The Town Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter, and the additional powers and duties conferred by the Council, so far as authorized by general law.

"Section 4.3. **Settlement of Claims by Town Manager.** The Council may authorize the Town Manager to settle claims against the Town for (i) personal injuries or damages to property when the amount involved does not exceed the sum of two thousand five hundred dollars ($2,500) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expenses actually incurred; and (ii) the taking of small portions of private property which are needed for the rounding of corners at intersections of streets, when the amount involved in any such settlement does not exceed two thousand five hundred dollars ($2,500) and does not exceed the actual loss sustained. Settlement of a claim by the Town Manager pursuant to this section shall constitute a complete release of the Town from any and all damages sustained by the person involved in such settlement in any manner arising out of the incident, occasion, or taking complained of. All such settlements and all such releases shall be approved in advance by the Town Attorney.

"ARTICLE V. ADMINISTRATIVE OFFICERS AND EMPLOYEES.

"Section 5.1. **Town Attorney.** The Council shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Council may direct.

"Section 5.2. **Town Clerk.** The Town Manager shall appoint a Town Clerk to keep a journal of the proceedings of the Council, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Manager may direct. The Manager may appoint an Assistant or Deputy Town Clerk.

"Section 5.3. **Tax Collector.** The Town shall have a Tax Collector to collect all taxes owed to the Town and perform those duties specified in G.S. 105-350 and such other duties as prescribed by law or assigned by the Town Manager. Notwithstanding the contrary provisions of G.S. 105-349, the Manager may appoint and remove the Tax Collector and one or more Deputy Tax Collectors.

"Section 5.4. **Other Administrative Officers and Employees.** The Council may authorize other positions to be filled by appointment by the Town Manager, and may organize the Town government as deemed appropriate, subject to the requirements of general law.

"Section 5.5. **Manager's Authority; Role of Elected Officials.** As chief administrator, the Town Manager shall have the power to appoint, suspend, and remove all nonelected officers, department heads, and employees of the Town, except the Town Attorney, who shall be appointed as provided in Section 5.1 of this Charter. Neither the Mayor nor the Council nor any of its committees or members shall take part in the appointment or removal of officers, department heads, and employees in the administrative service of the Town, except as provided by this Charter. Except for the purpose of inquiry, or for consultation with the Town Attorney, the Mayor and the Council and its members shall deal with officers and employees in the administrative service only through the Manager, Acting Manager, or Interim Manager, and neither the Mayor nor the Council nor any of its members shall give orders or directions to any subordinate of the Manager, Acting Manager, or Interim Manager, either publicly or privately.

"ARTICLE VI. REMOVAL OF MOTOR VEHICLES.

"Section 6.1. **Liens for Removal of Motor Vehicles.** Pursuant to the authority granted by G.S. 160A-303 and G.S. 160A-303.2 and Chapter 451 of the Session Laws of 1987, the Council may establish reasonable towing fees for the cost of removing junked motor vehicles from private property. When the town causes the removal of a junked motor vehicle from private property pursuant to the authority granted by G.S. 160A-303 and G.S. 160A-303.2 and Chapter 451 of the Session Laws of 1987, and the owner of the vehicle fails to pay the towing fee within 30 days after it becomes due, the towing fee shall become a lien against the real property from which the vehicle was removed provided the owner of the real property from which the vehicle was removed was also the owner of the junked motor vehicle; said cost shall be placed upon the Town's tax books against the property and may be collected and foreclosed in the same manner as taxes are collected and foreclosed, or by suit, as the Town may determine.

"ARTICLE VII. EXTRATERRITORIAL POWERS.

"Section 7.1. **Extraterritorial Jurisdiction.** The Town shall have and may exercise all of the powers granted by Article 19 of Chapter 160A of the General Statutes within an extraterritorial area which it shall define. Despite the contrary provisions of G.S. 160A-360, the Town may, with the approval of the board of county commissioners, extend its extraterritorial area up to two miles outside the corporate limits.

Section 2. The purpose of this act is to revise the Charter of the Town of Carthage and to consolidate certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are expressly consolidated into this act, so that all rights and liabilities which have accrued are preserved and may be enforced.

Section 3. This act does not repeal or affect any acts concerning the property, affairs, or government of public schools, or any acts validating official actions, proceedings, contracts, or obligations of any kind.

Section 4. The following acts, having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

Chapter 85, Private Laws of 1796
Chapter 28, Private Laws of 1803
Chapter 113, Private Laws of 1812
Chapter 74, Private Laws of 1818, except for Section 1
Chapter 89, Private Laws of 1827-28
Chapter 30, Private Laws of 1832-33
Chapter 207, Private Laws of 1847
Chapter 124, Private Laws of 1871-72
Chapter 176, Private Laws of 1874-75
Chapter 32, Private Laws of 1881
Chapter 248, Private Laws of 1901
Chapter 299, Private Laws of 1903
Chapter 482, Private Laws of 1907, except for Sections 50 through 64
Chapter 166, Private Laws of 1909
Chapter 209, Private Laws of 1913
Chapter 33, Private Laws of 1924 (Extra Session)
Chapter 203, Private Laws of 1925
Chapter 862, Session Laws of 1945
Chapter 962, Session Laws of 1965.

Section 5. The Mayor and Council members serving on the date of ratification of this act shall serve until the expiration of their terms or until their successors are elected and qualified. Thereafter those offices shall be filled as provided in Articles II and III of the Charter contained in Section 1 of this act.

Section 6. This act does not affect any rights or interests which arose under any provisions repealed by this act.

Section 7. All existing ordinances, resolutions, and other provisions of the Town of Carthage not inconsistent with the provisions of this act or State law shall continue in effect until repealed or amended.

Section 8. No action or proceeding pending on the effective date of this act by or against the Town or any of its departments or agencies shall be abated or otherwise affected by this act.

Section 9. If any provision of this act or application thereof is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Section 10. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, superseded, or recodified, the reference shall be deemed amended to refer to the amended

General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is superseded or recodified.

Section 11. This act is effective when it becomes law.

SENATE BILL 18:
Carthage Charter Consolidation (2nd Edition)

BILL ANALYSIS

Committee: House Finance
Date: May 6, 1999
Version: 2nd Edition

Introduced by: Sen. Lee
Summary by: Cindy Avrette
Committee Counsel

SUMMARY: Senate Bill 18 consolidates the charter of the Town of Carthage and reflects the changes in governance that have already taken place. In addition, the bill:

- *Allows the Council to authorize the Town Manager to settle claims of not more than $2,500.*
- *Allows the Town Manager to appoint the Town Attorney, Town, Clerk, and Tax Collector.*
- *Allows the Town to impose liens on real property that cover the cost of the reasonable towing fees for the removal of junked vehicles from the property. The lien may be imposed only if the owner of the property is also the owner of the vehicle.*
- *With the approval of the County Commissioners, allows the Town to extend its extraterritorial jurisdiction up to two miles from its corporate limits.*

BILL ANALYSIS:

Form of Government – Chapter 160A of the General Statutes gives local governments the authority to change their form of government. In 1997, the Town of Carthage amended its charter to provide for a four-year term for its mayor and staggered four-year terms for its council members. In 1998, it adopted a Council-Manager form of government. This bill reflects those changes.

Vehicle Towing – Towns do not ordinarily have the authority to remove vehicles from private property. In 1987, the General Assembly authorized Moore County and by extension Carthage, to go on private property to remove junked motor vehicles. The 1987 law sets out a procedure that affords a hearing to the vehicle owner and also allows the municipality to sell the vehicle to recover its "reasonable towing fees". This bill allows a lien to be placed on the land when the vehicle was towed from the vehicle owner's land.

Extraterritorial Jurisdiction – Chapter 160A of the General Statutes gives towns with populations of more than 10,000 but less than 25,000 the authority to exercise extraterritorial jurisdiction within two miles of their corporate borders. Carthage, with a population of approximately 1,460, does not meet those criteria. The bill waives the population criteria and allows Carthage to exercise extraterritorial jurisdiction up to two miles from its corporate limits if it has approval from the county commissioners.

Ed Rossi, Research Division staff to the Senate Local Government Committee, contributed to this summary

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☒ Committee Substitute for
S.B. 44 A BILL TO BE ENTITLED AN ACT TO ANNEX CERTAIN DESCRIBED TERRITORY TO THE TOWN OF LAKE WACCAMAW.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 44
Finance Committee Substitute Adopted 4/7/99

Short Title: Lake Waccamaw Annexation. (Local)

Sponsors:

Referred to:

February 8, 1999

A BILL TO BE ENTITLED

AN ACT TO ANNEX CERTAIN DESCRIBED TERRITORY TO THE TOWN OF LAKE WACCAMAW.

The General Assembly of North Carolina enacts:

Section 1. The corporate limits of the Town of Lake Waccamaw are extended to include the following described territory:

Waccamaw Shores Drive

BEGINNING at an existing concrete monument, in the northeast right-of-way of Waccamaw Shores Drive, also known as S.R. 1967, said existing concrete monument marking the most southern corner of the Lake Waccamaw Camp Ground lands now or formerly belonging to Gene Grainger as recorded in Deed Book 385 Page 531 Columbus County Registry, said existing concrete monument also marking the most western corner of lands of James and Paul Council as recorded in Deed Book 261 Page 189 of the Columbus County Registry. Said existing concrete monument also marking the most southern limits of the Town of Lake Waccamaw. Running thence along the eastern edge of Waccamaw Shores Drive in a northwesterly direction to a point located approximately North 63 degrees 33 minutes 00 seconds East 60.00 feet from the southeast corner of Lot 306, Waccamaw Shores Subdivision as shown and delineated in Plat Book 11, Page 65, of the Columbus County Registry. Thence crossing Waccamaw Shores Drive South 63 degrees 33 minutes 00 seconds West 60.00 feet to the southeast corner of Lot 306, Waccamaw Shores Subdivision as shown and delineated in Plat Book 11, Page 65, of the Columbus County Registry. Thence continuing along the line between Lot 306 and Lot 305 South 63 degrees 33

minutes 00 seconds West 119.88 feet to the southwest corner of Lot 306 and the northwest corner of Lot 305. Thence continuing South 63 degrees 33 minutes 00 seconds West to a point located North 37 degrees 25 minutes 00 seconds West from the northwest corner of Lot 304. Thence South 37 degrees 25 minutes 00 seconds East to the northwest corner of Lot 304, located in the center of a canal. Thence along the west and southwest lines of Lots 304 thru 1 of Block D, Waccamaw Shores Subdivision as shown and delineated in Plat Book 11, Page 65, Plat Book 8, Page 33, Plat Book 8, Page 31, Plat Book 8, Page 29, Plat Book 8, Page 27, and Plat Book 8, Page 25, all of the Columbus County Registry, to the southwest corner of Lot 1, Block D, Waccamaw Shores Subdivision as shown and delineated in Plat Book 8, Page 25, of the Columbus Country Registry. Thence continuing southwestwardly along the southwest lines of Lots 1 thru 272 of Block B of the Waccamaw Shores Subdivision as shown and delineated in Plat Book 8, Page 6, Plat Book 8, Page 7, Plat Book 8, Page 8, Plat Book 8, Page 9, Plat Book 8, Page 10, Plat Book 8, Page 11, and Plat Book 8, Page 12, all of the Columbus County Registry, to the southwest corner of Lot 272 of Block B of the Waccamaw Shores Subdivision as shown and delineated in Plat Book 8, Page 12, of the Columbus Country Registry, in the center of a canal. Thence along the south line of Lot 272 North 82 degrees 34 minutes 00 seconds East 145.00 feet to a point in the western right-of-way of Waccamaw Shores Drive, marking the southeast corner of Lot 272. Thence crossing Waccamaw Shores Drive approximately North 75 degrees 21 minutes 00 seconds East 60.50 feet to an existing concrete monument marking the southwest corner of Lot 273 of Block A of the Waccamaw Shores Subdivision as shown and delineated on a plat recorded in Plat Book 8 Page 12 of the Columbus County Registry. Running thence in a northwesterly direction with the eastern edge of Waccamaw Shores Drive to the point and place of beginning.

Shawnee Acres and Bella Coola

TRACT 1

For a tie line, begin at an old concrete control monument located at the northwestern corner of Lot 1 in that plat for Bella Coola Corp. recorded in Plat Book 8, Page 24, of the Columbus County Registry. Thence North 86 degrees 11 minutes East 34.01 feet to a point in the center of S.R. 1947, locally known as Creek Ridge Road, this being THE POINT AND PLACE OF BEGINNING. Thence North 86 degrees 11 minutes East 34.01 feet to a point, this being the northwestern corner of Lot 1A of that plat for Bella Coola Corp. recorded in Plat Book 10, Page 95, of the Columbus County Registry. Thence North 65 degrees 08 minutes East 192.51 feet to a point. Thence South 81 degrees 10 minutes East 34.54 feet to a point. Thence South 35 degrees 44 minutes East 54.00 feet to a point. Thence South 23 degrees 54 minutes East 101.01 feet to a point. Thence South 35 degrees 55 minutes East 100.24 feet to a point. Thence South 37 degrees 04 minutes East 100.46 feet to a point. Thence South 28 degrees 41 minutes East 72.21 feet to a point. Thence South 30 degrees 03 minutes East 101.33 feet to a point. Thence South 35 degrees 25 minutes East 100.29 feet to a point. Thence South 34 degrees 39 minutes East 100.37 feet to a point. Thence South 37 degrees 29 minutes East 100.08 feet to a point. Thence

South 43 degrees 52 minutes East 100.37 feet to a point. Thence South 40 degrees 23 minutes East 117.93 feet to a point. Thence South 41 degrees 30 minutes East 55.58 feet to a point. Thence South 31 degrees 09 minutes East 67.90 feet to a point. Thence South 18 degrees 00 minutes East 118.26 feet to a point. Thence South 14 degrees 49 minutes East 100.78 feet to a point. Thence South 17 degrees 30 minutes East 100.30 feet to a point. Thence South 68 degrees 11 minutes West 202.97 feet to a point in the centerline of S.R. 1947, said point being located South 68 degrees 11 minutes West 30.00 feet from the southwest corner of Lot 15A as shown and delineated in that plat for Bella Coola Corp. recorded in Plat Book 10, Page 95, of the Columbus County Registry. Thence following the centerline of S.R. 1947 in a northwesterly direction back to the point and place of beginning.

TRACT 2

BEGINNING at PKS #172, located in the centerline of S.R. 1947, locally known as Creek Ridge Road, said point being shown and delineated in that map entitled "The Big Creek Tract at Lake Waccamaw -- The Southern Part" for IP Timberlands Operating Co., Ltd. and International Paper Company recorded in Plat Book 60, Page 61, of the Columbus County Registry. Thence North 28 degrees 42 minutes 02 seconds East 202.38 feet to a post. Thence North 29 degrees 22 minutes 26 seconds East 28.43 feet to an existing iron pipe. Thence South 55 degrees 49 minutes 35 seconds East 3612.22 feet to an existing iron pipe located on the west bank of Big Creek. Thence South 35 degrees 55 minutes 49 seconds West approximately 376.68 feet to a point located in the centerline of S.R. 1947. Thence following the centerline of S.R. 1947 in a northwesterly direction to the point and place of beginning.

Section 2. This act becomes effective only upon adoption of an ordinance by the Town of Lake Waccamaw.

2nd House Comm. Sub.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By ~~Representative(s)~~ Senator(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for;

S.B. 59 A BILL TO BE ENTITLED AN ACT TO AMEND THE PHARMACY PRACTICE ACT TO PERMIT CERTAIN NONPROFIT CORPORATIONS TO OPERATE MOBILE PHARMACIES AND TO ALLOW SUCH PHARMACIES TO REGISTER ANNUALLY WITH THE BOARD OF PHARMACY.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

☐ With a favorable report as to House committee substitute bill (# 2), ☐ which changes the title, unfavorable as to ~~Senate~~ House committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

FOR JOURNAL USE ONLY

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

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

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

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

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

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

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

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

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

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

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, ____ ____ RC) (, by EV ____ ____,) and is ordered
____ sent to the Senate.
____ without engrossment. ____ by Special message.
____ sent to the Senate for concurrence in
_____ House amendment (s).
_____ House committee substitute.
____ enrolled.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 59*
Commerce Committee Substitute Adopted 2/24/99
House Committee Substitute Favorable 3/11/99
Proposed House Committee Substitute S59-PCS8612-SC

Short Title: Mobile Pharmacies. (Public)

Sponsors:

Referred to:

February 9, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE PHARMACY PRACTICE ACT TO PERMIT CERTAIN NONPROFIT CORPORATIONS TO OPERATE MOBILE PHARMACIES AND TO ALLOW SUCH PHARMACIES TO REGISTER ANNUALLY WITH THE BOARD OF PHARMACY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-85.3 is amended by adding a new subsection to read:

"(12) 'Mobile pharmacy' means a pharmacy that meets all of the following conditions:

(1) Is either self-propelled or moveable by another vehicle that is self-propelled.

(2) Is operated by a nonprofit corporation.

(3) Dispenses prescription drugs at no charge or at a reduced charge to persons whose family income is less than two hundred percent (200%) of the federal poverty level and who do not receive reimbursement for the cost of the dispensed prescription drugs from Medicare, Medicaid, a private insurance company, or a governmental unit."

Section 2. G.S. 90-85.21 is amended by adding a new subsection to read:

"(a1) A mobile pharmacy shall register annually with the Board in the manner prescribed in subsection (a) of this section, and the registration shall be renewed

annually. A mobile pharmacy shall be considered a single pharmacy and shall not be required to pay a separate registration fee for each location but shall pay the annual registration fee prescribed in G.S. 90-85.24. A mobile pharmacy shall provide the Board with the address of every location from which prescription drugs will be dispensed by the mobile pharmacy."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 59*
Commerce Committee Substitute Adopted 2/24/99
House Committee Substitute Favorable 3/11/99
PROPOSED COMMITTEE SUBSTITUTE
S59-PCSSC-001

Short Title: Mobile Pharmacies. (Public)

Sponsors:

Referred to:

February 9, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE PHARMACY PRACTICE ACT TO PERMIT CERTAIN NONPROFIT CORPORATIONS TO OPERATE MOBILE PHARMACIES AND TO ALLOW SUCH PHARMACIES TO REGISTER ANNUALLY WITH THE BOARD OF PHARMACY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-85.3 is amended by adding a new subsection to read:

"(12) 'Mobile pharmacy' means a pharmacy that meets all of the following conditions:

(1) Is either self-propelled or moveable by another vehicle that is self-propelled.

(2) Is operated by a nonprofit corporation.

(3) Dispenses prescription drugs at no charge or at a reduced charge to persons whose family income is less than two hundred percent (200%) of the federal poverty level and who do not receive reimbursement for the cost of the dispensed prescription drugs from Medicare, Medicaid, a private insurance company, or a governmental unit."

Section 2. G.S. 90-85.21 is amended by adding a new subsection to read:

"(a1) A mobile pharmacy shall register annually with the Board in the manner prescribed in subsection (a) of this section, and the registration shall be renewed annually. A mobile pharmacy shall be considered a single pharmacy and shall not be required to pay a separate registration fee for each location but shall pay the annual registration fee prescribed in G.S. 90-85.24. A mobile pharmacy shall provide the Board with the address of every location from which prescription drugs will be dispensed by the mobile pharmacy."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 3

SENATE BILL 59*
Commerce Committee Substitute Adopted 2/24/99
House Committee Substitute Favorable 3/11/99

Short Title: Mobile Pharmacies. (Public)

Sponsors:

Referred to:

February 9, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE PHARMACY PRACTICE ACT TO PERMIT CERTAIN NONPROFIT CORPORATIONS TO OPERATE MOBILE PHARMACIES AND TO ALLOW SUCH PHARMACIES TO REGISTER ANNUALLY WITH THE BOARD OF PHARMACY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-85.3 is amended by adding a new subsection to read:

"(12) 'Mobile pharmacy' means a mobile unit that is either self-propelled or moveable by another vehicle that is self-propelled and from which prescription drugs are dispensed or compounded. Each mobile unit shall be considered a single pharmacy."

Section 2. G.S. 90-85.21 is amended by adding a new subsection to read:

"(a1) A mobile pharmacy shall register annually with the Board in the manner prescribed in subsection (a) of this section, and the registration shall be renewed annually. A mobile pharmacy shall provide the Board with the address of every location from which prescription drugs will be dispensed by the mobile pharmacy. A mobile pharmacy shall not be required to pay a separate registration fee for each location but shall pay the annual registration fee prescribed in G.S. 90-85.24. This subsection only applies to mobile pharmacies operated by nonprofit corporations that dispense prescription drugs at no charge or at a reduced charge to persons whose family income is less than two hundred percent (200%) of the federal poverty level

and do not receive reimbursement for the cost of the dispensed prescription drugs from Medicare, Medicaid, a private insurance company, or a governmental unit."

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

SENATE BILL 59:
Mobile Pharmacies

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Foxx
Date:	May 6, 1999	**Summary by:**	Mary Shuping
Version:	PCS for 3rd Edition S59-PCSSC-001		Research Assistant

SUMMARY: ***Senate Bill 59 permits the operation of certain nonprofit mobile pharmacies and requires those pharmacies to register with and pay the fee to the Board of Pharmacy in accordance with the requirements for other pharmacies.***

BACKGROUND: Under current law, all pharmacies must register annually with the Board of Pharmacy and pay an initial registration fee of $350 and $175 annually thereafter. This law has been interpreted by the Board to require a mobile pharmacy to pay a separate fee for each location where the mobile pharmacy dispenses drugs. This interpretation was applied by the Board to a nonprofit mobile pharmacy that distributes prescription drugs to persons whose family income is less than 200% of the federal poverty level and who do not receive governmental or private reimbursement for these medications. The mobile pharmacy made between 9 and 10 stops and was charged the registration fee for each location.

CURRENT LAW: G.S. 90-85.21 requires all pharmacies to register annually with the Board, and G.S. 90-85.24 authorizes the Board to charge a $350 initial registration fee and a $175 annual renewal fee. "Pharmacy" is defined as "any place where prescription drugs are dispensed or compounded." Current law does not distinguish between mobile pharmacies and other pharmacies.

BILL ANALYSIS:

Section 1 of the bill adds a definition of "mobile pharmacy" to the Pharmacy Practice Act. The definition provides that mobile pharmacies are those operated by nonprofit corporations that provide prescription drugs to individuals whose family incomes are less than 200% of the federal poverty level and who do not receive any public or private reimbursement for the prescriptions. Finally, the definition clarifies that each mobile unit is a single pharmacy.

Section 2 of the bill amends G.S. 90-85.21, Pharmacy permit, to add a new subsection to provide for the separate registration of mobile pharmacies. Mobile pharmacies must register with the Board in accordance with the registration procedures for other pharmacies, including the payment of the registration fee. This section also clarifies that a mobile pharmacy will not be required to pay a separate registration fee for each location. In addition, the mobile pharmacy must provide the Board with the address of every location from which prescription drugs will be dispensed.

EFFECTIVE DATE: The act is effective when it becomes law.

Walker Reagan and Esther Manheimer, Staff Attorneys, Research Division, contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: S.B. 59 DRAFT

SHORT TITLE: Mobile Pharmacies

SPONSOR(S): Senator Fox

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
General Fund	* No General Fund Impact *				
Board of Pharmacy	($1575)	($1575)	($1575)	($1575)	($1575)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Board of Pharmacy.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The bill defines a mobile pharmacy and declares that each mobile pharmacy unit must be considered a single pharmacy. It requires a mobile pharmacy to register annually with the Board of Pharmacy, providing a list of all the mobile pharmacy stops. The bill also prohibits the Board of Pharmacy from charging a registration fee for each mobile pharmacy stop. The prohibition applies only to mobile pharmacies operated by non-profit corporations that dispense prescription drugs at no charge or at a reduced charge to persons who met certain income requirements but are not covered by another insurance system.

ASSUMPTIONS AND METHODOLOGY: The Board of Pharmacy currently charges pharmacies a $350 initial registration fee and a $175 renewal fee. The Board also collects fees from pharmacists, durable medical equipment (DME), and medical devise providers. They also collect money from exam fees, law books, pharmacy lists and labels, pharmacist lists and labels, investments, property use, and reciprocity. In total, between September 1996 and September 1997 the Board of Pharmacy collected $1,231,169. During the same period they reported expenditures of $1,082,010. This created a net excess of revenue over expenditures of $149,159. Adding this to the previous fund balance of $347,142 created a new fund balance of $496,301 on September 30, 1997. No more recent data is available at this time.

At present the Board is charging mobile pharmacies a $175 renewal fee for each stop they make to dispense medicine. Fiscal Research believes there is one mobile pharmacy organization that

will be impacted by the bill. This non-profit organization provides medicines to lower income individuals that are not covered by Medicare, Medicaid, private pay insurance, or a similar unit of governments (state employees health plan, for example). They receive some of the medication as donations from the manufacturers. The balance is purchased through cash donations. This mobile pharmacy currently stops at nine or ten locations. The Board of Pharmacy is currently charging them for each stop, requiring total renewal fees of $1750 (assuming ten stops). Under the bill the board could only charge an annual fee of $175. Thus the Board of Pharmacy would see a revenue loss of $1575.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY:

DATE:

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
S.B. 313 A BILL TO BE ENTITLED AN ACT TO ALLOW MECKLENBURG COUNTY TO CONTINUE TO LEVY STORMWATER FEES IF REVENUE BONDS HAVE BEEN ISSUED AND ARE OUTSTANDING.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 313

Short Title: Mecklenburg Stormwater Fees. (Local)

Sponsors: Senator Clodfelter.

Referred to: Finance.

March 11, 1999

A BILL TO BE ENTITLED

AN ACT TO ALLOW MECKLENBURG COUNTY TO CONTINUE TO LEVY STORMWATER FEES IF REVENUE BONDS HAVE BEEN ISSUED AND ARE OUTSTANDING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-277(a1) reads as rewritten:

"(a1) Before it establishes or revises a schedule of rates, fees, charges, or penalties for structural and natural stormwater and drainage systems under this section, the board of commissioners shall hold a public hearing on the matter. A notice of the hearing shall be given at least once in a newspaper having general circulation in the area, not less than seven days before the public hearing. The hearing may be held concurrently with the public hearing on the proposed budget ordinance.

The fees established under this subsection must be made applicable throughout the area of the county outside municipalities. Schedules of rates, fees, charges, and penalties for providing structural and natural stormwater and drainage system service may vary according to whether the property served is residential, commercial, or industrial property, the property's use, the size of the property, the area of impervious surfaces on the property, the quantity and quality of the runoff from the property, the characteristics of the watershed into which stormwater from the property drains, and other factors that affect the stormwater drainage system. Rates, fees, and charges imposed under this subsection may not exceed the county's cost of providing a stormwater and drainage system.

No stormwater utility fee may be levied under this subsection whenever two or more units of local government operate separate structural and natural stormwater

and drainage system services in the same area within a ~~county.~~ county, except that a unit of local government that has issued revenue bonds, including revenue bonds issued to refund prior revenue bonds, for which stormwater utility fees have been pledged under Article 5 of Chapter 159 of the General Statutes may continue to levy a stormwater utility fee under this subsection for the sole purpose of (i) paying principal, interest, or redemption premiums in accordance with the terms of the revenue bonds, (ii) funding any reserve requirements or similar obligations imposed by any documents, instruments, or agreements pursuant to which the revenue bonds are authorized or issued or securing the same or any related credit facility, liquidity facility, derivative agreement, or any other similar agreement, and (iii) paying any related cost, fees, and expenses until the revenue bonds have been retired. However, two or more units of local government may allocate among themselves the functions, duties, powers, and responsibilities for jointly operating a single structural and natural stormwater and drainage system service in the same area within a county, provided that only one unit may levy a fee for the service within the joint service area. For purposes of this subsection, a unit of local government shall include a regional authority providing structural and natural stormwater and drainage system services."

Section 2. This act applies to Mecklenburg County only.

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

SENATE BILL 313:
Mecklenburg Stormwater Fees

BILL ANALYSIS

Committee: House Finance
Date: May 6, 1999
Version: 1st Edition

Introduced by: Senator Clodfelter
Summary by: Cindy Avrette
Committee Counsel

SUMMARY: ***Senate Bill 313 is a local bill that allows Mecklenburg County to continue to levy stormwater utility fees to pay off issued and outstanding revenue bonds, even if two or more units of local government are operating separate structural and natural stormwater and drainage system services in the same area within the County. This exception applies only when the stormwater fees have been pledged as a funding source for repayment of the revenue bonds. Senate Bill 313 is identical to House Bill 597. House Bill 596, introduced by Rep. Alexander, was given a favorable report in House Local Government I and is also in House Finance.***

CURRENT LAW: G.S. 153A-277 authorizes a county to establish and revise rates and fees for services furnished by a public enterprise such as a structural and natural stormwater and drainage system. These fees may vary according to factors that affect the stormwater drainage system such as the type of property, the use of the property, and the size of the property. No stormwater fee may be levied when two or more units of local government operate separate structural and natural stormwater and drainage system services in the same area within a county. The units of local government, however may agree to allocate the responsibilities of operating such a system as long as only one unit levies a fee for the service.

BILL ANALYSIS: Senate Bill 313 authorizes Mecklenburg County to continue to levy a stormwater utility fee, even though two or more units of local government are operating separate stormwater and drainage system services in the same area within the County. The stormwater utility fee may be levied only for the following purposes:

- To pay principal, interest, or redemption premiums under the terms of the revenue bonds,
- To fund any reserve requirements or obligations imposed by any documents, instruments, or agreements pursuant to which the revenue bonds are authorized or issued or securing the same or related credit facility, liquidity facility, derivative agreement, or other similar agreement.
- To pay any related cost, fees, and expenses until the revenue bonds have been retired.

BACKGROUND: During the 1997 Session, the General Assembly enacted similar legislation authorizing the City of Charlotte to continue to levy stormwater fees for issued and outstanding revenue bonds.

Martha Walston, Committee Counsel to the Senate Finance Committee, contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 691*
Finance Committee Substitute Adopted 4/8/99

Short Title: Bermuda Run Incorporation. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE TOWN OF BERMUDA RUN AND TO SIMULTANEOUSLY DISSOLVE THE BERMUDA CENTER SANITARY DISTRICT.

The General Assembly of North Carolina enacts:

Section 1. In accordance with G.S. 130A-81(1a), the Town of Bermuda Run is incorporated and the Bermuda Center Sanitary District is simultaneously dissolved. The incorporation and dissolution are not subject to referendum.

Section 2. A Charter for the Town of Bermuda Run is enacted to read:

"CHARTER OF THE TOWN OF BERMUDA RUN.

"CHAPTER I.

"INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Bermuda Run are a body corporate and politic under the name 'Town of Bermuda Run'. The Town of Bermuda Run has all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"CHAPTER II.

"CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with the law, the boundaries of the Town of Bermuda Run are as follows:

Being the following tracts and parcels of land located in Davie County, North Carolina, and being more particularly described as follows:

TRACT 1:

BEGINNING at an iron pin located in the western right-of-way line of N.C. Hwy. 801, said iron pin being the southeast corner of the property owned, now or formerly, by Thad J. Bingham (Deed Book 155, Page 348) running thence with the western right-of-way line of N.C. Hwy. 801 South 08° 10' 24" East 1912.47 feet to an iron pin; thence leaving the right-of-way line of N.C. Hwy. 801, South 72° 59' 35" West 15.00 feet to an iron pin marking the northeast corner of Lot 1 Hidden Creek; thence with the northern line of Lot 1, South 72° 59' 35" West 224.95 feet to an iron pin at the northwest corner of Lot 1 and the northeast corner of Lot 2 Hidden Creek; thence with the northern line of Lots 2 and 3 Hidden Creek, South 66° 20' 15" West 360.27 feet to an iron pin located at the northwest corner of Lot 3 and the northernmost corner of Lot 4 Hidden Creek; thence with the northwest lines of Lots 4 and 5 Hidden Creek, South 35° 56' 00" West 303.72 feet to an iron pin located at the westernmost corner of Lot 5 Hidden Creek and in the northeast line of Hyfield Drive; thence crossing Hyfield Drive and with the northwest lines of Lots 6, 7 and 8 Hidden Creek, South 47° 14' 57" West 399.60 feet to an iron pin located at the northwest corner of Lot 8 and the northeast corner of Lot 9 Hidden Creek; thence with the eastern lines of Lots 34, 35, 36, 37, 38, 39 and 40 Hidden Creek (and crossing Creekside Drive between Lots 37 and 38) North 10° 45' 05" West 920.73 feet to an iron pin; thence with the northeast lines of Lots 40, 41, 42 and 43 Hidden Creek, North 41° 21' 21" West 493.44 feet to an iron pin at the northernmost corner of Lot 43 Hidden Creek, said iron pin also being in the southeast line of Seldem Farm Lane; thence with the southeast line of Seldem Farm Lane, North 48° 46' 18" East 40.00 feet to an iron pin; thence crossing Seldem Farm Lane and with the northeast line of Lot 44 Hidden Creek, North 41° 22' 04" West 260.00 feet to an iron pin; thence with the northwest lines of Lots 44, 45, 46 and 57 Hidden Creek (and crossing Talwood Drive between Lots 45 and 46) South 48° 39' 39" West 630.21 feet to an iron pin; thence South 26° 20' 51" East 144.72 feet to an iron pin located in the northern line of Creekside Drive; thence with the line of Creekside Drive on a curve to the left having a radius of 59.00 feet, a length of 131.81 feet, a chord bearing and distance of South 29° 12' 34" West 106.06 feet to a point; thence leaving the right-of-way line of Creekside Drive, South 55° 12' 28" West 105.00 feet to an iron pin; thence South 04° 47' 21" East 510.00 feet to an iron pin located at the northeast corner of the property owned, now or formerly, by Ralph and Renai Holland (Deed Book 176, Page 558); thence with the northern line of said Holland, North 87° 21' 41" West 596.11 feet to an iron pin located in the eastern line of property owned, now or formerly, by Oak Valley Associates (Deed Book 169, Page 331); thence with the eastern line of Oak Valley, North 04° 11' 45" East 1830.87 feet to a post located in the southern line of property owned, now or formerly, by Ervin and Eva Wilson (Deed Book 42, Page 468); thence with the southern line of said Wilson, North 73° 05' 24" East 38.74 feet to a concrete post located at Wilson's southeast corner; thence with the eastern line of Wilson and continuing with the eastern line of property owned, now or formerly, by William and Peggy Long (see Estate File 90E-127), North 02° 42' 46" East 593.04 feet to a concrete post located at the northeast corner of Long and located in the southern line of property owned, now or formerly, by Roy L.

Potts (Deed Book 112, Page 274); thence with the southern line of Potts, South 87° 31' 30" East 950.91 feet to an iron pin located at the southeast corner of Roy L. Potts and at the southwest corner of Thad J. Bingham (Deed Book 155, Page 348); thence with the southern line of Bingham, South 86° 34' 27" East 1351.89 fee to the point and place of BEGINNING and containing approximately 116.501 acres, more or less, as shown on the survey prepared by Marvin S. Cavanaugh & Associates dated March 27, 1998, Drawing No. 98-40B, reference to which is hereby made for a more particular description.

TRACT 2:

All of the property in Davie County, North Carolina, located:

(A) West of the Yadkin River;

(B) South of the center line of U.S. Hwy. 158;

(C) East of the centerline of N.C. Hwy. 801; and

(D) North of a line described as follows:

BEGINNING at an iron pin located at the intersection of the eastern line of N.C. Hwy. 801 and the northern line of Lybrook Drive (S.R. 1660) and running with the northern line of Lybrook Drive and the southern line of Jamesway Subdivision, North 80° 55' 58" East approximately 1,346 feet to the southwest corner of property owned by John C. Brendle (Deed Book 120, Page 448); thence with the western line of Brendle and Philip McKenzie (Deed Book 94, Page 503), in a northerly direction approximately 815 feet; thence continuing with the line of McKenzie in a easterly direction of 42 feet; thence continuing with the western line of McKenzie in a northerly direction approximately 262 feet to the southern line of Jamesway Subdivision; thence with the northern line of McKenzie, South 78° 58' 16" East 158.01 feet; thence South 04° 21' 19" East 55.69 feet; thence in a southeasterly direction with the northeast line of McKenzie approximately 87 feet to the western line of Highlands at Bermuda Run Subdivision (Plat Book 6, Page 17 and 18); thence in a southerly direction approximately 1,527 feet with the western line of Lots 20, 19, 18, 17, 16, 15, 14 and 13 to a point located in the northern line of Lots 13 Raintree Estates; thence with the northern line of said Lot 13 Raintree Estates and the southern line of Lot 13 of the Highlands Subdivision, South 75° 29' 22" East 77.63 feet to an iron pin; thence with the center of a branch in an easterly direction with the southern lines of Lots 13 and 12 Highlands Subdivision, and the northerly line of Gary Honbarrier (Deed Book 142, Page 640), approximately 475 feet to the southeast corner of Lot 12 Highlands; thence South 61° 55' 26" East 38.12 feet to a point; thence south 23° 38' 27" East 238.04 feet to a point; thence South 23° 35' 52" East 44.80 feet to a monument; thence South 85° 37' 48" East 304.96 feet to a stone and North 74° 32' 02" East 540.71 feet to an iron located on the western bank of the Yadkin River, it being the intention to include, without limitation, all the property conveyed to: (1) WFBRCC, LLC at Book 201, Page 445; Bermuda Village, Inc. at Book 117, Page 197; William A. Burnette at Deed Book 130, Page 233, Deed Book 158, Page 828 and Book 162, Page 775; and all property shown on the following plats recorded in the Davie County Registry: (1) Highlands at Bermuda Run (Plat Book 6, Pages 17 and 18); (2) River Hill (Plat Book 5, Page 212 and 213); (3) Jamesway at

Bermuda Run (Plat Book 6, Pages 46, 47 and 48); (4) Hamilton Court (Plat Book 5, Pages 195, 203, 207 and 224); (5) Pembrook Ridge (Plat Book 5, Page 145); (6) St. George Place (Plat Book 5, Page 192); (7) Bermuda Run Golf and Country Club (Plat Book 4, Pages 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 103, 116, 148, 156; Book 5, Pages 2, 13, 15, 24, 28, 31, 32, 34, 36, 39, 43, 44, 45, 46, 86, 94, 100) and (8) Warwick Place (Plat Book 5, Page 171).

Less and except, however, that certain property located Southeast of the intersection of U.S. Hwy. 158 and North Carolina Hwy. 801 and being shown on Davie County Tax Map D-8-8, and designated as parcels C-2, C-3, C-4, C-5, C-5.01, C-7, C-8 and D-8.

TRACT 3:

All property located within the right-of-way of N.C. Hwy. 801 to the extent such segment of the right-of-way is bounded on the west by Tract 1 above AND on the east by Tract 2 above.

"Section 2.2. **Electoral District Boundaries.** Until modified in accordance with the law, the boundaries of the five electoral districts of the Town of Bermuda Run are as follows:

(1) Bermuda Village District consisting of residents of Bermuda Village.

(2) South District consisting of residents of Hamilton Court, Pembrook Ridge, St. George, River Hills, Jamesway, Highland Hills, and Warwicke subdivisions.

(3) Multifamily district consisting of residents of the Maisonettes, Spy Glass Hill, Golfview, and the Lakes subdivision.

(4) West district consisting of all residents of Juniper Circle, Fairway Villas, Fescue Drive, Ivy Circle, Helleri Circle, and Rotunda Circle, and the residents of Riverbend Drive, from Address 675 to Address 1056.

(5) East district consisting of all the residents not included in any other district.

The Town Council shall set and change the boundaries of and add or delete electoral districts by resolution.

"CHAPTER III.

"GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Bermuda Run shall be the Town Council, which shall have five members, and the Mayor.

"Section 3.2. **Manner of Electing Council.** The qualified voters of each of the five electoral districts in the Town shall nominate one or more individuals and then elect one member of the Town Council. An individual must reside in the district to be eligible for nomination and election to the Council from a district and for service on the Council as the member for a district.

"Section 3.3. **Term of Office of Council Members.** Members of the Council shall be elected to four-year terms. In 1999, five members of the Council shall be elected.

The three persons receiving the highest number of votes shall be elected for four-year terms, and the two persons receiving the next highest number of votes shall be elected for two-year terms. In 2001 and biennially thereafter, all members whose terms expire in those years shall be elected for four-year terms.

"Section 3.4. **Election of Mayor and Term of Office.** In 1999 and quadrennially thereafter, the qualified voters of the entire Town shall nominate and elect the Mayor, who shall serve a four-year term. The Mayor shall have the right to vote only to break tie votes of the Council. In determining a quorum, the Mayor shall be treated as a member of the Council.

"CHAPTER IV.

"ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Town officers shall be nominated and elected on a nonpartisan basis as provided in G.S. 163-294.

"Section 4.2. **Date of Election.** Elections shall be conducted in accordance with Chapter 163 of the General Statutes with the first election of Town officers to be held in November, 1999.

"CHAPTER V.

"ADMINISTRATION.

"Section 5.1. **Town to Operate Under Council-Manager Form.** The Town of Bermuda Run will operate under the Council-Manager form of government as provided in Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 5.2. **Officers and Employees.** The Council may appoint such officers and employees as may be necessary, and they shall serve at the pleasure of the Council. The Council shall fix all salaries, prescribe bonds, and require such oaths as they may deem necessary.

"Section 5.3. **Town Clerk.** The Council may appoint a Town Clerk who shall keep the records of the Council and perform other duties as may be required by general law or the Council.

"Section 5.4. **Assignment of Duties.** The Council may assign additional functions or duties to offices, departments, or agencies. Where positions are not incompatible, the Council may confer the powers and duties of two or more offices created or authorized by this Charter to one person.

"Section 5.5. **Transitional Government.** Until the Mayor and members of the Town Council are elected and qualified in accordance with this Charter and the laws of this State, the following persons shall serve on the Town's interim governing body: Clyde J. Gardner, Mayor, Robert W. Griffin, Charles H. Quinn, Bob L. Cornish, Edwin J. Titsworth, and John H. Ferguson. Vacancies on the Interim Council shall be filled by appointment by the remaining members of the Interim Council. A vacancy in the office of Interim Mayor shall be filled by appointment by the Bermuda Run Incorporation Committee.

"CHAPTER VI.

"SPECIAL PROVISIONS.

"Section 6.1. **Annexation.** The Town of Bermuda Run shall not annex any property without the vote or consent of a majority of the residents of any such property.

"Section 6.2. **Property Taxes.** The Town of Bermuda Run shall not increase its property tax rates in excess of fifteen cents ($0.15) per one hundred dollars ($100.00) of valuation without the vote or consent of a majority of the residents of the Town in accordance with G.S. 160A-209(f)."

Section 3. From and after July 1, 1999, the citizens and property in the Town of Bermuda Run shall be subject to municipal taxes levied for the fiscal year beginning July 1, 1999, and for that purpose, the Town shall obtain from Davie County a record of property in the area herein incorporated which was listed for taxes as of January 1, 1999. The Town may adopt a budget ordinance for fiscal year 1999-2000 without following the timetable in the local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the Act insofar as is practical.

Section 4. The incorporation of the Town of Bermuda Run and the simultaneous dissolution of the Bermuda Center Sanitary District shall become effective at 12:00 noon on the first day of the first calendar month starting at least seven days after this act becomes law. The Bermuda Center Sanitary District shall take all actions necessary to effect this transfer of the assets and liabilities of the Sanitary District to the Town of Bermuda Run by three days before its dissolution.

Section 5. The transitional provisions of G.S. 130A-81(5) a. through g. shall apply to the Town of Bermuda Run and the Bermuda Center Sanitary District.

Section 6. This act is effective when it becomes law.

VISITOR REGISTRATION SHEET

HOUSE FINANCE COMMITTEE 5/6/99

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Alan Shaw	Randolph Co. Reg. of Deeds
Geraldine Walton	Mecklenburg County
Helen Lyons	" "
Mary Carmichael	Mecklenburg County
Jack Ort	N.C. State (Univ)
[illegible]	N.C. Pork Council
Keith Oakley	NC Ag Foundation, NC State
Janice Noffsinger	NC Farm Bureau
W.B. Jenkins	" " "
Steve Woodson	NC Farm Bureau
Joe Pfister	Tradetech Aquaculture
[illegible]	" "
[illegible]	OSBM
Bernard Allen	SOS
Laura DeVan	DENR
Andy Romanet	N.C.L.M.
G Markham	~~EHS~~
Kinwood Jones	NCCA
Andy Ellen	NCRMA
Farm Bureau	NCRMA
[illegible]	NCMS
Jim Blackburn	County Commissioners
[illegible]	[illegible]
Sheriss Kostrzewa	self
Katherine Daire	Electric Cities
Natalie English	NC Agribusiness Council
[illegible]	R-CD

VISITOR REGISTRATION SHEET

HOUSE FINANCE COMMITTEE

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lori A Harris	LHHA, INC.
Preston Pate	Marina Fisheries
Paul Stock	NC Bankers
Gayle Holder	SOS
Roz Savitt	NCCCC
Alan Mills	Bell, Davis & Pitt PLLP
Mike Causey	NCAOC
Dave Hamrick	Superior Court Judge - W-S
Harriet Reid	NCAE

HOUSE FINANCE COMMITTEE

Tuesday, May 11, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

A presentation by Sec. Carlisle regarding the 1996 William S. Lee Quality Jobs and Business Expansion Act.

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Tuesday, May 11, 1999

The House Committee on Finance met on Tuesday, May 11, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The Senate Finance Committee was invited to the meeting to hear the speaker. The following members were present: Chairs Allen, Luebke, Miller; Vice Chairs Jarrell; Representatives Bridgeman, Brown, Buchanan, Church, Cox, Cunningham, Decker, Dedmon, Eddins, Edwards, Gibson, Goodwin, Hill, McComas, McCombs, Mosley, Pope, Ramsey, Rayfield, Starnes, Tucker, Wilson, and Womble. Staff including Cindy Avrette, Richard Bostic, Mary Shuping, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Allen called the meeting to order to hear a presentation by Secretary Rick Carlisle of the Department of Commerce.

Sec. Carlisle discussed the 1996 William S. Lee Quality Jobs and Business Expansion Act. Members of the House and Senate Finance Committees questioned Sec. Carlisle.

The Chair recognized Professor Lugar of the University of North Carolina at Chapel Hill to comment on the 1996 William S. Lee Quality Jobs and Business Expansion Act.

Handouts that were distributed at the meeting are included in these minutes.

There being no further business, the Chair adjourned the meeting at 10:00 a.m.

Respectfully submitted:

Representative Gordon Allen
Chair

Kristen L. Crosson
Assistant to the Committee

Presentation Summary from
The Department of Commerce
to the Joint Finance Committee
The North Carolina General Assembly
Secretary Rick Carlisle
Tuesday, May 11, 1999

William S. Lee Quality Jobs and Business Expansion Act

- First enacted in 1996 to stimulate the North Carolina economy – particularly in economically distressed areas
- Amended in 1997 and 1998 to enhance its practicality, effectiveness and accountability.
- Provides tax credits for five types of activities:
  - Job creation
  - Investment in machinery and equipment
  - Research and development expenditures
  - Worker training costs
  - Expansion of central administrative office property
- Offers a sliding scale of these credits depending upon a county's enterprise tier designation, which is determined by a formula comprised of population growth, unemployment rates, and per capita income.

1999 Tier Report of the William S. Lee Quality Jobs and Business Expansion Act

A 1997 amendment to the William S. Lee Act directed the Department of Commerce to examine the enterprise tier formula. The directive included consideration for alternative measures for more equitable treatment of counties in similar economic circumstances and consideration of whether the assignment of tiers and the applicable thresholds are equitable for smaller counties.

A seven-member task force studied the tier system and in its 1999 Tier Study Report:

- Found no variation in the enterprise tier formula significantly improved the tier designation system
- Recommended that the General Assembly keep the current tier formula in place while allowing some type of special provision for smaller counties

1999 Progress Report of the William S. Lee Quality Jobs and Business Expansion Act

The William S. Lee Act was developed to:

- Help existing firms maintain and improve competitiveness through investment in new technologies
- Encourage new investment in North Carolina's economy from both existing and new industries
- Ensure that economic growth is reaching all people in all parts of the state, particularly rural counties and high-poverty urban areas

The 1997 amendment to the William S. Lee Act also directed the Department of Commerce to review economic indicators to determine that the Act was fulfilling its original intent. Based on a review of job creation and investment numbers, the utilization of tax credits, and the financial impact of these credits, the William S. Lee Quality Jobs and Business Expansion Act 1999 Progress Report found that since the passage of the Act:

- Existing businesses take advantage of more tax credit opportunities than new firms
- Overall, job creation and capital investment increased in North Carolina
- Overall, the industries eligible for the tax credits under the Lee Act created more jobs and generated more new investment
- Industrial recruitment and expansion in the most distressed counties (Tiers 1 and 2) compares favorably to the rest of the state on a per capita basis

The Cost of the Lee Act

Based on the tax returns available for analysis, the total amount of foregone revenue from the Act in 1997 was $10,787,894, distributed among the credits as follows:

Type of credit	Amount of credits utilized in 1997	Amount of activity reported	Dollars of credit per activity unit
Jobs	$ 801,539	3,983 jobs	$ 201 per job claimed
Machinery & Equipment	$ 4,097,382	$ 789, 300,000	$ 5 per $1000 expenditure
Research & Development	$ 5,888,973	$ 723,700,000	$ 8 per $1000 expenditure

* Worker training and central office omitted due to insufficient data.

Conclusions

- The current tier formula is working as well as any formula can and should be maintained. The tier system could be more successful with a special provision for smaller counties. (This provision has been proposed in the Widely Shared Prosperity Act (HB 1303; SB 1115.)
- The William S. Lee Act is effective in
  - Helping existing firms invest in and compete with new technologies
  - Encouraging new investment by North Carolina's existing industries as well as new businesses
  - Ensuring that prosperity is indeed widely shared by targeting rural and urban distressed areas. The Act can be strengthened to extend its reach with provisions included in the Widely Shared Prosperity Act (HB 1303; SB 1115.)

William S. Lee Quality Jobs & Business Expansion Act

Enterprise Tier Formula Report

April 1999

North Carolina Department of Commerce

Rick Carlisle, Secretary

TABLE OF CONTENTS

HISTORY OF ENTERPRISE TIERS UNDER THE WILLIAM S. LEE ACT 1

THE STUDY PROCESS 1

ENTERPRISE TIER FORMULA 1

HISTORY OF RANKING/ENTERPRISE TIER FORMULA FOR BUSINESS INCENTIVE TAX CREDITS 2

DEBATE 2-3

ANALYSIS 3

OPTIONS 4

ENTERPRISE TIER FORMULA COMPONENTS 4-5
- OPTION 1
- OPTION 2
- OPTION 3
- OPTION 4

TIER OPTION COMPARISON 5

SMALL COUNTY "TESTS" 5-6

SUMMARY OF RESULTS 6

DEVELOPMENT ZONE OPPORTUNITY 6

RECOMMENDATIONS 6-7

APPENDIX

APPENDIX	A	W. S. LEE ACT STUDY LEGISLATION
APPENDIX	B	W. S. LEE ACT STUDY TASKFORCE MEMBERS
APPENDIX	C	LEGISLATION DESIGNATING TIERS
APPENDIX	D	OTHER STATE'S DEFINITIONS OF "TIERS" OR ECONOMIC DISTRESS FORMULAS
APPENDIX	E	DATA DEFINITIONS/NOTES
APPENDIX	F	DISTRESS INDICATORS BY COUNTY
APPENDIX	G	TIER FORMULA OPTIONS BY COUNTY
APPENDI X	H	COUNTIES WITH POPULATION LESS THAN 50,000 COUNTIES WITH POPULATION LESS THAN 20,000
APPENDIX	I	POVERTY RATE "TEST" FOR POPULATION LESS THAN 50,000 POVERTY RATE "TEST" FOR POPULATION LESS THAN 20,000 FOOD STAMP RECIPIENCY RATE "TEST" FOR POPULATION LESS THAN 50,000 FOOD STAMP RECIPIENCY RATE "TEST" FOR POPULATION LESS THAN 20,000
APPENDIX	J	DEVELOPMENT ZONE OPTION COUNTIES

HISTORY OF ENTERPRISE TIERS UNDER THE WILLIAM S. LEE ACT

In 1996, the General Assembly enacted the William S. Lee Quality Jobs and Business Expansion Act which provided for a modest expansion of North Carolina's incentives programs. The Act expanded an existing job creation tax credit to all 100 counties in the state and significantly expanded the amount available in the most distressed counties. The Act also established several new incentives including an investment tax credit, a research and development tax credit, and a worker training credit. All of these credits are available to every county in the state, although the amount of the credit and any applicable eligibility thresholds depend on the county's assigned "enterprise tier." *(Note: Five enterprise tiers were established by the General Assembly to assign levels of economic and community distress for all 100 North Carolina counties. The ten poorest counties are in tier one; the next fifteen counties are in tier two; with the remaining 75 counties divided evenly among tiers three, four, and five.)*

The next year, 1997, the General Assembly amended the Act mainly to enhance its usefulness and address some of the constituent's concerns after having the Act in place for a year. In doing so, they also directed the Department of Commerce to reexamine the formula used to define enterprise tiers and report the results of this reexamination to the General Assembly in 1999 (G.S.§ 105-129.19) (*See Appendix A* for actual legislation).

THE STUDY PROCESS

Reexamining the enterprise tier formula provided the Department of Commerce with an excellent opportunity to assess the practicality of the current formula and to consider the feedback and experiential information received by the department about the tiers since the formula's inception in 1996. (While the formula defining "distress" counties eligible for the Job Creation Tax Credit originated in 1987, division of all counties into 5 tiers began in 1996.) Recognizing the benefits of such a study, the Department assembled a task force to provide outside input and expert assistance throughout the study process. The advisory panel was made up of seven members with various business, academic, and economic development backgrounds (*See Appendix B* for list of task force members).

ENTERPRISE TIER FORMULA

The practice of ranking North Carolina's counties for the allocation of funds or determination of need is not new. For example, the state uses a county-ranking system to determine the level of critical needs, relative to ability to pay, for some "critical needs" school finance funds. However, the rankings and "tiering" of the states 100 counties for business incentive tax credit purposes has its own history.

HISTORY OF RANKING/ENTERPRISE TIER FORMULA FOR BUSINESS INCENTIVE TAX CREDITS

The following information provides a brief review of the history behind the enterprise tier formula for use with North Carolina's income tax credits for new and expanding business.

- In 1987, the General Assembly enacted income tax credits for corporations that created jobs in severely distressed counties. A severely distressed county was defined as a county whose combined unemployment, per capita income, and population growth rankings were among the twenty worst in the State and that had an unemployment rate of 7 percent or higher.
- In 1989, the General Assembly removed the requirement that a county must have an unemployment rate of 7 percent or higher to be designated a severely distressed county (1989 Session Laws, Chapter 111: HB 198, Representative Al Lineberry).
- Also in 1989, the General Assembly increased the number of severely distressed counties from 20 to 25 (1989 Session Laws, Chapter 753: SB 740, Senator Howard Bryan).
- In 1991, the General Assembly increased the number of severely distressed counties from 25 to 33.
- In 1993, the General Assembly increased the number of severely distressed counties from 33 to 50.
- In 1996, the General Assembly expanded the income tax credits to include all 100 counties but divided the counties into five "enterprise tiers" based on per capita income, unemployment rate, and population growth. The ten poorest counties are in tier one; the next fifteen counties are in tier two, with the remaining 75 counties divided evenly among tiers three, four, and five (1996 Session Laws, Chapter 13: HB 18, Representative Gray).
- In 1997, the General Assembly changed the factors in the formula for determining a county's ranking and subsequent enterprise tier. This involved changing the unemployment and per capita income components from a one-year standing to a standing based on the average of the most recent three years. Also, once designated a tier one county, a county was guaranteed this designation for at least two years (1997 Session Laws, Chapter 277: SB 316, Senator Kerr).

DEBATE

As with any program that uses rankings to evaluate and compare different entities, the state's enterprise tier formula hasn't escaped its share of critical observation and debate. Most often this debate centers around the significance of population growth in determining economic well-being, the disparities associated with per capita income statistics, and the notion that some sort of tax base measure needs to be included in the formula.

Relatively high population growth often indicates a healthy local economy, as people tend to migrate to areas of economic prosperity. However, population growth can occur for reasons not directly related to local economic conditions. For example, an influx of

retirees who are relatively well off can raise the population of an otherwise 'distressed' county.

Income is an important definition of economic welfare. However, per capita income can be biased by the presence of a small number of high-income individuals. On the other hand, wage measures can also be biased as they measure income by place of work rather than place of residence. For example, a county may have a low per capita income but a higher wage rate if it is a regional employment center; Durham County illustrates this difference. (*Note: Similar disparities i.e., income/wage by place of residence versus place of work, were also apparent in the Act's wage test which was later amended to account for counties that are regional employment centers or have a dominant employer*).

Tax base measures can indicate a county government's ability to provide public services. However, the tax base measures available (property tax per capita and retail sales tax per capita) have some of the same bias problems as other measures. For example, since state law only requires that property valuations be completed every eight years, some county reevaluations may lag behind other counties, making comparisons unfair. Also, if property values are changing rapidly, the data may over or under estimate a county's true fiscal capacity. While retail sales taxes per capita are available annually, sales taxes account for less than half as much county tax revenue as property taxes. Finally, sales taxes per capita can also be biased if the county is a regional shopping area. For example, people may travel to another county for shopping and entertainment increasing the sales tax revenues for that county but also increasing the need for road maintenance and other services, which create more expenses for the county.

The Department considered these observations and suggestions in reviewing the formula. In any case, with any changes in the formula and with each new year of rankings, there are going to be counties that are somehow placed at a relative disadvantage.

ANALYSIS

As directed by the General Assembly in G.S. 105–129.19 (4) the Department reexamined the formula in G.S. 105-129.3 (*See Appendix C*) used to define enterprise tiers. This reexamination included a review of the literature on economic indicators, other states' legislation and programs for measuring economic performance (*See Appendix D*), considering the characteristics of a "good" indicator (i.e., annual data availability), and taking into account the feedback and comments received from local economic developers and legislators. With the above considerations at hand, the Department chose many different alternative formulas as options for study and comparison.

OPTIONS

After an extensive analysis of these various enterprise tier formula options the Department, with the aid of the W.S. Lee Act Study Taskforce, narrowed the number of options to those that seemed the most appropriate in light of the aforementioned considerations. The analysis of the options included a rank order correlation (*Note: Rank order correlation measures the closeness of the relationship between two sets of rankings.*) This analysis revealed that there is very little difference in the rankings of counties under most methods. With this in mind, the taskforce chose the current method and three others as described below (*See Appendix E* for specific formula component definitions) for more in-depth analysis.

ENTERPRISE TIER FORMULA COMPONENTS

Option 1

- Population Growth (1990-1997)
- Unemployment Rate (36 Month Average: July 1995-June 1998)
- Per Capita Income (3 Year Average: 1995-1998)

Note: This is the method currently used.

Option 2

- Unemployment Rate (36 Month Average: July 1995-June 1998)
- Net Earnings per Capita (1996)
- Food Stamp Recipiency Rate (1997)

Note: This substitutes two measures correlated with poverty rates for population growth and per capita income measures.

Option 3

- Unemployment Rate (36 Month Average: July 1995-June 1998)
- Average Annual Private Insured Wage (1996)
- Food Stamp Recipiency Rate (1997)

Note: This substitutes a poverty measure for population growth and a measure of wages for per capita income.

Option 4

- Unemployment Rate (36 Month Average: July 1995-June 1998)
- Net Earnings per Capita (1996)
- Food Stamp Recipiency Rate (1997)
- Property Valuation per Capita (1997)

Note: This adds a measure of tax base and substitutes two measures correlated with poverty rates for population growth and per capita income measures.

As with the current methodology each option assigns individual rankings to the various formula components and ranks them from 1 to 100 with 1 being assigned to the least distressed county and 100 being assigned to the most distressed county (*See Appendix F* for a county listing and ranking of each formula component). Then each ranking in the formula is totaled to assign each county an "enterprise factor". Then the counties are ranked again using the total enterprise factor with 1 being assigned to the most distressed county (i.e., the county with the largest enterprise factor) and 100 being assigned to the least distressed county (*See Appendix G* for a county listing/ranking of each option).

Tier Option Comparison

As expected there were some changes in the tiers of some counties for each of the options. Comparing options 2, 3, and 4 with the current formula (option 1) showed that 15 counties moved up a tier and 15 counties moved down a tier while 70 remained the same between options 1 and 2. Between options 1 and 3, 21 counties moved up a tier and 19 counties moved down a tier while 60 remained the same. Finally, between options 1 and 4, 18 counties moved up a tier, 16 moved down a tier and 66 stayed the same. These results confirm that with any adjustments in the enterprise tier formula there are going to be upward as well as downward changes among the counties and tiers, placing some at a perceived disadvantage.

There were a few counties that did see some more dramatic changes (i.e., more than one tier) in their tier assignment between some of the options. For example, Hoke County was ranked 42nd (Tier 3) under option 1 and decreased to a rank of 8th (Tier 1) under option 4. On the other hand, Martin County was ranked 7th (Tier 1) under option 1 and increased to a rank of 39th under option 3. Onslow and Alleghany counties also experienced a substantial change going from Tier 2 to Tier 4 between options 1 and 2 and options 1 and 4 respectively.

Small County "Tests"

In addition to reexamining the enterprise tier formula, and pursuant to the direction of the General Assembly, the Department also considered whether the assignment of tiers and the applicable thresholds are equitable for smaller counties, for example those under 50,000 and 20,000 population (*See Appendix H* for a list of these counties). The Department devised several "tests" that could be used to take into account the sometimes special situations that occur in smaller counties (e.g., one dominant employer, regional employment center, large retirement population, etc). After reviewing these tests, the Department, with the aid of the taskforce, chose two such tests that might be used to give special consideration (e.g., the county would receive some sort of special provision in terms of its ranking, associated tier, and eligibility under programs that use the enterprise tiers) to the state's smaller and/or rural counties.

These tests include:

Poverty Rate Test

- County's poverty rate is 150% of the state rate.

Food Stamp Recipiency Rate Test

- County's food stamp recipiency rate is 150% of the state rate.

(See Appendix I for a county listing of these "tests" and which counties meet the criteria).

Summary of Results

Using the poverty rate test, 21 (of 54) counties with populations less than 50,000 and 8 (of 20) counties with populations less than 20,000 have poverty rates that are at least 150 percent of the state rate. Of all the counties that fall under the criteria of the poverty rate test, 8 are currently in Tier 1; 6 are in Tier 2; 4 are in Tier 3; and 1 is in Tier 4.

Using the food stamp recipiency rate test, 20 (of 54) counties with populations less than 50,000 and 7 (of 20) counties with populations less than 20,000 have food stamp recipiency rates that are at least 150 percent of the state rate. Of all the counties that fall under the criteria of the food stamp recipiency rate test, 7 are currently in Tier 1, 7 are in Tier 2, and 6 are in Tier 3.

Development Zone Opportunity

Another possibility for giving consideration to the state's smaller counties would be to extend the state's development zone program to these counties. This option includes only those counties with less than 25,000 population, with no city greater than 5,000 population, and at least one census tract with a poverty rate of greater than 20 percent (*See Appendix J* for counties that meet these criteria).

RECOMMENDATIONS

The Department of Commerce submits this report to the General Assembly as an educational and informational tool for the legislature to use in considering any changes to the current enterprise tier formula. With this in mind, the options presented don't come as specific recommendations from the Department. The Department will work with the General Assembly to decide, based on this report and any other additional information the Department can provide, whether adjusting the formula will be practical

and beneficial for North Carolina's 100 counties and to the state's economic development strategies.

The William S. Lee Act Study Task Force recommends that the General Assembly keep the current option (Option 1) in place while allowing some sort of special provision for smaller counties. As such, the task force proposes that tier 4 and 5 counties with less than 50,000 population receive the benefits of a one tier lower status (i.e., Tier 4 Counties under 50,000 would have the same tax credit and threshold amounts as a Tier 3 County, also making them eligible for Industrial Development Funding and increased job funding under the Community Development Block Grant Program). Additional consideration could be given to granting Tier 3 counties a Tier 2 status, although the task force did not recommend this option.

APPENDIX

Appendix A

105-129.19 Section 4 W. S. Lee Act Study Legislation

a) The Department of Commerce shall study the effectiveness of the tax incentives provided in the William S. Lee Quality Jobs and Business Expansion Act, codified as Article 3A of Chapter 105 of the General Statutes, on tax equity. This study shall include the following:

   1) Reexamining the formula in G.S. 105-129.3(b) used to define enterprise tiers, to include consideration of alternative measures for more equitable treatment of counties in similar economic circumstances.
   2) Considering whether the assignment of tiers and the applicable thresholds are equitable for smaller counties, for example those under 50,000 population.

Appendix B

W.S. Lee Act Study Taskforce Members

Mark Bernstein	Parker, Poe, Adams, & Bernstein (Economic Development Board)
John Connaughton	UNC-Charlotte, Department of Economics, College of Business Administration
Dan Gerlach	NC Budget and Tax Center
Paul Lawler	NC Economic Developers Association
Norman Samet	Samet Corporation (Economic Development Board)
Gary Shoesmith	Wake Forest University, Babcock Graduate School of Management
Mike Walden	NC State University Department of Agricultural & Resource Economics

Appendix C

§ 105-129.3 Enterprise Tier Designation

a) Tiers Defined - - An enterprise tier one area is a county whose enterprise factor is one of the 10 highest in the State. An enterprise tier two area in a county whose enterprise factor is one of the next 15 highest in the State. An enterprise tier three area is a county whose enterprise factor is one of the next 25 highest in the State. An enterprise tier four area is a county whose enterprise factor is one of the next 25 in the State. An enterprise tier five area is an area that is not in a lower numbered enterprise tier.

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

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

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

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

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

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

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

Appendix D

Other State's Definitions of "Tiers" or Economic Distress Formulas

A review of other states that have similar systems of ranking counties or assigning a distress status indicates that virtually all of the programs use some combination of unemployment, poverty rate, and income in their formulas. Note this review does not include the states' enterprise zone definition (if applicable) or states that have only enterprise zone (i.e., sub-county) programs.

Georgia: A combination of the highest unemployment rate for the most recent 36 month period; lowest per capita income for the most recent 36 month period; highest percentage of residents whose incomes are below the poverty level according to the most recent data available; and average weekly manufacturing wage according to the most recent data available. These factors are all given a weight of 30 percent except for the average weekly manufacturing wage, which is given a weight of 10 percent.

Kentucky: Counties with unemployment rates higher than the state average in each of the five preceding calendar years qualify for the state's KREDA (Kentucky Rural Economic Development Act) program

Massachusetts: "Distress factor", a fraction, the numerator of which is the sum of (1) the city or town's unemployment rate for the most recent three years divided by the commonwealth's unemployment rate for the same period and (2) the commonwealth's per capita personal income divided by the city or town's per capita personal income, and the denominator of which is two.

Mississippi: The twenty-eight (28) counties in this state having a combination of the highest unemployment rate and lowest per capita income for the most recent thirty-six (36) month period, with equal weight being given to each category, are designated less developed areas. The twenty-seven (27) counties in the state with a combination of the next highest unemployment rate and next lowest per capita income for the most recent thirty-six (36) month period, with equal weight being given to each category, are designated moderately developed areas. The twenty-seven (27) counties in the state with a combination of the lowest unemployment rate and the highest per capita income for the most recent thirty-six (36) month period, with equal weight being given to each category, are designated developed areas.

Ohio: A county that qualifies as a "Distressed area" has (a) an average rate of unemployment, during the most recent five-year period for which data are available, equal to at least one hundred twenty-five per cent of the average rate of unemployment for the United States for the same period; (b) a per capita income equal to or below eighty per cent of the median county per capita income of the United States as determined by the most recently available figures from the United

equal to or below eighty per cent of the median county per capita income of the United States as determined by the most recently available figures from the United States census bureau; (c) in intercensal years, has a ratio of transfer payment income to total county income equal to or greater than twenty-five per cent.

Oklahoma: Distressed counties (in their entirety) these are those counties that have a population loss of 10% or greater from 1980 to 1990).

South Carolina: (1) The twelve counties with a combination of the highest unemployment rate and lowest per capita income are designated least developed counties; (2) The twelve counties with a combination of the next highest unemployment rate and next lowest per capita income are designated under developed counties; (3) The eleven counties with a combination of the next highest unemployment rate and the next lowest per capita income are designated moderately developed counties; (4) The eleven counties with a combination of the lowest unemployment rate and the highest per capita income are designated developed counties. The designation by the department is effective for corporate taxable years, which begin after the date of designation.

Tennessee: Economically Distressed Counties are those with an average unemployment rate over 12% over the last 10 years; or counties with a per capita income less than 75% of the median per capita income for all counties.

Virginia: A county qualifies as economically distressed if its unemployment rate for the preceding year is at least 0.5 percent higher than the average statewide unemployment rate for such year.

Washington: "Distressed county" means a county in which the average level of unemployment for the preceding three years exceeds the average state employment for those years by twenty percent. Another definition of a distressed county that is used for a different program is (a) county in which the average level of unemployment for the three years before the year in which an application is filed under this chapter exceeds the average state unemployment for those years by twenty percent; (b) a county that has a median household income that is less than seventy-five percent of the state median household income for the previous three years.

Appalachian Regional Commission: The Appalachian Regional Commission (ARC) has four categories or economic levels for counties. These categories are distressed, transitional, competitive, and attainment. The Commission's definition of a distressed county is one with a three year average unemployment rate of 8.6% or more (or 150% of US average), a per capita income of $12,934 or less (or 67% of the US per capita income), and a poverty rate of 19.7% or more (or 150% of US rate). A county that meets all three of these requirements or has a poverty rate that is two times (200%) of the US and any one other of these requirements is a

distressed county. The following table shows the indicator requirements for distressed counties and the other categories as well.

Classification	1994-1996 Three Year Average Unemployment Rate	1995 Per Capita Income	1990 Census Poverty Rate
Distressed	8.6% or more (150% of US 5.7%)	$12,934 or less (67% of US $19,305)	19.7% or more (150% of US 13.1%)
Transitional	All counties not in other classes. Individual indicators may vary.		
Competitive	5.7% or less (100% of US average)	$15,444 - $19,304 ($15,444 = 80% of US)	13.1% or less (100% of US)
Attainment	5.7% or less (100% of US average)	$19,305 or more (100% of US)	13.1% or less (100% of US)

Appendix E

Data Definitions/Notes

Population Growth/Change: The population growth/change statistics were determined using years 1990 and 1997 from the Office of State Planning as reported on LINC.

Unemployment Rate: The unemployment rate statistics were calculated using the average rate of the 36-month period between July 1995 and June 1998. The monthly figures are from the Employment Security Commission Labor Market Information Division's Civilian Labor Force statistics. Note that the rates are not seasonally adjusted; seasonally adjusted rates are not available on the sub-state level.

Per Capita Income: Per capita income of a county is defined as the income received by, or on behalf of all county residents divided by the total county population (total personal income divided by total population). It includes income from all sources: labor income, proprietor's income, government transfer payments (those due to poverty and those which are age-related such as social security), and dividends, interest, and rent. The per capita income statistics are the three year average from 1994-1996 as provided by the US Bureau of Economic Analysis (BEA).

Per Capita Net Earnings: Per capita net earnings is defined as per capita wages and salaries, other labor income, and proprietor's income. The per capita net earnings statistics are from 1996, the latest data available, as provided by the US Bureau of Economic Analysis' Regional Economic Information System database.

Average Annual Private Insured Wage: The average annual private insured wage is defined as the total wages and salaries paid for all insured workers divided by number of insured workers. Wages and salaries include all reported income, including gross wages and salaries, bonuses, tips and other gratuities. Wages and salaries do not include employer contributions to old age, survivors' and disability insurance (OASDI), health insurance, unemployment insurance, workers' compensation, and private pension and welfare funds. The wage statistics are from 1996, the latest available, as provided by the Employment Security Commission Labor Market Information Division. Note that the private wage was used to stay consistent with the method used to calculate the wage standard under William S. Lee Act.

Property Valuation per Capita: County property valuation divided by the 1997 certified population estimates. The property valuation data is from the Department of Revenue Ad Valorem Tax Division. The population estimates are from the Office of State Planning. Note that not all counties have updated valuation information, as the state only requires the counties to undergo the revaluation process every 8 years.

Discussion

What makes a good indicator?

Annual availability: Because the enterprise tier formula is updated every year so that it will reflect changes in economic conditions, and indicator data must be available on an annual basis.

Timeliness: The lag time between data collection and data reporting is an important consideration in choosing economic indicators. For example, if the indicator data is outdated but is the only data available, the economic situation might have changed the data was originally published (e.g., the poverty rate is only available every 10 years in the decennial census).

Accuracy: While jobs data might be more timely than income data, income data is a more complete and accurate measure of economic performance. For example, simply counting jobs created or lost ignores the fact that those jobs might not be high-paying or income increasing.

Even Coverage: Don't want to double count or overlap two indicators that essentially measure the same thing

Simplicity: Easy to understand

Geographic Availability: The data indicator should be available at the county level otherwise, a county's economic situation may be misrepresented. For example, some data/indicators are available at the MSA (Metropolitan Statistical Area) level but not at the county level. Assigning MSA data to each county in that MSA would suggest that all counties in that MSA have the same experience or situation.

What do the various indicators communicate about a county's economic situation?

Population: Population growth is an indirect proxy for county economic conditions. Presumably, people will migrate from areas of economic decline to areas of economic prosperity. Hence relatively high population growth should indicate local economic prosperity. However, population growth can occur for reasons not directly related to local economic conditions. For example, an influx of retirees who are relatively well off can raise the population of an otherwise 'distressed' county.

Unemployment Rate: A county's unemployment rate reflects the economic condition of that county by indicating what percent of the county's labor force is currently out of work and therefore without an income. A high unemployment rate in any one year may be the result of a plant closing, while chronically high unemployment may mean that there is a greater need for job development.

Per Capita Income: Income is an important definition of economic welfare. Since per capita income is an average measure, it can be biased upward by the presence of a small number of high-income individuals. If this is the case, then an average income measure will not reflect the economic situation of the typical person in the county. In

this situation, the median income is a better description of the typical resident's income. The median income is the income at which half of the county resident's incomes are above it and half are below it. This criticism is valid in theory. However, there is no meaningful measure of county median income (or median wages) that is available on an annual basis. Since, some type of average income measure should continue to be used in the distress formula.

Net Earnings per Capita: Unlike Per Capita Income, Per Capita Net Earnings reflects only that income that is based on earned income (e.g., wages, salaries, other labor income, etc.) and therefore does not present the upward bias that Per Capita Income does if there are higher incomes in the county due to a large retirement population. However, Net Earnings per Capita still involves the possibility of a skewed income measure if the county has a small number of individuals with large salaries.

Average Annual Private Insured Wage: The Average Annual Private Insured Wage is much like the Net Earnings per Capita measure in that is only represents wage and salary income. However, rather than being a per capita measure (which includes all the people in the county), Average Annual Private Insured Wage only represents the average wage based on privately insured workers. In other words, it would not include state employees' wages, county government wages, etc. In counties that have a significant number of state employees (e.g., Wake, Orange) the Average Annual Private Insured Wage might not represent the actual economic situation in that county.

Poverty: The Poverty Rate is indicator of the number and proportion of people with inadequate family incomes for needed consumption of food and other goods and services. Poverty is a key indicator of difficult economic conditions. Unfortunately, the percentage of the population in each county which is below the poverty line is only available as part of the decennial census. A 10-year interval is not acceptable for data to be used in a formula that is revised annually. It would 'lock in' conditions in one year for 10 years, thereby imposing inequities as conditions in the real world change.

Food Stamp Recipiency Rate: Eligibility for food stamp payments is based on some type of personal economic distress criteria. Therefore, the food stamp recipiency rate is alternative poverty measure. The Food Stamp Recipiency Rate is also a better indicator than the poverty rate because it is available on an annual basis.

Property Valuation per Capita: Property Valuation per Capita provides an indication of a county government's ability to provide public services. The bulk of county tax revenues come from property taxes (approximately 2/3 of county tax revenues are derived from property taxes). Property taxes are based on the assessed valuation of real property, personal property, and public service company property (railroads, electric power companies, telephone companies, etc.). Using a per capita basis to measure property valuation allows for a more meaningful comparison across counties. Also without a per capita basis, there is no consideration of the amount of people the government has to provide services for. This would result in highly misleading distress indicators. While annual total property valuation is available for each county, state law only requires that these valuations be updated at least every 8 years. Thus some county re-valuations

may lag behind other county's re-valuations. If this occurs during a period when actual property values are changing rapidly, then the property valuation data will under or over estimate the 'true' county fiscal capacity.

Appendix F

COUNTY	Population Growth/Change (1990-1997)		Unemployment (36 Mth Avg July '95-Jun '98)		Per Capita Income (3 yr avg. 1994-1996)		Food Stamp Recipiency Rate (1997)		Net Earnings per Capita (1996)		Average Annual Private Insured Wage (1996)		Property Valuation per Capita (1997)	
	% CHANGE	RANK	RATE	RANK	INCOME	RANK	RATE	RANK	AMOUNT	RANK	AMOUNT	RANK	AMOUNT	RANK
ALAMANCE	10.73%	38	3.35%	26	$21,074	17	44.5	7	$14,739	16	$22,645	26	$48,613	45
ALEXANDER	12.82%	28	3.12%	20	$18,492	43	57.1	17	$14,095	27	$19,926	53	$40,005	77
ALLEGHANY	0.88%	90	6.44%	80	$18,376	45	66.6	29	$11,665	57	$16,336	89	$71,215	10
ANSON	1.62%	89	7.06%	83	$17,590	57	149.5	81	$11,634	58	$20,336	50	$36,397	84
ASHE	6.25%	66	9.43%	97	$17,108	67	79.4	40	$10,700	73	$18,354	70	$47,547	48
AVERY	3.99%	80	4.72%	53	$19,433	30	91.0	50	$12,446	47	$16,537	86	$85,877	6
BEAUFORT	2.65%	85	7.91%	88	$17,374	62	130.9	77	$11,136	68	$20,791	46	$56,117	29
BERTIE	-0.68%	93	6.07%	76	$15,448	90	195.4	96	$9,255	92	$15,671	96	$33,705	91
BLADEN	5.76%	68	5.99%	73	$17,740	54	188.0	95	$13,300	33	$18,389	69	$48,375	46
BRUNSWICK	27.88%	3	6.43%	79	$16,813	73	92.0	51	$10,255	80	$23,264	20	$99,000	3
BUNCOMBE	9.35%	46	3.00%	16	$21,723	14	80.6	43	$14,009	28	$23,297	19	$52,296	37
BURKE	9.78%	44	4.21%	40	$18,301	48	59.4	22	$12,919	39	$21,375	38	$41,823	67
CABARRUS	17.76%	14	3.01%	17	$22,182	12	43.8	6	$16,829	7	$25,009	7	$57,010	27
CALDWELL	5.69%	69	4.00%	35	$18,641	39	60.7	23	$13,211	36	$20,396	49	$41,389	69
CAMDEN	6.84%	60	3.48%	28	$16,792	74	97.4	54	$11,135	69	$17,256	81	$46,247	51
CARTERET	12.38%	30	4.78%	54	$18,729	38	62.7	25	$11,292	65	$15,706	94	$87,706	4
CASWELL	6.57%	61	3.51%	29	$15,812	85	101.8	58	$11,558	61	$18,520	68	$35,045	87
CATAWBA	9.40%	45	3.59%	30	$22,689	11	59.2	21	$16,451	8	$23,615	13	$58,394	25
CHATHAM	16.44%	18	2.48%	6	$21,493	16	52.3	13	$14,621	20	$21,947	31	$55,280	32
CHEROKEE	11.14%	35	6.68%	82	$14,439	96	107.0	63	$8,083	99	$17,585	77	$49,686	42
CHOWAN	5.28%	72	4.50%	49	$17,685	55	174.3	90	$10,280	79	$19,334	61	$40,674	71
CLAY	12.73%	29	6.27%	77	$15,797	87	79.6	42	$8,766	95	$17,245	82	$66,773	17
CLEVELAND	7.01%	59	6.02%	75	$18,527	42	105.3	62	$12,756	41	$22,869	22	$43,508	63
COLUMBUS	4.76%	75	6.64%	81	$17,513	58	154.0	83	$11,315	64	$22,290	29	$44,013	61
CRAVEN	8.40%	52	4.60%	52	$19,198	33	100.6	57	$12,671	42	$20,985	44	$43,950	62
CUMBERLAND	7.48%	57	4.46%	47	$18,046	51	119.8	72	$13,969	29	$21,012	42	$38,647	79
CURRITUCK	20.56%	8	3.02%	18	$18,356	46	66.9	31	$13,255	34	$15,843	93	$115,490	2
DARE	20.40%	9	5.91%	71	$19,570	29	29.3	1	$12,410	49	$16,041	91	$166,183	1
DAVIDSON	10.87%	37	2.96%	15	$19,269	31	54.2	15	$14,310	24	$22,446	27	$47,941	47
DAVIE	11.97%	31	3.32%	25	$23,791	8	31.6	2	$16,397	9	$20,995	43	$55,563	31
DUPLIN	10.21%	43	5.08%	59	$20,644	19	112.4	69	$16,351	10	$19,145	64	$41,032	70
DURHAM	8.72%	50	2.53%	7	$23,605	9	96.7	53	$17,006	6	$35,753	1	$58,240	26
EDGECOMBE	-2.29%	95	10.27%	98	$16,654	77	205.3	98	$10,464	76	$21,446	36	$34,457	89
FORSYTH	8.01%	56	2.95%	14	$26,387	3	69.4	33	$18,506	3	$28,591	3	$67,085	16
FRANKLIN	19.43%	11	3.60%	31	$16,993	70	103.0	60	$12,469	45	$21,623	33	$34,252	90
GASTON	2.85%	84	4.30%	46	$20,547	20	87.1	47	$15,182	11	$23,697	11	$49,786	41
GATES	6.49%	63	2.94%	13	$15,813	84	108.3	64	$9,724	88	$16,395	87	$35,619	86
GRAHAM	4.29%	78	11.22%	99	$14,109	97	119.3	71	$8,291	98	$17,820	76	$49,523	43
GRANVILLE	11.64%	33	3.41%	27	$17,200	66	81.2	44	$12,366	50	$22,033	30	$38,353	80
GREENE	14.74%	22	3.67%	32	$17,369	63	122.7	74	$12,871	40	$16,711	84	$33,278	93

Note: Counties ranked in each category from least distressed (1) to most distressed (100).

COUNTY	Population Growth/Change (1990-1997)		Unemployment (36 Mth Avg July '95-Jun '98)		Per Capita Income (3 yr avg. 1994-1996)		Food Stamp Recipiency Rate (1997)		Net Earnings per Capita (1996)		Average Annual Private Insured Wage (1996)		Property Valuation per Capita (1997)	
	% CHANGE	RANK	RATE	RANK	INCOME	RANK	RATE	RANK	AMOUNT	RANK	AMOUNT	RANK	AMOUNT	RANK
GUILFORD	10.29%	41	3.14%	21	$25,412	4	66.7	30	$18,005	5	$27,423	4	$68,097	12
HALIFAX	0.59%	91	9.07%	95	$15,687	88	217.1	100	$9,390	91	$19,478	56	$37,341	83
HARNETT	19.94%	10	3.73%	33	$16,113	82	117.1	70	$11,562	60	$19,501	55	$32,987	95
HAYWOOD	9.22%	47	5.08%	58	$18,257	49	85.4	45	$11,199	66	$22,646	25	$56,218	28
HENDERSON	14.16%	24	2.58%	10	$22,764	10	63.5	26	$12,602	43	$23,436	15	$62,344	21
HERTFORD	-2.70%	97	5.15%	61	$15,418	91	204.3	97	$9,611	89	$18,103	73	$32,426	97
HOKE	26.36%	5	5.37%	64	$12,323	100	150.7	82	$8,538	96	$19,030	66	$27,215	99
HYDE	-2.42%	96	8.08%	90	$16,977	71	182.8	93	$10,713	72	$13,455	100	$72,128	9
IREDELL	17.22%	16	3.15%	22	$20,870	18	45.7	8	$15,151	12	$23,629	12	$61,753	22
JACKSON	8.56%	51	5.55%	67	$16,288	80	88.4	48	$10,383	77	$17,546	78	$68,992	11
JOHNSTON	26.91%	4	2.55%	8	$19,608	28	86.9	46	$14,670	19	$20,041	52	$44,196	60
JONES	-4.53%	98	4.15%	38	$19,801	24	165.2	88	$14,998	13	$17,299	80	$40,047	75
LEE	16.92%	17	4.23%	41	$21,670	15	78.2	39	$14,486	21	$22,665	24	$50,493	39
LENOIR	3.09%	83	5.80%	69	$18,858	37	154.1	84	$11,963	54	$21,221	40	$46,554	49
LINCOLN	15.06%	21	4.16%	39	$18,929	36	53.5	14	$14,129	26	$21,775	32	$53,254	35
MACON	17.71%	15	4.25%	44	$17,846	53	68.0	32	$9,487	90	$18,339	71	$86,067	5
MADISON	8.12%	55	4.06%	36	$16,002	83	95.8	52	$10,326	78	$19,459	57	$38,334	81
MARTIN	2.19%	87	8.92%	94	$16,349	79	142.4	78	$10,203	81	$24,723	8	$49,023	44
MCDOWELL	10.49%	40	5.50%	65	$17,389	61	65.1	27	$12,279	51	$21,158	41	$40,585	72
MECKLENBURG	19.04%	12	2.76%	11	$28,715	1	61.8	24	$22,564	1	$32,785	2	$77,386	7
MITCHELL	2.05%	88	6.35%	78	$16,637	78	76.8	38	$10,771	71	$19,323	62	$46,082	53
MONTGOMERY	4.80%	74	5.95%	72	$16,688	76	102.6	59	$10,973	70	$18,799	67	$52,742	36
MOORE	17.80%	13	4.14%	37	$24,707	6	58.0	19	$12,427	48	$21,613	34	$65,165	19
NASH	13.60%	27	5.87%	70	$19,954	23	103.3	61	$14,701	17	$23,835	9	$44,838	56
NEW HANOVER	21.88%	7	4.24%	42	$21,785	13	100.5	56	$14,804	15	$23,333	18	$67,765	14
NORTHAMPTON	0.01%	92	7.35%	86	$16,167	81	212.7	99	$9,887	85	$19,417	59	$42,327	65
ONSLOW	-1.66%	94	3.73%	34	$14,757	95	69.8	34	$12,052	53	$15,697	95	$25,318	100
ORANGE	14.28%	23	1.55%	1	$25,177	5	37.2	4	$18,422	4	$22,749	23	$59,242	24
PAMLICO	5.32%	71	4.48%	48	$16,749	75	122.1	73	$9,835	86	$15,474	97	$60,084	23
PASQUOTANK	10.27%	42	4.83%	56	$17,333	64	146.9	80	$11,424	63	$17,922	75	$33,072	94
PENDER	28.95%	2	5.17%	62	$17,452	60	109.2	65	$11,435	62	$16,595	85	$55,916	30
PERQUIMANS	4.34%	77	4.57%	51	$15,540	89	154.4	85	$9,021	93	$13,728	99	$44,651	57
PERSON	9.08%	49	5.13%	60	$18,353	47	66.2	28	$13,776	31	$23,366	17	$75,015	8
PITT	11.94%	32	4.82%	55	$19,776	25	109.9	67	$14,193	25	$21,518	35	$42,616	64
POLK	13.72%	26	2.33%	3	$24,612	7	39.4	5	$11,146	67	$17,446	79	$63,442	20
RANDOLPH	14.08%	25	3.06%	19	$19,697	26	35.0	3	$14,986	14	$20,917	45	$44,521	58
RICHMOND	2.56%	86	9.39%	96	$15,812	86	130.2	76	$10,063	84	$19,388	60	$33,472	92
ROBESON	7.16%	58	8.47%	92	$15,295	92	175.2	91	$10,072	83	$19,260	63	$27,976	98
ROCKINGHAM	3.59%	82	4.92%	57	$18,539	41	70.9	35	$12,450	46	$22,355	28	$42,327	66

Note: Counties ranked in each category from least distressed (1) to most distressed (100).

COUNTY	Population Growth/Change (1990-1997)		Unemployment (36 Mth Avg July '95-Jun '98)		Per Capita Income (3 yr avg. 1994-1996)		Food Stamp Recipiency Rate (1997)		Net Earnings per Capita (1996)		Average Annual Private Insured Wage (1996)		Property Valuation per Capita (1997)	
	% CHANGE	RANK	RATE	RANK	INCOME	RANK	RATE	RANK	AMOUNT	RANK	AMOUNT	RANK	AMOUNT	RANK
ROWAN	11.00%	36	3.24%	24	$19,065	35	73.1	36	$13,092	37	$23,417	16	$46,068	54
RUTHERFORD	4.35%	76	6.00%	74	$17,608	56	90.0	49	$12,057	52	$21,428	37	$50,003	40
SAMPSON	11.32%	34	5.60%	68	$20,118	21	110.6	68	$14,329	23	$19,757	54	$40,300	74
SCOTLAND	3.68%	81	7.07%	84	$17,261	65	165.1	87	$11,876	55	$22,973	21	$40,012	76
STANLY	6.50%	62	5.37%	63	$18,140	50	57.3	18	$12,566	44	$21,342	39	$40,490	73
STOKES	15.12%	20	2.48%	5	$18,011	52	54.5	16	$14,427	22	$18,105	72	$46,345	50
SURRY	8.31%	53	4.24%	43	$19,246	32	58.1	20	$13,218	35	$19,458	58	$45,483	55
SWAIN	6.44%	64	16.41%	100	$13,672	99	145.1	79	$7,918	100	$16,189	90	$34,683	88
TRANSYLVANIA	9.10%	48	2.78%	12	$19,630	27	79.5	41	$10,085	82	$25,861	6	$68,092	13
TYRRELL	-4.77%	99	8.91%	93	$15,068	93	187.0	94	$9,724	88	$13,868	98	$54,510	33
UNION	26.02%	6	2.43%	4	$19,105	34	48.2	10	$14,676	18	$23,739	10	$51,004	38
VANCE	5.37%	70	7.30%	85	$17,493	59	164.9	86	$10,685	74	$19,133	65	$36,140	85
WAKE	30.62%	1	1.90%	2	$27,006	2	50.2	12	$21,841	2	$27,062	5	$65,240	18
WARREN	5.07%	73	7.91%	89	$13,956	98	171.7	89	$8,428	97	$16,005	92	$44,472	59
WASHINGTON	-5.00%	100	7.43%	87	$16,873	72	181.4	92	$10,653	75	$16,368	88	$37,710	82
WATAUGA	10.57%	39	2.57%	9	$17,097	68	48.9	11	$11,628	59	$16,867	83	$67,327	15
WAYNE	8.14%	54	4.52%	50	$17,042	69	97.6	55	$11,718	56	$20,605	47	$32,515	96
WILKES	6.25%	65	4.26%	45	$18,614	40	75.9	37	$13,007	38	$20,320	51	$38,953	78
WILSON	4.03%	79	8.19%	91	$20,026	22	129.1	75	$13,792	30	$23,578	14	$46,129	52
YADKIN	15.46%	19	3.17%	23	$18,448	44	47.7	9	$13,317	32	$20,459	48	$41,715	68
YANCEY	6.03%	67	5.54%	66	$14,994	94	109.3	66	$8,969	94	$17,934	74	$54,377	34
STATEWIDE	*12.00%*	XXXX	*3.97%*	XXXX	*$21,081*	XXXX	*83.7*	XXXX	*$15,115*	XXXX	*$25,154*	XXXX	*$54,237*	XXXX

NOTES:

1. Population growth was determined using years 1990 and 1997 as reported on LINC.
2. Per Capita Income is a three year average from 1994-1996 using BEA data.
3. The Unemployment Rate is the average rate from July 1995 to June 1998, not seasonally adjusted, provided by the Labor Market Information Division of the Employment Security Commission.
4. Net Earnings Per Capita is from 1996 using BEA data.
5. Average Annual Private Insured Wage is from 1996 as provided by the Labor Market Information Division of the Employment Security Commission.
6. Food Stamp Recipeincy Rate (1997)
7. Property Valuation per Capita is from 1997 using data from the Department of Revenue Ad Valorem Tax Division and population estimates from the Office of State Planning.

Note. Counties ranked in each category from least distressed (1) to most distressed (100).

Appendix G

KEY	Option 1	Option 2	Option 3	Option 4
Factor 1	Population Growth	Unemployment	Unemployment	Unemployment
Factor 2	Unemployment	Net Earnings per Capita	Avg Annual Private Ins. Wage	Net Earnings per Capita
Factor 3	Per Capita Income	Food Stamp Recipiency Rate	Food Stamp Recipiency Rate	Food Stamp Recipiency Rate
Factor 4	-	-	-	Property Valuation per Capita

County	Option 1		Option 2		Option 3		Option 4	
	Rank	Tier	Rank	Tier	Rank	Tier	Rank	Tier
ALAMANCE	79	5	90	5	88	5	84	5
ALEXANDER	74	4	84	5	77	5	71	4
ALLEGHANY	24	2	40	3	29	3	61	4
ANSON	19	2	23	2	19	2	15	2
ASHE	17	2	26	3	24	2	26	3
AVERY	44	3	49	3	38	3	65	4
BEAUFORT	16	2	18	2	22	2	24	2
BERTIE	9	1	9	1	5	1	5	1
BLADEN	30	3	30	3	11	2	32	3
BRUNSWICK	50	3	26	3	55	4	49	3
BUNCOMBE	81	5	76	5	82	5	77	5
BURKE	57	4	71	4	75	4	63	4
CABARRUS	94	5	98	5	97	5	97	5
CALDWELL	55	4	75	4	68	4	64	4
CAMDEN	45	3	47	3	44	3	56	4
CARTERET	63	4	55	4	42	3	68	4
CASWELL	38	3	50	3	52	4	38	3
CATAWBA	76	5	86	5	86	5	90	5
CHATHAM	95	5	93	5	93	5	91	5
CHEROKEE	27	3	16	2	17	2	21	2
CHOWAN	36	3	24	2	28	3	19	2
CLAY	32	3	25	2	27	3	40	3
CLEVELAND	36	3	37	3	49	3	34	3
COLUMBUS	25	2	20	2	31	3	19	2
CRAVEN	56	4	47	3	53	4	49	3
CUMBERLAND	50	3	50	3	47	3	42	3
CURRITUCK	84	5	77	5	58	4	89	5
DARE	71	4	63	4	44	3	79	5
DAVIDSON	78	5	88	5	90	5	81	5
DAVIE	88	5	94	5	84	5	94	5
DUPLIN	64	4	58	4	34	3	52	4
DURHAM	86	5	83	5	87	5	88	5
EDGECOMBE	4	1	5	1	14	2	4	1
FORSYTH	82	5	89	5	93	5	95	5
FRANKLIN	68	4	60	4	63	4	43	3
GASTON	53	4	69	4	71	4	70	4
GATES	47	3	43	3	43	3	30	3
GRAHAM	2	1	7	1	8	1	13	2
GRANVILLE	59	4	63	4	74	4	57	4
GREENE	66	4	54	4	36	3	36	3
GUILFORD	86	5	87	5	91	5	93	5
HALIFAX	2	1	1	1	7	1	1	1
HARNETT	60	4	44	3	50	3	26	3
HAYWOOD	52	4	39	3	62	4	60	4
HENDERSON	92	5	78	5	92	5	82	5
HERTFORD	13	2	14	2	16	2	7	1

KEY	Option 1	Option 2	Option 3	Option 4
Factor 1	Population Growth	Unemployment	Unemployment	Unemployment
Factbr 2	Unemployment	Net Earnings per Capita	Avg Annual Private Ins. Wage	Net Earnings per Capita
Factor 3	Per Capita Income	Food Stamp Recipiency Rate	Food Stamp Recipiency Rate	Food Stamp Recipiency Rate
Factor 4	-	-	-	Property Valuation per Capita

County	Option 1		Option 2		Option 3		Option 4	
	Rank	Tier	Rank	Tier	Rank	Tier	Rank	Tier
HOKE	42	3	17	2	20	2	8	1
HYDE	12	2	11	2	2	1	23	2
IREDELL	90	5	92	5	95	5	96	5
JACKSON	29	3	34	3	31	3	55	4
JOHNSTON	95	5	82	5	69	4	73	4
JONES	47	3	57	4	25	2	48	3
LEE	82	5	71	4	71	4	72	4
LENOIR	34	3	28	3	31	3	29	3
LINCOLN	72	4	78	5	80	5	80	5
MACON	68	4	40	3	56	4	62	4
MADISON	40	3	40	3	57	4	32	3
MARTIN	7	1	13	2	39	3	17	2
MCDOWELL	43	3	56	4	60	4	46	3
MECKLENBURG	99	5	94	5	96	5	98	5
MITCHELL	14	2	36	3	41	3	35	3
MONTGOMERY	22	2	30	3	29	3	37	3
MOORE	90	5	69	4	77	5	78	5
NASH	65	4	50	3	59	4	53	4
NEW HANOVER	89	5	68	4	67	4	75	4
NORTHAMPTON	9	1	6	1	10	1	10	1
ONSLOW	21	2	63	4	44	3	44	3
ORANGE	98	5	100	5	98	5	100	5
PAMLICO	31	3	28	3	18	2	41	3
PASQUOTANK	45	3	32	3	22	2	18	2
PENDER	61	4	35	3	20	2	45	3
PERQUIMANS	23	2	19	2	13	2	21	2
PERSON	49	3	67	4	70	4	75	4
PITT	68	4	53	4	51	4	51	4
POLK	97	5	81	5	79	5	83	5
RANDOLPH	85	5	94	5	85	5	84	5
RICHMOND	5	1	10	1	14	2	6	1
ROBESON	15	2	8	1	8	1	3	1
ROCKINGHAM	35	3	58	4	65	4	53	4
ROWAN	73	4	74	4	83	5	67	4
RUTHERFORD	28	3	38	3	48	3	46	3
SAMPSON	62	4	46	3	36	3	39	3
SCOTLAND	17	2	21	2	34	3	16	2
STANLY	38	3	62	4	65	4	58	4
STOKES	80	5	91	5	76	5	87	5
SURRY	58	4	73	4	64	4	66	4
SWAIN	6	1	2	1	4	1	2	1
TRANSYLVANIA	75	4	61	4	88	5	68	4
TYRRELL	1	1	3	1	1	1	14	2
UNION	92	5	97	5	99	5	92	5
VANCE	25	2	15	2	12	2	12	2
WAKE	100	5	99	5	100	5	99	5

Appendix H

Counties with Population < 50,000

COUNTY	1997 Population
ALEXANDER	31,078
ALLEGHANY	9,682
ANSON	23,854
ASHE	23,596
AVERY	15,460
BEAUFORT	43,400
BERTIE	20,248
BLADEN	30,314
CAMDEN	6,308
CASWELL	22,059
CHATHAM	45,130
CHEROKEE	22,416
CHOWAN	14,219
CLAY	8,066
CURRITUCK	16,571
DARE	27,394
DAVIE	31,192
DUPLIN	44,080
FRANKLIN	43,487
GATES	9,914
GRAHAM	7,504
GRANVILLE	42,802
GREENE	17,651
HERTFORD	21,916
HOKE	28,882
HYDE	5,280
JACKSON	29,142
JONES	8,988
LEE	48,369
MACON	27,664
MADISON	18,330
MARTIN	25,628
MCDOWELL	39,424
MITCHELL	14,729
MONTGOMERY	24,473
NORTHAMPTON	20,800
PAMLICO	11,973
PASQUOTANK	34,519
PENDER	37,208
PERQUIMANS	10,900
PERSON	32,920
POLK	16,393
RICHMOND	45,658
SCOTLAND	35,004
STOKES	42,848
SWAIN	11,994
TRANSYLVANIA	27,845
TYRRELL	3,672
VANCE	40,981
WARREN	18,140
WASHINGTON	13,297
WATAUGA	40,862
YADKIN	35,199
YANCEY	16,349

Source: 1997 Certified Population Estimates, Office of State Planning

Counties with Population < 20,000

COUNTY	1997 Population
ALLEGHANY	9,682
AVERY	15,460
CAMDEN	6,308
CHOWAN	14,219
CLAY	8,066
CURRITUCK	16,571
GATES	9,914
GRAHAM	7,504
GREENE	17,651
HYDE	5,280
JONES	8,988
MADISON	18,330
MITCHELL	14,729
PAMLICO	11,973
PERQUIMANS	10,900
POLK	16,393
SWAIN	11,994
TYRRELL	3,672
WARREN	18,140
WASHINGTON	13,297
YANCEY	16,349

Source: 1997 Certified Population Estimates, Office of State Planning

Appendix I

Poverty Rate "Test" for Counties with Population [illegible]

County	Option 1 Tier	Option 2 Tier	Option 3 Tier	Option 4 Tier	Poverty Rate	% of State Rate
ALEXANDER	4	5	5	4	9.84%	76.28%
ALLEGHANY	2	3	3	4	20.06%	155.50%
ANSON	2	2	2	2	17.65%	136.82%
ASHE	2	3	2	3	18.41%	142.71%
AVERY	3	3	3	4	14.56%	112.87%
BEAUFORT	2	2	2	2	19.51%	151.24%
BERTIE	1	1	1	1	25.92%	200.93%
BLADEN	3	3	2	3	21.94%	170.08%
CAMDEN	3	3	3	4	16.06%	124.50%
CASWELL	3	3	4	3	16.19%	125.50%
CHATHAM	5	5	5	5	9.66%	74.88%
CHEROKEE	3	2	2	2	20.42%	158.29%
CHOWAN	3	2	3	2	17.73%	137.44%
CLAY	3	2	3	3	17.95%	139.15%
CURRITUCK	5	5	4	5	10.05%	77.91%
DARE	4	4	3	5	8.26%	64.03%
DAVIE	5	5	5	5	8.36%	64.81%
DUPLIN	4	4	3	4	19.13%	148.29%
FRANKLIN	4	4	4	3	14.54%	112.71%
GATES	3	3	3	3	15.72%	121.86%
GRAHAM	1	1	1	2	24.94%	193.33%
GRANVILLE	4	4	4	4	13.47%	104.42%
GREENE	4	4	3	3	19.08%	147.91%
HERTFORD	2	2	2	1	24.95%	193.41%
HOKE	3	2	2	1	21.09%	163.49%
HYDE	2	2	1	2	23.99%	185.97%
JACKSON	3	3	3	4	16.68%	129.30%
JONES	3	4	2	3	20.24%	156.90%
LEE	5	4	4	4	14.67%	113.72%
MACON	4	3	4	4	11.43%	88.60%
MADISON	3	3	4	3	16.53%	128.14%
MARTIN	1	2	3	2	20.36%	157.83%
MCDOWELL	3	4	4	3	22.29%	172.79%
MITCHELL	2	3	3	3	15.96%	123.72%
MONTGOMERY	2	3	3	3	14.42%	111.78%
NORTHAMPTON	1	1	1	1	23.60%	182.95%
PAMLICO	3	3	2	3	18.89%	146.43%
PASQUOTANK	3	3	2	2	19.75%	153.10%
PENDER	4	3	2	3	17.21%	133.41%
PERQUIMANS	2	2	2	2	21.55%	167.05%
PERSON	3	4	4	4	12.95%	100.39%
POLK	5	5	5	5	9.63%	74.65%
RICHMOND	1	1	2	1	16.79%	130.16%
SCOTLAND	2	2	3	2	18.60%	144.19%
STOKES	5	5	5	5	9.82%	76.12%
SWAIN	1	1	1	1	27.61%	214.03%
TRANSYLVANIA	4	4	5	4	13.49%	104.57%
TYRRELL	1	1	1	2	25.03%	194.03%
VANCE	2	2	2	2	19.62%	152.09%
WARREN	1	1	1	2	28.20%	218.60%
WASHINGTON	1	2	1	1	20.42%	158.29%
WATAUGA	4	5	4	5	21.52%	166.82%
YADKIN	5	5	5	4	11.97%	92.79%
YANCEY	2	2	2	2	18.65%	144.57%

Notes:

- Poverty rate is defined as the number of persons with family (or single-person) income falling below the poverty threshold divided by persons for whom poverty status is determined. The poverty rate statistics are from the U.S. Bureau of the Census, 1990.
- Shaded counties are those with a poverty rate at 150% of the state rate (12.9%).

Poverty Rate "Test" for Counties with Population < 20,000

County	Option 1 Tier	Option 2 Tier	Option 3 Tier	Option 4 Tier	Poverty Rate	% of State Rate
ALLEGHANY	2	3	3	4	20.06%	155.50%
AVERY	3	3	3	4	14.56%	112.87%
CAMDEN	3	3	3	4	16.06%	124.50%
CHOWAN	3	2	3	2	17.73%	137.44%
CLAY	3	2	3	3	17.95%	139.15%
CURRITUCK	5	5	4	5	10.05%	77.91%
GATES	3	3	3	3	15.72%	121.86%
GRAHAM	1	1	1	2	24.94%	193.33%
GREENE	4	4	3	3	19.08%	147.91%
HYDE	2	2	1	2	23.99%	185.97%
JONES	3	4	2	3	20.24%	156.90%
MADISON	3	3	4	3	16.53%	128.14%
MITCHELL	2	3	3	3	15.96%	123.72%
PAMLICO	3	3	2	3	18.89%	146.43%
PERQUIMANS	2	2	2	2	21.55%	167.05%
POLK	5	5	5	5	9.63%	74.65%
SWAIN	1	1	1	1	27.61%	214.03%
WARREN	1	1	1	2	28.20%	218.60%
WASHINGTON	1	2	1	1	20.42%	158.29%
YANCEY	2	2	2	2	18.65%	144.57%

Notes:

- Poverty rate is defined as the number of persons with family (or single-person) income falling below the poverty threshold divided by persons for whom poverty status is determined. The poverty rate statistics are from the U.S. Bureau of the Census, 1990.
- Shaded counties are those with a poverty rate at 150% of the state rate (12.9%).

Food Stamp Recipiency Rate "Test" for Counties with Population < 50,000

County	Option 1 Tier	Option 2 Tier	Option 3 Tier	Option 4 Tier	Food Stamp Rate	% of State Rate
ALEXANDER	4	5	5	4	57.1	68.25%
ALLEGHANY	2	3	3	4	66.6	79.62%
ANSON	2	2	2	2	149.5	178.65%
ASHE	2	3	2	3	79.4	94.83%
AVERY	3	3	3	4	91.0	108.70%
BEAUFORT	2	2	2	2	130.9	156.43%
BERTIE	1	1	1	1	195.4	233.47%
BLADEN	3	3	2	3	188.0	224.60%
CAMDEN	3	3	3	4	97.4	116.33%
CASWELL	3	3	4	3	101.8	121.65%
CHATHAM	5	5	5	5	52.3	62.47%
CHEROKEE	3	2	2	2	107.0	127.86%
CHOWAN	3	2	3	2	174.3	208.30%
CLAY	3	2	3	3	79.6	95.06%
CURRITUCK	5	5	4	5	66.9	79.93%
DARE	4	4	3	5	29.3	35.00%
DAVIE	5	5	5	5	31.6	37.78%
DUPLIN	4	4	3	4	112.4	134.35%
FRANKLIN	4	4	4	3	103.0	123.06%
GATES	3	3	3	3	108.3	129.45%
GRAHAM	1	1	1	2	119.3	142.52%
GRANVILLE	4	4	4	4	81.2	97.08%
GREENE	4	4	3	3	122.7	146.63%
HERTFORD	2	2	2	1	204.3	244.15%
HOKE	3	2	2	1	150.7	180.07%
HYDE	2	2	1	2	182.8	218.45%
JACKSON	3	3	3	4	88.4	105.62%
JONES	3	4	2	3	165.2	197.33%
LEE	5	4	4	4	78.2	93.45%
MACON	4	3	4	4	65.1	77.82%
MADISON	3	3	4	3	68.0	81.28%
MARTIN	1	2	3	2	95.8	114.49%
MCDOWELL	3	4	4	3	142.4	170.18%
MITCHELL	2	3	3	3	76.8	91.71%
MONTGOMERY	2	3	3	3	102.6	122.65%
NORTHAMPTON	1	1	1	1	212.7	254.20%
PAMLICO	3	3	2	3	122.1	145.95%
PASQUOTANK	3	3	2	2	146.9	175.53%
PENDER	4	3	2	3	109.2	130.44%
PERQUIMANS	2	2	2	2	154.4	184.45%
PERSON	3	4	4	4	66.2	79.05%
POLK	5	5	5	5	39.4	47.04%
RICHMOND	1	1	2	1	130.2	155.62%
SCOTLAND	2	2	3	2	165.1	197.31%
STOKES	5	5	5	5	54.5	65.12%
SWAIN	1	1	1	1	145.1	173.32%
TRANSYLVANIA	4	4	5	4	79.5	95.04%
TYRRELL	1	1	1	2	187.0	223.38%
VANCE	2	2	2	2	164.9	196.99%
WARREN	1	1	1	2	171.7	205.15%
WASHINGTON	1	2	1	1	181.4	216.70%
WATAUGA	4	5	4	5	48.9	58.38%
YADKIN	5	5	5	4	47.7	57.05%
YANCEY	2	2	2	2	109.3	130.58%

Notes:

- The Food Stamp Recipiency Rate (1997) is equal to the average number of monthly food stamp recipients for the state fiscal year 96-97 divided by total population (in 000s) in 1997. The food stamp recipients data is from the Department of Health and Human Resources. The population data is from the Office of State Planning's certified population estimates. Note that when representing annual data, the agency lists the information by the ending year although it may be for the fiscal year. Also, the 1997 population data (rather than 1996) was used to remain consistent with how the state calculates per capita statistics in other areas.
- Shaded counties are those with a Food Stamp Recipiency Rate at 150% of the state rate (83.7%).

Food Stamp Recipiency Rate "Test" for Counties with Population < 20,000

County	Option 1 Tier	Option 2 Tier	Option 3 Tier	Option 4 Tier	Food Stamp Rate	% of State Rate
ALLEGHANY	2	3	3	4	66.6	79.62%
AVERY	3	3	3	4	91.0	108.70%
CAMDEN	3	3	3	4	97.4	116.33%
CHOWAN	3	2	3	2	174.3	208.30%
CLAY	3	2	3	3	79.6	95.06%
CURRITUCK	5	5	4	5	66.9	79.93%
GATES	3	3	3	3	108.3	129.45%
GRAHAM	1	1	1	2	119.3	142.52%
GREENE	4	4	3	3	122.7	146.63%
HYDE	2	2	1	2	182.8	218.45%
JONES	3	4	2	3	165.2	197.33%
MADISON	3	3	4	3	68.0	81.28%
MITCHELL	2	3	3	3	76.8	91.71%
PAMLICO	3	3	2	3	122.1	145.95%
PERQUIMANS	2	2	2	2	154.4	184.45%
POLK	5	5	5	5	39.4	47.04%
SWAIN	1	1	1	1	145.1	173.32%
WARREN	1	1	1	2	171.7	205.15%
WASHINGTON	1	2	1	1	181.4	216.70%
YANCEY	2	2	2	2	109.3	130.58%

Notes:

- The Food Stamp Recipiency Rate (1997) is equal to the average number of monthly food stamp recipients for the state fiscal year 96-97 divided by total population (in 000s) in 1997. The food stamp recipients data is from the Department of Health and Human Resources. The population data is from the Office of State Planning's certified population estimates. Note that when representing annual data, the agency lists the information by the ending year although it may be for the fiscal year. Also, the 1997 population data (rather than 1996) was used to remain consistent with how the state calculates per capita statistics in other areas.
- Shaded counties are those with a Food Stamp Recipiency Rate at 150% of the state rate (83.7%).

Appendix J

Development Zone Option Counties	1999 Tier
Alleghany	2
Anson	2
Ashe	2
Bertie	1
Caswell	3
Cherokee	2
Chowan	3
Clay	3
Graham	1
Greene	4
Hertford	1
Hyde	1
Jones	3
Madison	3
Mitchell	2
Northampton	1
Pamlico	3
Perquimans	2
Swain	1
Tyrrell	1
Warren	1
Washington	1
Yancey	2

Presentation to the

North Carolina General Assembly

Joint Finance Committees

May 11, 1999

North Carolina Department of Commerce

Topics for Presentation

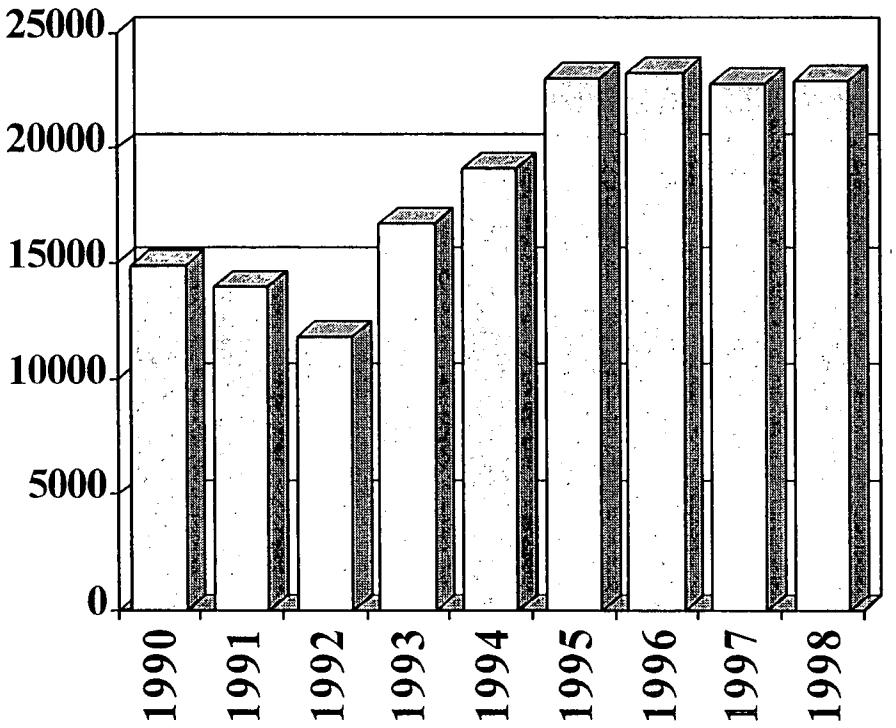
- **SB 1115/HB 1303... *The Widely Shared Prosperity Act of 1999***
- **William S. Lee Quality Jobs and Business Expansion Act *Enterprise Tier Formula Report***
- **William S. Lee Quality Jobs and Business Expansion Act *1999 Progress Report***

Background

Background

A changing economy is contributing to increased job losses and plant closings, especially in North Carolina's base industries… textiles, apparel and furniture.

Announced Annual Permanent Layoffs
1990-98

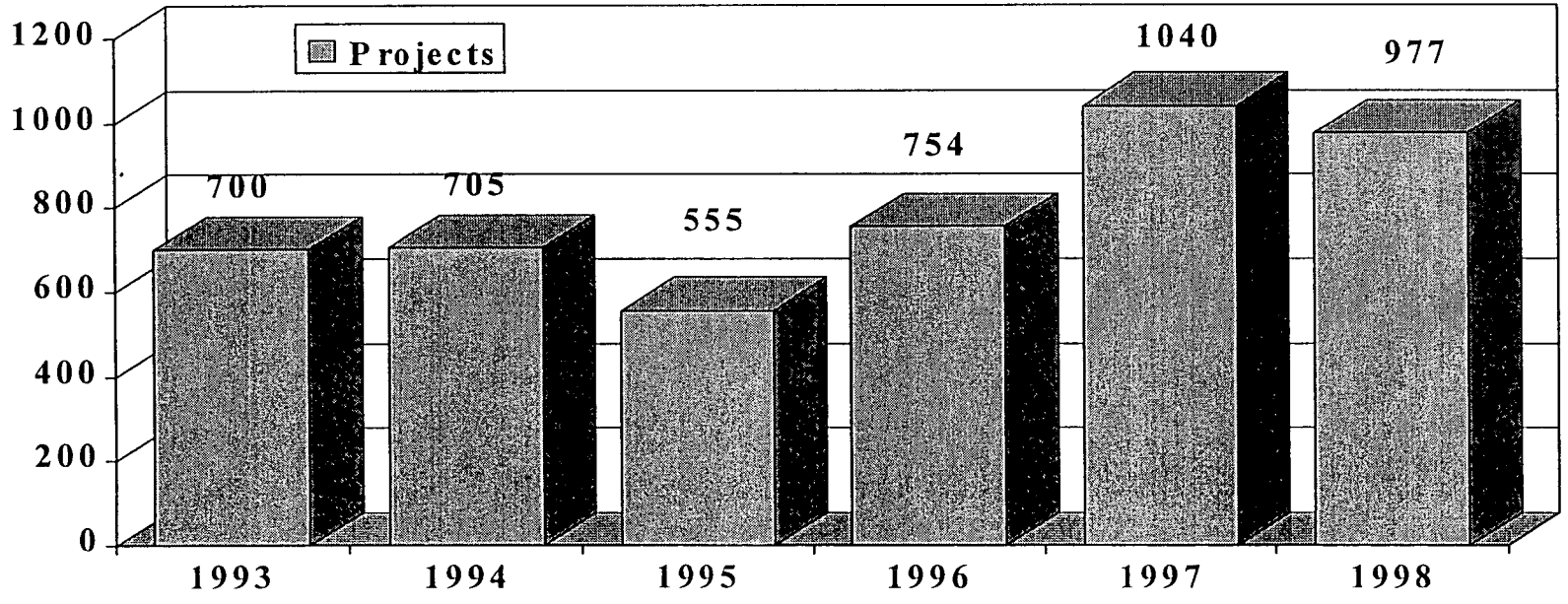


Source: NC Division of Employment and Training, NC ESC, and news clippings

Background...

Competitor states improving their overall business climate threatens North Carolina's historical competitive advantage.

Economic Recruitment of W.S. Lee Act Eligible Industries... 1993-98



Source: NC Department of Commerce, Business and Industry Division

Background...

North Carolina's economic growth and prosperity is not widely shared in all parts of the state.

1999 Tier	Average Per Capita Income[1]	Average Population[2]	Average Unemployment[3]
Tier 1	$15,553	23,783	8.94%
Tier 2	$16,578	42,779	6.61%
Tier 3	$17,524	55,432	4.92%
Tier 4	$18,775	65,160	4.16%
Tier 5	$22,625	162,809	2.97%

1. Three year average 1994-96; Bureau of Economic Analysis 2 Population as of 7/1/98; US Bureau of the Census 3. Average rate July 1995- June 1998, not seasonally adjusted; NC ESC

The Charge...

- ✓ Help existing firms maintain and improve competitiveness through investment in new technologies.
- ✓ Help encourage new investment in the North Carolina economy-- from both existing and new industries.
- ✓ Ensure that economic growth is reaching all people in all parts of the state, particularly our rural counties and high-poverty urban areas.

The North Carolina Response

The William S. Lee Quality Jobs and Business Expansion Act

The William S. Lee Quality Jobs and Business Expansion Act

... first enacted in 1996 to stimulate the North Carolina economy-- particularly in economically distressed areas, the Act was amended in 1997 and 1998 to enhance its practicality, effectiveness and accountability.

...provides credits for five types of activities:

- **job creation**
- **investment in machinery and equipment**
- **research and development expenditures**
- **worker training costs**
- **expansion of central administrative office property**

The amount of the credit and applicable thresholds depend on the county's assigned enterprise tier and/or State Development Zone designation

Legislative Mandate

The 1997 amendment to the William S. Lee Act directed the Department of Commerce to:

Reexamine the enterprise tier formula, including consideration for alternative measures for more equitable treatment of counties in similar economic circumstances, and consideration whether the assignment of tiers and the applicable thresholds are equitable for smaller counties.

Study the economic and business recruitment effectiveness of the William S. Lee Act.

- **Mark Bernstein, Co-Chair**-- Parker, Poe, Adams & Bernstein; NC Economic Development Board
- **Norman Samet, Co-Chair**-- Samet Corporation; NC Economic Development Board
- **John Connaughton**--UNC-Charlotte Department of Economics
- **Dan Gerlach**-- NC Budget and Tax Center
- **Paul Lawler**-- NC Economic Developers Association
- **Gary Shoesmith**-- Wake Forest University, Babcock Graduate School of Management
- **Mike Walden**-- NCSU Department of Agricultural and Resource Economics

William S. Lee Quality Jobs & Business Expansion Act

1999 Tier Formula Report

North Carolina Department of Commerce

Tier Formula Options

Current Formula...

- **Population Growth (1990-1997)**
- **Unemployment Rate (36 month average: July 1995- June 1998)**
- **Per Capita Income (3 Year Average: 1995-1998)**

Other possible formula components include...

- ***Net Earnings Per Capita (1996)***
- ***Food Stamp Recipiency Rate (1997)***
- ***Average Annual Private Insured Wage (1996)***
- ***Property Valuation Per Capita (1997)***

Task Force Findings

- The Task Force found no variation in the Enterprise Tier Formula significantly improved the formula in a manner satisfactory to all.
- The Task Force recommends that the General Assembly keep the current tier formula in place while allowing some sort of special provision for smaller counties.

William S. Lee Quality Jobs & Business Expansion Act

1999 Progress Report

North Carolina Department of Commerce

Legislative Mandate

In addition to the tier formula report, the 1997 amendment to the William S. Lee Act directed the Department of Commerce to:

- **Study the distribution of tax incentives across new and expanding industries.**
- **Examine data on economic recruitment for the period 1994 through 1998 by county, by industry type, by size of investment, and by number of jobs, and other relevant information to determine the pattern of business locations and expansions before and after the enactment of the William S. Lee Act incentives.**
- **Measure the direct costs and benefits of the tax incentives.**
- **Compile any available data on whether expanding North Carolina businesses receive fewer benefits than out-of-state businesses that locate in North Carolina.**
- **Compile available information on the current use of incentives by other states and whether that use is increasing or declining.**

Are we fulfilling our charge?

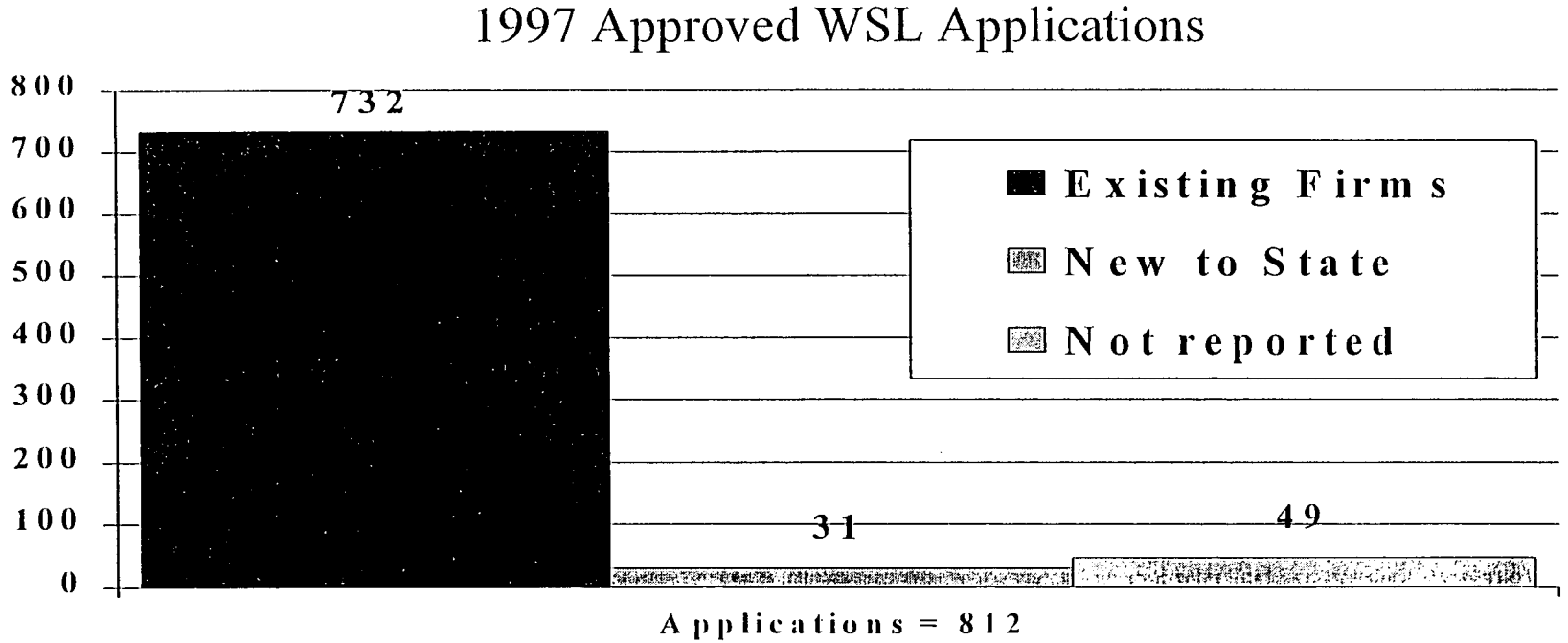
Mission Statement

The William S. Lee Quantum Institute and Physics Department will provide a high quality undergraduate and graduate education in physics and related fields, and will conduct research in areas of interest to the faculty and students.

- Help existing firms maintain and improve competitiveness through investment in new technologies.

Help existing firms maintain and improve competitiveness through investment in new technologies.

The William S. Lee Act is attractive to existing business as well as new business-- more existing firms have applied for credits than new firms.



Help existing firms maintain and improve competitiveness through investment in new technologies...

Utilization of WSL credits strongly favors existing industry...

Firms incorporated prior to 1991 utilized:

- ***96.75% of 1997 Jobs credits***
- ***97.49% of 1997 M&E credits***
- ***93.20% of 1997 R&D credits***

Help existing firms maintain and improve competitiveness through investment in new technologies.

Breakdown of Industry Analysis

Traditional Manufacturing Industries:

Food Products * Tobacco * Textiles & Apparel * Lumber * Furniture

Paper, Chemicals and Printing

Paper * Pharmaceuticals * Biotechnology * Printing

Medium Capital- Intensive Manufacturing

Rubber * Plastics * Stone * Jewelry * Metal * Industrial Machinery

Heavier and Higher- Tech Manufacturing:

Electronics * Automotive/ Transportation * Instruments * Miscellaneous

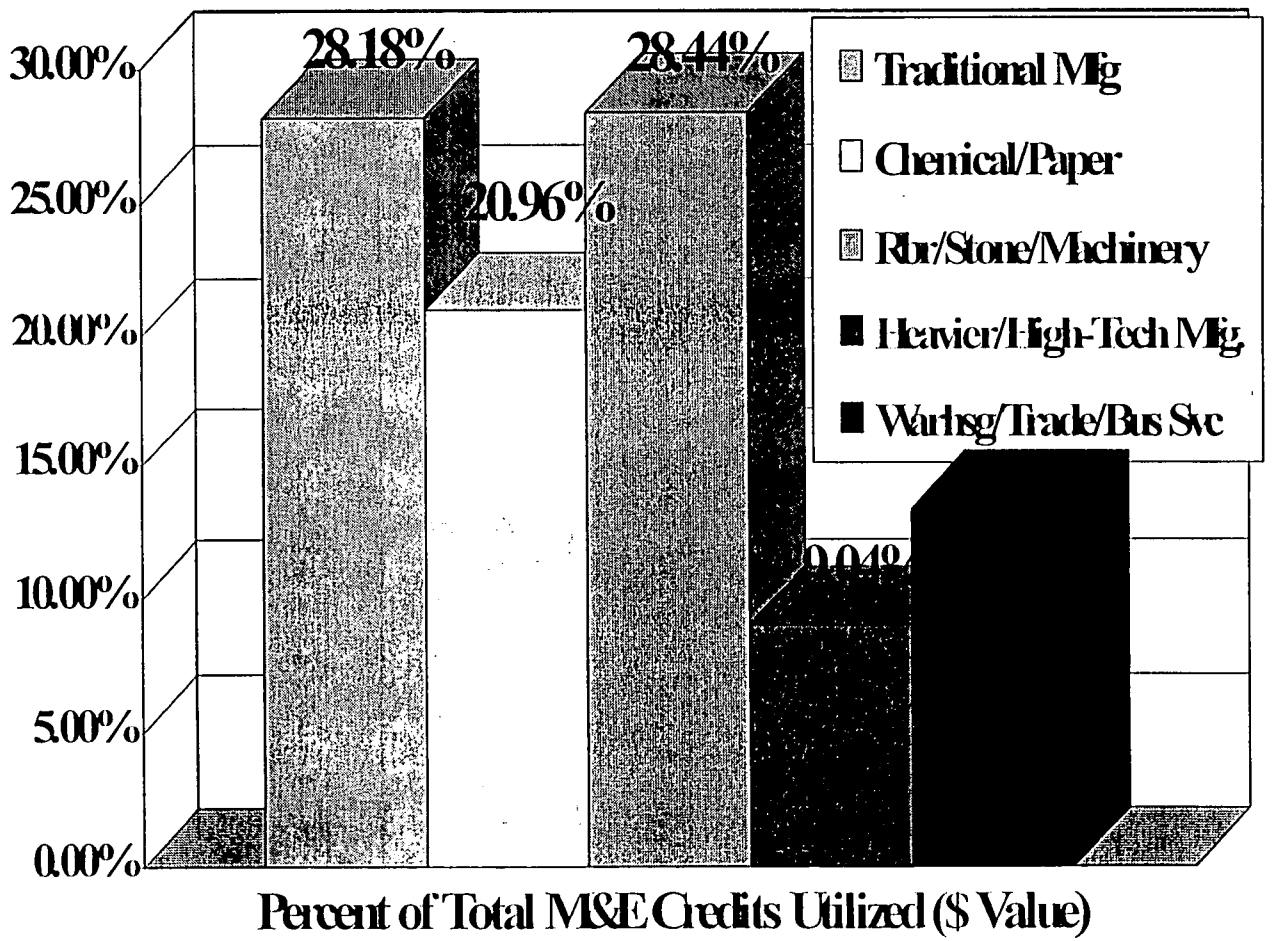
Non-Manufacturing WSL Eligible Industries:

Minerals * Warehousing * Trade * Business Services (Data Processing)

Help existing firms maintain and improve competitiveness through investment in new technologies...

Helping North Carolina's traditional existing industries modernize and compete in the global economy...

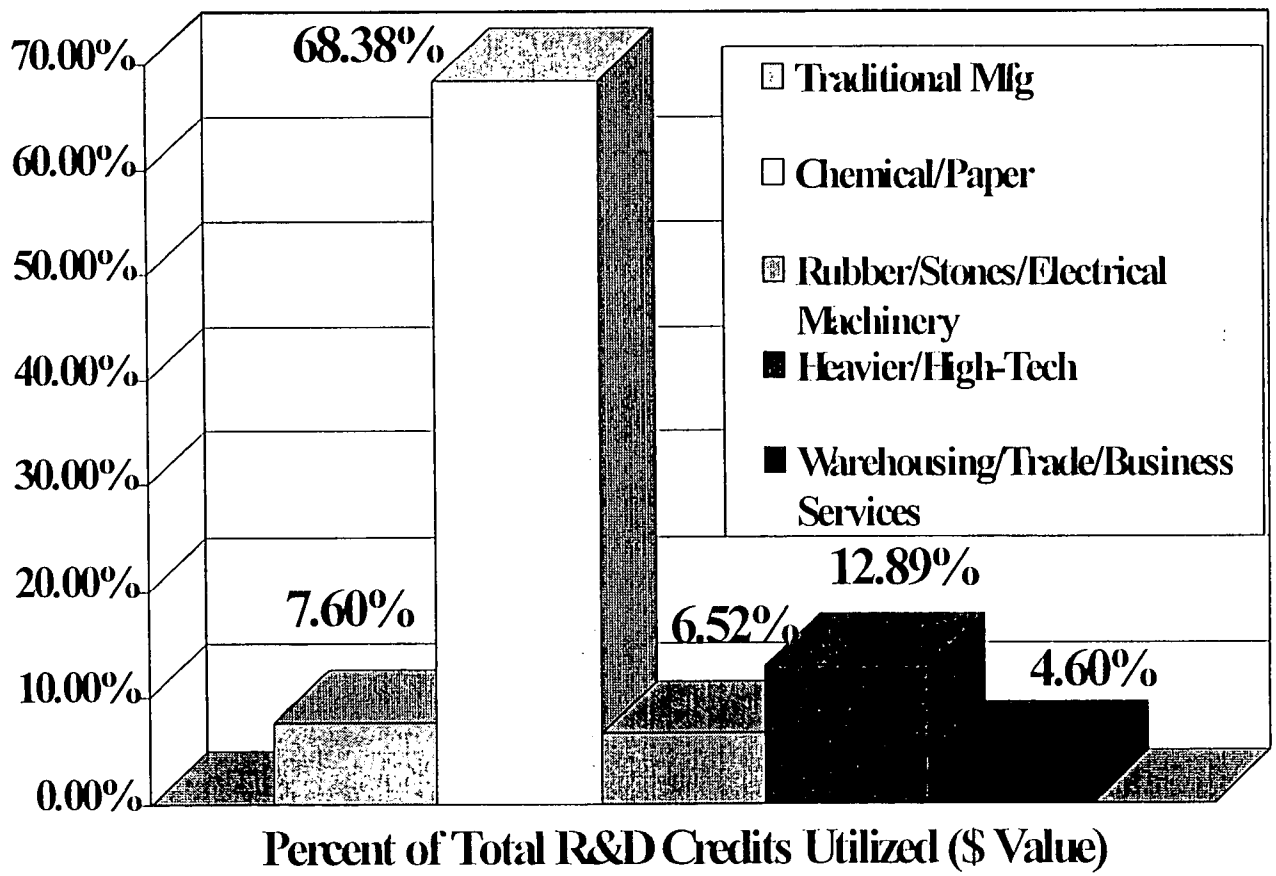
28.18% of the M&E credits were utilized by North Carolina's base industries: textiles, apparel, furniture, lumber, food, and tobacco.



Help existing firms maintain and improve competitiveness through investment in new technologies...

North Carolina's maturing biotech and pharmaceutical industries are utilizing R&D credits...

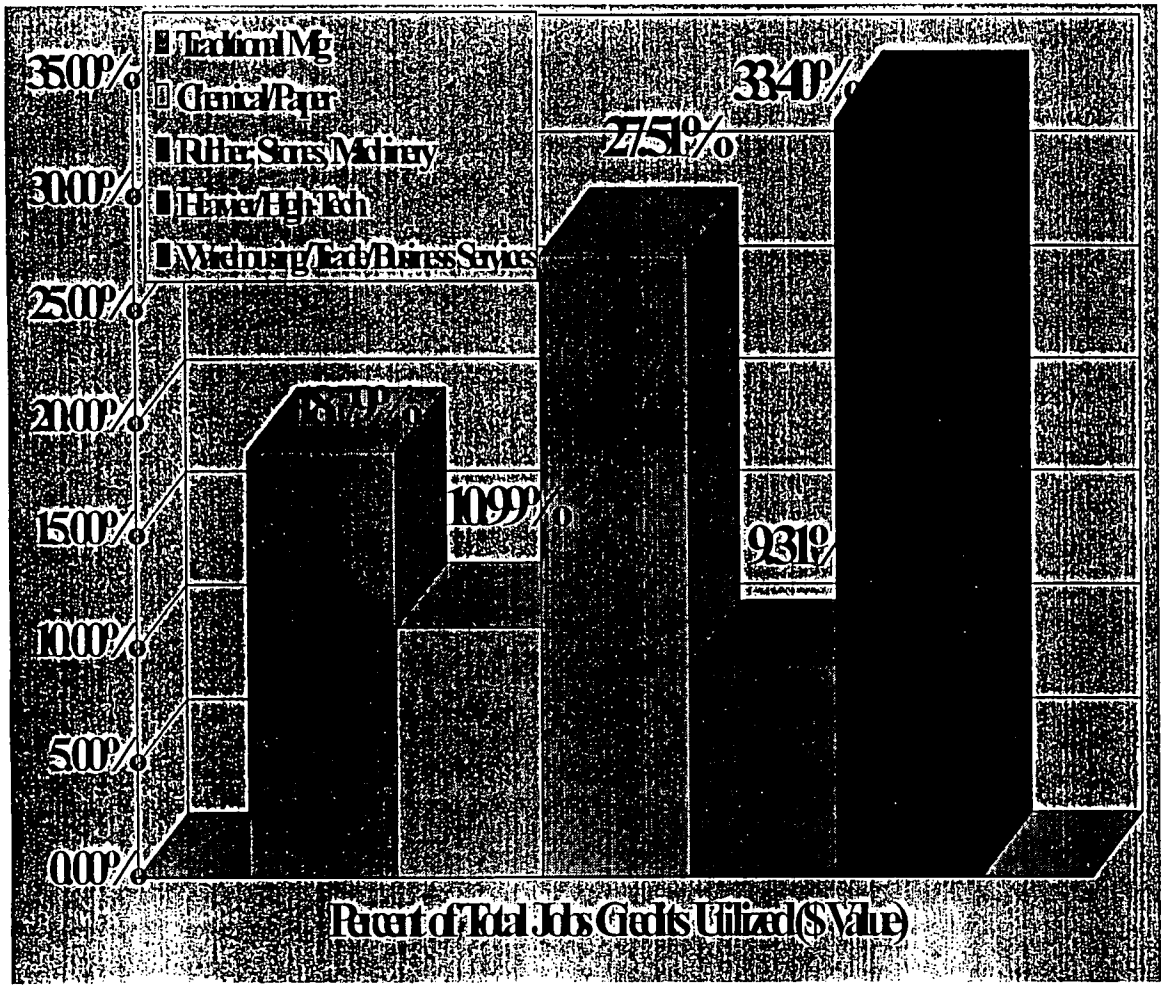
68.38% of the R&D credits were utilized by chemical and paper manufacturers.



The Appalachian Regional Commission's Business Expansion Act

- Help encourage new investment in the North Carolina economy -- from both existing and new industries.

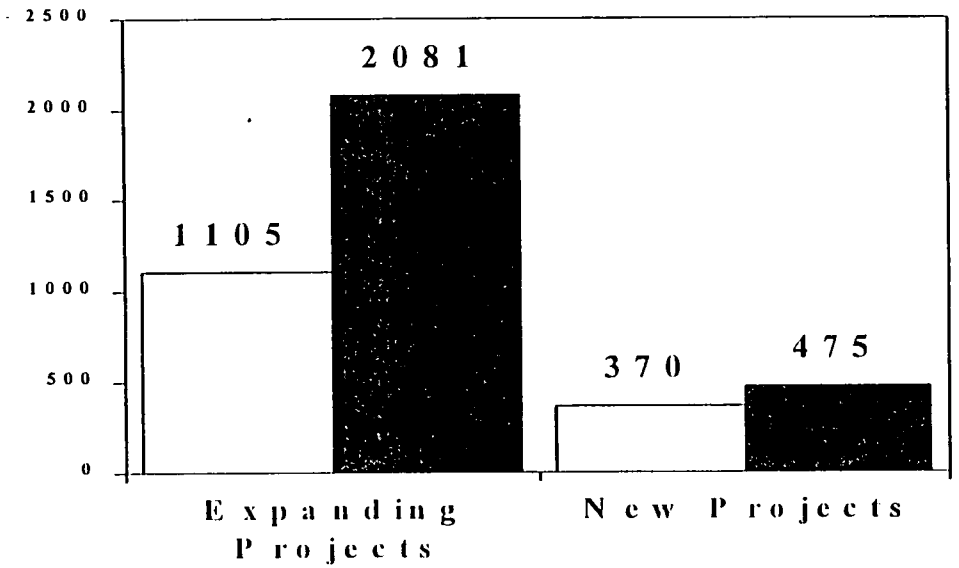
Help encourage new investment in the North Carolina economy -- from both existing and new industries

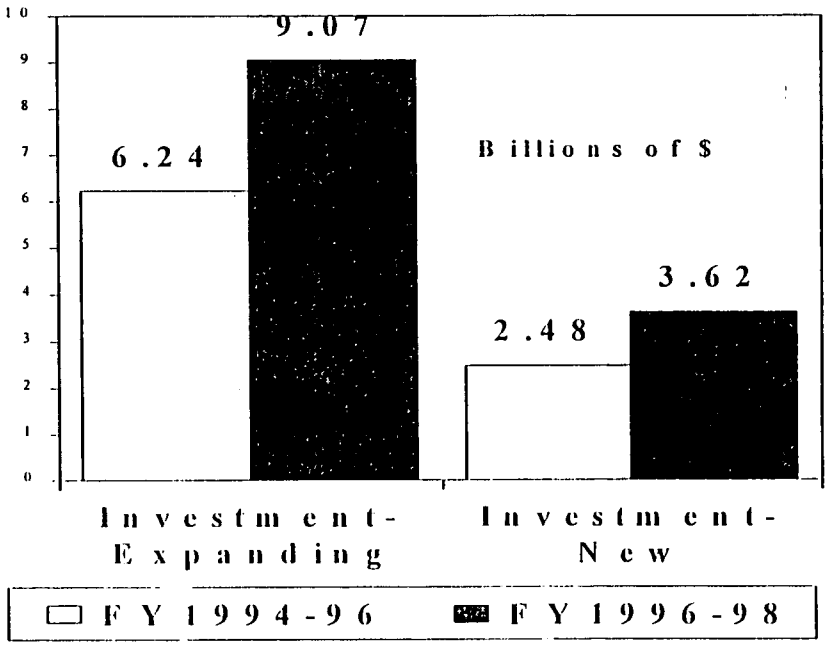


Over 1/3 of total Jobs Credit (dollar value) was utilized by the warehousing, trade and business services industries. Next highest was the rubber/plastics, stone, and electrical machinery sectors.

Help encourage new investment in the North Carolina economy through both existing and new industries.

The Department of Commerce has recorded more new and expanding industry projects and more new and expanding industry investment since the enactment of the W.S. Lee Act.





Help existing firms maintain and improve competitiveness through investment in new technologies...

Some of the new jobs and investment for North Carolina brought to you by the W. S. Lee Act...

- **Homanit GmbH and Company KG--** Montgomery Co. (1999, 150 jobs, $90 million) ***Tier 2****
- **Magnolia Manufacturing**-- Alleghany Co. (1998, 100 jobs, $40 million investment) ***Tier 1****
- **Spectrum Dyed Yarns**-- McDowell Co. (1997-98, 75 jobs, $18 million initial, $2.5 million expansion in 1998) ***Tier 3****
- **Aflex Corporation**-- Nash Co. (1998, 100 jobs, $10 million) ***Tier 4****
- **Aisin AW Co.**-- Durham Co. (1998, 250 jobs, $100 million) ***Tier 5****
- **Amilite Corporation**-- Beaufort Co. (1998, 150 jobs, $8 million) ***Tier 2****
- **Mitchell Gold**-- Alexander Co. (1998, 250 jobs, $6 million) ***Tier 4****
- **Carolina System Technology**-- Edgecombe Co. (1997, 425 jobs, $40 million) ***Tier 1****

**Tier ranking during the year of announcement.*

- *Ensure that economic growth is reaching all people in all parts of the state, particularly our rural counties and high-poverty urban areas.*

The Williams Lee Quality Jobs and Business Expansion Act

Ensure that economic growth is reaching all people in all parts of the state, particularly our rural counties and high-poverty urban areas.

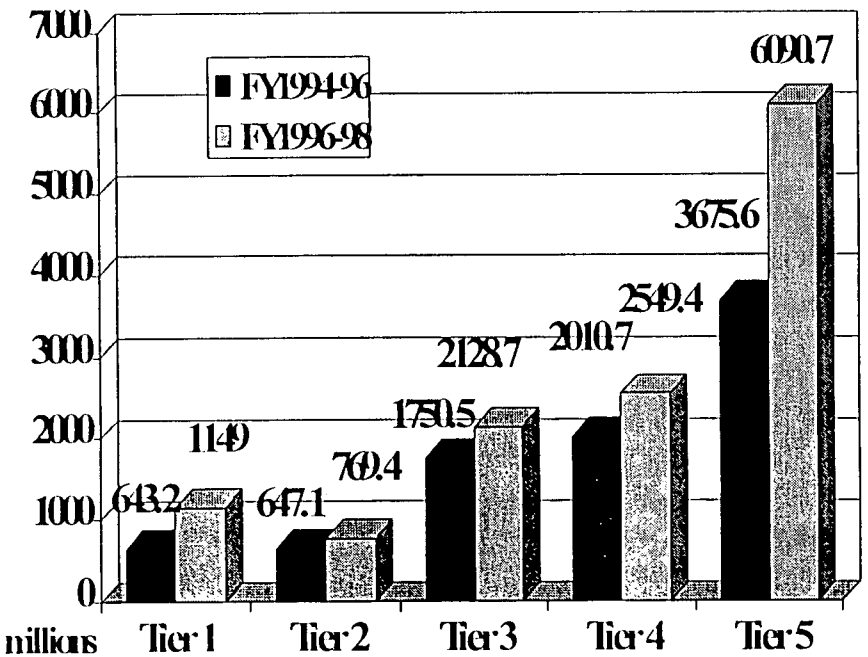
When considering total dollar value of credits, Tiers 4 and 5 have generated and utilized more credit dollars than the lower tiers. However, when credit value is analyzed on a per capita basis, *Tier 1 and Tier 3 counties demonstrate a more significant impact than the higher tiers.*

TIER	# of New Jobs	% of Total New Jobs	Credit Amount Generated*	% of Total	Amount Generated per Capita
1	69	1.73%	$862,500	14.74%	$36
2	187	4.69%	$748,000	12.78%	$17
3	664	16.67%	$2,003,000	34.23%	$36
4	1413	35.48%	$1,412,796	24.15%	$22
5	1650	41.43%	$825,000	14.10%	$5
All	*3983*	*100.00%*	*$5,851,296*	*100.00%*	

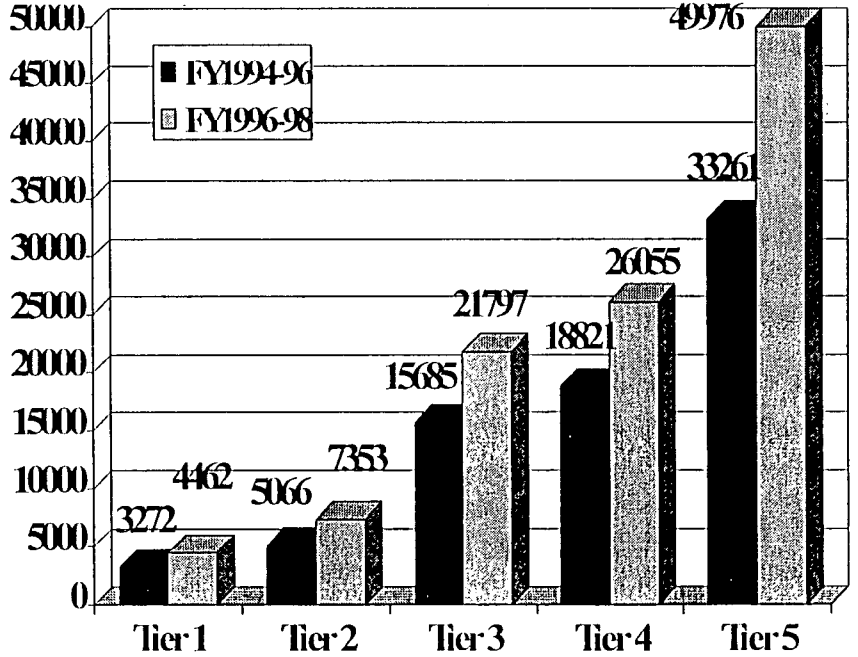
Ensure that economic growth is reaching all people in all parts of the state, particularly our rural counties and high-poverty urban areas.

New and existing job and investment announcements have increased in ALL tiers since the enactment of the W.S. Lee Act.

New and Expanding Investment Announcements

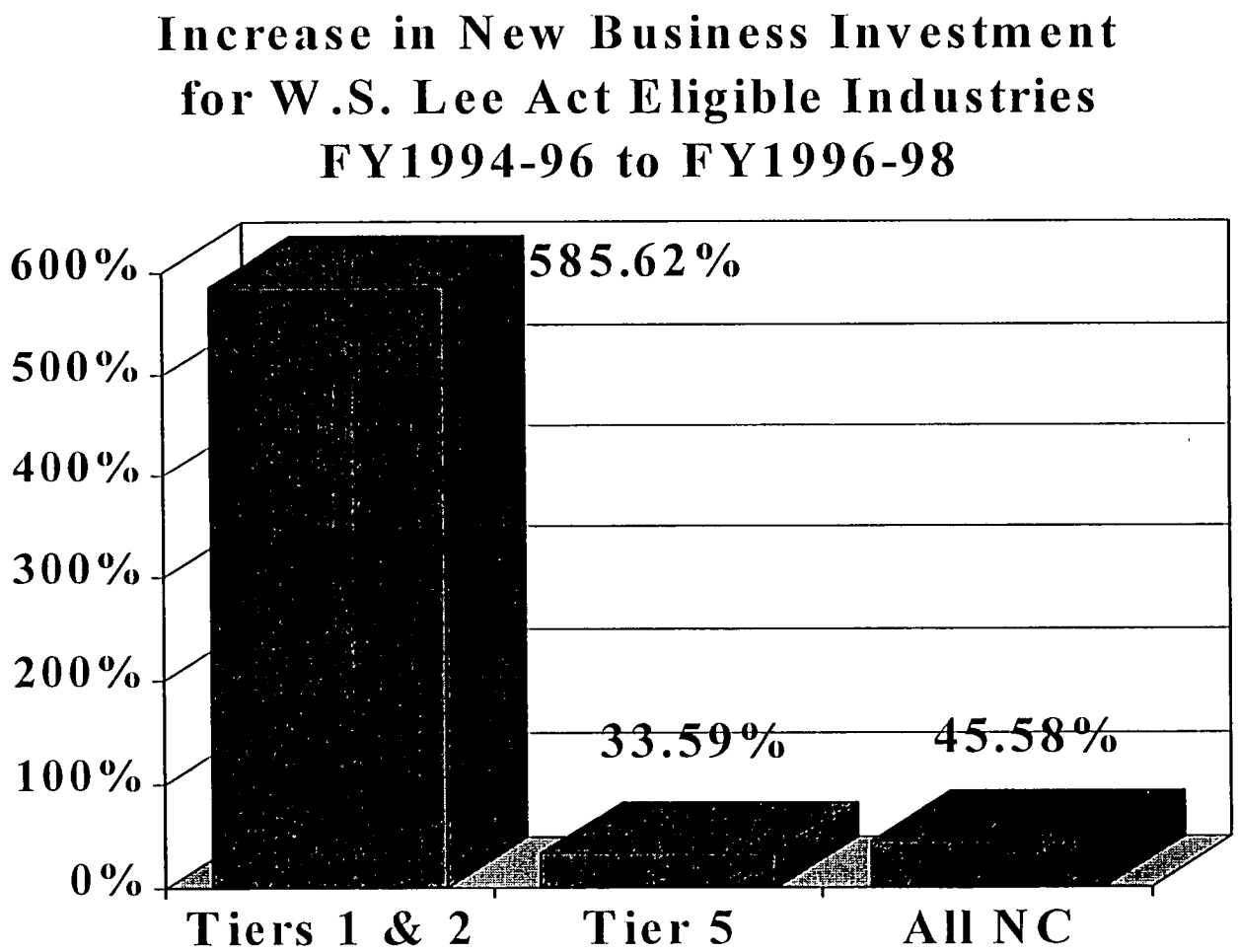


New Job Announcements



Ensure that economic growth is reaching all people in all parts of the state, particularly our rural counties and high-poverty urban areas.

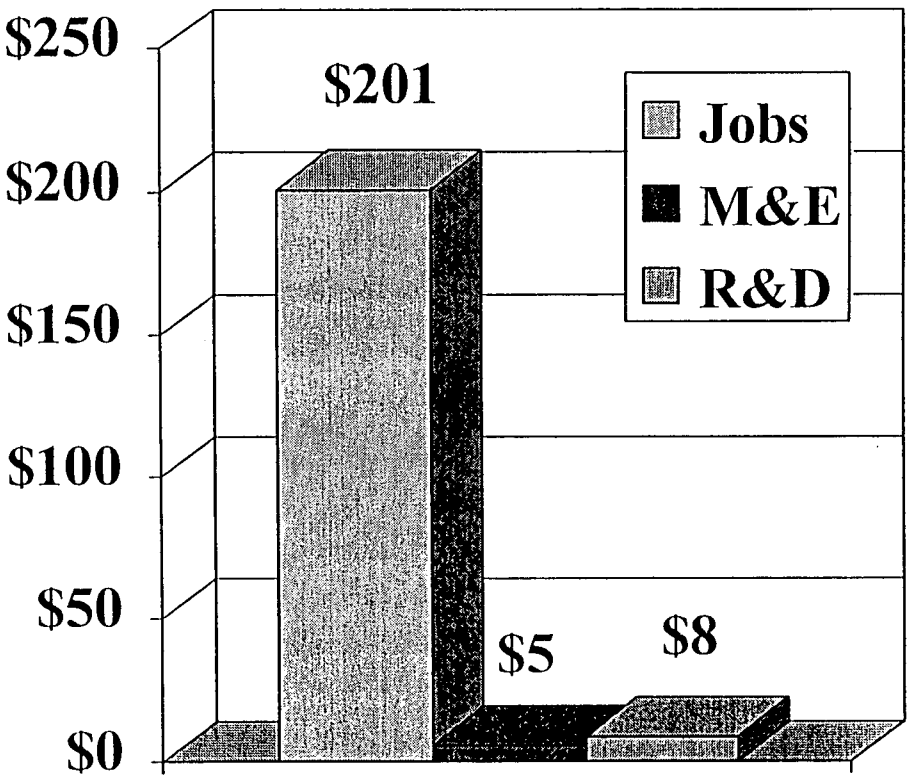
Tiers 1 and 2 experienced tremendous growth in new investment following enactment of the W. S. Lee Act.



Financial Impact of the Act...

In 1997 corporate taxpayers utilized...

- **$801,539 in Jobs tax credits** (3,983 new jobs)
- **$4,097,382 in M&E tax credits** ($789,300,000 reported capital investment)
- **$5,888,973 in R&D credits** ($723,700,000 reported R&D expenditures)



Foregone State Revenue per $1000 New Investment

Other States' Use of Incentives

The use of incentives by states is on the rise. According to a 1996 survey conducted by the Council of State Governments:

- *More than 40 states offered tax incentives to industry for job creation, machinery and equipment, goods in transition, raw materials in manufacturing, and research and development, etc.*
- *Thirty-five states indicated that their use of business incentives had increased over the past five years.*

More detailed information on incentives offered by other states is forthcoming from researchers at UNC-Chapel Hill.

The Evidence Indicates...

The William States Lee Quality Jobs and Business Expansion Act has been an effective tool in achieving the intended objectives at a reasonable cost to the state of North Carolina...

- ✓ Help existing firms invest in and compete with new technologies
- ✓ Help encourage new investment by North Carolina's existing industries and those new to our state.
- ✓ Ensure that prosperity is indeed *widely shared* by targeting our rural and urban distressed areas.

Conclusions...

We cannot definitively state from this data how much of the reported business activity (i.e., job creation, capital investment) is directly due to the tax incentives. *But we are able to make some concluding observations...*

Conclusions...

Following the passage of the William S. Lee Act...

- ✓ Expanding North Carolina companies have taken advantage of the William S. Lee Act to a greater extent than new firms.
- ✓ Overall job creation and capital investment has increased in North Carolina and the number of recruitment and expansion projects between $75 million and $200 million increased substantially.
- ✓ Overall, the industries eligible for the tax credits under the Lee Act have created more jobs and generated more new investment.
- ✓ Industrial recruitment and expansion in the most distressed counties (Tiers 1 and 2) improved compared to the rest of the state on a per capita basis.
- ✓ The cost per new job and investment dollar is modest compared to other states.

Next Steps...

To date, the William S. Lee Quality Jobs and Business Expansion Act has served to benefit the North Carolina economy.

However, we feel we can improve upon the success of the past two years... particularly to increase prosperity in our rural and urban distressed areas...

The Widely Shared Prosperity Act of 1999

SB 1115 HB 1303

North Carolina Department of Commerce

Widely Shared Prosperity Act of 2009

Senate Bill 1115 House Bill 1303

TARGET

Help citizens in North Carolina's economically distressed urban and rural areas achieve financial security by providing new jobs and affordable housing in their communities.

Senate Bill 1115 House Bill 1303

- Customer service call centers that locate in a Tier 1 or Tier 2 county and are operated by financial services or telecommunications companies will be eligible for William S. Lee Act credits.
- Extend machinery and equipment sales tax limit of 1% or $80 to companies setting up a central administrative office and companies operating warehousing, distribution and data processing facilities in Tier 1 and Tier 2 counties.
- Enhance the North Carolina's State Development Zone initiative to better focus on low-income areas.
- Establish tax credits to support low income housing and job development projects.
- Add a small county provision to the William S. Lee Act entitling counties with a population of less than 20,000 and a poverty rate of at least 18% to the benefits of the next lower tier.

Senate Bill 1115 House Bill 1303

TARGET

Ensure the recruitment and expansion of high-caliber, environmentally sound companies in North Carolina.

Senate Bill 1115 House Bill 1303

- Companies benefiting from tax credits offered by the William S. Lee Quality Jobs and Business Expansion Act will be required to certify, subject to review from the state Department of Environment and Natural Resources, that their facility will have no materially adverse effects on the environment.
- Companies must provide employee health insurance and worker safety plans meeting state standards to qualify for the William S. Lee Credits.

Senate Bill 1115 House Bill 1303

TARGET

Update the William S. Lee Quality Jobs and Business Expansion Act to keep it working for North Carolina into the next century.

Senate Bill 1115 House Bill 1303

- Align older Standard Industrial Classification (SIC) codes with the newer North American Industry Classification System (NAICS) to correct definitional errors caused by the transition to the new standard.
- Increase fees for application with the William S. Lee Act tax credits to $500 per credit in Tiers 3, 4, and 5 to offset the cost of administration. [75% to the Department of Revenue, 25% to Commerce]
- Extend the sunset of the William S. Lee Act for an additional five years to 2007.
- Sales tax changes for nonprofit insurance companies and air carrier hubs.

Improving the economic well-being and quality of life for all North Carolinians

SENATE BILL 1115:
Amend Bill Lee Act/Incentives

Current Draft - "A work in progress"

BILL ANALYSIS

Committee:	Senate Finance	**Sponsor:**	Sen. Kerr
Date:	April 27, 1999	**Summary by:**	Martha H. Harris
Version:	First Edition		Staff Attorney

SUMMARY: Senate Bill 1115 would the following changes:

1. *Extend sunset on Bill Lee Act from 2002 to 2005 (Section 1)*
2. *Add passenger air carrier training center to credit for central administrative office, effective 1/1/1999 (page 2)*
3. *Allow an interstate passenger air carrier a sales tax exemption for aircraft parts and accessories purchased for use at its hub in this State, effective 5/1/1999 (Section 7, pages 20 – 21)*
4. *Reduce sales tax from 6% to 1% with an $80 cap for pilot training aircraft simulators purchased by an interstate passenger air carrier for use at its hub in this State, effective 5/1/1999 (Section 8, page 21)*
5. *Allow a five-year sales tax refund to certain nonprofit insurance companies for taxes paid on building materials, effective 1/1/2000 (Section 5, pages 19 – 20)*
6. *Extend Bill Lee Act credits to customer service centers in tiers one and two, effective 1/1/2000 (pages 2, 6)*
7. *Reduce sales tax from 6% to 1% with an $80 cap for all machinery and equipment sold to businesses eligible for Bill Lee Act credits and located in tier one or two, effective 1/1/2000 (Section 4, page 19)*
8. *Give a more favorable tier designation to small counties with high poverty levels, effective 1/1/2000 (page 4)*
9. *Close loopholes in definition of development zones, effective 7/1/1999 (pages 4 – 5)*
10. *Allow a 25% credit for contributions to nonprofits for capital projects within development zones, effective 1/1/2000 (pages 14 – 16)*
11. *Allow a credit for rehabilitating or constructing affordable housing, effective 1/1/2000 (Sections 11 – 16, pages 22 – 24)*
12. *Allow all Bill Lee Act credits to be taken against insurance premiums tax, effective 1/1/1998 (page 8)*

13. *Require businesses to provide health insurance and meet environmental, safety, and health standards in order to qualify for Bill Lee Act credits, effective 1/1/2000 (page 7)*

14. *Eliminate the $75 application fee for Bill Lee Act credits in tiers one and two and increase the fee to $500 per credit in other tiers, with a cap of $1,500 per applicant, effective 7/1/1999 (page 9)*

15. *Require applicants for Bill Lee Act credits to provide additional information to enable Commerce to evaluate the effectiveness of the credits, effective 7/1/1999 (pages 8 – 9)*

16. *Clarify definitions of industries covered by Bill Lee Act, effective immediately (pages 2 – 3), and clarify sales tax refunds for sales of fuel to interstate air carriers (Section 9)*

17. *Require projects to obtain an environmental certification in order to qualify for funding from the Industrial Development Fund (Building Renovation Fund), effective 7/1/1999 (Section 17, pages 24 - 25)*

Extend Bill Lee Act Sunset. The William S. Lee Quality Jobs and Business Expansion Act was enacted in 1996, effective beginning with the 1996 tax year with a sunset effective in 2003. The Act required the Department of Commerce to report annually on the credits allowed by the Act. Before 1996, North Carolina had made little use of tax incentives to lure businesses to the State. Even without incentives, North Carolina was consistently one of the top states in attracting industry. The array of credits authorized by the William S. Lee Act was viewed as an experiment, to be evaluated in five years to determine whether the incentives were cost effective and actually affected behavior, or merely provided tax reductions to businesses that would have located or expanded in any case. Section 1 of this bill would extend the 2002 sunset for an additional three years, to 2005.

Incentives for Interstate Passenger Air Carrier Hubs. This bill would provide three incentives for interstate passenger air carriers with hubs in this State. A hub is defined in Section 6 of the bill as the airport where the carrier has allocated at least 60% of its aircraft property tax value and at which the majority of its boarding passengers are connecting from other airports, not originating at that airport. The only carrier that meets this definition in North Carolina at this time is U.S. Airways, whose hub is in Charlotte.

The first incentive provided in the bill is to allow the existing credit for central administrative offices to apply to centralized training offices at an air carrier's hub, effective beginning with the 1999 tax year. The credit is allowed to taxpayers who purchase or lease real property to be used as central administrative office property with 40 or more employees. The amount of the credit is equal to 7% of the eligible investment amount and may not exceed $500,000. The credit is taken in seven equal installments over the seven years following the taxable year in which the property is first used as a central administrative office.

The second incentive for passenger air carriers is a sales tax exemption for the carrier's purchases of aircraft lubricants, parts, and accessories for use at its hub, effective beginning May

1, 1999. These purchases would otherwise be subject to sales tax at 6%, but interstate air carriers are allowed a partial refund of the tax under G.S. 105-164.14(a). In 1998, the General Assembly enacted a similar exemption for air couriers (Federal Express), effective January 1, 2001.

The third incentive for passenger air carriers is a sales tax reduction from 6% to 1% with an $80 cap, for purchases of aircraft simulators for pilot training for use at the hub, effective beginning May 1, 1999. The tax reduction would also apply to interstate air couriers. U.S. Airways plans to establish a pilot training center at its Charlotte hub, where it would use aircraft simulators.

Incentive for Nonprofit Insurance Companies. Section 5 of this bill would provide a sales tax refund to certain nonprofit insurance companies for State and local taxes they pay on building materials, supplies, fixtures, and equipment that become a part of their real property. The refund would apply to taxes paid between January 1, 2000, and January 1, 2005. To qualify for this refund, the insurance company must be operated for the exclusive purpose of providing insurance products to nonprofit charitable organizations and their employees. In addition, the Secretary of Commerce must have certified that the insurance company will invest at least $10 million in this State. TIAA, which has announced plans to build an office in Mecklenburg County, fits this description.[1] If TIAA fails to make the $10 million investment within five years after it first receives a refund, it forfeits all refunds it received as a result of this incentive.

Incentives for Enterprise Tiers One and Two. The bill would provide two incentives for development in enterprise tier one and two counties, which are the counties considered most in need of economic development based on high unemployment, low per capita income, and low population growth.[2] The first incentive extends all of the Bill Lee Act credits to certain customer service centers located in an enterprise tier one or two county. An eligible customer service center is a subdivision of a telecommunications or financial services company that provides support services to the company's customers by telephone to support the company's products and services. To qualify, at least 60% of the center's calls must be incoming. This requirement will prevent telemarketing operations from qualifying. The credits allowed under the Bill Lee Act are the credit for creating jobs, the credit for investing in machinery and equipment, the credit for research and development, the credit for worker training, and the credit for investing in central administrative office property.

The second incentive reduces the sales tax from 6% to 1% with an $80 cap on all machinery and equipment sold to a taxpayer engaged in one of the businesses eligible for Bill Lee Act credits, for use in an enterprise tier one or two county. In addition to tier one and two customer service centers discussed above, the following businesses are eligible for Bill Lee Act credits: air courier services, central administrative office (with at least 40 new jobs), data processing, manufacturing, warehousing, and wholesale trade.

---

[1] There may be one or more other nonprofit insurance companies that could qualify, but only if they make a $10 million investment.

[2] The following 13 counties are in tier one: Bertie, Edgecombe, Graham, Halifax, Hertford, Hyde, Martin, Northampton, Richmond, Swain, Tyrrell, Warren, and Washington. The following 15 counties are in tier two: Alleghany, Anson, Ashe, Beaufort, Cherokee, Columbus, Mitchell, Montgomery, Onslow, Perquimans, Robeson, Rutherford, Scotland, Vance, and Yancey.

Incentives for Small Counties. This bill would allow certain counties to qualify for a lower enterprise tier designation. Under the Bill Lee Act, all counties are divided into five enterprise tiers, ranked by economic distress as measured by a formula that combines unemployment, per capita income, and population growth. Those counties in lower-numbered tiers receive more favorable incentives than those in higher tiers. This bill changes the rules for assigning enterprise tier designations to provide that the tier number that would otherwise be assigned by the formula is reduced by one for counties that have a population of less than 20,000 and also have more than 18% of their residents below the federal poverty level. Under this provision, Alleghany and Perquimans Counties would move from tier two to tier one, Jones and Pamlico Counties would move from tier three to tier two, and Greene County would move from tier four to tier three.

Close Development Zone Loopholes. In 1998, the General Assembly amended the Bill Lee Act to provide additional incentives for businesses that locate or expand in development zones, which are economically distressed areas located within municipalities. The statutory conditions for qualifying as a development zone were designed to target only these relatively small, economically distressed areas. The statutory conditions contained loopholes, however, that allowed large areas outside of municipalities to qualify, even if they were not economically distressed throughout. This bill would close those loopholes, effective for development zone designations made on or after January 1, 2000.

The 1998 legislation defined a development zone as an area that meets all of the following conditions: (1) consists of one or more contiguous census tracts, block groups, or both, (2) has a population of 1,000 or more, at least 20% of whom are below the poverty level, and (3) is located at least partly in a municipality with a population over 5,000. This bill closes the loopholes in this definition by requiring that:

- Every census tract and census block group in the zone must be located in whole or in part in the municipality.
- Every census tract and census block group in the zone must have more than 10% of its population below the poverty level, or must be immediately adjacent to a tract or group that has more than 20% of its population below the poverty level.
- None of the census tracts or census bock groups may be located in another development zone.

This bill would also shorten the period during which designation as a development zone is effective, from four years to two years, and require zone applications to be filed annually by September 1 preceding the January 1 designation. Finally, it would require applicants to notify every municipality in which part of the proposed zone would be located.

The following enhanced incentives apply in development zones: If a business locates in a development zone, the wage standard it has to meet is the same as for tier one counties - slightly lower than the standard for other counties. In addition, if a business locates in a development zone, its maximum worker training credit is $1,000 rather than $500, it receives an additional

$4,000 per job on its jobs tax credit, and there is no threshold for the credit for investing in machinery and equipment.

Credit for Development Zone Projects. This bill would create a new tax credit for taxpayers that contribute cash or property to certain nonprofit agencies to be used for an improvement project in a development zone. An improvement project is a project to construct or improve residential, commercial, or public real property. The new credit would become effective beginning with the 2000 tax year.

The credit allowed is 25% of the amount contributed by the taxpayer. The total amount of credits that may be allowed in a taxable year is capped at $4 million. Taxpayers are required to apply to the Secretary of Revenue for these credits. If the total amount applied for in a year exceeds $4 million, the Secretary will reduce each applicant's credit proportionally.

The credit is allowed for contributions to a development zone agency, defined as a community development corporation, a community development financial institution, or a local housing authority. To qualify for the credit, all of the following conditions must be met:

- The agency must contract in writing to use the contribution for an improvement project in a development zone and to repay the taxpayer with interest if the contribution is not so used.
- The Department of Commerce must certify that the agency will undertake an improvement project in a development zone.[3]
- The taxpayer must be unrelated to the agency and must not control, be controlled by, or be under common control with the agency.
- The taxpayer must not receive anything of value for the contribution.

A taxpayer forfeits the tax credit for a contribution to the extent the development zone agency uses the contribution for anything other than an improvement project in a zone. Development zone agencies are required to file with the Department of Commerce annual, audited financial statements. If the Department of Commerce finds that any part of a contribution was used for a purpose other than an improvement project, it must notify the Department of Revenue of the resulting forfeiture.

Affordable Housing Tax Credit. Section 11 of the bill would create a new tax credit for rehabilitating or constructing low-income housing, effective beginning with the 2000 tax year. The credit is equal to 25% of the amount of the taxpayer's federal credit for low-income housing with respect to North Carolina low-income housing that either:

- Is located in an enterprise tier one or two area or in a development zone, or
- Has at least 40% of its residential units that are rent-restricted and are occupied by individuals whose income is 35% or less of area median gross income.

[3] The Secretary of Commerce may not certify a development zone agency if it, any of its officers or directors, or any partner of the agency has ever used part of an improvement project contribution for any purpose other than the improvement project.

The credit is not taken in one year but is spread out over five years beginning when the federal credit is first claimed for the building. The federal credit is first claimed either when the building is placed in service, or the next year, at the taxpayer's election. The federal credit is taken over ten years.

The federal credit requires that either (1) at least 20% of the residential units are rent-restricted and occupied by individuals whose income is 50% or less of area median gross income or (2) at least 40% of the residential units are rent-restricted and occupied by individuals whose income is 60% or less of area gross income. By limiting the State credit to projects that are either in distressed areas or serve lower-income residents, the bill is designed to steer investments toward these projects.

The federal credit requires that the low-income housing be used for that purpose for at least 30 years. If this requirement is not met, all or part of the taxpayer's credit is recaptured. Under the proposed State credit, if federal recapture is required, the taxpayer forfeits the North Carolina credit to the same extent.

Under federal law, a limited amount of credit is allowed to each state each year, and these credits are allocated among applicants based on selection criteria designed to reward projects that will serve the lowest income tenants for the longest periods. At least 10% of the credits each year must be set aside for projects sponsored by nonprofits. The amount of federal credit allocated to North Carolina will be $9.2 million for the 2000 through 2002 tax years and is expected to increase to $13 million for the 2003 and 2004 tax years. By limiting the State credit to 25% of the federal credit, the bill automatically caps the potential revenue loss to the State.

Extend Bill Lee Act Credits to Insurance Company Administrative Offices. This bill would allow all the Bill Lee Act credits to be taken against gross premiums tax, effective beginning in the 1998 tax year[4]. Currently, only the real property credit for central administrative offices may be taken against gross premiums tax.

In 1997, the General Assembly (1) extended the Bill Lee Act credits to central administrative offices that created at least 40 new jobs and (2) created a new tax credit for taxpayers who purchase or lease real property to be used as central administrative office property. In 1998, the General Assembly allowed the real property credit for central administrative offices to be taken against the gross premiums tax as well as against the income tax and the corporate franchise tax. Insurance companies pay gross premiums tax in lieu of income tax. The 1998 legislation did not change the rule that the other Bill Lee Act credits could be taken against only income tax and corporate franchise tax. The 1998 change created a situation in which insurance companies and other businesses are treated differently with respect to central administrative offices. A business, other than an insurance company, that builds a central administrative office can take against income tax not only the real property credit for that office, but also the jobs credit, the investment tax credit, and the worker training credit. An insurance company can take against gross premiums tax only the real property credit, but not the jobs credit, the investment tax credit, or the worker training credit. By extending the other Bill Lee Act credits to gross

[4] This effective date is a mistake – it should be 1999

premiums tax, this bill would provide uniform treatment for insurance companies and other businesses that build central administrative offices.

Quality Jobs Assurance. The purpose of the original William S. Lee Act was to provide incentives for "high quality jobs." Accordingly, under current law, only certain industries qualify for the Bill Lee Act credits and a taxpayer must meet a wage standard with respect to the jobs at the locations for which it claims a credit. This bill would add three additional standards to assure that credits are allowed only with respect to high quality jobs. First, the taxpayer would be required to pay at least 50% of basic health insurance coverage for the full-time positions for which it takes a credit. Second, the taxpayer would be required to obtain a certification from the Department of Environment and Natural Resources that the business location with respect to which it claims a credit has not had and will not have a materially adverse effect on the environment. Third, the taxpayer would be required to obtain a certification from the Department of Labor that the taxpayer has established a health and safety program at the business location with respect to which it claims a credit.

Application and Fee Changes. A taxpayer that wishes to claim a Bill Lee Act credit must apply to the Department of Commerce for certification that it meets the eligibility requirements for the credit. The application must include information to enable the Department of Commerce to determine the applicants eligibility, and be accompanied by a $75 fee to defray part of the costs of administering the program. This bill would require applicants to include information necessary to enable the Department of Commerce to provide data required in its periodic reports to the General Assembly. This data will assist the General Assembly in evaluating the cost effectiveness of the Bill Lee Act credits. The bill would also eliminate the $75 fee for credits claimed with respect to enterprise tier one and two counties. For other credits, the fee is increased to $500 per credit claimed, not to exceed $1,500 per taxpayer. The Department of Commerce would retain ¼ of the fee proceeds for the costs of administering the program, and remit the remaining proceeds to the Department of Revenue for its use in administering and auditing the Bill Lee Act credits.

Clarify Business Definitions and Refunds. This bill would clarify the statutory definitions of the types of businesses that are eligible for the Bill Lee Act credits. In 1998, the General Assembly changed the statutory references from the Standard Industrial Classifications (SIC) to the North American Industrial Classification System (NAICS) to conform to the federal system adopted effective January 1, 1999. This system is used to classify most of the data available about industries or kinds of business in the economy. Upon review of the NAICS system, it was discovered that further terminology changes were needed to the Bill Lee Act definitions to assure that the credits would be available to the types of businesses covered by the prior law definitions.

Section 9 of this bill would clarify that interstate air carriers are allowed a partial refund of sales taxes paid on fuel. This clarification will not change the way the law is currently administered.

Industrial Development Fund Environmental Certification. Section 17 of this act would require, as a condition for funding from the Industrial Development Fund (Building Renovation Fund), that a project receive certification from the Department of Environment and Natural Resources

that it will not have a materially adverse effect on the environment. This change would become effective July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA
SECOND EXTRA SESSION 1996
RATIFIED BILL

CHAPTER 13
HOUSE BILL 18

AN ACT TO REDUCE TAXES FOR THE CITIZENS OF NORTH CAROLINA AND TO PROVIDE INCENTIVES FOR HIGH QUALITY JOBS AND BUSINESS EXPANSION IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

TABLE OF CONTENTS

I. REDUCE SALES TAX ON FOOD
II. REDUCE CORPORATE INCOME TAX
III. QUALITY JOBS AND BUSINESS EXPANSION TAX CREDITS
IV. PHASE OUT SOFT DRINK TAX
V. MODIFY BUNDLED TRANSACTION SALES TAX
VI. REDUCE INHERITANCE AND GIFT TAXES
VII. NONITEMIZER CHARITABLE CONTRIBUTION TAX CREDIT
VIII. EXCLUDE CERTAIN SEVERANCE PAY FROM INCOME TAX
IX. REDUCE SALES TAX ON FARM AND INDUSTRY FUEL
X. EFFECTIVE DATES

Section 1. This act shall be known as the William S. Lee Quality Jobs and Business Expansion Act.

PART I. REDUCE SALES TAX ON FOOD

Sec. 1.1. G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(5) The rate of three percent (3%) applies to the sales price of food that is not otherwise exempt pursuant to G.S. 105-164.13 but would be exempt pursuant to G.S. 105-164.13 if it were purchased with coupons issued under the Food Stamp Program, 7 U.S.C. § 51."

Sec. 1.2. G.S. 105-465 reads as rewritten:

"§ 105-465. County election as to adoption of local sales and use tax.

The board of elections of any county, upon the written request of the board of county ~~commissioners thereof,~~ commissioners, or upon receipt of a petition signed by qualified voters of the county equal in number to at least fifteen percent (15%) of the total number of votes cast in the county, at the last preceding election for the office of Governor, shall call a special election for the purpose of submitting to the voters of the county the question of whether a one percent (1%) sales and use tax ~~as hereinafter provided~~ will be levied.

The special election shall be held under the same rules ~~and regulations~~ applicable to the election of members of the General Assembly. No new registration of voters shall be required. All qualified voters in the county who are properly registered not later than 21 days (excluding Saturdays and Sundays) prior to the election shall be

entitled to vote at ~~said~~ the election. The county board of elections shall give at least 20 days' public notice prior to the closing of the registration books for the special election.

The county board of ~~election~~ elections shall prepare ballots for the special e~~lection~~ ~~which shall contain the words,~~ election. The question presented on the ballot shall be 'FOR ~~the~~ one percent (1%) local sales and use tax ~~only on those items presently covered by the four percent (4%) sales and use tax,' and the words,~~ on items subject to State sales and use tax at the general State rate and on food' or 'AGAINST ~~the~~ one percent (1%) local sales and use tax ~~only on those items presently covered by the four percent (4%) sales and use tax,' with appropriate squares so that each voter may designate his vote by his cross (X) mark.~~ on items subject to State sales and use tax at the general State rate and on food'.

The county board of elections shall fix the date of the special ~~election; provided, however,~~ election, except that the special election shall not be held on the date or within 60 days of any biennial election for county officers, ~~nor within 60 days thereof,~~ nor within one year from the date of the last preceding special election under this section."

Sec. 1.3. G.S. 105-467 reads as rewritten:

"**§ 105-467. Scope of sales tax.**

The sales tax ~~which~~ that may be imposed under this Article is limited to a tax at the rate of one percent (1%) ~~of:~~ of the following:

(1) The sales price of ~~those articles of~~ tangible personal property ~~now~~ subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(1) and ~~(4b);~~ (a)(4b).

(2) The gross receipts derived from the lease or rental of tangible personal property when the lease or rental of the property is subject to the general rate of sales tax imposed by the State under G.S. ~~105-164.4(a)(2);~~ 105-164.4(a)(2).

(3) The gross receipts derived from the rental of any room or ~~furnished by any hotel, motel, inn, tourist camp or~~ other ~~similar~~ accommodations ~~now~~ subject to the general rate of sales tax imposed by the State under G.S. ~~105-164.4(a)(3); and~~ 105-164.4(a)(3).

(4) The gross receipts derived from services rendered by laundries, dry cleaners, and other businesses ~~now~~ subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(4).

(5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but would be exempt from the State sales and use tax pursuant to G.S. 105-164.13 if it were purchased with coupons issued under the Food Stamp Program, 7 U.S.C. § 51.

The sales tax authorized by this Article does not apply to sales that are taxable by the State under G.S. 105-164.4 but are not specifically included in ~~subdivisions (1) through (4) of~~ this section.

The State exemptions and exclusions contained in G.S. 105-164.13 and the State refund provisions contained in G.S. 105-164.14 ~~shall~~ apply ~~with equal force and in like manner~~ to the local sales and use tax authorized to be levied and imposed under this Article. A taxing county ~~shall have no authority, with respect to the local sales and use tax imposed under this Article to change, alter, add to or delete any refund provisions contained in G.S. 105-164.14, or any exemptions or exclusions contained in G.S. 105-164.13 or which are elsewhere provided for.~~ may not allow an exemption, exclusion, or refund that is not allowed under the State sales and use tax.

The local sales tax authorized to be imposed and levied under ~~the provisions of~~ this Article ~~shall apply to such retail sales, leases, rentals, the rendering of services, furnishing of rooms, lodgings or accommodations and other~~ applies to taxable transactions ~~which are made, furnished or rendered~~ by retailers whose place of business is located within the taxing county. ~~The tax imposed shall apply to the furnishing of rooms, lodging or other accommodations within the county which are rented to transients.~~ For the purpose of this Article, the situs of a transaction is the location of the retailer's place of business."

Sec. 1.4. G.S. 105-468 reads as rewritten:

"**§ 105-468. Scope of use tax.**

The use tax ~~which may be imposed under~~ authorized by this Article ~~shall be~~ is a tax at the rate of one percent (1%) of the cost price of each item or article of tangible personal property ~~when it~~ that is not sold in the taxing county but is used, ~~consumed~~ consumed, or stored for use or consumption in the taxing ~~county, except that no tax shall be imposed upon tangible personal property when the property would be taxed by the State at a rate other than the general rate of tax set in G.S. 105-164.4 if it were taxable under G.S. 105-164.6.~~ county. The tax applies to the same items that are subject to tax under G.S. 105-467.

Every retailer who is engaged in business in this State and in the taxing county and is required to collect the use tax levied by G.S. 105-164.6 shall ~~also~~ collect the one percent (1%) use tax when ~~such~~ the property is to be used, ~~consumed~~ consumed, or stored in the taxing ~~county, one percent (1%) use tax to be collected concurrently with the State's use tax; but no retailer not required to collect the use tax levied by G.S. 105-164.6 shall be required to collect the one percent (1%) use tax.~~ county. The use tax contemplated by this section shall be levied against the purchaser, and the purchaser's liability for the use tax shall be extinguished only upon payment of the use tax to the retailer, where the retailer is required to collect the tax, or to the ~~Secretary of Revenue, or to the taxing county, as appropriate,~~ Secretary, where the retailer is not required to collect the tax.

Where a local sales or use tax has been paid with respect to tangible personal property by the purchaser, either in another taxing county within the State, or in a taxing jurisdiction outside the State where the purpose of the tax is similar in purpose and intent to the tax which may be imposed pursuant to this Article, the tax paid may be credited against the tax imposed under this section by a taxing county upon the same property. If the amount of sales or use tax so paid is less than the amount of the use tax due the taxing county under this section, the purchaser shall pay to the Secretary ~~of Revenue or to the taxing county, as appropriate,~~ an amount equal to the difference between the amount so paid in the other taxing county or jurisdiction and the amount due in the taxing county. The Secretary ~~of Revenue or the taxing county, as appropriate,~~ may require such proof of payment in another taxing county or jurisdiction as is deemed to be necessary. The use tax levied under this Article is not subject to credit for payment of any State sales or use tax not imposed for the benefit and use of counties and municipalities. No credit shall be given under this section for sales or use taxes paid in a taxing jurisdiction outside this State if that taxing jurisdiction does not grant similar credit for sales taxes paid under this Article."

Sec. 1.5. The first paragraph of Section 4 of Chapter 1096 of the 1967 Session Laws, as amended, is amended as follows:

(1) By deleting the word "and" before subdivision (4).

(2) By changing the period at the end of subdivision (4) to a semicolon and adding the word "and".

(3) By adding a new subdivision to read:

"(5) The sales price of food and other items that are not otherwise exempt from tax pursuant to G.S. 105-164.13 but would be exempt

from the State sales and use tax pursuant to G.S. 105-164.13 if purchased with coupons issued under the Food Stamp Program, 7 U.S.C. § 51."

Sec. 1.6. Section 5 of Chapter 1096 of the 1967 Session Laws is amended by deleting the first sentence of that section and substituting the following sentences to read:

"The use tax that Mecklenburg County may impose under this division is a tax at the rate of one percent (1%) of the cost price of each item or article of tangible personal property that is not sold but is used, consumed, or stored for use or consumption in Mecklenburg County. The tax applies to the same items that are subject to tax under Section 4 of this act."

Sec. 1.7. Approval under Article 39, 40, or 42 of Chapter 105 of the General Statutes or under the Mecklenburg County Sales and Use Tax Act, Chapter 1096 of the 1967 Session Laws, as amended, of local sales and use taxes on items subject to State sales and use tax at the general State rate constitutes approval of local sales and use taxes on food.

PART II. REDUCE CORPORATE INCOME TAX

Sec. 2.1. G.S. 105-130.3 reads as rewritten:

"**§ 105-130.3. Corporations.**

A tax is imposed on the State net income of every C Corporation doing business in this ~~State at seven and seventy-five one-hundredths percent (7.75%) of the corporation's State net income.~~ State. An S Corporation is not subject to the tax levied in this section. The tax is a percentage of the taxpayer's State net income computed as follows:

Income Years Beginning	Tax
In 1997	7.5%
In 1998	7.25%
In 1999	7%
After 1999	6.9%".

Sec. 2.2. G.S. 115C-546.1 reads as rewritten:

"**§ 115C-546.1. Creation of Fund; administration.**

(a) There is created the Public School Building Capital Fund. The Fund shall be used to assist county governments in meeting their public school building capital needs.

(b) Each calendar quarter, the Secretary of Revenue shall remit to the State Treasurer for credit to the Public School Building Capital Fund an amount equal to ~~two-thirty-firsts (2/31)~~ the applicable fraction provided in the table below of the net collections received during the previous quarter by the Department of Revenue under G.S. 105-130.3 minus two million five hundred thousand dollars ($2,500,000). All funds deposited in the Public School Building Capital Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3.

Period	Fraction
10/1/97 to 9/30/98	One-fifteenth (1/15)
10/1/98 to 9/30/99	Two twenty-ninths (2/29)
10/1/99 to 9/30/00	One-fourteenth (1/14)
After 9/30/00	Five sixty-ninths (5/69)

(c) The Fund shall be administered by the Office of State Budget and Management."

PART III. QUALITY JOBS AND BUSINESS EXPANSION TAX CREDITS

Sec. 3.1. Chapter 105 of the General Statutes is amended by adding a new Article 3A entitled "Tax Incentives for New and Expanding Businesses."

Sec. 3.2. G.S. 105-130.40 is recodified as G.S. 105-129.8 in Article 3A of Chapter 105 of the General Statutes.

Sec. 3.3. Article 3A of Chapter 105 of the General Statutes, as enacted by this act, reads as rewritten:

"ARTICLE 3A.

"Tax Incentives for New and Expanding Businesses.

"**§ 105-129.2. Definitions.**

The following definitions apply in this Article:

(1) Cost. -- Defined in section 179 of the Code.

(2) Data processing. -- Defined in the Standard Industrial Classification Manual issued by the United States Bureau of the Census.

(3) Enterprise tier. -- The classification assigned to an area pursuant to G.S. 105-129.3.

(4) Full-time job. -- A position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year. A full-time employee is an employee who holds a full-time job.

(5) Machinery and equipment. -- Engines, machinery, tools, and implements that are capitalized by the taxpayer for tax purposes under the Code and are used or designed to be used in manufacturing or processing, warehousing and distribution, or data processing. The term does not include real property as defined in G.S. 105-273 or rolling stock as defined in G.S. 105-333.

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

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

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

"**§ 105-129.3. Enterprise tier designation.**

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

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

(1) The county's rank in a ranking of counties by rate of unemployment from lowest to highest.

(2) The county's rank in a ranking of counties by per capita income from highest to lowest.

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

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

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

"§ 105-129.4. Eligibility; forfeiture.

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

(b) Wage Standard. -- A taxpayer is eligible for the credit for creating jobs or the credit for worker training if the jobs for which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. A taxpayer is eligible for the credit for investing in machinery and equipment or the credit for research and development if the jobs at the location with respect to which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. Jobs meet the wage standard if they pay an average weekly wage that is at least ten percent (10%) above the average weekly wage paid in the county in which the jobs will be located. In calculating the average weekly wage of jobs, positions that pay a wage or salary at a rate that exceeds one hundred thousand dollars ($100,000) a year shall be excluded. For the purpose of this subsection, the average wage in a county is the average wage for all insured industries in the county as computed by the Employment Security Commission for the most recent period for which data are available.

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

The credit for worker training is allowed only with respect to employees in positions not classified as exempt under the Fair Labor Standards Act, 29 U.S.C. § 213(a)(1) and for expenditures for training that would be eligible for expenditure or reimbursement under the Department of Community Colleges' New and Expanding Industry Program, as determined by guidelines adopted by the State Board of Community Colleges. To establish eligibility, the taxpayer must obtain as part of the application process under G.S. 105-129.6 the certification of the Department of Community Colleges that the taxpayer's planned worker training would satisfy the requirements of this paragraph. A taxpayer shall apply to the Department of Community Colleges for this certification. The application must be on a form provided by the Department of Community Colleges, must provide a detailed plan of the worker training to be provided, and must contain any information required by the Department of Community Colleges to determine whether the requirements of this paragraph will be satisfied. If the Department of Community Colleges determines that the planned worker training meets the requirements of this paragraph, the Department of Community Colleges shall issue a certificate describing the location with respect to which the credit is claimed and stating that the planned worker training meets the requirements of this paragraph. The State Board of Community Colleges may adopt rules in accordance with Chapter 150B of the General Statutes that are needed to carry out its responsibilities under this paragraph.

(d) Forfeiture. -- A taxpayer forfeits a credit allowed under this Article if the taxpayer was not eligible for the credit at the time the taxpayer applied for the credit. A taxpayer that forfeits a credit under this Article is liable for all past taxes avoided

as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236. If a taxpayer forfeits the credit for creating jobs or the credit for investing in machinery and equipment, the taxpayer also forfeits any credit for worker training claimed for the jobs for which the credit for creating jobs was claimed or the jobs at the location with respect to which the credit for investing in machinery and equipment was claimed.

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

"**§ 105-129.5. Tax election; cap.**

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

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

"**§ 105-129.6. Application; reports.**

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

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

(1) The number of applications for each credit allowed in this Article.

(2) The number and enterprise tier area of new jobs with respect to which credits were applied for.

(3) The cost of machinery and equipment with respect to which credits were applied for.

"**§ 105-129.7. Substantiation.**

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

"**§ 105-129.8. Credit for creating ~~jobs in severely distressed county.~~ jobs.**

(a) Credit. -- A ~~corporation that (i) for at least 40 weeks during the year has at least nine employees and (ii) is located, for part or all of its taxable year, in a severely distressed county~~ taxpayer that meets the eligibility requirements set out in G.S. 105-129.4, has five or more employees for at least 40 weeks during the taxable year, ~~may qualify for a credit against the tax imposed by this Division by creating new full-time jobs with the corporation in the severely distressed county during that year. A corporation~~ and ~~that~~ hires an additional full-time employee during that year to fill a position located in ~~a severely distressed county~~ this State is allowed a credit ~~of two thousand eight hundred dollars ($2,800) for the additional employee.~~ for creating a new full-time job. The amount of the credit for each new full-time job created is set out in the table below and is based on the enterprise tier of the area in which the position is located:

Area Enterprise Tier	Amount of Credit
Tier One	$12,500
Tier Two	4,000
Tier Three	3,000
Tier Four	1,000
Tier Five	500

A position is located in ~~a county~~ an area if ~~(i) at least~~ more than fifty percent (50%) of the employee's duties are performed in the ~~county, or (ii) the employee is a resident of the county.~~ area. The credit may not be taken in the ~~income~~ taxable year in which the additional employee is hired. Instead, the credit shall be taken in equal installments over the four years following the ~~income~~ taxable year in which the additional employee was hired and shall be conditioned on the continued employment by the ~~corporation~~ taxpayer of the number of full-time employees the ~~corporation~~ taxpayer had upon hiring the employee that caused the ~~corporation~~ taxpayer to qualify for the credit. ~~If,~~

If, in one of the four years in which the installment of a credit accrues, the number of the ~~corporation's~~ taxpayer's full-time employees falls below the number of full-time employees the ~~company~~ taxpayer had in the year in which the ~~corporation~~ taxpayer qualified for the ~~credit or the position filled by the employee is moved to another county,~~ credit, the credit expires and the ~~corporation~~ taxpayer may not take any remaining installment of the credit. The ~~corporation~~ taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under ~~subsection (c) of this section.~~ G.S. 105-129.5.

Jobs transferred from one area in the State to another area in the State shall not be considered new jobs for purposes of this section. If, in one of the four years in which the installment of a credit accrues, the position filled by the employee is moved to an area in a higher- or lower-numbered enterprise tier, the remaining installments of the

credit shall be calculated as if the position had been created initially in the area to which it was moved.

~~For the purposes of this section, a full-time job is a position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year. A full-time employee is an employee who holds a full-time job.~~

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

~~(b1) Eligibility. -- A corporation is eligible for the tax credit allowed by this section only if it obtained a credit under this section for taxable year 1988 or the Department of Commerce determines that it engages in the manufacturing of goods, or that it engages in an industrial activity such as the processing of foods, raw materials, chemicals and process agents, goods in process, or finished products.~~

~~(c) County Designation. -- A severely distressed county is a county designated as severely distressed by the Secretary of Commerce. Each year, on or before December 31, the Secretary of Commerce shall designate which counties are considered severely distressed, and shall provide that information to the Secretary of Revenue. A county is considered severely distressed if its distress factor is one of the fifty highest in the State.~~

~~The Secretary shall assign to each county in the State a distress factor that is the sum of the following:~~

~~(1) The county's rank in a ranking of counties by rate of unemployment from lowest to highest.~~

~~(2) The county's rank in a ranking of counties by per capita income from highest to lowest.~~

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

~~In measuring rates of unemployment and per capita income, the Secretary shall use the latest available data published by a State or federal agency generally recognized as having expertise concerning the data. In measuring population growth, the Secretary shall use the most recent estimates of population certified by the State Planning Officer. A designation as a severely distressed county is effective only for the calendar year following the designation.~~

(d) Planned Expansion. -- A ~~corporation that, during the year in which a county is designated as a severely distressed county,~~ taxpayer that signs a letter of commitment with the Department of Commerce to create at least twenty new full-time jobs in ~~that distressed county~~ a specific area within two years of the date the letter is signed qualifies for the credit in the amount allowed by this section based on the area's enterprise tier for that year even though the employees are not hired that year. The credit shall be available in the ~~income~~ taxable year after at least twenty employees have been hired if ~~such~~ the hirings are within the two-year commitment period. The conditions outlined in subsection (a) apply to a credit taken under this subsection except that if the ~~county is no longer designated a severely distressed county~~ area is redesignated to a higher-numbered enterprise tier after the year the letter of commitment was signed, the credit is ~~still available.~~ allowed based on the area's enterprise tier for the year the letter was signed. If the ~~corporation~~ taxpayer does not hire the employees within the two-year period, the ~~corporation~~ taxpayer does not qualify for the credit. However, if the ~~corporation~~ taxpayer qualifies for a credit under subsection (a) in the year any new employees are hired, ~~it~~ the taxpayer may take the credit under that subsection.

~~(e) Limitations. -- The sale, merger, acquisition, or bankruptcy of a business, or any other transaction by which an existing business reformulates itself as another business, does not create new eligibility in a succeeding business with respect to jobs for which the predecessor was not eligible under this section. A successor~~

~~corporation may, however, take any installment of or carried over portion of a credit that its predecessor could have taken if it had taxable income.~~

~~Jobs transferred from one county in the State to another county in the State shall not be considered new jobs for purposes of this section. A credit taken under this section may not exceed fifty percent (50%) of the tax imposed by this Division for the taxable year, reduced by the sum of all other credits allowed under this Division, except tax payments made by or on behalf of the corporation. Any unused portion of the credit may be carried forward for the succeeding five years.~~

~~(f) Substantiation. — Every corporation claiming the credit provided in subsection (a) shall maintain and make available for inspection by the Secretary of Revenue or his agent such records as may be necessary to determine and verify the amount of the credit to which it is entitled. The burden of proving eligibility for the credit and the amount of the credit shall rest upon the corporation, and no credit shall be allowed to a corporation that fails to maintain adequate records or to make them available for inspection.~~

"§ 105-129.9. Credit for investing in machinery and equipment.

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

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

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

Area Enterprise Tier	Threshold
Tier One	$ -0-
Tier Two	100,000
Tier Three	200,000
Tier Four	500,000
Tier Five	1,000,000

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

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

"§ 105-129.10. Credit for research and development.

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

"**§ 105-129.11. Credit for worker training.**

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

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

Sec. 3.4. G.S. 105-151.17 is recodified as G.S. 105-129.8. G.S. 105-129.8, as rewritten by this act, incorporates both G.S. 105-130.40 and G.S. 105-151.17.

Sec. 3.5. G.S. 143B-437A reads as rewritten:

"**§ 143B-437A. Industrial Development Fund.**

(a) Creation and Purpose of Fund. -- There is created in the Department of Commerce the Industrial Development Fund to provide funds to assist the local government units of the most economically ~~depressed~~ distressed counties in the State in creating jobs in ~~qualified~~ certain industries. ~~As used in this section, the term 'qualified industry' means the manufacturing of goods or the processing of foods, raw materials, chemicals and process agents, goods in process, or finished products.~~ The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the ~~following.~~ following provisions, which shall apply to each grant from the fund:

(1) The funds shall be used for (i) installation of or purchases of equipment for ~~qualified industries,~~ manufacturing or processing, (ii) structural repairs, improvements, or renovations of existing buildings to be used for expansion of ~~qualified industries,~~ manufacturing or processing, or (iii) construction of or improvements to new or existing water, sewer, gas, or electrical utility distribution lines or equipment for existing or new or proposed industrial buildings to be used for ~~qualified industrial operations, or (iv) in the case of counties designated as severely distressed counties under G.S. 105-130.40(e) or G.S. 105-151.17(e) or units of local government within those counties, construction of or improvement to new or existing water, sewer, gas, or electrical utility distribution lines or equipment to serve new or proposed industrial buildings to be used for qualified industrial operations.~~ manufacturing or processing operations. To be eligible for funding, the water, sewer, gas, or electrical utility lines or facilities shall be located on the site of the building or, if not located on the

site, shall be directly related to the operation of the specific ~~qualified industrial~~ manufacturing or processing activity.

(1a) The funds shall be used for projects located in economically distressed counties except that ~~However,~~ the Secretary of Commerce may use up to one hundred thousand dollars ($100,000) to provide emergency economic development assistance in any county ~~which~~ that is documented to be experiencing a major economic dislocation.

(2) The funds shall be used by the city and county governments for projects that will directly result in the creation of new jobs. The funds shall be expended at a rate of ~~two thousand four hundred dollars ($2,400)~~ four thousand dollars ($4,000) per new job created up to a maximum of ~~two hundred fifty thousand dollars ($250,000)~~ four hundred thousand dollars ($400,000) per project.

(3) There shall be no local match requirement if the project is located in an enterprise tier one area as defined in G.S. 105-129.3.

(a1) Definitions. -- The following definitions apply in this section:

(1) Economically distressed county. -- A county designated as an enterprise tier one, two, or three area pursuant to G.S. 105-129.3.

(2) Major economic dislocation. -- The actual or imminent loss of 500 or more manufacturing jobs in the county or of a number of manufacturing jobs equal to at least ten percent (10%) of the existing manufacturing workforce in the county.

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

~~(b) Each year, on or before December 31, the Secretary of Commerce shall designate the most economically distressed counties in the State; this designation shall remain effective for the following calendar year. The Secretary of Commerce shall determine which counties are the most economically distressed counties in the State based on (i) rate of unemployment, (ii) per capita income, and (iii) relative population and work force growth or lack of growth, as determined by the Secretary of Commerce.~~

(b1) Utility Account. -- There is created within the Industrial Development Fund a special account to be known as the Utility Account to provide funds to assist the local government units of enterprise tier one areas, as defined in G.S. 105-129.3, in creating jobs in manufacturing and processing, warehousing and distribution, and data processing, as defined in the Standard Industrial Classification Manual issued by the United States Bureau of the Census. The Department of Commerce shall adopt rules providing for the administration of the program. Except as otherwise provided in this subsection, those rules shall be consistent with the rules adopted with respect to the Industrial Development Fund. The rules shall provide that the funds in the Utility Account may be used only for construction of or improvements to new or existing water, sewer, gas, or electrical utility distribution lines or equipment for existing or new or proposed industrial buildings to be used for industrial operations in manufacturing or processing, warehousing or distribution, or data processing. To be eligible for funding, the water, sewer, gas, or electrical utility lines or facilities shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the specific industrial activity. There shall be no maximum funding amount per new job to be created or per project.

(c) Reports. -- The Department of Commerce shall report annually to the General Assembly concerning the applications made to the fund and the payments made from the fund and the impact of the payments on job creation in the State. The

Department of Commerce shall also report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of the moneys in the fund, including information regarding to whom payments were made, in what amounts, and for what purposes.

~~(d) As used in this section, 'major economic dislocation' means the actual or imminent loss of:~~

~~(1) 500 or more manufacturing jobs in the county; or~~

~~(2) A number of manufacturing jobs which is equal to or more than ten percent (10%) of the existing manufacturing workforce in the county.~~"

Sec. 3.6. Part 2 of Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-437D. Economic development block grants.**

The Department of Commerce shall adopt guidelines for the awarding of Community Development Block Grants for economic development that will ensure that no local match is required for grants awarded for projects located in enterprise tier one areas as defined in G.S. 105-129.3 and, to the extent practicable, that priority consideration for grants is given to projects located in enterprise tier one areas as defined in G.S. 105-129.3."

Sec. 3.7. G.S. 105-241.1(e), as amended by Chapter 646 of the 1995 Session Laws, reads as rewritten:

"(e) Statute of Limitations. -- There is no statute of limitations and the Secretary may propose an assessment of tax due from a taxpayer at any time if (i) the taxpayer did not file a proper application for a license or did not file a return, (ii) the taxpayer filed a false or fraudulent application or return, or (iii) the taxpayer attempted in any manner to fraudulently evade or defeat the tax.

If a taxpayer files a return reflecting a federal determination as provided in G.S. 105-29, 105-130.20, 105-159, 105-160.8, 105-163.6A, or 105-197.1, the Secretary must propose an assessment of any tax due within one year after the return is filed or within three years of when the original return was filed or due to be filed, whichever is later. If there is a federal determination and the taxpayer does not file the required return, the Secretary must propose an assessment of any tax due within three years after the date the Secretary received the final report of the federal determination. If a taxpayer forfeits a tax credit pursuant to G.S. ~~105-163.014,~~ 105-163.014 or Article 3A of this Chapter, the Secretary must assess any tax due as a result of the forfeiture within three years after the date of the forfeiture. If a taxpayer elects under section 1033(a)(2)(A) of the Code not to recognize gain from involuntary conversion of property into money, the Secretary must assess any tax due as a result of the conversion or election within the applicable period provided under section 1033(a)(2)(C) or section 1033(a)(2)(D) of the Code. If a taxpayer sells at a gain the taxpayer's principal residence, the Secretary must assess any tax due as a result of the sale within the period provided under section 1034(j) of the Code.

In all other cases, the Secretary must propose an assessment of any tax due from a taxpayer within three years after the date the taxpayer filed an application for a license or a return or the date the application or return was required by law to be filed, whichever is later.

If the Secretary proposes an assessment of tax within the time provided in this section, the final assessment of the tax is timely.

A taxpayer may make a written waiver of any of the limitations of time set out in this subsection, for either a definite or an indefinite time. If the Secretary accepts the taxpayer's waiver, the Secretary may propose an assessment at any time within the time extended by the waiver."

Sec. 3.8. G.S. 153A-376(f) reads as rewritten:

"(f) All program income from Economic Development Grants from the Small Cities Community Development Block Grant Program may be retained by recipient ~~'severely~~ 'economically distressed counties', as ~~designated under G.S. 105-130.40(e),~~ defined in G.S. 143B-437A for the purposes of creating local economic development revolving loan funds. Such program income derived through the use by counties of Small Cities Community Development Block Grant money includes but is not limited to: (i) payment of principal and interest on loans made by the county using Community Development Block Grant Funds; (ii) proceeds from the lease or disposition of real property acquired with Community Development Block Grant Funds; and (iii) any late fees associated with loan or lease payments in (i) and (ii) above. The local economic development revolving loan fund set up by the county shall fund only those activities eligible under Title I of the federal Housing and Community Development Act of 1974, as amended (P.L. 93-383), and shall meet at least one of the three national objectives of the Housing and Community Development Act. Any expiration of G.S. ~~105-130.40(e)~~ 143B-437A or G.S. 105-129.3 shall not affect this subsection as to designations of ~~severely~~ economically distressed counties made prior to its expiration."

Sec. 3.9. G.S. 160A-456(e1) reads as rewritten:

"(e1) All program income from Economic Development Grants from the Small Cities Community Development Block Grant Program may be retained by recipient cities in ~~'severely~~ 'economically distressed counties', as ~~designated under G.S. 105-130.40(e),~~ defined in G.S. 143B-437A, for the purposes of creating local economic development revolving loan funds. Such program income derived through the use by cities of Small Cities Community Development Block Grant money includes but is not limited to: (i) payment of principal and interest on loans made by the county using Community Development Block Grant Funds; (ii) proceeds from the lease or disposition of real property acquired with Community Development Block Grant Funds; and (iii) any late fees associated with loan or lease payments in (i) and (ii) above. The local economic development revolving loan fund set up by the city shall fund only those activities eligible under Title I of the federal Housing and Community Development Act of 1974, as amended (P.L. 93-383), and shall meet at least one of the three national objectives of the Housing and Community Development Act. Any expiration of G.S. ~~105-130.40(e)~~ 143B-437A or G.S. 105-129.3 shall not affect this subsection as to designations of ~~severely~~ economically distressed counties made prior to its expiration."

Sec. 3.10. Part 2 of Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-437D. Regional development.**

The Department of Commerce shall review the Economic Development Board's annual report on economic development to evaluate the progress of development in each of the economic regions defined by the Board in its Comprehensive Strategic Economic Development Plan. In its recruitment and development work, the Department shall strive for balance and equality among the economic regions and shall use its best efforts to locate new industries in the less developed areas of the State."

Sec. 3.11. Notwithstanding the provisions of G.S. 105-129.10, as enacted by this act, if a taxpayer relocates an employee to this State during 1996, any in-house research expenses the taxpayer incurs with respect to that employee during 1996, either before or after the employee is relocated to this State, are considered in-house research expenses in this State for the purposes of G.S. 105-129.10. Notwithstanding the definition of "Code" in G.S. 105-228.90, if the federal tax credit for increasing research activities that was formerly allowed under section 41 of the Code is reenacted, the credit for research and development allowed in Article 3A of Chapter

105 of the General Statutes, as enacted by this act, becomes effective for the same taxable year for which the reenacted federal credit becomes effective.

Sec. 3.12. Chapter 105 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 3B.
"Business Tax Credit.

"§ 105-129.15. Definitions.

The following definitions apply in this Article:

(1) Business property. -- Tangible personal property that is used by the taxpayer in connection with a business or for the production of income and is capitalized by the taxpayer for tax purposes under the Code. The term does not include, however, a luxury passenger automobile taxable under section 4001 of the Code or a watercraft used principally for entertainment and pleasure outings for which no admission is charged.

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

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

"§ 105-129.16. Credit for investing in business property.

(a) Credit. -- A taxpayer that has purchased business property and places it in service in this State during the taxable year is allowed a credit equal to four and one-half percent (4.5%) of the cost of the property. The maximum credit allowed a taxpayer for property placed in service during a taxable year is four thousand five hundred dollars ($4,500). The entire credit may not be taken for the taxable year in which the property is placed in service but must be taken in five equal installments beginning with the taxable year in which the property is placed in service.

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

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

"§ 105-129.17. Tax election; cap.

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

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

"§ 105-129.18. Substantiation.

To claim the credit allowed by this Article, the taxpayer must provide any information required by the Secretary of Revenue. Every taxpayer claiming a credit under this Article must maintain and make available for inspection by the Secretary of Revenue any records the Secretary considers necessary to determine and verify the

amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for the credit and the amount of the credit rests upon the taxpayer, and no credit may be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection.

"**§ 105-129.19. Reports.**

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

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

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

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

PART IV. PHASE OUT SOFT DRINK TAX

Sec. 4.1. G.S. 105-113.45, as amended by Chapter 646 of the 1995 Session Laws, reads as rewritten:

"**§ 105-113.45. Excise taxes on soft drinks and base products.**

(a) Bottled Soft Drinks. -- An excise tax ~~of three-fourths cent (3/4¢)~~ at the applicable rate provided in the following table is levied on each bottled soft drink.

Date Tax Accrues	Rate
From 7/1/96 until 6/30/97	3/4¢
From 7/1/97 until 6/30/98	1/2¢
After 7/1/98	1/4¢

(b) Repealed by Session Laws 1991, c. 689, s. 276.

(c) Liquid Base Products. -- An excise tax at the ~~rate of seventy-five cents (75¢) a gallon~~ applicable per-gallon rate provided in the table below is levied on each individual container of a liquid base product. The tax applies regardless whether the liquid base product is diverted to and used for a purpose other than making a soft drink.

Date Tax Accrues	Rate
From 7/1/96 until 6/30/97	75¢
From 7/1/97 until 6/30/98	50¢
After 7/1/98	25¢

(d) Dry Base Products. -- An excise tax is levied on each individual container of a dry base product ~~at the rate:~~ at:

(1) ~~Of three-fourths cent (3/4¢) an ounce~~ The applicable per-ounce rate in the table below if the dry base product is not converted into a syrup or other liquid base product before it is used to make a soft drink.

Date Tax Accrues	Rate
From 7/1/96 until 6/30/97	3/4¢
From 7/1/97 until 6/30/98	1/2¢
After 7/1/98	1/4¢

(2) ~~That~~ The rate that would apply under subsection (c) to the resulting liquid base product if the dry base product is converted into a liquid base product before it is used to make a soft drink.

(e) Repealed by Session Laws 1991, c. 689, s. 276."

Sec. 4.2. Effective July 1, 1999, Article 2B of Chapter 105 of the General Statutes, as amended by this act, is repealed. The Secretary shall retain from collections under Article 2 of Chapter 105 of the General Statutes the cost of refunding the taxes levied in Article 2B of Chapter 105 of the General Statutes.

PART V. MODIFY BUNDLED TRANSACTION SALES TAX

Sec. 5.1. Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.12B. Bundled transactions.**

(a) Bundled Transaction Defined. -- A bundled transaction is a transaction in which all of the following conditions are met:

(1) A seller transfers an item of tangible personal property to a consumer on the condition that the consumer enter into an agreement to purchase services on an ongoing basis for a minimum period of at least six months.

(2) The agreement requires the consumer to pay a cancellation fee to the service provider if the consumer cancels the contract for services within the minimum period.

(3) For the item transferred, the seller:

a. Does not charge the consumer; or

b. Charges the consumer a price that, after any discount or rebate the seller gives the consumer, is below the cost price the seller paid for the item.

(b) Bundled Transaction Is a Sale; Sales Price. -- If a seller transfers an item of tangible personal property as part of a bundled transaction, a sale has occurred, and the sales price of the item is presumed to be the retail price at which the item would sell if no agreement for services were entered into. Part of this price may be paid by the consumer at the time of the transfer; the remainder of the price is considered paid as part of the price to be paid for the services contracted for. Sales tax is due on any part of the price paid by the consumer at the time of the transfer.

(c) No Additional Sales Tax if Services Taxed. -- If the services for which the consumer was required to contract are subject to services taxes at a combined rate equal to or greater than the combined State and local general rate of sales and use tax, then no additional sales tax is due on the transfer. However, if the consumer cancels the contract for services before the expiration of the minimum period, sales tax applies to the cancellation fee paid by the consumer.

(d) Additional Sales Tax if Services Not Taxed. -- If the services for which the consumer was required to contract are not subject to services taxes at a combined rate equal to or greater than the combined State and local general rate of sales and use tax, then sales tax is due at the time of the transfer on the remainder of the sales price not paid at that time.

(e) Services Taxes Defined. -- For the purpose of this section, the term 'services taxes' means any combination of State franchise tax on gross receipts, State sales tax, or local sales tax levied on the sale of or gross receipts from the services.

(f) Determination of Cost Price. -- For the purpose of this section, the cost price a seller paid for an item is presumed to be no greater than the price the seller paid for the same model within 12 months before the bundled transaction, as shown on the seller's invoices."

PART VI. REDUCE INHERITANCE AND GIFT TAXES

Sec. 6.1. G.S. 105-4(b) reads as rewritten:

"(b) An inheritance tax credit ~~in the amount specified in the following table~~ of thirty-three thousand one hundred fifty dollars ($33,150) is allowed against the tax imposed by this Article on the transfer of property to a Class A beneficiary.

~~For Decedents Dying on or After~~	~~Amount of Credit~~
~~August 1, 1985~~	~~$ 2,350~~
~~July 1, 1986~~	~~8,150~~
~~January 1, 1987~~	~~14,150~~

~~January 1, 1988~~ ~~20,150~~
~~January 1, 1989~~ ~~26,150~~

The credit may not exceed the amount of tax imposed by this Article.

This credit is allowed to Class A beneficiaries in the following order:

(1) Children who are less than 18 years old, and children who are at least 18 years old and who are single, are unable to support themselves because of mental or physical incapacity, and either are members of the decedent's household or, because of their mental or physical incapacity, live in an institution.

(2) Other Class A Beneficiaries. -- The status of a beneficiary is determined as of the date of the decedent's death. When two or more beneficiaries are equally entitled to the credit, the credit shall be allocated among those beneficiaries on a pro rata basis according to their tax liability. ~~The credit allowed by this section may not exceed the amount of tax imposed by this Article.~~"

Sec. 6.2. G.S. 105-3 is amended by adding a new subdivision to read:

"(11) Property transferred to a spouse when the transfer of the property is exempt from federal estate and gift taxes under section 2056(b)(7) of the Code because it is considered qualified terminable interest property."

Sec. 6.3. G.S. 105-188 is amended by adding a new subsection to read:

"(j) The tax does not apply to property transferred to a spouse when the transfer of the property is exempt from federal estate and gift taxes under section 2523(f) of the Code because it is considered qualified terminable interest property."

Sec. 6.4. G.S. 105-2(a) reads as rewritten:

"(a) A tax shall be and is hereby imposed upon the transfer of any property, real or personal, or of any interest therein or income therefrom, in trust or otherwise, to persons or corporations, in the following cases:

(1) When the transfer is from a person who dies seized of the property while a resident of the State and it is made:
   a. By will or by intestacy;
   b. Pursuant to a final judgment entered in a proceeding to caveat a will; or
   c. Pursuant to a settlement agreement, to which the personal representative is a party, that, in the determination of the Secretary of Revenue in his sole discretion based on evidence presented by the personal representative, reflects the good faith, arm's-length compromise of an actual dispute between beneficiaries, heirs, or personal representatives and does not have the primary purpose of avoiding inheritance tax.

(2) When the transfer is by will or intestate laws of this or any other state of real property or goods, wares, and merchandise within this State, or of any property, real, personal, or mixed, tangible or intangible, over which the State of North Carolina has a taxing jurisdiction, including State and municipal bonds, and the decedent was a resident of the State at the time of death; when the transfer is of real property or tangible personal property within the State, or intangible personal property that has acquired a situs in this State, and the decedent was a nonresident of the State at the time of death.

(3) When the transfer of property made by a resident, or nonresident, is of real property within this State, or of goods, wares and

merchandise within this State, or of any other property, real, personal, or mixed, tangible or intangible, over which the State of North Carolina has taxing jurisdiction, including State and municipal bonds, by deed, grant, bargain, sale, or gift made in contemplation of the death of the grantor, vendor, or donor, or intended to take effect in possession or enjoyment at or after such death, including a transfer under which the transferor has retained for his life or any period not ending before his death (i) the possession or enjoyment of, or the income from, the property or (ii) the right to designate the persons who shall possess or enjoy the property or the income therefrom. The aggregate value exceeding ten thousand dollars ($10,000) of transfers to any one donee within a tax year by deed, grant, bargain, sale, gift, or combination thereof, made within three years prior to the death of the grantor, vendor, or donor, without an adequate valuable consideration, shall be presumed, subject to rebuttal, to have been made in contemplation of death within the meaning of this section; the first ten thousand dollars ($10,000) in value shall be deemed not made in contemplation of death.

(4) When any person or corporation comes into possession or enjoyment, by a transfer from a resident, or from a nonresident decedent when such nonresident decedent's property consists of real property within this State or tangible personal property within the State, or intangible personal property that has acquired a situs in this State, of an estate in expectancy of any kind or character which is contingent or defeasible, transferred by any instrument taking effect after March 24, 1939.

(5) a. For purposes of this Article, the term 'general power of appointment' means a power which is exercisable in favor of the decedent, his estate, his creditors, or the creditors of his estate; except that:

1. A power to consume, invade or appropriate property for the benefit of the decedent which is limited by an ascertainable standard relating to the health, education, support or maintenance of the decedent shall not be deemed a general power of appointment.
2. A power of appointment which is exercisable by the decedent only in conjunction with another person:
   I. If the power is not exercisable by the decedent except in conjunction with the creator of the power, such power shall not be deemed a general power of appointment.
   II. If the power is not exercisable by the decedent except in conjunction with a person having a substantial interest in the property, subject to the power, which is adverse to exercise of the power in favor of the decedent, such power shall not be deemed a general power of appointment. For the purposes of this clause a person who, after the death of the decedent, may be possessed of a power of appointment (with respect to the property subject to the decedent's power) which he may exercise in

his own favor shall be deemed as having an interest in the property and such interest shall be deemed adverse to such exercise of the decedent's power.

III. If (after the application of clauses I and II) the power is a general power of appointment and is exercisable in favor of such other person, such power shall be deemed a general power of appointment only in respect of a fractional part of the property subject to such power, such part to be determined by dividing the value of such property by the number of such persons (including the decedent) in favor of whom such power is exercisable.

IV. For purposes of clauses II and III, a power shall be deemed to be exercisable in favor of a person if it is exercisable in favor of such person, his estate, his creditors, or the creditors of his estate.

b. Whenever any person shall have a general power of appointment with respect to any interest in property, such person shall, for the purposes of this Article, be deemed the owner of such interest and accordingly:

1. If in connection with any transfer of property taxable under this Article the transferor shall give to any person a general power of appointment with respect to any interest in such property, the transferor shall be deemed to have given such interest in such property to such person.

2. If any person holding a general power of appointment with respect to any interest in property shall exercise such power in favor of any other person or persons, either by will or by an appointment made in contemplation of the death of such person, or by an appointment intended to take effect in possession or enjoyment at or after such death, he shall be deemed to have made a transfer of such interest to such person or persons.

3. If any person holding a general power of appointment with respect to any interest in property shall relinquish such power by any action taken in contemplation of death or intended to take effect at or after his death, or shall die without fully exercising such power, he shall be deemed, to the extent of such relinquishment or nonexercise, to have made a transfer of such interest to the person or persons who shall benefit thereby.

(6) Neither the exercise nor the relinquishment of a special power of appointment (which shall mean any power other than a general power) with respect to an interest in property shall be deemed to constitute a transfer of such interest within the meaning of this Article. If in connection with any transfer taxable under this Article the transferor shall give to any person a special power of

appointment with respect to any interest in property, he shall be deemed, for the purpose of computing the tax applicable thereto, to have given such interest in equal shares to those persons, not more than two, among the possible appointees and takers in default of appointment whom the transferor's executor or administrator may designate as transferees in the inheritance tax return, except that:

a. If a gift tax return is filed with respect to such transfer, the persons designated therein shall also be designated in the inheritance tax return, and

b. The tax shall be computed according to the relationship of the donee of the power to the persons designated if the possible appointees and takers in default of appointment include any persons more closely related to the donee of the power than to the donor, and if such computation would produce a higher tax.

(7), (7a) Repealed by Session Laws, 1985, c. 656, s. 1.

(8) Where the proceeds of life insurance policies are payable as provided in G.S. 105-13.

(9) Whenever any person or corporation comes into possession or enjoyment of any real or personal property, including bonds of the United States and bonds of a state or subdivision or agency thereof, at or after the death of an individual and by reason of said individual's having entered into a contract or other arrangement with the United States, a state or any person or corporation to pay, transfer or deliver said real or personal property, including bonds of the United States and bonds of a state, to the person or corporation receiving the same, whether said person or corporation is named in the contract or other arrangement or not: Provided, that no tax shall be due or collected on that portion of the real or personal property received under the conditions outlined herein which the person or corporation receiving the same purchased or otherwise acquired by funds or property of the person or corporation receiving the same, or had acquired by a completed inter vivos gift.

Nothing in subdivision (9) shall apply to the proceeds of life insurance policies.

(10) Upon the death of a spouse who had a qualifying income interest for life in qualified terminable interest property whose previous transfer was exempt from inheritance or gift taxes under G.S. 105-3(11) or G.S. 105-188(j), the qualified terminable interest property that was previously exempt is considered to pass from the spouse to the person who is entitled to the property upon the termination of the spouse's qualifying income interest for life.

However, nothing in this Article shall be construed as imposing a tax upon any transfer of intangibles not having a commercial or business situs in this State, by a person, or by reason of the death of a person, who was not a resident of this State at the time of his death, and, if held or transferred in trust, such intangibles shall not be deemed to have a commercial or business situs in this State merely because the trustee is a resident or, if a corporation, is doing business in this State, unless the same be employed in or held or used in connection with some business carried on in whole or in part in this State."

Sec. 6.5. G.S. 105-9(8) reads as rewritten:

"(8) Costs of ~~administration, including~~ administration not claimed as a deduction on the federal income tax return filed under the Code by the fiduciary for the decedent's estate. Costs of administration include reasonable attorneys' fees."

Sec. 6.6. Article 1 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-23.1. Making installment payments of tax due when federal estate tax is payable in installments.**

A personal representative who elects under section 6166 of the Code to make installment payments of federal estate tax may elect to make installment payments of the tax imposed by this Article. An election under this section extends the time for payment of the tax due in accordance with the extension elected under section 6166 of the Code. Payments of tax are due under this section at the same time and in the same proportion to the total amount of tax due as payments of federal tax under section 6166 of the Code. Acceleration of payments under section 6166 of the Code accelerates the payments due under this section."

PART VII. NONITEMIZER CHARITABLE CONTRIBUTION TAX CREDIT

Sec. 7.1. Division II of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-151.26. Credit for charitable contributions by nonitemizers.**

A taxpayer who elects the standard deduction under section 63 of the Code for federal tax purposes is allowed as a credit against the tax imposed by this Division an amount equal to two and three-fourths percent (2.75%) of the taxpayer's excess charitable contributions. The taxpayer's excess charitable contributions are the amount by which the taxpayer's charitable contributions for the taxable year that would have been deductible under section 170 of the Code if the taxpayer had not elected the standard deduction exceed two percent (2%) of the taxpayer's adjusted gross income as calculated under the Code.

No credit shall be allowed under this section for amounts deducted from gross income in calculating taxable income under the Code or for contributions for which a credit was claimed under G.S. 105-151.12 or G.S. 105-151.14. A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed under this section may not exceed the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer."

PART VIII. EXCLUDE CERTAIN SEVERANCE PAY FROM INCOME TAX

Sec. 8.1. G.S. 105-134.6(b) is amended by adding a new subdivision to read:

"(11) The amount paid to the taxpayer as severance wages as the result of the permanent closure of a manufacturing or processing plant, not to exceed a maximum of thirty-five thousand dollars ($35,000) for the taxable year."

Sec. 8.2. G.S. 105-134.1 is amended by adding a new subdivision to read:

"(15a) Manufacturing and processing. -- Defined in the Standard Industrial Classification Manual issued by the United States Bureau of the Census."

PART IX. REDUCE SALES TAX ON FARM AND INDUSTRY FUEL

Sec. 9.1. G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(1f) The rate of two and eighty-three-hundredths percent (2.83%) applies to the sales price of electricity and piped natural gas described in this subdivision and measured by a separate meter or another device:

a. Sales of electricity and piped natural gas to farmers to be used by them for any farm purposes other than preparing food, heating dwellings, and other household purposes. The quantity of electricity or gas purchased or used at any one time shall not be a determinative factor as to whether its sale or use is or is not subject to the rate of tax provided in this subdivision.

b. Sales of electricity and piped natural gas to manufacturing industries and manufacturing plants for use in connection with the operation of the industries and plants other than sales of electricity and gas to be used for residential heating purposes. The quantity of electricity or gas purchased or used at any one time shall not be a determinative factor as to whether its sale or use is or is not subject to the rate of tax provided in this subdivision.

c. Sales of electricity and piped natural gas to commercial laundries or to pressing and dry-cleaning establishments for use in machinery used in the direct performance of the laundering or the pressing and cleaning service."

Sec. 9.2. G.S. 105-164.4(a)(4a) reads as rewritten:

"(4a) The rate of three percent (3%) applies to the gross receipts derived by a utility from sales of electricity, piped natural gas, or local telecommunications service as defined by G.S. ~~105-120(e).~~ 105-120(e), other than sales of electricity or piped natural gas subject to tax under another subdivision in this section. Gross receipts from sales of piped natural gas shall not include natural gas expansion surcharges imposed under G.S. 62-158. A person who operates a utility is considered a retailer under this Article."

PART X. EFFECTIVE DATES

Sec. 10.1. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before its amendment or repeal; nor does it affect the right to any refund or credit of a tax that would otherwise have been available under the amended or repealed statute before its amendment or repeal.

Sec. 10.2. This act becomes effective as follows:

(1) Reduce sales tax on food. -- Part I of this act becomes effective January 1, 1997, and applies to sales made on or after that date.

(2) Reduce corporate income tax. -- Section 2.1 of Part II of this act is effective for taxable years beginning on or after January 1, 1997. Section 2.2 of Part II of this act becomes effective October 1, 1997, and applies to remittances made on or after that date.

(3) Quality jobs and business expansion tax credits. -- Sections 3.5, 3.6, and 3.8 through 3.10 of Part III of this act become effective August 1, 1996. G.S. 105-129.11, as enacted by Part III of this act, becomes effective for taxable years beginning on or after January 1, 1997, and applies to training expenditures made on or after July 1, 1997. The remainder of Part III of this act is effective for taxable years beginning on or after January 1, 1996, and applies to jobs created on or after August 1, 1996, and property placed in service on or after August 1, 1996. Article 3A of Chapter 105 of the General Statutes is repealed effective for applications for credits filed under G.S. 105-129.6 on or after January 1, 2002. Article 3B of Chapter 105 of the General Statutes is repealed effective for business property placed in service on or after January 1, 2002.

(4) Phase out soft drink tax. -- Section 4.1 of Part IV of this act becomes effective July 1, 1997. Section 4.2 of Part IV of this act becomes effective July 1, 1999.

(5) Modify bundled transaction sales tax. -- Part V of this act becomes effective on the earliest date practicable. The "earliest date practicable" is considered to be the first day of the third month following the ratification of this act. The Part applies to sales made on or after the effective date.

(6) Reduce inheritance and gift taxes. -- Part VI of this act becomes effective January 1, 1997, and applies to the estates of decedents dying on or after that date and to gifts made on or after that date.

(7) Nonitemizer charitable contribution tax credit. -- Part VII of this act is effective for taxable years beginning on or after January 1, 1997.

(8) Exclude certain severance pay from income tax. -- Part VIII of this act is effective for taxable years beginning on or after January 1, 1996.

(9) Reduce sales tax on farm and industry fuel. -- Part IX of this act becomes effective August 1, 1996, and applies to sales made on or after that date.

(10) Remainder. -- The remainder of this act is effective upon ratification.

In the General Assembly read three times and ratified this the 2nd day of August, 1996.

DENNIS A. WICKER

Dennis A. Wicker
President of the Senate

HAROLD J. BRUBAKER

Harold J. Brubaker
Speaker of the House of Representatives

VISITOR REGISTRATION SHEET

HOUSE FINANCE COMMITTEE — May 11, 1999

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Amanda Fankhauser	NCS
Becki Sherlock	APPRO
Zeb ALCEY	ZDA PA
Brenda Daugherty	Sprint
Katherine Davis	Electric Cities
Chris Heagarty	Electric Coops
Mark Ham	TGHS
Paul Gross	OSBM
Brady Lane	Halifax Dev. Comm. P.O. Box 96 Roanoke Rapids 27870
Lynda Warren	Dept of Commerce
Lyda Lyerly	Commerce
Roy Isaac	Jones County EDC
Marty Wiggins	NC State Political Sci. Dept.
Don Carrington	John Locke Foundation
V L McBride	NCAA
JIM QUINN	NC HSG FIN AGENCY
Kathryn Sawyer	Commerce
Sabra Faires	Revenue
PRESTON HOWARD	MCIC
Kevin Howell	Governor's office
Bob Price	Jordan Price Wall
William Potter	NCDS & NCDTA
Patti Seawell	NC DOR
NANCY POMERANZ	NC DOR
Andy Sabol	NC DOR
Bonnie Collins	NC DOR
Susan Peacock	Commerce

VISITOR REGISTRATION SHEET

HOUSE FINANCE COMMITTEE

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Pat Gizlach	NCBIC
Chris Fitzsimon	Common Sense Foundation

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Thursday, May 13, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

HB 830 - Transylvania Room Tax Penalties - Rep. Walend
HB 845 - Greenville Utilities Commission - Rep. McLawhorn
HB 1095 - Clinical Pharmacist Practitioner - Rep. Allen
SB 249 - Extend Core Sound Moratorium - Sen. Albertson
SB 468 - Winston-Salem/Forsyth Assessments - Sen. Horton
SB 534 - Kenansville Services - Sen. Albertson

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Thursday, May 13, 1999

The House Committee on Finance met on Thursday, May 13, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke, Miller; Vice Chairs Jarrell and Wood; Representatives Brown, Buchanan, Capps, Cox, Cunningham, Decker, Dedmon, Eddins, Edwards, Gibson, Goodwin, Gray, Hackney, Hill, McCombs, Mosley, Pope, Rayfield, Tucker, Wilson, and Womble. Staff including Cindy Avrette, Richard Bostic, Mary Shuping, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Allen called the meeting to order to consider the following bills:

Rep. McLawhorn was recognized to explain HB 845, A BILL TO BE ENTITLED AN ACT EXPANDING THE PERMISSIBLE PURPOSES OF THE GREENVILLE UTILITIES COMMISSION AND AUTHORIZING THE COMMISSION TO CHARGE APPROPRIATE FEES FOR EXPANDED SERVICES. Rep. Cox moved to give the bill a favorable report and the motion passed. A copy of the bill is included in these minutes.

Rep. Walend was recognized to explain HB 830, A BILL TO BE ENTITLED AN ACT TO MODIFY THE PENALTIES FOR THE TRANSYLVANIA ROOM COUNTY OCCUPANCY TAX. Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion purposes. Rep. Brown moved to give the Proposed Committee Substitute a favorable report and an unfavorable report to the original bill. The motion passed. A copy of the bill, Proposed Committee Substitute, Bill Summary, and Occupancy Tax chart is included in these minutes.

Sen. Horton was recognized to explain SB 468, A BILL TO BE ENTITLED AN ACT CONCERNING CORNER LOT ASSESSMENT EXEMPTIONS BY THE CITY OF WINSTON-SALEM AND FORSYTH COUNTY. Rep. Brown moved to give the bill a favorable report. The motion passed. A copy of the bill and Bill Summary is included in these minutes.

Sen. Albertson was recognized to explain SB 249, A BILL TO BE ENTITLED AN ACT TO EXTEND THE MORATORIUM ON ISSUING SHELLFISH CULTIVATION LEASES IN CORE SOUND, TO REQUIRE THE DIVISION OF MARINE FISHERIES AND THE PRIMARY INVESTIGATOR TO REPORT THE RESULTS OF THE SHELLFISH MAPPING AND HUMAN USE MAPPING OF CORE SOUND TO THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE AND THE MARINE FISHERIES COMMISSION, TO AUTHORIZE RATHER THAN REQUIRE THE SECRETARY OF ENVIRONMENT AND NATURAL RESOURCES TO REQUIRE THE FISHERIES LICENSE AGENTS TO POST BONDS, AND TO ESTABLISH AN INTERIM CRAB LICENSE. Rep. Hill moved for a favorable report. Rep. McComas stated that he would like to add amendment including frogs. Rep. McComas then withdrew the amendment and stated he would work with Rep. Gibson to refine the amendment. Rep. Hill moved to give the Proposed Committee Substitute a favorable report and an unfavorable report to the original bill. The motion passed. A copy of the bill, Proposed Committee Substitute, Bill Summary, and Fiscal Note is included in these minutes.

Sen. Albertson was recognized to explain SB 534, A BILL TO BE ENTITLED AN ACT PROVIDING THAT THE TOWN OF KENANSVILLE IS NOT OBLIGATED TO PROVIDE SERVICES TO CERTAIN ANNEXED PROPERTY. Members questioned Sen. Albertson and Cindy Avrette. Rep. Braswell moved for a favorable report. The motion passed. A copy of the bill is included in these minutes.

Rep. Allen was recognized to explain HB 1095, A BILL TO BE ENTITLED AN ACT AUTHORIZING THE NORTH CAROLINA MEDICAL BOARD AND THE BOARD OF PHARMACY TO ADOPT REGULATIONS TO APPROVE CLINICAL PHARMACIST PRACTITIONERS TO PRACTICE DRUG THERAPY MANAGEMENT PURSUANT TO A DRUG THERAPY MANAGEMENT AGREEMENT. Rep. Allen moved to adopt the Proposed Committee Substitute for discussion purposes. Members questioned Cindy Avrette and Rep. Allen. Rep. Buchanan moved to give the Proposed Committee Substitute a favorable report and an unfavorable report to the original bill. The Chair recognized Mr. John Bowdish of the N.C. Pharmacy Association who stated they support the bill and answered member's questions. Rep. Buchanan's motion passed. A copy of the bill, Proposed Committee Substitute, Bill Summary, and Fiscal Note is included in these minutes.

There being no further business, the Chair adjourned the meeting at 9:45 a.m.

Respectfully submitted:

Representative Gordon Allen
Chair

Kristen L. Crosson
Finance Clerk

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 830 A BILL TO BE ENTITLED AN ACT TO MODIFY THE PENALTIES FOR THE TRANSYLVANIA COUNTY ROOM OCCUPANCY TAX.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 830
PROPOSED COMMITTEE SUBSTITUTE
H830-PCSSC-001

ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION.

Short Title: Transylvania Room Tax Penalties. (Local)

Sponsors:

Referred to: Finance.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE PENALTIES FOR THE TRANSYLVANIA COUNTY ROOM OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 969 of the 1985 Session Laws, as it applies to Transylvania County, reads as rewritten:

"Section 1. Transylvania Occupancy Tax. (a) Authorization and Scope. The board of commissioners of ~~a county~~ Transylvania County may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S.

153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section. ~~Collection. Every operator of a business subject to the tax levied under this act shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~(c) Administration. The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars ($10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due for each additional month or fraction thereof until the tax is paid.~~

~~Any person who willfully attempts in any manner to evade a tax imposed under this act or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both. The board of commissioners may, for good cause shown, compromise or forgive the penalties imposed by this subsection.~~

(e) Use of Tax Revenue. ~~Except as provided in Section 2 of this act for Durham County, a taxing county~~ Transylvania County shall place revenue collected from a tax levied under this act in a special Travel and Tourism Fund. Revenue in this Fund may be used only to promote travel and tourism and for tourism-related expenditures in ~~the county.~~ Transylvania County.

The following definitions apply in this subsection:

(1) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.

(2) Tourism-related expenditures. -- Expenditures that, in the judgment of the governing authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.

~~(f) Effective Date of Levy. A tax levied under this act shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this act may be repealed by a resolution adopted by the board of commissioners of the county. Repeal of a tax levied under this act shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this act does not affect a liability for a tax that attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~"

Section 2. County Administrative Provisions. Section 3(b) of S.L. 1997-102, as amended by Section 2 of S.L. 1997-255, Section 2 of S.L. 1997-342, Section 3 of S.L. 1997-364, Section 6 of S.L. 1997-410, and Section 2 of S.L. 1998-14, reads as rewritten:

"(b) This section applies only to Avery, Brunswick, Davie, Madison, Nash, Person, Randolph, ~~and Scotland~~ Scotland, and Transylvania Counties."

Section 3. This act becomes effective July 1, 1999, and applies to taxes due on or after that date.

HOUSE BILL 830

Short Title: Transylvania Room Tax Penalties. (Local)

Sponsors: Representative Walend.

Referred to: Finance.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE PENALTIES FOR THE TRANSYLVANIA COUNTY ROOM OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 969 of the 1985 Session Laws, as it applies to Transylvania County, reads as rewritten:

"Section 1. Transylvania Occupancy Tax. (a) Authorization and Scope. The board of commissioners of ~~a county~~ Transylvania County may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section. ~~Collection. Every operator of a business subject to the tax levied under this act shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the~~

~~operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~(c) Administration. The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars ($10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due for each additional month or fraction thereof until the tax is paid.~~

~~Any person who willfully attempts in any manner to evade a tax imposed under this act or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both. The board of commissioners may, for good cause shown, compromise or forgive the penalties imposed by this subsection.~~

(e) Use of Tax Revenue. ~~Except as provided in Section 2 of this act for Durham County, a taxing county~~ Transylvania County shall place revenue collected from a tax levied under this act in a special Travel and Tourism Fund. Revenue in this Fund may be used only to promote travel and tourism in the county.

~~(f) Effective Date of Levy. A tax levied under this act shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this act may be repealed by a resolution adopted by the board of commissioners of the county. Repeal of a tax levied under this act shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this act does not affect a liability for a tax that attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~"

Section 2. County Administrative Provisions. Section 3(b) of S.L. 1997-102, as amended by Section 2 of S.L. 1997-255, Section 2 of S.L. 1997-342, Section 3 of S.L. 1997-364, Section 6 of S.L. 1997-410, and Section 2 of S.L. 1998-14, reads as rewritten:

"(b) This section applies only to Avery, Brunswick, Davie, Madison, Nash, Person, Randolph, ~~and Scotland~~ Scotland, and Transylvania Counties."

Section 3. This act becomes effective July 1, 1999, and applies to taxes due on or after that date.

HOUSE BILL 830:
Transylvania Room Tax Penalties

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Walend
Date:	May 13, 1999	**Summary by:**	Cindy Avrette
Version:	PCS for 1st Edition H830-PCSSC-001		Committee Counsel

SUMMARY: Last month, the following bills were referred to a House Finance Subcommittee on Occupancy Taxes: House Bills 665, 672, 764, and 830. Representative Jarrell chaired the Subcommittee. Representatives Dedmon, Gibson, and C. Wilson were members of the subcommittee. The subcommittee considered the bills in light of uniformity in the areas of administration, rate, use of proceeds, definitions, and the creation of a Tourism Development Authority. The subcommittee recommends that the Committee give a favorable report to one of the bills that complies with the uniform provisions: House Bill 830. The Subcommittee plans to meet later today to give further consideration to the remaining occupancy tax bills.

HOUSE BILL 830: House Bill 830 simply modifies the penalties in the current Transylvania occupancy tax law to conform with the uniform occupancy tax penalty provisions. The proposed committee substitute conforms the remaining administrative provisions to the uniform provisions in G.S. 153A-155 and it sets forth the definitions for the terms "promote travel and tourism" and "tourism-related expenditures".

Under the current Transylvania occupancy tax law, the penalty for failure to file a return is $10 for each day's omission. In case of failure to file the return or pay the tax for a period of 30 days after it is due, the penalty is 5% of the tax due. The uniform occupancy tax penalties in G.S. 153A-155 are the same as the penalties for failure to pay or file a return for State sales and use taxes. The uniform penalty for failure to file a return is 5% of the amount of tax due, not to exceed 25% or $5, whichever is greater. The uniform penalty for failure to pay the tax due is 10% of the tax due or $5, whichever is greater.

The General Assembly authorized a 3% room occupancy tax for Transylvania County in 1985. All of the revenue generated from the tax is used to promote travel and tourism. The county has a tourism development authority that the county created by local ordinance in 1986 to expend the proceeds of the occupancy tax. Although the TDA was not established by an act of the General Assembly, its membership and function is based upon those created by the General Assembly in other occupancy tax acts.

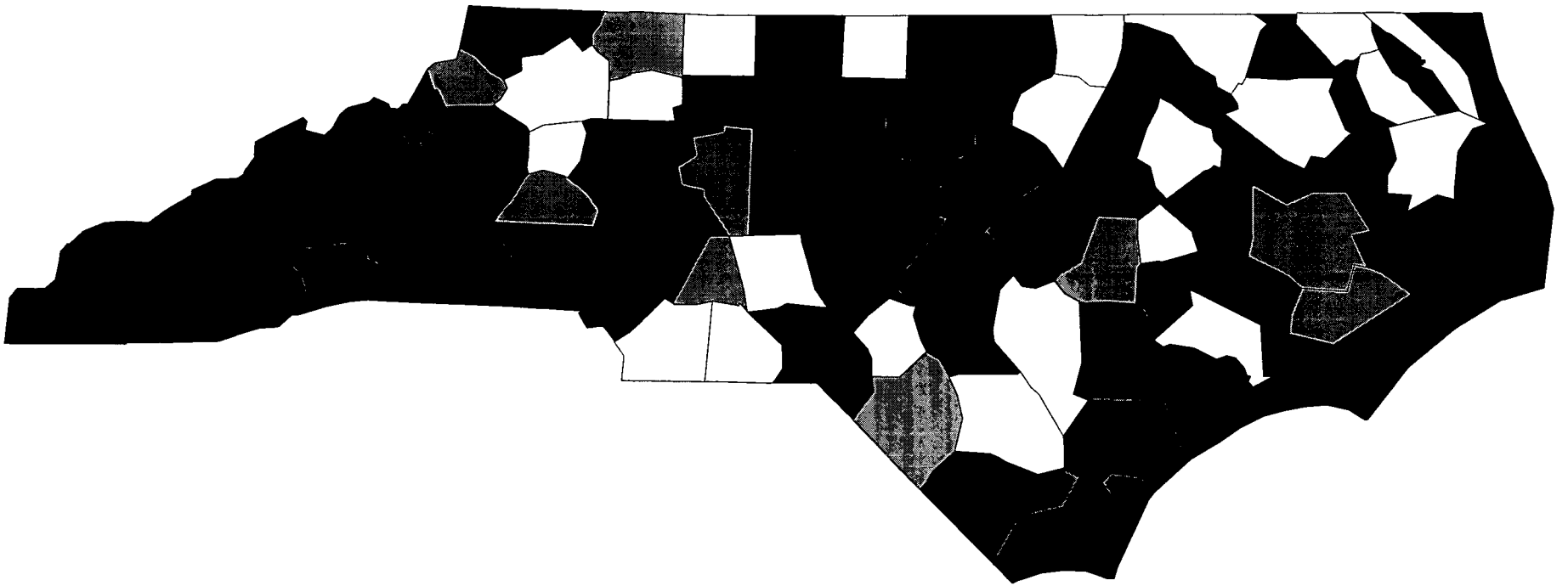
UNIFORM PROVISIONS: Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1993, a House Finance Committee subcommittee on occupancy taxes established several principles that have been applied to most of the occupancy tax bills in the House since that time. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties. The North Carolina Travel and Tourism Coalition has a policy statement for legislation authorizing local occupancy taxes.

Many of the principles contained in its statement are similar to the ones established by the House Finan subcommittee in 1993.

Based upon the work detailed above, the Subcommittee looked for the inclusion of the following uniform provisions in the occupancy tax bills its considered:

- **Rate.** – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
- **Use.** – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism-related purposes.
- **Definitions.** – The terms "net revenues" "promote travel and tourism", and "tourism-related expenditures" are defined terms.
- **Administration.** – The net revenues must be administered by a local tourism promotion agency that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least ¾ of the members must be currently active in the promotion of travel and tourism in the taxing district and 1/3 of the members must be affiliated with organizations that collect the tax.
- **Costs of Collection.** – The taxing authority may retain from the revenues it actual costs of collection, not to exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.

Occupancy Tax in NC Counties



White: No Occupancy Tax

Light Gray: Only Certain Cities have Occupancy Tax

Dark Gray: Only County has Occupancy Tax

Black: Both County and Certain Cities have Occupancy Tax

Kristen Crosson

House Finance Committee Assistant

April 16, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 845 A BILL TO BE ENTITLED AN ACT EXPANDING THE PERMISSIBLE PURPOSES OF THE GREENVILLE UTILITIES COMMISSION AND AUTHORIZING THE COMMISSION TO CHARGE APPROPRIATE FEES FOR EXPANDED SERVICES.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 845
Committee Substitute Favorable 4/29/99

Short Title: Greenville Utilities Commission. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT EXPANDING THE PERMISSIBLE PURPOSES OF THE GREENVILLE UTILITIES COMMISSION AND AUTHORIZING THE COMMISSION TO CHARGE APPROPRIATE FEES FOR EXPANDED SERVICES.

The General Assembly of North Carolina enacts:

Section 1. In addition to the allowable public enterprises that the City of Greenville and the Greenville Utilities Commission may undertake pursuant to the provisions of Chapter 861 of the 1991 Session Laws, the City of Greenville and the Greenville Utilities Commission shall have the authority, with the approval of the City Council of the City of Greenville, to acquire, construct, establish, enlarge, improve, maintain, own, operate, or contract for the operation of the following:

(1) Steam and chilled water supply and distribution systems, if the system is located within the Greenville Industrial Park, and is located entirely within the corporate limits of the City of Greenville or its extraterritorial jurisdiction area; or

(2) Public enterprises, as defined in G.S. 160A-311, of a public or private entity other than the City of Greenville, if approved by the governing body of the entity, and if the enterprise is located within Pitt County.

Section 2. The City of Greenville and the Commission may charge appropriate fees for any expanded services offered pursuant to this act.

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

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☒ Committee Substitute for
H.B. 1095 A BILL TO BE ENTITLED AN ACT AUTHORIZING THE NORTH CAROLINA MEDICAL BOARD AND THE BOARD OF PHARMACY TO ADOPT REGULATIONS TO APPROVE CLINICAL PHARMACIST PRACTITIONERS TO PRACTICE DRUG THERAPY MANAGEMENT PURSUANT TO A DRUG THERAPY MANAGEMENT AGREEMENT.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

☒ With a favorable report as to committee substitute bill (# 4), ☒ which changes the title, unfavorable as to ~~(original bill),~~ (Committee Substitute Bill # 3), ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1095
Corrected Copy 4/19/99
Committee Substitute Favorable 4/26/99
Proposed Committee Substitute H1095-PCS6208-RB

Short Title: Clinical Pharmacist Practitioner. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA MEDICAL BOARD AND THE BOARD OF PHARMACY TO ADOPT RULES TO APPROVE CLINICAL PHARMACIST PRACTITIONERS TO PRACTICE DRUG THERAPY MANAGEMENT PURSUANT TO A DRUG THERAPY MANAGEMENT AGREEMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-6 reads as rewritten:

"**§ 90-6. ~~Regulations~~ Rules governing applicants for license, examinations, etc.; appointment of ~~subcommittee.~~ subcommittees.**

(a) The North Carolina Medical Board is empowered to prescribe such ~~regulations~~ rules as it may deem proper, governing applicants for license, admission to examinations, the conduct of applicants during examinations, and the conduct of examinations proper.

(b) The North Carolina Medical Board shall appoint and maintain a subcommittee to work jointly with a subcommittee of the Board of Nursing to develop rules ~~and regulations~~ to govern the performance of medical acts by registered nurses, including the determination of reasonable fees to accompany an application for approval not to exceed one hundred dollars ($100.00) and for renewal of approval not to exceed fifty dollars ($50.00). The fee for reactivation of an inactive incomplete application shall be five dollars ($5.00). Rules ~~and regulations~~ developed by this subcommittee from

time to time shall govern the performance of medical acts by registered nurses and shall become effective when adopted by both the North Carolina Medical Board and the Board of Nursing. The North Carolina Medical Board shall have responsibility for securing compliance with these ~~regulations.~~ rules.

(c) The North Carolina Medical Board shall appoint and maintain a subcommittee of four licensed physicians to work jointly with a subcommittee of the North Carolina Board of Pharmacy to develop rules to govern the performance of medical acts by clinical pharmacist practitioners, including the determination of reasonable fees to accompany an application for approval not to exceed one hundred dollars ($100.00) and for renewal of approval not to exceed fifty dollars ($50.00). The fee for reactivation of an inactive incomplete application shall be five dollars ($5.00). Rules recommended by the subcommittee shall be adopted in accordance with Chapter 150B of the General Statutes by both the North Carolina Medical Board and the North Carolina Board of Pharmacy and shall not become effective until adopted by both Boards. The North Carolina Medical Board shall have responsibility for ensuring compliance with these rules."

Section 2. G.S. 90-18(c) is amended by adding a new subdivision to read:

"(3a) The provision of drug therapy management by a licensed pharmacist engaged in the practice of pharmacy pursuant to an agreement that is physician, pharmacist, patient, and disease specific when performed in accordance with rules and rules developed by a joint subcommittee of the North Carolina Medical Board and the North Carolina Board of Pharmacy and approved by both Boards. Drug therapy management shall be defined as: (i) the implementation of predetermined drug therapy which includes diagnosis and product selection by the patient's physician; (ii) modification of prescribed drug dosages, dosage forms, and dosage schedules; and (iii) ordering tests; (i), (ii), and (iii) shall be pursuant to an agreement that is physician, pharmacist, patient, and disease specific."

Section 3. Article 1 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-18.3. Limitations on clinical pharmacist practitioners.**

(a) Any pharmacist who is approved under the provisions of G.S. 90-18(c)(3a) to perform medical acts, tasks, and functions may use the title 'clinical pharmacist practitioner'. Any other person who uses the title in any form or holds himself or herself out to be a clinical pharmacist practitioner or to be so licensed shall be deemed to be in violation of this Article.

(b) Clinical pharmacist practitioners are authorized to implement predetermined drug therapy, which includes diagnosis and product selection by the patient's physician, modify prescribed drug dosages, dosage forms, and dosage schedules, and to order laboratory tests pursuant to a drug therapy management agreement that is physician, pharmacist, patient, and disease specific under the following conditions:

(1) The North Carolina Medical Board and the North Carolina Board of Pharmacy have adopted rules developed by a joint subcommittee governing the approval of individual clinical pharmacist practitioners to practice drug therapy management with such limitations that the Boards determine to be in the best interest of patient health and safety.

(2) The clinical pharmacist practitioner has current approval from both Boards.

(3) The North Carolina Medical Board has assigned an identification number to the clinical pharmacist practitioner which is shown on written prescriptions written by the clinical pharmacist practitioner.

(4) The drug therapy management agreement prohibits the substitution of a chemically dissimilar drug product by the pharmacist for the product prescribed by the physician without the explicit consent of the physician and includes a policy for periodic review by the physician of the drugs modified pursuant to the agreement or changed with the consent of the physician.

(c) Clinical pharmacist practitioners in hospitals and other health facilities that have an established pharmacy and therapeutics committee or similar group that determines the prescription drug formulary or other list of drugs to be utilized in the facility and determines procedures to be followed when considering a drug for inclusion on the formulary and procedures to acquire a nonformulary drug for a patient may order medications and tests under the following conditions:

(1) The North Carolina Medical Board and the North Carolina Board of Pharmacy have adopted rules governing the approval of individual clinical pharmacist practitioners to order medications and tests with such limitations as the Boards determine to be in the best interest of patient health and safety.

(2) The clinical pharmacist practitioner has current approval from both Boards.

(3) The supervising physician has provided to the clinical pharmacist practitioner written instructions for ordering, changing, or substituting drugs, or ordering tests with provision for review of the order by the physician within a reasonable time, as determined by the Boards, after the medication or tests are ordered.

(4) The hospital or health facility has adopted a written policy, approved by the medical staff after consultation with nursing administrators, concerning the ordering of medications and tests, including procedures for verification of the clinical pharmacist practitioner's orders by nurses and other facility employees and such other procedures that are in the best interest of patient health and safety.

(5) Any drug therapy order written by a clinical pharmacist practitioner or order for medications or tests shall be deemed to

have been authorized by the physician approved by the Boards as the supervisor of the clinical pharmacist practitioner and the supervising physician shall be responsible for authorizing the prescription order.

(d) Any registered nurse or licensed practical nurse who receives a drug therapy order from a clinical pharmacist practitioner for medications or tests is authorized to perform that order in the same manner as if the order was received from a licensed physician."

Section 4. G.S. 90-85.3 is amended by adding a new subsection to read:

"(b1) 'Clinical pharmacist practitioner' means a licensed pharmacist who meets the guidelines and criteria for such title established by the joint subcommittee of the North Carolina Medical Board and the North Carolina Board of Pharmacy and is authorized to enter into drug therapy management agreements with physicians in accordance with the provisions of G.S. 90-18.3."

Section 5. G.S. 90-85.3(r) reads as rewritten:

"(r) 'Practice of pharmacy' means the responsibility for: interpreting and evaluating drug orders, including prescription orders; compounding, dispensing and labeling prescription drugs and devices; properly and safely storing drugs and devices; maintaining proper records; and controlling pharmacy goods and services. A pharmacist may advise and educate patients and health care providers concerning therapeutic values, content, uses and significant problems of drugs and devices; assess, record and report adverse drug and device reactions; take and record patient histories relating to drug and device therapy; monitor, record and report drug therapy and device usage; perform drug utilization reviews; and participate in drug and drug source selection and device and device source selection as provided in G.S. 90-85.27 through G.S. 90-85.31. A pharmacist who has received special training may be authorized and permitted to administer drugs pursuant to a specific prescription order in accordance with rules ~~and regulations~~ adopted by each of the Boards of Pharmacy, the Board of Nursing, and the North Carolina Medical Board. ~~Such~~ The rules ~~and regulations~~ shall be designed to ensure the safety and health of the patients for whom such drugs are administered. An approved clinical pharmacist practitioner may collaborate with physicians in determining the appropriate health care for a patient, subject to the provisions of G.S. 90-18.3."

Section 6. Article 4A of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-85.26A. Clinical pharmacist practitioners subcommittee.**

The North Carolina Board of Pharmacy shall appoint and maintain a subcommittee of the Board consisting of four licensed pharmacists to work jointly with the subcommittee of the North Carolina Medical Board to develop rules to govern the provision of drug therapy management by clinical pharmacist practitioners and to determine reasonable fees to accompany an application for approval or renewal of such approval as provided in G.S. 90-6. The rules developed by this subcommittee shall govern the performance of acts by clinical pharmacist

practitioners and shall become effective when they have been adopted by both Boards."

Section 7. Sections 2 through 5 of this act become effective July 1, 2000. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 3

HOUSE BILL 1095
Corrected Copy 4/19/99
Committee Substitute Favorable 4/26/99

Short Title: Clinical Pharmacist Practitioner. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA MEDICAL BOARD AND THE BOARD OF PHARMACY TO ADOPT REGULATIONS TO APPROVE CLINICAL PHARMACIST PRACTITIONERS TO PRACTICE DRUG THERAPY MANAGEMENT PURSUANT TO A DRUG THERAPY MANAGEMENT AGREEMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-6 reads as rewritten:

"**§ 90-6. Regulations governing applicants for license, examinations, etc.; appointment of subcommittee.**

(a) The North Carolina Medical Board is empowered to prescribe such regulations as it may deem proper, governing applicants for license, admission to examinations, the conduct of applicants during examinations, and the conduct of examinations proper.

(b) The North Carolina Medical Board shall appoint and maintain a subcommittee to work jointly with a subcommittee of the Board of Nursing to develop rules and regulations to govern the performance of medical acts by registered nurses, including the determination of reasonable fees to accompany an application for approval not to exceed one hundred dollars ($100.00) and for renewal of approval not to exceed fifty dollars ($50.00). The fee for reactivation of an inactive incomplete application shall be five dollars ($5.00). Rules and regulations developed by this subcommittee from time to time shall govern the performance of medical acts by registered nurses and

shall become effective when adopted by both the North Carolina Medical Board and the Board of Nursing. The North Carolina Medical Board shall have responsibility for securing compliance with these regulations.

(c) The North Carolina Medical Board shall appoint and maintain a subcommittee of four licensed physicians to work jointly with a subcommittee of the North Carolina Board of Pharmacy to develop rules and regulations to govern the performance of medical acts by clinical pharmacist practitioners, including the determination of reasonable fees to accompany an application for approval not to exceed one hundred dollars ($100.00) and for renewal of approval not to exceed fifty dollars ($50.00). The fee for reactivation of an inactive incomplete application shall be five dollars ($5.00). Rules and regulations developed by this subcommittee from time to time shall govern the performance of medical acts by clinical pharmacist practitioners and shall become effective when adopted by both the North Carolina Medical Board and the North Carolina Board of Pharmacy. The North Carolina Medical Board shall have responsibility for securing compliance with these regulations."

Section 2. G.S. 90-18(c) is amended by adding a new subdivision to read:

"(3a) The provision of drug therapy management by a licensed pharmacist engaged in the practice of pharmacy pursuant to an agreement that is physician, pharmacist, patient, and disease specific when performed in accordance with rules and regulations developed by a joint subcommittee of the North Carolina Medical Board and the North Carolina Board of Pharmacy and approved by both Boards. Drug therapy management shall be defined as the implementation of predetermined drug therapy which includes: (i) diagnosis and product selection by the patient's physician; (ii) modification of prescribed drug dosages, dosage forms, and dosage schedules; and (iii) ordering tests; all pursuant to an agreement that is physician, pharmacist, patient, and disease specific."

Section 3. Article 1 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-18.3. Limitations on clinical pharmacist practitioners.**

(a) Any pharmacist who is approved under the provisions of G.S. 90-18(c)(3a) to perform medical acts, tasks, and functions may use the title 'clinical pharmacist practitioner'. Any other person who uses the title in any form or holds himself or herself out to be a clinical pharmacist practitioner or to be so licensed shall be deemed to be in violation of this Article.

(b) Clinical pharmacist practitioners are authorized to implement predetermined drug therapy, which includes diagnosis and product selection by the patient's physician, modify prescribed drug dosages, dosage forms, and dosage schedules, and to order laboratory tests pursuant to a drug therapy management agreement that is physician, pharmacist, patient, and disease specific under the following conditions:

(1) The North Carolina Medical Board and North Carolina Board of Pharmacy have adopted regulations developed by a joint subcommittee governing the approval of individual clinical

pharmacist practitioners to practice drug therapy management with such limitations that the Board determines to be in the best interest of patient health and safety.

(2) The clinical pharmacist practitioner has current approval from both Boards.

(3) The North Carolina Medical Board has assigned an identification number to the clinical pharmacist practitioner which is shown on written prescriptions written by the clinical pharmacist practitioner.

(4) The drug therapy management agreement prohibits the substitution of a chemically dissimilar drug product by the pharmacist for the product prescribed by the physician without the explicit consent of the physician and includes a policy for periodic review by the physician of the drugs modified pursuant to the agreement or changed with the consent of the physician.

(c) Clinical pharmacist practitioners in hospitals and other health facilities that have an established pharmacy and therapeutics committee or similar group that determines the prescription drug formulary or other list of drugs to be utilized in the facility and determines procedures to be followed when considering a drug for inclusion on the formulary and procedures to acquire a nonformulary drug for a patient may order medications and tests under the following conditions:

(1) The North Carolina Medical Board and North Carolina Board of Pharmacy have adopted regulations governing the approval of individual clinical pharmacist practitioners to order medications and tests with such limitations as the Boards determine to be in the best interest of patient health and safety.

(2) The clinical pharmacist practitioner has current approval from both Boards.

(3) The supervising physician has provided to the clinical pharmacist practitioner written instructions for ordering, changing, or substituting drugs, or ordering tests with provision for review of the order by the physician within a reasonable time, as determined by the Boards, after the medication or tests are ordered.

(4) The hospital or health facility has adopted a written policy, approved by the medical staff after consultation with nursing administrators, concerning the ordering of medications and tests, including procedures for verification of the clinical pharmacist practitioner's orders by nurses and other facility employees and such other procedures that are in the best interest of patient health and safety.

(5) Any drug therapy order written by a clinical pharmacist practitioner or order for medications or tests shall be deemed to have been authorized by the physician approved by the Boards as the supervisor of the clinical pharmacist practitioner and the

supervising physician shall be responsible for authorizing the prescription order.

(d) Any registered nurse or licensed practical nurse who receives a drug therapy order from a clinical pharmacist practitioner for medications or tests is authorized to perform that order in the same manner as if the order was received from a licensed physician."

Section 4. G.S. 90-85.3 is amended by adding a new subsection to read:

"(b1) 'Clinical Pharmacist Practitioner' means a licensed pharmacist who meets the guidelines and criteria for such title established by the joint subcommittee of the North Carolina Medical Board and the North Carolina Board of Pharmacy and is authorized to enter into drug therapy management agreements with physicians in accordance with the provisions of G.S. 90-18.3."

Section 5. G.S. 90-85.3(r) reads as rewritten:

"(r) 'Practice of pharmacy' means the responsibility for: interpreting and evaluating drug orders, including prescription orders; compounding, dispensing and labeling prescription drugs and devices; properly and safely storing drugs and devices; maintaining proper records; and controlling pharmacy goods and services. A pharmacist may advise and educate patients and health care providers concerning therapeutic values, content, uses and significant problems of drugs and devices; assess, record and report adverse drug and device reactions; take and record patient histories relating to drug and device therapy; monitor, record and report drug therapy and device usage; perform drug utilization reviews; and participate in drug and drug source selection and device and device source selection as provided in G.S. 90-85.27 through G.S. 90-85.31. A pharmacist who has received special training may be authorized and permitted to administer drugs pursuant to a specific prescription order in accordance with rules and regulations adopted by each of the Boards of Pharmacy, the Board of Nursing, and the North Carolina Medical Board. Such rules and regulations shall be designed to ensure the safety and health of the patients for whom such drugs are administered. An approved clinical pharmacist practitioner may collaborate with physicians in determining the appropriate health care for a patient, subject to the provisions of G.S. 90-18.3."

Section 6. Article 4A of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-85.26A. Clinical pharmacist practitioners subcommittee.**

The Board of Pharmacy shall appoint and maintain a subcommittee of the Board consisting of four licensed pharmacists to work jointly with the subcommittee of the North Carolina Medical Board to develop rules and regulations to govern the provision of drug therapy management by clinical pharmacist practitioners and to determine reasonable fees to accompany an application for approval or renewal of such approval as provided in G.S. 90-6. The rules developed by this subcommittee shall govern the performance of acts by clinical pharmacist practitioners and shall become effective when they have been adopted by both Boards."

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

HOUSE BILL 1095:
Clinical Pharmacist Practitioner

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Allen
Date:	May 13, 1999	**Summary by:**	Cindy Avrette and Mary Shuping, Committee Staff
Version:	PCS for 3rd Edition H1095-PCSRBX-3		

SUMMARY: ***The proposed committee substitute for House Bill 1095 would permit licensed pharmacists to be approved as clinical pharmacist practitioners in accordance with rules adopted by both the NC Medical Board and the Board of Pharmacy. Clinical pharmacist practitioners would be allowed to enter into drug therapy management agreements with a supervising physician to perform certain medical tasks. A pharmacist who uses the title "clinical pharmacist practitioner" or holds oneself out to be a clinical pharmacist practitioner without Board approval would be in violation of the Medical Practices Act. The part of the bill authorizing the Boards to develop rules becomes effective immediately. The parts of the bill governing clinical pharmacist practitioners become effective July 1, 2000.***

The proposed committee substitute makes four changes to the 3rd edition of the bill:

- ***It substitutes the correct term "rules" for "regulations" throughout the bill.***
- ***It clarifies that the rules must be adopted in accordance with Chapter 150B, the Administrative Procedure Act.***
- ***It clarifies the definition of "drug therapy management" in G.S. 90-18.***
- ***It changes the effective date. The original bill became effective when it became law.***

CURRENT LAW: Under current law (G.S. 90-85.3(r)) a licensed pharmacist's scope of practice is limited to: "interpreting and evaluating drug orders, including prescription orders; compounding, dispensing and labeling prescription drugs and devices; properly and safely storing drugs and devices; maintaining proper records; and controlling pharmacy goods and services". A pharmacist may also advise and educate patients and health care providers concerning drugs and devices. A pharmacist who has received special training may be authorized and permitted to administer drugs pursuant to a specific prescription order. While 90-18(c) provides that the practice of pharmacy does not constitute practicing medicine without a license, anything outside the pharmacist's scope of practice as defined above would constitute practicing medicine without a license.

BACKGROUND & OVERVIEW OF THE BILL: Currently, 24 states have either laws or rules governing "collaborative drug therapy management" (CDTM). CDTM's are voluntary written agreements between a specific physician and pharmacist that outline a plan for drug therapy management. (Source: NC Pharmaceutical Association) These collaborative drug therapy management agreements may include, for example, asthma management, diabetic management, diuretic therapy, and management of hypertension.

If enacted, House Bill 1095 would allow a clinical pharmacist practitioner to perform certain limited medical tasks that currently fall within a physician's scope of practice. These tasks would include the implementation of a predetermined drug therapy, modification of prescribed drug dosages, and ordering medical tests. These tasks would only be performed pursuant to a written agreement that is physician, patient, pharmacist, and disease specific.

BILL ANALYSIS: The bill would allow pharmacists to provide drug therapy management pursuant to a written agreement. It does so by addressing the issue in three different statutes in three slightly different ways.

1. It authorizes the North Carolina Medical Board and the North Carolina Board of Pharmacy to develop rules to govern the performance of medical acts by clinical pharmacist practitioners. It implies that a pharmacist will need to be approved by the Board to be a clinical pharmacist practitioner because it sets the maximum fee amounts the Board may charge for application for approval and renewal of approval. **Sections 1 and 6 of the bill.**
2. It provides an exception to the Medical Practices Act for a licensed pharmacist to provide drug therapy management pursuant to an agreement that is physician, pharmacist, patient, and disease specific when performed in accordance with rules developed by the North Carolina Medical Board and the North Carolina Board of Pharmacy. It then goes on to define "drug therapy management." **Section 2 of the bill.**
3. It makes it a violation of the Medical Practices Act for a pharmacist to use the title "clinical pharmacist practitioner" or for a pharmacist to hold oneself out to be a clinical pharmacist practitioner unless the pharmacist is approved as a clinical pharmacist practitioner. **Section 3 of the bill.**

Section 3 of the bill appears to give authorization to two different groups of potential clinical pharmacist practitioners. Subsection (b) addresses clinical pharmacist practitioners. Subsection (c) addresses clinical pharmacist practitioners that work in hospitals. As written in the bill, each group is given authority to do similar, but slightly different things, and the conditions under which each group can provide drug therapy management is slightly different.

Subsection (b) of G.S. 90-18.3, as proposed in Section 3 of the bill, provides that **clinical pharmacist practitioners** may implement predetermined drug therapy, modify prescribed drug dosages, dosage forms, and dosage schedules, and order laboratory tests (the provisions for practitioners who work in a hospital refers to "medications and tests") under the following conditions:

- The North Carolina Medical Board and the North Carolina Board of Pharmacy have adopted rules governing the approval of individual clinical pharmacist practitioners to practice drug therapy management. "Drug therapy management" is defined in G.S. 90-18, but it is not defined in this statute. (The provisions relating to practitioners who work in hospitals use the phrase "order medications and tests".)
- The clinical pharmacist practitioner has approval from both boards. This statement is unclear. The bill provides that the North Carolina Medical Board has responsibility for ensuring compliance with the rules. However, this provision appears to suggest that a pharmacist who wishes to be approved as a clinical pharmacist practitioner must be approved by the Medical Board and the Pharmacy Board.

- The North Carolina Medical Board has assigned an identification number to the practitioner that is shown on written prescriptions written by the clinical pharmacist practitioner. (The provisions relating to practitioners who work in hospitals do not include this provision.)
- The drug therapy management agreement prohibits the substitution of a chemically dissimilar drug product by the pharmacist without the explicit consent of the physician. The physician must periodically review the drugs modified or changed. The provision does not address review by the physician of laboratory tests ordered. (The provisions relating to practitioners who work in hospitals do not include a provision explicitly prohibiting the substitution of chemically dissimilar drugs.)

Subsection (c) of G.S. 20-18.3, as proposed in Section 3 of the bill, provides that **clinical pharmacist practitioners that work in a hospital or similar type of facility** may order medications and tests (the provisions for other clinical pharmacist practitioners use the phrase "implement predetermined drug therapy, modify prescribed drug dosages, dosage forms, and dosage schedules, and order laboratory tests") under the following circumstances:

- The North Carolina Medical Board and the North Carolina Board of Pharmacy have adopted rules governing the approval of individual clinical pharmacist practitioners to order medications and tests. (The provisions relating to clinical pharmacist practitioners use the phrase "to practice drug therapy management".)
- The clinical pharmacist practitioner has approval from both boards.
- The physician has provided to the clinical pharmacist practitioner written instructions for ordering, changing, or substituting drugs, or ordering tests and the physician reviews the orders within a reasonable time.
- The hospital or similar health facility has a written policy approved by the medical staff governing clinical pharmacist practitioners.
- Any drug therapy order or order for medications or tests written by a clinical pharmacist practitioner is deemed to be authorized by the physician. (The provisions that appear to govern clinical pharmacist practitioners who work outside a hospital or similar type of health facility do not provide that drug therapy orders, orders for modification of drugs, or orders for tests written by a clinical pharmacist practitioner are deemed to have been authorized by the physician.)

Sections 4 and 5 of the bill make conforming changes to the Pharmacy Practice Act.

Linda Attarian, Committee Counsel, House Health Committee, contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1095 (Proposed House Finance Committee Substitute)

SHORT TITLE: Clinical Pharmacist Practitioner

SPONSOR(S): Representative Allen

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Special Revenue Fund	---	$60,200	$45,100	$52,600	$60,100
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Medical Board, North Carolina Board of Pharmacy

EFFECTIVE DATE: Sections 2 through 5 of this act become effective July 1, 2000. The remainder of the bill is effective when it becomes law.

BILL SUMMARY: The bill authorizes the North Carolina Medical Board and the Board of Pharmacy to adopt rules to approve clinical pharmacist practitioners to practice drug therapy management pursuant to a drug therapy management agreement.

ASSUMPTIONS AND METHODOLOGY: Based on the North Carolina Board of Pharmacy Census of Registrants, there are 6,405 active licensed pharmacists in North Carolina. The pharmacists are employed as follows:

Retail pharmacy	3,504
Hospital pharmacy	1,407
Sales and research	149
Nursing home pharmacy	134
Other	1,191

Dan Garrett, Executive Director of the North Carolina Association of Pharmacists, estimates 25% of hospital pharmacists and 5% of other pharmacists will apply for approval as clinical pharmacist practitioners the first year it is offered . That would equal 352 hospital pharmacists and 250 other pharmacists paying $100 in FY 2000-01. Over a five-year period, Mr. Garrett expects 50% of hospital pharmacists and 10% of other pharmacists to apply for approval with the

Medical Board. On an annualized basis that would mean approximately 88 hospital pharmacists and 62 other pharmacists will apply in years FY 2001-02 through FY 2004-05. The fees from the application and renewal are shown below.

	Application	Fee $100	Renewal	Fee $50	Total
FY 1999-00					
FY 2000-01	602	$60,200		$0	$60,200
FY 2001-02	150	$15,000	602	$30,100	$45,100
FY 2002-03	150	$15,000	752	$37,600	$52,600
FY 2003-04	150	$15,000	902	$45,100	$60,100

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION: 733-4910
PREPARED BY: Richard Bostic

APPROVED BY:

DATE:

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☒ Committee Substitute for
S.B. 249 A BILL TO BE ENTITLED AN ACT TO EXTEND THE MORATORIUM ON ISSUING SHELLFISH CULTIVATION LEASES IN CORE SOUND, TO REQUIRE THE DIVISION OF MARINE FISHERIES AND THE PRIMARY INVESTIGATOR TO REPORT THE RESULTS OF THE SHELLFISH MAPPING AND HUMAN USE MAPPING OF CORE SOUND TO THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE AND THE MARINE FISHERIES COMMISSION, TO AUTHORIZE RATHER THAN REQUIRE THE SECRETARY OF ENVIRONMENT AND NATURAL RESOURCES TO REQUIRE FISHERIES LICENSE AGENTS TO POST BONDS, AND TO ESTABLISH AN INTERIM CRAB LICENSE.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

☒ With a favorable report as to committee substitute bill (# 3), ☒ which changes the title, unfavorable as to ~~(original bill)~~ (Committee Substitute Bill # 2), ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 249*
House Committee Substitute Favorable 4/21/99
PROPOSED HOUSE COMMITTEE SUBSTITUTE S249-CSSB-004
16:46:34 EZT / 12-MAY-99

ATTENTION: Line numbers may change after adoption.

Short Title: Core Sound Moratorium/Crab License. (Public)

Sponsors:

Referred to:

March 8, 1999

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE MORATORIUM ON ISSUING SHELLFISH CULTIVATION LEASES IN CORE SOUND, TO REQUIRE THE DIVISION OF MARINE FISHERIES AND THE PRIMARY INVESTIGATOR TO REPORT THE RESULTS OF THE SHELLFISH MAPPING AND HUMAN USE MAPPING OF CORE SOUND TO THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE AND THE MARINE FISHERIES COMMISSION, TO AUTHORIZE RATHER THAN REQUIRE THE SECRETARY OF ENVIRONMENT AND NATURAL RESOURCES TO REQUIRE FISHERIES LICENSE AGENTS TO POST BONDS, TO ESTABLISH AN INTERIM CRAB LICENSE, AND TO CLARIFY THAT THE LAWFUL TAKING OF MARINE AND ESTUARINE RESOURCES UNDER THE JURISDICTION OF THE MARINE FISHERIES COMMISSION OR AS AUTHORIZED BY A FEDERAL LAW, REGULATION, OR FISHERY MANAGEMENT PLAN IS EXEMPT FROM THE CRUELTY TO ANIMALS STATUTE.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 547 of the 1995 Session Laws, Regular Session 1996, as amended by subsection (b) of Section 1 of Chapter 633 of the 1995 Session Laws, Regular Session 1996; Section 27.33 of Chapter 18 of the 1996 Session

Laws, Second Extra Session; Section 12 of S.L. 1997-256; Section 8 of S.L. 1997-347; Section 6.14 of S.L. 1997-400; Section 15 of S.L. 1998-23; and Section 1 of S.L. 1998-56, reads as rewritten:

"Sec. 3. Notwithstanding G.S. 113-202, a moratorium on new shellfish cultivation leases shall be imposed in the remaining area of Core Sound not described in Section 1 of this act. During the moratorium, a comprehensive study of the shellfish lease program shall be conducted. The moratorium established under this section covers that part of Core Sound bounded by a line beginning at a point on Cedar Island at 35°00'39"N - 76°17'48"W, thence 109°(M) to a point in Core Sound 35°00'00"N - 76°12'42"W, thence 229°(M) to Marker No. 37 located 0.9 miles off Bells Point at 34°43'30"N - 76°29'00"W, thence 207°(M) to the Cape Lookout Lighthouse at 34°37'24"N - 76°31'30"W, thence 12°(M) to a point at Marshallberg at 34°43'07"N - 76°31'12"W, thence following the shoreline in a northerly direction to the point of beginning except that the highway bridges at Salters Creek, Thorofare Bay, and the Rumley Bay ditch shall be considered shoreline. The moratorium shall expire ~~July 1, 1999.~~ October 1, 2001."

Section 2. The Division of Marine Fisheries and the Primary Investigator for the Human Use Mapping Project in Core Sound shall report the results of the shellfish mapping and human use mapping of Core Sound to the Joint Legislative Commission on Seafood and Aquaculture and the Marine Fisheries Commission no later than October 1, 1999.

Section 3. G.S. 113-172(a) reads as rewritten:

"(a) The Secretary shall designate license agents for the Department. At least one license agent shall be designated for each county that contains or borders on coastal fishing waters. The Secretary may designate additional license agents in any county if the Secretary determines that additional agents are needed to provide efficient service to the public. The Division and license agents designated by the Secretary under this section shall issue licenses authorized under this Article in accordance with this Article and the rules of the Commission. The Secretary ~~shall~~ may require license agents to enter into a contract that provides for their duties and compensation, post a bond, and submit to reasonable inspections and audits. If a license agent violates any provision of this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate proceedings for the forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to renew a designation as a license agent and may impound or require the

return of all licenses, moneys, record books, reports, license forms and other documents, ledgers, and materials pertinent or apparently pertinent to the license agency. The Secretary shall report evidence or misuse of State property, including license fees, by a license agent to the State Bureau of Investigation as provided by G.S. 114-15.1."

Section 4.(a) Definitions. -- The definitions set out in G.S. 113-168 shall apply to this section.

Section 4.(b) SCFL Not Valid to Take Crabs. -- Notwithstanding G.S. 113-168.2, it is unlawful for any person to take crabs as part of a commercial fishing operation from the coastal fishing waters of North Carolina under a SCFL or any other license issued by the Division other than an interim crab license issued pursuant to this section.

Section 4.(c) Interim Crab License Required to Take Crabs as Part of a Commercial Fishing Operation; Sale of Crabs. -- Except as otherwise provided by this section, it is unlawful for any person to take crabs as part of a commercial fishing operation from the coastal fishing waters of North Carolina without having first procured an interim crab license. A person who works as a member of the crew of a vessel that is taking crabs as part of a commercial fishing operation under the direction of a person who holds an interim crab license is not required to hold an interim crab license. An interim crab license entitles the holder to sell crabs taken under the interim crab license.

Section 4.(d) Eligibility for Interim Crab License. -- Any person who held a valid crab license issued pursuant to G.S. 113-153.1 at any time during the period July 1, 1994, through June 30, 1999, and who holds a valid endorsement to sell fish issued pursuant to G.S. 113-154.1 on June 30, 1999, is eligible to receive an interim crab license. The Division shall issue an interim crab license to any person who is eligible under this section upon receipt of an application and required fees.

Section 4.(e) Duration; Fees. -- The interim crab license expires on October 1, 2000. The fee for the interim crab license shall be seven dollars and fifty cents ($7.50) for a resident of this State and one hundred dollars ($100.00) for a person who is not a resident of this State.

Section 4.(f) General Provisions. -- Subsections (c), (d), (e), (g), (h), and (i) of G.S. 113-168.1 shall apply to the interim crab license.

Section 4.(g) License Issuance. -- The Division shall issue an interim crab license to eligible applicants at any office of the Division.

Section 4.(h) Assignment and Transfer Prohibited. -- An interim crab license is not transferable. Except as provided in subsection (j) of this section, it is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer an interim crab license, or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer an interim crab license.

Section 4.(i) Record-Keeping Requirements. -- The record-keeping requirements of G.S. 113-168.2(i) shall apply to the interim crab license.

Section 4.(j) Exemptions. -- A person who is under 16 years of age is exempt from the license requirements of this section if the person is accompanied by a parent, grandparent, or guardian who holds an interim crab license or if the person has in the person's possession a valid interim crab license issued to the person's parent, grandparent, or guardian.

Section 4.(k) Notwithstanding subsections (b) and (c) of this section, the Marine Fisheries Commission may adopt rules to allow the landing and sale of crabs taken incidentally in the course of other commercial fishing operations.

Section 4.(l) Note to G.S. 113-168.2. -- The Revisor of Statutes shall set out this section as a note to G.S. 113-168.2.

Section 5. G.S. 14-360(c) reads as rewritten:

"(c) As used in this section, the words 'torture', 'torment', and 'cruelly' include or refer to any act, omission, or neglect causing or permitting unjustifiable pain, suffering, or death. As used in this section, the word 'intentionally' refers to an act committed knowingly and without justifiable excuse, while the word 'maliciously' means an act committed intentionally and with malice or bad motive. As used in this section, the term 'animal' includes every living vertebrate except human beings. However, this section shall not apply to the following activities:

(1) The lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, except that this section shall apply to those birds exempted by the Wildlife Resources Commission from its definition of 'wild birds' pursuant to G.S. ~~113-129(15a);~~ 113-129(15a).

(2) Lawful activities conducted for purposes of biomedical research or training or for purposes of production of livestock or ~~poultry;~~ poultry.

(3) Activities conducted for lawful veterinary ~~purposes; or~~ purposes.

(4) The lawful destruction of any animal for the purposes of protecting the public, other animals, property, or the public health.

(5) The lawful taking of marine and estuarine resources (i) under the jurisdiction of the Marine Fisheries Commission or (ii) as authorized by a federal law, regulation, or fishery management plan."

Section 6. Section 5 of this act is effective when this act becomes law. All other sections of this act become effective July 1, 1999. Section 4 of this act expires October 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 249*
House Committee Substitute Favorable 4/21/99

Short Title: Extend Core Sound Moratorium. (Public)

Sponsors:

Referred to:

March 8, 1999

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE MORATORIUM ON ISSUING SHELLFISH CULTIVATION LEASES IN CORE SOUND, TO REQUIRE THE DIVISION OF MARINE FISHERIES AND THE PRIMARY INVESTIGATOR TO REPORT THE RESULTS OF THE SHELLFISH MAPPING AND HUMAN USE MAPPING OF CORE SOUND TO THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE AND THE MARINE FISHERIES COMMISSION, TO AUTHORIZE RATHER THAN REQUIRE THE SECRETARY OF ENVIRONMENT AND NATURAL RESOURCES TO REQUIRE FISHERIES LICENSE AGENTS TO POST BONDS, AND TO ESTABLISH AN INTERIM CRAB LICENSE.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 547 of the 1995 Session Laws, Regular Session 1996, as amended by subsection (b) of Section 1 of Chapter 633 of the 1995 Session Laws, Regular Session 1996; Section 27.33 of Chapter 18 of the 1996 Session Laws, Second Extra Session; Section 12 of S.L. 1997-256; Section 8 of S.L. 1997-347; Section 6.14 of S.L. 1997-400; Section 15 of S.L. 1998-23; and Section 1 of S.L. 1998-56, reads as rewritten:

"Sec. 3. Notwithstanding G.S. 113-202, a moratorium on new shellfish cultivation leases shall be imposed in the remaining area of Core Sound not described in Section 1 of this act. During the moratorium, a comprehensive study of the shellfish lease program shall be conducted. The moratorium established under this section covers that part of Core Sound bounded by a line beginning at a point on Cedar Island at

35°00'39"N - 76°17'48"W, thence 109°(M) to a point in Core Sound 35°00'00"N - 76°12'42"W, thence 229°(M) to Marker No. 37 located 0.9 miles off Bells Point at 34°43'30"N - 76°29'00"W, thence 207°(M) to the Cape Lookout Lighthouse at 34°37'24"N - 76°31'30"W, thence 12°(M) to a point at Marshallberg at 34°43'07"N - 76°31'12"W, thence following the shoreline in a northerly direction to the point of beginning except that the highway bridges at Salters Creek, Thorofare Bay, and the Rumley Bay ditch shall be considered shoreline. The moratorium shall expire ~~July 1, 1999.~~ October 1, 2001."

Section 2. The Division of Marine Fisheries and the Primary Investigator for the Human Use Mapping Project in Core Sound shall report the results of the shellfish mapping and human use mapping of Core Sound to the Joint Legislative Commission on Seafood and Aquaculture and the Marine Fisheries Commission no later than October 1, 1999.

Section 3. G.S. 113-172(a) reads as rewritten:

"(a) The Secretary shall designate license agents for the Department. At least one license agent shall be designated for each county that contains or borders on coastal fishing waters. The Secretary may designate additional license agents in any county if the Secretary determines that additional agents are needed to provide efficient service to the public. The Division and license agents designated by the Secretary under this section shall issue licenses authorized under this Article in accordance with this Article and the rules of the Commission. The Secretary ~~shall~~ may require license agents to enter into a contract that provides for their duties and compensation, post a bond, and submit to reasonable inspections and audits. If a license agent violates any provision of this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate proceedings for the forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to renew a designation as a license agent and may impound or require the return of all licenses, moneys, record books, reports, license forms and other documents, ledgers, and materials pertinent or apparently pertinent to the license agency. The Secretary shall report evidence or misuse of State property, including license fees, by a license agent to the State Bureau of Investigation as provided by G.S. 114-15.1."

Section 4.(a) Definitions. -- The definitions set out in G.S. 113-168 shall apply to this section.

Section 4.(b) SCFL Not Valid to Take Crabs. -- Notwithstanding G.S. 113-168.2, it is unlawful for any person to take crabs as part of a commercial fishing operation from the coastal fishing waters of North Carolina under a SCFL or any other license issued by the Division other than an interim crab license issued pursuant to this section.

Section 4.(c) Interim Crab License Required to Take Crabs as Part of a Commercial Fishing Operation; Sale of Crabs. -- Except as provided in subsection (j) of this section, it is unlawful for any person to take crabs as part of a commercial fishing operation from the coastal fishing waters of North Carolina without having first procured an interim crab license. A person who works as a member of the crew of a vessel that is taking crabs as part of a commercial fishing operation under the

direction of a person who holds an interim crab license is not required to hold an interim crab license. An interim crab license entitles the holder to sell crabs taken under the interim crab license.

Section 4.(d) Eligibility for Interim Crab License. -- Any person who held a valid crab license issued pursuant to G.S. 113-153.1 during the period July 1, 1994, through July 1, 1999, is eligible to receive an interim crab license. The Division shall issue an interim crab license to any person who is eligible under this section upon receipt of an application and required fees.

Section 4.(e) Duration; Fees. -- The interim crab license expires on October 1, 2000. The fee for the interim crab license shall be seven dollars and fifty cents ($7.50) for a resident of this State and one hundred dollars ($100.00) for a person who is not a resident of this State.

Section 4.(f) General Provisions. -- Subsections (c), (d), (e), (g), (h), and (i) of G.S. 113-168.1 shall apply to the interim crab license.

Section 4.(g) License Issuance. -- The Division shall issue an interim crab license to eligible applicants at any office of the Division.

Section 4.(h) Assignment and Transfer Prohibited. -- An interim crab license is not transferable. Except as provided in subsection (j) of this section, it is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer an interim crab license, or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer an interim crab license.

Section 4.(i) Record-Keeping Requirements. -- The record-keeping requirements of G.S. 113-168.2(i) shall apply to the interim crab license.

Section 4.(j) Exemptions. -- A person who is under 16 years of age is exempt from the license requirements of this section if the person is accompanied by a parent, grandparent, or guardian who holds an interim crab license or if the person has in the person's possession a valid interim crab license issued to the person's parent, grandparent, or guardian.

Section 4.(k) Note to G.S. 113-168.2. -- The Revisor of Statutes shall set out this section as a note to G.S. 113-168.2.

Section 5. This act becomes effective July 1, 1999. Section 4 of this act expires October 1, 2000.

SENATE BILL 249:
Core Sound Moratorium/Crab License

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Albertson
Date:	May 13, 1999	**Summary by:**	Jeff Hudson, Staff Attorney
Version:	Second Edition		

SUMMARY: Senate Bill 249 extends the sunset on the moratorium on issuing shellfish cultivation leases in Core Sound to October 1, 2001; authorizes rather than requires the Secretary of Environment and Natural Resources to require fisheries license agents to post bonds; establishes an interim crab license, and clarifies the marine and estuarine resources exemption to the cruelty to animals statute.

SECTION BY SECTION BILL ANALYSIS

Section 1. Extension of the Core Sound Moratorium. – Under current law, there is a moratorium on the issuance of shellfish cultivation leases in Core Sound that is set to expire on July 1, 1999. The Division of Marine Fisheries (Division) is in the process of completing its shellfish mapping of Core Sound, which identifies shellfish density and habitat. A human use mapping project designed to facilitate a better understanding of user conflicts is also underway for Core Sound and is scheduled to be completed during the summer of 1999. In addition to these studies, the Division and the Marine Fisheries Commission are currently developing the Fishery Management Plan for Shellfish. The Division estimates that the Shellfish Fishery Management Plan will be completed during the fall of 2000. Senate Bill 249 would extend the moratorium on issuing shellfish cultivation leases in Core Sound from July 1, 1999 to October 1, 2001.

Section 2. Report on Core Sound Studies. – Senate Bill 249 requires the Division and the primary investigator to report on the shellfish and human-use mapping of Core Sound to the Joint Legislative Commission on Seafood and Aquaculture and the Marine Fisheries Commission no later than October 1, 1999.

Section 3. Fisheries License Agents. – Under current law, effective July 1, 1999, the Secretary of Environment and Natural Resources will be required to bond all license agents who sell marine fishing licenses. The Division is coordinating with the Wildlife Resources Commission (WRC) to use WRC license agents to sell the Division's Recreational Commercial Gear License. Current law does not require the bonding of WRC license agents. Section 3 of Senate Bill 249 would authorize the Secretary, rather than require the Secretary, to bond fisheries license agents.

Section 4. Interim Crab License. – Under current law, effective July 1, 1999, the existing license to take and sell crabs will expire and all holders of a Standard Commercial Fishing License will be able to participate in the crab fishery. The Marine Fisheries Commission has adopted a Fishery Management Plan for Blue Crab, but the Plan does not include provisions for the control of effort in the blue crab fishery. The Marine Fisheries Commission presented the Plan to the Joint Legislative Commission on Seafood and Aquaculture and the Environmental Review Commission and requested legislation to maintain the status quo for effort in the blue crab fishery while it developed an effort control strategy. The Joint Legislative Commission on Seafood and Aquaculture and the Environmental Review Commission took no action on this request.

Section 4 of Senate Bill 249 establishes an interim crab license that is effective from July 1, 1999 through October 1, 2000. Section 4 provides that during this period, only those persons who hold an interim crab license or work under the direction of a person who holds an interim crab license will be able to take and sell crabs. The specific provisions of the interim crab license are as follows:

- Eligibility. – Only those individuals who held a crab license at any time during the period July 1, 1994 through June 30, 1999 are eligible to receive an interim crab license. The **Proposed Committee Substitute** for Senate Bill 249 adds to the eligibility provision the requirement that an individual must **also** hold an endorsement to sell fish on June 30, 1999, in order to be eligible to receive an interim crab license.
- Fees. – The fee for the interim crab license is $7.50 for North Carolina residents and $100.00 for nonresidents.
- Assignment and Transfer. – Assignment and transfer are prohibited.
- Exemption. – A person who is under 16 years of age is exempt from the license requirement if the person is accompanied by a parent, grandparent, or guardian who holds an interim crab license or if the person has in the person's possession an interim crab license issued to the person's parent, grandparent, or guardian.

The **Proposed Committee Substitute** for Senate Bill 249 adds an authorization for the Marine Fisheries Commission to adopt rules that allow the landing and sale of crabs taken incidentally in the course of other commercial fishing operations.

Section 5. Marine Fisheries Exemption to the Cruelty to Animals Statute. – The **Proposed Committee Substitute** clarifies that the lawful taking of marine and estuarine resources (i) under the jurisdiction of the Marine Fisheries Commission or (ii) as authorized by federal law is exempt from the cruelty to animals statute.

Section 6. Effective Date. – Section 5 of this act becomes effective when this act becomes law. All other sections of this act become effective July 1, 1999. The interim crab license expires October 1, 2000.

NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 249 (Proposed House Finance Committee Substitute)

SHORT TITLE: Extend Core Sound Moratorium

SPONSOR(S): Senator Albertson

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Agency Receipts	$20,540				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources (DENR) – Division of Marine Fisheries

EFFECTIVE DATE: The act becomes effective July 1, 1999. Section 4 (interim crab license) of the bill expires October 1, 2000.

BILL SUMMARY:
The bill extends the moratorium on issuing shellfish cultivation leases in Core Sound, requires the Division of Marine Fisheries to report the results of shellfish mapping and human use mapping of Core Sound, authorizes the Secretary of DENR to require fisheries license agents to post bonds, and establishes an interim crab license.

ASSUMPTIONS AND METHODOLOGY:
Section 4 of SB 249 has a fiscal impact of $20,540 in FY 99-00 by creating an interim crab license for the period July 1, 1999 to October 1, 2000. To be eligible for the interim crab license, a person has to have both a crab license issued between July 1, 1994 and June 30, 1999 and an endorsement to sell fish issued as of June 30, 1999. The Division of Marine Fisheries has determined that there are 2,712 individuals qualified for the $7.50 resident license and 2 persons qualified for the non-resident license. Since crab licenses were set to expire on July 1, 1999, this interim license is considered new revenue.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic
APPROVED BY:
DATE:

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☒ Committee Substitute for
S.B. 468 A BILL TO BE ENTITLED AN ACT CONCERNING CORNER LOT ASSESSMENT EXEMPTIONS BY THE CITY OF WINSTON-SALEM AND FORSYTH COUNTY.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 468
Finance Committee Substitute Adopted 4/22/99

Short Title: Winston-Salem/Forsyth Assessments. (Local)

Sponsors:

Referred to:

March 23, 1999

A BILL TO BE ENTITLED

AN ACT CONCERNING CORNER LOT ASSESSMENT EXEMPTIONS BY THE CITY OF WINSTON-SALEM AND FORSYTH COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-219 reads as rewritten:

"**§ 160A-219. Corner lot exemptions.**

The council shall have authority to establish schedules of exemptions from assessments for corner lots when a project is undertaken along both sides of such lots. The schedules of exemptions shall be based on categories of land use (residential, commercial, industrial, or agricultural) and shall be uniform for each category. The schedule of exemptions may ~~not~~ provide for exemption of up to ~~more than~~ seventy-five percent (75%) of the frontage of any side of a corner lot, or ~~150~~ 200 feet, whichever is greater."

Section 2. G.S. 153A-187 reads as rewritten:

"**§ 153A-187. Corner lot exemptions.**

The board of commissioners may establish schedules of exemptions from assessments for water or sewer projects for corner lots when water or sewer lines are installed along both sides of the lots. A schedule of exemptions shall be based on categories of land use (residential, commercial, industrial, and agricultural) and shall be uniform for each category. A schedule may ~~not~~ allow exemption of up to ~~more than~~ seventy-five percent (75%) of the frontage of any side of a corner lot, or ~~150~~ 200 feet, whichever is greater."

Section 3. This act applies only to the City of Winston-Salem, Forsyth County, and the City/County Utility Commission of Winston-Salem and Forsyth County, and to any property served by any of them. To the extent this act conflicts with Chapter 224 of the Private Laws of 1927, this act prevails.

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

SENATE BILL 468:
Winston-Salem/Forsyth Assessments

BILL ANALYSIS

Committee: House Finance Committee
Date: May 13, 1999
Version: 2nd Edition

Introduced by: Senator Horton
Summary by: Cindy Avrette
Committee Counsel

SUMMARY: Senate Bill 468 amends the city and county statutes to authorize the governing body to expand the exemption from assessments for corner lots when a project is undertaken along both sides of such lots. This is a local act applying only to the City of Winston-Salem, Forsyth County, the City/County Utility Commission of Winston-Salem and Forsyth County, and any property served by these entities

CURRENT LAW: The statutes regarding corner lot exemptions for cities and counties authorize the respective governing body to establish schedules of exemptions from assessments for corner lots. These schedules of exemptions are based on categories of land use. The schedule for exemption may provide for exemption from assessments for corner lots of up to 75% of the frontage of any side of a corner lot, or 150 feet, whichever is greater

BILL ANALYSIS: **Senate Bill 468** expands this exemption from assessments to include corner lots of up to 75% of the frontage of any side of a corner lot or **200** feet, whichever is greater. The bill makes a corresponding change to the statute regarding the counties' authority over corner lot exemptions, and clarifies that this act prevails over any conflicting provision in the private laws pertaining to Winston-Salem.

The act applies only to the City of Winston-Salem, Forsyth County, and the City/County Utility Commission of Winston-Salem and Forsyth County, and to any property served by any of these entities.

The act is effective when it becomes law.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 534 A BILL TO BE ENTITLED AN ACT PROVIDING THAT THE TOWN OF KENANSVILLE IS NOT OBLIGATED TO PROVIDE SERVICES TO CERTAIN ANNEXED PROPERTY.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 534

Short Title: Kenansville Services. (Local)

Sponsors: Senator Albertson.

Referred to: Finance.

March 29, 1999

A BILL TO BE ENTITLED

AN ACT PROVIDING THAT THE TOWN OF KENANSVILLE IS NOT OBLIGATED TO PROVIDE SERVICES TO CERTAIN ANNEXED PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other provision of law, the Town of Kenansville is not obligated to provide any services to Country Squire Restaurant, described herein as Tract 1, and Grey Fox Restaurant (formerly known as Josef's Restaurant), described herein as Tract 2:

Tract 1

Located in Kenansville Township, Duplin County, North Carolina and more particularly described as follows:

BEGINNING at a railroad spike in the centerline of North Carolina Highway Number 24, corner "A" shown on a map entitled "Country Squire & Vintage Inn Property", dated October 7, 1982, as recorded in Map Book 11, Page 95, of the Duplin County Registry, the northwest corner of Tract No. 10 of the T. J. McGowan Division (Map Book 5, Page 15), said railroad spike being located North 58 degrees 17 minutes 25 seconds West 470.90 feet from a 1/2 inch iron rod in the centerline intersection of N.C. Hwy. No. 24 and N.C.S.R. No. 1376, and runs thence;

1. With the center of the pavement of N.C. Hwy. No. 24 North 58 degrees 17 minutes 25 seconds West 499.84 feet to a 1/2 inch iron rod; thence

2. North 25 degrees 27 minutes 15 seconds East 389.50 feet (passing a concrete monument at 176.03 feet) to a concrete monument, corner "C"; thence

3. North 76 degrees 43 minutes 45 seconds East 92.29 feet to a concrete monument, corner "D"; thence

4. South 65 degrees 06 minutes 15 seconds East 317.76 feet to a concrete monument, corner "E"; thence

5. South 38 degrees 40 minutes 15 seconds East 534.67 feet to a concrete monument in the north line of Tract No. 10 of the T. J. McGowan division, corner "F"; thence

6. With the line of Tract No. 10 South 79 degrees 28 minutes 35 seconds West 461.98 feet to the point of BEGINNING, containing 7.26 acres, more or less, as shown on a map entitled "Country Squire & Vintage Inn Property" dated October 7, 1982 as recorded in Map Book 11, Page 95 of the Duplin County Registry, and being part of that land described in deeds recorded in the Duplin County Registry as follows: To Joseph A. West and wife, Janet H. West in Book 553, Page 93, to H. M. West in Book 423, Page 274, to Joseph A. West in Book 756, Page 304, and to Joseph A. West in Book 898, Page 539. And further being the same lands described in a deed dated the 22nd day of October, 1982, from Joseph A. West (Single) and Leona H. West (Widow), to Eakes Investment Company, Joe D. Eakes and Doris W. Eakes, partners, recorded in Book 903, Page 340, Duplin County Registry.

Tract 2

Located in Kenansville Township, Duplin County, State of North Carolina, and being described with bearings relative to the North Carolina Grid Meridian as follows:

BEGINNING at a 1/2 inch iron rod in the center of the pavement of N. C. Hwy. No. 24 and 50 corner "B" shown on a map recorded in Map Book 11, Page 95 of the Duplin County Registry, said iron rod being located North 58 degrees 17 minutes 25 seconds West a distance of 970.74 feet from a 1/2 inch rod in the centerline intersection of N. C. Hwy. No. 24 and S. R. No. 1376, and runs thence

With the center of the pavement of N. C. Hwy. No. 24 and 50 North 58 degrees 17 minutes 25 seconds West a distance of 119.02 feet to a 1/2 inch iron rod in the center of pavement; thence

To and with the line of the 1.17 acre house tract North 31 degrees 21 minutes 44 seconds East a distance of 251.84 feet to a 3/4 inch iron pipe; thence

North 31 degrees 21 minutes 44 seconds East a distance of 100.00 feet to a 1/2 inch iron rod; thence

North 58 degrees 17 minutes 25 seconds West a distance of 252.77 feet to a stake; thence

North 31 degrees 21 minutes 44 seconds East a distance of 500.00 feet to a stake; thence

South 58 degrees 17 minutes 25 seconds East a distance of 350.00 feet to a stake; thence

South 24 degrees 36 minutes 16 seconds West a distance of 402.50 feet to a concrete monument a corner of the 7.26 acre tract sold to the Eakes Investment Company; thence

With the lines of the 7.26 acre tract South 76 degrees 43 minutes 45 seconds West a distance of 92.29 feet to a concrete monument, South 25 degrees 27 minutes 15 seconds West a distance of 389.50 feet to the point of beginning, CONTAINING 5.06 acres more or less, and being part of the 80 acre tract described in a deed to H. M. West as recorded in Book 423, Page 274 of the Duplin County Registry.

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

VISITOR REGISTRATION SHEET

HOUSE FINANCE COMMITTEE — 5/13/99

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

	NAME	FIRM OR AGENCY AND ADDRESS
1	John McMillan	MFUS
2	C Markham	EGTS
3	M Hancock	EGTS
4	Alice Garland	Electricities
5	[illegible]	Greenville Utils
6	[illegible]	Peterson Williams & Inc
7	[illegible]	Rep.
8	John Bardach	Zeb Alley PA
9	Jim Hobbs	NCHMA
10	R. Rogers	DENR
11	Lamar Davis	DENR
12	Steve Keene	NCMS
13	Mac Flynn	NC SA
14	Hugh Gibson	NCHA
15	Mike Waters	NCRPS
16	Andy Romanet	N.C.L.P.C.
17	Amy Fullbright	Hunton & Williams
18	Fred Ayers	[illegible]
19	Cindy Elle	NCRMA
20	Fred Preston	NCRMA
21	Cary Cover	BPMHL
22	[illegible]	NCSFI
23	Alida Pendleton Gregory	Poyner & Spruill
24	Mary Hunter	Bode & Associates

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Tuesday, May 18, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 33 - Cumberland Sales Tax for Schools - Reps. Warner and Hurley
HB 665 - Modify Currituck Room Tax - Rep. Owens
HB 1134 - UNC/Horace Williams Campus - Rep. Insko
SB 353 - Davidson Satellite Annexation - Sen. Odom
SB 436 - Validate Certain Bond Referenda - Sen. Plyler
SB 712 - Cornelius Voluntary Annexation - Sen. Odom

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Tuesday, May 18, 1999

The House Committee on Finance met on Tuesday, May 18, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke, Miller; Vice Chairs Jarrell and Wood; Representatives Brown, Buchanan, Capps, Cox, Cunningham, Decker, Dedmon, Eddins, Edwards, Gibson, Goodwin, Gray, Hackney, Hill, McCombs, Mosley, Pope, Rayfield, Tucker, Wilson, and Womble. Staff including Cindy Avrette, Richard Bostic, Mary Shuping, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Luebke called the meeting to order to consider the following bills:

Rep. Owens was recognized to explain HB 665, A BILL TO BE ENTITLED AN ACT TO MODIFY THE CURRITUCK COUNTY ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX. Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion purposes only. Cindy Avrette explained the bill. Rep. Buchanan moved to give the bill a favorable report. The motion passed. The bill and Fiscal Note are included in these minutes.

Reps. Warner and Hurley were recognized to explain HB 33, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE CUMBERLAND COUNTY TO LEVY ONE-CENT LOCAL SALES AND USE TAXES FOR PUBLIC SCHOOL BUILDINGS. Rep. Hurley commented on the bill and introduced Dr. Bill Harrison - Superintendent of Public Schools for Cumberland County, and also Mr. David Jamison, Mr. Rick Glazier - Chairman of the Cumberland County Board of Education, and Mr. George Priest. Cindy Avrette explained the bill. Linda Millsaps explained the fiscal impact. Members questioned Cindy Avrette and Linda Millsaps. The Chair recognized Dr. Harrison and Mr. Glazier to comment. Members questioned Reps. Hurley and Warner. Rep. Miller moved to assign the bill to a subcommittee. Rep. Brown seconded Rep. Miller's motion. Reps. Hurley and Warner commented. Rep. Miller's motion passed and the bill was sent to a subcommittee. The bill, Bill Summary, and Fiscal Note are included in these minutes.

Rep. Insko was recognized to explain HB 1134, A BILL TO BE ENTITLED AN ACT TO ESTABLISH THE HORACE WILLIAMS CAMPUS TRUST FUND, TO AUTHORIZE THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO ISSUE REVENUE BONDS FOR THE DEVELOPMENT OF THE HORACE WILLIAMS CAMPUS, TO EXEMPT THE HORACE WILLIAMS CAMPUS FROM THE UMSTEAD ACT, AND TO MAKE VARIOUS CONFORMING CHANGES. Rep. Insko introduced Mr. John House - Special Assistant to Chancellor Hooker, Dr. Ramsey - Vice Chancellor of Finance at UNC, Ms. Evelyn Hawthorne, and Mr. Clifton Metcalf. Rep. Gray moved for a favorable report. Cindy Avrette explained the bill. Members commented on the bill. Linda Millsaps explained the fiscal impact. Rep. Gray's motion passed. The bill, Bill Summary, and Fiscal Note are included in these minutes.

Rep. Saunders was recognized to explain Sen. Odom's SB 353, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE TOWN OF DAVIDSON TO MAKE ADDITIONAL VOLUNTARY SATELLITE ANNEXATIONS IF CERTAIN CRITERIA ARE MET. Rep. Dedmon moved for a favorable report. The motion passed. The bill and Bill Summary are included in these minutes.

Rep. Saunders was recognized to explain Sen. Odom's SB 712, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE TOWN OF CORNELIUS TO PROVIDE FOR VOLUNTARY ANNEXATION OF PROPERTY SUBJECT TO PRESENT-USE VALUE APPRAISAL. Cindy Avrette explained the bill. Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion only. Rep. Buchanan moved to give the Proposed Committee Substitute a favorable report and unfavorable to the original bill. The motion passed. The bill, Proposed Committee Substitute, and Bill Summary are included in these minutes.

Sen. Plyler was recognized to explain SB 436, A BILL TO BE ENTITLED AN ACT TO RATIFY, APPROVE, CONFIRM, AND VALIDATE CERTAIN BOND REFERENDA OF UNITS OF LOCAL GOVERNMENT HELD IN CONNECTION WITH THE AUTHORIZATION OF BONDS OF THOSE UNITS. Rep. Goodwin moved to give the bill a favorable report. The motion passed. The bill is included in these minutes.

There being no further business, the Chair adjourned the meeting at 9:45 a.m.

Respectfully submitted:

Representative Paul Luebke
Chair

Kristen L. Crosson

Kristen L. Crosson
Finance Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

HOUSE BILL 33

Short Title: Cumberland Sales Tax for Schools. (Local)

Sponsors: Representatives Warner, Hurley, Kinney; and Yongue.

Referred to: Finance.

February 4, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CUMBERLAND COUNTY TO LEVY ONE-CENT LOCAL SALES AND USE TAXES FOR PUBLIC SCHOOL BUILDINGS.

The General Assembly of North Carolina enacts:

Section 1. This act applies to Cumberland County only.

Section 2. Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 44.

"Second One-Cent (1¢) Local Government Sales and Use Tax.

"**§ 105-525. Short title.**

This Article is the Second One-Cent (1¢) Local Government Sales and Use Tax Act.

"**§ 105-526. Limitations.**

This Article applies only to counties that levy the first one-cent (1¢) sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter.

"**§ 105-527. Levy of tax.**

The board of commissioners of a county may, by resolution, levy one percent (1%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Before adopting a resolution under this section, the board of commissioners must give at least 10 days' public notice of its intent to adopt the resolution and must hold a public hearing on the issue of adopting the resolution.

"**§ 105-528. Administration of taxes.**

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of the additional taxes authorized by this Article shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to 'this Article' mean 'Article 44 of Chapter 105 of the General Statutes'.

A tax levied under this Article does not apply to the sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but would be exempt from the State sales and use tax pursuant to G.S. 105-164.13 if it were purchased under the Food Stamp Program, 7 U.S.C. § 51.

"**§ 105-529. Expiration.**

A tax levied under this Article expires 10 years after the effective date of its levy. A county's authorization to levy a tax under this Article expires 10 years after the effective date of the first tax a county levies under this Article, even if the tax has not remained in effect for the entire 10-year period. The expiration of a tax pursuant to this Article does not affect the rights or liabilities of a county, a taxpayer, or another person arising under the expired tax; nor does it affect the right to any refund or credit of a tax that would otherwise have been available under the expired tax before its expiration.

If the Secretary receives a valid request for a refund of a tax levied under this Article after the tax has expired and the net proceeds have been distributed, the Secretary shall draw the refund from the taxing county's share of the net proceeds of the tax it levies under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, as applicable.

"**§ 105-530. Distribution and use of taxes.**

(a) Distribution. -- The Secretary shall, on a quarterly basis, distribute to each taxing county the net proceeds of the tax collected in that county under this Article. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary shall allocate these taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article in that month and shall include them in the quarterly distribution.

(b) Use. -- The proceeds of a tax levied under this Article may be used only for public school capital outlay purposes as defined in G.S. 115C-426(f) or to retire any indebtedness incurred by the county for these purposes after January 1, 1997."

Section 3. A tax levied under Article 44 of Chapter 105 of the General Statutes, as enacted by this act, does not apply to construction materials purchased to fulfill a lump-sum or unit-price contract entered into or awarded before the effective date of the levy or entered into or awarded pursuant to a bid made before the effective date of the levy when the construction materials would otherwise be subject to the tax levied under Article 44 of Chapter 105 of the General Statutes.

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

HOUSE BILL 33:
Cumberland Sales Tax for Schools

BILL ANALYSIS

Committee: House Finance
Date: May 18, 1999
Version: 1st Edition

Introduced by: Rep. Warner and Hurley
Summary by: Cindy Avrette
Committee Counsel

SUMMARY: ***House Bill 33 authorizes the Cumberland County Board of Commissioners to levy an additional 1% sales and use tax within the county. The net proceeds must be used for public school capital outlay purposes or to retire any indebtedness incurred by the county for those purposes after January 1, 1999. The tax, if enacted, will expire ten years after the effective date of its levy.***

BILL ANALYSIS: House Bill 33 authorizes the Cumberland County Board of Commissioners to levy an additional 1% sales and use tax within the county to be used for public school capital outlay purposes or to retire any indebtedness incurred by the county for these purposes after January 1, 1997. Public school capital outlay, as defined in G.S. 115C-426(f), is very broad. It includes expenditures for all of the following:

- Acquisition of real property for school purposes, including school sites, playgrounds, athletic fields, administrative headquarters, and garages.
- Acquisition, construction, reconstruction, enlargement, renovation, or replacement of buildings and other structures, such as classrooms, laboratories, libraries, auditoriums, gymnasiums, administrative offices, storage, and vehicle maintenance.
- Acquisition or replacement of furniture, instructional apparatus, data-processing equipment, and business machines.
- Acquisition of school buses as additions to the fleet.
- Acquisition of activity buses and other motor vehicles.

The board of county commissioners can levy the tax by adopting a resolution, after giving public notice of its intent to do so and holding a public hearing on the issue. The tax would apply to all items that are currently in the local sales and use tax base other than food that may be purchased with food stamps. Like the existing local sales taxes, the Department of Revenue will collect the tax. The net proceeds of the tax collected in the taxing county will be allocated to the county. This distribution is known as a point of collection or point of origin basis for distribution. The tax will expire 10 years after the effective date of the tax levy.

CURRENT LAW: Under current law, all counties are authorized to levy a total of two cents local sales and use taxes. The net proceeds of the first one-cent tax are distributed to counties on a point of origin basis and the net proceeds of the two additional half-cent taxes are distributed to counties on a per capita basis. This per capita distribution is probably unconstitutional, although it has never been challenged in court. The amount distributed to each county is divided between the county and its

municipalities, on either an ad valorem tax basis or a per capita basis, as chosen by the county. Local governments may use the first one-cent tax for any lawful purpose. Counties must use part of the proceeds of the two additional half-cent taxes for public school capital outlay.

The following chart summarizes the existing local option sales tax laws:

Tax	Date Authorized	Use	Distribution Method
1 cent	1967 for Mecklenburg & 1971 for all counties	Any lawful purpose	Point of collection
First ½ cent	1983	Part of county share earmarked for public school capital outlay. Part of city share formerly earmarked for water and sewer capital outlay	Per capita
Second ½ cent	1986	Part of county share earmarked for public school capital outlay. Part of city share formerly earmarked for water and sewer capital outlay	Per capita

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: H.B. 33 Cumberland Sales Tax for Schools

SHORT TITLE: Cumberland Sales Tax for Schools

SPONSOR(S): Rep. Warner and Rep. Hurley

FISCAL IMPACT

Yes (x) **No ( )** **No Estimate Available ( )**

($ Millions)

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
General Fund	* No General Fund Impact *				
Cumberland County	16.3	22.8	24.0	25.2	26.4

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Cumberland County Schools and the North Carolina Department of Revenue, Sales Tax Division.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The bill authorizes the Cumberland County Commission to levy an additional 1% sales and use tax. The Commission can approve such a tax levy through a resolution, once a public hearing is held. The additional tax does not apply to food. The bill also instructs the Department of Revenue to administer the tax, and forward the net proceeds to the county on a quarterly basis. The Secretary of Revenue can deduct from the quarterly payment the costs associated with administering the tax. Special provisions are made for certain contracts entered into or awarded before the effective date of the law or levy. The proceeds of the new tax must be used for public school capital outlays as defined in G.S. 115C-426(f) ,or to retire debt incurred by the county for school capital after January 1, 1997. The authority to levy the tax expires ten years after the effective tax of the tax.

ASSUMPTIONS AND METHODOLOGY: Every county in the state currently levies a 1-% point of origin sales tax. (The tax is point of origin because the money raised in a particular county is returned to that county, or its point of origin). Historical reports from the Department of Revenue indicate the amount of revenue returned to each county, by quarter, from this tax. These numbers suggest what an individual county would raise through their own local tax.

Cumberland County, historically, has raised the following amounts through a 1-% sales tax (excluding food):

1992-93	1993-94	1994-95	1995-96	1996-97
18,234,945	19,692,304	20,298,837	21,152,150	22,014,900

Assuming this revenue source continues to grow by 5% per year, income from the tax will be as follows:

1999-00	2000-01	2001-02	2002-03	2003-04
21,755,095	22,842,850	23,984,992	25,184,242	26,443,454

This note assumes that Cumberland County tax will not be collected until July 1, 1999. As such, the county will not see additional revenue until the second quarter of FY 1999-00. The actual amount shown as the fiscal estimate has been adjusted for this lag.

NOTE: The bill instructs the Secretary of Revenue to deduct the cost associated with administering the tax from the proceeds of the tax. This cost, however, has not been deducted from the estimate. The Department of Revenue is not prepared to offer an estimated cost at this time.

NOTE: The definition of capital outlays for schools, as defined in G.S. 115C-426(f) is very broad. While construction is certainly included, it appears the definition also includes capital equipment, the purchase of school buses, business machines, furnishings, equipment, cars, administrative buildings, etc.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY: Tom Covington

DATE: Monday, May 17, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 665 A BILL TO BE ENTITLED AN ACT TO MODIFY THE CURRITUCK COUNTY ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-155
HOUSE BILL 665

AN ACT TO MODIFY THE CURRITUCK COUNTY ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 209 of the 1987 Session Laws, as amended by Chapter 155 of the 1991 Session Laws, reads as rewritten:

"Section 1. Occupancy tax. (a) Authorization and scope. The Currituck County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3), or from the rental of a campsite within the county. This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

(a1) Additional occupancy tax. In addition to the tax authorized by subsection (a) of this section, the Currituck County Board of Commissioners may levy a room occupancy tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under subsection (a). The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this act. Currituck County may not levy a tax under this subsection unless it also levies the tax under subsection (a).

(b) A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

~~Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The Currituck County Tax Collector shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county tax collector in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on~~

~~a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A return filed with the county tax collector under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this section shall pay a penalty of ten dollars ($10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid. Any person who willfully attempts in any manner to evade a tax imposed under this section or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both. The Board of Commissioners may, for good cause shown, compromise or forgive the tax penalties imposed by this subsection.~~

(e) Use of tax revenue. Currituck County shall use at least seventy-five percent (75%) of the net proceeds of the tax levied under subsection (a) of this section only for tourist related purposes, including construction and maintenance of public facilities and buildings, garbage, refuse, and solid waste collection and disposal, police protection, and emergency services. The remainder of the net proceeds of the tax levied under subsection (a) shall be deposited in the Currituck County General Fund and may be used for any lawful purpose. Currituck County may use the net proceeds of the tax levied under subsection (a1) of this section, to the extent that they are needed, for capital costs, operation, and maintenance of the Currituck Wildlife Museum. Whatever is not needed for the capital costs, operation, and maintenance of the Currituck Wildlife Museum shall be used for tourist-related purposes. As used in this subsection, `net proceeds' means gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer.

~~(f) Effective date of levy. A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this section may be repealed by a resolution adopted by the Currituck County Board of Commissioners. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~"

Section 2. County Administrative Provisions. Section 3(b) of S.L. 1997-102, as amended by Section 2 of S.L. 1997-255, Section 2 of S.L. 1997-342, Section 3 of S.L. 1997-364, Section 6 of S.L. 1997-410, and Section 2 of S.L. 1998-14, reads as rewritten:

"(b) This section applies only to Avery, Brunswick, Currituck, Davie, Madison, Nash, Person, Randolph, and Scotland Counties."

Section 3. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 7th day of June, 1999.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

HOUSE BILL 665:
Modify Currituck Room Tax

BILL ANALYSIS

Committee: House Finance
Date: May 18, 1999
Version: PCS for 1st Edition H665-PCSRBX-1

Introduced by: Rep. Owens
Summary by: Cindy Avrette, Committee Counsel

SUMMARY: ***The proposed committee substitute for House Bill 665 would conform the administrative provisions of the current room occupancy tax session law for Currituck County to the uniform occupancy tax provisions. The House Finance Subcommittee on Occupancy Taxes considered the bill and recommends the proposed committee substitute to the full Committee. Representative Jarrell chaired the Subcommittee. Representatives Dedmon, Gibson, Goodwin, and C. Wilson were members of the subcommittee.***

HOUSE BILL 665: The original bill modified the penalty provisions of the Currituck County occupancy tax law. The current penalty for failure to file a return is $10 for each day's omission. In case of failure to file the return or pay the tax for a period of 30 days after it is due, the penalty is 5% of the tax due. The **original bill** provided that the $10 per day penalty would not apply if the return was filed within 10 business days or if no tax was due with the return. It also reduced the penalty equal to 5% of the tax due to 2% of the tax due. The **proposed committee substitute** provides that the uniform tax penalties will apply. The uniform occupancy tax penalties in G.S. 153A-155 are the same as the penalties for failure to pay or file a return for State sales and use taxes. The uniform penalty for failure to file a return is 5% of the amount of tax due, not to exceed 25% or $5, whichever is greater. The uniform penalty for failure to pay the tax due is 10% of the tax due or $5, whichever is greater.

The proposed committee substitute also conforms the current session law governing Currituck County occupancy taxes to the uniform occupancy tax provisions. Therefore, the levy, administration, collection, and repeal of the occupancy taxes must be done in accordance with G.S. 160A-215. These provisions are substantially the same as the ones in the current session law.

The General Assembly authorized Currituck County to levy a room occupancy tax in 1987. The occupancy tax rate is 4%. Seventy-five percent (75%) of the tax proceeds may be used for tourist related purposes and the remainder may be used for any public purposes. Under the 1987 local legislation, the term "tourist related purposes" is defined broadly. The Subcommittee discussed whether or not to conform the use of the revenue to the uniform use provisions. The Subcommittee decided against conforming the use provisions since the original legislation was enacted before the uniform provisions was considered.

UNIFORM PROVISIONS: Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1993, a House Finance Committee subcommittee on occupancy taxes established several principles that have been applied to most of the occupancy tax bills in the House since that time. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide

uniformity in the areas of levy, administration, collection, repeal, and penalties. The North Carolina Travel and Tourism Coalition has a policy statement for legislation authorizing local occupancy taxes. Many of the principles contained in its statement are similar to the ones established by the House Finance subcommittee in 1993.

Based upon the work detailed above, the House Finance Subcommittee on Occupancy Taxes created this year looked for the inclusion of the following uniform provisions in the occupancy tax bills its considered:

- **Rate.** – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
- **Use.** – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism-related purposes.
- **Definitions.** – The terms "net revenues" "promote travel and tourism", and "tourism-related expenditures" are defined terms.
- **Administration.** – The net revenues must be administered by a local tourism promotion agency that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least ¾ of the members must be currently active in the promotion of travel and tourism in the taxing district and 1/3 of the members must be affiliated with organizations that collect the tax.
- **Costs of Collection.** – The taxing authority may retain from the revenues it actual costs of collection, not to exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 1134 A BILL TO BE ENTITLED AN ACT TO ESTABLISH THE HORACE WILLIAMS CAMPUS TRUST FUND, TO AUTHORIZE THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO ISSUE REVENUE BONDS FOR THE DEVELOPMENT OF THE HORACE WILLIAMS CAMPUS, TO EXEMPT THE HORACE WILLIAMS CAMPUS FROM THE UMSTEAD ACT, AND TO MAKE VARIOUS CONFORMING CHANGES.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

HOUSE BILL 1134*

Short Title: UNC/Horace Williams Campus. (Public)

Sponsors: Representative Insko.

Referred to: Finance.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE HORACE WILLIAMS CAMPUS TRUST FUND, TO AUTHORIZE THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO ISSUE REVENUE BONDS FOR THE DEVELOPMENT OF THE HORACE WILLIAMS CAMPUS, TO EXEMPT THE HORACE WILLIAMS CAMPUS FROM THE UMSTEAD ACT, AND TO MAKE VARIOUS CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116-36.5 reads as rewritten:

"**§ 116-36.5. Centennial Campus trust ~~fund.~~ fund; Horace Williams Campus trust fund.**

(a) All moneys received through development of the Centennial Campus of North Carolina State University at Raleigh, from whatever source, including the net proceeds from the lease or rental of Centennial Campus real property, shall be placed in a special, continuing, and nonreverting trust fund having the sole and exclusive use for further development of the Centennial Campus, including its operational development. This fund shall be treated in the manner of institutional trust funds as provided in G.S. 116-36.1. This fund shall be deemed an additional and alternative method of funding the Centennial Campus and not an exclusive one. For purposes of this section the term "Centennial Campus" is defined by G.S. 116-198.33(4). To the extent that any general, special, or local law is inconsistent with this section, it is declared inapplicable to this section.

(b) All moneys received through development of the Horace Williams Campus of the University of North Carolina at Chapel Hill, from whatever source, including the

net proceeds from the lease or rental of Horace Williams Campus real property, shall be placed in a special, continuing, and nonreverting trust fund having the sole and exclusive use for further development of the Horace Williams Campus, including its operational development. This fund shall be treated in the manner of institutional trust funds as provided in G.S. 116-36.1. This fund shall be deemed an additional and alternative method of funding the Horace Williams Campus and not an exclusive one. For purposes of this section the term 'Horace Williams Campus' is defined by G.S. 116-198.33(4a). To the extent that any general, special, or local law is inconsistent with this section, it is declared inapplicable to this section."

Section 2. The title of Article 21B of Chapter 116 of the General Statutes reads as rewritten:

"Centennial Campus and Horace Williams Campus Financing Act."

Section 3. G.S. 116-198.31 reads as rewritten:

"**§ 116-198.31. Purpose of Article.**

The purpose of this Article is to authorize the Board of Governors of The University of North Carolina to issue revenue bonds, payable from any leases, rentals, charges, fees, and other revenues but with no pledge of taxes or the faith and credit of the State or any agency or political subdivision thereof, to pay the cost, in whole or part, of buildings, structures, or other facilities for the Centennial Campus, located at North Carolina State University at ~~Raleigh.~~ Raleigh and for the Horace Williams Campus located at the University of North Carolina at Chapel Hill."

Section 4. G.S. 116-198.33 reads as rewritten:

"**§ 116-198.33. Definitions.**

As used in this Article, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(1) The word 'Board' shall mean the Board of Governors of The University of North Carolina.

(2) The word 'cost' as applied to any project, shall include the cost of acquisition or construction; the cost of acquisition of all property, both real and personal, or interests therein; the cost of demolishing, removing, or relocating any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be removed or relocated; the cost of all labor, materials, equipment and furnishings, financing charges, interest prior to and during construction and, if deemed advisable by the Board, for a period not exceeding one year after completion of such construction; provisions for working capital, reserves for debt service and for extensions, enlargements, additions, and improvements; cost of engineering, financial, and legal services, plans, specifications, studies, surveys, and estimates of cost and of revenues; administrative expenses; expenses necessary or incident to determining the feasibility or practicability of constructing the project; and such other expenses as may be necessary or incident to acquisition or construction with respect to

the project or to the placing of the project in operation. Any obligation or expense incurred by the Board prior to the issuance of bonds under the provisions of this Article in connection with any of the foregoing items of cost may be regarded as a part of such cost.

(3) The word 'Institution' shall mean North Carolina State University at ~~Raleigh.~~ Raleigh and the University of North Carolina at Chapel Hill.

(4) The term 'Centennial Campus' means all of the following properties:

a. The real property and appurtenant facilities bounded by Blue Ridge Road, Hillsborough Street, Wade Avenue, and Interstate 440 that are the sites of the College of Veterinary Medicine, the University Club, and the Agricultural Turf Grass Management Program.

b. The real property and appurtenant facilities that are the former Dix Hospital properties and other contiguous parcels of property that are adjacent to Centennial Boulevard.

c. All other real property and appurtenant facilities designated by the Board of Governors as part of the Centennial Campus. The properties designated by the Board of Governors do not have to be contiguous with the Centennial Campus to be designated as part of that Campus.

(4a) The term 'Horace Williams Campus' means all of the following properties:

a. The real property and appurtenant facilities left to the University of North Carolina at Chapel Hill by the Will of Henry Horace Williams.

b. All other real property and appurtenant facilities designated by the Board of Governors as part of the Horace Williams Campus. The properties designated by the Board of Governors do not have to be contiguous with the Horace Williams Campus to be designated as part of that Campus.

(5) The term 'existing facilities' shall mean buildings and facilities, then existing, any part of the revenues of which are pledged under the provisions of any resolution authorizing the issuance of revenue bonds hereunder to the payment of such bonds.

(6) The word 'project' shall mean and shall include any one or more buildings, structures, administration buildings, libraries, research or instructional facilities, housing maintenance, storage, or utility facilities, and any facilities related thereto or required or useful for conducting of research or the operation of the Centennial ~~Campus;~~ Campus or the Horace Williams Campus, including roads, water, sewer, power, gas, greenways, parking, or any other support

facilities essential or convenient for the orderly conduct of the Centennial ~~Campus.~~ Campus or the Horace Williams Campus respectively.

(7) The word 'revenues' shall mean all or any part of the rents, leases, charges, fees, and other income revenues derived from or in connection with any project or projects and existing facilities."

Section 5. G.S. 116-198.34 reads as rewritten:

"**§ 116-198.34. General powers of Board of Governors.**

The Board may exercise any one or more of the following powers:

(1) To determine the location and character of any project or projects, and to acquire, construct, and provide the same, and to maintain, repair, and operate, and to enter into contracts for the management, lease, use, or operation of all or any portion of any project or projects and any existing facilities.

(2) To issue revenue bonds as hereinafter provided to pay all or any part of the cost of any project or projects, and to fund or refund the same.

(3) To fix and revise from time to time and charge and collect rates, fees, rents, and charges for the use of, and for the services furnished by, all or any portion of any project or projects.

(4) To establish and enforce, and to agree through any resolution or trust agreement authorizing or securing bonds under this Article to make and enforce, rules and regulations for the use of and services rendered by any project or projects and any existing facilities, to provide for the maximum use of any project or projects and any existing facilities.

(5) To acquire, hold, lease, and dispose of real and personal property in the exercise of its powers and the performance of its duties hereunder and to lease all or any part of any project or projects and any existing facilities upon such terms and conditions as the Board determines, subject to the provisions of G.S. 143-341 and Chapter 146 of the General Statutes.

Notwithstanding G.S. 143-341 and Chapter 146 of the General Statutes, a disposition by easement, lease, or rental agreement of space in any building on the Centennial Campus or on the Horace Williams Campus made for a period of 10 years or less shall not require the approval of the Governor and the Council of State. All other acquisitions and dispositions made under this subdivision are subject to the provisions of G.S. 143-341 and Chapter 146 of the General Statutes.

(6) To employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its

judgment in connection with any project or projects and existing facilities, and to fix their compensation.

(7) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Article.

(8) To receive and accept from any federal, State, or other public agency and any private agency, person or other entity donations, loans, grants, aid, or contributions of any money, property, labor, or other things of value for any project or projects, and to agree to apply and use the same in accordance with the terms and conditions under which the same are provided.

(8a) To designate the real property and appurtenant facilities to be included as part of the Centennial ~~Campus.~~ Campus or the Horace Williams Campus.

(9) To do all acts and things necessary or convenient to carry out the powers granted by this Article."

Section 6. G.S. 116-198.35 reads as rewritten:

"**§ 116-198.35. Issuance of bonds and bond anticipation notes.**

The Board is hereby authorized to issue, subject to the approval of the Director of the Budget, at one time or from time to time, revenue bonds of the Board for the purpose of paying all or any part of the cost of acquiring, constructing, or providing any project or projects on the Centennial ~~Campus.~~ Campus or on the Horace Williams Campus. The bonds of each issue shall be dated, shall mature at such time or times not exceeding 40 years from their date or dates, shall bear interest at such rate or rates as may be determined by the Board, and may be redeemable before maturity, at the option of the Board, at such price or prices and under such terms and conditions as may be fixed by the Board prior to the issuance of the bonds. The Board shall determine the form and manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Article or any recitals in any bonds issued under the provisions of this Article, all such bonds shall be deemed to be negotiable instruments under the laws of this State, subject only to the provisions for registration in any resolution authorizing the issuance of such bonds or any trust agreement securing the same. The bonds may be issued in coupon or registered form or both or as book-entry bonds, as the Board may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The Board may sell such bonds in such

manner, at public or private sale, and for such price, as it may determine to be for the best interests of the Board.

The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the Board may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. Unless otherwise provided in the authorizing resolution or in the trust agreement securing such bonds, if the proceeds of such bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit and shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the Board may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

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

Except as herein otherwise provided, bonds may be issued under this Article and other powers vested in the Board under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this Article.

The Board may enter into or negotiate a note with an acceptable bank or trust company in lieu of issuing bonds for the financing of projects covered under this section. The terms and conditions of any note of this nature shall be in accordance with the terms and conditions surrounding issuance of bonds.

The Board is hereby authorized to issue, subject to the approval of the Director of the Budget, at one time or from time to time, revenue bond anticipation notes of the Board in anticipation of the issuance of bonds authorized pursuant to the provisions of this Article. The principal of and the interest on such notes shall be payable solely from the proceeds of bonds or renewal notes, or, in the event bond or renewal note proceeds are not available, any available revenues of the project or projects for which such bonds shall have been authorized. The notes of each issue shall be dated, shall mature at such time or times not exceeding two years from their date or dates, shall bear interest at such rate or rates as may be determined by the Board, and may be redeemable before maturity, at the option of the Board, at such price or prices and under such terms and conditions as may be fixed by the Board prior to the issuance of the notes. The Board shall determine the form and the manner of execution of the

notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the notes and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any notes or coupons shall cease to be such officer before the delivery of such notes, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Article or any recitals in any notes issued under the provisions of this Article, all such notes shall be deemed to be negotiable instruments under the laws of this State, subject only to the provisions for registration in any resolution authorizing the issuance of such notes or any trust agreement securing the bonds in anticipation of which such notes are being issued. The notes may be issued in coupon or registered form or both or as book entry notes, as the Board may determine, and provision may be made for the registration of any coupon notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon notes of any notes registered as to both principal and interest. The Board may sell such notes in such manner, at public or private sale, and for such price, as it may determine to be for the best interests of the Board.

The proceeds of the notes of each issue shall be used solely for the purpose for which the bonds in anticipation of which such notes are being issued shall have been authorized, and such note proceeds shall be disbursed in such manner and under such restrictions, if any, as the Board may provide in the resolution authorizing the issuance of such notes or bonds or in the trust agreement securing such bonds.

The resolution providing for the issuance of notes, and any trust agreement securing the bonds in anticipation of which such notes are being authorized, may also contain such limitations upon the issuance of additional notes as the Board may deem proper, and such additional notes shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement. The Board may also provide for the replacement of any notes which shall become mutilated or be destroyed or lost.

Except as herein otherwise provided, notes may be issued under this Article and other powers vested in the Board under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this Article.

Unless the context shall otherwise indicate, the word "bonds" wherever used in this Article, shall be deemed and construed to include the words 'bond anticipation notes'."

Section 7. G.S. 116-198.37 reads as rewritten:

"**§ 116-198.37. Fixing fees, rents, and charges; sinking fund.**

For the purpose of aiding in the acquisition, construction, or provision of any project and the maintenance, repair, and operation of any project or any existing facilities, the Board is authorized to fix, revise from time to time, charge, and collect

such fee or fees for such privileges and services and in such amount or amounts as the Board shall determine, and to fix, revise from time to time, charge, and collect other fees, rents, and charges for the use of and for the services furnished or to be furnished by any project or projects and any existing facilities, or any portion thereof, and to contract with any person, partnership, association, or corporation for the lease, use, occupancy, or operation of any project or projects and any existing facilities, or any part thereof, and to fix the terms, conditions, fees, rents, and charges for any such lease, use, occupancy, or operation. So long as bonds issued hereunder and payable therefrom are outstanding, such fees, rents, and charges shall be so fixed and adjusted, with relation to other revenues available therefor, as to provide funds pursuant to the requirements of the resolution or trust agreement authorizing or securing such bonds at least sufficient with such other revenues, if any, (i) to pay the cost of maintaining, repairing, and operating any project or projects and any existing facilities any part of the revenues of which are pledged to the payment of the bonds issued for such project or projects, (ii) to pay the principal of and the interest on such bonds as the same shall become due and payable, and (iii) to create and maintain reserves for such purposes. Any surplus funds remaining after application to the purposes mentioned in (i), (ii), and (iii), above, shall be held in trust and applied by the Board to the development of the Centennial ~~Campus.~~ Campus or the Horace Williams Campus as applicable. Such fees, rents, and charges shall not be subject to supervision or regulation by any other commission, board, bureau, or agency of the State. A sufficient amount of the revenues, except such part thereof as may be necessary to pay such cost of maintenance, repair, and operation and to provide such reserves therefor and for renewals, replacements, extensions, enlargements, and improvements as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to and charged with the payment of the principal of and the interest on such bonds as the same shall become due and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the fees, rents, and charges and other revenues or other moneys so pledged and thereafter received by the Board shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Board, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Board. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of the trust agreement securing the same."

Section 8. G.S. 146-30(b1) reads as rewritten:

"(b1) Notwithstanding the other provisions of this section, no service charge into the State Land Fund shall be deducted from or levied against the proceeds of any

disposition by lease, rental, or easement of State lands that are designated as part of the Centennial Campus as defined by G.S. ~~116-198.33(4).~~ 116-198.33(4) or that are designated as part of the Horace Williams Campus as defined by G.S. 116-198.33(4a). All net proceeds of those dispositions are governed by G.S. 116-36.5."

Section 9. G.S. 66-58(b) reads as rewritten:

"(b) The provisions of subsection (a) of this section shall not apply to:

(1) Counties and municipalities.

(2) The Department of Health and Human Services or the Department of Agriculture and Consumer Services for the sale of serums, vaccines, and other like products.

(3) The Department of Administration, except that the agency shall not exceed the authority granted in the act creating the agency.

(4) The State hospitals for the mentally ill.

(5) The Department of Health and Human Services.

(6) The North Carolina School for the Blind at Raleigh.

(6a) The Office of Juvenile Justice.

(7) The North Carolina Schools for the Deaf.

(8) The Greater University of North Carolina with regard to its utilities and other services now operated by it nor to the sale of articles produced incident to the operation of instructional departments, articles incident to educational research, articles of merchandise incident to classroom work, meals, books, or to articles of merchandise not exceeding twenty-five cents (25¢) in value when sold to members of the educational staff or staff auxiliary to education or to duly enrolled students or occasionally to immediate members of the families of members of the educational staff or of duly enrolled students nor to the sale of meals or merchandise to persons attending meetings or conventions as invited guests nor to the operation by the University of North Carolina of an inn or hotel and dining and other facilities usually connected with a hotel or inn, nor to the hospital and Medical School of the University of North Carolina, nor to the Coliseum of North Carolina State University at Raleigh, and the other schools and colleges for higher education maintained or supported by the State, nor to the Centennial Campus of North Carolina State University at Raleigh, nor to the Horace Williams Campus of the University of North Carolina at Chapel Hill, nor to the comprehensive student health services or the comprehensive student infirmaries maintained by the constituent institutions of the University of North Carolina.

(9) The Department of Environment and Natural Resources, except that the Department shall not construct, maintain, operate or lease a hotel or tourist inn in any park over which it has jurisdiction. The North Carolina Wildlife Resources Commission may sell

wildlife memorabilia as a service to members of the public interested in wildlife conservation.

(10) Child-caring institutions or orphanages receiving State aid.

(11) Highlands School in Macon County.

(12) The North Carolina State Fair.

(13) Rural electric memberships corporations.

(13a) State Farm Operations Commission.

(13b) The Department of Agriculture and Consumer Services with regard to its lessees at farmers' markets operated by the Department.

(13c) The Western North Carolina Agricultural Center.

(13d) Agricultural centers or livestock facilities operated by the Department of Agriculture and Consumer Services.

(14) Nothing herein contained shall be construed to prohibit the engagement in any of the activities described in subsection (a) hereof by a firm, corporation or person who or which is a lessee of space only of the State of North Carolina or any of its departments or agencies; provided the leases shall be awarded by the Department of Administration to the highest bidder, as provided by law in the case of State contracts and which lease shall be for a term of not less than one year and not more than five years.

(15) The State Department of Correction is authorized to purchase and install automobile license tag plant equipment for the purpose of manufacturing license tags for the State and local governments and for such other purposes as the Department may direct.

The Commissioner of Motor Vehicles, or such other authority as may exercise the authority to purchase automobile license tags is hereby directed to purchase from, and to contract with, the State Department of Correction for the State automobile license tag requirements from year to year.

The price to be paid to the State Department of Correction for the tags shall be fixed and agreed upon by the Governor, the State Department of Correction, and the Motor Vehicle Commissioner, or such authority as may be authorized to purchase the supplies.

(16) Laundry services performed by the Department of Correction may be provided only for agencies and instrumentalities of the State which are supported by State funds and for county or municipally controlled and supported hospitals presently being served by the Department of Correction, or for which services have been contracted or applied for in writing, as of May 22, 1973. In addition to the prior sentence, laundry services performed by the Department of Correction may be provided for the Governor Morehead School and the North Carolina School for the Deaf.

The services shall be limited to wet-washing, drying and ironing of flatwear or flat goods such as towels, sheets and bedding, linens and those uniforms prescribed for wear by the institutions and further limited to only flat goods or apparel owned, distributed or controlled entirely by the institutions and shall not include processing by any dry-cleaning methods; provided, however, those garments and items presently being serviced by wet-washing, drying and ironing may in the future, at the election of the Department of Correction, be processed by a dry-cleaning method.

(17) The North Carolina Global TransPark Authority or a lessee of the Authority.

(18) The activities and products of private enterprise carried on or manufactured within a State prison facility pursuant to G.S. 148-70."

Section 10. This act becomes effective July 1, 1999.

HOUSE BILL 1134:
UNC/Horace Williams Campus

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Insko
Date:	May 18, 1999	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 1134 establishes the Horace Williams Campus. This campus will be associated with the University of North Carolina at Chapel Hill. It is similar to the Centennial Campus, which is associated with North Carolina State University. The bill would become effective July 1, 1999.***

BILL ANALYSIS: The General Assembly created the Centennial Campus at NC State University in 1987. The Campus brings together business and industry and academia. House Bill 1134 creates a similar campus at the University of North Carolina at Chapel Hill called the Horace Williams Campus. The Horace Williams Campus will consist of the property left to the University of North Carolina at Chapel Hill by the will of Henry Horace Williams. The Board of Governors of The University of North Carolina may designate other properties as part of the Campus also.

The Board of Governors may issue revenue bonds to pay all or part of the cost of any project on the campus. The projects may include administration buildings, libraries, research or instructional facilities, roads, water, sewer, parking, and any other facilities related to the operation of the Campus. The bonds are payable from revenues derived from leases, rentals, charges, and fees. Neither the faith and credit of the State nor the taxing power of the State is pledged to the payment of the bonds. The Board is given the power to establish and collect fees, rents, and charges for the use of and for the services furnished by any project on the Campus. Rental agreements for space in buildings on the Campus for 10 years or less do not require the approval of the Governor and Council of State but are subject to approval by the Board of Governors.

The proceeds from all moneys received through the development of the Horace Williams Campus must be credited to a special, nonreverting trust fund. The money in the fund may be used only for the development of the Horace Williams Campus.

Much of the revenue generated from the Horace Williams Campus will come from the lease of office space to private industry. As a general rule, it is unlawful under the Umstead Act for the State to lease space in a building owned by the State for the purpose of operating a business. Section 9 of the bill exempts the Horace Williams Campus from the Umstead Act so that it may provide services to businesses that are ordinarily and customarily rendered by private enterprises.

TECHNICAL CONSIDERATION: Last session, the General Assembly exempted certain real property transactions of the Centennial Campus from the payment of the State land service charge. The service charge may not exceed 10% of the gross amount received from the sale, lease, rental, other dispostion of State property. The revenue derived from the service charge is credited to the State Land Fund. The money in that fund is used to acquire State lands.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: H.B. 1134 DRAFT

SHORT TITLE: UNC /Horace Williams Campus

SPONSOR(S): Rep. Insko

FISCAL IMPACT

Yes ( ) **No (X)** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES	* See Assumptions and Methodology *				
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: University of North Carolina at Chapel Hill, UNC Board of Governors.

EFFECTIVE DATE: Becomes effective July 1, 1999.

BILL SUMMARY: The bill has five primary effects. First, the legislation establishes the Horace Williams Campus Trust Fund. This fund is a special continuing, and nonreverting trust fund. Income placed in the Fund must be used for the development and operation of the Horace Williams Campus. Proceeds from the lease or rental of Horace Williams Campus property must be placed in the Fund. Second, the bill also authorizes the U.N.C. Board of Governors to issue revenue bonds to pay for campus facilities on the Horace Williams Campus. These bonds are to be paid out of fees, leases, rentals, and other sources. Taxes or the state's credit can not be pleaded for the bonds. Third, the bill defines the Horace Williams Campus as the real property left to the University by Mr. Williams, and all other real and incidental property the Board of Governors designates as a part of the campus. The properties do not have to be contiguous. Forth, it prohibits the collection of a service charge by the State Land Fund for the rental, lease, or easement of portions of the Horace Williams Campus. Fifth, it exempts the Horace Williams Campus from the state restriction on engaging directly or indirectly in the sale of goods. Finally, the bill makes conforming changes to create the same provisions for the U.N.C. Horace Williams Campus as are currently in effect for the Centennial Campus at North Carolina State University.

ASSUMPTIONS AND METHODOLOGY: The bill creates a governing structure and operational restrictions for the Horace Williams Campus that are analogous to those of the Centennial Campus. As a result the bill has several potential area for fiscal impact.

Fund Creation

By creating a special Horace Williams Campus Fund the legislation moves potential revenue out of the normal University budgeting process. However, because the Fund is treated like an institutional trust fund (G.S. 116-198.33), it is subject to established review procedures. Moving this revenue stream off-budget will not impact University funding or the general fund. Monies deposited in the Fund will be drawn primarily from the leases and rental that are unlikely to occur without the legislation.

Revenue Bonds

The bill authorizes the Board of Governors to issue revenue bonds to pay for capital improvements to the Horace Williams Campus. Because neither tax money or state credit can be used to secure or pay off the bonds, there is no fiscal impact to the state.

Leases

The legislation authorizes the University officials to lease property to private developers without the approval of the Council of State. This is the same provision used to develop the Centennial Campus and should have no revenue or general fund impact.

State Land Fund

Section 4 of the bill exempts the William Horace Campus from paying a service charge to the State Land Fund for each of its lease, rental, or easement transactions. There is no fiscal impact from this change, because the Campus has never paid any fees to the Fund.

Property Tax

The bill has the potential to remove additional land and structures from the property tax rolls in Orange County if the UNC Board of Governors uses the power granted in the bill to expand the Horace Williams Campus to noncontiguous land not currently owned by the University of North Carolina at Chapel Hill. However, under current law, the county could recoup its tax loss in several ways. First, if the Campus land is leased at below market value to a private firm, then the leased land can be taxed. Second, if a private firm leases land from the campus at market value and builds its own building, then Orange County may levy property tax only on the building and its furnishings and equipment. Third, if a private firm leases the land and building from the Campus, then only the furnishings and equipment will be subject to property tax.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY:

DATE:

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☒ Committee Substitute for
S.B. 353 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE TOWN OF DAVIDSON TO MAKE ADDITIONAL VOLUNTARY SATELLITE ANNEXATIONS IF CERTAIN CRITERIA ARE MET.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

SENATE BILL 353
Finance Committee Substitute Adopted 4/27/99

Short Title: Davidson Satellite Annexation. (Local)

Sponsors:

Referred to:

March 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF DAVIDSON TO MAKE ADDITIONAL VOLUNTARY SATELLITE ANNEXATIONS IF CERTAIN CRITERIA ARE MET.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-58.1(b) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

(1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city. Notwithstanding this subdivision, if an area proposed for annexation is located entirely within the same county as the annexing municipality and in an area that another city in that county has: (i) agreed not to annex, or (ii) has given the annexing city the right of annexation, under an agreement with the annexing city under Part 6 of this Article or similar local legislation authorizing such agreements, then this subdivision shall not apply.

(2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city. Notwithstanding this subdivision, if an area proposed for annexation under this Part is either: (i) in an area that another city has agreed not to annex

under an agreement with the annexing city under Part 6 of this Article or similar local legislation authorizing such agreements and the territory to be annexed is within the same county as the annexing city is located, or (ii) the closer city is located entirely within another county than the area being annexed, then the proximity to that other city shall not be considered in applying this subdivision.

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision which is located within the same county as the annexing municipality must be included.

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city."

Section 2. This act applies to the Town of Davidson only.

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

SENATE BILL 353:
Davidson Satellite Annexation

BILL ANALYSIS

Committee: House Finance Committee
Date: May 13, 1999
Version: 2nd Edition

Introduced by: Sen. Odom
Summary by: Cindy Avrette, Committee Counsel

SUMMARY: ***Senate Bill 353 authorizes the Town of Davidson to make certain voluntary satellite annexations that it would not otherwise be able to make. The bill is effective when it becomes law.***

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation of noncontiguous property. Property owners may petition a city for voluntary annexation of noncontiguous property if the property meets all of the following standards.

1. The nearest point on the proposed satellite corporate limits must be not more than 3 miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation is a subdivision, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

BILL ANALYSIS: Senate Bill 353 modifies the first, second, and fourth standards for the Town of Davidson so that it may annex property that meets the following standards:

1. The proposed area to be annexed may be more than 3 miles from the primary corporate limits of Davidson if it is located within the same county as Davidson and another city has agreed not to annex the area or has agreed to give Davidson the right to annex.
2. The proposed area to be annexed may be closer to the primary corporate limits of another city than to the limits of Davidson if either the other city has agreed not to annex the proposed area and the area is within the same county as Davidson or the closer city is located entirely within another county than the proposed area being annexed.
3. If the proposed area to be annexed includes a subdivision or a portion of a subdivision, then only that portion of the subdivision located in the same county as Davidson must be included in the annexation.

The bill does not release the proposed satellite annexation from meeting the other two standards listed in G.S. 160A-58.1(b).

Martha Walston, the Committee Counsel for the Senate Finance Committee, contributed to this summary.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
S.B. 436 A BILL TO BE ENTITLED AN ACT TO RATIFY, APPROVE, CONFIRM, AND VALIDATE CERTAIN BOND REFERENDA OF UNITS OF LOCAL GOVERNMENT HELD IN CONNECTION WITH THE AUTHORIZATION OF BONDS OF THOSE UNITS.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-152
SENATE BILL 436

AN ACT TO RATIFY, APPROVE, CONFIRM, AND VALIDATE CERTAIN BOND REFERENDA OF UNITS OF LOCAL GOVERNMENT HELD IN CONNECTION WITH THE AUTHORIZATION OF BONDS OF THOSE UNITS.

The General Assembly of North Carolina enacts:

Section 1. Bond referenda held by units of local government in connection with the authorization of bonds are hereby ratified, approved, confirmed, and in all respects validated, notwithstanding the provisions of G.S. 159-61(b), if the authorization of the bonds was approved at an election by a majority of the qualified voters of the unit voting thereon and notice of the referendum was published.

Section 2. This act applies to all bond referenda held by units of local government between April 1, 1997, and June 1, 1998.

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

In the General Assembly read three times and ratified this the 27th day of May, 1999.

s/ Dennis A. Wicker
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 4:48 p.m. this 4th day of June, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 712 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE TOWN OF CORNELIUS TO PROVIDE FOR VOLUNTARY ANNEXATION OF PROPERTY SUBJECT TO PRESENT-USE VALUE APPRAISAL.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

either: (i) in an area that another city has agreed not to annex under an agreement with the annexing city under Part 6 of this Article or similar local legislation authorizing such agreements and the territory to be annexed is within the same county as the annexing city is located, or (ii) the closer city is located entirely within another county than the area being annexed, then the proximity to that other city shall not be considered in applying this subdivision.

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision which is located within the same county as the annexing municipality must be included.

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city."

Section 2. This act applies to the Town of Cornelius only.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

SENATE BILL 712
Finance Committee Substitute Adopted 4/27/99

Short Title: Cornelius Voluntary Annexation. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF CORNELIUS TO PROVIDE FOR VOLUNTARY ANNEXATION OF PROPERTY SUBJECT TO PRESENT-USE VALUE APPRAISAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-31 is amended by adding new subsections to read:

"(e1) Notwithstanding subsection (e) of this section, an annexation becomes effective as to the property pursuant to subsection (e2) if an area described in the annexation petition and ordinance includes agricultural land, horticultural land, or forestland, that on the effective date of annexation is:

(1) Land that is being taxed at present-use value pursuant to G.S. 105-277.4; or

(2) Land that:

a. Was on the date of the filing of the petition for annexation being used for actual production and is eligible for present-use value taxation under G.S. 105-277.4, but the land has not been in use for actual production for the required time under G.S. 105-277.3; and

b. The assessor for the county where the land subject to annexation is located has certified to the city that the land meets the requirements of this subdivision.

(e2) Annexation of property subject to annexation under subsection (e1) of this section shall become effective as to each tract of such property or such part thereof

on the last day of the month in which that tract or part thereof becomes ineligible for classification pursuant to G.S. 105-277.4 and no longer meets the requirements of subdivision (e1)(2) of this section. Until annexation of a tract or a part of a tract becomes effective pursuant to this subsection, the tract or part of a tract is not subject to taxation by the city under Article 12 of Chapter 105 of the General Statutes, nor is the tract or part of the tract entitled to services provided by the city. When annexation becomes effective pursuant to this subsection as to a tract or part of a tract, the city shall provide all required services upon payment of city taxes.

(e3) The boundaries of the property prior to the effective date under subsection (e2) of this section shall be considered as primary corporate limits only (i) for the purpose of establishing city boundaries for additional annexations pursuant to this Article and (ii) for the exercise of city authority pursuant to Article 19 of this Chapter."

Section 2. This act applies to the Town of Cornelius only.

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

SENATE BILL 712:
Cornelius Voluntary Annexation

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Odom
Date:	May 13, 1999	**Summary by:**	Cindy Avrette
Version:	2nd Edition		Committee Counsel

SUMMARY: Senate Bill 712 would allow the Town of Cornelius to annex property subject to present use value classification upon a petition of the property owners. Unlike general law, this bill would allow the annexation to become effective at whatever point in time the property becomes ineligible for present use value classification. However, for purposes of the Town's extraterritorial jurisdiction and other annexing proceedings, the property would be considered part of the Town's primary corporate limits. The act becomes effective when it becomes law.

CURRENT LAW: The law provides that a municipality may annex by ordinance any area contiguous to its boundaries upon presentation to the governing board of a petition signed by the owners of all the real property located in the area. The annexation must become effective within six months from the date of the passage of the ordinance. From and after the effective date of the ordinance, the property becomes subject to municipal taxes and the municipality must offer the area the same privileges and benefits as received by other parts of the municipality.

A municipality may annex property that is not contiguous with its primary corporate limits if five different standards are met. Two of the five standards concern the proximity of the property proposed to be annexed to the primary corporate limits of the annexing city. One of the five standards provides that the area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, does not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

A municipality may annex property involuntarily if several different requirements are met. One of the requirements concerns the location of the property in relationship to the municipality's existing corporate boundaries: the area proposed to be annexed must be adjacent or contiguous to the municipality's boundaries and at least 1/8 of the aggregate external boundaries of the area must coincide with the municipal boundary.

Article 19 of Chapter 160A of the General Statutes allows a municipality to enact zoning restrictions within its corporate limits. In addition, any municipality may exercise these same powers within a defined area extending not more than one mile beyond its limits. This is commonly known as the municipality's extraterritorial jurisdiction (ETJ). With the approval of the board of county commissioners, a municipality with a population greater than 10,000 but less than 25,000 may expand its ETJ to two miles beyond its corporate limits, and a municipality with a population of 25,000 or more may expand its ETJ to three miles beyond its corporate limits.

Article V, Section 2 of the North Carolina Constitution authorizes the General Assembly to classify property for taxation, so long as the classification is uniform throughout the State. In 1973, the General Assembly classified agricultural land, forestland, and horticultural land as a special class of property. To

come within the classification, the property must meet certain ownership, usage, and income requirements. If the property comes within the classification, it is taxed on its present-use value as opposed to its true value. Present-use value is the value of the land in its current use as farmland.

BILL ANALYSIS: Senate Bill 712 would change the current law concerning annexation by petition for the Town of Cornelius. Under the bill, the effective date of an annexation ordinance could be at an indeterminable point in time in the future, as opposed to within six months after the passage of the annexation ordinance. The property in the annexation petition would not be subject to municipal taxes nor would it be entitled to municipal service until the effective date of the annexation. However, the property would be considered part of the municipality's primary corporate limits as of the effective date of the ordinance for purposes of establishing the Town's boundaries for additional annexations and its ETJ.

To come within the exception created by this local act, the property must be one of two types of property:

- It must be currently classified as farmland and taxed at its present-use value.
- It must be land that, on the date of the filing of the annexation petition, is being used for farm purposes and is eligible for the present-use value taxation except that it has not been in use for actual production for the required statutory time. The county tax assessor must certify that the land meets this requirement.

Annexation of the present-use value property described above becomes effective on the last day of the month in which the property no longer meets the above descriptions. Prior to the effective date of annexation, the boundaries of this property would be considered in establishing the primary corporate limits of Cornelius for the purposes of additional annexations and the Town's ETJ limits.

If the property in the annexation ordinance was determined to be part of the Town's corporate limits for all purposes on the date the ordinance was adopted, then the bill would probably be considered unconstitutional because it is a local classification of property for purposes of taxation. Such local, non-uniform, classifications of property are prohibited by Article V, Section 2 of the North Carolina Constitution. The classification that would be created by the local act is the exemption from municipal property taxes in the Town of Cornelius of present-use value property. However, if the bill was seen as creating a condition precedent to annexation, then the bill would probably withstand constitutional challenge. The condition precedent to annexation established in the bill is the taxable status of certain land – when the property currently classified as farmland no longer meets that property tax classification.

The House Finance Committee passed a similar bill this session for the town of Huntersville, Senate Bill 270.

Martha Walston, Senate Finance Committee Counsel, contributed to this summary.

VISITOR REGISTRATION SHEET

HOUSE FINANCE COMMITTEE 5/18/99

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
DAVID JAMESON	Fayetteville Chamber of Commerce
George W. Breece from	Cumberland County
Ralph E Hise Jr.	Inter Fiscal Research
JIM HOBBS	NCHMA
Jim RAMSEY	UNC-CH
Jonathan Howes	UNC-CH
Evelyn Hawthorne	UNC-CH
Gardner Payne	Governor's Office
Boyce Hudson	DENR
Andy Sabol	Dept. of Revenue
Patti Seawell	"
Lenny Collins	NC DOR
Bob Price	Jordan Price Wall
Doug Howey	NCPMA - Raleigh
Gary Harris	NCPMA
Steve Woodson	NC Farm Bureau
Jim Brown	State Ports
Ed Regan	N.C. Assoc. of Co. Comm.
Andy Romanet	N.C.L.M.
Jim Blackburn	County Commissioners Assoc.
Alice Garland	Electricities
Paul Gori	OSBM
[illegible]	DWQSR
Chrissie Porter	B & H.
David Farrell	McGuire CC+C P.A.
Eddie Caldwell	NCHFMA
Jonathan Howes	UNC-CH

VISITOR REGISTRATION SHEET

HOUSE FINANCE COMMITTEE

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bibby Daniel	DOR
Bill Rowe	NCJCDC
Amanda Probst	NCJCDC
Katie Carstens	SCO
Paul T. Luebke	Visitor – Hot Springs AR
Evonne R. Luebke	" " "
Jan Lobb	NCAFT

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Wednesday, May 19, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 1480 - Increase Homestead Exemption - Rep. Miller
SB 675 - Unionville Charter Corrections - Sen. Plyler

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Wednesday, May 19, 1999

The House Committee on Finance met on Wednesday, May 19, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke, Miller; Vice Chair Jarrell; Representatives Bridgeman, Brown, Buchanan, Capps, Church, Cunningham, Decker, Dedmon, Edwards, Gibson, Goodwin, Hackney, Hill, McCombs, Morris, Rayfield, Starnes, Tucker, and Womble. Staff including Cindy Avrette, Richard Bostic, Mary Shuping, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Miller called the meeting to order to consider the following bills:

Representative G. Miller was recognized to explain HB 1480, A BILL TO BE ENTITLED AN ACT TO AMEND THE TAX LAWS OF NORTH CAROLINA. This was a blank bill. The Proposed Committee Substitute was entitled HB 1480, A BILL TO BE ENTITLED AN ACT TO REDUCE PROPERTY TAXES ON HOMESTEAD PROPERTY BY INCREASING THE EXEMPTION AMOUNT AND BY ALLOWING MORE INDIVIDUALS TO QUALIFY FOR THE HOMESTEAD TAX EXEMPTION AND TO REIMBURSE LOCAL GOVERNMENTS FOR THE RESULTING REVENUE LOSS. Rep. Miller moved to adopt the Proposed Committee Substitute for discussion purposes. The motion passed. Rep. Womble asked a question and then moved to give the Proposed Committee Substitute a favorable report, unfavorable to original bill, and refer the Committee Substitute to the Committee on Appropriations. Rep. Miller answered more questions of the committee members. Cindy Avrette explained issues dealing with constitutional amendments and homestead tax exemptions. Rep. Womble's motion was passed. The bill, the Proposed Committee Substitute, Bill Summary, and Fiscal Note are included in these minutes.

Representative Gibson was recognized to explain Senator Plyler's SB 675, A BILL TO BE ENTITLED AN ACT TO MAKE TECHNICAL AMENDMENTS TO AN ACT WHICH REVIVED THE CHARTER OF THE TOWN OF UNIONVILLE. Rep. Luebke moved to give the bill a favorable report. The motion passed. The bill is included in these minutes.

There being no further business, the Chair adjourned the meeting at 9:10 a.m.

Respectfully submitted:

George Miller Jr.

Representative George Miller
Chair

Kristen L. Crosson

Kristen L. Crosson
Finance Clerk

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1480 A BILL TO BE ENTITLED AN ACT TO AMEND THE TAX LAWS OF NORTH CAROLINA.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1480
PROPOSED COMMITTEE SUBSTITUTE
H1480-CSLC-5/17

Short Title: Increase Homestead Exemption. (Public)

Sponsors:

Referred to:

May 13, 1999

A BILL TO BE ENTITLED

AN ACT TO REDUCE PROPERTY TAXES ON HOMESTEAD PROPERTY BY INCREASING THE EXEMPTION AMOUNT AND BY ALLOWING MORE INDIVIDUALS TO QUALIFY FOR THE HOMESTEAD TAX EXEMPTION AND TO REIMBURSE LOCAL GOVERNMENTS FOR THE RESULTING REVENUE LOSS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-277.1(a) reads as rewritten:

"(a) Exclusion. -- The following class of property is designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and shall be assessed for taxation in accordance with this section. The first ~~twenty thousand dollars ($20,000)~~ twenty-five thousand dollars ($25,000) in appraised value of a permanent residence owned and occupied by a qualifying owner is excluded from taxation. A qualifying owner is an owner who meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

(1) Is at least 65 years of age or totally and permanently disabled.

(2) Has an income for the preceding calendar year of not more than ~~fifteen thousand dollars ($15,000).~~ twenty-five thousand dollars ($25,000).

(3) Is a North Carolina resident.

An otherwise qualifying owner does not lose the benefit of this exclusion because of a temporary absence from his or her permanent residence for reasons of health, or because of an extended absence while confined to a rest home or nursing home, so long as the residence is unoccupied or occupied by the owner's spouse or other dependent."

Section 2. G.S. 105-309(f) reads as rewritten:

"(f) The following information shall appear on each abstract or on an information sheet distributed with the abstract. The abstract or sheet must include the address and telephone number of the assessor below the notice required by this subsection. The notice shall read as follows:

'PROPERTY TAX RELIEF FOR ELDERLY AND PERMANENTLY DISABLED PERSONS.

North Carolina excludes from property taxes the first ~~twenty thousand dollars ($20,000)~~ twenty-five thousand dollars ($25,000) in appraised value of a permanent residence owned and occupied by North Carolina residents aged 65 or older or totally and permanently disabled whose income does not exceed ~~fifteen thousand dollars ($15,000).~~ twenty-five thousand dollars ($25,000). Income means the owner's adjusted gross income as determined for federal income tax purposes, plus all moneys received other than gifts or inheritances received from a spouse, lineal ancestor or lineal descendant.

If you received this exclusion in (assessor insert previous year), you do not need to apply again unless you have changed your permanent residence. If you received the exclusion in (assessor insert previous year) and your income in (assessor insert previous year) was above ~~fifteen thousand dollars ($15,000),~~ twenty-five thousand dollars ($25,000), you must notify the assessor. If you received the exclusion in (assessor insert previous year) because you were totally and permanently disabled and you are no longer totally and permanently disabled, you must notify the assessor. If the person receiving the exclusion in (assessor insert previous year) has died, the person required by law to list the property must notify the assessor. Failure to make any of the notices required by this paragraph before April 15 will result in penalties and interest.

If you did not receive the exclusion in (assessor insert previous year) but are now eligible, you may obtain a copy of an application from the assessor. It must be filed by April 15.'"

Section 3. G.S. 105-277.1A reads as rewritten:

"**§ 105-277.1A. Property classified for taxation at reduced valuation; duties of tax collectors; reimbursement of localities for portion of tax lost.**

(a) On September 1, 1990, the tax collector of each county and the tax collector of each city shall furnish to the Secretary of Revenue a list containing the name and address of each person who has qualified in that year for the exemption provided in G.S. 105-277.1. The list shall also contain for each name the total amount of property exempted, the tax rate the property is subject to, and the product obtained by multiplying those two numbers by each other. The lists shall be accompanied by an affidavit attesting to the accuracy of the list and shall all be on a form prescribed by the Secretary of Revenue.

(a1) On December 1, 1997, the tax collector of each county and the tax collector of each city shall furnish to the Secretary of Revenue two lists containing the name and address of each taxpayer who has qualified in that year for the exemption provided in G.S. 105-277.1. The first list shall include those taxpayers whose income was above eleven thousand dollars ($11,000) and the second list shall include those taxpayers whose income was eleven thousand dollars ($11,000) or less. On the first list, the tax collector shall provide for each name the total amount of property exempted and on the second list, the tax collector shall provide for each name the amount of property above fifteen thousand dollars ($15,000) exempted. On both lists, the tax collector shall provide the tax rate the property is subject to and the product obtained by multiplying the tax rate by the amount of property. The lists shall be accompanied by an affidavit attesting to the accuracy of the list and shall be on a form prescribed by the Secretary of Revenue.

(a2) On December 1, 2000, the tax collector of each county and the tax collector of each city shall furnish to the Secretary of Revenue two lists containing the name and address of each taxpayer who has qualified in that year for the exemption provided in G.S. 105-277.1. The first list shall include those taxpayers whose income was above fifteen thousand dollars ($15,000) and the second list shall include those taxpayers whose income was fifteen thousand dollars ($15,000) or less. On the first list, the tax collector shall provide for each name the total amount of property exempted and on the second list, the tax collector shall provide for each name the amount of property above twenty thousand dollars ($20,000) exempted. On both lists, the tax collector shall provide the tax rate the property is

subject to and the product obtained by multiplying the tax rate by the amount of property. The lists shall be accompanied by an affidavit attesting to the accuracy of the list and shall be on a form prescribed by the Secretary of Revenue.

(b) Repealed by Session Laws 1996, Second Extra Session, c. 18, s. 15.1(c).

(c) The Secretary of Revenue may, for cause, grant an extension for the submission of a list required by this section.

(d) Before May 31, 1991, the Secretary of Revenue shall distribute to the county or city fifty percent (50%) of the total for the entire list provided pursuant to subsection (a) of this section of the product obtained by multiplying the tax exemption for each taxpayer times the applicable tax rate. Each year thereafter, on or before May 31, the Secretary of Revenue shall pay to each county and city that was entitled to receive a distribution under this subsection in 1991 the amount it was entitled to receive in 1991.

(d1) Before May 31, 1998, the Secretary of Revenue shall distribute to the county or city fifty percent (50%) of the total for both lists provided the preceding December 1 pursuant to subsection (a1) of this section of the product obtained by multiplying the applicable tax rate times the amount listed for each taxpayer. Before May 31, 1999, the Secretary of Revenue shall pay to each county and city the amount it received under this subsection in 1998.

(d2) Before May 31, 2001, the Secretary of Revenue shall distribute to the county or city the total for both lists provided the preceding December 1 pursuant to subsection (a2) of this section of the product obtained by multiplying the applicable tax rate times the amount listed for each taxpayer. Each year thereafter, on or before May 31, the Secretary of Revenue shall pay to each county and city the amount it received under this subsection in 2001.

(e) Any funds received by any county or city pursuant to this section because the county or city was collecting taxes for another unit of government or special district shall be credited to the funds of that other unit or district in accordance with regulations issued by the Local Government Commission.

(f) In order to pay for the reimbursement under this section and the cost to the Department of Revenue of administering the reimbursement, the Secretary of Revenue shall draw from collections received under Division I of Article 4 of this Chapter an amount equal to the reimbursement and the cost of administration."

Section 4. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1480
PROPOSED COMMITTEE SUBSTITUTE
H1480-CSLC-5/17

Short Title: Increase Homestead Exemption. (Public)

Sponsors:

Referred to:

May 13, 1999

A BILL TO BE ENTITLED

AN ACT TO REDUCE PROPERTY TAXES ON HOMESTEAD PROPERTY BY INCREASING THE EXEMPTION AMOUNT AND BY ALLOWING MORE INDIVIDUALS TO QUALIFY FOR THE HOMESTEAD TAX EXEMPTION AND TO REIMBURSE LOCAL GOVERNMENTS FOR THE RESULTING REVENUE LOSS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-277.1(a) reads as rewritten:

"(a) Exclusion. -- The following class of property is designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and shall be assessed for taxation in accordance with this section. The first ~~twenty thousand dollars ($20,000)~~ twenty-five thousand dollars ($25,000) in appraised value of a permanent residence owned and occupied by a qualifying owner is excluded from taxation. A qualifying owner is an owner who meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

(1) Is at least 65 years of age or totally and permanently disabled.

(2) Has an income for the preceding calendar year of not more than ~~fifteen thousand dollars ($15,000).~~ twenty-five thousand dollars ($25,000).

(3) Is a North Carolina resident.

An otherwise qualifying owner does not lose the benefit of this exclusion because of a temporary absence from his or her permanent residence for reasons of health, or because of an extended absence while confined to a rest home or nursing home, so long as the residence is unoccupied or occupied by the owner's spouse or other dependent."

Section 2. G.S. 105-309(f) reads as rewritten:

"(f) The following information shall appear on each abstract or on an information sheet distributed with the abstract. The abstract or sheet must include the address and telephone number of the assessor below the notice required by this subsection. The notice shall read as follows:

'PROPERTY TAX RELIEF FOR ELDERLY AND PERMANENTLY DISABLED PERSONS.

North Carolina excludes from property taxes the first ~~twenty thousand dollars ($20,000)~~ twenty-five thousand dollars ($25,000) in appraised value of a permanent residence owned and occupied by North Carolina residents aged 65 or older or totally and permanently disabled whose income does not exceed ~~fifteen thousand dollars ($15,000).~~ twenty-five thousand dollars ($25,000). Income means the owner's adjusted gross income as determined for federal income tax purposes, plus all moneys received other than gifts or inheritances received from a spouse, lineal ancestor or lineal descendant.

If you received this exclusion in (assessor insert previous year), you do not need to apply again unless you have changed your permanent residence. If you received the exclusion in (assessor insert previous year) and your income in (assessor insert previous year) was above ~~fifteen thousand dollars ($15,000),~~ twenty-five thousand dollars ($25,000), you must notify the assessor. If you received the exclusion in (assessor insert previous year) because you were totally and permanently disabled and you are no longer totally and permanently disabled, you must notify the assessor. If the person receiving the exclusion in (assessor insert previous year) has died, the person required by law to list the property must notify the assessor. Failure to make any of the notices required by this paragraph before April 15 will result in penalties and interest.

If you did not receive the exclusion in (assessor insert previous year) but are now eligible, you may obtain a copy of an application from the assessor. It must be filed by April 15.'"

Section 3. G.S. 105-277.1A reads as rewritten:

"**§ 105-277.1A. Property classified for taxation at reduced valuation; duties of tax collectors; reimbursement of localities for portion of tax lost.**

(a) On September 1, 1990, the tax collector of each county and the tax collector of each city shall furnish to the Secretary of Revenue a list containing the name and address of each person who has qualified in that year for the exemption provided in G.S. 105-277.1. The list shall also contain for each name the total amount of property exempted, the tax rate the property is subject to, and the product obtained by multiplying those two numbers by each other. The lists shall be accompanied by an affidavit attesting to the accuracy of the list and shall all be on a form prescribed by the Secretary of Revenue.

(a1) On December 1, 1997, the tax collector of each county and the tax collector of each city shall furnish to the Secretary of Revenue two lists containing the name and address of each taxpayer who has qualified in that year for the exemption provided in G.S. 105-277.1. The first list shall include those taxpayers whose income was above eleven thousand dollars ($11,000) and the second list shall include those taxpayers whose income was eleven thousand dollars ($11,000) or less. On the first list, the tax collector shall provide for each name the total amount of property exempted and on the second list, the tax collector shall provide for each name the amount of property above fifteen thousand dollars ($15,000) exempted. On both lists, the tax collector shall provide the tax rate the property is subject to and the product obtained by multiplying the tax rate by the amount of property. The lists shall be accompanied by an affidavit attesting to the accuracy of the list and shall be on a form prescribed by the Secretary of Revenue.

(a2) On December 1, 2000, the tax collector of each county and the tax collector of each city shall furnish to the Secretary of Revenue two lists containing the name and address of each taxpayer who has qualified in that year for the exemption provided in G.S. 105-277.1. The first list shall include those taxpayers whose income was above fifteen thousand dollars ($15,000) and the second list shall include those taxpayers whose income was fifteen thousand dollars ($15,000) or less. On the first list, the tax collector shall provide for each name the total amount of property exempted and on the second list, the tax collector shall provide for each name the amount of property above twenty thousand dollars ($20,000) exempted. On both lists, the tax collector shall provide the tax rate the property is

subject to and the product obtained by multiplying the tax rate by the amount of property. The lists shall be accompanied by an affidavit attesting to the accuracy of the list and shall be on a form prescribed by the Secretary of Revenue.

(b) Repealed by Session Laws 1996, Second Extra Session, c. 18, s. 15.1(c).

(c) The Secretary of Revenue may, for cause, grant an extension for the submission of a list required by this section.

(d) Before May 31, 1991, the Secretary of Revenue shall distribute to the county or city fifty percent (50%) of the total for the entire list provided pursuant to subsection (a) of this section of the product obtained by multiplying the tax exemption for each taxpayer times the applicable tax rate. Each year thereafter, on or before May 31, the Secretary of Revenue shall pay to each county and city that was entitled to receive a distribution under this subsection in 1991 the amount it was entitled to receive in 1991.

(d1) Before May 31, 1998, the Secretary of Revenue shall distribute to the county or city fifty percent (50%) of the total for both lists provided the preceding December 1 pursuant to subsection (a1) of this section of the product obtained by multiplying the applicable tax rate times the amount listed for each taxpayer. Before May 31, 1999, the Secretary of Revenue shall pay to each county and city the amount it received under this subsection in 1998.

(d2) Before May 31, 2001, the Secretary of Revenue shall distribute to the county or city the total for both lists provided the preceding December 1 pursuant to subsection (a2) of this section of the product obtained by multiplying the applicable tax rate times the amount listed for each taxpayer. Each year thereafter, on or before May 31, the Secretary of Revenue shall pay to each county and city the amount it received under this subsection in 2001.

(e) Any funds received by any county or city pursuant to this section because the county or city was collecting taxes for another unit of government or special district shall be credited to the funds of that other unit or district in accordance with regulations issued by the Local Government Commission.

(f) In order to pay for the reimbursement under this section and the cost to the Department of Revenue of administering the reimbursement, the Secretary of Revenue shall draw from collections received under Division I of Article 4 of this Chapter an amount equal to the reimbursement and the cost of administration."

Section 4. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2000.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1480 PCS Increase Homestead Exemption

SHORT TITLE: Increase Homestead Exemption

SPONSOR(S): Rep. Miller

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

($ Millions)

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
General Fund		**(9.0)**	**(9.0)**	**(9.0)**	**(9.0)**

PRINCIPAL DEPARTMENT(S) & **PROGRAM(S) AFFECTED**: County and City Governments and the North Carolina Department of Revenue, Property Tax Division.

EFFECTIVE DATE: July 1, 2000.

BILL SUMMARY: The legislation increases both the income eligibility and the exemption amount of the Homestead exemption to property taxes. The bill increases the income threshold to $25,000 and the exemption level to $25,000. Currently the income level is $15,000 with $20,000 of property exempted for those that qualify. The State will reimburse county and city governments for 100% of the loss associated with this change.

ASSUMPTIONS AND METHODOLOGY: The Homestead Exemption is a partial exemption from property taxes for the residence of a person who is aged 65 or older, or totally disabled, and who has an income of less than $15,000. The exemption amount was last increased in 1996, when it was increased from $15,000 to $20,000 effective July 1, 1997. Before then the exemption was last increased in 1993 from $12,000 to $15,000. The income eligibility amount was last increased in 1996, when it was increased from $11,000 to $15,000. Before then the income threshold had last been increased in 1987, when it was increased from $10,000 to $11,000.

The bill increases the Homestead Property Tax Exemption amount for the elderly and disabled from $20,000 to $25,000 and increases the income eligibility threshold from $15,000 to $25,000. It also directs the Department of Revenue to reimburse the counties for 100% of the resulting loss.

The current annual cost of the Homestead Exemption program is approximately $27 million. That cost is divided between the state and the counties. History indicates that approximately 80% of the total cost is related to the property exemption and 20% is related to the income requirement. The proposed act increases the value of exempt property 25% and increases the income threshold 66.7%. If 80% of the cost or $21.6 million is devoted to exempt property, then a 25% increase in the exemption equals $(5.4) million. If 20% of the cost of the program is devoted to the income threshold or $5.4 million, then a 66.7% increase in the threshold equals ($3.6) million. Thus the total cost of the bill is $9 million. The State will reimburse the counties for all of the resulting loss, or $9.0 million.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY: Tom Covington

DATE: Wednesday, May 19, 1999

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1480 PCS

SHORT TITLE: Increase Homestead Exemption

SPONSOR(S): Rep. Miller

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	($ Millions)				
	FY 1999-00	**FY 2000-01**	**FY 2001-02**	**FY 2002-03**	**FY 2003-04**
REVENUES					
General Fund		**(9.0)**	**(9.0)**	**(9.0)**	**(9.0)**

PRINCIPAL DEPARTMENT(S) &
PROGRAM(S) AFFECTED: County and City Governments and the North Carolina Department of Revenue, Property Tax Division.

EFFECTIVE DATE: July 1, 2000.

BILL SUMMARY: The legislation increases both the income eligibility and the exemption amount of the Homestead exemption to property taxes. The bill increases the income threshold to $25,000 and the exemption level to $25,000. Currently the income level is $15,000 with $20,000 of property exempted for those that qualify. The State will reimburse county and city governments for 100% of the loss associated with this change.

ASSUMPTIONS AND METHODOLOGY: The Homestead Exemption is a partial exemption from property taxes for the residence of a person who is aged 65 or older, or totally disabled, and who has an income of less than $15,000. The exemption amount was last increased in 1996, when it was increased from $15,000 to $20,000 effective July 1, 1997. Before then the exemption was last increased in 1993 from $12,000 to $15,000. The income eligibility amount was last increased in 1996, when it was increased from $11,000 to $15,000. Before then the income threshold had last been increased in 1987, when it was increased from $10,000 to $11,000.

The bill increase the Homestead Property Tax Exemption amount for the elderly and disabled from $20,000 to $25,000 and increase the income eligibility threshold from $15,000 to $25,000. It also directs the Department of Revenue to reimburse the counties for 50% of the resulting loss. As a result, half of the cost is borne by the State, while local governments pay the balance.

The current annual cost of the Homestead Exemption program is approximately $27 million. That cost is divided between the state and the counties. History indicates that approximately 80% of the total cost is related to the property exemption and 20% is related to the income requirement. The proposed act increases the value of exempt property 25% and increases the income threshold 66.7%. If 80% of the cost or $21.6 million is devoted to exempt property, then a 25% increase in the exemption equals $(5.4) million. If 20% of the cost of the program is devoted to the income threshold or $5.4 million, then a 66.7% increase in the threshold equals ($3.6) million. Thus the total cost of the bill is $9 million. The State will reimburse the counties for all of the resulting loss, or $9.0 million.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY:

DATE: May 18, 1999

HOUSE BILL 1480:
Increase Homestead Exemption

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Miller
Date:	May 19, 1999	**Summary by:**	Cindy Avrette
Version:	PCS for 1st Edition H1480-CSLC-5/17		Committee Counsel

SUMMARY: ***The proposed committee substitute for House Bill 1480 would expand the homestead exemption amount from $20,000 to $25,000 and increase the income eligibility amount from $15,000 to $25,000, effective for taxes imposed for taxable years beginning on or after July 1, 2000. Under the bill, the State would reimburse the counties and cities 100% of the loss they incur as a result of these tax law changes. The bill would become effective for taxes imposed for taxable years beginning on or after July 1, 2000.***

CURRENT LAW: The homestead exemption is a partial exemption from property taxes for the residence of a person who is either aged 65 or older or totally disabled and has an income of less than $15,000. The current exemption amount is $20,000. The exemption amount was last increased in 1996, when it was increased from $15,000 to $20,000. The income eligibility amount was last increased in 1996, when it was increased from $11,000 to $15,000. The income used to determine the income eligibility amount includes moneys received from every source other than gifts or inheritances received from a spouse, lineal ancestor, or lineal descendant. For married applicants residing with their spouses, the income of both spouses is included, whether or not the property is in both names.

Prior to 1987, local governments absorbed most of the cost of the homestead exemption. From 1987 to 1991, the State reimbursed counties and cities for 50% of their losses from the homestead exemption. In 1991, the General Assembly froze the amount of reimbursements made to local governments to the amount each city and county was entitled to receive in 1991. That amount is approximately $7.9 million. No additional reimbursement was provided when the exemption amount was increased in 1993. The State reimbursed counties and cities for 50% of the loss they incurred for two years when the exemption amount and the income eligibility amount were increased in 1996.

BILL ANALYSIS: The proposed committee substitute for House Bill 1480 would increase the homestead exemption amount from $20,000 to $25,000 and increase the income eligibility amount from $15,000 to $25,000, effective for taxes imposed for taxable years beginning on or after July 1, 2000. The revenue loss associated with this bill would be borne by the State.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1480 PCS Increase Homestead Exemption

SHORT TITLE: Increase Homestead Exemption

SPONSOR(S): Rep. Miller

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

($ Millions)

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
General Fund		**(9.0)**	**(9.0)**	**(9.0)**	**(9.0)**

PRINCIPAL DEPARTMENT(S) & **PROGRAM(S) AFFECTED**: County and City Governments and the North Carolina Department of Revenue, Property Tax Division.

EFFECTIVE DATE: July 1, 2000.

BILL SUMMARY: The legislation increases both the income eligibility and the exemption amount of the Homestead exemption to property taxes. The bill increases the income threshold to $25,000 and the exemption level to $25,000. Currently the income level is $15,000 with $20,000 of property exempted for those that qualify. The State will reimburse county and city governments for 100% of the loss associated with this change.

ASSUMPTIONS AND METHODOLOGY: The Homestead Exemption is a partial exemption from property taxes for the residence of a person who is aged 65 or older, or totally disabled, and who has an income of less than $15,000. The exemption amount was last increased in 1996, when it was increased from $15,000 to $20,000 effective July 1, 1997. Before then the exemption was last increased in 1993 from $12,000 to $15,000. The income eligibility amount was last increased in 1996, when it was increased from $11,000 to $15,000. Before then the income threshold had last been increased in 1987, when it was increased from $10,000 to $11,000.

The bill increases the Homestead Property Tax Exemption amount for the elderly and disabled from $20,000 to $25,000 and increases the income eligibility threshold from $15,000 to $25,000. It also directs the Department of Revenue to reimburse the counties for 100% of the resulting loss.

The current annual cost of the Homestead Exemption program is approximately $27 million. That cost is divided between the state and the counties. History indicates that approximately 80% of the total cost is related to the property exemption and 20% is related to the income requirement. The proposed act increases the value of exempt property 25% and increases the income threshold 66.7%. If 80% of the cost or $21.6 million is devoted to exempt property, then a 25% increase in the exemption equals $(5.4) million. If 20% of the cost of the program is devoted to the income threshold or $5.4 million, then a 66.7% increase in the threshold equals ($3.6) million. Thus the total cost of the bill is $9 million. The State will reimburse the counties for all of the resulting loss, or $9.0 million.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY: Tom Covington

DATE: Wednesday, May 19, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
S.B. 675 A BILL TO BE ENTITLED AN ACT TO MAKE TECHNICAL AMENDMENTS TO AN ACT WHICH REVIVED THE CHARTER OF THE TOWN OF UNIONVILLE.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-90
SENATE BILL 675

AN ACT TO MAKE TECHNICAL AMENDMENTS TO AN ACT WHICH REVIVED THE CHARTER OF THE TOWN OF UNIONVILLE.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 62 of the Private Laws of 1911, as rewritten by S.L. 1998-151, reads as rewritten:

"Section 3. (a) That the elected officers of the town shall consist of a mayor and five commissioners, and the following persons shall fill the offices until the regular election in November of 1999: Mayor, Larry B. Simpson; commissioners, Kenneth J. Price, Jimmy Lee Baucom, Kenneth M. Brown, Jr., Robert L. Crouch, and Randy Keith Baucom. In the 1999 election, the three persons who receive the highest numbers of votes are elected for four-year terms as commissioners, and the two persons who receive the next highest numbers of votes are elected to two-year terms as commissioner. In 2001 and quadrennially thereafter, two commissioners are elected for four-year terms. In 2003 and quadrennially thereafter, three commissioners are elected for four-year terms. In 1999, a mayor shall be elected for a two-year term. In 2001 and quadrennially thereafter, a mayor is elected for a four-year term.

(b) Elections shall be conducted on a nonpartisan plurality basis and the results determined in accordance with G.S. 163-292."

Section 2. Section 7 of Chapter 62 of the Private Laws of 1911, as rewritten by S.L. 1998-151 reads as rewritten:

"Section 7. Said commissioners shall have and are hereby vested with all the powers conferred upon commissioners of towns and cities and subject to the performance of all the duties as such, conferred under the general ~~laws.~~ laws, except that the 60-day limitation in G.S. 160A-360(f) is extended to and including December 1, 1999."

Section 3. Section 2 of Chapter 62 of the Private Laws of 1911, as rewritten by S.L. 1998-151, is rewritten to read:

"Section 2. The boundaries set forth in this section follow the centerlines of the named roads and highways as they existed on the date of the general election in 1998, except where the existing property lines did not follow said centerlines, the boundaries shall extend only to the property line closest to the centerline of the road or highway. The boundaries of the Town of Unionville are as follows:

BEGINNING at the intersection of Friendly Baptist Church Road and Ridge Road; thence along and with Ridge Road in a generally southeast direction to the intersection of Ridge Road and U.S. Highway 601; thence with U.S. Highway 601 in a generally southwest direction approximately 400 feet to the southwest corner of parcel 9-174-12B; thence along and with the southern boundaries of the following properties: parcels 9-174-6G; 9-174-10; 9-174-6D; Country Ridge and Country Ridge, Sec. 2 as shown on plats recorded in Plat Cabinet B, Files 109A and 111A in the Office of the Union County Register of Deeds; the minor subdivision of Kelly Helms and wife, Pauline Helms as shown on plat recorded in Plat Cabinet B, File 343A in the Office of the

Union County Register of Deeds; thence with the eastern boundary of parcel 9-177-75 in a generally northerly direction to a point in the centerline of Baucom-Deese Road; thence with Baucom-Deese Road in a generally easterly direction to the intersection of Baucom-Deese Road with Morgan Mill Road; thence with Morgan Mill Road in a generally northeast direction to the intersection of Morgan Mill Road with Henry Baucom Road; thence extending past said intersection and running with the centerline of said road approximately 701 feet; thence in a generally northwesterly direction with the line of parcel 8-072-19 to said parcel's northernmost boundary line; thence with the northernmost boundary lines of the following properties: 8-072-19, 8-072-25A, and 8-072-25; thence generally north with the property lines of parcel 8-072-9 to the northernmost line of parcel 8-072-9; thence with the northernmost property lines of parcels 9, 9A, and 8B; thence in a generally southerly direction along and with the westernmost property lines of parcels 8-072-8B, 8-072-8D, and 8-072-8A to the centerline of Henry Baucom Road; thence with the centerline of said Road in a generally westerly direction to the intersection of Henry Baucom Road with Haigler-Baucom Road; thence with Haigler-Baucom Road in a generally northwest direction to the intersection of Haigler-Baucom Road with Sikes Mill Road; thence with Sikes Mill Road in a generally northerly direction to the intersection of Sikes Mill Road with Clontz-Long Road; thence in a generally westerly direction with Clontz-Long Road to the intersection of Clontz-Long Road with U.S. Highway 601; thence with U.S. Highway 601 in a generally southerly direction to the intersection of U.S. Highway 601 and Lawyers Road; thence with Lawyers Road in a generally westerly direction to the intersection of Lawyers Road and Friendly Baptist church Road; thence along and with Friendly Baptist Church Road to the point and place of the BEGINNING."

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

In the General Assembly read three times and ratified this the 25th day of May, 1999.

s/ Dennis A. Wicker
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

VISITOR REGISTRATION SHEET

HOUSE FINANCE COMMITTEE May 19, 1999

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
MIKE WATERS	NCRPS
John Baiza	NCDOR
Carol Williams	NCHBA
Steve Woodson	NC Farm Bureau
Mary Carmichael	Mecklenburg County
Ralph E. Hise Jr	Legislative Intern
[illegible]	NC DOR
Andy Sasser	NC DOR
Susan Markham	EGTS
Paul Lyons	OSBM
Mary Holmes	NCHMA
[illegible]	NCSC
John Hood	JLF
Andrew [illegible]	JLF
Gordon Myers	Governor's Office

Complete set

HOUSE FINANCE COMMITTEE

Thursday, May 20, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 1303 – Amend Bill Lee Act / Incentives – Rep. Owens
HB 1411 – Balance Wm. S. Lee Tax Incentives – Rep. Luebke

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Thursday, May 20, 1999

The House Committee on Finance met on Thursday, May 20, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke, Miller; Vice Chairs Jarrell; Representatives Braswell, Brown, Buchanan, Capps, Church, Cox, Cunningham, Dedmon, Eddins, Edwards, Gibson, Goodwin, Hackney, Hill, McComas, McCombs, Mosley, Rayfield, Starnes, Tucker, Wilson, and Womble. Staff including Cindy Avrette, Richard Bostic, Mary Shuping, Martha Harris, and David Crotts were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Allen called the meeting to order to consider the following bills:

Representative Owens was recognized to explain HB 1303, A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR WIDELY SHARED PROSPERITY BY AMENDING THE WILIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT, BY PROVIDING ADDITIONAL TAX INCENTIVES FOR VARIOUS BUSINESSES, AND BY MAKING RELATED CHANGES.

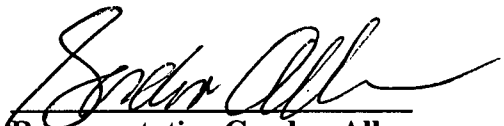
David Crotts briefly explained fiscal aspects of the bill and referred to the fiscal note and fiscal handouts. Rep. Owens explained the provisions of the bill and answered questions from members of the committee. Secretary Carlisle of the Commerce Department was recognized to answer members' questions. The bill, the Proposed Committee Substitute, Bill Summary, Fiscal Note, and other fiscal handouts are included in these minutes.

Representative Luebke was recognized to explain HB 1411, A BILL TO BE ENTITLED AN ACT TO REEVALUATE INEFFECTIVE TAX INCENTIVES SO THAT THE NET EFFECT OF THE WILLIAM S. LEE AMENDMENTS IS REVENUE-NEUTRAL FOR THE 1999-2000 BUDGET. Martha Harris explained the bill and referred to the bill summary. David Crotts commented on the fiscal impact and referred to the fiscal note. The bill, Proposed Committee Substitute, Bill Summary, Fiscal Note, and other fiscal handouts are included in these minutes.

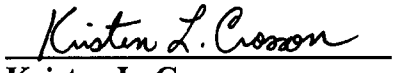
The Chair recognized Dan Gerlach of the North Carolina Budget and Tax Center to comment on the bills and distribute a handout. The Chair recognized Dr. Michele Hoyman of the University of Chapel Hill to comment on the bills. The Chair recognized Michael Rullison, President of the North Carolina Consumers Council who stated his position against HB 1303 and supported HB 1411. The Chair recognized Don Carrington of the John Locke Foundation who spoke against HB 1303 and distributed a handout. The Chair recognized Tom Vass, a private citizen, who supported HB 1411, and distributed a handout. Copies of remarks and handouts provided by public speakers is included in these minutes.

There being no further business, the Chair adjourned the meeting at 10:00 a.m.

Respectfully submitted:



Representative Gordon Allen
Chair



Kristen L. Crosson
Assistant to the Committee

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1303
Proposed Committee Substitute H1303-PCSX7240-LC

Short Title: Amend Bill Lee Act/Incentives. (Public)

Sponsors:

Referred to:

April 20, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR WIDELY SHARED PROSPERITY BY AMENDING THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT, BY PROVIDING ADDITIONAL TAX INCENTIVES FOR VARIOUS BUSINESSES, AND BY MAKING RELATED CHANGES.

The General Assembly of North Carolina enacts:

TABLE OF CONTENTS

I. BILL LEE ACT CHANGES
II. SALES TAX CHANGES
III. AFFORDABLE HOUSING TAX CREDIT
IV. INDUSTRIAL DEVELOPMENT FUND CHANGES
V. EFFECTIVE DATES

PART I. BILL LEE ACT CHANGES

Section 1. Section 10.2(3) of Chapter 13 of the 1996 Second Extra Session reads as rewritten:

"(3) Quality jobs and business expansion tax credits. -- Sections 3.5, 3.6, and 3.8 through 3.10 of Part III of this act become effective August 1, 1996. G.S. 105-129.11, as enacted by Part III of this act, becomes effective for taxable years beginning on or after January 1, 1997, and applies to training expenditures made on or after July 1, 1997. The remainder of Part III of this act is effective for taxable years beginning on or after January 1, 1996, and applies to jobs created on or after August 1, 1996, and

property placed in service on or after August 1, 1996. Article 3A of Chapter 105 of the General Statutes is repealed effective for applications for credits filed under G.S. 105-129.6 on or after January 1, ~~2002.~~ 2007. Article 3B of Chapter 105 of the General Statutes is repealed effective for business property placed in service on or after January 1, ~~2002.~~ 2007."

Section 2. Article 3A of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 3A.

"Tax Incentives for New and Expanding Businesses.

"**§ 105-129.2. Definitions.**

The following definitions apply in this Article:

(1) Air courier services. -- A person is engaged in the air courier services business if the person's primary business is furnishing air delivery of individually addressed letters and packages for compensation, except by the United States Postal Service.

(2) Central administrative office. -- ~~Defined~~ Either of the following:

a. A corporate, subsidiary, or regional managing office, as defined by NAICS. ~~in the North American Industry Classification System adopted by the United States Office of Management and Budget.~~

b. An auxiliary subdivision of an interstate passenger air carrier engaged primarily in centralized training for the carrier at its hub. For the purpose of this definition, the terms 'interstate passenger air carrier' and 'hub' have the meanings provided in G.S. 105-164.3.

(3) Cost. -- In the case of property owned by the taxpayer, cost is determined pursuant to regulations adopted under section 1012 of the Code. In the case of property the taxpayer leases from another, cost is value as determined pursuant to G.S. 105-130.4(j)(2).

(3a) Customer service center. -- An auxiliary subdivision of a telecommunications or financial services company, as defined by NAICS, that is primarily engaged in providing support services to the company's customers by telephone to support products or services of the company. For the purpose of this definition, a subdivision is primarily engaged in providing support services by telephone if at least sixty percent (60%) of its calls are incoming.

(4) Data processing. -- Any of the following industries, as defined by NAICS: ~~Defined in the North American Industry Classification System adopted by the United States Office of Management and Budget.~~

a. Computer systems design and related services.

b. Software publishers.

c. Software reproducing.
d. Data processing services.
e. On-line information services.

(5) Development zone. -- An area designated as a development zone pursuant to G.S. 105-129.3A.

(6) Enterprise tier. -- The classification assigned to an area pursuant to G.S. 105-129.3.

(7) Full-time job. -- A position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year. A full-time employee is an employee who holds a full-time job.

(8) Reserved.

(9) Large investment. -- Defined in G.S. 105-129.4(b1).

(10) Machinery and equipment. -- Engines, machinery, equipment, tools, and implements used or designed to be used in the business for which the credit is claimed. The term does not include real property as defined in G.S. 105-273 or rolling stock as defined in G.S. 105-333.

(11) Manufacturing. -- ~~Defined~~ Industries in manufacturing sectors 31 through 33, as defined by NAICS, ~~in the North American Industry Classification System adopted by the United States Office of Management and Budget.~~ but not including quick printing or retail bakeries.

(11a) NAICS. -- The North American Industry Classification System adopted by the United States Office of Management and Budget.

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

(13) ~~Warehousing and wholesale trade. -- Defined~~ Warehousing. -- Industries in warehousing and storage subsector 493 as defined by NAICS, ~~in the North American Industry Classification System adopted by the United States Office of Management and Budget.~~

(14) Wholesale trade. -- Industries in wholesale trade sector 42 as defined by NAICS.

"§ 105-129.3. Enterprise tier designation.

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

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

(1) The county's rank in a ranking of counties by average rate of unemployment from lowest to highest, for the preceding three years.
(2) The county's rank in a ranking of counties by average per capita income from highest to lowest, for the preceding three years.
(3) The county's rank in a ranking of counties by percentage growth in population from highest to lowest.

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

(b1) Data. -- In measuring rates of unemployment and per capita income, the Secretary shall use the latest available data published by a State or federal agency generally recognized as having expertise concerning the data. In measuring population and population growth, the Secretary shall use the most recent estimates of population certified by the State Planning Officer.

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

(d) Exception for Two-County Industrial Park. -- For the purpose of this Article, an eligible two-county industrial park that meets all of the following conditions has the lower enterprise tier designation of the designations of the two counties in which it is located:

(1) It is located in two contiguous counties, one of which has a lower enterprise tier designation than the other.
(2) At least one-third of the park is located in the county with the lower tier designation.
(3) It is owned by the two counties or a joint agency of the counties.
(4) The county with the lower tier designation contributed at least one-half of the cost of developing the park.

(e) Exception for Small, High-Poverty Counties. -- A county that meets both of the conditions set out below has an enterprise tier designation one level below the designation it would otherwise have under subsection (a) of this section:

(1) Its population is less than 50,000.
(2) More than eighteen percent (18%) of its population is below the federal poverty level according to the most recent federal decennial census.

(f) Exception for Small Counties. -- A county that has a population of less than 25,000 and that would otherwise be designated an enterprise four or five area under this section, must be designated an enterprise tier three area.

"**§ 105-129.3A. Development zone designation.**

(a) Development Zone Defined. -- A development zone is an area comprised of one or more contiguous census tracts, census block groups, or both in the most recent federal decennial census that meets all of the following conditions:

(1) ~~It~~ Every census tract and census block group in the zone is located in whole or in part ~~in~~ within the primary corporate limits of a city with a population of more than 5,000 according to the most recent annual population estimates certified by the State Planning Officer.

(2) It has a population of 1,000 or more according to the most recent annual population estimates certified by the State Planning Officer.

(3) More than twenty percent (20%) of its population is below the poverty level according to the most recent federal decennial census.

(4) Every census tract and census block group in the zone meets at least one of the following conditions:

a. More than ten percent (10%) of its population is below the poverty level according to the most recent federal decennial census.

b. It is immediately adjacent to another census tract or census block group that is in the same zone and has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.

(5) None of the census tracts or census block groups in the zone is located in another development zone designated by the Secretary of Commerce.

(b) Designation. -- Upon request of a taxpayer or a local government, the Secretary of Commerce shall designate whether an area is a development zone that meets the conditions of subsection (a) of this section. If the applicant is a taxpayer, it must notify each city in which part of the zone is located. A development zone designation is effective for ~~48~~ 24 months following the designation.

(c) Relationship With Enterprise Tiers. -- For the purpose of the wage standard requirement of G.S. 105-129.3(b), the credit for investing in machinery and equipment allowed in G.S. 105-129.9, and the credit for worker training allowed in G.S. 105-129.11, a development zone is considered an enterprise tier one area. For all other purposes, a development zone has the same enterprise tier designation as the county in which it is located.

"**§ 105-129.4. Eligibility; forfeiture.**

(a) Type of Business. -- A taxpayer is eligible for a credit allowed by G.S. 105-129.12 if the real property for which the credit is claimed is used for a central administrative office that creates at least 40 new jobs. A taxpayer is eligible for the other credits allowed by this Article if the taxpayer engages in one of the following types of businesses and the jobs with respect to which a credit is claimed are created in that business, the machinery and equipment with respect to which a credit is

claimed are used in that business, and the research and development for which a credit is claimed are carried out as part of that business:

(1) Air courier services.
(2) Central administrative office that creates at least 40 new jobs.
(3) Data processing.
(4) Manufacturing.
(5) ~~Warehousing or wholesale trade.~~ Warehousing.
(6) Wholesale trade.
(7) Customer service center located in an enterprise tier one or two area.

(a1) Central Administrative Office. -- A central administrative office creates at least 40 new jobs if the taxpayer hires at least 40 additional full-time employees to fill new positions at the office either in the year the taxpayer first uses the property as a central administrative office or in the preceding 24 months while using temporary space for the central administrative office functions during completion of the administrative office property. Jobs transferred from one area in the State to another area in the State are not considered new jobs for purposes of this subsection.

(b) Wage Standard. -- A taxpayer is eligible for the credit for creating jobs or the credit for worker training if the jobs for which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. A taxpayer is eligible for the credit for investing in machinery and equipment, the credit for research and development, or the credit for investing in real property for a central administrative office if the jobs at the location with respect to which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. Jobs meet the wage standard if they pay an average weekly wage that is at least equal to the applicable percentage times the applicable average weekly wage for the county in which the jobs will be located, as computed by the Secretary of Commerce from data compiled by the Employment Security Commission for the most recent period for which data are available. The applicable percentage for jobs located in an enterprise tier one area is one hundred percent (100%). The applicable percentage for all other jobs is one hundred ten percent (110%). The applicable average weekly wage is the lowest of the following: (i) the average wage for all insured private employers in the county, (ii) the average wage for all insured private employers in the State, and (iii) the average wage for all insured private employers in the county multiplied by the county income/wage adjustment factor. The county income/wage adjustment factor is the county income/wage ratio divided by the State income/wage ratio. The county income/wage ratio is average per capita income in the county divided by the annualized average wage for all insured private employers in the county. The State income/wage ratio is the average per capita income in the State divided by the annualized average wage for all insured private employers in the State.

(b1) Large Investment. -- A taxpayer who is otherwise eligible for a tax credit under this Article becomes eligible for the large investment enhancements provided for credits under this Article if the Secretary of Commerce certifies that the taxpayer will purchase or lease, and place in service in connection with the eligible business

within a two-year period, at least one hundred fifty million dollars ($150,000,000) worth of one or more of the following: real property, machinery and equipment, or central administrative office property. If the taxpayer fails to make the level of investment certified within this two-year period, the taxpayer forfeits the large investment enhancements as provided in subsection (d) of this section.

(b2) Health Insurance. -- A taxpayer is eligible for a credit for creating jobs or for worker training under this Article if the taxpayer provides health insurance for the positions for which the credit is claimed at the time the taxpayer applies for the credit. A taxpayer is eligible for the other credits under this Article if the taxpayer provides health insurance for all of the full-time positions at the location with respect to which the credit is claimed at the time the taxpayer applies for the credit. For the purposes of this subsection, a taxpayer provides health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

Each year that a taxpayer claims an installment or carryforward of a credit allowed under this Article, the taxpayer must provide with the tax return the taxpayer's certification that the taxpayer continues to provide health insurance for the jobs for which the credit was claimed or the full-time jobs at the location with respect to which the credit was claimed. If the taxpayer ceases to provide health insurance for the jobs during a taxable year, the credit expires and the taxpayer may not take any remaining installment or carryforward of the credit.

(b3) Environmental Impact. -- A taxpayer is eligible for a credit allowed under this Article only if the taxpayer certifies that, at the time the taxpayer applies for the credit, the taxpayer has not had and does not reasonably expect to have a materially adverse effect on the environment at the business location with respect to which the credit is claimed. The Secretary of Commerce will provide the Department of Environment and Natural Resources a list of all taxpayers making this certification. The Department of Environment and Natural Resources may conduct random audit checks to verify taxpayers' certifications. The Department of Environment and Natural Resources must notify the Department of Revenue of any taxpayer certifications it determines are not accurate.

(b4) Safety and Health Programs. -- A taxpayer is eligible for a credit allowed under this Article only if the taxpayer certifies that, as of the time the taxpayer applies for the credit, at the business location with respect to which the credit is claimed, the taxpayer has no outstanding citations under the Occupational Safety and Health Act and has had no serious violation as defined in G.S. 95-127 within the last three years. The Secretary of Commerce will provide the Department of Labor a list of all taxpayers making this certification. The Department of Labor may conduct random audit checks to verify taxpayers' certifications. The Department of Labor must notify the Department of Revenue of any taxpayer certifications it determines are not accurate.

(c) Repealed by Session Laws 1998-55, s. 1.

(d) Forfeiture. -- A taxpayer forfeits a credit allowed under this Article if the taxpayer was not eligible for the credit at the time the taxpayer applied for the credit. In addition, a taxpayer forfeits a large investment enhancement of a tax credit if the taxpayer fails to make the level of investment certified by the Secretary of Commerce under subsection (b1) of this section within the required two-year period. A taxpayer that forfeits a credit under this Article is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236. If a taxpayer forfeits the credit for creating jobs or the credit for investing in machinery and equipment, the taxpayer also forfeits any credit for worker training claimed for the jobs for which the credit for creating jobs was claimed or the jobs at the location with respect to which the credit for investing in machinery and equipment was claimed.

(e) Change in Ownership of Business. -- The sale, merger, acquisition, or bankruptcy of a business, or any transaction by which an existing business reformulates itself as another business, does not create new eligibility in a succeeding business with respect to credits for which the predecessor was not eligible under this Article. A successor business may, however, take any installment of or carried-over portion of a credit that its predecessor could have taken if it had a tax liability. The acquisition of a business is a new investment that creates new eligibility in the acquiring taxpayer under this Article if any of the following conditions are met:

(1) The business closed before it was acquired.

(2) The business was required to file a notice of plant closing or mass layoff under the federal Worker Adjustment and Retraining Notification Act, 29 U.S.C. § 2102, before it was acquired.

(3) The business was acquired by its employees through an employee stock option transaction or another similar mechanism.

(f) Development Zone Project Credit. -- Subsections (a) through (b4) of this section do not apply to the credit for development zone projects provided in G.S. 105-129.13.

"§ 105-129.5. Tax election; cap.

(a) Tax Election. -- The credits provided in this Article are allowed against the franchise tax levied in Article 3 of this ~~Chapter and~~ Chapter, the income taxes levied in Article 4 of this ~~Chapter. The credit for investing in central administrative office property provided in G.S. 105-129.12 is also allowed against~~ Chapter, and the gross premiums tax levied in Article 8B of this Chapter. The taxpayer shall elect the tax against which a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. Any carryforwards of the credit must be claimed against the same tax.

(b) Cap. -- The credits allowed under this Article may not exceed fifty percent (50%) of the tax against which they are claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on

behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article against each tax for the taxable year. Any unused portion of a credit with respect to a large investment may be carried forward for the succeeding 20 years. Any unused portion of any other credit may be carried forward for the succeeding five years.

"**§ 105-129.6. Application; reports.**

(a) Application. -- To claim the credits allowed by this Article, the taxpayer must provide with the tax return the certification of the Secretary of Commerce that the taxpayer meets all of the eligibility requirements of G.S. 105-129.4 or G.S. 105-129.13, as applicable, with respect to each credit. A taxpayer shall apply to the Secretary of Commerce for certification of eligibility. The application must be on a form provided by the Secretary of Commerce and must contain any information necessary for the Secretary of Commerce to determine whether the taxpayer meets the eligibility requirements. In addition, the application must state the number of jobs to be created that are located within a development zone, the number of jobs to be created that are expected to be filled by employees residing within the development zone, and the number of jobs to be created that are expected to be filled by employees residing within a census tract or census block group that has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.

If the Secretary of Commerce determines that the taxpayer meets all of the eligibility requirements of G.S. 105-129.4 or G.S. 105-129.13, as applicable, with respect to a credit, the Secretary shall issue a certificate describing the location with respect to which the credit is claimed, outlining the eligibility requirements for the credit, and stating that the taxpayer meets the eligibility requirements. If the Secretary of Commerce determines that the taxpayer does not meet all of the eligibility requirements of G.S. 105-129.4 or G.S. 105-129.13, as applicable, with respect to a credit, the Secretary must advise the taxpayer in writing of the eligibility requirements the taxpayer fails to meet. The Secretary of Commerce may adopt rules in accordance with Chapter 150B of the General Statutes that are needed to carry out the Secretary of Commerce's responsibilities under this section.

(a1) Fee. -- When filing an application for certification under this section, the taxpayer must pay the Department of Commerce a fee ~~of seventy-five dollars ($75.00). Fees collected under this subsection are receipts of the Department of Commerce.~~ of five hundred dollars ($500.00) for each credit the taxpayer intends to claim with respect to a location that is in an enterprise tier three, four, or five area, subject to a maximum fee of one thousand five hundred dollars ($1,500) per taxpayer per taxable year. If the taxpayer applies for certification for a credit that relates to locations in more than one enterprise tier area, the fee is based on the highest-numbered enterprise tier area.

The Secretary of Commerce shall retain one-fourth of the proceeds of the fee imposed in this section for the costs of administering this section. The Secretary of Commerce shall credit the remaining proceeds of the fee imposed in this section to the Department of Revenue for the costs of administering and auditing the credits

allowed in this Article. The proceeds of the fee are receipts of the Department to which they are credited.

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

(1) The number of applications for each credit allowed in this Article.

(2) The number and enterprise tier area of new jobs with respect to which credits were applied for.

(3) The cost of machinery and equipment with respect to which credits were applied for.

(4) The number of new jobs created within development zones, and the percentage of those jobs that were filled by residents of the zones.

"**§ 105-129.7. Substantiation.**

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

"**§ 105-129.8. Credit for creating jobs.**

(a) Credit. -- A taxpayer that meets the eligibility requirements set out in G.S. 105-129.4, has five or more employees for at least 40 weeks during the taxable year, and hires an additional full-time employee during that year to fill a position located in this State is allowed a credit for creating a new full-time job. The amount of the credit for each new full-time job created is set out in the table below and is based on the enterprise tier of the area in which the position is located. In addition, if the position is located in a development zone, the amount of the credit is increased by four thousand dollars ($4,000) per job.

Area Enterprise Tier	Amount of Credit
Tier One	$12,500
Tier Two	4,000
Tier Three	3,000
Tier Four	1,000
Tier Five	500

A position is located in an area if more than fifty percent (50%) of the employee's duties are performed in the area. The credit may not be taken in the taxable year in which the additional employee is hired. Instead, the credit shall be taken in equal installments over the four years following the taxable year in which the additional employee was hired and shall be conditioned on the continued employment by the

taxpayer of the number of full-time employees the taxpayer had upon hiring the employee that caused the taxpayer to qualify for the credit.

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

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

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

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

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

(e), (f) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3.

"**§ 105-129.9. Credit for investing in machinery and equipment.**

(a) Credit. -- If a taxpayer that has purchased or leased eligible machinery and equipment places it in service in this State during the taxable year, the taxpayer is allowed a credit equal to seven percent (7%) of the excess of the eligible investment amount over the applicable threshold. Machinery and equipment is eligible if it is capitalized by the taxpayer for tax purposes under the Code and is not leased to another party. In addition, in the case of a large investment, machinery and equipment that is not capitalized by the taxpayer is eligible if the taxpayer leases it from another party. The credit may not be taken for the taxable year in which the equipment is placed in service but shall be taken in equal installments over the seven years following the taxable year in which the equipment is placed in service.

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

(c) Threshold. -- The applicable threshold is the appropriate amount set out in the following table based on the enterprise tier of the area where the eligible machinery and equipment are placed in service during the taxable year. If the taxpayer places eligible machinery and equipment in service in more than one area during the taxable year, the threshold applies separately to the eligible machinery and equipment placed in service in each area. If the taxpayer places eligible machinery and equipment in service in an area over the course of a two-year period, the applicable threshold for the second taxable year is reduced by the eligible investment amount for the previous taxable year.

Area Enterprise Tier	Threshold
Tier One	$ -0-
Tier Two	100,000
Tier Three	200,000
Tier Four	500,000
Tier Five	1,000,000

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

If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are moved to an area in a higher-numbered enterprise tier, or are moved from a development zone to an area that is not a development zone, the remaining installments of the credit are allowed only to the extent they would have been allowed if the machinery and equipment had been placed in service initially in the area to which they were moved.

(e) Planned Expansion. -- A taxpayer that signs a letter of commitment with the Department of Commerce to place specific eligible machinery and equipment in service in an area within two years after the date the letter is signed may, in the year the eligible machinery and equipment are placed in service in that area, calculate the credit for which the taxpayer qualifies based on the area's enterprise tier and development zone designation for the year the letter was signed. All other conditions apply to the credit, but if the area has been redesignated to a higher-numbered enterprise tier or has lost its development zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and

development zone designation for the year the letter was signed. If the taxpayer does not place part or all of the specified eligible machinery and equipment in service within the two-year period, the taxpayer does not qualify for the benefit of this subsection with respect to the machinery and equipment not placed in service within the two-year period. However, if the taxpayer qualifies for a credit in the year the eligible machinery and equipment are placed in service, the taxpayer may take the credit for that year as if no letter of commitment had been signed pursuant to this subsection.

"**§ 105-129.10. Credit for research and development.**

(a) General Credit. -- A taxpayer that claims for the taxable year a federal income tax credit under section 41(a) of the Code for increasing research activities is allowed a credit equal to five percent (5%) of the State's apportioned share of the taxpayer's expenditures for increasing research activities. The State's apportioned share of a taxpayer's expenditures for increasing research activities is the excess of the taxpayer's qualified research expenses for the taxable year over the base amount, as determined under section 41 of the Code, multiplied by a percentage equal to the ratio of the taxpayer's qualified research expenses in this State for the taxable year to the taxpayer's total qualified research expenses for the taxable year.

(b) Alternative Credit. -- A taxpayer that claims the alternative incremental credit under section 41(c)(4) of the Code for increasing research activities is allowed a credit equal to twenty-five percent (25%) of the State's apportioned share of the federal credit claimed. The State's apportioned share of the federal credit claimed is the amount of the alternative incremental credit the taxpayer claimed under section 41(c)(4) of the Code for the taxable year multiplied by a percentage equal to the ratio of the taxpayer's qualified research expenses in this State for the taxable year to the taxpayer's total qualified research expenses for the taxable year. For the purpose of this subsection, the amount of the alternative incremental credit claimed by a taxpayer is determined without regard to any reduction elected under section 280C(c) of the Code.

(c) Definitions. -- As used in this section, the terms "qualified research expenses" and "base amount" have the meaning provided in section 41 of the Code. Notwithstanding G.S. 105-228.90(b), as used in this section, the term "Code" means the Internal Revenue Code as enacted as of January 1, 1999.

"**§ 105-129.11. Credit for worker training.**

(a) Credit. -- A taxpayer that provides worker training for five or more of its eligible employees during the taxable year is allowed a credit equal to the wages paid to the eligible employees during the training. Wages paid to an employee performing his or her job while being trained are not eligible for the credit. For positions located in an enterprise tier one area, the credit may not exceed one thousand dollars ($1,000) per employee trained during the taxable year. For other positions, the credit may not exceed five hundred dollars ($500.00) per employee trained during the taxable year. A position is located in an area if more than fifty percent (50%) of the employee's duties are performed in the area.

(b) Eligibility. -- An employee is eligible if the employee is in a full-time position not classified as exempt under the Fair Labor Standards Act, 29 U.S.C. § 213(a)(1) and meets one or more of the following conditions:

(1) The employee occupies a job for which the taxpayer is eligible to claim an installment of the credit for creating jobs.

(2) The employee is being trained to operate machinery and equipment for which the taxpayer is eligible to claim an installment of the credit for investing in machinery and equipment.

"**§ 105-129.12. Credit for investing in central administrative office property.**

(a) Credit. -- If a taxpayer that has purchased or leased real property in this State begins to use the property as a central administrative office during the taxable year, the taxpayer is allowed a credit equal to seven percent (7%) of the eligible investment amount. The eligible investment amount is the lesser of (i) the cost of the property and (ii) the amount by which the cost of all of the property the taxpayer is using in this State as central administrative offices on the last day of the taxable year exceeds the cost of all of the property the taxpayer was using in this State as central administrative offices on the last day of the base year. The base year is that year, of the three immediately preceding taxable years, in which the taxpayer was using the most property in this State as central administrative offices. In the case of property that is leased, the cost of the property is not determined as provided in G.S. 105-129.2 but is considered to be the taxpayer's lease payments over a seven-year period, plus any expenditures made by the taxpayer to improve the property before it is used as the taxpayer's central administrative office if the expenditures are not reimbursed or credited by the lessor. The maximum credit allowed a taxpayer under this section for property used as a central administrative office is five hundred thousand dollars ($500,000). The entire credit may not be taken for the taxable year in which the property is first used as a central administrative office but shall be taken in equal installments over the seven years following the taxable year in which the property is first used as a central administrative office. The basis in any real property for which a credit is allowed under this section shall be reduced by the amount of credit allowable.

(b) Mixed Use Property. -- If the taxpayer uses only part of the property as the taxpayer's central administrative office, the amount of the credit allowed under this section is reduced by multiplying it by a fraction the numerator of which is the square footage of the property used as the taxpayer's central administrative office and the denominator of which is the total square footage of the property.

(c) Expiration. -- If, in one of the seven years in which the installment of a credit accrues, the property with respect to which the credit was claimed is no longer used as a central administrative office, the credit expires and the taxpayer may not take any remaining installment of the credit. If, in one of the seven years in which the installment of a credit accrues, part of the property with respect to which the credit was claimed is no longer used as a central administrative office, the remaining installments of the credit shall be reduced by multiplying it by the fraction described in subsection (b) of this section. If, in one of the seven years in which the installment

of a credit accrues, the total number of employees the taxpayer employs at all of its central administrative offices in this State drops by 40 or more, the credit expires and the taxpayer may not take any remaining installment of the credit.

In each of these cases, the taxpayer may nonetheless take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

"**§ 105-129.13. Credit for development zone projects.**

(a) Credit. -- A taxpayer who contributes cash or property to a development zone agency for an improvement project in a development zone is allowed a credit equal to twenty-five percent (25%) of the value of the contribution. A contribution is for an improvement project for the purposes of this section if the agency receiving the contribution contracts in writing to use the contribution for the project and agrees in the contract to repay to the taxpayer, with interest, any part of the contribution not used for the project. The credit may not be taken for the year in which the contribution is made but must be taken for the taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in this section.

(b) Definitions. -- The following definitions apply in this section:

(1) Community development corporation. -- A nonprofit corporation that meets all of the following conditions:

a. It is chartered pursuant to Chapter 55A of the General Statutes and is tax-exempt pursuant to section 501(c)(3) of the Code.

b. Its primary mission is to develop and improve low-income communities and neighborhoods through economic and related development.

c. Its activities and decisions are initiated, managed, and controlled by the constituents of those local communities.

d. Its primary function is to act as deal maker and packager of projects and activities that will increase its constituency's opportunities to become owners, managers, and producers of small businesses, to obtain affordable housing, and to obtain jobs designed to produce positive cash flow and curb blight in the targeted community.

(2) Control. -- A person controls an entity if the person owns, directly or indirectly, more than ten percent (10%) of the voting securities of that entity. As used in this subdivision, the term 'voting security' means a security that (i) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (ii) is convertible into, or entitles the holder to receive upon its exercise, a security that confers such a right to vote. A general partnership interest is a voting security.

(3) Development zone agency. -- Any of the following agencies that the Department of Commerce certifies will undertake an improvement project in a development zone:

a. A community-based development organization qualified under 24 C.F.R. § 570.204 to receive community development block grant funds under the Housing and Community Development Act of 1974, as amended, 42 U.S.C. § 5301, et seq., to carry out a neighborhood revitalization project, a community economic development project, or an energy conservation project.

b. A community action agency that has been officially designated as such pursuant to section 210 of the Economic Opportunity Act of 1964, Public Law 88-452, 78 Stat. 508 and which has not lost its designation as a result of a failure to comply with the provisions of that act.

c. A community development corporation.

d. A community development financial institution certified by the United States Department of the Treasury under the Community Development Banking and Financial Institutions Act of 1994, 12 U.S.C. § 4701, et seq.

e. A community housing development organization qualified under the HOME Investment Partnerships Act, 42 U.S.C. §§ 12701, 12704, and 24 C.F.R. § 92.2.

f. A local housing authority created under Article 1 of Chapter 157 of the General Statutes.

(4) Improvement project. -- A project to construct or improve residential, commercial, or public real property located in a development zone. The term includes services provided by a development zone agency directly related to the construction or improvement, and project development fees charged by a developer for the construction or improvement.

(c) Certification. -- The Secretary of Commerce shall not certify a development zone agency under this section if the agency, any of the agency's officers or directors, or any partner of the agency has ever used any part of a contribution made under this section for any purpose other than an improvement project.

(d) Limitations. -- A taxpayer who claims a credit under this subsection must identify in the application the development zone agencies to which the taxpayer made contributions and the amount contributed to each. No credit is allowed for a contribution if the taxpayer is related to the development zone agency as defined in section 1313 of the Code or if the taxpayer controls, is controlled by, or is under common control with an affiliate of the development zone agency. No credit is allowed to the extent the taxpayer receives anything of value in exchange for the contribution.

(e) Application. -- To be eligible for the tax credit provided in this section, in addition to the application required under G.S. 105-129.6, the taxpayer must file an application for the credit with the Secretary of Revenue on or before April 15 of the year following the calendar year in which the contribution was made. The Secretary may grant extensions of this deadline, as the Secretary finds appropriate, upon the request of the taxpayer, except that the application may not be filed after September 15 of the year following the calendar year in which the contribution was made. An application is effective for the year in which it is timely filed. The application must be on a form prescribed by the Secretary and must include any supporting documentation that the Secretary may require. If a contribution for which a credit is applied for was of property rather than cash, the taxpayer must include with the application a certified appraisal of the value of the property contributed.

(f) Ceiling. -- The total amount of all tax credits allowed to taxpayers under this section for contributions made in a calendar year may not exceed four million dollars ($4,000,000). The Secretary of Revenue must calculate the total amount of tax credits claimed from the applications filed under this section. If the total amount of tax credits claimed for contributions made in a calendar year exceeds four million dollars ($4,000,000), the Secretary must allow a portion of the credits claimed by allocating a total of four million dollars ($4,000,000) in tax credits in proportion to the size of the credit claimed by each taxpayer. If a credit is reduced pursuant to this subsection, the Secretary must notify the taxpayer of the amount of the reduction of the credit on or before December 31 of the year the application was filed. The Secretary's allocations based on applications filed pursuant to this section are final and will not be adjusted to account for credits applied for but not claimed.

(g) Forfeiture. -- A taxpayer forfeits a credit allowed under this section to the extent the development zone agency uses the taxpayer's contribution for any purpose other than an improvement project. Each development zone agency certified by the Department of Commerce must file with the Department of Commerce annual financial statements audited in accordance with generally accepted accounting principles and in accordance with Government Audit Standards developed by the Comptroller General of the United States. The annual statements are required each time the agency receives a contribution eligible for the credit allowed under this section until the entire contribution has been used for improvement projects. If the Department of Commerce determines that a development zone agency has used part or all of a contribution for any purpose other than an improvement project, the Department must notify the Secretary of Revenue of the forfeiture, the taxpayer who made the contribution, and the amount forfeited."

PART II. SALES TAX CHANGES

Section 3.(a) G.S. 105-164.4(a)(1d)a. through k. are recodified as G.S. 105-164.4A.

Section 3.(b) G.S. 105-164.4(a)(1d), as amended by this section, reads as rewritten:

"(1d) The rate of one percent (1%) applies to the sales price of the ~~following articles.~~ articles listed in G.S. 105-164.4A. The maximum tax is eighty dollars ($80.00) per article."

Section 3.(c) G.S. 105-164.4A, as recodified by this section, reads as rewritten:

"**§ 105-164.4A. Articles taxed at one percent (1%), eighty dollars ($80.00).**

The following articles are taxable under G.S. 105-164.4(a)(1d):

~~a.~~(1) Farm machinery. -- Sales to a farmer of machines and machinery, and parts and accessories for these machines and machinery, for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals. A "farmer" includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758. Items that are exempt from tax under G.S. 105-164.13(4c) are not subject to tax under ~~this section.~~ G.S. 105-164.4.

The term "machines and machinery" as used in this subdivision is defined as follows:

The term shall include all vehicular implements, designed and sold for any use defined in this subdivision, which are operated, drawn or propelled by motor or animal power, but shall not include vehicular implements which are operated wholly by hand, and shall not include any motor vehicles required to be registered under Chapter 20 of the General Statutes.

The term shall include all nonvehicular implements and mechanical devices designed and sold for any use defined in this subdivision, which have moving parts, or which require the use of any motor or animal power, fuel, or electricity in their operation but shall not include nonvehicular implements which have no moving parts and are operated wholly by hand.

The term shall also include metal flues sold for use in curing tobacco, whether such flues are attached to handfired furnaces or used in connection with mechanical burners.

~~b.~~(2) Manufacturing machinery. -- Sales of mill machinery or mill machinery parts and accessories to manufacturing industries and plants, and sales to contractors and subcontractors purchasing mill machinery or mill machinery parts and accessories for use by them in the performance of contracts with manufacturing industries and plants, and sales to subcontractors purchasing mill machinery or mill machinery parts and accessories for use by them in the performance of contracts with general contractors who have contracts with manufacturing industries and plants. As used in this paragraph, the term "manufacturing industries and plants" does not include delicatessens, cafes, cafeterias,

restaurants, and other similar retailers that are principally engaged in the retail sale of foods prepared by them for consumption on or off their premises.

~~e.~~(3) Telephone company property. -- Sales of central office equipment and switchboard and private branch exchange equipment to telephone companies regularly engaged in providing telephone service to subscribers on a commercial basis, and sales to these companies of prewritten computer programs used in providing telephone service to their subscribers.

~~d.~~(4) Laundry machinery. -- Sales to commercial laundries or to pressing and dry cleaning establishments of machinery used in the direct performance of the laundering or the pressing and cleaning service and of parts and accessories thereto.

~~e.~~(5) Freezer plant machinery. -- Sales to freezer locker plants of machinery used in the direct operation of ~~said~~ the freezer locker plant and of parts and accessories thereto.

~~f.~~(6) Broadcasting machinery. -- Sales of broadcasting equipment and parts and accessories thereto and towers to commercial radio and television companies which are under the regulation and supervision of the Federal Communications Commission.

~~g.~~(7) Tobacco equipment. -- Sales to farmers of bulk tobacco barns and racks and all parts and accessories thereto and similar apparatus used for the curing and drying of any farm produce.

~~h.~~(8) Farm storage facilities. -- Sales to farmers of grain, feed or soybean storage facilities and accessories thereto, whether or not dryers are attached, and all similar apparatus and accessories thereto for the storage of grain, feed or soybeans.

~~i.~~(9) Farm containers. -- Sales of containers to farmers or producers for use in the planting, producing, harvesting, curing, marketing, packaging, sale, or transporting or delivery of their products when such containers do not go with and become part of the sale of their products at wholesale or retail.

~~j.~~(10) Recycling facility equipment. -- Sales to a major recycling facility of the following tangible personal property for use in connection with the facility: cranes, structural steel crane support systems, foundations related to the cranes and support systems, port and dock facilities, rail equipment, and material handling equipment.

~~k.~~(11) (Effective January 1, 2001) Air courier equipment. -- Sales of the following items to an interstate air courier for use at its hub: materials handling equipment, racking systems, and related parts and accessories, for the storage or handling and movement of tangible personal property at an airport or in a warehouse or distribution facility."

Section 4. G.S. 105-164.14 is amended by adding a new subsection to read:

"(h) Low Enterprise Tier Businesses. --

(1) Refunds. -- An eligible person is allowed an annual refund of sales and use taxes paid by it under this Article at the general rate of tax on eligible machinery and equipment it purchases for use in an enterprise tier one area or an enterprise tier two area, as defined in G.S. 105-129.3. Liability incurred indirectly by the taxpayer for sales and use taxes on these items is considered tax paid by the taxpayer. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred.

(2) Eligibility. -- A person is eligible for the refund provided in this subsection if it is engaged primarily in one of the businesses listed in G.S. 105-129.4(a) in an enterprise tier one area or an enterprise tier two area, as defined in G.S. 105-129.3.

(3) Machinery and equipment. -- For the purpose of this subsection, the term 'machinery and equipment' means engines, machinery, equipment, tools, and implements used or designed to be used in one of the businesses listed in G.S. 105-129.4(a). Machinery and equipment are eligible for the refund provided in this subsection if the taxpayer places it in service in an enterprise tier one area or an enterprise tier two area, as defined in G.S. 105-129.3, capitalizes it for tax purposes under the Code, and does not lease it to another party."

Section 5. G.S. 105-164.14 is amended by adding a new subsection to read:

"(i) Nonprofit Insurance Companies. --

(1) Refunds. -- An eligible nonprofit insurance company is allowed an annual refund of sales and use taxes paid by it under this Article before January 1, 2005, on building materials, building supplies, fixtures, and equipment that become a part of its real property. Liability incurred indirectly by the company for sales and use taxes on these items is considered tax paid by the company. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the insurance company's fiscal year. Refunds applied for after the due date are barred.

(2) Eligibility. -- An insurance company is eligible for the refund provided in this subsection if it meets all of the following conditions:

a. It is a nonprofit corporation.
b. It is operated for the exclusive purpose of providing insurance and annuity contracts to or for the benefit of organizations exempt from federal income tax under section 501(c)(3) of the Code, and their employees.
c. The Secretary of Commerce has certified that the insurance company will invest at least ten million dollars ($10,000,000) in constructing a facility in this State for the conduct of its operations.

(3) Forfeiture. -- If an eligible insurance company does not make the required minimum investment within five years after its first refund under this subsection, it loses its eligibility and forfeits all refunds already received under this subsection. Upon forfeiture, the company is liable for tax under this Article equal to the amount of all past taxes refunded under this subsection, plus interest at the rate established in G.S. 105-241.1(i), computed from the date the taxes would have been due if the tax refunds had not been received. The tax and interest are due 30 days after the date of the forfeiture. A company that fails to pay the tax and interest is subject to the penalties provided in G.S. 105-236."

Section 6.(a) G.S. 105-164.3 is amended by adding a new subdivision to read:

"(6e) Interstate passenger air carrier. -- A person whose primary business is scheduled passenger air transportation, as defined in the North American Industry Classification System adopted by the United States Office of Management and Budget, in interstate commerce."

Section 6.(b) G.S. 105-164.3(6b), as enacted by S.L. 1998-55, becomes effective May 1, 1999.

Section 6.(c) G.S. 105-164.3(6b) reads as rewritten:

"(6b) Hub. -- ~~An interstate air courier's~~ Either of the following:

a. An interstate air courier's hub is the airport in this State that meets all of the following conditions:
~~a.~~ 1. The air courier has allocated to the airport under G.S. ~~105-388~~ 105-338 more than sixty percent (60%) of its aircraft value apportioned to this State.
~~b.~~ 2. The air courier's primary function at the airport is to sort and distribute letters and packages received from multiple consolidation locations.
~~c.~~ 3. The air courier's primary function at the airport is not to consolidate letters and packages and deliver them to another airport for sorting and distribution.

b. An interstate passenger air carrier's hub is the airport in this State that meets both of the following conditions:

1. The air carrier has allocated to the airport under G.S. 105-338 more than sixty percent (60%) of its aircraft value apportioned to this State.
2. The majority of the air carrier's passengers boarding at the airport are connecting from other airports rather than originating at that airport."

Section 7.(a) Section 9 of S.L. 1998-55 is repealed.

Section 7.(b) G.S. 105-164.13 is amended by adding a new subdivision to read:

"(45) Sales of the following items to an interstate passenger air carrier for use at its hub: aircraft lubricants, aircraft repair parts, and aircraft accessories."

Section 7.(c) Effective January 1, 2001, G.S. 105-164.13(45), as enacted by this act, reads as rewritten:

"(45) Sales of the following items to an interstate passenger air carrier or an interstate air courier for use at its hub: aircraft lubricants, aircraft repair parts, and aircraft accessories."

Section 8. G.S. 105-164.4A, as recodified by this act, is amended by adding a new subdivision to read:

"(13) Flight crew training equipment. -- Sales to an interstate passenger air carrier or an interstate air courier of aircraft simulators for flight crew training for use at the air carrier or air courier's hub."

Section 9. G.S. 105-164.14(a) reads as rewritten:

"(a) Interstate Carriers. -- An interstate carrier is allowed a refund, in accordance with this section, of part of the sales and use taxes paid by it on fuel, lubricants, repair parts, and accessories purchased in this State for a motor vehicle, railroad car, locomotive, or airplane the carrier operates. An 'interstate carrier' is a person who is engaged in transporting persons or property in interstate commerce for compensation. The Secretary shall prescribe the periods of time, whether monthly, quarterly, semiannually, or otherwise, with respect to which refunds may be claimed, and shall prescribe the time within which, following these periods, an application for refund may be made.

An applicant for refund shall furnish the following information and any proof of the information required by the Secretary:

(1) A list identifying the fuel, lubricants, repair parts, and accessories purchased by the applicant inside or outside this State during the refund period.
(2) The purchase price of the items listed in subdivision (1) of this subsection.
(3) The sales and use taxes paid in this State on the listed items.
(4) The number of miles the applicant's motor vehicles, railroad cars, locomotives, and airplanes were operated both inside and outside this State during the refund period.

(5) Any other information required by the Secretary.

For each applicant, the Secretary shall compute the amount to be refunded as follows. First, the Secretary shall determine the ratio of the number of miles the applicant operated its motor vehicles, railroad cars, locomotives, and airplanes in this State during the refund period to the number of miles it operated them both inside and outside this State during the refund period. Second, the Secretary shall determine the applicant's proportional liability for the refund period by multiplying this mileage ratio by the purchase price of the items identified in subdivision (1) of this subsection and then multiplying the resulting product by the tax rate that would have applied to the items if they had all been purchased in this State. Third, the Secretary shall refund to each applicant the excess of the amount of sales and use taxes the applicant paid in this State during the refund period on these items over the applicant's proportional liability for the refund period."

PART III. AFFORDABLE HOUSING TAX CREDIT

Section 10. The title of Article 3B of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 3B.

"Business Tax ~~Credit.~~ Credits."

Section 11. Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.16A. Credit for low-income housing.**

(a) Credit. -- A taxpayer that is allowed for the taxable year a federal income tax credit for low-income housing under section 42 of the Code with respect to a qualified North Carolina low-income building, is allowed a credit under this Article equal to twenty-five percent (25%) of the total federal credit allowed during the 10-year federal credit period with respect to that building. The credit must be taken in equal installments over the five years beginning in the first taxable year in which the federal credit is claimed for that building.

(b) Definitions. -- The definitions in section 42 of the Code apply in this section. In addition, as used in this section the term 'qualified North Carolina low-income building' means a qualified low-income building that meets any of the following conditions:

(1) It is located in an area that, at the time the federal credit is allocated to the building, is a tier one or two enterprise area, as defined in G.S. 105-129.3, or is a development zone, as defined in G.S. 105-129.3A.

(2) It is located in an area that, at the time the federal credit is allocated to the building, is a tier three or four enterprise area, and forty percent (40%) of its residential units are both rent-restricted and occupied by individuals whose income is fifty percent (50%) or less of area median gross income as defined in the Code.

(3) It is located in an area that, at the time the federal credit is allocated to the building, is a tier five enterprise area, and forty percent (40%) of its residential units are both rent-restricted and

occupied by individuals whose income is thirty-five percent (35%) or less of area median gross income as defined in the Code.

(c) Expiration. -- If, in one of the five years in which an installment of the credit under this section accrues, the taxpayer is no longer eligible for the corresponding federal credit with respect to the same qualified North Carolina low-income building, then the credit under this section expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17.

(d) Forfeiture. -- If the taxpayer is required under section 42(j) of the Code to recapture all or part of a federal credit under that section with respect to a qualified North Carolina low-income building, the taxpayer forfeits the corresponding part of the credit allowed under this section with respect to that qualified North Carolina low-income building. A taxpayer that forfeits a credit under this section is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236."

Section 12. Reserved.

Section 13. G.S. 105-129.17 reads as rewritten:

"**§ 105-129.17. Tax election; cap.**

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

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

Section 14. G.S. 105-129.18 reads as rewritten:

"**§ 105-129.18. Substantiation.**

To claim the ~~credit~~ credits allowed by this Article, the taxpayer must provide any information required by the Secretary of Revenue. Every taxpayer claiming a credit under this Article must maintain and make available for inspection by the Secretary of Revenue any records the Secretary considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for the credit and the amount of the credit rests upon the taxpayer, and no

credit may be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection."

Section 15. G.S. 105-129.19 reads as rewritten:

"**§ 105-129.19. Reports.**

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

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

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

(2a) The location of each qualified North Carolina low-income building with respect to which a low-income housing credit was claimed.

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

Section 16. G.S. 105-241.1(e) reads as rewritten:

"(e) Statute of Limitations. -- There is no statute of limitations and the Secretary may propose an assessment of tax due from a taxpayer at any time if (i) the taxpayer did not file a proper application for a license or did not file a return, (ii) the taxpayer filed a false or fraudulent application or return, or (iii) the taxpayer attempted in any manner to fraudulently evade or defeat the tax.

If a taxpayer files a return reflecting a federal determination as provided in G.S. 105-29, 105-130.20, 105-159, 105-160.8, 105-163.6A, or 105-197.1, the Secretary must propose an assessment of any tax due within one year after the return is filed or within three years of when the original return was filed or due to be filed, whichever is later. If there is a federal determination and the taxpayer does not file the required return, the Secretary must propose an assessment of any tax due within three years after the date the Secretary received the final report of the federal determination. ~~If~~

If a taxpayer forfeits a tax credit ~~pursuant to G.S. 105-163.014 or Article 3A of~~ or tax benefit pursuant to forfeiture provisions of this Chapter, the Secretary must assess any tax due as a result of the forfeiture within three years after the date of the forfeiture. If a taxpayer elects under section 1033(a)(2)(A) of the Code not to recognize gain from involuntary conversion of property into money, the Secretary must assess any tax due as a result of the conversion or election within the applicable period provided under section 1033(a)(2)(C) or section 1033(a)(2)(D) of the Code. If a taxpayer sells at a gain the taxpayer's principal residence, the Secretary must assess any tax due as a result of the sale within the period provided under section 1034(j) of the Code.

In all other cases, the Secretary must propose an assessment of any tax due from a taxpayer within three years after the date the taxpayer filed an application for a license or a return or the date the application or return was required by law to be filed, whichever is later.

If the Secretary proposes an assessment of tax within the time provided in this section, the final assessment of the tax is timely.

A taxpayer may make a written waiver of any of the limitations of time set out in this subsection, for either a definite or an indefinite time. If the Secretary accepts the taxpayer's waiver, the Secretary may propose an assessment at any time within the time extended by the waiver."

PART IV. INDUSTRIAL DEVELOPMENT FUND CHANGES

Section 17. G.S. 143B-437.01(a) reads as rewritten:

"(a) Creation and Purpose of Fund. -- There is created in the Department of Commerce the Industrial Development Fund to provide funds to assist the local government units of the most economically distressed counties in the State in creating jobs in certain industries. The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the following provisions, which shall apply to each grant from the fund:

(1) The funds shall be used for (i) installation of or purchases of equipment for eligible industries, (ii) structural repairs, improvements, or renovations of existing buildings to be used for expansion of eligible industries, or (iii) construction of or improvements to new or existing water, sewer, gas, or electrical utility distribution lines or equipment for existing or new or proposed industrial buildings to be used for eligible industries. To be eligible for funding, the water, sewer, gas, or electrical utility lines or facilities shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the specific eligible industrial activity.

(1a) The funds shall be used for projects located in economically distressed counties except that the Secretary of Commerce may use up to one hundred thousand dollars ($100,000) to provide emergency economic development assistance in any county that is documented to be experiencing a major economic dislocation.

(2) The funds shall be used by the city and county governments for projects that will directly result in the creation of new jobs. The funds shall be expended at a maximum rate of five thousand dollars ($5,000) per new job created up to a maximum of five hundred thousand dollars ($500,000) per project.

(3) There shall be no local match requirement if the project is located in an enterprise tier one area as defined in G.S. 105-129.3.

(4) The Department may authorize a local government that receives funds under this section to use up to two percent (2%) of the funds, if necessary, to verify that the funds are used only in accordance with law and to otherwise administer the grant or loan.

(5) No project shall be funded unless the Secretary of Commerce finds that the proposed project will not have a materially adverse effect on the environment. The Secretary of Commerce

shall not make this finding unless the Secretary has first received a certification from the Department of Environment and Natural Resources that the proposed project will not have a materially adverse effect on the environment."

PART V. EFFECTIVE DATES

Section 18. NAICS Code and Customer Service Center Changes. -- G.S. 105-129.2(2)b., as enacted by Section 2 of this act, is effective retroactively as of January 1, 1999. G.S. 105-129.2(3a), as enacted by Section 2 of this act, becomes effective for taxable years beginning on or after January 1, 2000. The remaining amendments to G.S. 105-129.2 made by Section 2 of this act are effective when this act becomes law. G.S. 105-129.4(a)(6), as enacted by Section 2 of this act, becomes effective for taxable years beginning on or after January 1, 2000.

Section 19. Small County Enhancements. -- G.S. 105-129.3(e) and (f), as enacted by Section 2 of this act, become effective for taxable years beginning on or after January 1, 2000.

Section 20. Development Zone Definitions. -- The amendments to G.S. 105-129.3A made by Section 2 of this act become effective July 1, 1999, and apply to applications filed on or after that date. Notwithstanding the provisions of G.S. 105-129.3A(b), a development zone designation made in 1998 or 1999 is effective until January 1, 2001.

Section 21. Quality Jobs Assurance. -- G.S. 105-129.4(b2), (b3), and (b4), as enacted by Section 2 of this act, become effective for taxable years beginning on or after January 1, 2000, and apply to credits for which applications are filed on or after that date.

Section 22. All Credits Against Gross Premiums Tax. -- The amendment to G.S. 105-129.5(a) made by Section 2 of this act is effective for taxable years beginning on or after January 1, 1999.

Section 23. Application Fees and Information. -- The amendments to G.S. 105-129.6(a) and (a1) made by Section 2 of this act are effective 30 days after this act becomes law, and apply to applications filed on or after that date.

Section 24. Development Zone Projects Credit. -- G.S. 105-129.13, as enacted by Section 2 of this act, is effective for taxable years beginning on or after January 1, 2000.

Section 25. Sales Tax Technical Change. -- Section 3 of this act is effective when it becomes law.

Section 26. Sales Tax Refund for Tiers One and Two Equipment. -- Section 4 of this act becomes effective January 1, 2000, and applies to taxes paid on or after that date.

Section 27. Temporary Sales Tax Refund for Nonprofit Insurance Companies. -- Section 5 of this act becomes effective January 1, 2000, and applies to taxes paid on or after that date. Section 5 of this act expires January 1, 2005.

Section 28. Sales Tax Preferences for Interstate Air Carriers. -- Sections 6 through 8 of this act are effective retroactively as of May 1, 1999, and apply to sales made on or after that date.

Section 29. Affordable Housing Credit. -- Part III of this act is effective for taxable years beginning on or after January 1, 2000, and applies to buildings to which federal credits are allocated on or after January 1, 2000.

Section 30. Industrial Development Fund Changes. -- Part IV of this act becomes effective July 1, 1999.

Section 31. Remainder. -- The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1303

Short Title: Amend Bill Lee Act/Incentives. (Public)

Sponsors: Representatives Owens, Wright, Gray; and Goodwin.

Referred to: Finance.

April 20, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR WIDELY SHARED PROSPERITY BY AMENDING THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT, BY PROVIDING ADDITIONAL TAX INCENTIVES FOR VARIOUS BUSINESSES, AND BY MAKING RELATED CHANGES.

The General Assembly of North Carolina enacts:

TABLE OF CONTENTS

I. BILL LEE ACT CHANGES
II. SALES TAX CHANGES
III. AFFORDABLE HOUSING TAX CREDIT
IV. INDUSTRIAL DEVELOPMENT FUND CHANGES
V. EFFECTIVE DATES

PART I. BILL LEE ACT CHANGES

Section 1. Section 10.2(3) of. Chapter 13 of the 1996 Second Extra Session reads as rewritten:

"(3) Quality jobs and business expansion tax credits. -- Sections 3.5, 3.6, and 3.8 through 3.10 of Part III of this act become effective August 1, 1996. G.S. 105-129.11, as enacted by Part III of this act, becomes effective for taxable years beginning on or after January 1, 1997, and applies to training expenditures made on or after July 1, 1997. The remainder of Part III of this act is effective for taxable years beginning on or after January 1, 1996, and applies to jobs created on or after August 1, 1996, and property placed in service on or after August 1, 1996. Article 3A of Chapter 105 of the

General Statutes is repealed effective for applications for credits filed under G.S. 105-129.6 on or after January 1, ~~2002.~~ 2005. Article 3B of Chapter 105 of the General Statutes is repealed effective for business property placed in service on or after January 1, 2002."

Section 2. Article 3A of Chapter 105 of the General Statutes read as rewritten:

"ARTICLE 3A.

"Tax Incentives for New and Expanding Businesses.

"§ 105-129.2. Definitions.

The following definitions apply in this Article:

(1) Air courier services. -- A person is engaged in the air courier services business if the person's primary business is furnishing air delivery of individually addressed letters and packages for compensation, except by the United States Postal Service.

(2) Central administrative office. -- ~~Defined~~ Either of the following:

a. A corporate, subsidiary, or regional managing office, as defined by NAICS. ~~in the North American Industry Classification System adopted by the United States Office of Management and Budget.~~

b. An auxiliary division engaged primarily in centralized training for an interstate passenger air carrier at its hub. For the purpose of this subdivision, the terms 'interstate passenger air carrier' and 'hub' have the meanings provided in G.S. 105-164.3.

(3) Cost. -- In the case of property owned by the taxpayer, cost is determined pursuant to regulations adopted under section 1012 of the Code. In the case of property the taxpayer leases from another, cost is value as determined pursuant to G.S. 105-130.4(j)(2).

(3a) Customer service center. -- An auxiliary subdivision of a telecommunications or financial services company, as defined by NAICS, that is primarily engaged in providing support services to the company's customers by telephone to support products or services of the company. For the purpose of this definition, a subdivision is primarily engaged in providing support services by telephone if at least sixty percent (60%) of its calls are incoming.

(4) Data processing. -- Any of the following industries, as defined by NAICS: ~~Defined in the North American Industry Classification System adopted by the United States Office of Management and Budget.~~

a. Computer systems design and related services.

b. Software publishers.

c. Software reproducing.

d. Data processing services.
e. On-line information services.

(5) Development zone. -- An area designated as a development zone pursuant to G.S. 105-129.3A.

(6) Enterprise tier. -- The classification assigned to an area pursuant to G.S. 105-129.3.

(7) Full-time job. -- A position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year. A full-time employee is an employee who holds a full-time job.

(8) Reserved.

(9) Large investment. -- Defined in G.S. 105-129.4(b1).

(10) Machinery and equipment. -- Engines, machinery, tools, and implements used or designed to be used in the business for which the credit is claimed. The term does not include real property as defined in G.S. 105-273 or rolling stock as defined in G.S. 105-333.

(11) Manufacturing. -- ~~Defined~~ Industries in manufacturing sectors 31 through 33, as defined by NAICS, ~~in the North American Industry Classification System adopted by the United States Office of Management and Budget.~~ but not including quick printing or retail or commercial bakeries.

(11a) NAICS. -- The North American Industry Classification System adopted by the United States Office of Management and Budget.

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

(13) ~~Warehousing and wholesale trade. -- Defined~~ Warehousing. -- Industries in warehousing and storage subsector 493 as defined by NAICS, ~~in the North American Industry Classification System adopted by the United States Office of Management and Budget.~~

(14) Wholesale trade. -- Industries in wholesale trade sector 42 as defined by NAICS.

"§ 105-129.3. Enterprise tier designation.

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

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

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

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

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

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

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

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

(d) Exception for Two-County Industrial Park. -- For the purpose of this Article, an eligible two-county industrial park that meets all of the following conditions has the lower enterprise tier designation of the designations of the two counties in which it is located:

(1) It is located in two contiguous counties, one of which has a lower enterprise tier designation than the other.

(2) At least one-third of the park is located in the county with the lower tier designation.

(3) It is owned by the two counties or a joint agency of the counties.

(4) The county with the lower tier designation contributed at least one-half of the cost of developing the park.

(e) Exception for Certain Small Counties. -- A county that meets both of the conditions set out below has an enterprise tier designation one level below the designation it would otherwise have under subsection (a) of this section:

(1) Its population is less than 35,000 according to the most recent estimates of population certified by the State Planning Officer.

(2) More than eighteen percent (18%) of its population is below the federal poverty level according to the most recent federal decennial census.

"§ 105-129.3A. Development zone designation.

(a) Development Zone Defined. -- A development zone is an area comprised of one or more contiguous census tracts, census block groups, or both in the most recent federal decennial census that meets all of the following conditions:

(1) ~~It~~ Every census tract and census block group in the zone is located in whole or in part in a city with a population of more than 5,000 according to the most recent annual population estimates certified by the State Planning Officer.

(2) It has a population of 1,000 or more according to the most recent annual population estimates certified by the State Planning Officer.

(3) More than twenty percent (20%) of its population is below the poverty level according to the most recent federal decennial census.

(4) Every census tract and census block group in the zone meets at least one of the following conditions:

a. More than ten percent (10%) of its population is below the poverty level according to the most recent federal decennial census.

b. It is immediately adjacent to another census tract or census block group that is in the same zone and has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.

(5) None of the census tracts or census block groups in the zone is located in another development zone designated by the Secretary of Commerce.

(b) Designation. -- Upon request of a taxpayer or a local government, the Secretary of Commerce shall designate whether an area is a development zone that meets the conditions of subsection (a) of this section. If the applicant is a taxpayer, it must notify each municipality in which part of the zone is located. The Secretary of Commerce shall make the zone designations annually effective January 1 of each year. To qualify for designation, the application must be filed by the preceding September 1. A development zone designation is effective for ~~48~~ 24 months following the designation.

(c) Relationship With Enterprise Tiers. -- For the purpose of the wage standard requirement of G.S. 105-129.3(b), the credit for investing in machinery and equipment allowed in G.S. 105-129.9, and the credit for worker training allowed in G.S. 105-129.11, a development zone is considered an enterprise tier one area. For all other purposes, a development zone has the same enterprise tier designation as the county in which it is located.

"**§ 105-129.4. Eligibility; forfeiture.**

(a) Type of Business. -- A taxpayer is eligible for a credit allowed by G.S. 105-129.12 if the real property for which the credit is claimed is used for a central administrative office that creates at least 40 new jobs. A taxpayer is eligible for the other credits allowed by this Article if the taxpayer engages in one of the following types of businesses and the jobs with respect to which a credit is claimed are created in that business, the machinery and equipment with respect to which a credit is

claimed are used in that business, and the research and development for which a credit is claimed are carried out as part of that business:

(1) Air courier services.
(2) Central administrative office that creates at least 40 new jobs.
(3) Data processing.
(4) Manufacturing.
(5) Warehousing or wholesale trade.
(6) Customer service center located in an enterprise tier one or two area.

(a1) Central Administrative Office. -- A central administrative office creates at least 40 new jobs if the taxpayer hires at least 40 additional full-time employees to fill new positions at the office either in the year the taxpayer first uses the property as a central administrative office or in the preceding 24 months while using temporary space for the central administrative office functions during completion of the administrative office property. Jobs transferred from one area in the State to another area in the State are not considered new jobs for purposes of this subsection.

(b) Wage Standard. -- A taxpayer is eligible for the credit for creating jobs or the credit for worker training if the jobs for which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. A taxpayer is eligible for the credit for investing in machinery and equipment, the credit for research and development, or the credit for investing in real property for a central administrative office if the jobs at the location with respect to which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. Jobs meet the wage standard if they pay an average weekly wage that is at least equal to the applicable percentage times the applicable average weekly wage for the county in which the jobs will be located, as computed by the Secretary of Commerce from data compiled by the Employment Security Commission for the most recent period for which data are available. The applicable percentage for jobs located in an enterprise tier one area is one hundred percent (100%). The applicable percentage for all other jobs is one hundred ten percent (110%). The applicable average weekly wage is the lowest of the following: (i) the average wage for all insured private employers in the county, (ii) the average wage for all insured private employers in the State, and (iii) the average wage for all insured private employers in the county multiplied by the county income/wage adjustment factor. The county income/wage adjustment factor is the county income/wage ratio divided by the State income/wage ratio. The county income/wage ratio is average per capita income in the county divided by the annualized average wage for all insured private employers in the county. The State income/wage ratio is the average per capita income in the State divided by the annualized average wage for all insured private employers in the State.

(b1) Large Investment. -- A taxpayer who is otherwise eligible for a tax credit under this Article becomes eligible for the large investment enhancements provided for credits under this Article if the Secretary of Commerce certifies that the taxpayer will purchase or lease, and place in service in connection with the eligible business within a two-year period, at least one hundred fifty million dollars ($150,000,000)

worth of one or more of the following: real property, machinery and equipment, or central administrative office property. If the taxpayer fails to make the level of investment certified within this two-year period, the taxpayer forfeits the large investment enhancements as provided in subsection (d) of this section.

(b2) Health Insurance. -- A taxpayer is eligible for a credit for creating jobs or for worker training under this Article if the taxpayer provides health insurance for the positions for which the credit is claimed at the time the taxpayer applies for the credit. A taxpayer is eligible for the other credits under this Article if the taxpayer provides health insurance for all of the full-time positions at the location with respect to which the credit is claimed at the time the taxpayer applies for the credit. For the purposes of this subsection, a taxpayer provides health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

Each year that a taxpayer claims an installment or carryforward of a credit allowed under this Article, the taxpayer must provide with the tax return the taxpayer's certification that the taxpayer continues to provide health insurance for the jobs for which the credit was claimed or the full-time jobs at the location with respect to which the credit was claimed. If the taxpayer ceases to provide health insurance for the jobs during a taxable year, the credit expires and the taxpayer may not take any remaining installment or carryforward of the credit.

(b3) Environmental Impact. -- A taxpayer is eligible for a credit allowed under this Article only if the taxpayer has obtained a certification from the Department of Environment and Natural Resources that the business location with respect to which the credit is claimed has not had and will not have a materially adverse effect on the environment.

(b4) Safety and Health Programs. -- A taxpayer is eligible for a credit allowed under this Article only if the taxpayer has obtained a certification from the Department of Labor that, at the business location with respect to which the credit is claimed, the taxpayer has established and implemented a safety and health program in compliance with the requirements of G.S. 95-251.

(c) Repealed by Session Laws 1998-55, s. 1.

(d) Forfeiture. -- A taxpayer forfeits a credit allowed under this Article if the taxpayer was not eligible for the credit at the time the taxpayer applied for the credit. In addition, a taxpayer forfeits a large investment enhancement of a tax credit if the taxpayer fails to make the level of investment certified by the Secretary of Commerce under subsection (b1) of this section within the required two-year period. A taxpayer that forfeits a credit under this Article is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236. If a taxpayer forfeits the credit for creating jobs or the credit for investing in machinery and equipment, the taxpayer also forfeits any credit

for worker training claimed for the jobs for which the credit for creating jobs was claimed or the jobs at the location with respect to which the credit for investing in machinery and equipment was claimed.

(e) Change in Ownership of Business. -- The sale, merger, acquisition, or bankruptcy of a business, or any transaction by which an existing business reformulates itself as another business, does not create new eligibility in a succeeding business with respect to credits for which the predecessor was not eligible under this Article. A successor business may, however, take any installment of or carried-over portion of a credit that its predecessor could have taken if it had a tax liability. The acquisition of a business is a new investment that creates new eligibility in the acquiring taxpayer under this Article if any of the following conditions are met:

(1) The business closed before it was acquired.

(2) The business was required to file a notice of plant closing or mass layoff under the federal Worker Adjustment and Retraining Notification Act, 29 U.S.C. § 2102, before it was acquired.

(3) The business was acquired by its employees through an employee stock option transaction or another similar mechanism.

(f) Development Zone Project Credit. -- Subsections (a) through (b4) of this section to not apply to the credit for development zone projects.

"§ 105-129.5. Tax election; cap.

(a) Tax Election. -- The credits provided in this Article are allowed against the franchise tax levied in Article 3 of this ~~Chapter and~~ Chapter, the income taxes levied in Article 4 of this ~~Chapter. The credit for investing in central administrative office property provided in G.S. 105-129.12 is also allowed against~~ Chapter, and the gross premiums tax levied in Article 8B of this Chapter. The taxpayer shall elect the tax against which a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. Any carryforwards of the credit must be claimed against the same tax.

(b) Cap. -- The credits allowed under this Article may not exceed fifty percent (50%) of the tax against which they are claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article against each tax for the taxable year. Any unused portion of a credit with respect to a large investment may be carried forward for the succeeding 20 years. Any unused portion of any other credit may be carried forward for the succeeding five years.

"§ 105-129.6. Application; reports.

(a) Application. -- To claim the credits allowed by this Article, the taxpayer must provide with the tax return the certification of the Secretary of Commerce that the taxpayer meets all of the eligibility requirements of G.S. 105-129.4 or G.S. 105-129.13, as applicable, with respect to each credit. A taxpayer shall apply to the Secretary of Commerce for certification of eligibility. The application must be on a form provided by the Secretary of Commerce and must contain any information necessary for the Secretary of Commerce to determine whether the taxpayer meets the eligibility

requirements. In addition, the application must state the number of jobs to be created that are located within a development zone, the number of jobs to be created that will be filled by employees residing within the development zone, and the number of jobs to be created that will be filled by employees residing within a census tract or census block group that has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.

If the Secretary of Commerce determines that the taxpayer meets all of the eligibility requirements of G.S. 105-129.4 or G.S. 105-129.13, as applicable, with respect to a credit, the Secretary shall issue a certificate describing the location with respect to which the credit is claimed, outlining the eligibility requirements for the credit, and stating that the taxpayer meets the eligibility requirements. If the Secretary of Commerce determines that the taxpayer does not meet all of the eligibility requirements of G.S. 105-129.4 or G.S. 105-129.13, as applicable, with respect to a credit, the Secretary must advise the taxpayer in writing of the eligibility requirements the taxpayer fails to meet. The Secretary of Commerce may adopt rules in accordance with Chapter 150B of the General Statutes that are needed to carry out the Secretary of Commerce's responsibilities under this section.

(a1) Fee. -- When filing an application for certification under this section, the taxpayer must pay the Department of Commerce a fee ~~of seventy-five dollars ($75.00). Fees collected under this subsection are receipts of the Department of Commerce.~~ of five hundred dollars ($500.00) for each credit the taxpayer intends to claim with respect to a location that is in an enterprise tier three, four, or five area, subject to a maximum fee of one thousand five hundred dollars ($1,500) per taxpayer per taxable year. If the taxpayer applies for certification for a credit that relates to locations in more than one enterprise tier area, the fee is based on the highest-numbered enterprise tier area.

The Secretary of Commerce shall retain one-fourth of the proceeds of the fee imposed in this section for the costs of administering this section. The Secretary of Commerce shall credit the remaining proceeds of the fee imposed in this section to the Department of Revenue for the costs of administering and auditing the credits allowed in this Article. The proceeds of the fee are receipts of the Department to which they are credited.

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

(1) The number of applications for each credit allowed in this Article.

(2) The number and enterprise tier area of new jobs with respect to which credits were applied for.

(3) The cost of machinery and equipment with respect to which credits were applied for.

(4) The number of new jobs created within development zones, and the percentage of those jobs that were filled by residents of the zones.

"§ 105-129.7. Substantiation.

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

"§ 105-129.8. Credit for creating jobs.

(a) Credit. -- A taxpayer that meets the eligibility requirements set out in G.S. 105-129.4, has five or more employees for at least 40 weeks during the taxable year, and hires an additional full-time employee during that year to fill a position located in this State is allowed a credit for creating a new full-time job. The amount of the credit for each new full-time job created is set out in the table below and is based on the enterprise tier of the area in which the position is located. In addition, if the position is located in a development zone, the amount of the credit is increased by four thousand dollars ($4,000) per job.

Area Enterprise Tier	Amount of Credit
Tier One	$12,500
Tier Two	4,000
Tier Three	3,000
Tier Four	1,000
Tier Five	500

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

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

Jobs transferred from one area in the State to another area in the State shall not be considered new jobs for purposes of this section. If, in one of the four years in which the installment of a credit accrues, the position filled by the employee is moved to an area in a higher- or lower-numbered enterprise tier, or is moved from a development

zone to an area that is not a development zone, the remaining installments of the credit shall be calculated as if the position had been created initially in the area to which it was moved.

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

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

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

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

"§ 105-129.9. Credit for investing in machinery and equipment.

(a) Credit. -- If a taxpayer that has purchased or leased eligible machinery and equipment places it in service in this State during the taxable year, the taxpayer is allowed a credit equal to seven percent (7%) of the excess of the eligible investment amount over the applicable threshold. Machinery and equipment is eligible if it is capitalized by the taxpayer for tax purposes under the Code and is not leased to another party. In addition, in the case of a large investment, machinery and equipment that is not capitalized by the taxpayer is eligible if the taxpayer leases it from another party. The credit may not be taken for the taxable year in which the equipment is placed in service but shall be taken in equal installments over the seven years following the taxable year in which the equipment is placed in service.

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

(c) Threshold. -- The applicable threshold is the appropriate amount set out in the following table based on the enterprise tier of the area where the eligible machinery and equipment are placed in service during the taxable year. If the taxpayer places

eligible machinery and equipment in service in more than one area during the taxable year, the threshold applies separately to the eligible machinery and equipment placed in service in each area. If the taxpayer places eligible machinery and equipment in service in an area over the course of a two-year period, the applicable threshold for the second taxable year is reduced by the eligible investment amount for the previous taxable year.

Area Enterprise Tier	Threshold
Tier One	$ -0-
Tier Two	100,000
Tier Three	200,000
Tier Four	500,000
Tier Five	1,000,000

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

If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are moved to an area in a higher-numbered enterprise tier, or are moved from a development zone to an area that is not a development zone, the remaining installments of the credit are allowed only to the extent they would have been allowed if the machinery and equipment had been placed in service initially in the area to which they were moved.

(e) Planned Expansion. -- A taxpayer that signs a letter of commitment with the Department of Commerce to place specific eligible machinery and equipment in service in an area within two years after the date the letter is signed may, in the year the eligible machinery and equipment are placed in service in that area, calculate the credit for which the taxpayer qualifies based on the area's enterprise tier and development zone designation for the year the letter was signed. All other conditions apply to the credit, but if the area has been redesignated to a higher-numbered enterprise tier or has lost its development zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and development zone designation for the year the letter was signed. If the taxpayer does not place part or all of the specified eligible machinery and equipment in service within the two-year period, the taxpayer does not qualify for the benefit of this subsection with respect to the machinery and equipment not placed in service within the two-year period. However, if the taxpayer qualifies for a credit in the year the eligible machinery and equipment are placed in service, the taxpayer may take the credit for that year as if no letter of commitment had been signed pursuant to this subsection.

"§ 105-129.10. Credit for research and development.

(a) General Credit. -- A taxpayer that claims for the taxable year a federal income tax credit under section 41(a) of the Code for increasing research activities is allowed

a credit equal to five percent (5%) of the State's apportioned share of the taxpayer's expenditures for increasing research activities. The State's apportioned share of a taxpayer's expenditures for increasing research activities is the excess of the taxpayer's qualified research expenses for the taxable year over the base amount, as determined under section 41 of the Code, multiplied by a percentage equal to the ratio of the taxpayer's qualified research expenses in this State for the taxable year to the taxpayer's total qualified research expenses for the taxable year.

(b) Alternative Credit. -- A taxpayer that claims the alternative incremental credit under section 41(c)(4) of the Code for increasing research activities is allowed a credit equal to twenty-five percent (25%) of the State's apportioned share of the federal credit claimed. The State's apportioned share of the federal credit claimed is the amount of the alternative incremental credit the taxpayer claimed under section 41(c)(4) of the Code for the taxable year multiplied by a percentage equal to the ratio of the taxpayer's qualified research expenses in this State for the taxable year to the taxpayer's total qualified research expenses for the taxable year. For the purpose of this subsection, the amount of the alternative incremental credit claimed by a taxpayer is determined without regard to any reduction elected under section 280C(c) of the Code.

(c) Definitions. -- As used in this section, the terms "qualified research expenses" and "base amount" have the meaning provided in section 41 of the Code. Notwithstanding G.S. 105-228.90(b), as used in this section, the term "Code" means the Internal Revenue Code as enacted as of January 1, 1999.

"§ 105-129.11. Credit for worker training.

(a) Credit. -- A taxpayer that provides worker training for five or more of its eligible employees during the taxable year is allowed a credit equal to the wages paid to the eligible employees during the training. Wages paid to an employee performing his or her job while being trained are not eligible for the credit. For positions located in an enterprise tier one area, the credit may not exceed one thousand dollars ($1,000) per employee trained during the taxable year. For other positions, the credit may not exceed five hundred dollars ($500.00) per employee trained during the taxable year. A position is located in an area if more than fifty percent (50%) of the employee's duties are performed in the area.

(b) Eligibility. -- An employee is eligible if the employee is in a full-time position not classified as exempt under the Fair Labor Standards Act, 29 U.S.C. § 213(a)(1) and meets one or more of the following conditions:

(1) The employee occupies a job for which the taxpayer is eligible to claim an installment of the credit for creating jobs.

(2) The employee is being trained to operate machinery and equipment for which the taxpayer is eligible to claim an installment of the credit for investing in machinery and equipment.

"§ 105-129.12. Credit for investing in central administrative office property.

(a) Credit. -- If a taxpayer that has purchased or leased real property in this State begins to use the property as a central administrative office during the taxable year, the taxpayer is allowed a credit equal to seven percent (7%) of the eligible

investment amount. The eligible investment amount is the lesser of (i) the cost of the property and (ii) the amount by which the cost of all of the property the taxpayer is using in this State as central administrative offices on the last day of the taxable year exceeds the cost of all of the property the taxpayer was using in this State as central administrative offices on the last day of the base year. The base year is that year, of the three immediately preceding taxable years, in which the taxpayer was using the most property in this State as central administrative offices. In the case of property that is leased, the cost of the property is not determined as provided in G.S. 105-129.2 but is considered to be the taxpayer's lease payments over a seven-year period, plus any expenditures made by the taxpayer to improve the property before it is used as the taxpayer's central administrative office if the expenditures are not reimbursed or credited by the lessor. The maximum credit allowed a taxpayer under this section for property used as a central administrative office is five hundred thousand dollars ($500,000). The entire credit may not be taken for the taxable year in which the property is first used as a central administrative office but shall be taken in equal installments over the seven years following the taxable year in which the property is first used as a central administrative office. The basis in any real property for which a credit is allowed under this section shall be reduced by the amount of credit allowable.

(b) Mixed Use Property. -- If the taxpayer uses only part of the property as the taxpayer's central administrative office, the amount of the credit allowed under this section is reduced by multiplying it by a fraction the numerator of which is the square footage of the property used as the taxpayer's central administrative office and the denominator of which is the total square footage of the property.

(c) Expiration. -- If, in one of the seven years in which the installment of a credit accrues, the property with respect to which the credit was claimed is no longer used as a central administrative office, the credit expires and the taxpayer may not take any remaining installment of the credit. If, in one of the seven years in which the installment of a credit accrues, part of the property with respect to which the credit was claimed is no longer used as a central administrative office, the remaining installments of the credit shall be reduced by multiplying it by the fraction described in subsection (b) of this section. If, in one of the seven years in which the installment of a credit accrues, the total number of employees the taxpayer employs at all of its central administrative offices in this State drops by 40 or more, the credit expires and the taxpayer may not take any remaining installment of the credit.

In each of these cases, the taxpayer may nonetheless take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

"§ 105-129.13. Credit for development zone projects.

(a) Credit. -- A taxpayer who contributes cash or property to a development zone agency for an improvement project in a development zone is allowed a credit equal to twenty-five percent (25%) of the value of the contribution. A contribution is for an improvement project for the purposes of this section if the agency receiving the contribution contracts in writing to use the contribution for the project and agrees in

the contract to repay to the taxpayer, with interest, any part of the contribution not used for the project. The credit may not be taken for the year in which the contribution is made but must be taken for the taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in this section.

(b) Definitions. -- The following definitions apply in this section:

(1) Community development corporation. -- A nonprofit corporation that meets all of the following conditions:

a. It is chartered pursuant to Chapter 55A of the General Statutes and is tax-exempt pursuant to section 501(c)(3) of the Code.

b. Its primary mission is to develop and improve low-income communities and neighborhoods through economic and related development.

c. Its activities and decisions are initiated, managed, and controlled by the constituents of those local communities.

d. Its primary function is to act as deal maker and packager of projects and activities that will increase its constituency's opportunities to become owners, managers, and producers of small businesses, to obtain affordable housing, and to obtain jobs designed to produce positive cash flow and curb blight in the targeted community.

(2) Control. -- A person controls an entity if the person owns, directly or indirectly, more than ten percent (10%) of the voting securities of that entity. As used in this subdivision, the term 'voting security' means a security that (i) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (ii) is convertible into, or entitles the holder to receive upon its exercise, a security that confers such a right to vote. A general partnership interest is a voting security.

(3) Development zone agency. -- Any of the following agencies that the Department of Commerce certifies will undertake an improvement project in a development zone:

a. A community development corporation.

b. A community development financial institution certified by the United States Department of the Treasury under the Community Development Banking and Financial Institutions Act of 1994, 12 U.S.C. § 4701, et seq.

c. A local housing authority created under Article 1 of Chapter 157 of the General Statutes.

(4) Improvement project. -- A project to construct or improve residential, commercial, or public real property located in a development zone. The term includes services provided by a

development zone agency directly related to the construction or improvement, and project development fees charged by a developer for the construction or improvement.

(c) Certification. -- The Secretary of Commerce shall not certify a development zone agency under this section if the agency, any of the agency's officers or directors, or any partner of the agency has ever used any part of a contribution made under this section for any purpose other than an improvement project.

(d) Limitations. -- A taxpayer who claims a credit under this subsection must identify in the application the development zone agencies to which the taxpayer made contributions and the amount contributed to each. No credit is allowed for a contribution if the taxpayer is related to the development zone agency as defined in section 1313 of the Code or if the taxpayer controls, is controlled by, or is under common control with an affiliate of the development zone agency. No credit is allowed to the extent the taxpayer receives anything of value in exchange for the contribution.

(e) Application. -- To be eligible for the tax credit provided in this section, in addition to the application required under G.S. 105-129.6, the taxpayer must file an application for the credit with the Secretary of Revenue on or before April 15 of the year following the calendar year in which the contribution was made. The Secretary may grant extensions of this deadline, as the Secretary finds appropriate, upon the request of the taxpayer, except that the application may not be filed after September 15 of the year following the calendar year in which the contribution was made. An application is effective for the year in which it is timely filed. The application must be on a form prescribed by the Secretary and must include any supporting documentation that the Secretary may require. If a contribution for which a credit is applied for was of property rather than cash, the taxpayer must include with the application a certified appraisal of the value of the property contributed.

(f) Ceiling. -- The total amount of all tax credits allowed to taxpayers under this section for contributions made in a calendar year may not exceed four million dollars ($4,000,000). The Secretary of Revenue must calculate the total amount of tax credits claimed from the applications filed under this section. If the total amount of tax credits claimed for contributions made in a calendar year exceeds four million dollars ($4,000,000), the Secretary must allow a portion of the credits claimed by allocating a total of four million dollars ($4,000,000) in tax credits in proportion to the size of the credit claimed by each taxpayer. If a credit is reduced pursuant to this subsection, the Secretary must notify the taxpayer of the amount of the reduction of the credit on or before December 31 of the year the application was filed. The Secretary's allocations based on applications filed pursuant to this section are final and will not be adjusted to account for credits applied for but not claimed.

(g) Forfeiture. -- A taxpayer forfeits a credit allowed under this section to the extent the development zone agency uses the taxpayer's contribution for any purpose other than an improvement project. Each development zone agency certified by the Department of Commerce must file with the Department of Commerce annual financial statements audited in accordance with generally accepted accounting

principles and in accordance with Government Audit Standards developed by the Comptroller General of the United States. The annual statements are required each time the agency receives a contribution eligible for the credit allowed under this section until the entire contribution has been used for improvement projects. If the Department of Commerce determines that a development zone agency has used part or all of a contribution for any purpose other than an improvement project, the Department must notify the Secretary of Revenue of the forfeiture, the taxpayer who made the contribution, and the amount forfeited."

PART II. SALES TAX CHANGES

Section 3.(a) G.S. 105-164.4(a)(1d)a. through k. are recodified as G.S. 105-164.4A.

Section 3.(b) G.S. 105-164.4(a)(1d), as amended by this section, reads as rewritten:

"(1d) The rate of one percent (1%) applies to the sales price of the ~~following articles.~~ articles listed in G.S. 105-164.4A. The maximum tax is eighty dollars ($80.00) per article."

Section 3.(c) G.S. 105-164.4A, as recodified by this section, reads as rewritten:

"**§ 105-164.4A. Articles taxed at one percent (1%), eighty dollars ($80.00).**

The following articles are taxable under G.S. 105-164.4(a)(1d):

~~a.~~(1) Farm machinery. -- Sales to a farmer of machines and machinery, and parts and accessories for these machines and machinery, for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals. A "farmer" includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758. Items that are exempt from tax under G.S. 105-164.13(4c) are not subject to tax under ~~this section.~~ G.S. 105-164.4.

The term "machines and machinery" as used in this subdivision is defined as follows:

The term shall include all vehicular implements, designed and sold for any use defined in this subdivision, which are operated, drawn or propelled by motor or animal power, but shall not include vehicular implements which are operated wholly by hand, and shall not include any motor vehicles required to be registered under Chapter 20 of the General Statutes.

The term shall include all nonvehicular implements and mechanical devices designed and sold for any use defined in this subdivision, which have moving parts, or which require the use of any motor or animal power, fuel, or electricity in their operation but shall not include nonvehicular implements which have no moving parts and are operated wholly by hand.

The term shall also include metal flues sold for use in curing tobacco, whether such flues are attached to handfired furnaces or used in connection with mechanical burners.

~~b.~~(2) Manufacturing machinery. -- Sales of mill machinery or mill machinery parts and accessories to manufacturing industries and plants, and sales to contractors and subcontractors purchasing mill machinery or mill machinery parts and accessories for use by them in the performance of contracts with manufacturing industries and plants, and sales to subcontractors purchasing mill machinery or mill machinery parts and accessories for use by them in the performance of contracts with general contractors who have contracts with manufacturing industries and plants. As used in this paragraph, the term "manufacturing industries and plants" does not include delicatessens, cafes, cafeterias, restaurants, and other similar retailers that are principally engaged in the retail sale of foods prepared by them for consumption on or off their premises.

~~c.~~(3) Telephone company property. -- Sales of central office equipment and switchboard and private branch exchange equipment to telephone companies regularly engaged in providing telephone service to subscribers on a commercial basis, and sales to these companies of prewritten computer programs used in providing telephone service to their subscribers.

~~d.~~(4) Laundry machinery. -- Sales to commercial laundries or to pressing and dry cleaning establishments of machinery used in the direct performance of the laundering or the pressing and cleaning service and of parts and accessories thereto.

~~e.~~(5) Freezer plant machinery. -- Sales to freezer locker plants of machinery used in the direct operation of ~~said~~ the freezer locker plant and of parts and accessories thereto.

~~f.~~(6) Broadcasting machinery. -- Sales of broadcasting equipment and parts and accessories thereto and towers to commercial radio and television companies which are under the regulation and supervision of the Federal Communications Commission.

~~g.~~(7) Tobacco equipment. -- Sales to farmers of bulk tobacco barns and racks and all parts and accessories thereto and similar apparatus used for the curing and drying of any farm produce.

~~h.~~(8) Farm storage facilities. -- Sales to farmers of grain, feed or soybean storage facilities and accessories thereto, whether or not dryers are attached, and all similar apparatus and accessories thereto for the storage of grain, feed or soybeans.

~~i.~~(9) Farm containers. -- Sales of containers to farmers or producers for use in the planting, producing, harvesting, curing, marketing, packaging, sale, or transporting or delivery of their products when

such containers do not go with and become part of the sale of their products at wholesale or retail.

~~j.~~(10) Recycling facility equipment. -- Sales to a major recycling facility of the following tangible personal property for use in connection with the facility: cranes, structural steel crane support systems, foundations related to the cranes and support systems, port and dock facilities, rail equipment, and material handling equipment.

~~k.~~(11) (Effective January 1, 2001) Air courier equipment. -- Sales of the following items to an interstate air courier for use at its hub: materials handling equipment, racking systems, and related parts and accessories, for the storage or handling and movement of tangible personal property at an airport or in a warehouse or distribution facility."

Section 4. G.S. 105-164.4A, as recodified by this act, is amended by adding a new subdivision to read:

"(12) Distress tier equipment. -- Sales of machinery and equipment as defined in G.S. 105-129.2 to a person engaged in one of the businesses listed in G.S. 105-129.4(a) for use in an enterprise tier one area or an enterprise tier two area, as defined in G.S. 105-129.3."

Section 5. G.S. 105-164.14 is amended by adding a new subsection to read:

"(h) Nonprofit Insurance Companies. --

(1) Refunds. -- An eligible nonprofit insurance company is allowed an annual refund of sales and use taxes paid by it under this Article before January 1, 2005, on building materials, building supplies, fixtures, and equipment that become a part of its real property. Liability incurred indirectly by the company for sales and use taxes on these items is considered tax paid by the company. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the insurance company's fiscal year. Refunds applied for after the due date are barred.

(2) Eligibility. -- An insurance company is eligible for the refund provided in this subsection if it meets all of the following conditions:

a. It is a nonprofit corporation.

b. It is operated for the exclusive purpose of providing insurance and annuity contracts to or for the benefit of organizations exempt from federal income tax under section 501(c)(3) of the Code, and their employees.

c. The Secretary of Commerce has certified that the insurance company will invest at least ten million dollars ($10,000,000) in constructing a facility in this State for the conduct of its operations.

(3) Forfeiture. -- If an eligible insurance company does not make the required minimum investment within five years after its first refund under this subsection, it loses its eligibility and forfeits all refunds already received under this subsection. Upon forfeiture, the company is liable for tax under this Article equal to the amount of all past taxes refunded under this subsection, plus interest at the rate established in G.S. 105-241.1(i), computed from the date the taxes would have been due if the tax refunds had not been received. The tax and interest are due 30 days after the date of the forfeiture. A company that fails to pay the tax and interest is subject to the penalties provided in G.S. 105-236."

Section 6.(a) G.S. 105-164.3 is amended by adding a new subdivision to read:

"(6e) Interstate passenger air carrier. -- A person whose primary business is scheduled passenger air transportation, as defined in the North American Industry Classification System adopted by the United States Office of Management and Budget, in interstate commerce."

Section 6.(b) G.S. 105-164.3(6b), as enacted by S.L. 1998-55, becomes effective May 1, 1999.

Section 6.(c) G.S. 105-164.3(6b) reads as rewritten:

"(6b) Hub. -- ~~An interstate air courier's~~ Either of the following:

a. An interstate air courier's hub is the airport in this State that meets all of the following conditions:

~~a.~~ 1. The air courier has allocated to the airport under G.S. ~~105-388~~ 105-338 more than sixty percent (60%) of its aircraft value apportioned to this State.

~~b.~~ 2. The air courier's primary function at the airport is to sort and distribute letters and packages received from multiple consolidation locations.

~~c.~~ 3. The air courier's primary function at the airport is not to consolidate letters and packages and deliver them to another airport for sorting and distribution.

b. An interstate passenger air carrier's hub is the airport in this State that meets both of the following conditions:

1. The air carrier has allocated to the airport under G.S. 105-338 more than sixty percent (60%) of its aircraft value apportioned to this State.

2. The majority of the air carrier's passengers boarding at the airport are connecting from other airports rather than originating at that airport."

Section 7.(a) Section 9 of S.L. 1998-55 is repealed.

Section 7.(b) G.S. 105-164.13 is amended by adding a new subdivision to read:

"(45) Sales of the following items to an interstate passenger air carrier for use at its hub: aircraft lubricants, aircraft repair parts, and aircraft accessories."

Section 7(c). Effective January 1, 2001, G.S. 105-164.13(45), as enacted by this act, reads as rewritten:

"(45) Sales of the following items to an interstate passenger air carrier or an interstate air courier for use at its hub: aircraft lubricants, aircraft repair parts, and aircraft accessories."

Section 8. G.S. 105-164.4A, as recodified by this act, is amended by adding a new subdivision to read:

"(13) Pilot training equipment. -- Sales to an interstate passenger air carrier or an interstate air courier of aircraft simulators for pilot training for use at the air carrier or air courier's hub."

Section 9. G.S. 105-164.14(a) reads as rewritten:

"(a) Interstate Carriers. -- An interstate carrier is allowed a refund, in accordance with this section, of part of the sales and use taxes paid by it on fuel, lubricants, repair parts, and accessories purchased in this State for a motor vehicle, railroad car, locomotive, or airplane the carrier operates. An 'interstate carrier' is a person who is engaged in transporting persons or property in interstate commerce for compensation. The Secretary shall prescribe the periods of time, whether monthly, quarterly, semiannually, or otherwise, with respect to which refunds may be claimed, and shall prescribe the time within which, following these periods, an application for refund may be made.

An applicant for refund shall furnish the following information and any proof of the information required by the Secretary:

(1) A list identifying the lubricants, repair parts, and accessories purchased by the applicant inside or outside this State during the refund period.

(2) The purchase price of the items listed in subdivision (1) of this subsection.

(3) The sales and use taxes paid in this State on the listed items.

(4) The number of miles the applicant's motor vehicles, railroad cars, locomotives, and airplanes were operated both inside and outside this State during the refund period.

(5) Any other information required by the Secretary.

For each applicant, the Secretary shall compute the amount to be refunded as follows. First, the Secretary shall determine the ratio of the number of miles the applicant operated its motor vehicles, railroad cars, locomotives, and airplanes in this

State during the refund period to the number of miles it operated them both inside and outside this State during the refund period. Second, the Secretary shall determine the applicant's proportional liability for the refund period by multiplying this mileage ratio by the purchase price of the items identified in subdivision (1) of this subsection and then multiplying the resulting product by the tax rate that would have applied to the items if they had all been purchased in this State. Third, the Secretary shall refund to each applicant the excess of the amount of sales and use taxes the applicant paid in this State during the refund period on these items over the applicant's proportional liability for the refund period."

PART III. AFFORDABLE HOUSING TAX CREDIT

Section 10. The title of Article 3B of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 3B.

"Business Tax ~~Credit.~~ Credits."

Section 11. Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.16A. Credit for low-income housing.**

(a) Credit. -- A taxpayer that is allowed for the taxable year a federal income tax credit for low-income housing under section 42 of the Code with respect to a qualified North Carolina low-income building, is allowed a credit under this Article equal to twenty-five percent (25%) of the federal credit allowed with respect to that building. The credit must be taken in equal installments over the five years beginning in the first taxable year in which the federal credit is claimed for that building.

(b) Definitions. -- The definitions in section 42 of the Code apply in this section. In addition, as used in this section the term 'qualified North Carolina low-income building' means a qualified low-income building that meets either of the following conditions:

(1) It is located in a tier one or two enterprise area, as defined in G.S. 105-129.3, or in a development zone, as defined in G.S. 105-129.3A.

(2) It is located in a tier three, four, or five enterprise area and forty percent (40%) of its residential units are both rent-restricted and occupied by individuals whose income is thirty-five percent (35%) or less of area median gross income.

(c) Forfeiture. -- If the taxpayer is required under section 42(j) of the Code to recapture all or part of a federal credit under that section with respect to a qualified North Carolina low-income building, the taxpayer forfeits the corresponding part of the credit allowed under this section with respect to that qualified North Carolina low-income building. A taxpayer that forfeits a credit under this section is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the

date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236."

Section 12. Reserved.

Section 13. G.S. 105-129.17 reads as rewritten:

"**§ 105-129.17. Tax election; cap.**

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

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

Section 14. G.S. 105-129.18 reads as rewritten:

"**§ 105-129.18. Substantiation.**

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

Section 15. G.S. 105-129.19 reads as rewritten:

"**§ 105-129.19. Reports.**

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

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

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

(2a) The location of each qualified North Carolina low-income building with respect to which a low-income housing credit was claimed.

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

Section 16. G.S. 105-241.1(e) reads as rewritten:

"(e) Statute of Limitations. -- There is no statute of limitations and the Secretary may propose an assessment of tax due from a taxpayer at any time if (i) the taxpayer did not file a proper application for a license or did not file a return, (ii) the taxpayer

filed a false or fraudulent application or return, or (iii) the taxpayer attempted in any manner to fraudulently evade or defeat the tax.

If a taxpayer files a return reflecting a federal determination as provided in G.S. 105-29, 105-130.20, 105-159, 105-160.8, 105-163.6A, or 105-197.1, the Secretary must propose an assessment of any tax due within one year after the return is filed or within three years of when the original return was filed or due to be filed, whichever is later. If there is a federal determination and the taxpayer does not file the required return, the Secretary must propose an assessment of any tax due within three years after the date the Secretary received the final report of the federal determination. ~~If~~

If a taxpayer forfeits a tax credit ~~pursuant to G.S. 105-163.014 or Article 3A of~~ or tax benefit pursuant to forfeiture provisions of this Chapter, the Secretary must assess any tax due as a result of the forfeiture within three years after the date of the forfeiture. If a taxpayer elects under section 1033(a)(2)(A) of the Code not to recognize gain from involuntary conversion of property into money, the Secretary must assess any tax due as a result of the conversion or election within the applicable period provided under section 1033(a)(2)(C) or section 1033(a)(2)(D) of the Code. If a taxpayer sells at a gain the taxpayer's principal residence, the Secretary must assess any tax due as a result of the sale within the period provided under section 1034(j) of the Code.

In all other cases, the Secretary must propose an assessment of any tax due from a taxpayer within three years after the date the taxpayer filed an application for a license or a return or the date the application or return was required by law to be filed, whichever is later.

If the Secretary proposes an assessment of tax within the time provided in this section, the final assessment of the tax is timely.

A taxpayer may make a written waiver of any of the limitations of time set out in this subsection, for either a definite or an indefinite time. If the Secretary accepts the taxpayer's waiver, the Secretary may propose an assessment at any time within the time extended by the waiver."

PART IV. INDUSTRIAL DEVELOPMENT FUND CHANGES

Section 17. G.S. 143B-437.01(a) reads as rewritten:

"(a) Creation and Purpose of Fund. -- There is created in the Department of Commerce the Industrial Development Fund to provide funds to assist the local government units of the most economically distressed counties in the State in creating jobs in certain industries. The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the following provisions, which shall apply to each grant from the fund:

(1) The funds shall be used for (i) installation of or purchases of equipment for eligible industries, (ii) structural repairs, improvements, or renovations of existing buildings to be used for expansion of eligible industries, or (iii) construction of or improvements to new or existing water, sewer, gas, or electrical utility distribution lines or equipment for existing or new or proposed industrial buildings to be used for eligible industries.

To be eligible for funding, the water, sewer, gas, or electrical utility lines or facilities shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the specific eligible industrial activity.

(1a) The funds shall be used for projects located in economically distressed counties except that the Secretary of Commerce may use up to one hundred thousand dollars ($100,000) to provide emergency economic development assistance in any county that is documented to be experiencing a major economic dislocation.

(2) The funds shall be used by the city and county governments for projects that will directly result in the creation of new jobs. The funds shall be expended at a maximum rate of five thousand dollars ($5,000) per new job created up to a maximum of five hundred thousand dollars ($500,000) per project.

(3) There shall be no local match requirement if the project is located in an enterprise tier one area as defined in G.S. 105-129.3.

(4) The Department may authorize a local government that receives funds under this section to use up to two percent (2%) of the funds, if necessary, to verify that the funds are used only in accordance with law and to otherwise administer the grant or loan.

(5) No project shall be funded unless the Secretary of Commerce finds that the proposed project will not have a materially adverse effect on the environment. The Secretary of Commerce shall not make this finding unless the Secretary has first received a certification from the Department of Environment and Natural Resources that the proposed project will not have a materially adverse effect on the environment."

PART V. EFFECTIVE DATES

Section 18. NAICS Code and Customer Service Center Changes. -- G.S. 105-129.2(2)b., as enacted by Section 2 of this act, is effective retroactively as of January 1, 1999. G.S. 105-129.2(3a), as enacted by Section 2 of this act, becomes effective for taxable years beginning on or after January 1, 2000. The remaining amendments to G.S. 105-129.2 made by Section 2 of this act are effective when this act becomes law. G.S. 105-129.4(a)(6), as enacted by Section 2 of this act, becomes effective for taxable years beginning on or after January 1, 2000.

Section 19. Small County Enhancements. -- G.S. 105-129.3(e), as enacted by Section 2 of this act, becomes effective for taxable years beginning on or after January 1, 2000.

Section 20. Development Zone Definitions. -- The amendments to G.S. 105-129.3A made by Section 2 of this act become effective July 1, 1999, and apply to applications filed on or after that date. Notwithstanding the provisions of G.S.

105-129.3A(b), a development zone designation made in 1998 or 1999 is effective until January 1, 2001.

Section 21. Quality Jobs Assurance. -- G.S. 105-129.4(b2), (b3), and (b4), as enacted by Section 2 of this act, become effective for taxable years beginning on or after January 1, 2000.

Section 22. All Credits Against Gross Premiums Tax. -- The amendment to G.S. 105-129.5(a) made by Section 2 of this act is effective for taxable years beginning on or after January 1, 1998.

Section 23. Application Fees and Information. -- The amendments to G.S. 105-129.6(a) and (a1) made by Section 2 of this act become effective July 1, 1999.

Section 24. Development Zone Projects Credit. -- G.S. 105-129.13, as enacted by Section 2 of this act, is effective for taxable years beginning on or after January 1, 2000.

Section 25. Sales Tax Technical Change. -- Section 3 of this act is effective when it becomes law.

Section 26. Sales Tax Preference for Tiers One and Two Equipment. -- G.S. 105-164.4A(12), as enacted by Section 4 of this act, becomes effective January 1, 2000, and applies to sales made on or after that date.

Section 27. Temporary Sales Tax Refund for Nonprofit Insurance Companies. -- Section 5 of this act becomes effective January 1, 2000, and applies to taxes paid on or after that date. Section 5 of this act expires January 1, 2005.

Section 28. Sales Tax Preferences for Interstate Air Carriers. -- Sections 6 through 8 of this act become effective May 1, 1999, and apply to sales made on or after that date.

Section 29. Affordable Housing Credit. -- Part III of this act is effective for taxable years beginning on or after January 1, 2000.

Section 30. Industrial Development Fund Changes. -- Part IV of this act becomes effective July 1, 1999.

Section 31. Remainder. -- The remainder of this act is effective when it becomes law.

HOUSE BILL 1303:
Amend Bill Lee Act/Incentives

BILL ANALYSIS

Committee:	House Finance	Sponsor:	Rep. Owens
Date:	May 19, 1999	Summary by:	Martha H. Harris
Version:	Proposed Committee Substitute		Staff Attorney

SUMMARY: House Bill 1303 would make the following changes:

1. *Extend sunset on Bill Lee Act and Business Property Tax Credit from 2002 to 2007 (Section 1)*
2. *Add passenger air carrier training center to credit for central administrative office, effective 1/1/1999 (page 2)*
3. *Allow an interstate passenger air carrier a sales tax exemption for aircraft parts and accessories purchased for use at its hub in this State, effective 5/1/1999 (Section 7, page 22)*
4. *Reduce sales tax from 6% to 1% with an $80 cap for flight crew training aircraft simulators purchased by an interstate passenger air carrier for use at its hub in this State, effective 5/1/1999 (Section 8, page 22)*
5. *Allow a five-year sales tax refund to certain nonprofit insurance companies for taxes paid on building materials, effective 1/1/2000 (Section 5, pages 20 - 21)*
6. *Extend Bill Lee Act credits to customer service centers in tiers one and two, effective 1/1/2000 (pages 2, 6)*
7. *Allow annual refund of 6% sales taxes paid on capitalized machinery and equipment sold to businesses eligible for Bill Lee Act credits and located in tier one or two, effective 1/1/2000 (Section 4, page 20)*
8. *Give a more favorable tier designation to small counties, effective 1/1/2000 (page 4)*
9. *Close loopholes in definition of development zones, effective 7/1/1999 (pages 4 - 5)*
10. *Allow a 25% credit for contributions to nonprofits for capital projects within development zones, effective 1/1/2000 (pages 15 - 17)*
11. *Allow a credit for rehabilitating or constructing affordable housing, effective for new projects beginning 1/1/2000 (Sections 10 - 16, pages 23 - 25)*
12. *Allow all Bill Lee Act credits to be taken against insurance premiums tax, effective 1/1/1999 (page 8)*

13. *Require businesses to provide health insurance and meet environmental, safety, and health standards in order to qualify for Bill Lee Act credits, effective 1/1/2000 (page 7)*
14. *Eliminate the $75 application fee for Bill Lee Act credits in tiers one and two and increase the fee to $500 per credit in other tiers, with a cap of $1,500 per applicant, effective 30 days after the bill becomes law (pages 9 - 10)*
15. *Require applicants for Bill Lee Act credits to provide additional information to enable Commerce to evaluate the effectiveness of the credits in providing employment to residents of development zones, effective 7/1/1999 (page 9)*
16. *Clarify definitions of industries covered by Bill Lee Act, effective immediately (pages 2 - 3), and clarify sales tax refunds for sales of fuel to interstate air carriers (Section 9)*
17. *Provide that research and development credit will not expire when the corresponding federal credit expires, effective January 1, 1999 (page 13)*
18. *Require projects to obtain an environmental certification in order to qualify for funding from the Industrial Development Fund (Building Renovation Fund), effective 7/1/1999 (Section 17, pages 26 - 27)*

Extend Sunsets on Bill Lee Act and Business Property Credit. The William S. Lee Quality Jobs and Business Expansion Act was enacted in 1996, effective beginning with the 1996 tax year with a sunset effective in 2002. The Act required the Department of Commerce to report annually on the credits allowed by the Act. Before 1996, North Carolina had made little use of tax incentives to lure businesses to the State. Even without incentives, North Carolina was consistently one of the top states in attracting industry. The array of credits authorized by the William S. Lee Act was viewed as an experiment, to be evaluated in five years to determine whether the incentives were cost effective and actually affected behavior, or merely provided tax reductions to businesses that would have located or expanded in any case. Section 1 of this bill would extend the 2002 sunset for an additional five years, to 2007.

The 1996 legislation that enacted the William S. Lee Act also provided a tax credit for investing in tangible personal property that is used by the taxpayer in connection with a business or for the production of income and is capitalized by the taxpayer for tax purposes under the Code. The amount of the credit is 4.5% of the cost of the property placed in service, not to exceed $4,500 per taxpayer per year. The credit must be taken in five equal installments beginning in the year the property is placed in service. This business property credit is less restricted than the credit for investment in machinery and equipment in that there is no minimum wage requirement, no minimum amount of investment requirement, and no type of business requirement. The business property tax credit is set to expire in 2002. Section 1 of this bill would extend the 2002 sunset for an additional five years, to 2007.

Incentives for Interstate Passenger Air Carrier Hubs. This bill would provide three incentives for interstate passenger air carriers with hubs in this State. A hub is defined in Section 6 of the bill as the airport where the carrier has allocated at least 60% of its aircraft property tax value and at which the majority of its boarding passengers are connecting from other airports, not originating at that airport. The only carrier that meets this definition in North Carolina at this time is U.S. Airways, whose hub is in Charlotte.

The first incentive provided in the bill is to allow the existing credit for central administrative offices to apply to centralized training offices at an air carrier's hub, effective beginning with the 1999 tax year. The credit is allowed to taxpayers who purchase or lease real property to be used as central administrative office property with 40 or more employees. The amount of the credit is equal to 7% of the eligible investment amount and may not exceed $500,000. The credit is taken in seven equal installments over the seven years following the taxable year in which the property is first used as a central administrative office.

The second incentive for passenger air carriers is a sales tax exemption for the carrier's purchases of aircraft lubricants, parts, and accessories for use at its hub, effective beginning May 1, 1999. These purchases would otherwise be subject to sales tax at 6%, but interstate air carriers are allowed a partial refund of the tax under G.S. 105-164.14(a). In 1998, the General Assembly enacted a similar exemption for air couriers (Federal Express), effective January 1, 2001.

The third incentive for passenger air carriers is a sales tax reduction from 6% to 1% with an $80 cap, for purchases of aircraft simulators for flight crew training for use at the hub, effective beginning May 1, 1999. The tax reduction would also apply to interstate air couriers. U.S. Airways plans to establish a flight crew training center at its Charlotte hub, where it would use aircraft simulators.

Incentive for Nonprofit Insurance Companies. Section 5 of this bill would provide a sales tax refund to certain nonprofit insurance companies for State and local taxes they pay on building materials, supplies, fixtures, and equipment that become a part of their real property. The refund would apply to taxes paid between January 1, 2000, and January 1, 2005. To qualify for this refund, the insurance company must be operated for the exclusive purpose of providing insurance products to nonprofit charitable organizations and their employees. In addition, the Secretary of Commerce must have certified that the insurance company will invest at least $10 million in this State. TIAA, which has announced plans to build an office in Mecklenburg County, fits this description.[1] If TIAA fails to make the $10 million investment within five years after it first receives a refund, it forfeits all refunds it received as a result of this incentive.

Incentives for Enterprise Tiers One and Two. The bill would provide two incentives for development in enterprise tier one and two counties, which are the counties considered most in need of economic development based on high unemployment, low per capita income, and low population growth.[2] The first incentive extends all of the Bill Lee Act credits to certain customer

[1] There may be one or more other nonprofit insurance companies that could qualify, but only if they make a $10 million investment.

[2] The following 13 counties are in tier one: Bertie, Edgecombe, Graham, Halifax, Hertford, Hyde, Martin, Northampton, Richmond, Swain, Tyrrell, Warren, and Washington. The following 15 counties are in tier two: Alleghany, Anson, Ashe,

service centers located in an enterprise tier one or two county. An eligible customer service center is a subdivision of a telecommunications or financial services company that provides support services to the company's customers by telephone to support the company's products and services. To qualify, at least 60% of the center's calls must be incoming. This requirement will prevent telemarketing operations from qualifying. The credits allowed under the Bill Lee Act are the credit for creating jobs, the credit for investing in machinery and equipment, the credit for research and development, the credit for worker training, and the credit for investing in central administrative office property.

The second incentive allows an annual sales tax refund on taxes paid at 6% (6.5% in Mecklenburg County) on capitalized machinery and equipment sold to a taxpayer engaged in one of the businesses eligible for Bill Lee Act credits, for use in an enterprise tier one or two county. This provision would become effective for taxes paid on or after January 1, 2000. In addition to tier one and two customer service centers discussed above, the following businesses are eligible for Bill Lee Act credits: air courier services, central administrative office (with at least 40 new jobs), data processing, manufacturing, warehousing, and wholesale trade.

Incentives for Small Counties. This bill would allow certain counties to qualify for a lower enterprise tier designation, effective January 1, 2000. Under the Bill Lee Act, all counties are divided into five enterprise tiers, ranked by economic distress as measured by a formula that combines unemployment, per capita income, and population growth. Those counties in lower-numbered tiers receive more favorable incentives than those in higher tiers. First, this bill changes the rules for assigning enterprise tier designations to provide that the tier number that would otherwise be assigned by the formula is reduced by one for counties that have a population of less than 50,000 and also have more than 18% of their residents below the federal poverty level. Under this provision, Alleghany, Ashe, Beaufort, Cherokee, Perquimans, Scotland, Vance, and Yancey Counties would move from tier two to tier one; Bladen, Hoke, Jones, Madison, Pamlico, and Pasquotank Counties would move from tier three to tier two; and Duplin, Greene, and Watauga Counties would move from tier four to tier three.

Second, the bill provides that a county that has a population of less than 25,000 cannot be designated higher than tier three. Under this provision, Polk and Currituck Counties would move from tier five to tier three.

Close Development Zone Loopholes. In 1998, the General Assembly amended the Bill Lee Act to provide additional incentives for businesses that locate or expand in development zones, which are economically distressed areas located within cities. The statutory conditions for qualifying as a development zone were designed to target only these relatively small, economically distressed areas. The statutory conditions contained loopholes, however, that allowed large areas outside of cities to qualify, even if they were not economically distressed throughout. This bill would close those loopholes, effective for development zone designations made on or after January 1, 2000.

Beaufort, Cherokee, Columbus, Mitchell, Montgomery, Onslow, Perquimans, Robeson, Rutherford, Scotland, Vance, and Yancey.

The 1998 legislation defined a development zone as an area that meets all of the following conditions: (1) consists of one or more contiguous census tracts, block groups, or both, (2) has a population of 1,000 or more, at least 20% of whom are below the poverty level, and (3) is located at least partly in city with a population over 5,000. This bill closes the loopholes in this definition by requiring that:

- Every census tract and census block group in the zone must be located in whole or in part within the primary corporate limits of the city.
- Every census tract and census block group in the zone must have more than 10% of its population below the poverty level, or must be immediately adjacent to a tract or group that has more than 20% of its population below the poverty level.
- None of the census tracts or census bock groups may be located in another development zone.

This bill would also shorten the period during which designation as a development zone is effective, from four years to two years, and require zone applicants to notify every city in which part of the proposed zone would be located.

The following enhanced incentives apply in development zones: If a business locates in a development zone, the wage standard it has to meet is the same as for tier one counties - slightly lower than the standard for other counties. In addition, if a business locates in a development zone, its maximum worker training credit is $1,000 rather than $500, it receives an additional $4,000 per job on its jobs tax credit, and there is no threshold for the credit for investing in machinery and equipment.

Credit for Development Zone Projects. This bill would create a new tax credit for taxpayers that contribute cash or property to certain nonprofit agencies to be used for an improvement project in a development zone. An improvement project is a project to construct or improve residential, commercial, or public real property. The new credit would become effective beginning with the 2000 tax year.

The credit allowed is 25% of the amount contributed by the taxpayer. The total amount of credits that may be allowed in a taxable year is capped at $4 million. Taxpayers are required to apply to the Secretary of Revenue for these credits. If the total amount applied for in a year exceeds $4 million, the Secretary will reduce each applicant's credit proportionally.

The credit is allowed for contributions to a development zone agency, defined as a community action agency, a community-based development organization, a community development corporation, a community development financial institution, a community housing development organization, or a local housing authority. To qualify for the credit, all of the following conditions must be met:

- The agency must contract in writing to use the contribution for an improvement project in a development zone and to repay the taxpayer with interest if the contribution is not so used.

- The Department of Commerce must certify that the agency will undertake an improvement project in a development zone.[3]
- The taxpayer must be unrelated to the agency and must not control, be controlled by, or be under common control with the agency.
- The taxpayer must not receive anything of value for the contribution.

A taxpayer forfeits the tax credit for a contribution to the extent the development zone agency uses the contribution for anything other than an improvement project in a zone. Development zone agencies are required to file with the Department of Commerce annual, audited financial statements. If the Department of Commerce finds that any part of a contribution was used for a purpose other than an improvement project, it must notify the Department of Revenue of the resulting forfeiture.

Affordable Housing Tax Credit. Section 11 of the bill would create a new tax credit for rehabilitating or constructing low-income housing, effective for buildings allocated federal credits on or after January 1, 2000. The credit is equal to 25% of the amount of the taxpayer's federal credit for low-income housing with respect to North Carolina low-income housing that meets one of the following conditions:

- It is located in an enterprise tier one or two enterprise area or in a development zone.
- It is located in a tier three or four enterprise area and has at least 40% of its residential units that are rent-restricted and are occupied by individuals whose income is 50% or less of area median gross income.
- It is located in a tier five enterprise area and has at least 40% of its residential units that are rent-restricted and are occupied by individuals whose income is 35% or less of area median gross income.

The credit is not taken in one year but is spread out over five years beginning when the federal credit is first claimed for the building. The federal credit is first claimed either when the building is placed in service, or the next year, at the taxpayer's election. The federal credit is taken over ten years.

The federal credit requires that either (1) at least 20% of the residential units are rent-restricted and occupied by individuals whose income is 50% or less of area median gross income or (2) at least 40% of the residential units are rent-restricted and occupied by individuals whose income is 60% or less of area gross income. By limiting the State credit to projects that are either in distressed areas or serve lower-income residents, the bill is designed to steer investments toward these projects.

The federal credit requires that the low-income housing be used for that purpose for at least 30 years. If this requirement is not met, all or part of the taxpayer's credit is recaptured. Under the

[3] The Secretary of Commerce may not certify a development zone agency if it, any of its officers or directors, or any partner of the agency has ever used part of an improvement project contribution for any purpose other than the improvement project.

proposed State credit, if federal recapture is required, the taxpayer forfeits the North Carolina credit to the same extent.

Under federal law, a limited amount of credit is allowed to each state each year, and these credits are allocated among applicants based on selection criteria designed to reward projects that will serve the lowest income tenants for the longest periods. At least 10% of the credits each year must be set aside for projects sponsored by nonprofits. The amount of federal credit allocated to North Carolina will be $9.2 million for the 2000 through 2002 tax years and is expected to increase to $13 million for the 2003 and 2004 tax years. By limiting the State credit to 25% of the federal credit, the bill automatically caps the potential revenue loss to the State.

Extend Bill Lee Act Credits to Insurance Company Administrative Offices. This bill would allow all the Bill Lee Act credits to be taken against gross premiums tax, effective beginning in the 1999 tax year. Currently, only the real property credit for central administrative offices may be taken against gross premiums tax.

In 1997, the General Assembly (1) extended the Bill Lee Act credits to central administrative offices that created at least 40 new jobs and (2) created a new tax credit for taxpayers who purchase or lease real property to be used as central administrative office property. In 1998, the General Assembly allowed the real property credit for central administrative offices to be taken against the gross premiums tax as well as against the income tax and the corporate franchise tax. Insurance companies pay gross premiums tax in lieu of income tax. The 1998 legislation did not change the rule that the other Bill Lee Act credits could be taken against only income tax and corporate franchise tax. The 1998 change created a situation in which insurance companies and other businesses are treated differently with respect to central administrative offices. A business, other than an insurance company, that builds a central administrative office can take against income tax not only the real property credit for that office, but also the jobs credit, the investment tax credit, and the worker training credit. An insurance company can take against gross premiums tax only the real property credit, but not the jobs credit, the investment tax credit, or the worker training credit. By extending the other Bill Lee Act credits to gross premiums tax, this bill would provide uniform treatment for insurance companies and other businesses that build central administrative offices.

Quality Jobs Assurance. The purpose of the original William S. Lee Act was to provide incentives for "high quality jobs." Accordingly, under current law, only certain industries qualify for the Bill Lee Act credits and a taxpayer must meet a wage standard with respect to the jobs at the locations for which it claims a credit. This bill would add three additional standards to assure that credits are allowed only with respect to high quality jobs. First, the taxpayer would be required to pay at least 50% of basic health insurance coverage for the full-time positions for which it takes a credit. Second, the taxpayer would be required to certify that the business location with respect to which it claims a credit has not had and will not have a materially adverse effect on the environment. Third, the taxpayer would be required to certify that the business location with respect to which it claims a credit has no outstanding or unresolved OSHA citations and has had no serious violation within the last three years. The Department of Environment and Natural Resources and the Department of Labor would be

authorized to audit the environmental and OSHA certifications, respectively, and report to the Department of Revenue if they determine that a certification was inaccurate.

Application and Fee Changes. A taxpayer that wishes to claim a Bill Lee Act credit must apply to the Department of Commerce for certification that it meets the eligibility requirements for the credit. The application must include information to enable the Department of Commerce to determine the applicant's eligibility, and be accompanied by a $75 fee to defray part of the costs of administering the program. This bill would require applicants to include information necessary to enable the Department of Commerce to provide data required in its periodic reports to the General Assembly. This data will assist the General Assembly in evaluating the cost effectiveness of the Bill Lee Act credits. The bill would also eliminate the $75 fee for credits claimed with respect to enterprise tier one and two counties. For other credits, the fee is increased to $500 per credit claimed, not to exceed $1,500 per taxpayer. The Department of Commerce would retain ¼ of the fee proceeds for the costs of administering the program, and remit the remaining proceeds to the Department of Revenue for its use in administering and auditing the Bill Lee Act credits. These changes become effective 30 days after the bill becomes law.

Clarify Business Definitions and Refunds. This bill would clarify the statutory definitions of the types of businesses that are eligible for the Bill Lee Act credits. In 1998, the General Assembly changed the statutory references from the Standard Industrial Classifications (SIC) to the North American Industrial Classification System (NAICS) to conform to the federal system adopted effective January 1, 1999. This system is used to classify most of the data available about industries or kinds of business in the economy. Upon review of the NAICS system, it was discovered that further terminology changes were needed to the Bill Lee Act definitions to assure that the credits would be available to the types of businesses covered by the prior law definitions.

Section 9 of this bill would clarify that interstate air carriers are allowed a partial refund of sales taxes paid on fuel. This clarification will not change the way the law is currently administered.

Research and Development Credit. This bill would modify the research and development credit so that it would not automatically expire if the corresponding federal credit expires. The credit for research and development is allowed only to taxpayers who claim one of the federal research and development credits. In past years, the federal credit has expired and then been renewed retroactively, creating uncertainty for taxpayers. This bill amends the State credit so that it is based on the federal credit as of January 1, 1999. Expiration of the federal credit will not affect the State credit. If the federal credit is later modified, the General Assembly can consider whether to update its cross-reference to adopt the federal modifications.

Industrial Development Fund Environmental Certification. Section 17 of this bill would require, as a condition for funding from the Industrial Development Fund (Building Renovation Fund), that a project receive certification from the Department of Environment and Natural Resources that it will not have a materially adverse effect on the environment. This change would become effective July 1, 1999.

FISCAL IMPACT OF PCS FOR HB 1303
STATE GENERAL FUND ($ MILLIONS)

Description	Effective Date	99-00	00-01	01-02	02-03	03-04	04-05	05-06
Change references to industry classification (technical)	Immed.	-	-	-	-	-	-	-
Subject companies applying for credits to provide for health insurance benefits and meet enviornmental and OSHA standards	1/1/00	-	-	-	-	-	-	-
Extend Bill Lee Act Sunset from 1/1/02 to 1/1/07	1/1/02				-13.1	-19.4	-27.0	-38.1
Extend general investment tax credit from 1/1/02 to 1/1/07	1/1/02	-	-	-	-8.4	-15.2	-22.2	-32.2
Close loopholes in definition of State Development Zones	7/1/99	-	0.1	0.1	0.6	0.3	-	-
Establish investment tax credit of 25% of contribution or investment to nonprofit organization in Development Zone ($4 mil. limit)	1/1/00	-	-	-2.5	-4.0	-4.0	-4.0	-4.0
Reorganize application fees for Lee Act credits	7/1/99	NA	NA	NA	NA	NA	NA	NA
Allow tax credit for construction or rehab of low-income housing (25% of federal credit)	1/1/00	-	-	-1.5	-3.4	-5.3	-7.6	-10.1
Require environmental certificate to qualify for Industrial Development Fund	7/1/99	-	-	-	-	-	-	-
Tier 1 & 2 enhancements:								
Extend Lee Act to customer call centers	1/1/00	-	-	-0.6	-1.2	-1.8	-2.4	-2.4
Sales tax refund for machinery & equipment purchased by Bill Lee Act companies	1/1/00	-	-0.1	-0.2	-0.3	-0.6	-0.8	-1.0
Allow nonprofit insurance companies sales tax refund on construction materials	1/1/00	-	-0.5	-1.0	-0.5	-	-	-
Air Carrier Hubs Incentives:								
1%, $80 sales tax to training equipment	5/1/99	-0.4	-0.4	-0.4	-0.4	-0.4	-0.4	-0.4
Sales tax exemption on repair parts, lubricants, etc.	5/1/99	-1.2	-1.2	-1.2	-1.2	-1.2	-1.2	-1.2

(COVER)

Description	Effective Date	99-00	00-01	01-02	02-03	03-04	04-05	05-06
Modify Tiers for small counties and high poverty rates	1/1/00	-	-	NA	NA	NA	NA	NA
Modify research and development credit expiration	1/1/99	-	-	-	-	-	-	-
Total State General Fund Impact		**-$1.6**	**-$2.1**	**-$7.3**	**-$31.9**	**-$47.6**	**-$65.6**	**-$89.4**

NA=Data not available at present time.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1411

Short Title: Balance Wm. S. Lee Tax Incentives. (Public)

Sponsors: Representatives Luebke; and Insko.

Referred to: Rules, Calendar and Operations of the House.

April 29, 1999

A BILL TO BE ENTITLED

AN ACT TO REEVALUATE INEFFECTIVE TAX INCENTIVES SO THAT THE NET EFFECT OF THE WILLIAM S. LEE AMENDMENTS IS REVENUE-NEUTRAL FOR THE 1999-2000 BUDGET.

The General Assembly of North Carolina enacts:

Section 1. This act is effective for taxable years beginning on or after January 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1411
Proposed Committee Substitute H1411-PCSX3422-LC

Short Title: Balance Wm. S. Lee Tax Incentives. (Public)

Sponsors:

Referred to:

April 29, 1999

A BILL TO BE ENTITLED

AN ACT TO REEVALUATE INEFFECTIVE TAX INCENTIVES SO THAT THE NET EFFECT OF THE WILLIAM S. LEE AMENDMENTS IS REVENUE-NEUTRAL FOR THE 1999-2000 BUDGET.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-129.4 is amended by adding a new subsection to read:

"(a2) Tier Five. -- No credit is allowed under this Article for creating jobs or for worker training if, at the time the taxpayer applies for the credit, the jobs are or will be located in a qualified tier five area. No credit is allowed under this Article for investing in machinery and equipment, for research and development, or for investing in real property for a central administrative office if, at the time the taxpayer applies for the credit, the location with respect to which the credit is claimed is in a qualified tier five area. A qualified tier five area is an area that is in an enterprise tier five area but is not in one or more of the following:

(1) A development zone.

(2) A county with a population of less than 20,000 according to the most recent population statistics certified by the State Planning Officer.

(3) A county with an unemployment rate above four percent (4%) according to the latest available data published by a State or federal agency generally recognized as having expertise concerning the data."

Section 2. G.S. 105-129.4(d) reads as rewritten:

"(d) ~~Forfeiture.~~ Forfeiture; Expiration. -- A taxpayer forfeits a credit allowed under this Article if the taxpayer was not eligible for the credit at the time the taxpayer applied for the credit. In addition, a taxpayer forfeits a large investment enhancement of a tax credit if the taxpayer fails to make the level of investment certified by the Secretary of Commerce under subsection (b1) of this section within the required two-year period. A taxpayer that forfeits a credit under this Article is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236. If a taxpayer forfeits the credit for creating jobs or the credit for investing in machinery and equipment, the taxpayer also forfeits any credit for worker training claimed for the jobs for which the credit for creating jobs was claimed or the jobs at the location with respect to which the credit for investing in machinery and equipment was claimed.

A taxpayer's credit for creating jobs expires as provided in G.S. 105-129.8 if the number of the taxpayer's full-time employees falls or if the new jobs are transferred to another area. A taxpayer's credit for investing in machinery and equipment expires as provided in G.S. 105-129.9(d) if the machinery and equipment are taken out of service or moved to another area. A taxpayer's credit for investing in central administrative office property expires as provided in G.S. 105-129.12(c) if the number of central administrative office employees drops by 40 or more or if the property is no longer used as a central administrative office.

Each year that a taxpayer claims a credit, an installment of a credit, or a carryforward of a credit under this Article, the taxpayer must file with the Department of Commerce an annual financial statement audited in accordance with generally accepted accounting principles and in accordance with Government Audit Standards developed by the Comptroller General of the United States. The Department of Commerce shall examine these reports to determine whether any taxpayer's credit is forfeited or expires and shall report any potential forfeitures and expirations of credits to the Secretary of Revenue."

Section 3. The introductory language of G.S. 105-164.4(a)(1d) reads as rewritten:

"(1d) The rate of one percent (1%) applies to the sales price of the following articles. The maximum tax is ~~eighty dollars ($80.00)~~ three hundred twenty dollars ($320.00) per article."

Section 4. The Department of Commerce shall initiate and negotiate with other states the development of an interstate compact to prohibit or reduce the use of tax and economic incentives for interstate competition in luring businesses from one state to another. The Department of Commerce shall actively support the enactment of federal legislation to prohibit or reduce states' use of tax and economic incentives for interstate competition in luring businesses from one state to another.

The Department of Commerce shall report on its progress in these efforts to the Revenue Laws Study Committee by March 1, 2000, and March 1, 2001.

Section 5. Section 3 of this act becomes effective October 1, 1999, and applies to sales made on or after that date. Section 4 of this act is effective when it becomes law. The remainder of this act is effective for taxable years beginning on or after January 1, 2000.

HOUSE BILL 1411:
Balance Wm. S. Lee Tax Incentives

BILL ANALYSIS

Committee:	House Finance	Sponsor:	Rep. Luebke
Date:	May 19, 1999	Analysis by:	Martha H. Harris
Version:	Proposed Committee Substitute		Staff Attorney

SUMMARY: This bill would make four changes relating to tax incentives. First, it eliminates Bill Lee Act credits in certain tier five counties effective January 1, 2000. Second, it requires annual reporting by taxpayers who receive credits, to determine when forfeiture or expiration of a credit is required under current law, effective January 1, 2000. Third, it raises from $80 to $320 the sales tax cap that applies to certain purchases, effective October 1, 1999. Fourth, it requires the Department of Commerce to initiate and negotiate an interstate compact to prevent interstate competition through incentives, and to seek federal legislation to address the problem of interstate competition through incentives.

Section 1 of this bill would provide that Bill Lee Act credits are not allowed for jobs or investments located in certain tier five counties. The credits would still apply for locations in a development zone, in a county that has a population of less than 20,000, and in a county whose poverty rate is above 4%. Section 1 would become effective beginning with the 2000 tax year.

Under the Bill Lee Act, all counties are divided into five enterprise tiers, ranked by economic distress as measured by a formula that combines unemployment, per capita income, and population growth. Those counties in lower-numbered tiers receive more favorable incentives than those in higher tiers. Currently, the following counties are tier five counties: Buncombe, Cabarrus, Chatham, Currituck, Davie, Durham, Forsyth, Guilford, Henderson, Iredell, Johnston, Lee, Mecklenburg, Moore, New Hanover, Orange, Polk, Randolph, Stokes, Union, and Wake. Under this bill, Bill Lee Act incentives would be unavailable in all of those counties (except in development zones within the counties), with the exception of Currituck, Lee, Moore, New Hanover, and Polk.

In 1998, the General Assembly amended the Bill Lee Act to provide additional incentives for businesses that locate or expand in development zones, which are economically distressed areas located within cities. The statutory conditions for qualifying as a development zone were designed to target only relatively small, economically distressed areas. These conditions are (1) the area consists of one or more contiguous census tracts, block groups, or both, (2) the area has a population of 1,000 or more, at least 20% of whom are below the poverty level, and (3) the area is located at least partly in city with a population over 5,000. Section 1 of the bill does not restrict existing incentives for development zones, even those located in enterprise tier five areas.

Section 2 of this bill would require taxpayers to report annually to provide information to enable the Department of Commerce to determine if any credits should be forfeited or should

expire. Section 2 would become effective beginning with the 2000 tax year. The Bill Lee Act incentives recommended by the Department of Commerce over the last four years have contained what are known as "clawback" provisions. These provisions require a taxpayer to forfeit a targeted incentive if it turns out the taxpayer did not meet the conditions for qualifying for the incentive, and to lose future installments of a tax credit if the job or investment on which the credit was based does not remain in place. Section 2 of the bill first adds to the forfeiture statute several cross-references to existing expiration requirements. Then, it requires taxpayers to file annual audited financial statements each year they claim an installment or carryforward of a credit. These statements would indicate whether the jobs and investments have remained in place and whether other conditions were met. The Department of Commerce could determine from these statements whether any credits should be forfeited or should expire. In addition, these statements would enable the Department of Commerce to evaluate whether the incentives are accomplishing their purpose of creating high-quality jobs throughout the State.

Section 3 of this bill would raise from $80 to $320 the sales tax cap that applies to certain items that receive preferential sales tax treatment. Section 3 would become effective October 1, 1999. The $80 cap has not been increased in decades, and so does not reflect inflation. The increase to $320 would partly reflect inflation since the cap was last amended. Most items are subject to sales and use tax at the combined State and local rate of 6% (6.5% in Mecklenburg County). The following items are taxed at 1% with an $80 cap: farm equipment and containers, manufacturing machinery, telephone company equipment, commercial laundry equipment, freezer plant machinery, major recycling facility equipment, and air courier equipment.

Section 4 of the bill would require the Department of Commerce to take active steps to end the interstate incentives war that causes states to offer increasingly larger incentives as they compete against one another to lure businesses. First, the Department would be required to initiate and negotiate an interstate compact to prohibit or reduce the use of incentives to lure businesses from one state to another. Second, the Department would be required to actively support federal legislation to the same end. Section 4 requires the Department of Commerce to report to the Revenue Laws Study Committee on the success of its efforts by March 2000 and 2001.

FISCAL IMPACT OF PCS FOR HB 1411
STATE GENERAL FUND ($ MILLIONS)

Description	Effective Date	99-00	00-01	01-02	02-03	03-04	04-05	05-06
Raises from $80 to $320 the state sales tax limit applying to farm machinery, manufacturing machinery, and selected other items	10/01/99	2.0	3.2	3.4	3.6	3.8	4.0	4.3
Eliminates Bill Lee Act credits for certain Tier 5 counties	01/01/00	-	-	NA	NA	NA	NA	NA
Added Bill Lee Act reporting to determine compliance ("clawbacks")	01/01/00	-	-	-	-	-	-	-

NA=No data available. Estimate depends on status of HB 1303. A rough simulation indicates $10-15 million of additional revenue for 2001-02.

(919) 733-4910 Fiscal Research
David Crotts

FISCAL HISTORY OF 1996-98 BUSINESS TAX INCENTIVES

GENERAL FUND REVENUE LOSS ($ MILLIONS)

Session	Type of Incentive	97-98	98-99	99-00	00-01	01-02	02-03	03-04	04-05
1996	Corporate Rate Cut (7.75% to 6.9%)	33.4	70.2	110.4	123.0	125.5	133.0	141.0	149.5
	General Investment Tax Credit (ITC)	6.8	11.7	16.9	22.3	28.1	21.4	16.4	11.3
	Targeted ITC	2.7	8.0	16.1	27.1	38.0	38.0	38.0	35.5
	Jobs Tax Credit Expansion	0.7	2.3	4.5	7.5	7.5	6.8	5.2	3.9
	R&D Tax Credit	8.1	8.6	9.1	9.6	10.2			
	Worker Training Tax Credit	0.5	1.2	1.7	2.2	2.2			
1997	Add Central Administrative Offices to Lee Act		0.3	1.3	2.1	2.9			
	Extend ITC to Capital Leases	0.4	1.2	2.3	3.6	5.0	5.0	5.0	4.7
	Add "Planned Expansion"			0.7	2.2	4.3			
	Other Changes			0.2	0.4	0.7			
1998	Extend ITC to operating leases				1.8	2.5	3.0	3.0	3.0
	Lee Act Application Fee ($75)		-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1
	Added Lee Act credit for development zones				0.4	1.3	2.5	4.0	4.0

(over)

Session	Type of Incentive	97-98	98-99	99-00	00-01	01-02	02-03	03-04	04-05
	Air Courier Hub incentives:								
	Lower sales tax on handling, storage, equipment					0.4	0.4	0.1	0.1
	Sales tax exempt. for lubricants, repair parts							0.2	0.2
	Major recycling facility incentives:								
	Lower sales tax on cranes, transportation equipment; lubricants, repair parts, etc.		0.3	0.1	0.2	0.2	0.2	0.2	0.2
	Sales tax exemption for electricity					0.1	0.1	0.1	0.1
	Sales tax refund on building materials		1.3						
	Extend targeted ITC to major recycling facility		0.5	0.5	0.6	0.6	0.7	1.1	2.4

Total-All Incentives	$ 52.6	$ 105.5	$ 163.7	$ 202.9	$ 229.4	$ 211.0	$ 214.2	$ 214.8
Incenitves Excluding Corp. Rate Cut	$ 19.2	$ 35.3	$ 53.3	$ 79.9	$ 103.9	$ 78.0	$ 73.2	$ 65.3
Incenitves Excluding Corp. Rate Cut and General Investment Tax Credit	$ 12.4	$ 23.6	$ 36.4	$ 57.6	$ 75.8	$ 56.6	$ 56.8	$ 54.0

Finance Committee Hearings on Tax Abatements

North Carolina General Assembly
May 11, 1999
May 18, 1999

Policy Issues on Abatement Packages.

Dr. Michele Hoyman
Associate Professor of Political Science
University of North Carolina- Chapel Hill
CB #3265
315 Hamilton Hall
Chapel Hill, N.C. 27599-3265
(919) 960-0934 (h)
(919) 962-6867 (office)
(919) 960-0077 (fax)
hoyman@unc.edu

DRAFT

QUESTION: IS IT WISE TO OFFER ABATEMENT PACKAGES?

The annoying truth is that there is no simple answer to the question.

Are abatement packages worth it? It depends. Feelings do run strong on both sides, with opponents to abatements depicting packages as evil incarnate and the proponents depicting them as a panacea. The truth lies somewhere in between.

The measurement of the impact of such packages depends on a host of factors listed below as a series of questions.

I. FIRST, WHAT DO WE KNOW?

* All abatement packages do not have the same return.

* All jobs are not the same. The average annual earnings for an American automobile worker is $62,000 per year with a benefit package that rivals corporate executives; the average earnings for a fast food worker is approximately minimum wage, with few benefits. The creation of the first type of job gives a lot bigger boost to the community and the state than the latter. So, one question a state/community should ask is: Will this be an upgrade to our community to have this type of job available?

* All communities are not starting from the same economic and infrastructure baseline. (Therefor, the impact of a package will be very different in a poor rural community or a blighted city area than in a community with a bustling level of growth.)

* One size of economic development strategy does not fit all communities equally well.

* A benefit for one person may be a cost to another person. For example the rise in the value of land is a cost to a buyer and a benefit to a seller.

* The benefits of economic development are uneven across groups in the community and state. (Economic development rarely has perfectly even consequences.) Critics of packages claim they are regressive. This may be true inasmuch as they are subsidies of corporations by all citizens, including poor and middle class citizens. However it is also the case that a person who gets a job at the new plant or business will benefit more than the taxpayer who subsidized the project and who may later subsidize the infrastructure improvements needed to keep up with the growth. The county adjacent to a large installation will have to absorb all the growth, but none of the revenue.

II WHAT ARE THE KEY QUESTIONS TO ASK?

An analysis of a package should be done through an objective unit such as a university or the research unit of a government agency. The analysis should include the following questions?

1) What is baseline or starting point of community's economy?

2) Are the jobs good?
Are they high paying and or professional jobs?
Are they jobs with a large multiplier effect?

3) How many jobs are there?

Negotiate a linkage of a certain number of jobs to the taxes abated such that if the jobs fall short, the corporation is accountable for a certain number of jobs.

4) Is the community certain that the locals will be able to qualify for the jobs? Did the community or the state negotiate a guarantee of local jobs - or that priority be given to locals.

5) Have clawbacks been negotiated? These are guarantees to stay a certain number of years or pay back the abated taxes?

6) Whose taxes are they anyway? This is conceived of in two different ways: 1)they are the public's taxes which are being given away to corporations; 2) these were taxes the community never had to begin with.

7) What are the major infrastructure demands?

schools
sewage
water
roads

IV. WHAT CAN A COMMUNITY DO?

In *Power Steering* authored by Michele Hoyman, (Lawrence Ks. University Press of Ks., 1997), there is a whole chapter on policy suggestions for communities to consider. These include:

annexation
guarantee of buying supplies and construction materials within the county
guarantee that jobs go to locals
bargaining with a professional bargainer or exhibiting greater skill during in lieu of negotiations
borrowing from the experience of other communities: parallel learning.
solving the information deficit that a community has in bargaining with a company by bargaining that the cost of certain consulting studies be borne by the corporationa as was done for the Saturn plant in Spring Hill, Tennessee.

BIOGRAPHY MICHELE M. HOYMAN

Professor Hoyman was a Visiting Associate Professor in the Political Science Department at the University of North Carolina – Chapel Hill for 1998- 1999 and an adjunct faculty person in the Master's of Public Administration program at the University of North Carolina. She will be joining the UNC Political Science faculty permanently as a tenured faculty person in 1999-2000.

She received her Ph.d at the University of Michigan in Political Science in 1978. She previously held a position in the Institute of Labor and Industrial Relations at the University of Illinois from 1978 to 1981 and held a tenured position at the University of Missouri - Saint Louis which she has held from 1981 through 1998.

Her areas of research are in labor policy, race and sex discrimination policy, compliance of organizations with Supreme Court decisions, litigiousness of employees. She has published several books in a variety of human resource areas such as training and the informal economy. She has published in journals such as *Law and Policy* and *the Industrial and Labor Relations Review.*

Her most recent area of research is economic development, particularly the recruitment of automobile plants to rural areas. In 1997 she published a book with the University Press of Kansas called *Power Steering: Global Automakers and the Transformation of Rural Communities.* It was nominated for the best book in Urban Politics and Political Economy in the Urban Politics section of the American Political Science Association. last year. The book was a study of four "greenfield sitings" and how the economic development event transformed the communities. In the book she lays out some strategies that communities and states can use in order to bargain the best possible incentive package. Also, the book argues that economic development is a process, not an outcome and that measures of the impact of the incentive packages, such as dollars per job, miss the point because they do not take into account long-term costs and benefits.

She is beginning some research on prisons as an economic development project for rural communities.

She is also a professional labor arbitrator. She serves on the FMCS panel of arbitration and also on National Mediation Board (railroads). Her current areas of research is on the effect of the gender of the arbitrator on the outcome of the case.

Can your community bargain the kind of deal it needs?
What will be the public administration impacts of a large automobile plant?

Power Steering

Global Automakers and the Transformation of Rural Communities

Michele M. Hoyman

In Marysville, Ohio; Georgetown, Kentucky; and Smyrna and Spring Hill, Tennessee, life will never again be the same. Once small rural communities, they're now boom towns—thanks to Honda, Toyota, Nissan, and Saturn.

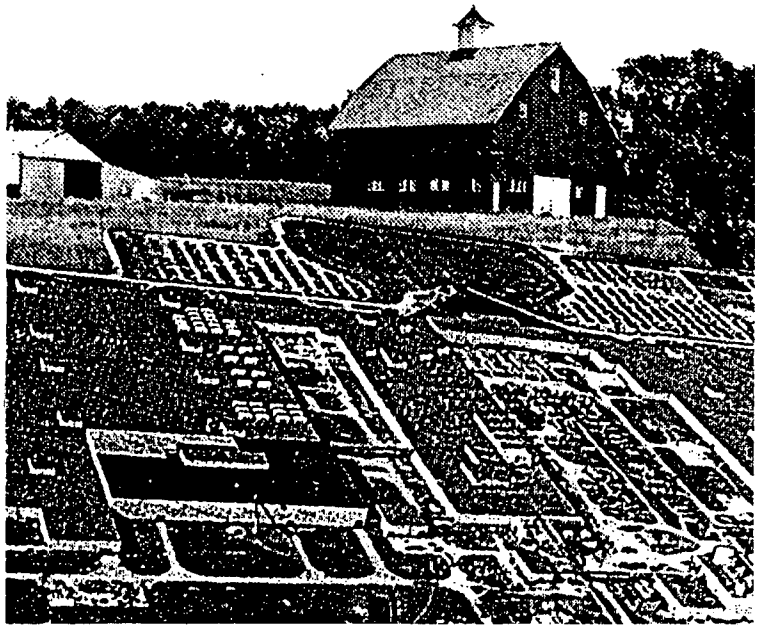
It's happening all over America: communities desperate for economic development lure large companies looking for a docile labor force, cheap real estate, and an alternative to the regulations of cities. But what happens to a small town when it successfully attracts corporate America (or corporate Japan)? As Michele Hoyman shows, from the announcement of plant siting until long after it opens, the town's rural lifestyle is dramatically transformed through radical changes in its politics, public administration, schools, traffic patterns, real estate values, water and sewage systems, police and fire protection, and cultural views.

In *Power Steering*, Hoyman chronicles such transformations in Kentucky, Ohio, and Tennessee, shows how they emerged, and explains why they matter. She skillfully interweaves agenda-setting theory with impact analysis to demonstrate that economic development is an ongoing process with identifiable stages, not merely a final set of outcomes. Drawing upon extensive interviews with community leaders, public opinion polls, and in-depth analyses of town budgets, she creates a richly detailed study that clearly delineates the economic, social, and political impacts associated with corporate forays into the hinterlands.

Providing a wealth of detail for scholars and administrators, Hoyman's study also offers a thoughtful guide for any community attempting to attract similar industries. For example, she cautions communities to avoid giving away too much in tax incentives and environmental control waivers, lest those long-term costs undermine the short-term benefits provided by the corporation. Balanced and insightful, her work provides concrete examples of how America's rural towns are using the new global economy to help shape more promising futures for themselves.

Michele Hoyman is associate professor of political science and public policy administration at the University of Missouri–St. Louis and coeditor of *The Informal Economy* and *Joint Training Programs*. She is also a labor arbitrator.

272 pages, 6 x 9
Cloth ISBN 0-7006-0818-4, $35.00
Paper ISBN 0-7006-0819-2, $17.95



"Convincingly demonstrates that the impacts of plant sitings are not only economic, but political, administrative, and cultural as well."

JOHN PORTZ,
author of *The Politics of Plant Closings*

"Hoyman's dynamic conception of the impact process adds something essential to our understanding of her subject and holds the potential to fundamentally influence and enrich the literature on economic development."

DENNIS R. JUDD,
editor of *Leadership and Urban Regeneration*

"Critical reading not just for those interested in the political economy of industrial location, but also for students of theory and practice of public administration."

BRYAN JONES,
coauthor of *The Sustaining Hand: Community Leadership and Corporate Power*

University Press of Kansas

2501 West 15th Street
Lawrence KS 66049-3905
Phone 785-864-4154
Fax 785-864-4586
mail@newpress.upress.ukans.edu

Power Steering

Global Automakers and the Transformation of Rural Communities

Michele M. Hoyman

Order Form

University Press of Kansas, 2501 West 15th Street, Lawrence, KS 66049-3905
Phone orders 785-864-4155 Fax 785-864-4586

Orders must be prepaid and must include postage and handling. We accept personal checks, money orders, Visa, and MasterCard.

Quantity: _____ ***Power Steering*** at $35.00 each (cloth)

Quantity: _____ ***Power Steering*** at $17.95 each (paper)

Book total: $_____

*Postage and handling: _____

*(4th class $3.00 for the first book, $.50 for each additional book)
(UPS $3.50 for the first book, $.50 for each additional book)

Subtotal: _____

6.9% sales tax for delivery in Kansas: _____

TOTAL: _____

Name_____

Address_____

City _____ State _____ Zip_____

Method of payment: ____ Check or money order enclosed

____ MasterCard ____ Visa

Card number _____- _____- _____- _____ Expires_____

Signature _____ Daytime phone number_____

BTC Reports

THE NEWSLETTER OF THE NORTH CAROLINA BUDGET & TAX CENTER VOL. 5 NO.10 MAY 1999

INCENTIVES IN NORTH CAROLINA: THE JURY SHOULD STILL BE OUT

EXECUTIVE SUMMARY

■ The Department of Commerce recently released an analysis of the effects of the William S. Lee Quality Jobs and Business Expansion Act. The analysis shows that new investment statewide is up substantially since the Lee Act was enacted and that companies locating in distressed counties are receiving a significant share of the tax benefits when compared to the population of those counties. New investment in at least half of North Carolina's distressed counties was greater in 1997 and 1998 than in 1995 and 1996.

■ However, relatively affluent communities still received a disproportionate share of the job creation in 1997 and job creation was actually slower in 1998 than in 1997. Moreover, the majority of the growth in new investment in 1998 was due to three major companies which received even greater incentives than the Lee Act includes and due to development in six urban and suburban counties.

■ North Carolina has the lowest unemployment rate in the region and relatively strong per-capita income and employment growth compared to the nation as a whole. Yet our neighboring states have fared better under these economic indicators in the two years since the Lee Act was enacted. South Carolina has shown the most improvement, which could have resulted from their earlier incentive initiatives. North Carolina's performance on these measures could improve in future years if the Lee incentives are working.

■ The Department of Commerce has created a package to build on the Lee Act through additional targeted incentives for capital-intensive projects, extended tax incentives for companies locating in distressed areas and extending the life and study of the Lee Act.

■ More study of the use of the incentives would clarify their usefulness, though similar research in other states has proven mixed. The results in North Carolina to date signify neither victory nor defeat for tax incentive proponents and their critics.

OVERVIEW

The General Assembly approved a series of tax incentives in 1996 because policymakers feared that North Carolina was losing in the competition with other states to attract industry. Last week, the Department of Commerce revealed some of the initial outcomes of the first year of the tax incentives and outlined more recommendations to extend the provisions of North Carolina's tax incentives, mainly contained in the William S. Lee Quality Jobs and Business Expansion Act. This issue of *BTC Reports*:

- Examines the findings of the Commerce study;
- Compares the State's economic performance to other states over the past several years; and
- Analyzes the proposed changes to the State's tax incentives.

WHAT DOES THE DATA SHOW?

The Department of Commerce reiterated that the goals of the William S. Lee Act are:

- Enhance competitiveness of North Carolina companies through the use of new technologies;
- Promote new investment in the State; and

The North Carolina Budget & Tax Center

P.O. Box 28068
Raleigh, NC
27611-8068

919/856-2158

cjustice.org

Editor: Dan Gerlach

Job Creation Tax Credit Analysis

	% Share of Jobs	% Share of Credit	% of Population
Tier 1	1.7%	14.7%	4.4%
Tier 2	4.7%	12.8%	8.3%
Tier 3	16.7%	34.2%	17.2%
Tier 4	35.5%	24.2%	25.2%
Tier 5	41.4%	14.1%	44.9%

- Ensure that economic growth occurs across the State, especially in rural and low-income urban areas.

Given those goals, the Lee Act included tax incentives such as the following:

- Research and development tax credits - $5.9 million claimed in the 1997 tax year;
- Machinery and equipment tax credits - $4.0 million claimed in the 1997 tax year;
- Job creation tax credits - $0.8 million claimed in the 1997 tax year; and
- Worker training tax credits.

These tax credits can only total 50 percent of the company's income or franchise tax liability and must be taken over several years. The report includes analysis of tax data that claimed the credit in 1997 and includes analysis of the businesses using the credit by location, type of industry and date of incorporation of the company in North Carolina. The Department of Commerce also provides data on job and investment announcements for 1998.

The location factor is especially important to the question of widely shared economic prosperity. The Lee Act divides North Carolina counties into five tiers, or groups, based on their population growth, per capita income and unemployment rate. The most distressed counties are in Tier 1, where businesses can receive the highest benefits, while the most affluent counties are in Tier 5.

The tax data for job creation in 1997 is shown in the table above.

While the most affluent counties (Tiers 4 and 5) have had the most jobs created, they also have a smaller share of the tax credits relative to their share of the State's population. The lowest three tiers have a much greater share of the tax credits than their share of the population. The Department of Commerce contends that this shows that the most distressed counties are receiving more help than affluent counties. While true, only Tier 4 counties had a greater share of the job creation than their share of the population. Tier 1 counties, the most distressed, had half the job creation as one might expect from their share of total population.

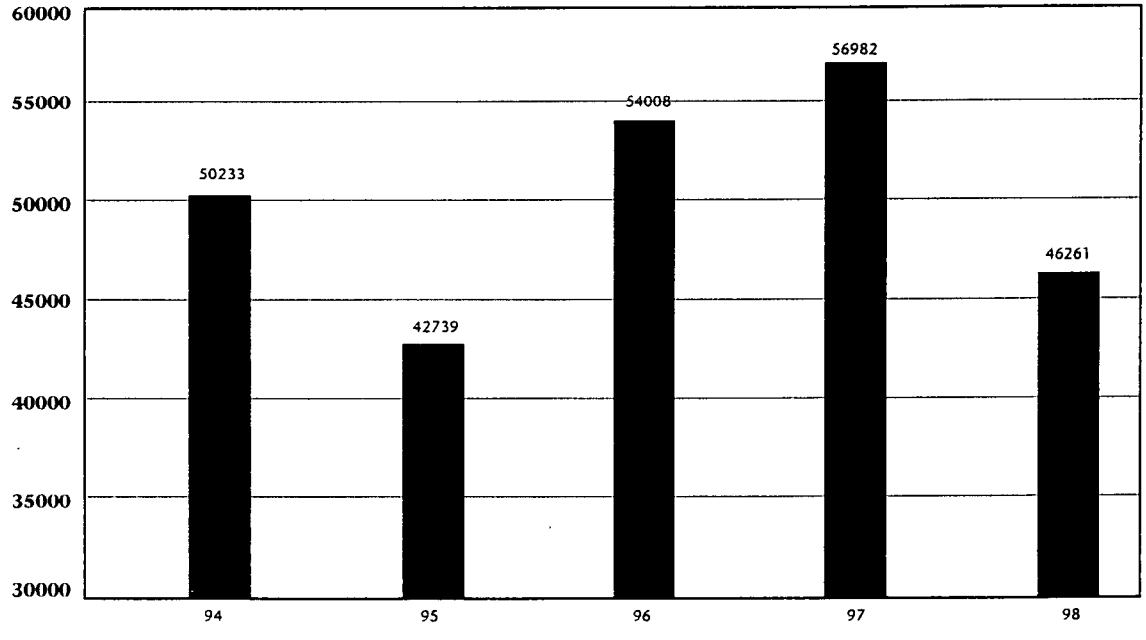
Moreover, the research and development tax credit is even more centralized in companies located in the most affluent counties. Five in every 6 applications for R&D tax credits in 1997 were in Tier 4 or Tier 5 counties. This is hardly surprising given the prevalence of these credits in the biotechnology and pharmaceutical industries and their presence in the State's urban areas, such as Research Triangle Park.

1997 data, however, may not tell the entire story, since the Lee Act may have not been in place long enough to influence location decisions in that year. Preliminary jobs and investment data may provide a more accurate picture of the Lee Act's influence.

As shown by the graph below, the creation of new jobs actually *declined* between 1997 and 1998 in industries eligible for the Lee Act tax credits.

Yet the Lee Act does not emphasize job creation, but investment per job. In a global economy, the rationale becomes that the State should promote capital investment.

Announced New Jobs in Industries Eligible for Tax Incentives



Heavily capital intensive industries will allow North Carolina companies to remain competitive because of enhanced productivity, especially in industries such as textiles. The Department points to the dramatic increase in investment from $5.5 billion in 1997 to $7.8 billion in 1998 as evidence of the Lee Act success. But a significant share of that increase - almost $1 billion -- came from projects to which the State provided incentives over and beyond the Lee Act through action in the 1998 legislative session, including:

- the Nucor steel plant in Hertford County, with investment totaling $350 million;
- the Wisconsin Tissue plant in Halifax County, with investment totaling $343 million; and
- the Federal Express hub at the Piedmont Triad International Airport, with investment totaling $300 million.

Other counties comprising the lion's share of the rest of the difference in investment are generally urban or suburban counties, including:

- Mecklenburg County, a $657 million increase from 1997 to 1998 in new investment;
- Cabarrus County, a $486 million increase;
- Rowan County, a $293 million increase;
- Rockingham County, a $241 million increase;
- Iredell County, a $206 million increase; and
- Johnston County, a $175 million increase.

To be fair, the growth is not limited to urban areas. New investment for 1997 and 1998 was greater than investment in 1995 and 1996 for half of the most distressed counties in the lowest tiers. Overall, however, new investment creation has also been uneven, as shown in the graph below.

Another year of data may give a more accurate picture of the trend and provide more information about the relationship between the Lee Act and new investment.

How Are We Doing Compared to Our Competitors?

The growth in the aggressive use of incentives by other states, especially South Carolina and Virginia, was a major force behind the drive to create more state tax incentives in North Carolina. Therefore, a logical question must be whether the Lee Act has helped North Carolina's economy compared to our competitors. Three major indicators - per capita income growth, employment growth and the unemployment rate - were examined for the period between 1994 and 1998 to determine if the Lee Act has improved these indicators compared to our neighbors.

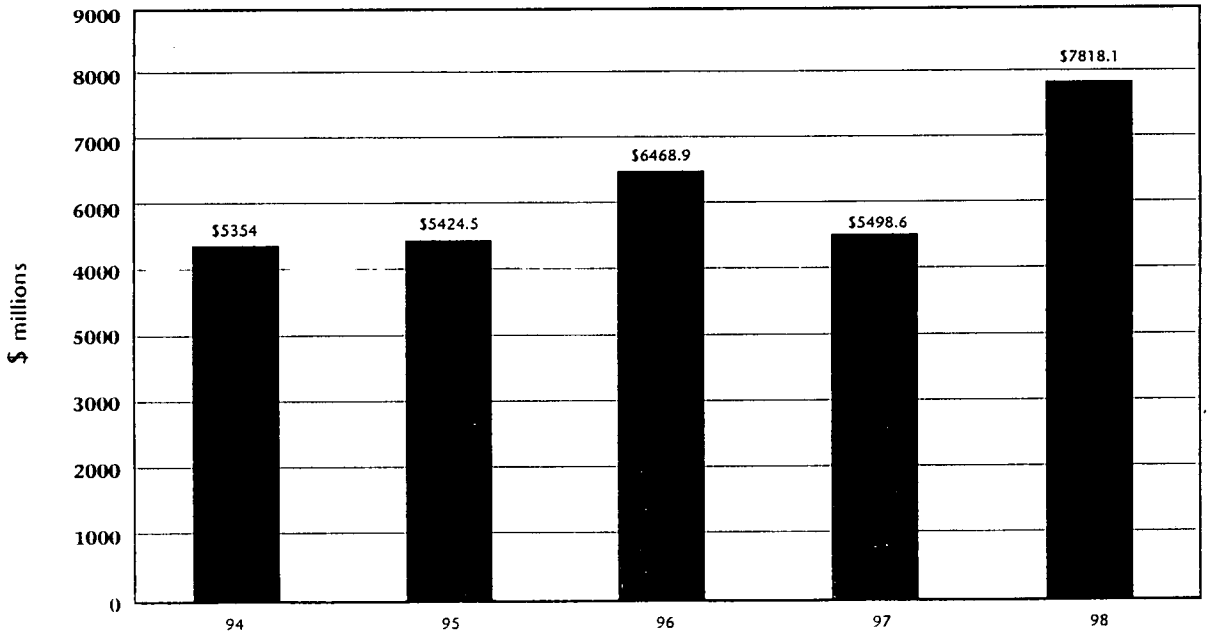
Per Capita Income Growth

The graph on page 4 shows that North Carolina (the far left bar) led the region and surpassed the national trend in per capita income growth each year between 1994 and 1997.[1] The sole exception was growth between 1995 to 1996 where Georgia led the region, probably due in part to growth generated from the Olympic Games. However, between 1997 and 1998, per capita income in North Carolina grew at a *slower* rate than the border states and the nation as a whole. This change is due to continued weakness in our traditional manufacturing sectors and tremendous pressure on agricultural commodities. While these huge trends cannot be changed dramatically by incentives, it emphasizes the need for the Lee Act to focus on rural North Carolina. There is no evidence, therefore, that the Lee Act has contributed to per capita income growth, at least not yet.

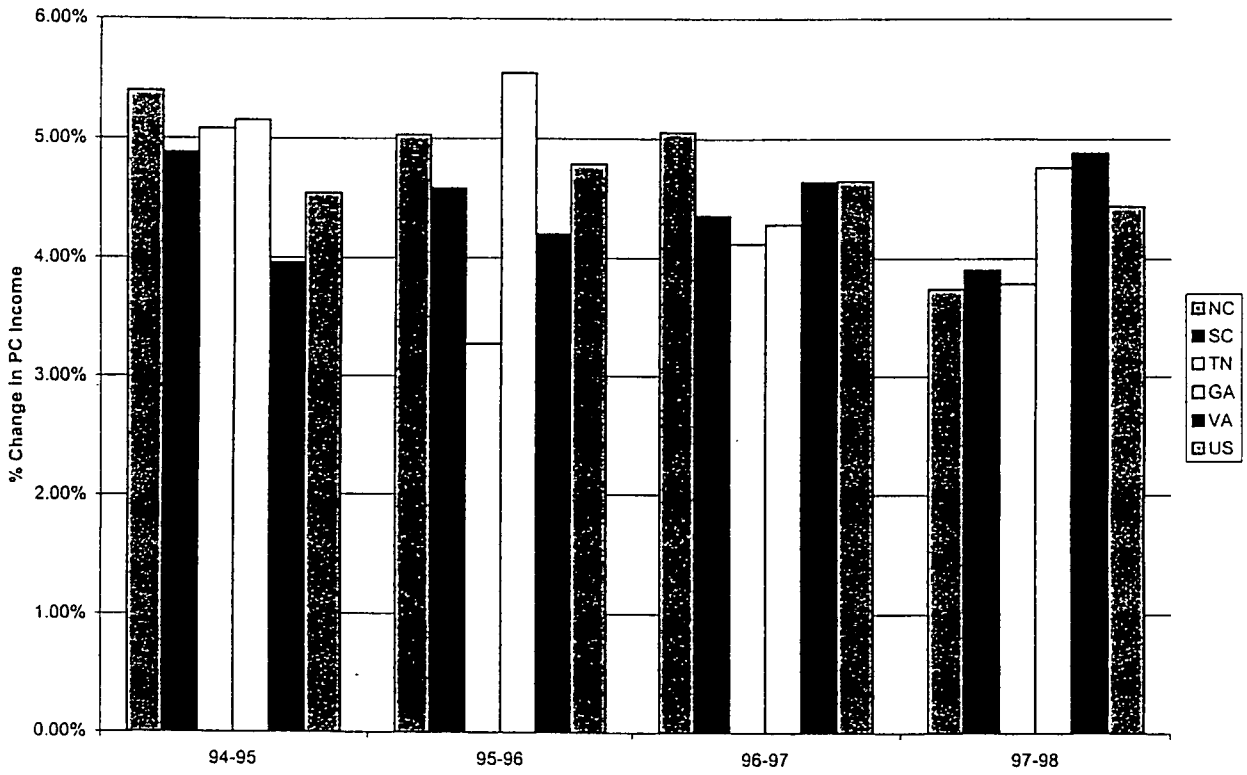
Employment Growth

The graph at the top of page 5 shows a more mixed picture in terms of employment growth.[2] Each year, North Carolina outpaced the nation and Virginia in net job growth. Georgia's growth led North Carolina in three of the four years, South Carolina led North Carolina in two years and Tennessee led the Tar Heel State in one of the four years. South Carolina's growth trend is the most notable in the region, with substantial improvement since 1996.

Announced New Investment in North Carolina



Annual Percent Change in Per Capita Income, North Carolina, Border States and US



Unemployment Rate

North Carolina's unemployment rate is among the nation's lowest.[3] With the exception of Virginia in 1998, our border states and the nation as a whole had higher unemployment rates than ours over the past several years. Both Virginia and South Carolina, however, have witnessed faster declines in their unemployment rate over the last several years.

While tax incentives play a small role in a state's economic trends, the data does not yet support the hypothesis that the Lee Act has improved the State's economic performance. However, other states which implemented more aggressive incentives before the Lee Act was enacted, especially South Carolina, have witnessed significant change. It could be that the concern over the lack of competitiveness in 1996 did not materialize in the economic picture until 1997 and 1998.

What Further Changes are Recommended?

The Department of Commerce has recommended several tax incentive changes in proposed legislation entitled The Widely Shared Prosperity Act of 1999. Some of the tax incentive changes build off current policy.

Tax Breaks for Specific Companies

Last year, the General Assembly enacted a series of specific tax breaks for Nucor, Wisconsin Tissue and Federal Express. These 3 companies alone accounted for 12.8 percent of the announced new investment in 1998, while 1269 companies accounted for the rest. The trend toward recruiting of big investment would continue in this legislation with additional tax breaks targeted to:

- TIAA-CREF for their new customer-service center in Charlotte;
- US Airways for their hub in Charlotte; and
- An unnamed customer service center to locate in a distressed county. Last year, the General Assembly created tax breaks for an unnamed project which later was announced as Wisconsin Tissue.

Tinkering with Tiers

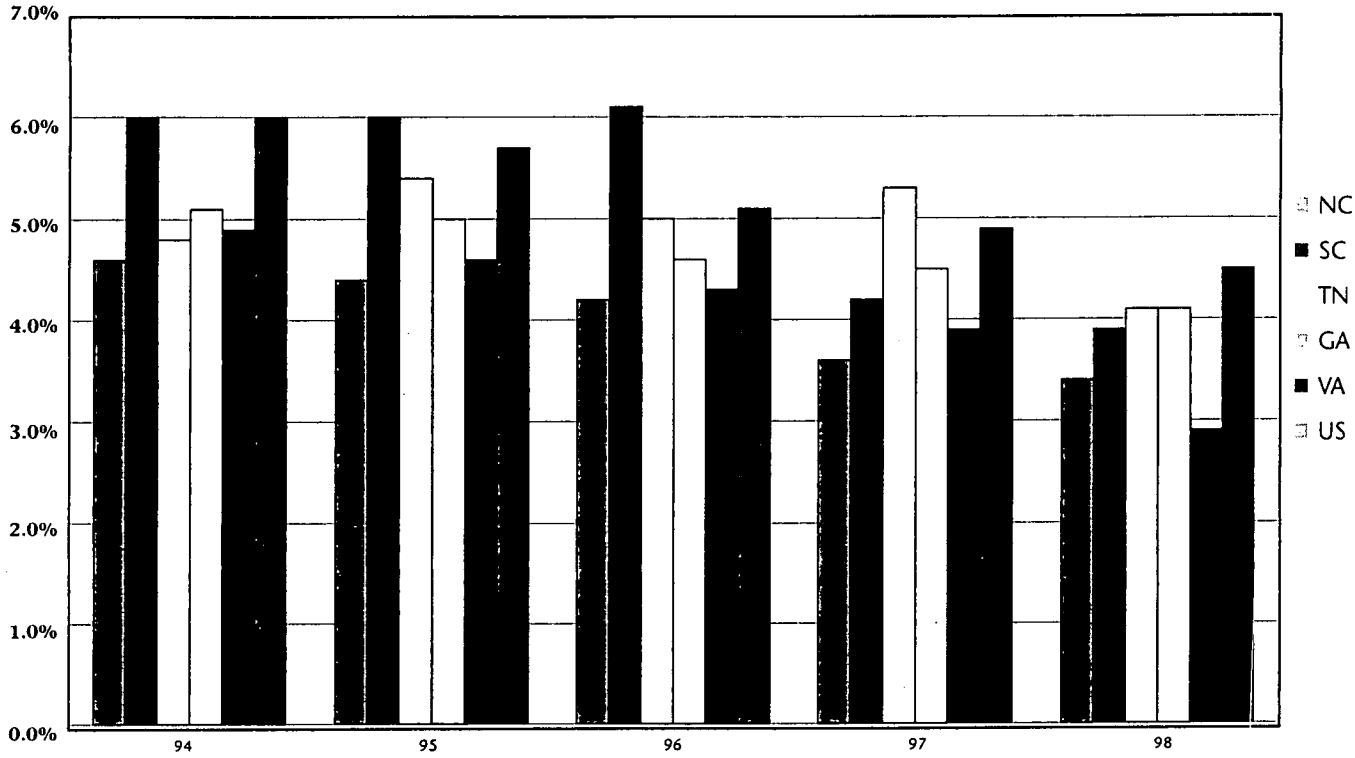
The division of counties into tiers is controversial. Counties in higher tiers claim that they really deserve to be in the lower tiers due to their special conditions, which necessitate more tax incentives for themselves. While the Task Force reviewing the Lee Act did not recommend wholesale changes to the tier system, the proposed legislation would permit some four small counties - Allegheny, Hyde, Jones and Perquimmans - to have the benefits of a lower tier. This change would be of special importance to Jones, since it would receive the benefits of eligibility for Industrial Development Fund money. The General Assembly must decide if its economic development policy is to promote investment in all 100 counties - which county commissioners would favor because of the effect on their industrial tax base - or in areas of the State where good jobs are within a decent commute of all North Carolinians.

The proposed legislation would also extend sales tax exemptions for companies doing business in Tier 1 and Tier 2 counties and promote tax credits for development conducted by community development corporations.

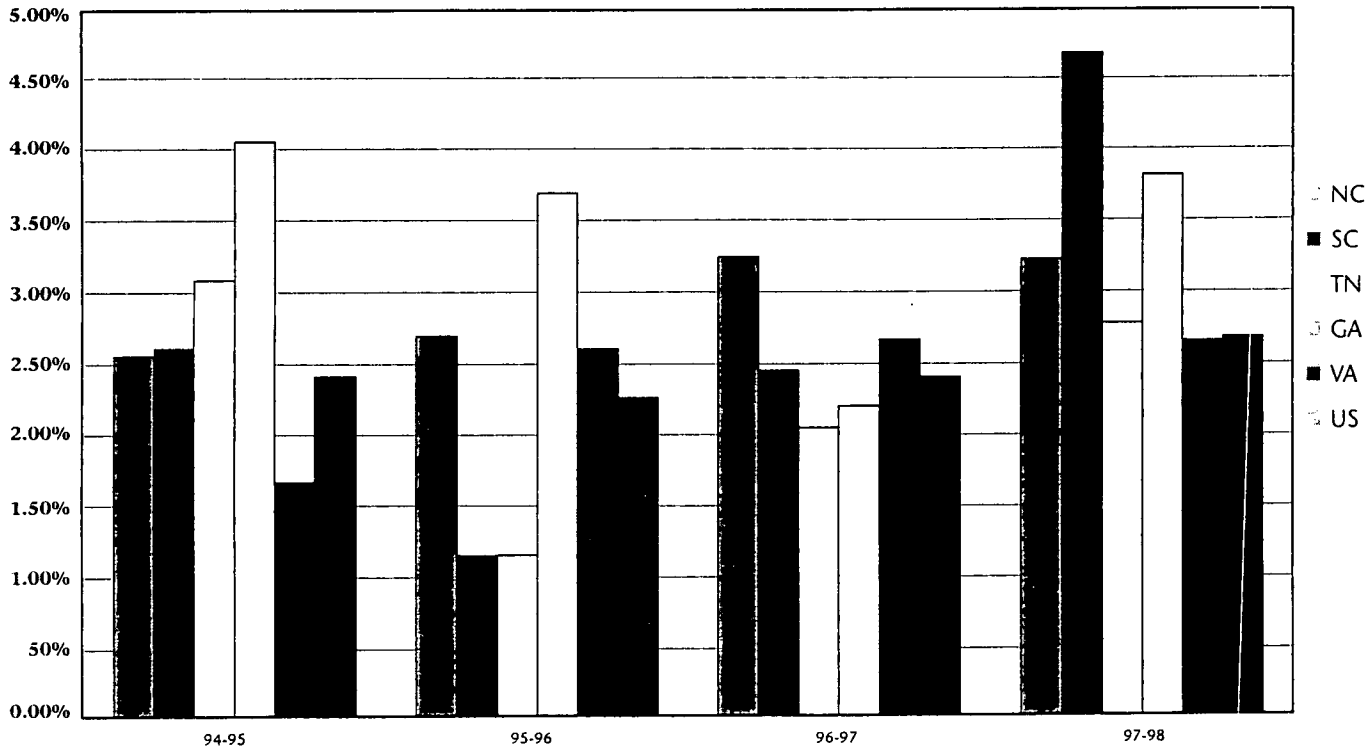
Extend the Life and Study of the Lee Credits

The legislation would also extend the sunset of the Lee Act from 2002 to 2007, despite the analysis of its unclear effects. The legislation would also, however, increase fees for companies to apply for the credits in order to provide sufficient staff to administer and analyze the effects of the credits.

Seasonally Adjusted Unemployment Rate in August of Each Year, North Carolina, Border States and US



Percent Growth in Nonfarm Employment, North Carolina, Border States and the US



Other Changes

The legislation makes several other changes not related to the analysis of Lee Act effects including:

- Requirements that recipients of the tax incentives provide health insurance, worker safety plans and certification that their facility has no materially adverse effect on the environment
- Creation of a new tax credit to promote low-income housing
- Changing definitions of development zones to ensure that the benefits would accrue to truly distressed communities.

CONCLUSION

Both proponents and critics of tax incentives can use recently released Commerce data to support their arguments. Broad economic indicators and job location statistics do not seem to have benefited dramatically from the incentives to date. The toughest decision for policymakers is whether to extend the life of such incentives for five more years with such unclear results or use other tools to enhance economic performance.

1 Bureau of Economic Analysis, U.S. Department of Commerce, Internet.

2 Bureau of Labor Statistics, U.S. Department of Labor, Internet

3 *Ibid.*

Editor's Note

Our March report on tobacco attempted to identify counties which would be impacted by a decline in demand. While the report focused on counties with the largest tobacco production and with a substantial share of their income from the tobacco crop, we did not note the importance of tobacco in several smaller counties. The remaining counties in which the tobacco crop equals over two percent of income include:

Jones	$9.7 million crop	4.7% of income
Warren	$11 million crop	4.1% of income
Bertie	$11.1 million crop	3.4% of income
Yadkin	$18.3 million crop	2.8% of income
Bladen	$14.8 million crop	2.5% of income
Beaufort	$18.2 million crop	2.2% of income
Madison	$6.5 million crop	2.1% of income

We regret any inconvenience this may have caused.

BTC Reports
The North Carolina Budget & Tax Center

P.O. Box 28068 • Raleigh, NC 27611-8068
919/856-2158 • btc@ncjustice.org

NONPROFIT ORG.
US Postage
PAID
Raleigh, North Carolina
Permit No. 1424

It Will Take Supernatural Forces to Make This Program Work

BY DON CARRINGTON AND JONATHAN JORDAN

Though Rod Serling passed away in 1975, his "Twilight Zone" TV show may have been a driving force behind a ridiculous program adopted by the General Assembly last year.

This state program authorizes cities or even individual taxpayers to establish geographic areas called "Development Zones." But only supernatural forces outside the realm of basic economics and common sense could produce the program's intended benefits of helping poor people.

The Development Zone program provides state income tax breaks for selected business activity within the zone, including air courier services, larger central administrative offices, data processing, manufacturing, warehousing, or wholesale trade. Business activity outside the zone — even if just across the street — is not eligible for the same tax breaks.

Why would we ridicule this program? Because it can't possibly work. Under the program, no company is required to hire poor people who actually live in the zone. The zones could even make things worse by causing surrounding property values to rise, which would be followed by an increase in the tax bills of low-income persons. At the same time real estate outside the zone would lose relative value.

The Economic Opportunity Act of 1998 laid out the plan for the zones. Since the act was passed last July, applications for 45 new zones have been approved by the state Department of Commerce.

This act and its predecessor, the Bill Lee Act, provide for different business income-tax credits that vary by county. The credits range from $500 to $12,500 per "new job created," depending upon the "tier," or economic category, in which a county is located. For example, Wake and Mecklenberg counties are in the relatively prosperous Tier 5, with credits of only $500 per job, while the poorer counties of Halifax, Warren, and Mitchell are in the "economically distressed" Tier 1, with credits of $12,500 per job. But if a facility is located in a Twilight Zone — excuse us, Development zone — an additional $4,000 tax credit applies.

But the zones that have been submitted are not exactly tightly drawn about the poor areas of town. Raleigh's zone is 71 square miles and includes N.C. State's Centennial Campus. Charlotte's includes the airport. Winston-Salem's zone has a population of 109,476 — half the city. State Commerce Secretary Rick Carlisle admits that there are problems and recently said, "We just haven't completed the thought process of exactly how we are going to re-map this."

The law creating the zones states that upon the request of a taxpayer or a local government, the Secretary of Commerce shall designate that an area is a development zone if it meets the following conditions: It is located at least partially in a city with a population of 5,000 or more, contains a population of 1,000 or more, and has more than 20 percent of its population below the poverty level based on data gathered during the most recent federal census.

We could find no rationale for the population numbers used in the law. Furthermore, we believe that with a little gerrymandering, almost every industrial site in the state can fit in a zone.

Because the census is taken only every 10 years, the numbers used to create the zones are already outdated. And poverty information is collected only on the long form, representing a sample of only 17 percent of all households. Even worse, income figures collected by the census don't necessarily mean much. Raleigh's zone includes parts of N.C. State University, where students low incomes dragged the "poverty" numbers down. In other words, the poverty data used to create these zones is old and shaky. In fact, every census expert we talked to for this column refused to defend the Development Zone scheme.

If these Development Zones were legitimately about helping the poor, wouldn't they at least be designed so that the firms that use them must locate in truly poor neighborhoods and must hire poor people? Of course. But these zones aren't about helping the poor. They are about helping politicians buy votes by giving tax dollars to corporations.

Politicians should quit using their imaginations to expand corporate welfare and further complicate our tax laws. A better economic development strategy would be to maintain a level playing field for all businesses, apply relatively low tax rates, and improve core government services such as transportation, education, and public safety.

Don Carrington is vice president and Jonathan Jordan is research director of the John Locke Foundation, a non-profit, non-partisan research institute in Raleigh and on the web at www.johnlocke.org.

This ran in several other North Carolina papers.

DO INDUSTRIAL RECRUITMENT INCENTIVES SERVE THE PUBLIC PURPOSE? A STATEMENT IN SUPPORT OF REPRESENTATIVE PAUL LUEBKE'S BILL TO LIMIT THE USE OF INCENTIVES IN NORTH CAROLINA, MAY 20, 1999, BY THOMAS E. VASS

In the time allotted to me, I wanted to make four allegations against the use of industrial recruitment incentives. I will allege that industrial recruitment incentives act as a price subsidy that severely distorts the workings of the price mechanism of the free market exchange system. I will allege that incentives serve to benefit only the politicians who give them away, and the private corporations which receive them, and do nothing to support the constitutional public purpose of serving individual freedom. Third, I will allege that the ultimate economic development effect of incentives is to lock North Carolina's workers into permanent low wage, semi-skilled jobs, from which they have no pathway of escape to jobs that have upward occupational mobility.

I realize that making these allegations in this forum does not constitute a full argument or a full presentation of the evidence which would serve to support my arguments. One of the shortcomings of the public policy debate in North Carolina is that the critics of this misguided economic policy do not have adequate forums for the presentation of counter arguments. I would welcome the opportunity to appear in a forum where a fair debate about my arguments against incentives could be made.

I. Industrial Recruitment Incentives Act As A Government Subsidy to Politically Favored Corporations.

1. The first perverse economic effect of the subsidy is that it distorts the rate of interest throughout the private capital markets that firms use to guide private investment decisions. The incentive drops the rate of interest for the recipient firm, vis-a-vis non-recipient firms. The incentive has the economy-wide effect of making socially and economically inefficient investments more likely to occur. As less desirable investments occur, the capital markets become distorted, as capital is used up in less efficient investments. The application of the incentive by the government agent has the effect of squeezing more efficient, socially useful investments out of the market place. As a result the overall rate of growth of capital, and the rate of profit for non-recipient firms declines. As this adjustment to socially inefficient investments continues over a 20 year period of time, the citizens in the second generation following the application of incentives suffer lower levels of income and poorer quality of job opportunities.

2. The second perverse economic effect of the subsidy is that the socially optimal rate of economic growth does not match the time preferences of consumers for future consumption. If there are several prevailing rates of interest for competitor firms to observe, one of which is a lower rate of interest for the recipient firm due to the government subsidy, the rate of investment is determined by the government agent, and not the workings of the pricing mechanism of the free market. The consumer's time preference for consumption is overridden by the government agent. What this means is that the future that citizens wish to create for themselves, through free market voluntary exchange, is diminished in favor of the future that the government agent wishes to create for them.

3. The third perverse effect resulting from the application of incentives is that the costs of doing business for non-recipient firms and the cost of living for private citizens, in the vicinity of the incentives goes up. If more new jobs are pumped into a full employment regional economy, such as the case in Guilford County with the Fed Ex deal, the economic effect is increased prices. The non-recipient firms have increased costs, yet do not benefit from the government's price subsidy. As their costs of doing business increase, their ability to fund future growth from internally generated sources of revenue is decreased. The ability of the non-recipient firm to compete in the free market is severely damaged, and their ability to make investments is diminished.

4. I allege that the most perverse effect of incentives is that it tends to lock North Carolina's working class citizens into a cycle of low-wage, low-skilled jobs from which escape to better jobs is nearly impossible. The application of incentives by the government agent distorts the free market price adjustment process between returns to capital and returns to labor. Over a long period of time, this adjustment process should allow worker's incomes to rise. This adjustment process of higher incomes for workers in North Carolina has been aborted through the use of incentives. The use of the incentive by the recipient firm allows it to achieve a perverse type of unearned market advantage over other firms in the vicinity. The unearned market advantage has the effect of creating and sustaining a regional monopoly power for the recipient firm that short-circuits the markets ability to equilibrate wages and profits. I allege that the use of the incentive is a clear example of the Government of North Carolina intervening in the market place to benefit capital to the detriment of the financial interests of workers.

II. Conclusion.

The effect of industrial recruitment incentives is to socialize the private costs of production for the recipient firm and to privatize their profits. The tax payers end up paying the costs, which in other places would be called socialism, while the politically favored corporations end up with all the profits, upon which they have never paid taxes because of the tax credits, and which they fail to re-invest in North Carolina.

The ultimate economic development effect of this misguided policy is that workers are too poor to save, and profits from the subsidized firms leave the state. The use of incentives creates a type of economic dependency in North Carolina for continually recruiting outside manufacturing firms to fill the capital gap created when the profits leave the state.

I allege that as a result of their special political privileges, a self-selected group of people in North Carolina have been successful in centralizing economic decisions about which community will get what kind of enterprise, using the citizen's own tax dollars as bait. This closed, secret centralized system has all of the same flaws that beset communist countries. It can work for a while, but when it fails, it fails on a massive scale, which is why the workers in rural North Carolina, who were made to be so dependent on tobacco, textiles, and furniture, are suffering so mightily now. The total commitment of state resources to support this closed secret backwards system is a massive mistake, now being borne by the citizens least able to absorb the costs.

You do not make the mistake better for rural citizens by applying more of the same policy that made them economically dependent in the first place.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☒ Committee Substitute for
S.B. 691 A BILL TO BE ENTITLED AN ACT TO INCORPORATE THE TOWN OF BERMUDA RUN AND TO SIMULTANEOUSLY DISSOLVE THE BERMUDA CENTER SANITARY DISTRICT.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

VISITOR REGISTRATION SHEET

HOUSE FINANCE COMMITTEE 5-20-99

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
DAN GERLACH	NCBIC
Don Carrington	Locke Foundation
Michele HOYMAN	U.N.C.-C.H.
Carl Rist	Corp. for Enterprise Development
Cam Cove	BPMHL
Tom Morrow	Sprint
Ron Elkins	Intern - R. Vaughn
Phyllis Stepter	NC Downtown Development Assn.
Dennis Collins	NC DOR
Andy Sabol	NC DOR
Greg Radford	NC DOR
Ralph E Hise Jr	Intern
Andrew Vice	Sen. Foxx's Assist.
Tammy Johnson	Zebulon D. Alley
David Simmons	"
Pam Kahler	Moore-Van Allen
Kelli Kukura	DuPont
Amy Hobbs	NCHMA
Paul Lyon	OSBM
Barry Gardner	NC DOR
[illegible]	[illegible]
Bill McNeil	NC DCA
Michael Robinson	N.C. Consumers Council, Inc
Kim Hibbard	NCLM
Catherine Davis	ElectriCities
Jonathan Morgan	Commerce
LeAnn Davis	Commerce

VISITOR REGISTRATION SHEET

HOUSE FINANCE COMMITTEE

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Fargus Williams	Duke LTC
Billy Daniel	DOR
Tom Vass	Priv. Citizen 5009 Western Blvd Rd 27606
Charles Collins	DOR
Karl Knapp	City of Winston-Salem
Kathy Sawyer	Commerce
[illegible]	Commerce
Bill O. Rowe	NC Justice
BRUCE NICHOLSON	DENR/DWM
Heather Benjamin	NCCBT
Ron Aycock	NCDCC
David Knight	NC Sierra Club, NC Wildlife Fed
[illegible]	Moore Van Allen
Hal O Kitchen	DCACCT
[illegible]	[illegible]
SUSAN COLE	Commerce

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Tuesday, May 25, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 764 - Raise Mooresville Room Tax - Rep. Setzer
HB 1090 - I.A.F.F. Registration Plate - Rep. Moore
SB 325 - Continuing Care Retirement Homes - Sen. Hoyle
SB 622 - Nursing Home Admin. Bd./Fees - Sen. Kerr
SB 645 - Parmele/Fair Bluff Annexation - Sen. Martin
SB 878 - Nonprofit Water Corp. Loans - Sen. Kerr

ADJOURNMENT OF MEETING

1999

HOUSE FINANCE COMMITTEE

MINUTES

MINUTES
HOUSE COMMITTEE ON FINANCE

Tuesday, May 25, 1999

The House Committee on Finance met on Tuesday, May 25, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke, Miller; Vice Chairs Jarrell; Representatives Braswell, Bridgeman, Brown, Buchanan, Capps, Church, Cox, Cunningham, Decker, Dedmon, Eddins, Edwards, Gibson, Goodwin, Gray, Hackney, Hill, McComas, McCombs, Morris, Rayfield, Tucker, Wilson, and Womble. Staff including Cindy Avrette, Richard Bostic, Mary Shuping, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Allen called the meeting to order to consider the following bills:

Representative Moore was recognized to explain HB 1090, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE AN INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS SPECIAL REGISTRATION PLATE. Rep. Cox moved to adopt the Proposed Committee Substitute for discussion purposes. Rep. Cox moved to give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. The motion passed. The bill and Fiscal Note are included in these minutes.

Senator Hoyle was recognized to explain SB 325, A BILL TO BE ENTITLED AN ACT TO MAKE CORRECTIONS AND CONFORMING CHANGES RELATING TO TAXATION OF CONTINUING CARE RETIREMENT HOMES. Rep. Bridgeman moved for a favorable report. Members questioned Sen. Hoyle and staff. Linda Millsaps explained the fiscal note. Members questioned Sen. Hoyle. The Chair recognized Mr. Jim Blackburn of the County Commissioners' Association who stated his organization has approved the bill and supported the study provision. The Chair recognized Mr. Andy Romany of the League of Municipalities who stated his organization has approved the bill and supported the study provision. Members questioned staff. Rep. Bridgeman's motion passed. The bill and Fiscal Note are included in these minutes.

Representative Setzer was recognized to explain HB 764, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE TOWN OF MOORESVILLE TO LEVY AN ADDITIONAL ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX. Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion purposes. Cindy Avrette explained the bill. Rep. Decker moved to give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. The motion passed. The bill is included in these minutes.

Senator Kerr was recognized to explain SB 878, A BILL TO BE ENTITLED AN ACT TO ALLOW CERTAIN NONPROFIT WATER CORPORATIONS TO BE ELIGIBLE FOR REVOLVING LOANS AND GRANTS FROM THE WATER TREATMENT REVOLVING LOAN FUND. Cindy Avrette answered members' questions. Rep. Hackney sent forward an amendment. The Chair recognized Sandy Boyd of the Rural Water organization and Linda Shoal of Dept. of Environment and Natural Resources who answered members' questions. The amendment was adopted. Rep. Miller moved to give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. The Chair recognized Richard Rogers of the Department of Revenue who stated he supported the bill. The Chair recognized Kathy Sawyer of the Department of Commerce who stated she did not have a position on the bill. Members questioned Sen. Kerr. Rep. Miller's motion passed. The bill is included in these minutes.

Rep. Hill was recognized to explain Sen. Martin's SB 645, A BILL TO BE ENTITLED AN ACT TO REIMBURSE CHATHAM COUNTY FOR ITS COSTS ASSOCIATED WITH SELECTING A SITE FOR A PROPOSED LOW-LEVEL RADIOACTIVE WASTE FACILITY. Rep. Allen moved for a favorable report. The motion passed. The bill is included in these minutes.

Sen. Kerr was recognized to explain SB 622, A BILL TO BE ENTITLED AN ACT TO IMPOSE ADDITIONAL FEES AND COSTS AND TO INCREASE EXISTING FEES COLLECTED UNDER THE NURSING HOME ADMINISTRATORS BOARD ACT. Rep. Allen sent forward an amendment and moved for its adoption. Mary Shuping explained the amendment. The amendment was adopted. Rep. Hackney sent forward an amendment and moved for its adoption. The amendment was adopted. The Chair recognized Mr. Ted Gowns, Chair of the N.C. State Board of Examiners for Nursing Home Administrators who answered members' questions. Mary Shuping answered members' questions. The Chair recognized Mr. Jack Nichols of the Alan and Pinnix law firm who answered members' questions. The bill was rescheduled for May 27, 1999 due to the meeting's end. The bill, amendments, and fiscal note are included in these minutes.

There being no further business, the Chair adjourned the meeting at 10:00 a.m.

Respectfully submitted:

Representative Gordon Allen
Chair

Kristen L. Crosson
Assistant to the Committee

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 764 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE TOWN OF MOORESVILLE TO LEVY AN ADDITIONAL ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 764
PROPOSED COMMITTEE SUBSTITUTE
H764-PCSRBX-2

Short Title: Raise Mooresville Room Tax. (Local)

Sponsors:

Referred to: Finance.

March 31, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF MOORESVILLE TO LEVY AN ADDITIONAL ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 296 of the 1991 Session Laws, as amended by Section 4 of Chapter 577 of the 1991 Session Laws, reads as rewritten:

"Section 1. Occupancy tax. (a) Authorization and scope. The Mooresville Town Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of up to two percent (2%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(a1) Authorization of Additional Tax. In addition to the tax authorized by subsection (a) of this section, the Mooresville Town Board of Commissioners may levy an additional room occupancy tax of up to two percent (2%) of the gross receipts derived from

the rental of accommodations taxable under subsection (a). The total rate of tax levied under subsections (a) and (a1) of this section, when combined with the rate of room occupancy tax levied by Iredell County, may not exceed six percent (6%). The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. The Town of Mooresville may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

~~Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the town. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The town shall design, print, and furnish to all appropriate businesses and persons in the town the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~(c) Administration. The town shall administer a tax levied under this section. A tax levied under this section is due and payable to the town finance officer in monthly installments on or before the fifteenth day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the fifteenth day of each month, prepare and render a return on a form prescribed by the town. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the town finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this section shall pay a penalty of ten dollars ($10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for~~

~~filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid. The board of commissioners may, for good cause shown, compromise or forgive the additional tax penalties imposed by this subsection.~~

~~Any person who willfully attempts in any manner to evade a tax imposed under this section or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both.~~

(e) Disposition of tax proceeds. The Town of Mooresville ~~shall set aside in a special account fifty percent (50%) of the net proceeds of the occupancy tax and shall spend these funds to promote travel and tourism. The Town of Mooresville shall remit the remaining proceeds of the tax to its general fund and may use these funds for any lawful purpose. As used in this subsection, "net proceeds" means gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer.~~ shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Mooresville Travel and Tourism Authority. The Authority shall use at least seventy-five percent (75%) of the net proceeds of the occupancy tax to promote travel and tourism in Mooresville and shall use the remainder for tourism-related expenditures.

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

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

~~Effective date of levy. A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this section may be repealed by a resolution adopted by the Mooresville Town Board of Commissioners. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~"

Section 2. Section 2 of Chapter 296 of the 1991 Session Laws reads as rewritten:

"Sec. 2. Travel and Tourism Authority. (a) Appointment and membership. After the Town of Mooresville adopts a resolution levying an occupancy tax under this act, it shall also adopt a resolution creating a Travel and Tourism Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The membership of the Authority shall consist of: two members representing the Mooresville-South Iredell Chamber of Commerce; two members representing the motel or travel and tourism industry; and one member of the Mooresville Town Board. The resolution shall provide for terms of office, and for the filling of vacancies on the Authority. The Mooresville Town Board shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority. Members shall serve at the pleasure of the Mooresville Town Board.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for the Town of Mooresville shall be the ex officio finance officer of the Authority.

(b) Duties. The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in the Greater Mooresville area; sponsor tourism related events and activities; and finance tourism related capital projects in the Greater Mooresville ~~area with the fifty percent (50%) of the net proceeds set aside by the Town of Mooresville, all disbursements from which shall be subject to approval by the Mooresville Town Board.~~ area.

(c) Reports. The Authority shall report at the close of the fiscal year to the Mooresville Town Board, or more often if required by said Board, on its receipts and expenditures for the preceding year in such detail as the Board may require."

Section 3. Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy, Shelby, and Statesville, to the ~~Town of St. Pauls~~ Towns of Mooresville and St. Pauls, and to the municipalities in Brunswick County."

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-258
HOUSE BILL 764

AN ACT TO AUTHORIZE THE TOWN OF MOORESVILLE TO LEVY AN ADDITIONAL ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 296 of the 1991 Session Laws, as amended by Section 4 of Chapter 577 of the 1991 Session Laws, reads as rewritten:

"Section 1. Occupancy tax. (a) Authorization and scope. The Mooresville Town Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of up to two percent (2%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(a1) Authorization of additional tax. In addition to the tax authorized by subsection (a) of this section, the Mooresville Town Board of Commissioners may levy an additional room occupancy tax of up to two percent (2%) of the gross receipts derived from the rental of accommodations taxable under subsection (a). The total rate of tax levied under subsections (a) and (a1) of this section, when combined with the rate of room occupancy tax levied by Iredell County, may not exceed six percent (6%). The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. The Town of Mooresville may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

~~Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the town. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The town shall design, print, and furnish to all appropriate businesses and persons in the town the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~(c) Administration. The town shall administer a tax levied under this section. A tax levied under this section is due and payable to the town finance officer in monthly installments on or before the fifteenth day of~~

~~the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the fifteenth day of each month, prepare and render a return on a form prescribed by the town. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the town finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this section shall pay a penalty of ten dollars ($10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid. The board of commissioners may, for good cause shown, compromise or forgive the additional tax penalties imposed by this subsection.~~

~~Any person who willfully attempts in any manner to evade a tax imposed under this section or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both.~~

(e) Disposition of tax proceeds. The Town of Mooresville ~~shall set aside in a special account fifty percent (50%) of the net proceeds of the occupancy tax and shall spend these funds to promote travel and tourism. The Town of Mooresville shall remit the remaining proceeds of the tax to its general fund and may use these funds for any lawful purpose. As used in this subsection, "net proceeds" means gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer.~~ shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Mooresville Travel and Tourism Authority. The Authority shall use at least seventy-five percent (75%) of the net proceeds of the occupancy tax to promote travel and tourism in Mooresville and shall use the remainder for tourism-related expenditures.

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

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

~~Effective date of levy. A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this section may be repealed by a resolution adopted by the Mooresville Town Board of Commissioners. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~"

Section 2. Section 2 of Chapter 296 of the 1991 Session Laws reads as rewritten:

"Sec. 2. Travel and Tourism Authority. (a) Appointment and membership. After the Town of Mooresville adopts a resolution levying an occupancy tax under this act, it shall also adopt a resolution creating a Travel and Tourism Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The membership of the Authority shall consist of: two members representing the Mooresville-South Iredell Chamber of Commerce; two members representing the motel or travel and tourism industry; and one member of the Mooresville Town Board. The resolution shall provide for terms of office, and for the filling of vacancies on the Authority. The Mooresville Town Board shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority. Members shall serve at the pleasure of the Mooresville Town Board.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for the Town of Mooresville shall be the ex officio finance officer of the Authority.

(b) Duties. The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in the Greater Mooresville area; sponsor tourism related events and activities; and finance tourism related capital projects in the Greater Mooresville ~~area with the fifty percent (50%) of the net proceeds set aside by the Town of Mooresville, all disbursements from which shall be subject to approval by the Mooresville Town Board.~~ area.

(c) Reports. The Authority shall report at the close of the fiscal year to the Mooresville Town Board, or more often if required by said Board, on its receipts and expenditures for the preceding year in such detail as the Board may require."

Section 3. Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy, Shelby, and Statesville, to the ~~Town of St. Pauls~~ Towns of Mooresville and St. Pauls, and to the municipalities in Brunswick County."

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

In the General Assembly read three times and ratified this the 8th day of July, 1999.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1090 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE AN INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS SPECIAL REGISTRATION PLATE.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-314
HOUSE BILL 1090

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE AN INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS SPECIAL REGISTRATION PLATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-79.4(b) reads as rewritten:

"(b) Types. -- The Division shall issue the following types of special registration plates:

. . .

(19a) International Association of Fire Fighters. -- Issuable to a member of the International Association of Fire Fighters. The plate shall bear the logo of the International Association of Fire Fighters. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate."

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

In the General Assembly read three times and ratified this the 8th day of July, 1999.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 9:47 p.m. this 15th day of July, 1999

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1090 (House Finance Committee Substitute) I.A.F.F. Registration Plate

SHORT TITLE: I.A.F.F. Registration Plate

SPONSOR(S): Representative Moore

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Highway Fund Special Registration Plate Account	**$3,000**	**$3,000**	**$3,000**	**$3,000**	**$3,000**
EXPENDITURES					
Highway Fund Special Registration Plate Account	**$856**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation - Division of Motor Vehicles

EFFECTIVE DATE: The act is effective when it becomes law.

BILL SUMMARY: The bill authorizes the Division of Motor Vehicles (DMV) to issue an International Association of Fire Fighters special registration plate. DMV must receive 300 applications before issuing the plate.

ASSUMPTIONS AND METHODOLOGY: In addition to the normal $20 vehicle registration fee for private passenger vehicles, each applicant for an International Association of Fire Fighters (IAFF) special registration plate will pay $10. This $10 is deposited into the Special Registration Plate Account. Although the IAFF claims 2,000 members in North Carolina, this fiscal note assumes only the minimum 300 applicants needed to qualify for the plate. At $10 a plate, this will generate $3,000 a year for the Special Registration Plate Account. There is no increase in the Highway Fund since the $20 vehicle registration fee is paid for regular and special plates.

According to the DMV and the Department of Corrections, there is a one-time cost of $100 to design a new plate. There is also a production cost of $2.52 per plate based on one color design. The cost per plate will increase if more color is added or the design is complex. The total production cost for 300 plates is $856.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY: Tom Covington

DATE: Tuesday, May 25, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☒ Committee Substitute for
S.B. 325 A BILL TO BE ENTITLED AN ACT TO MAKE CORRECTIONS AND CONFORMING CHANGES RELATING TO TAXATION OF CONTINUING CARE RETIREMENT HOMES.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-191
SENATE BILL 325

AN ACT TO MAKE CORRECTIONS AND CONFORMING CHANGES RELATING TO TAXATION OF CONTINUING CARE RETIREMENT HOMES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-278.6A(c)(4) reads as rewritten:

"(c) Qualification. -- A retirement facility qualifies for the benefits of this section if it meets all of the following conditions:

. . .

(4) Its charter or ~~bylaws, as they existed on August 15, 1998,~~ bylaws provide that it is governed by a board of directors or trustees at least a majority of whose members are selected by one or more nonprofit corporations or associations that meet all of the following conditions:

a. It is exempt under section ~~501(c)(3)~~ 501(c)(3), (8), or (10) of the Code.

b. It is organized for a charitable purpose as defined in G.S. 105-278.6.

c. It is not a private foundation as defined in section 509 of the Code."

Section 2. G.S. 105-275.2 is amended by adding a new subsection to read:

"(f) Additional Reduction. -- Each year, on or before July 15, the governing body of each county and each municipality shall notify the Secretary of the amount of taxes it collected in the preceding fiscal year from taxes on qualified retirement facility property, as defined in G.S. 105-278.6A, discovered on or after January 1, 1998, for taxable years beginning on or after July 1, 1992. The Secretary shall reduce the amount allocated to each county and municipality for distribution the following August by one hundred ten percent (110%) of the amount the county or municipality reports pursuant to this subsection."

Section 3. The Legislative Research Commission shall conduct a comprehensive study of property tax exemptions for nonprofit institutions, including the history and evolution of such exemptions in North Carolina, the policy reasons for property tax exemptions, the effect of the exemptions on local governments and on other taxpayers, the extent to which other states provide property tax exemptions for nonprofit institutions, and any other issues it considers relevant. The Legislative Research Commission shall make a final report of its findings and recommendations to the 2000 Regular Session of the 1999 General Assembly.

Section 4. Section 2 of this act is effective on and after July 1, 1998, and expires September 1, 2003. Section 3 of this act is effective when it becomes law. The remainder of this act is effective for taxes imposed for taxable years beginning on or after July 1, 1998. Notwithstanding G.S. 105-275.2(f), as enacted by this act, the report otherwise due under that

subsection on July 15, 1998, is due on July 15, 1999.

In the General Assembly read three times and ratified this the 9th day of June, 1999.

s/ Dennis A. Wicker
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 10:10 p.m. this 18th day of June, 1999

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 325 Continuing Care Retirement Homes

SHORT TITLE: Continuing Care Retirement Homes

SPONSOR(S): Senators Hoyle and Purcell

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
General Fund		No General Fund Impact			
Guilford County	($120,347) *	0	0	0	0
Local Governments	* See Assumptions and Methodology *				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: County and City Governments.

EFFECTIVE DATE: Section 2 of this act is effective on and after July 1, 1998, and expires September 1, 2003. Section 3 of this act is effective when it becomes law. The remainder of this act is effective for taxes imposed for taxable years beginning on or after July 1, 1998.

*This property was included in the property tax loss when the bill passed last year.

BILL SUMMARY: The bill makes several changes to legislation enacted last year to temporarily exempt qualifying continuing care retirement communities (CCRC) from property tax. First, it eliminates a grandfather clause that may be unconstitutional. The original bill established CCRC bylaw requirements for the exemption, as the bylaws existed on August 15, 1998. The bill removes the date requirement. Second, the bill expands the qualifying governing board language. Under current law the board must be a 501(c)(3) non-profit corporation. The bill expands this definition to include 501(c)(8) and (10) associations. Third, it creates a disincentive for counties and cities to "discover" qualifying CCRCs and attempt to collect back taxes.

BACKGROUND: From a tax perspective, before April 1998, there were four categories of retirement communities in North Carolina. The first category of facilities was "charitable". These facilities were exempt from property tax because they were used exclusively for charitable

purposes and were organized as not for profit groups. A second category of homes was those exempt from property tax under G.S. 131A-21. Under this statute, homes financed by medical commission bonds are exempt from tax for the life of the bond. A third category of homes was non-profit homes affiliated with religious or Masonic organizations. They were categorized as "non-charitable religious." All "non-charitable religious" homes were exempt from property tax. A fourth group of homes was the "non-charitable, non-religious." These "non-charitable, non-religious" facilities can be either for-profit or not-for-profit. Both types of "non-charitable, non-religious" facilities were subject to local property tax.

On April 8, 1998, the North Carolina Supreme Court struck down the property tax exemption for the non-charitable religious organizations in The Appeal of Springmoor, Inc. and Ammons, Inc. The court determined that the plaintiff (Springmoor) was virtually identical to the non-charitable religious organizations receiving the exemption, with one exception: the organizations receiving the exemption were religious. The court found this to be a violation of the First Amendment's prohibition against establishing religion. As such, the court determined that all non-charitable homes for the aging, regardless of religious affiliation, should be subject to property tax. The court ruling had no impact on the charitable homes or those exempt because of medical commission bonds, and they are still exempt from property tax.

The 1998 Session of the General Assembly passed legislation granting a temporary property tax exemption to qualifying CCRCs. The nine point criteria was used in an attempt to grant this exemption to the same CCRCs that were exempt before the Springmoor decision. It also instructed the Legislative Research Commission to conduct a comprehensive study of the property tax exemptions for non-profit institutions, and make a final report to the 2000 regular session of the legislature.

ASSUMPTIONS AND METHODOLOGY: The bill has two potential revenue impacts. In 1998 the General Assembly developed a nine point criteria that CCRC's must meet to receive the temporary property tax exemption. The criteria are as follows:

1. its grounds and buildings are at a single site, and
2. it is designed for elderly residents, and
3. it has independent living facilities, and
4. it has either:
    A) skilled nursing facilities or
    B) adult care facilities, and
5. it is exempt from corporate income tax, and
6. its net revenues are applied to providing uncompensated goods and services to the elderly and the local community, and
7. it is a 501(c)3 organization, and
8. it has an active fundraising program that subsidizes those in financial need, and
9. a majority of its board of directors or trustees is selected by a publicly supported 501(c)3 organization that is
    A) organized for charitable purposes, and
    B) is not a private foundation.

At that time attorney's associated with the North Carolina Association of Non-Profit Homes for the Aging (NCANPHA) assured legislative staff that these requirements would allow all CCRCs

that were previously exempt to claim a temporary exemption from property tax. However, NCANPHA and some county assessors now believe that at least one of the communities the Legislature intended to exempt is now subject to property tax. This organization is currently subject to the tax because they do not meet the qualifications set out in nine (9) above. The Masonic and Eastern Star Home in Guilford County is not governed by a non-profit organization. A non-profit fraternal association oversees it.

By expanding the language to include CCRCs that are governed by non-profit corporations and associations, defined as a 501(c)(3), (8), and (10) organizations, the bill effectively grants a temporary property tax exemption to the Masonic and Easter Star Home. According to the Guilford County Assessor's office, the Masonic and Eastern Star home holds property valued at $9,867,000. The tax currently associated with this property is $120,347*.

The second potential impact is a result of Section Two. Under current law , counties and cities can "discover" property that is subject to tax and collect current and back taxes on the property. Penality can also be assessed. Section Two of the bill authorizes the Secretary of Revenue to reduce a county or city's intangibles tax reimbursement from the state if they "discover" property that should be temporarily exempt under G.S. 105-278.6A (the CCRC provision). The intangibles tax allocation reduction must be equal to 110% of the taxes collected on discovered qualifying CCRC property. This creates a disincentive for counties or municipalities to "discover" and collect taxes on qualifying CCRC activity. While three counties have indicated to either Fiscal Research or a CCRC their interest in collecting back taxes on "discovered" CCRC property, this is not a representative sample. Further, because this property can be "discovered" at any time, Fiscal Research can not accurately predict when and if counties would "discover" these properties without the bill. Therefore, no reliable fiscal estimate is possible on this portion of the bill.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY: Tom Covington

DATE: Thursday, April 22, 1999

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S622-ASC-001

Date May 25 ,1999

Comm. Sub. [ ]
Amends Title [ ]
First Edition

Representative _____:

moves to amend the bill on page 2, line 30, by rewriting the line to read:

"Section 3. Section 1 of this act is effective October 1, 1999. The remainder of this act is effective when it becomes law and applies to contested cases commenced on or after that date."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

H. B. No. _____ DATE 5/25/99

S. B. No. 622 - 1st ed. Amendment No. _____ (to be filled in by Principal Clerk)

Rep.) Allen
Sen.)

moves to amend the bill on page 1, line 10

by rewriting the line to read:

" the Board not to exceed ~~two hundred dollars ($200.00).~~ ~~($200.00~~ one hundred dollars ($100.00) plus the actual cost. " ;

and on page 2, line 1, by deleting the word "two" and substituting the word "four"; and

on pg. 2, lines 3-5 by rewriting the lines to read

" ~~two~~ fifty dollars ($50.00) per year. Each year during that four year period, upon request and payment of the fee, the person's name may remain on an inactive list for one additional year. "; and

on pg. 2, lines 8-9 by rewriting the lines to read:

" ~~($100.00).~~ ($200.00). If the Board renews the temporary license no further fee shall be required. ".

SIGNED S. Allen

ADOPTED ✓ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-217
SENATE BILL 622

AN ACT TO IMPOSE ADDITIONAL FEES AND COSTS AND TO INCREASE EXISTING FEES COLLECTED UNDER THE NURSING HOME ADMINISTRATORS BOARD ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-280 reads as rewritten:

"**§ 90-280. Fees; display of license; duplicate license; inactive list.**

(a) Each applicant for an examination administered by the Board and each applicant for an administrator-in-training program shall pay a processing fee set by the Board not to exceed ~~two hundred dollars ($200.00).~~ one hundred dollars ($100.00) plus the actual cost of the exam.

(b) Each person licensed as a nursing home administrator shall be required to pay a license fee in an amount set by the Board not to exceed five hundred dollars ($500.00). A license shall expire on the thirtieth day of September of the second year following its issuance and shall be renewable biennially upon payment of a renewal fee set by the Board not to exceed five hundred dollars ($500.00).

(c) Each person licensed as a nursing home administrator shall display his license certificate, along with the current certificate of renewal, in a conspicuous place in his place of employment.

(d) Any person licensed as a nursing home administrator may receive a duplicate license by payment of a fee set by the Board not to exceed twenty-five dollars ($25.00).

(e) Any person licensed as a nursing home administrator who is not acting, serving, or holding himself out to be a nursing home administrator may have his name placed on an inactive list for such period of time not to exceed ~~five~~ four years upon payment of a fee set by the Board not to exceed ~~twenty-five dollars ($25.00).~~ fifty dollars ($50.00) per year. Each year during that four-year period, upon request and payment of the fee, the person's name may remain on an inactive list for one additional year.

(f) Any person having a temporary license issued pursuant to G.S. 90-278(3) shall pay a fee in an amount set by the Board not to exceed ~~one~~ two hundred dollars ~~($100.00).~~ ($200.00). If the Board renews the temporary license, no further fee shall be required.

(g) The Board may set fees not to exceed two hundred and fifty dollars ($250.00) for conducting and administering initial training and continuing education courses, and may set a fee not to exceed one hundred dollars ($100.00) for certifying a course submitted for review by another individual or agency wishing to offer such ~~courses.~~ courses or may set an annual fee not to exceed two thousand dollars ($2,000) for certifying a course provider in lieu of certifying each course offered by the provider."

Section 2. This act becomes effective October 1, 1999.

In the General Assembly read three times and ratified

this the 16th day of June 1999.

s/ Dennis A. Wicker
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 11:24 a.m. this 25th day of June, 1999

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

REVISED AS OF 5/27/99

BILL NUMBER: SB 622 (Second Edition) Nursing Home Admin. Bd./Fees

SHORT TITLE: Nursing Home Admin. Bd./Fees

SPONSOR(S): Senator Kerr

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Special Revenue Fund					
Inactive Status	$1,425	$1,425	$1,425	$1,425	$1,425
Temporary License	$4,600	$4,600	$4,600	$4,600	$4,600
Total	$6,025	$6,025	$6,025	$6,025	$6,025
EXPENDITURES	Not Yet Determined by Board				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina State Board of Examiners for Nursing Home Administrators

EFFECTIVE DATE: The bill is effective October 1, 1999.

BILL SUMMARY: The bill makes the following changes: 1) changes the exam fee from up to $200 to an amount up to $100 plus cost of the exam; 2) increases the fee for going into inactive status from $25 to $50 per year and reduces the period of inactive status from 5 years to 4 years; 3) increases the cost of a temporary license from $100 to $200, but keeps free renewal of temporary license; and 4) sets a maximum annual fee of $2000 for course providers of Continuing Education courses.

ASSUMPTIONS AND METHODOLOGY:

I. Exams

The Board of Examiners for Nursing Home Administrators (State Board) now collects $200 for examination of administrators-in-training. From this fee, $150 is sent to the National Association of Boards of Examiners for Nursing Home Administrators and $50 is retained by the State Board to cover processing costs. In January 2000, administrators-in-training will pay the National

Board directly for the exam. The proposed language in section one of the bill allows the State Board to collect up to $100 for processing the exam and states that exam applicants will pay the actual cost of the exam. Since the State Board has no plans to increase their processing fee beyond the $50 now charged, revised 90-280(a) has no fiscal impact.

II. Inactive Status

In each of the last two years, there have been 57 applicants for inactive status. Revised 90-280(e) increases the fee from $25 to $50 per year and reduces the time permitted on inactive status from 5 to 4 years. This change could encourage former nursing home administrators to reapply for a permanent license or simply let their license lapse. The State Board makes no prediction on the future of this group, but simply projects that an average of 57 applicants each year will pay the new $50 rate. At this new rate, the State Board will collect $1,425 in new revenue each year.

III. Temporary License

The State Board issued 46 temporary licenses in 1997-98 and has issued 44 temporary licenses in the first 9 months of 1998-99. When the State Board meets every six weeks it approves temporary licenses until the next exam period, which are held four times a year. The State Board expects the number of temporary licenses to remain at 46 per year even with the increase to $200 in 90-280(f). This will generate $4,600 in additional revenue each year.

IV. Course Fees

The State Board may charge up to $100 to certify a continuing education course offered by an agency or individual, but now charges $50 per course. 90-280(g) offers a new option to groups who provide numerous continuing education courses. The State Board believes such groups as the NC Health Care Facilities Association, the NC Nonprofit Association, and the Northwest AHEC will take advantage of this $2,000 annual fee. The new fee will reduce the paperwork on both the State Board and the course sponsors and is not expected to reduce course revenue.

Fund Balances

Year Ended June 30, 1998	$88,325
Year Ended June 30, 1997	$159,708
Year Ended June 30, 1996	$145,813
Year Ended June 30, 1995	$161,690

PREPARED BY: Richard Bostic

APPROVED BY: Tom Covington

DATE: Thursday, May 27, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
S.B. 645 A BILL TO BE ENTITLED AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF PARMELE, AND TO ANNEX CERTAIN DESCRIBED PROPERTY TO THE TOWN OF FAIR BLUFF.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-124
SENATE BILL 645

AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF PARMELE, AND TO ANNEX CERTAIN DESCRIBED PROPERTY TO THE TOWN OF FAIR BLUFF.

The General Assembly of North Carolina enacts:

Section 1. The following described property is added to the corporate limits of the Town of Parmele.

Tract 1

That certain tract of land located on the south side of the southern town limits of the Town of Parmele, in Robersonville Township, Martin County, State of North Carolina, and described as follows:

BEGINNING at a concrete monument located at the point of intersection of the boundary line representing the eastern corporate limits and the boundary line representing the southern corporate limits of the Town of Parmele, which concrete monument is also located S 12-00-00 W 2640.00 feet along the line of the eastern corporate limits of the Town of Parmele from a half-mile post in the eastern corporate limits located on the Seaboard Coastline Railroad, formerly the Albemarle and Raleigh Railroad, and which half-mile post marks the point of beginning in the description of the corporate limits for the Town of Parmele as described in "An act to incorporate the town of Parmele, in the county of Martin", which act was ratified by the General Assembly of North Carolina on the 14th day of February, 1893; thence running along a southwardly extension of the line of the eastern corporate limits of the Town of Parmele S 12-00-00 W 618.00 feet to a point, a corner; thence N 78-00-00 W 5280.00 feet along a line parallel to the line of the southern corporate limits of the Town of Parmele to a point which would be intersected by a southwardly extension of the boundary line representing the western corporate limits of the Town of Parmele, a corner; thence N 12-00-00 E 618.00 feet along a line representing a southwardly extension of the line of the western corporate limits of the Town of Parmele to a concrete monument located at the point of intersection of the boundary line representing the western corporate limits of the Town of Parmele and the boundary line representing the southern corporate limits of the Town of Parmele, a corner; thence along the line of the southern corporate limits of the Town of Parmele S 78-00-00 E 5280.00 feet to a concrete monument located at the point of intersection of the line of the southern corporate limits and the line of the eastern corporate limits of the Town of Parmele, the point of beginning.

Tract 2

That certain tract of land located on both sides of U.S. Highway No. 64 on the west side of the western town limits of the Town of Parmele, in Robersonville Township, Martin County, State

of North Carolina, and described as follows:

BEGINNING at the point of intersection of the northern right-of-way (100 feet wide) line of U.S. Highway No. 64 and the boundary line representing the western corporate limits of the Town of Parmele, said point of beginning also being located S 12-00-00 W 919.84 feet along the line of the western corporate limits of the Town of Parmele from the point of intersection of the boundary line representing the western corporate limits and the boundary line representing the northern corporate limits of the Town of Parmele; and running thence from the point of beginning S 12-00-00 W 412.15 feet along the line of the western corporate limits of the Town of Parmele to a point therein, a corner; thence N 76-17-22 W 1837.62 feet to a point in the southern right-of-way line of U.S. Highway No. 64, a corner; thence running with a line across U.S. Highway No. 64, N 70-51-31 E 624.49 feet to a point in the northern right-of-way line of U.S. Highway No. 64, a corner; thence N 00-50-04 W 107.54 feet; thence N 46-19-56 E 125.42 feet; thence S 81-22-56 E 187.79 feet; thence running S 78-44-49 E 1068.08 feet along a line to its point of intersection with the line of the western corporate limits of the Town of Parmele, a corner; thence S 12-00-00 W 199.09 feet along the line of the western corporate limits of the Town of Parmele to its point of intersection with the northern right-of-way line of U.S. Highway No. 64, the point of beginning.

Section 2. The following described property is added to the corporate limits of the Town of Fair Bluff:
Beginning at a point in the centerline of US Highway 76, near its intersection with South Gapway Street in the southern town limits of the Town of Fair Bluff, thence a line 2,000 feet east of and 500 feet west of the centerline of US Highway 76 in a southerly direction approximately 1,600 feet to the point of intersection of the centerline of said US Highway 76 and the centerline of the railroad spur line to Owens Corning.

Section 3. Section 1 of this act is effective when it becomes law. Section 2 of this act becomes effective June 30, 1999.

In the General Assembly read three times and ratified this the 31st day of May, 1999.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 878 A BILL TO BE ENTITLED AN ACT TO ALLOW CERTAIN NONPROFIT WATER CORPORATIONS TO BE ELIGIBLE FOR REVOLVING LOANS AND GRANTS FROM THE DRINKING WATER TREATMENT REVOLVING LOAN FUND.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 878
Second Edition Engrossed 4/27/99

Short Title: Nonprofit Water Corp. Loans. (Public)

Sponsors: Senators Kerr; Cochrane, Dalton, Hoyle, and Phillips.

Referred to: Finance.

April 13, 1999

A BILL TO BE ENTITLED

AN ACT TO ALLOW CERTAIN NONPROFIT WATER CORPORATIONS TO BE ELIGIBLE FOR REVOLVING LOANS AND GRANTS FROM THE DRINKING WATER TREATMENT REVOLVING LOAN FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159G-2 reads as rewritten:

"**§ 159G-2. Purpose.**

The General Assembly hereby recognizes that a critical need exists in this State to provide for a low-interest funding source for municipal water and wastewater capital facilities. Local government efforts to meet this need have been restricted by the inability of many units to finance necessary improvements to inadequate or nonexistent water supply and wastewater treatment systems. The decrease in financial capacity has resulted in large part from the diminished availability of federal loans and grants and the elimination of the federal general revenue sharing program, which funded a wide range of local capital improvements.

The problems have been further complicated by the uncertainty concerning Clean Water Act funding, the growing number of local units which are under moratoriums against additional connections for sewer service, and the July 1, 1988, deadline for compliance with federal effluent standards.

It is the intent and purpose of the General Assembly by this Chapter to create a program to facilitate early construction of these environmental improvements by establishing a revolving loan fund for financing such projects. This fund will enable local government units to obtain low-interest loans for financing projects for

wastewater treatment ~~and water supply;~~ and for certain emergency purposes. This fund will also enable local government units and nonprofit water corporations to obtain low-interest loans for financing projects for water supply. It is the further intent and purpose of the General Assembly to provide grants to local government units for wastewater treatment and to provide grants to local government units and nonprofit water corporations for water supply facilities. The General Assembly seeks by this Chapter to encourage and assist local government units to meet their responsibilities to their citizens to maintain a clean and healthful environment and an abundant supply of pure water and further to provide an adequate base for economic growth."

Section 2. G.S. 159G-3 reads as rewritten:

"**§ 159G-3. Definitions.**

As used in this Chapter, the following words shall have the meanings indicated, unless the context clearly requires otherwise:

(1) Repealed by Session Laws 1991, c. 186, s. 1.

(2) "Applicant" means a local government unit that applies for a revolving loan or grant under the provisions of this Chapter. In addition, a local government may provide funds to a nonprofit agency which is currently under contract and authorized to provide wastewater treatment or water supply services to that ~~unit of local government.~~ local government unit. For purposes of the Drinking Water Treatment Revolving Loan Fund established by G.S. 159G-5(d), 'applicant' also means a nonprofit water corporation that is incorporated in compliance with Chapter 55A of the General Statutes and that is eligible for a federal loan or a federal loan and grant from the Rural Utility Services Division, U.S. Department of Agriculture.

(3) "Clean Water Revolving Loan and Grant Fund" means the fund established in the Department of Environment and Natural Resources to carry out the provisions of this Chapter, with various accounts therein as herein provided.

(4) "Construction costs" means the actual costs of planning, designing and constructing any project for which a revolving loan or grant is made under this Chapter including planning; environmental assessment; wastewater system analysis, evaluation and rehabilitation; engineering; legal, fiscal, administrative and contingency costs for water supply systems, wastewater collection systems, wastewater treatment works and any extensions, improvements, remodeling, additions, or alterations to existing systems. Construction costs may include excess or reserve capacity costs, attributable to no more than 20-year projected domestic growth, plus ten percent (10%) unspecified industrial growth. In addition, construction costs shall include any fees payable to the Environmental Management Commission or the Division of

Environmental Health for review of applications and grant of permits, and fees for inspections under G.S. 159G-14. Construction costs may also include the costs for purchase or acquisition of real property.

(5) "Grant" means a sum of money given by the State to ~~a local government unit~~ an applicant to subsidize the construction costs of a project authorized by this Chapter, without any obligation on the part of such unit to repay such sum.

(6) "Commission for Health Services" means the Commission for Health Services created by G.S. 130A-29.

(6a) "Debt instrument" means an instrument in the nature of a promissory note executed by ~~a local government unit~~ an applicant under the provisions of this Chapter, to evidence a debt to the State and obligation to repay the principal, plus interest, under stated terms.

(7) "Division of Environmental Health" means the Division of Environmental Health of the Department of Environment and Natural Resources.

(7a) "Economically distressed local government unit" means a local government unit located, in whole or in part, in a county designated as economically distressed by the Secretary of Commerce under G.S. 143B-437A.

(8) "Environmental Management Commission" means the Environmental Management Commission of the Department of Environment and Natural Resources.

(9) "Local Government Commission" means the Local Government Commission of the Department of the State Treasurer, established by Article 2 of Chapter 159 of the General Statutes.

(10) "Local government unit" means a county, city, town, incorporated village, consolidated city-county, as defined by G.S. 160B-2(1), including such a consolidated city-county acting with respect to an urban service district defined by a consolidated city-county, sanitary district, metropolitan sewerage district, metropolitan water district, county water and sewer district, water and sewer authority, joint agency authorized by agreement between two cities and towns to operate an airport pursuant to G.S. 63-56 and that also provided water and wastewater services off the airport premises before January 1, 1995, or joint agency created pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes.

(11) Repealed by Session Laws 1991, c. 186, s. 1.

(12) "Receiving agency" means the Division of Environmental Health with respect to receipt of applications for revolving loans and grants for water supply systems, and the Environmental Management Commission and the Division of Water Quality with

respect to receipt of applications for revolving loans and grants for wastewater systems.

(13) "Revolving construction loan" means a sum of money loaned by the State to ~~a local government unit~~ an applicant to subsidize the construction costs of a project authorized by this Chapter, with an obligation on the part of ~~such unit~~ the applicant to repay such sum, the proceeds of such repayment to be deposited in the ~~Water Pollution Control Revolving Fund.~~ fund from which the loan was made.

(14) "Revolving emergency loan" means a sum of money loaned by the State to a local government unit upon a certification, as provided in this Chapter, of a serious public health hazard, with an obligation on the part of such unit to repay such sum.

(15) "Revolving loan" includes a revolving construction loan and an emergency loan.

(15a) "State" means the State of North Carolina.

(15b) "State Treasurer" means the Treasurer of the State elected pursuant to Article III, Section 7 of the Constitution or his designated representative.

(16) "Wastewater Accounts" means the various accounts in the Clean Water Revolving Loan and Grant Fund established in the Department of Environment and Natural Resources under this Chapter for revolving loans and grants for wastewater treatment work and wastewater collection system projects.

(17) "Wastewater collection system" means a unified system of pipes, conduits, pumping stations, force mains, and appurtenances other than interceptor sewers, for collecting and transmitting water-carried human wastes and other wastewater from residences, industrial establishments or any other buildings, and owned by a local government unit.

(18) "Wastewater treatment works" means the various facilities and devices used in the treatment of sewage, industrial waste or other wastes of a liquid nature, including the necessary interceptor sewers, outfall sewers, phosphorous removal equipment, pumping, power and other equipment and their appurtenances.

(19) "Water Supply Accounts" means the various accounts in the Clean Water Revolving Loan and Grant Fund established in the Department of Environment and Natural Resources under this Chapter for revolving loans and grants for water supply system projects.

(20) "Water supply system" means a public water supply system consisting of facilities and works for supplying, treating and distributing potable water including, but not limited to, impoundments, reservoirs, wells, intakes, water filtration plants and

other treatment facilities, tanks and other storage facilities, transmission mains, distribution piping, pipes connecting the system to other public water supply systems, pumping equipment and all other necessary appurtenances, equipment and structures."

Section 3. G.S. 159G-4(c) reads as rewritten:

"(c) All payments of interest and repayments of principal resulting from revolving loans shall be credited to the respective accounts from which the revolving loan funds were disbursed. Terms and conditions for repayment of revolving loans shall be established by the Department of Environment and Natural Resources, with the assistance of the Local Government Commission, consistent with the requirements of the Federal Water Pollution Control Act and this Chapter. Provided, the interest rate for all revolving loans authorized by this Chapter shall be fixed at the same percent per annum as the interest rate fixed under the Federal Water Pollution Control Act for loans from the Water Pollution Control Revolving Fund established by G.S. 159G-5(c), not to exceed the lesser of four percent (4%) or one half (1/2) the prevailing national market rate for tax exempt general obligation debt of similar maturities derived from a published indicator. Provided further, the interest rate may be fixed at a lower rate per annum if authorized by the Federal Water Pollution Control Act Regulations. It is the intent of the General Assembly to provide uniform interest payments for all loans made to ~~units of local government~~ applicants irrespective of the account from which loans are made for either wastewater or water supply projects."

Section 5. G.S. 159G-6 reads as rewritten:

"**§ 159G-6. Distribution of funds.**

(a) Revolving loans and grants.

(1) All funds appropriated or accruing to the Clean Water Revolving Loan and Grant Fund, other than funds set aside for administrative expenses, shall be used for revolving loans and grants to ~~local government units~~ applicants for construction costs of wastewater treatment works, wastewater collection systems and water supply systems and other assistance as provided in this Chapter.

(2) The maximum principal amount of a revolving loan or a grant may be one hundred percent (100%) of the nonfederal share of the construction costs of any eligible project. The maximum principal amount of revolving loans made to any one ~~local government unit~~ applicant during any fiscal year shall be eight million dollars ($8,000,000). The maximum principal amount of grants made to any ~~one local government unit~~ applicant during any fiscal year shall be three million dollars ($3,000,000).

(3) The State Treasurer shall be responsible for investing and distributing all funds appropriated or accruing to the Clean Water Revolving Loan and Grant Fund for revolving loans and grants under this Chapter. In fulfilling his or her responsibilities under this section, the State Treasurer shall make a written request to the

Department of Environment and Natural Resources to arrange for the appropriated funds to be (i) transferred from the appropriate accounts to ~~a local government unit~~ an applicant to provide funds for one or more revolving loans or grants or (ii) invested as authorized by this Chapter with the interest on and the principal of such investments to be transferred to the ~~local government unit~~ applicant to provide funds for one or more revolving loans or grants.

(b) Wastewater Accounts. -- The sums allocated in G.S. 159G-4 and accruing to the various Wastewater Accounts in each fiscal year shall be used to make revolving loans and grants to local government units as provided below. The Department of Environment and Natural Resources shall disburse no funds from the Wastewater Accounts except upon receipt of written approval of the disbursement from the Environmental Management Commission.

(1) General Wastewater Revolving Loan and Grant Account. -- The funds in the General Wastewater Revolving Loan and Grant Account shall be used exclusively for the purpose of providing for revolving construction loans or grants in connection with approved wastewater treatment work or wastewater collection system projects.

(2) High-Unit Cost Wastewater Account. -- The funds in the High-Unit Cost Wastewater Account shall be available for grants to applicants for high-unit cost wastewater projects. Eligibility of an applicant for such a grant shall be determined by comparing estimated average household user fees for water and sewer service, for debt service and operation and maintenance costs, to one and one-half percent (1.5%) of the median household income in the local government unit in which the project is located. The projects which would require estimated average household water and sewer user fees greater than one and one-half percent (1.5%) of the median household income are defined as high-unit cost wastewater projects and will be eligible for a grant equal to the excess cost, subject to the limitations in subdivision (a)(2) of this section. However, if the applicant upon completion of the project will have only a single utility service, then the eligibility of the applicant for such a grant shall be determined by comparing estimated average household user fees for the single utility service that will be offered, for debt service and operation and maintenance costs, to three-fourths percent (3/4%) of the median household income in the local government unit in which the project is located. The single utility projects which would require estimated average household water or sewer user fees (as appropriate) greater than three-fourths percent (3/4%) of the median household income are defined as high-unit cost wastewater projects and will be eligible for a grant

equal to the excess cost, subject to the limitations in subdivision (a)(2) of this section.

(3) Emergency Wastewater Revolving Loan Account. -- The funds in the Emergency Wastewater Revolving Loan Account shall be available for revolving emergency loans to applicants in the event the Environmental Management Commission certifies that a serious public health hazard, related to the inadequacy of existing wastewater facilities, is present or imminent in a community.

(c) Water Supply Accounts. -- The sums allocated in G.S. 159G-4 and accruing to the various Water Supply Accounts in each fiscal year shall be used to provide revolving loans and grants to ~~local government units~~ applicants as provided below. The Department of Environment and Natural Resources shall disburse no funds from the Water Supply Accounts except upon receipt of written approval of the disbursement from the Division of Environmental Health.

(1) General Water Supply Revolving Loan and Grant Account. -- The funds in the General Water Supply Revolving Loan and Grant Account shall be used exclusively for the purpose of providing for revolving construction loans and grants in connection with water supply systems generally and not upon a county allotment basis.

(2) High-Unit Cost Water Supply Account. -- The funds in the High-Unit Cost Water Supply Account shall be available for grants to applicants for high-unit cost water supply systems, on the same basis as provided in G.S. 159G-6(b)(2) for high-unit cost wastewater projects.

(3) Emergency Water Supply Revolving Loan Account. -- The funds in the Emergency Water Supply Revolving Loan Account shall be available for revolving emergency loans to applicants in the event the Division of Environmental Health certifies that a serious public health hazard, related to the water supply system, is present or imminent in a community.

(d) Repealed by Session Laws 1991, c. 186, s. 4.

(e) Notwithstanding any other provision of this Chapter, funds in the Water Pollution Control Revolving Fund shall not be available as grants except to the extent permitted by Title VI of the Federal Water Quality Act of 1987 and the regulations thereunder."

Section 6. G.S. 159G-9 reads as rewritten:

"**§ 159G-9. Eligibility.**

No application shall be eligible for a revolving loan or grant under this Chapter unless it shall demonstrate to the satisfaction of the receiving agency that:

(1) The applicant is ~~a local government unit.~~ an applicant within the meaning of G.S. 159G-3(2).

(2) The applicant has the financial capacity to pay the principal of and the interest on its proposed obligations and loans.

(3) The applicant has substantially complied or will substantially comply with all applicable laws, rules, regulations and ordinances, federal, State and local.

(4) The applicant has agreed by official resolution to adopt and place into effect on or before completion of the project a schedule of fees, charges, and other available funds, including but not limited to the funds described in G.S. 159G-13(b), that will adequately provide for proper operation, maintenance, and administration of the project and for repayment of all principal of and interest on loans."

Section 7. G.S. 159G-10(b) reads as rewritten:

"(b) Priority Factors. -- All applications for revolving loans or grants under this Chapter eligible for consideration during each priority period shall be assigned a priority for such funds by the receiving agency. The priority factors shall be similar to those developed under the North Carolina Clean Water Bond Act of 1977, as provided in and modified by this subsection.

(1) General Criteria. --

a. The general criteria provided in 1 NCAC 22.0401 through .0403 on January 1, 1987, shall apply, except that 1 NCAC 22.0401(c) shall apply only to State funds appropriated to match available federal funds.

b. The existence of a comprehensive land-use plan that meets the requirements of subsection (e) of this section is a general criterion for prioritizing which ~~local government units~~ applicants will receive a loan or grant. ~~A local government unit~~ An applicant that is not authorized to adopt a comprehensive land-use plan but that is located in whole or in part in ~~another~~ a local government unit that has adopted a comprehensive land-use plan shall receive the same priority treatment as ~~a local government unit~~ an applicant that has authority to adopt a comprehensive land-use plan. A comprehensive land-use plan that meets the requirements of subsection (e) of this section and that exceeds the minimum State standards for protection of water resources shall receive more points than a plan that does not exceed those standards. Additional points may be awarded for actions taken toward implementation of a comprehensive land-use plan. These actions may include the adoption of a zoning ordinance or any other measure that significantly contributes to the implementation of the comprehensive land-use plan.

(2) Wastewater Treatment Work Projects. -- The priority criteria provided in 1 NCAC 22.0501 through .0506 on January 1, 1987,

shall apply to applications for wastewater treatment work projects, except that 1 NCAC 22.0503 shall not apply.

(3) Wastewater Collection System Projects. -- The priority criteria provided in 1 NCAC 22.0601 through .0606 on January 1, 1987, shall apply to applications for wastewater collection system projects, except that 1 NCAC 22.0601(2)(a) and (3), and 1 NCAC 22.0605(2), (3) and (4) shall not apply.

(4) Water Supply System Projects. -- The priority criteria provided in 1 NCAC 22.0701 through .0704 on January 1, 1987, shall apply to applications for water supply system projects.

(5) Wastewater Treatment Works Improvements to Meet Nitrogen and Phosphorous Limits. -- The Environmental Management Commission shall adopt a rule specifying priority criteria for modifications to existing permitted wastewater treatment facilities that are owned or operated by local government units and that are subject to G.S. 143-215.1(c1) or G.S. 143-215.1(c2) to enable local government units to comply with G.S. 143-215.1(c1) and G.S. 143-215.1(c2).

(6) The total number of points available in the respective categories shall be deemed adjusted in accordance with the provisions of subdivisions (1) through (5) of this subsection."

Section 8. G.S. 159G-13(a) reads as rewritten:

"(a) To be eligible to receive the revolving loans and grants provided for in this Chapter, ~~local government units~~ applicants shall arrange to borrow the amounts necessary to be borrowed in connection therewith pursuant to the Local Government Finance Act or as provided in this Chapter as applicable. ~~Local government units~~ Applicants may apply for the revolving loans and grants prior to arranging for such borrowing."

Section 9. G.S. 159G-14 reads as rewritten:

"**§ 159G-14. Inspection.**

Inspection of a project for which a revolving loan or grant has been made under this Chapter may be performed by qualified personnel of the Division of Environmental Health or the Environmental Management Commission or may be performed by qualified professional engineers, registered in this State, who have been approved by the Division of Environmental Health or the Environmental Management Commission; but no person shall be approved to perform inspections who is an officer or employee of the ~~unit of government~~ applicant to which the revolving loan or grant was made or who is an owner, officer, employee or agent of a contractor or subcontractor engaged in the construction of the project for which the revolving loan or grant was made. For the purpose of payment of inspection fees, inspection services shall be included in the term "construction cost" as used in this Chapter."

Section 10. G.S. 159G-15(b) reads as rewritten:

"(b) A copy of its rules adopted to implement the provisions of this Chapter shall be furnished free of charge by the receiving agency and the Department of Environment and Natural Resources to any ~~local government unit.~~ applicant."

Section 11. G.S. 159G-18 reads as rewritten:

"**§ 159G-18. ~~Local government~~ Applicant borrowing authority.**

(a) ~~Local government units~~ Applicants may execute debt instruments payable to the State in order to obtain revolving loans provided for in this Chapter. ~~Local government units~~ Applicants shall pledge as security for such obligations the user fee revenues derived from operation of the benefited facilities or systems only, or other sources of revenue, or their faith and credit, or any combination thereof. The faith and credit of ~~such~~ applicants that are local government units shall not be pledged or be deemed to have been pledged unless the requirements of Article 4, Chapter 159 of the General Statutes have been met. The State Treasurer, with the assistance of the Local Government Commission, shall develop and adopt appropriate debt instruments for use by applicants under this Chapter. The Local Government Commission shall develop and adopt appropriate procedures for the delivery of debt instruments by applicants to the State without any public bidding therefor.

(b) The Local Government Commission shall review and approve proposed loans to applicants that are local government units under this Chapter under the provisions of Articles 4 and 5, Chapter 159 of the General Statutes, as if the issuance of bonds was proposed, so far as those provisions are applicable. The Local Government Commission shall review and approve proposed loans to applicants that are nonprofit water corporations under this Chapter under the provisions of G.S. 159-153, so far as those provisions are applicable. Revolving loans under this Chapter shall be outstanding debt of applicants that are local government units for the purpose of Article 10, Chapter 159 of the General Statutes."

Section 12. G.S. 159-153 is amended by adding a new section to read:

"(a1) Commission Approval Required for Nonprofit Water Corporation Loans From the Clean Water Revolving Loan and Trust Fund. -- In addition to the requirements of Chapter 159G of the General Statutes, approval by the Commission in accordance with this section is required before a nonprofit water corporation may be eligible to receive a revolving loan or grant under Chapter 159G of the General Statutes."

Section 13. This act becomes effective July 1, 1999.

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Thursday, May 27, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 734 – Chapel Hill Development Agreements – Rep. Insko
HB 954 – Clarify Hospital Property Tax – Rep. Wilson
HB 1069 – Social Worker Licensure – Rep. Alexander
HB 1133 – Health Ins. / Liability – Rep. Hackney
HB 1302 – Charter School Fuel Exemption – Rep. Bonner
SB 314 – Mineral Springs Incorporated – Sen. Plyler
SB 622 – Nursing Home Admin. Bd./Fees – Sen. Kerr

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Thursday, May 27, 1999

The House Committee on Finance met on Thursday, May 27, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke, Miller; Vice Chairs Jarrell and Wood; Representatives Braswell, Bridgeman, Brown, Buchanan, Church, Cox, Cunningham, Creech, Decker, Dedmon, Eddins, Edwards, Gibson, Goodwin, Gray, Hackney, Hill, McCombs, Miner, Morris, Mosley, Pope, Rayfield, Starnes, Tucker, Wilson, and Womble. Staff including Cindy Avrette, Richard Bostic, Mary Shuping, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Miller called the meeting to order to consider the following bills:

The Chair recognized Mr. Carl Rist of the Corporation for Enterprise Development in Durham to comment on HB 1303 which was discussed on Thursday, May 20, 1999

Rep. Alexander was recognized to explain HB 1069, A BILL TO BE ENTITLED AN ACT RECLASSIFYING CERTIFIED CLINICAL SOCIAL WORKERS AS LICENSED CLINICAL SOCIAL WORKERS AND REVISING THE FEES AND QUALIFICATIONS FOR CERTIFICATION AND LICENSURE OF SOCIAL WORKERS. Mary Shuping explained the bill. Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion purposes. The Chair recognized Ms. Myrna Miller of the N.C. Chapter of National Association of Social Workers who commented on the bill and answered members' questions. The Chiar recognized Ms. Jane Clare Moorman of the N.C. Certification Board who commented on the bill and answered members' questions. Linda Millsaps explained the fiscal note. Members questioned Rep. Alexander. Rep. Hackney sent forward an amendment. Cindy Avrette explained the amendment. Rep. Hackney moved to roll the amendment into a Proposed Committee Substitute and to give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. The motion passed. The bill, Proposed Committee Substitute, Bill Summary and Fiscal Note are included in these minutes.

Sen. Kerr was recognized to explain SB 622, A BILL TO BE ENTITLED AN ACT TO IMPOSE ADDITIONAL FEES AND COSTS AND TO INCREASE EXISTING FEES COLLECTED UNDER THE NURSING HOME ADMINISTRATORS BOARD ACT. Rep. Braswell sent forward and amendment and moved for its adoption. Cindy Avrette explained the amendment. The amendment was adopted. Rep. Hackney moved to roll the amendment into a Proposed Committee Substitute and to give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. The motion passed. The bill, Proposed Committee Substitute, amendment, and Fiscal Note are included in these minutes.

Rep. Melton was recognized to explain SB 314, A BILL TO BE ENTITLED AN ACT TO INCORPORATE THE TOWN OF MINERAL SPRINGS. Rep. Goodwin moved for a favorable report to the bill. Members questioned Rep. Melton and Cindy Avrette. The Chair recognized Mr. Andy Romany of the League of Municipalities who stated his organization had no opposition to the bill. The Chair recognized Mr. Jim Blackburn of the County Commissioners' Association who stated his organization supported the bill. Rep. Goodwin's motion passed. The bill and Rep. Melton's handout are included in these minutes.

Rep. Bonner was recognized to explain HB 1302, A BILL TO BE ENTITLED AN ACT TO EXEMPT FROM TAX MOTOR FUEL SOLD TO CHARTER SCHOOLS. Richard Bostic explained the fiscal note. Rep. Church moved for a favorable report. The motion passed. The bill, Bill Summary and Fiscal Note are included in these minutes.

Rep. Hackney was recognized to explain HB 1133, A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT AN INSURER PROVIDING A HEALTH BENEFIT PLAN IS LIABLE FOR DAMAGES FOR HARM TO ITS INSUREDS OR ENROLEES CAUSED BY THE INSURER'S FAILURE TO EXERCISE ORDINARY CARE. Rep. Hackney moved to give the bill a favorable report and re-refer it the Committee on Insurance. The motion passed. The bill, Bill Summary and Fiscal Note are included in these minutes.

Rep. Hackney was recognized to explain HB 734, A BILL TO BE ENTITLED AN ACT AUTHORIZING THE TOWN OF CHAPEL HILL TO ENTER INTO DEVELOPMENT AGREEMENTS WITH OWNERS OF LARGE TRACTS OF LAND WITHIN THE TOWN AND ITS EXTRATERRITORIAL PLANNING JURISDICTION. Rep. Hackney moved for a favorable report. The motion passed. The bill is included in these minutes.

Rep. Wilson was recognized to explain HB 954, A BILL TO BE ENTITLED AN ACT TO LIMIT THE HOSPITAL PROPERTY TAX EXEMPTION TO CERTAIN PROPERTY USED AND OWNED BY A HOSPITAL ORGANIZED FOR A CHARITABLE PURPOSE. Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion purposes only. Rep. Wilson explained the bill. The Chair recognized Mr. Pete Rhoda of the Tax Assessors' Association and the tax assessor for Forsyth county. Members questioned Mr. Rhoda. Linda explained the fiscal aspect and answered members' questions. The Chair stated the bill would remain in the committee.

There being no further business, the Chair adjourned the meeting at 10:00 a.m.

Respectfully submitted:

Representative George Miller
Chair

Kristen L. Crosson
Assistant to the Committee

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☒ Committee Substitute for
H.B. 734 A BILL TO BE ENTITLED AN ACT AUTHORIZING THE TOWN OF CHAPEL HILL TO ENTER INTO DEVELOPMENT AGREEMENTS WITH OWNERS OF LARGE TRACTS OF LAND WITHIN THE TOWN AND ITS EXTRATERRITORIAL PLANNING JURISDICTION.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 734
Committee Substitute as Amended Reported Without Prejudice Engrossed 4/29/99

Short Title: Chapel Hill Development Agreements. (Local)

Sponsors:

Referred to:

March 30, 1999

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE TOWN OF CHAPEL HILL TO ENTER INTO DEVELOPMENT AGREEMENTS WITH OWNERS OF LARGE TRACTS OF LAND WITHIN THE TOWN AND ITS EXTRATERRITORIAL PLANNING JURISDICTION.

The General Assembly of North Carolina enacts:

Section 1. Article 19 of Chapter 160A of the General Statutes is amended by adding a new Part to read:

"Part 3D. Development Agreements.

"**§ 160A-400.15. Purpose.**

It is the purpose of this Part to authorize municipalities to enter into development agreements with owners of large tracts of land within their respective jurisdictions.

"**§ 160A-400.16. Definitions.**

The following definitions apply in this Part:

(1) Development agreement. -- An agreement, authorized by duly enacted local zoning ordinance and entered into between a municipality and an owner of a large tract of land, that recognizes (i) the plan of development of the land, (ii) the terms and conditions for development and the commitments and obligations of the parties to accomplish the terms of the development, and (iii) the municipality's authority to modify its land use regulations for a period of time to comply with the requirements of this Part.

(2) Large tract of land. -- A contiguous tract or parcel of land, including any intervening publicly dedicated right-of-way or utility easements, consisting of at least 150 acres.

(3) Vested right. -- The term as defined in G.S. 160A-385.1.

(4) Contract zoning. -- A transaction wherein both the landowner who is seeking a certain zoning action and the zoning authority itself undertake reciprocal obligations in the context of a bilateral contract.

"**§ 160A-400.17. Development agreements authorized.**

(a) A municipality may by ordinance authorize the execution of development agreements between the municipality and the owner of a large tract of land to establish commitments and obligations of the parties as more fully described in this Part, and may authorize the assessment of a fee not to exceed one hundred dollars ($100.00) on the owner of a large tract of land as a condition of such development agreement. Such fee, in the discretion of the municipality, may be waived for good cause shown.

(b) Development agreements entered into pursuant to an ordinance enacted under this Part are permissible and lawful and shall not constitute illegal contract zoning. A municipality may enter into a long-term development agreement as authorized by this Part and commit the municipality to that agreement beyond the term of the members of the municipality's governing board who authorize the agreement.

(c) A municipality and the owner of a large tract of land are authorized to establish a time period for the duration of vested rights for the plan of development recognized in the development agreement, not to exceed 25 years for the initial agreement.

(d) A municipality's development regulations, laws, and policies governing the development of the large tract of land at the time of the execution of the development agreement shall govern the development of the land for the duration of the development agreement, except that subsequently adopted laws may be applied pursuant to subsection (f) of this section.

(e) Any subsequent change in any applicable municipal ordinance enacted by the municipality that alters or amends the standards for development of the large tract of land shall not apply, except as provided by subsection (f) of this section.

(f) A municipality may apply subsequently adopted laws and policies to a development that is subject to a development agreement if the municipality holds a public hearing and determines by competent evidence that:

(1) The subsequently adopted laws do not prevent the development of the buildings identified in the plan of development in the development agreement;

(2) The subsequently adopted laws are essential to the public health or safety, and expressly state that they shall apply to a development agreement;

(3) The subsequently adopted laws are laws of general applicability throughout the municipality; and

(4) The municipality demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of the development agreement.

(g) Any otherwise applicable limitations on duration of vested rights contained in G.S. 160A-385.1 or elsewhere shall not apply.

(h) If a municipality and the owner of a large tract of land enter into an initial development agreement, the parties are further authorized, by following the procedures set out in this Part, to enter into subsequent development agreements for part or all of property which is the subject of the initial agreement.

"**§ 160A-400.18. Contents of agreements; procedure.**

(a) A development agreement shall include the following:

(1) A legal description of the real property subject to the agreement.

(2) The names of all owners of legal or equitable interests in the real property.

(3) The initial duration of the agreement, which shall not exceed 25 years and shall include procedures for extension.

(4) A plan that recognizes development of the land, the terms and conditions for development, and the commitments and obligations of the parties to accomplish the plan of development.

(5) A description of all local development permits already approved or which may be required in the future for the development of the property subject to the agreement, including whether further development agreements may be necessary.

(6) The commitments made by the municipality to the property owner to recognize the rights of the property owner to develop the tract consistent with the plan of development as established by the municipality and the development agreement.

(7) A finding that the proposed development is consistent with the comprehensive plan and development regulations of the municipality.

(8) A description of the conditions, terms, restrictions, or other requirements determined by the municipality to be necessary to ensure (i) conformance with the municipality's development regulations, laws, and policies governing the development of the large tract of land at the time of the execution of the development agreement, and (ii) the public health, safety, or welfare as specifically defined in the criteria and standards established in the municipality's development regulations, laws, and policies governing the development.

(9) Provisions stating that the development agreement is binding upon the property which is the subject of the agreement and upon the property's owners and their successors and assigns.

(b) A development agreement may include the following:

(1) The period in which and terms by which development and construction, in part or in its entirety, must be commenced or be completed; and

(2) Any other necessary or proper matter.

(c) A municipality shall establish by ordinance procedures to be followed for the enactment of a development agreement, including requirements that:

(1) The municipality receive a recommendation from its planning agency and conduct a public hearing prior to approving and entering a development agreement.

(2) The owner, within 180 days of approval of a development agreement, cause a copy of the agreement to be recorded in the office of the Register of Deeds where the property is located.

(3) Pertain to any other necessary or proper matter.

"**§ 160A-400.19. Requirements for zoning ordinance implementing this Part.**

Any development agreement entered into under the authority of this Part shall be authorized by a duly enacted zoning ordinance of the municipality. The ordinance shall include:

(1) Procedural requirements for amendment, termination, and revocation of the agreement.

(2) Provisions for the enforcement of the terms of the agreement by any party to the agreement or their successors in interest in accordance with the general law, including injunctive relief.

(3) Any other necessary or proper matter.

"**§ 160A-400.20. Application of Part to property owned by the State.**

(a) All of the provisions of this Part are hereby made applicable to the erection, construction, and use of buildings by the State of North Carolina and its political subdivisions.

(b) Notwithstanding subsection (a) of this section, nothing in this Part shall prevent the parties from addressing nonbuilding uses of land in a development agreement.

(c) Notwithstanding the provisions of any general or local law or ordinance, no land owned by the State of North Carolina may be included within an overlay district or a special use or conditional use district without approval of the Council of State.

"**§ 160A-400.21. Applicability.**

This Part applies only to the Town of Chapel Hill."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 954
Proposed Committee Substitute H954-PCS3426-LC

Short Title: Clarify Hospital Property Tax. (Public)

Sponsors:

Referred to:

April 8, 1999

A BILL TO BE ENTITLED

AN ACT TO LIMIT THE HOSPITAL PROPERTY TAX EXEMPTION TO CERTAIN PROPERTY USED AND OWNED BY A HOSPITAL ORGANIZED FOR A CHARITABLE PURPOSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-278.8 reads as rewritten:

"**§ 105-278.8. Real and personal property used for charitable hospital purposes.**

~~(a) Real and personal property held for or owned by a hospital organized and operated as a nonstock, nonprofit, charitable institution (without profit to members or their successors) shall be exempted from taxation if actually and exclusively used for charitable hospital purposes.~~

~~(b) Notwithstanding the exclusive-use requirements of subsection (a), above, if part of a property that otherwise meets that subsection's requirements is used for a purpose that would require exemption under that subsection if the entire property were so used, the valuation of the part so used shall be exempted from taxation.~~

~~(c) Within the meaning of this section, a charitable hospital purpose is a hospital purpose that has humane and philanthropic objectives; it is a hospital activity that benefits humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward. However, the fact that a qualifying hospital charges patients who are able to pay for services rendered does not defeat the exemption granted by this section.~~

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

(1) Charitable home care agency. -- A home care agency that is licensed under Chapter 131E of the General Statutes and is owned by a charitable hospital.

(2) Charitable hospice. -- A hospice that is licensed under Chapter 131E of the General Statutes and is owned by a charitable hospital.

(3) Charitable hospital. -- A hospital organized and operated as a nonstock, nonprofit, charitable institution without profit to members or their successors.

(4) Charitable hospital purposes. -- A hospital purpose that has humane and philanthropic objectives; it is a hospital activity that benefits humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward. However, the fact that a charitable facility charges patients who are able to pay for services rendered does not mean that the facility is not used for a charitable hospital purpose.

(b) Inpatient Property. -- Buildings, and the land they actually occupy, are exempt from taxation if they are owned by a charitable hospital and are used exclusively as a facility that provides health care or medical care on an inpatient basis for charitable hospital purposes. In addition, the exemption applies to any of the following facilities owned by the charitable hospital if they provide services directly to the hospital's inpatient care facilities, the employees that work in the inpatient care facilities, or the patients that are treated in the inpatient care facilities:

(1) Food preparation and food service facilities.

(2) Clinical, pathological, and other laboratories.

(3) Laundries.

(4) Residences and training facilities for nurses, physicians, and other staff members.

(5) Hospital day care centers used exclusively by the employees.

(c) Home Care and Hospice Care Property. -- Buildings, and the land they actually occupy, are exempt from taxation if they are owned by a charitable home care agency or a charitable hospice and are used exclusively as a facility that provides health care or medical care on a home care or hospice basis for charitable hospital purposes.

(d) Partial Use. -- Notwithstanding the exclusive-use requirements of this section, if only part of a facility that otherwise meets the requirements for exemption is used for a purpose that would require exemption if the entire property were so used, the valuation of the part so used is exempt from taxation.

(e) Personal Property. -- Personal property owned by a charitable hospital and used in a facility meeting the requirements of subsection (b) of this section is exempt from taxation. Personal property owned by a charitable home care agency or a charitable hospice and used in a facility meeting the requirements of subsection (c) of this section is exempt from taxation."

Section 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 954

Short Title: Clarify Hospital Property Tax. (Public)

Sponsors: Representatives C. Wilson; and Owens.

Referred to: Finance.

April 8, 1999

A BILL TO BE ENTITLED

AN ACT TO LIMIT THE HOSPITAL PROPERTY TAX EXEMPTION TO CERTAIN PROPERTY USED AND OWNED BY A HOSPITAL ORGANIZED FOR A CHARITABLE PURPOSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-278.8 reads as rewritten:

"**§ 105-278.8. Real and personal property used for charitable hospital purposes.**

~~(a) Real and personal property held for or owned by a hospital organized and operated as a nonstock, nonprofit, charitable institution (without profit to members or their successors) shall be exempted from taxation if actually and exclusively used for charitable hospital purposes.~~

~~(b) Notwithstanding the exclusive-use requirements of subsection (a), above, if part of a property that otherwise meets that subsection's requirements is used for a purpose that would require exemption under that subsection if the entire property were so used, the valuation of the part so used shall be exempted from taxation.~~

~~(c) Within the meaning of this section, a charitable hospital purpose is a hospital purpose that has humane and philanthropic objectives; it is a hospital activity that benefits humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward. However, the fact that a qualifying hospital charges patients who are able to pay for services rendered does not defeat the exemption granted by this section.~~

(a) Buildings, and the land they actually occupy, are exempt from taxation if both of the following requirements are met:

(1) They are owned by a hospital organized and operated as a nonstock, nonprofit, charitable institution without profit to members or their successors.

(2) They are used exclusively as a facility that provides health care or medical care on an inpatient basis for charitable hospital purposes.

(b) Notwithstanding the exclusive-use requirements of subsection (a) of this section, if part of a property that otherwise meets that subsection's requirements is used for a purpose that would require exemption under that subsection if the entire property were so used, the valuation of the part so used shall be exempted from taxation.

(c) Personal property owned by a hospital and used in a facility meeting the requirements of subsection (a) of this section is exempt from taxation.

(d) Within the meaning of this section, a charitable hospital purpose is a hospital purpose that has humane and philanthropic objectives; it is a hospital activity that benefits humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward. However, the fact that a qualifying facility charges patients who are able to pay for services rendered does not defeat the exemption granted by this section.

(e) The exemption also applies to any of the following facilities owned by the hospital that provide services directly to property that meets the requirements of subsection (a), the employees that work on the property, or the patients that are treated on the property:

(1) Food preparation and food service facilities.

(2) Clinical, pathological, and other laboratories.

(3) Laundries.

(4) Residences and training facilities for nurses, physicians, and other staff members.

(5) Hospital day care centers used exclusively by the employees."

Section 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 1999.

HOUSE BILL 954:
Clarify Hospital Propery Tax

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Connie Wilson
Date:	May 27, 1999	**Summary by:**	Cindy Avrette
Version:	PCS for 1st Edition H954-PCS3426-LC		Committee Counsel

SUMMARY: ***House Bill 954 redefines the hospital property tax exemption to limit it to facilities that provide inpatient health care or medical care. The proposed committee substitute expands the exemption to include home care agencies and hospices that are owned by a charitable hospital.***

CURRENT LAW: All 50 states and the District of Columbia exempt property of charitable organizations from taxation. Thirty-five states provide specific exemptions for hospitals; however, the language of the exemptions varies considerably.

In North Carolina, hospitals may be exempt under one of at least three different property tax exemptions. Real and personal property owned by a hospital owned by a unit of local government is exempt from property tax. Property owned by a teaching hospital is exempt from property tax as property used for an education purpose. And, property owned by a nonprofit, charitable hospital is exempt from property tax if the property is used exclusively for charitable hospital purposes.

The statute defines a nonprofit, charitable hospital as one organized and operated as a nonstock, nonprofit, charitable institution. The term "charitable hospital purposes" is defined very broadly as a purpose that has humane and philanthropic objectives. In the last few years, nonprofit, charitable hospitals have purchased medical practices, hotels, and apartments. Since this property is often used for a "humane or philanthropic objective", the counties have exempted that property from taxation, even though the business of the property is not what one would associate with a hospital.

BILL ANALYSIS: House Bill 954 limits the hospital property tax exemption by requiring that the facility be used exclusively to provide health care or medical care on an inpatient basis. The bill specifically exempts from property tax facilities used to provide health care or medical care by a home care agency or hospice for charitable hospital purposes when the home care agency or hospice is owned by a charitable hospital. The bill clarifies that the exemption extends to the following property owned by the hospital that provides services directly to the hospital or its employees and patients:

- Food preparation and foods service facilities.
- Clinical, pathological, and other laboratories.
- Laundries.
- Student housing and training facilities for nurses, physicians, and other staff members.
- Hospital day care centers used exclusively by the employees.

FRD DRAFT
INTERNAL USE ONLY

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: H.B. 954

SHORT TITLE: Clarify Hospital Property Tax

SPONSOR(S): Rep. Wilson

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
General Fund	* No General Fund Impact *				
Local Governments	* See Assumptions and Methodology *				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: County and City Governments, and the North Carolina Department of Revenue, Property Tax Division.

EFFECTIVE DATE: Taxable years beginning on or after July 1, 1999.

BILL SUMMARY: The legislation defines and clarifies the types of non-profit hospital owned property that is exempt from property tax. Under current law non-profit, non-stock, charitable hospitals are exempt from property tax if they are "actually and exclusively used for charitable hospital purposes." The first portion of the bill clarifies that buildings and land actually occupied by a hospital are exempt if 1) they are owned by a "hospital organized and operated" as a non-stock, non-profit charitable institution and 2) they are used exclusively to provide health or medical care on an inpatient basis for charitable hospital purposes. The business personal property associated with a qualifying institution is also exempt. The second portion of the bill exempts food preparation facilities, food service facilities, laboratories, laundries, hospital day care centers (for employee use only), and residences and training facilities for hospital staff if the hospital meets the previous qualifications. These additional facilities are only exempt if the facility provides services directly to employees that work on the property or patients treated there.

ASSUMPTIONS AND METHODOLOGY: In January 1999 Fiscal Research surveyed all 100 county assessors to determine the amount of non-government property, in each county, that is exempt from property tax. County assessors were asked to provide listings of all non-government exempt property by category. Twenty-seven counties responded to the survey, including most of the counties with significant medical facilities. The survey responses indicate that approximately $1,595,151,439 of property is owned by non-government, non-profit

hospitals, and is exempt from tax, in these counties. (This does not include those exempt because of medical commission bonds). If taxed this would represent approximately $15.95 million in property taxes.

The North Carolina Association of Assessing Officials and the North Carolina County Commissioners Association, in conjunction with Fiscal Research, attempted to survey county assessors and county managers to determine the impact of HB 954. Unfortunately, only five counties have responded to the survey at this time. The responding counties report that HB 954 will have the following fiscal impact:

County	Value of Property Impacted	Revenue Change
Forsyth	$60,000,000 - $75,000,000	$725,000
Mecklenburg	$41,000,000	$431,000
Iredell	0	0
Durham	$25,000,000	$405,000*
Wake	unknown	Potential revenue loss
* Indicates this includes city taxes as well.		

The counties that reported a potential gain indicated that the revenue increase would be a result of taxing outpatient services, outpatient rehabilitation centers, and outpatient surgical facilities. The county that reported a potential revenue loss indicated that they are currently taxing many of the facilities mentioned in the second portion of the bill.

Given the inconsistent impact the bill has on the reporting counties, their experiences can not be used as proxies for the remaining counties. Because of the information available is so limited, Fiscal Research can not provide an accurate estimate at this time.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY:

DATE: May 26, 1999

County Payments to Private Hospitals for Indigent Care

County	Payment for Charitable Care - Private Hospitals
Bertie	120,000
Forsyth*	3,925,000
Guilford	150,000
Henderson	19,270
Mecklenburg*	17,570,154
Person	250,000
TOTAL	22,034,424

Less payment to run the county health program. 759,424

* Indicates the county pays the hospital(s) to run the county health program

Based on 1997-98 and 1998-99 data.

County Payments to Private Hospitals for Indigent Care

County	Payment for Charitable Care - Private Hospitals
Bertie	120,000
Forsyth*	3,925,000
Guilford	150,000
Henderson	19,270
Mecklenburg*	17,570,154
Person	250,000
TOTAL	22,034,424
Less payment to run the county health program.	759,424

* Indicates the county pays the hospital(s) to run the county health program

Based on 1997-98 and 1998-99 data.

Nonprofit Hospitals / Medical Facilities Property Values by County

COUNTY	Total Real Value
Alexander	$1,126,700
Bertie	$32,072
Buncombe	$28,904,000
Caldwell	$14,485,300
Catawba	$91,500
Clay	$353,700
Cleveland	$6,119,688
Columbus	$30,205,100
Craven	$7,770,970
Cumberland	$3,679,946
Davidson	$15,479,270
Durham	$2,445,644
Edgecombe	$20,796,871
Forsyth	$845,097,300
Franklin	$74,644
Hertford	$14,423,770
Iredell	$36,112,830
Lincoln	$8,597,208
Mecklenburg	$276,419,000
Moore	$85,506,750
Nash	$37,133,754
New Hanover	$105,188,714
Union	$4,891,300
Wake	$30,515,508
Watauga	$19,591,100
Washington	$91,800
Wilkes	$17,000
TOTAL VALUE OF COUNTIES	$1,595,151,439

26-May-99
Kristen Crosson
House Finance Clerk

These numbers reflect the results of a January 6, 1999 Fiscal Research survey of county assessors. The survey addressed all non-government exempt property. The above estimates reflect the responses of all replying counties.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 1069 A BILL TO BE ENTITLED AN ACT RECLASSIFYING CERTIFIED CLINICAL SOCIAL WORKERS AS LICENSED CLINICAL SOCIAL WORKERS AND REVISING THE FEES AND QUALIFICATIONS FOR CERTIFICATION AND LICENSURE OF SOCIAL WORKERS.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1069
Proposed Committee Substitute H1069-PCS3430-SC

Short Title: Social Worker Licensure. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT RECLASSIFYING CERTIFIED CLINICAL SOCIAL WORKERS AS LICENSED CLINICAL SOCIAL WORKERS AND REVISING THE FEES AND QUALIFICATIONS FOR CERTIFICATION AND LICENSURE OF SOCIAL WORKERS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90B of the General Statutes reads as rewritten:

"Chapter 90B.

"Social Worker Certification and Licensure Act.

"§ 90B-1. Short title.

This Chapter shall be known as the "Social Worker Certification and Licensure Act."

"§ 90B-2. Purpose.

Since the profession of social work significantly affects the lives of the people of this State, it is the purpose of this Chapter to protect the public by setting standards for qualification, ~~training~~ training, and experience for those who seek to represent themselves to the public as certified social workers or licensed clinical social workers and by promoting high standards of professional performance for those engaged in the practice of social work.

"§ 90B-3. Definitions.

The following definitions apply in this Chapter:

(1) Board. -- The North Carolina ~~Certification Board for Social Work.~~ Social Work Certification and Licensure Board.

(2) ~~Certified~~ Licensed Clinical Social Worker. -- A person who is competent to function independently, who holds himself or herself out to the public as a social worker, and who offers or provides clinical social work services or supervises others engaging in clinical social work practice.

(3) Certified Master Social Worker. -- A person who is certified under this Chapter to practice social work as a master social worker and is engaged in the practice of social work.

(4) Certified Social Work Manager. -- A person who is certified under this Chapter to practice social work as a social work manager and is engaged in the practice of social work.

(5) Certified Social Worker. -- A person who is certified under this Chapter to practice social work as a social worker and is engaged in the practice of social work.

(6) Clinical Social Work Practice. -- The professional application of social work theory and methods to the ~~psychosocial~~ biopsychosocial diagnosis, treatment, or prevention, of emotional and mental disorders. Practice ~~includes~~ includes, by whatever means of communications, the treatment of individuals, couples, families, and groups, including the use of psychotherapy and referrals to and collaboration with other health professionals when appropriate. Clinical social work practice shall not include the provision of supportive daily living services to persons with severe and persistent mental illness as defined in G.S. 122C-3(33a).

(7) ~~Public~~ Practice of Social Work. -- To perform or offer to perform ~~services~~ services, by whatever means of communications, for other people that. involve the application of social work values, principles, and techniques in areas such as social work services, consultation and administration, and social work planning and research.

(8) Social Worker. -- A person engaging in the ~~public~~ practice of social work who is not certified or licensed under this Chapter as a Certified Social Worker, Certified Master Social Worker, ~~Certified~~ Licensed Clinical Social Worker, or Certified Social Work Manager.

"§ 90B-4. Prohibitions.

(a) Except as otherwise provided in this Chapter, it is unlawful for any person who is not certified as a social worker, master social worker, or social work manager under this Chapter to represent himself or herself to be certified under this Chapter or hold himself or herself out to the public by any title or description denoting that he or she is certified under this Chapter.

(b) After January 1, 1992, except as otherwise provided in this Chapter, it is unlawful to engage in or offer to engage in the practice of clinical social work without first being ~~certified~~ licensed under this Chapter as a clinical social worker.

(c) Nothing herein shall prohibit school social workers who are certified by the State Board of Education from practicing school social work under the title "Certified School Social Worker." Except as provided for ~~certified~~ licensed clinical social workers, nothing herein shall be construed as prohibiting social workers who are not certified by the Board from practicing social work. Except as provided herein for ~~certified~~ licensed clinical social workers, no agency, institution, board, commission, bureau, department, division, council, member of the Council of State, or officer of the legislative, executive or judicial branches of State government or counties, cities, towns, villages, other municipal corporations, political subdivisions of the State, public authorities, private corporations created by act of the General Assembly or any firm or corporation receiving State funds shall require the obtaining or holding of any certificate issued under this Chapter or the taking of an examination held pursuant to this Chapter as a requirement for obtaining or continuing in employment.

(d) Nothing herein shall authorize the practice of medicine as defined in Article 1 of this Chapter or the practice of psychology as defined in Article 18A of this Chapter.

"§ 90B-5. North Carolina ~~Certification Board for Social Work;~~ Social Work Certification and Licensure Board; appointments; terms; composition.

(a) For the purpose of carrying out the provisions of this Chapter, there is hereby created the North Carolina ~~Certification Board for~~ Social Work Certification and Licensure Board which shall consist of seven members appointed by the Governor as follows:

(1) At least two members of the Board shall be Certified Social Workers or Certified Master Social Workers, three members shall be ~~Certified~~ Licensed Clinical Social Workers, and two members shall be appointed from the public at large. Composition of the Board as to the race and sex of its members shall reflect the composition of the population of the State of North Carolina.

(2) At all times the Board shall include at least one member primarily engaged in social work education, at least one member primarily engaged in social work in the public sector, and at least one member primarily engaged in social work in the private sector.

(3) All members of the Board shall be residents of the State of North Carolina, and with the exception of the public members, shall be certified or licensed by the Board under the provisions of this Chapter. Professional members of the Board must be actively engaged in the practice of social work or in the education and training of students in social work, and have been for at least three years prior to their appointment to the Board. Such activity during the two years preceding the appointment shall have occurred primarily in this State.

(b) The Governor may only remove a member of the Board for neglect of duty, malfeasance, or conviction of a felony or other crime of moral turpitude.

(c) The term of office of each member of the Board shall be three years. No member shall serve more than two consecutive three-year terms. Each term of service on the Board shall expire on the 30th day of June of the year in which the term expires. As the term of a member expires, the Governor shall make the appointment for a full term, or, if a vacancy occurs for any other reason, for the remainder of the unexpired term.

(d) Members of the Board shall receive compensation for their services and reimbursement for expenses incurred in the performance of duties required by this Chapter, at the rates prescribed in G.S. 93B-5.

(e) The Board may employ, subject to the provisions of Chapter 126 of the General Statutes, the necessary personnel for the performance of its functions, and fix their compensation within the limits of funds available to the Board.

"**§ 90B-6. Functions and duties of the ~~Certification~~ Board.**

(a) The Board shall administer and enforce the provisions of this Chapter.

(b) The Board shall elect from its membership, a chairperson, a vice-chairperson, and secretary-treasurer, and adopt rules to govern its proceedings. A majority of the membership shall constitute a quorum for all Board meetings.

(c) The Board shall examine and pass on the qualifications of all applicants for certificates and licenses under this Chapter, and shall issue a certificate or license to each successful applicant therefor.

(d) The Board may adopt a seal which may be affixed to all certificates and licenses issued by the Board.

(e) The Board may authorize expenditures deemed necessary to carry out the provisions of this Chapter from the fees which it collects, but in no event shall expenditures exceed the revenues of the Board during any fiscal year. No State appropriations shall be subject to the administration of the Board.

~~(f) The Board shall establish and receive fees not to exceed fifty dollars ($50.00) for initial or renewal application. Fees for the national written examination shall be the cost of the examination to the Board plus an additional fee not to exceed fifty dollars ($50.00). The fee for late renewal shall not exceed fifteen dollars ($15.00). The Board shall maintain accounts of all receipts and make expenditures from Board receipts for any purpose which is reasonable and necessary for the proper performance of its duties under this Chapter.~~

(g) The Board shall have the power to establish or approve study or training courses and to establish reasonable standards for ~~certification and certificate renewal,~~ certification, licensure, and renewal of certification and licensure, including ~~but not limited to~~ the power to adopt or use examination materials and accreditation standards of the Council on Social Work Education or other recognized accrediting agency and the power to establish reasonable standards for continuing social work education; provided that for certificate and license renewal no examination shall be required; provided further, that the Board shall not have the power to withhold approval of study or training courses offered by a college or university having a social work program approved by the Council on Social Work Education.

(h) Subject to the provisions of Chapter 150B of the General Statutes, the Board shall have the power to ~~adopt, amend, or rescind~~ adopt rules ~~and regulations~~ to carry out the purposes of this Chapter, including but not limited to the power to adopt ethical and disciplinary standards.

(i) The Board may order that any records concerning the practice of social work and relevant to a complaint received by the Board or an inquiry or investigation conducted by or on behalf of the Board shall be produced by the custodian of the records to the Board or for inspection and copying by representatives of or counsel to the Board.

"**§ 90B-6.1. Board general provisions.**

The Board shall be subject to the administrative provisions of Chapter 93B of the General Statutes.

"**§ 90B-6.2. Fees.**

(a) The Board shall establish fees not exceeding the following amounts:

(1)	All initial applications	$200.00
(2)	Examination	Cost plus an amount not to exceed $40.00
(3)	Repeated examination or any additional examination	Cost plus an amount not to exceed $40.00
(4)	Renewal applications	200.00
(5)	Late fees for renewal	50.00
(6)	Reinstatement	200.00
(7)	Duplicate license	25.00
(8)	Temporary certificate or license	25.00.

(b) Notwithstanding subdivision (a)(4) of this section, the Board may establish a graduated fee schedule for renewals that is based upon the applicant's level of certification or licensure. The Board may establish fees for the actual cost of duplication services, materials, and returned bank items. All fees derived from services provided by the Board under the provisions of this Chapter shall be nonrefundable. The Board shall maintain accounts of all receipts to the Board.

."**§ 90B-7. Titles and qualifications for ~~certificates.~~ certificates and licenses.**

(a) Each person desiring to obtain a certificate or license from the Board shall make application to the Board upon such forms and in such manner as the Board shall prescribe, together with the required application fee established by the Board.

(b) The Board shall issue a certificate as "Certified Social Worker" to an applicant ~~who:~~ who meets the following qualifications:

(1) Has a ~~bachelor's~~ bachelors degree in a social work program from a college or university having a social work program accredited or admitted to candidacy for accreditation by the Council on Social Work Education for undergraduate ~~curricula or has a bachelor's degree in a subject area related to human services and has~~

~~completed a minimum of 18 semester hours of social work training in a social work program accredited or admitted to candidacy for accreditation by the Council on Social Work Education; and~~ curricula.

(2) Has passed the Board examination for the certification of persons in this classification.

(c) The Board shall issue a certificate as "Certified Master Social Worker" to an applicant ~~who:~~ who meets the following qualifications:

(1) Has a ~~master's~~ masters or ~~doctor's~~ doctoral degree in a social work program from a college or university having a social work program approved by the Council on Social Work ~~Education; and~~ Education.

(2) Has passed the Board examination for the certification of persons in this classification.

(d) The Board shall issue a ~~certificate~~ license as a ~~"Certified~~ "Licensed Clinical Social Worker" to an applicant ~~who:~~ who meets the following qualifications:

(1) Holds or qualifies for a current certificate as a Certified Master Social ~~Worker; and~~ Worker.

(2) Shows to the satisfaction of the Board that he or she has had two years of clinical social work experience with appropriate supervision in the field of specialization in which the applicant will ~~practice; and~~ practice.

(3) Has passed the Board examination for the ~~certification~~ licensure of persons in this classification.

(e) The Board shall issue a certificate as a "Certified Social Work Manager" to an applicant ~~who:~~ who meets the following qualifications:

(1) Holds or qualifies for a current certificate as a Certified Social ~~Worker; and~~ Worker.

(2) Shows to the satisfaction of the Board that he or she has had two years of experience in an administrative setting with appropriate supervision and ~~training; and~~ training.

(3) Has passed the Board examination for the certification of persons in this classification.

(f) The Board may issue a provisional ~~certificate~~ license in clinical social work to a person who has a ~~master's~~ masters or ~~doctor's~~ doctoral degree in a social work program from a college or university having a social work program approved by the Council on Social Work Education and desires to be ~~certified~~ licensed as a clinical social worker. The provisional ~~certificate~~ license may not be issued for a period exceeding two years and the person issued the provisional ~~certificate~~ license must practice under the supervision of a ~~certified~~ licensed clinical social worker or a Board-approved alternate.

"**§ 90B-8. Persons from other jurisdictions.**

(a) The Board may grant a certificate or license without examination or by special examination to any person who, at the time of application, is certified, registered or

licensed as a social worker by a similar board of another country, state, or territory whose certification, registration or licensing standards are substantially equivalent to those required by this Chapter. The applicant shall have passed an examination in the country, state, or territory in which he or she is certified, registered, or licensed that is equivalent to the examination required for the level of certification or licensure sought in this State.

(b) The Board may issue a temporary license to a nonresident clinical social worker who is either certified, registered, or licensed in another jurisdiction whose standards, in the opinion of the Board, at the time of the person's certification, registration, or licensure were substantially equivalent to or higher than the requirements of this Chapter. Nothing in this Chapter shall be construed as prohibiting a nonresident clinical social worker certified, registered, or licensed in another state from rendering professional clinical social work services in this State for a period of not more than five days in any calendar year. All persons granted a temporary clinical social worker license shall comply with the supervision requirements established by the Board.

"**§ 90B-9. Renewal of ~~certificates.~~ certificates and licenses.**

(a) All certificates and licenses shall be effective upon date of issuance by the Board, and shall ~~expire~~ be renewed on or before the second June 30 thereafter.

(b) All certificates and licenses issued hereunder shall be renewed at the times and in the manner provided by this section. At least 45 days prior to expiration of each ~~certificate,~~ certificate or license, the Board shall mail a notice and application for ~~certificate~~ renewal to the ~~person certified for the current certification period.~~ certificate holder or licensee. Prior to the expiration date, the ~~applicant must return the notice~~ application shall be returned properly completed, together with a renewal fee established by the Board pursuant to G.S. 90B-6.2(a)(5) and evidence of completion of the continuing education requirements established by the Board ~~under~~ pursuant to G.S. 90B-6(g), upon receipt of which the Board shall ~~issue to the person to be certified the renewed certificate for the period stated on the certificate.~~ renew the certificate or license. If a certificate or license is not renewed on or before the expiration date, an additional fee shall be charged for late renewal as provided in G.S. 90B-6.2(a)(6).

(c) ~~Any person certified who allows his certificate to lapse for failure to apply for renewal within 45 days after notice shall have his or her certificate automatically suspended, and be subject to a late renewal fee as established pursuant to G.S. 90B-6(f), and if he or she fails to apply for renewal of a certificate within one year after date of such suspension, the certificate shall lapse and may be reissued only upon application as for an original certificate.~~ A certificate or license issued under this Chapter shall be automatically suspended for failure to renew for a period of more than 60 days after the renewal date. The Board may reinstate a certificate or license suspended under this subsection upon payment of a reinstatement fee as provided in G.S. 90B-6.2(a)(7) and may require that the applicant file a new application, furnish new supervisory reports or references or otherwise update his or her credentials, or submit to examination for reinstatement. The Board shall have

exclusive jurisdiction to investigate alleged violations of this Chapter by any person whose certificate or license has been suspended under this subsection and, upon proof of any violation of this Chapter, the Board may take disciplinary action as provided in G.S. 90B-11.

(d) Any person certified or licensed and desiring to retire temporarily from the practice of social work shall send written notice thereof to the Board. Upon receipt of such notice, his or her name shall be placed upon the nonpracticing list and he or she shall not be subject to payment ~~or~~ of renewal ~~fees.~~ fees while temporarily retired. In order to ~~renew certification, application for renewal shall be made in ordinary course with a renewal fee for the current period.~~ reinstate certification or licensure, the person shall apply to the Board by making a request for reinstatement and paying the appropriate fee as provided in G.S. 90B-6.2.

"§ 90B-10. Exemption from certain requirements.

(a) Applicants who were engaged in the practice of social work before January 1, 1984, shall be exempt from the academic qualifications required by this act for Certified Social Workers and Certified Social Work Managers and shall be certified upon passing the Board examination and meeting the experience requirements, if any, for certification of persons in that classification.

(b) The following may engage in clinical social work practice without meeting the requirements of G.S. 90B-7(d):

(1) A person who has engaged in clinical social work practice for one year prior to the effective date of this act and who properly applies for and pays the required fees for a certificate as a certified clinical social worker prior to January 1, 1993. Notwithstanding the foregoing provision of this subdivision, any applicant who applied for certification pursuant to this subdivision between December 1, 1993, and January 15, 1994, and who is otherwise eligible for certification under this subdivision but for the January 1, 1993, deadline shall be certified.

(2) A student completing a clinical requirement for graduation while pursuing a course of study in social work in an institution accredited by or in candidacy status with the Council on Social Work Education.

(3) An employee engaged in clinical social work practice exclusively for one of the following employers:

a. **(Effective until January 1, 1999)** The State, a political subdivision of the State, or a local government.

b. A hospital or health care facility licensed pursuant to Article 2 of Chapter 122C of the General Statutes or Articles 5 and 6 of Chapter 131E of the General Statutes.

"§ 90B-11. Disciplinary procedures.

(a) The Board may, in accordance with the provisions of Chapter 150B of the General Statutes, ~~refuse to grant or to renew, may suspend, or may revoke the certificate of any person certified under this Chapter on the following grounds:~~ deny,

suspend, or revoke an application, certificate, or license on any of the following grounds:

(1) Conviction of a misdemeanor or the entering of a plea of guilty or nolo contendere to a misdemeanor under this ~~Chapter; or~~ Chapter.

(2) Conviction of a felony or the entering of a plea of guilty or nolo contendere to a felony under the laws of the United States or of any state of the United ~~States; or~~ States.

(3) Gross unprofessional conduct, dishonest practice or incompetence in the practice of social ~~work; or~~ work.

(4) Procuring or attempting to procure a certificate or license by fraud, deceit, or ~~misrepresentation; or~~ misrepresentation.

(5) Any fraudulent or dishonest conduct in social ~~work; or~~ work.

(6) Inability of the person to perform the functions for which he or she is ~~certified,~~ certified or licensed, or substantial impairment of abilities by reason of physical or mental ~~disability; or~~ disability.

(7) Violations of any of the provisions of this Chapter or of rules of the Board.

(b) Upon proof that an applicant, certificate holder, or licensee under this Chapter has engaged in any of the prohibited actions specified in subsection (a) of this section, the Board may, in lieu of denial, suspension, or revocation, take one or more of the following actions:

(1) Issue a reprimand or censure.

(2) Order probation with conditions deemed appropriate by the Board.

(3) Require examination, remediation, or rehabilitation, including care, counseling, or treatment by a professional designated or approved by the Board, the cost of which shall be borne by the applicant, certificate holder, or licensee.

(4) Require supervision for the services provided by the applicant, certificate holder, or licensee by a certified or licensed social worker designated and approved by the Board, the cost of which shall be borne by the applicant, certificate holder, or licensee.

(5) Limit or circumscribe the practice of social work provided by the applicant, certificate holder, or licensee with respect to the extent, nature, or location of the services provided.

(c) The Board may impose conditions of probation or restrictions upon continued practice at the conclusion of a period of suspension or as a requirement for the restoration of a revoked or suspended certificate or license. Instead of or in connection with any disciplinary proceeding or investigation, the Board may enter into a consent order with an applicant, certificate holder, or licensee relative to a discipline, supervision, probation, remediation, rehabilitation, or practice limitation.

(d) In considering whether an applicant, certificate holder, or licensee is mentally or physically capable of practicing social work with reasonable skill and safety, the Board may require an applicant, certificate holder, or licensee to submit to a mental

examination by a licensed clinical social worker or other licensed mental health professional designated by the Board and to a physical examination by a physician or other licensed health professional designated by the Board. The examination may be ordered by the Board before or after charges are presented against the applicant, certificate holder, or licensee and the results of the examination shall be reported directly to the Board and shall be admissible in evidence in a hearing before the Board.

(e) The Board shall provide the opportunity for a hearing under Article 3A of Chapter 150B of the General Statutes to: (i) any person whose certification or licensure was denied or granted subject to restrictions, probation, disciplinary action, remediation, or other conditions or limitations; and (ii) any certificate holder or licensee before revoking or suspending his or her certificate or license or restricting his or her practice or imposing any other disciplinary action or remediation. If the applicant, certificate holder, or licensee waives the opportunity for a hearing, the Board's denial, revocation, suspension, or other action shall be final. No applicant, certificate holder, or licensee shall be entitled to a hearing for failure to pass a qualifying examination.

(f) In any proceeding before the Board, complaint or notice of charges against any applicant, certificate holder, or licensee, and any decision rendered by the Board, the Board may withhold from public disclosure the identity of any client who has not consented to the public disclosure of social work services provided to him or her by the applicant, certificate holder, or licensee. If necessary for the protection and rights of a client and the full presentation of relevant evidence, the Board may close a hearing to the public and receive evidence involving or concerning the delivery of social work services.

(g) Records, papers, and other documents containing information collected and compiled by or on behalf of the Board as a result of an investigation, inquiry, or interview conducted in connection with certification, licensure, or a disciplinary matter shall not be considered public records within the meaning of Chapter 132 of the General Statutes. Any notice or statement of charges, notice of hearing, or decision rendered in connection with a hearing, shall be a public record. Information that identifies a client who has not consented to the public disclosure of services rendered to him or her by a person certified or licensed under this Chapter shall be deleted from the public record. All other records, papers, and documents containing information collected and compiled by or on behalf of the Board shall be public records, but any information that identifies a client who has not consented to the public disclosure of services rendered to him or her shall be deleted.

"**§ 90B-12. Violation a misdemeanor.**

Any person violating any provision of this Chapter is guilty of a Class 2 misdemeanor.

"**§ 90B-13. Injunction.**

As an additional remedy, the Board may proceed in a superior court to enjoin and restrain any person from violating the prohibitions of this Chapter. The Board shall not be required to post bond in connection with such proceeding.

"**§ 90B-14. Third-party reimbursements.**

Nothing in this Chapter shall be construed to authorize or require direct third-party reimbursement to persons certified under this Chapter."

Section 2. This act becomes effective July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1069

Short Title: Social Worker Licensure. (Public)

Sponsors: Representatives Alexander; Adams, Allen, Baddour, Cansler, Earle, Mosley, Nesbitt, and Sherrill.

Referred to: Finance.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT RECLASSIFYING CERTIFIED CLINICAL SOCIAL WORKERS AS LICENSED CLINICAL SOCIAL WORKERS AND REVISING THE FEES AND QUALIFICATIONS FOR CERTIFICATION AND LICENSURE OF SOCIAL WORKERS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90B of the General Statutes reads as rewritten:

"Chapter 90B.

"Social Worker Certification and Licensure Act.

"§ 90B-1. Short title.

This Chapter shall be known as the "Social Worker Certification and Licensure Act.

"§ 90B-2. Purpose.

Since the profession of social work significantly affects the lives of the people of this State, it is the purpose of this Chapter to protect the public by setting standards for qualification, ~~training~~ training, and experience for those who seek to represent themselves to the public as certified social workers or licensed clinical social workers and by promoting high standards of professional performance for those engaged in the practice of social work.

"§ 90B-3. Definitions.

The following definitions apply in this Chapter:

(1) Board. -- The North Carolina ~~Certification Board for Social Work.~~ Social Work Certification and Licensure Board.

(2) ~~Certified~~ Licensed Clinical Social Worker. -- A person who is competent to function independently, who holds himself or herself out to the public as a social worker, and who offers or provides clinical social work services or supervises others engaging in clinical social work practice.

(3) Certified Master Social Worker. -- A person who is certified under this Chapter to practice social work as a master social worker and is engaged in the practice of social work.

(4) Certified Social Work Manager. -- A person who is certified under this Chapter to practice social work as a social work manager and is engaged in the practice of social work.

(5) Certified Social Worker. -- A person who is certified under this Chapter to practice social work as a social worker and is engaged in the practice of social work.

(6) Clinical Social Work Practice. -- The professional application of social work theory and methods to the biopsychosocial diagnosis, treatment, or prevention, of emotional and mental disorders. Practice ~~includes~~ includes, by whatever means of communications, the treatment of individuals, couples, families, and groups, including the use of psychotherapy and referrals to and collaboration with other health professionals when appropriate. Clinical social work practice shall not include the provision of supportive daily living services to persons with severe and persistent mental illness as defined in G.S. 122C-3(33a).

(7) ~~Public~~ Practice of Social Work. -- To perform or offer to perform ~~services~~ services, by whatever means of communications, for other people that involve the application of social work values, principles, and techniques in areas such as social work services, consultation and administration, and social work planning and research.

(8) Social Worker. -- A person engaging in the ~~public~~ practice of social work who is not certified or licensed under this Chapter as a Certified Social Worker, Certified Master Social Worker, ~~Certified~~ Licensed Clinical Social Worker, or Certified Social Work Manager.

"**§ 90B-4. Prohibitions.**

(a) Except as otherwise provided in this Chapter, it is unlawful for any person who is not certified as a social worker, master social worker, or social work manager under this Chapter to represent himself or herself to be certified under this Chapter or hold himself or herself out to the public by any title or description denoting that he or she is certified under this Chapter.

(b) After January 1, 1992, except as otherwise provided in this Chapter, it is unlawful to engage in or offer to engage in the practice of clinical social work without first being ~~certified~~ licensed under this Chapter as a clinical social worker.

(c) Nothing herein shall prohibit school social workers who are certified by the State Board of Education from practicing school social work under the title "Certified School Social Worker." Except as provided for ~~certified~~ licensed clinical social workers, nothing herein shall be construed as prohibiting social workers who are not certified by the Board from practicing social work. Except as provided herein for ~~certified~~ licensed clinical social workers, no agency, institution, board, commission, bureau, department, division, council, member of the Council of State, or officer of the legislative, executive or judicial branches of State government or counties, cities, towns, villages, other municipal corporations, political subdivisions of the State, public authorities, private corporations created by act of the General Assembly or any firm or corporation receiving State funds shall require the obtaining or holding of any certificate issued under this Chapter or the taking of an examination held pursuant to this Chapter as a requirement for obtaining or continuing in employment.

(d) Nothing herein shall authorize the practice of medicine as defined in Article 1 of this Chapter or the practice of psychology as defined in Article 18A of this Chapter.

"§ 90B-5. North Carolina ~~Certification Board for Social Work;~~ Social Work Licensure Board; appointments; terms; composition.

(a) For the purpose of carrying out the provisions of this Chapter, there is hereby created the North Carolina ~~Certification Board for~~ Social Work Certification and Licensure Board which shall consist of seven members appointed by the Governor as follows:

(1) At least two members of the Board shall be Certified Social Workers or Certified Master Social Workers, three members shall be ~~Certified~~ Licensed Clinical Social Workers, and two members shall be appointed from the public at large. Composition of the Board as to the race and sex of its members shall reflect the composition of the population of the State of North Carolina.

(2) At all times the Board shall include at least one member primarily engaged in social work education, at least one member primarily engaged in social work in the public sector, and at least one member primarily engaged in social work in the private sector.

(3) All members of the Board shall be residents of the State of North Carolina, and with the exception of the public members, shall be certified or licensed by the Board under the provisions of this Chapter. Professional members of the Board must be actively engaged in the practice of social work or in the education and training of students in social work, and have been for at least three years prior to their appointment to the Board. Such activity during the two years preceding the appointment shall have occurred primarily in this State.

(b) The Governor may only remove a member of the Board for neglect of duty, malfeasance, or conviction of a felony or other crime of moral turpitude.

(c) The term of office of each member of the Board shall be three years. No member shall serve more than two consecutive three-year terms. Each term of service on the Board shall expire on the 30th day of June of the year in which the term expires. As the term of a member expires, the Governor shall make the appointment for a full term, or, if a vacancy occurs for any other reason, for the remainder of the unexpired term.

(d) Members of the Board shall receive compensation for their services and reimbursement for expenses incurred in the performance of duties required by this Chapter, at the rates prescribed in G.S. 93B-5.

(e) The Board may employ, subject to the provisions of Chapter 126 of the General Statutes, the necessary personnel for the performance of its functions, and fix their compensation within the limits of funds available to the Board.

"**§ 90B-6. Functions and duties of the ~~Certification~~ Board.**

(a) The Board shall administer and enforce the provisions of this Chapter.

(b) The Board shall elect from its membership, a chairperson, a vice-chairperson, and secretary-treasurer, and adopt rules to govern its proceedings. A majority of the membership shall constitute a quorum for all Board meetings.

(c) The Board shall examine and pass on the qualifications of all applicants for certificates and licenses under this Chapter, and shall issue a certificate or license to each successful applicant therefor.

(d) The Board may adopt a seal which may be affixed to all certificates and licenses issued by the Board.

(e) The Board may authorize expenditures deemed necessary to carry out the provisions of this Chapter from the fees which it collects, but in no event shall expenditures exceed the revenues of the Board during any fiscal year. No State appropriations shall be subject to the administration of the Board.

~~(f) The Board shall establish and receive fees not to exceed fifty dollars ($50.00) for initial or renewal application. Fees for the national written examination shall be the cost of the examination to the Board plus an additional fee not to exceed fifty dollars ($50.00). The fee for late renewal shall not exceed fifteen dollars ($15.00). The Board shall maintain accounts of all receipts and make expenditures from Board receipts for any purpose which is reasonable and necessary for the proper performance of its duties under this Chapter.~~

(g) The Board shall have the power to establish or approve study or training courses and to establish reasonable standards for ~~certification and certificate renewal,~~ certification, licensure, and renewal of certification and licensure, including ~~but not limited to~~ the power to adopt or use examination materials and accreditation standards of the Council on Social Work Education or other recognized accrediting agency and the power to establish reasonable standards for continuing social work education; provided that for certificate and license renewal no examination shall be required; provided further, that the Board shall not have the power to withhold approval of study or training courses offered by a college or university having a social work program approved by the Council on Social Work Education.

(h) Subject to the provisions of Chapter 150B of the General Statutes, the Board shall have the power to adopt, amend, or rescind rules and regulations to carry out the purposes of this Chapter, including but not limited to the power to adopt ethical and disciplinary standards.

(i) The Board may order that any records concerning the practice of social work and relevant to a complaint received by the Board or an inquiry or investigation conducted by or on behalf of the Board shall be produced by the custodian of the records to the Board or for inspection and copying by representatives of or counsel to the Board.

"§ 90B-6.1. Board general provisions.

The Board shall be subject to the administrative provisions of Chapter 93B of the General Statutes.

"§ 90B-6.2 Fees.

(a) The Board shall establish fees not exceeding the following amounts:

(1)	All initial applications	$200.00
(2)	Examination	Cost plus an amount not to exceed $40.00
(3)	Repeated examination or any additional examination	Cost plus an amount not to exceed $40.00
(4)	Renewal applications	200.00
(5)	Late fees for renewal	50.00
(6)	Reinstatement	200.00
(7)	Duplicate license	25.00
(8)	Temporary certificate or license	25.00.

(b) Notwithstanding subdivision (a)(5) of this section, the Board may establish a graduated fee schedule for renewals that is based upon the applicant's level of certification or licensure. The Board may establish reasonable fees for duplication services, materials, and returned bank items. All fees derived from services provided by the Board under the provisions of this Chapter shall be nonrefundable. The Board shall maintain accounts of all receipts to the Board.

"§ 90B-7. Titles and qualifications for ~~certificates.~~ certificates and licenses.

(a) Each person desiring to obtain a certificate or license from the Board shall make application to the Board upon such forms and in such manner as the Board shall prescribe, together with the required application fee established by the Board.

(b) The Board shall issue a certificate as "Certified Social Worker" to an applicant ~~who:~~ who meets the following qualifications:

(1) Has a bachelor's degree in a social work program from a college or university having a social work program accredited or admitted to candidacy for accreditation by the Council on Social Work Education for undergraduate ~~curricula or has a bachelor's degree in a subject area related to human services and has completed a~~

~~minimum of 18 semester hours of social work training in a social work program accredited or admitted to candidacy for accreditation by the Council on Social Work Education; and~~ curricula.

(2) Has passed the Board examination for the certification of persons in this classification.

(c) The Board shall issue a certificate as "Certified Master Social Worker" to an applicant ~~who:~~ who meets the following qualifications:

(1) Has a ~~master's~~ masters or ~~doctor's~~ doctoral degree in a social work program from a college or university having a social work program approved by the Council on Social Work ~~Education; and~~ Education.

(2) Has passed the Board examination for the certification of persons in this classification.

(d) The Board shall issue a ~~certificate~~ license as a ~~"Certified~~ "Licensed Clinical Social Worker" to an applicant ~~who:~~ who meets the following qualifications:

(1) Holds or qualifies for a current certificate as a Certified Master Social ~~Worker; and~~ Worker.

(2) Shows to the satisfaction of the Board that he or she has had two years of clinical social work experience with appropriate supervision in the field of specialization in which the applicant will ~~practice; and~~ practice.

(3) Has passed the Board examination for the ~~certification~~ licensure of persons in this classification.

(e) The Board shall issue a certificate as a "Certified Social Work Manager" to an applicant ~~who:~~ who meets the following qualifications:

(1) Holds or qualifies for a current certificate as a Certified Social ~~Worker; and~~ Worker.

(2) Shows to the satisfaction of the Board that he or she has had two years of experience in an administrative setting with appropriate supervision and ~~training; and~~ training.

(3) Has passed the Board examination for the certification of persons in this classification.

(f) The Board may issue a provisional ~~certificate~~ license in clinical social work to a person who has a ~~master's~~ masters or ~~doctor's~~ doctoral degree in a social work program from a college or university having a social work program approved by the Council on Social Work Education and desires to be ~~certified~~ licensed as a clinical social worker. The provisional ~~certificate~~ license may not be issued for a period exceeding two years and the person issued the provisional ~~certificate~~ license must practice under the supervision of a ~~certified~~ licensed clinical social worker or a Board-approved alternate.

"§ 90B-8. Persons from other jurisdictions.

(a) The Board may grant a certificate without examination or by special examination to any person who, at the time of application, is certified, registered or

licensed as a social worker by a similar board of another country, state, or territory whose certification, registration or licensing standards are substantially equivalent to those required by this Chapter. The applicant shall have passed an examination in the country, state, or territory in which he or she is certified, registered, or licensed that is equivalent to the examination required for the level of certification or licensure sought in this State.

(b) The Board may issue a temporary license to a nonresident clinical social worker who is either certified, registered, or licensed in another jurisdiction whose standards, in the opinion of the Board, at the time of the person's certification, registration, or licensure were substantially equivalent to or higher than the requirements of this Chapter. Nothing in this Chapter shall be construed as prohibiting a nonresident clinical social worker certified, registered, or licensed in another state from rendering professional clinical social work services in this State for a period of not more than five days in any calendar year. All persons granted a temporary clinical social worker license shall comply with the supervision requirements established by the Board.

"**§ 90B-9. Renewal of ~~certificates.~~** certificates and licenses.

(a) All certificates and licenses shall be effective upon date of issuance by the Board, and shall ~~expire~~ be renewed on or before the second June 30 thereafter.

(b) All certificates and licenses issued hereunder shall be renewed at the times and in the manner provided by this section. At least 45 days prior to expiration of each ~~certificate,~~ certificate or license, the Board shall mail a notice and application for ~~certificate~~ renewal to the ~~person certified for the current certification period.~~ certificate holder or licensee. Prior to the expiration date, the ~~applicant must return the notice~~ application shall be returned properly completed, together with a renewal fee established by the Board pursuant to G.S. 90B-6.2(a)(5) and evidence of completion of the continuing education requirements established by the Board ~~under~~ pursuant to G.S. 90B-6(g), upon receipt of which the Board shall ~~issue to the person to be certified the renewed certificate for the period stated on the certificate.~~ renew the certificate or license. If a certificate or license is not renewed on or before the expiration date, an additional fee shall be charged for late renewal as provided in G.S. 90B-6.2(a)(6).

(c) ~~Any person certified who allows his certificate to lapse for failure to apply for renewal within 45 days after notice shall have his or her certificate automatically suspended, and be subject to a late renewal fee as established pursuant to G.S. 90B-6(f), and if he or she fails to apply for renewal of a certificate within one year after date of such suspension, the certificate shall lapse and may be reissued only upon application as for an original certificate.~~ A certificate or license issued under this Chapter shall be automatically suspended for failure to renew for a period of more than 60 days after the renewal date. The Board may reinstate a certificate or license suspended under this subsection upon payment of a reinstatement fee as provided in G.S. 90B-6.2(a)(7), and may require that the applicant file a new application, furnish new supervisory reports or references or otherwise update his or her credentials, or submit to examination for reinstatement. The Board shall have

exclusive jurisdiction to investigate alleged violations of this Chapter by any person whose certificate or license has been suspended under this subsection and, upon proof of any violation of this Chapter, the Board may take disciplinary action as provided in G.S. 90B-11.

(d) Any person certified or licensed and desiring to retire temporarily from the practice of social work shall send written notice thereof to the Board. Upon receipt of such notice, his or her name shall be placed upon the nonpracticing list and he or she shall not be subject to payment ~~or~~ of renewal ~~fees.~~ fees while temporarily retired. In order to ~~renew certification, application for renewal shall be made in ordinary course with a renewal fee for the current period.~~ reinstate certification or licensure, the person shall apply to the Board by making a request for reinstatement and paying the appropriate fee as provided in G.S. 90B-6.2.

"§ 90B-10. Exemption from certain requirements.

(a) Applicants who were engaged in the practice of social work before January 1, 1984, shall be exempt from the academic qualifications required by this act for Certified Social Workers and Certified Social Work Managers and shall be certified upon passing the Board examination and meeting the experience requirements, if any, for certification of persons in that classification.

(b) The following may engage in clinical social work practice without meeting the requirements of G.S. 90B-7(d):

(1) A person who has engaged in clinical social work practice for one year prior to the effective date of this act and who properly applies for and pays the required fees for a certificate as a certified clinical social worker prior to January 1, 1993. Notwithstanding the foregoing provision of this subdivision, any applicant who applied for certification pursuant to this subdivision between December 1, 1993, and January 15, 1994, and who is otherwise eligible for certification under this subdivision but for the January 1, 1993, deadline shall be certified.

(2) A student completing a clinical requirement for graduation while pursuing a course of study in social work in an institution accredited by or in candidacy status with the Council on Social Work Education.

(3) An employee engaged in clinical social work practice exclusively for one of the following employers:

a. **(Effective until January 1, 1999)** The State, a political subdivision of the State, or a local government.

b. A hospital or health care facility licensed pursuant to Article 2 of Chapter 122C of the General Statutes or Articles 5 and 6 of Chapter 131E of the General Statutes.

"§ 90B-11. Disciplinary procedures.

(a) The Board may, in accordance with the provisions of Chapter 150B of the General Statutes, ~~refuse to grant or to renew, may suspend, or may revoke the certificate of any person certified under this Chapter on the following grounds:~~ deny,

suspend, or revoke an application, certificate, or license on any of the following grounds:

(1) Conviction of a misdemeanor or the entering of a plea of guilty or nolo contendere to a misdemeanor under this ~~Chapter; or~~ Chapter.

(2) Conviction of a felony or the entering of a plea of guilty or nolo contendere to a felony under the laws of the United States or of any state of the United ~~States; or~~ States.

(3) Gross unprofessional conduct, dishonest practice or incompetence in the practice of social ~~work; or~~ work.

(4) Procuring or attempting to procure a certificate or license by fraud, deceit, or ~~misrepresentation; or~~ misrepresentation.

(5) Any fraudulent or dishonest conduct in social ~~work; or~~ work.

(6) Inability of the person to perform the functions for which he or she is certified, or substantial impairment of abilities by reason of physical or mental ~~disability; or~~ disability.

(7) Violations of any of the provisions of this Chapter or of rules of the Board.

(b) Instead of denying, suspending, or revoking an application, certificate, or license, the Board may take the following action if an applicant, certificate holder, or licensee has committed an act described in subsection (a) of this section:

(1) Issue a reprimand or censure.

(2) Order probation with conditions deemed appropriate by the Board.

(3) Require examination, remediation, or rehabilitation, including care, counseling, or treatment by a professional designated or approved by the Board, the cost of which shall be borne by the applicant, certificate holder, or licensee.

(4) Require supervision for the services provided by the applicant, certificate holder, or licensee by a certified or licensed social worker designated and approved by the Board, the cost of which shall be borne by the applicant, certificate holder, or licensee.

(5) Limit or circumscribe the practice of social work provided by the applicant, certificate holder, or licensee with respect to the extent, nature, or location of the services provided.

(6) Impose a combination of the acts authorized in subdivisions (1) through (5) of this subsection.

(c) The Board may impose conditions of probation or restrictions upon continued practice at the conclusion of a period of suspension or as a requirement for the restoration of a revoked or suspended certificate or license. Instead of or in connection with any disciplinary proceeding or investigation, the Board may enter into a consent order with an applicant, certificate holder, or licensee relative to a discipline, supervision, probation, remediation, rehabilitation, or practice limitation.

(d) In considering whether an applicant, certificate holder, or licensee is mentally or physically capable of practicing social work with reasonable skill and safety, the

Board may require an applicant, certificate holder, or licensee to submit to a mental examination by a licensed clinical social worker or other licensed mental health professional designated by the Board and to a physical examination by a physician or other licensed health professional designated by the Board. The examination may be ordered by the Board before or after charges are presented against the applicant, certificate holder, or licensee and the results of the examination shall be reported directly to the Board and shall be admissible in evidence in a hearing before the Board.

(e) The Board shall provide the opportunity for a hearing under Article 3A of Chapter 150B of the General Statutes to: (i) any person whose certification or licensure was denied or granted subject to restrictions, probation, disciplinary action, remediation, or other conditions or limitations; and (ii) any certificate holder or licensee before revoking or suspending his or her certificate or license or restricting his or her practice or imposing any other disciplinary action or remediation. If the applicant, certificate holder, or licensee waives the opportunity for a hearing, the Board's denial, revocation, suspension, or other action shall be final. No applicant, certificate holder, or licensee shall be entitled to a hearing for failure to pass a qualifying examination.

(f) In any proceeding before the Board, complaint or notice of charges against any applicant, certificate holder, or licensee, and any decision rendered by the Board, the Board may withhold from public disclosure the identity of any client who has not consented to the public disclosure of social work services provided to him or her by the applicant, certificate holder, or licensee. If necessary for the protection and rights of a client and the full presentation of relevant evidence, the Board may close a hearing to the public and receive evidence involving or concerning the delivery of social work services.

(g) Records, papers, and other documents containing information collected and compiled by or on behalf of the Board as a result of an investigation, inquiry, or interview conducted in connection with certification, licensure, or a disciplinary matter shall not be considered public records within the meaning of Chapter 132 of the General Statutes. Any notice or statement of charges, notice of hearing, or decision rendered in connection with a hearing, shall be a public record. Information that identifies a client who has not consented to the public disclosure of services rendered to him or her by a person certified or licensed under this Chapter shall be deleted from the public record. All other records, papers, and documents containing information collected and compiled by or on behalf of the Board shall be public records, but any information that identifies a client who has not consented to the public disclosure of services rendered to him or her shall be deleted.

(h) The Board may assess the costs of disciplinary action against an applicant, certificate holder, or licensee found to be in violation of this Chapter.

"**§ 90B-12. Violation a misdemeanor.**

Any person violating any provision of this Chapter is guilty of a Class 2 misdemeanor.

"**§ 90B-13. Injunction.**

As an additional remedy, the Board may proceed in a superior court to enjoin and restrain any person from violating the prohibitions of this Chapter. The Board shall not be required to post bond in connection with such proceeding.

"§ 90B-14. Third-party reimbursements.

Nothing in this Chapter shall be construed to authorize or require direct third-party reimbursement to persons certified under this Chapter."

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

HOUSE BILL 1069:
Social Worker Licensure

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Representative Alexander
Date:	May 27, 1999	**Summary by:**	Mary Shuping
Version:	PCS for 1st Edition - H1069-PCSSC-001		Research Assistant

SUMMARY: ***House Bill 1069 makes the following changes to the Social Worker Certification Act: (1) changes the name of the Board from the "North Carolina Certification Board for Social Work" to the "North Carolina Social Work Certification and Licensure Board"; (2) reclassifies certified clinical social workers to licensed clinical social workers; (3) increases the maximum fee amounts charged by the Board; (4) provides for certification of a social worker from another jurisdiction if the applicant has passed an equivalent exam in that jurisdiction; (5) authorizes the Board to issue a temporary license to a nonresident clinical social worker if the jurisdiction's standards were equivalent or higher than North Carolina's standards; (6) automatically suspends a certificate or license if not renewed for a period of more than 60 days after the renewal date; (7) provides for alternative disciplinary procedures; (8) authorizes the Board to order mental or physical exams to determine whether or not an individual is mentally or physically competent to practice social work without the Board having to petition the court for the exam(s); and, (9) clarifies whether records in a disciplinary proceeding are public documents.***

Most of the changes to the law concerning disciplinary proceedings, hearings, and records are based on the Psychology Practice Act. The proposed committee substitute makes technical and clarifying changes and changes the effective date to July 1, 1999.

CURRENT LAW & BILL ANALYSIS:

House Bill 1069 makes the following changes to the fee structure for certified and licensed social workers:

FEE CHANGES

TYPE OF FEE	CURRENT MAXIMUM FEE	PROPOSED MAXIMUM FEE
Initial Application	$50.00	$200.00
Renewal Application	$50.00	$200.00
Note: The Board may establish a graduated fee schedule based upon the applicant's level of certification or licensure.		
Written Exam	Actual cost + $50.00	Actual Cost + $40.00
Late Renewal	$15.00	$50.00
Repeated Exams or any add'l exams	N/A	Actual Cost + $40.00
Reinstatement	N/A	$200.00
Duplicate License	N/A	$25.00
Temporary certificate or license	N/A	$25.00

ANALYSIS OF HB 1069

Definitions. HB 1069 clarifies that the practice of clinical social work and social work includes treatment by whatever means of communication, and clarifies that the practice of social work includes performing services by whatever means of communication.

Production of Records Concerning the Practice of Social Work. The bill adds a new subsection (i) to allow the Board to order the production of records concerning the practice of social work that are relevant to a complaint, inquiry, or investigation.

Fees. This section lists all fees that may be charged by the Board, as outlined above. This section of the bill also:

- Authorizes the Board to establish a graduated fee schedule for renewals that is based upon the applicant's level of certification or licensure. Fees may not exceed the maximum set by statute.
- Authorizes the Board to establish fees for the actual cost of duplication services, materials, and returned bank items.
- Provides that all fees derived from services provided by the Board are nonrefundable and requires the Board to maintain accounts of all receipts.

Qualifications for Certified Social Workers. Current law provides that an applicant is qualified to be a Certified Social Worker if the applicant:

- Has a bachelor's degree in a social work program that is accredited or admitted to candidacy for accreditation by the Council on Social Work Education for undergraduate curricula; ***OR***
- Has a bachelor's degree in a subject area related to human services and has completed a minimum of 18 semester hours of social work training in an accredited social work program.

House Bill 1069 allows only those applicants who have a bachelor's degree in social work from an accredited college or university to become a Certified Social Worker.

Reciprocity. Current law permits the Board to grant a certificate to an applicant who is certified, registered, or licensed as a social worker in another country, state, or territory if the standards under which the person was certified, registered, or licensed are substantially the same as required by NC law.

House Bill 1069 adds the requirement that the applicant must have passed an exam in the country, state, or territory where the applicant is certified, registered, or licensed that is equivalent to the exam required for the level or certification or licensure in NC.

Temporary Licenses. This section of the bill authorizes the Board to issue a temporary license to a nonresident clinical social worker who is certified, registered, or licensed in another jurisdiction provided that the standards for certification, registration, or licensure were substantially the same as or higher than those in NC. However, a nonresident clinical social worker who is certified, registered, or licensed in another state will not be prohibited from rendering professional services in NC for a period of not more than 5 days in a calendar year. Finally, this section ensures that individuals granted a temporary license must comply with the supervision requirements of the Board.

Renewal/Suspension of Certificate or License for Failure to Renew. Current law provides that all certificates and licenses expire on the second June 30 after issuance. This section of the bill automatically suspends a certificate or license for failure to renew for a period of more than 60 days after the renewal date. The Board may reinstate the certificate or license upon payment of the reinstatement fee and may require the applicant to provide further information.

Inactive Status. This section clarifies that an individual who is certified or licensed who temporarily retires from the practice of social work is not required to pay renewal fees while temporarily retire. In order to reinstate a certificate or license, the individual must make a request for reinstatement and pay the reinstatement fee.

Disciplinary Procedures. This section authorizes the Board to deny, suspend, or revoke a certificate or license if an individual enters a plea of guilty or no contest to a misdemeanor or felony. (Currently, the individual must be convicted of the misdemeanor or felony.)

Alternatives to Denying, Suspending, or Revoking a Certificate or License. This section authorizes the Board to take one or more of the following actions if an individual has committed a prohibited act in G.S. 90B-11(a):

1. Issue a reprimand or censure.
2. Order probation with conditions deemed appropriate by the Board.
3. Require examination, remediation, or rehabilitation, including care, counseling, or treatment by a professional with the cost borne by the individual.
4. Require supervision by a certified or licensed social worker with the cost borne by the individual.
5. Limit the practice of social work provided by the individual with respect to the extent, nature, or location of the services provided.

These alternative disciplinary procedures are substantially the same as those in the Psychology Practice Act.

Probation/Restrictions After Suspension. This section authorizes the Board to impose conditions of probation or restrictions on practice after a period of suspension or as a requirement for the restoration of a revoked or suspended certificate or license. It also allows the Board to enter into a consent order with an individual instead of or in connection with a disciplinary proceeding or investigation. The consent order may be relative to a discipline supervision, probation, remediation, rehabilitation, or practice limitation. These provisions are substantially the same as those in the Psychology Practice Act.

Competence to Practice Social Work. This section authorizes the Board to require an applicant, certificate holder, or licensee to submit to a mental or physical examination when the Board is considering whether the individual is mentally or physically capable of practicing social work with reasonable skill or safety. This section does not require the Board to petition the court to order the individual to undergo the examination(s). These provisions are substantially the same as those in the Medical Practice Act.

Opportunity for Hearing. This section requires the Board to provide the opportunity for a hearing to an individual whose certificate or license has been subjected to disciplinary action, or prior to any disciplinary action. It also provides that if an individual waives the opportunity for a hearing, the Board's disciplinary action is final. Finally, there is no entitlement to a hearing for failure to pass an exam. This section is substantially the same as the Psychology Practice Act.

Records. This section allows the Board to withhold the identity of any client who has not consented to public disclosure in Board proceedings against an applicant, certificate holder, or licensee. The Board would also be authorized to close hearings to the public if necessary to protect the rights of a client. Furthermore, documents containing information complied by on or behalf of the Board as a result of an investigation, inquiry, or interview conducted in connection with certification, licensure, or a disciplinary matter are not considered public records. However, notices, statements of charges, notices of hearing, decisions rendered in connection with a hearing, and all other information compiled by or on behalf of the Board, except for information identifying a client who has not consented to public disclosure, are public records. These requirements are substantially the same as those in the Psychology Practice Act.

Costs of Disciplinary Action. The Board may assess the costs of disciplinary action against an applicant, certificate holder, or licensee who is found to be in violation of this Chapter. This authority is the same as in the Psychology Practice Act.

EFFECTIVE DATE: The act becomes effective July 1, 1999.

Martha Walston, Committee Counsel, Senate Finance Committee, contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: H.B. 1069 DRAFT

SHORT TITLE: Social Work Licensure

SPONSOR(S): Rep. Alexander

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
General Fund		* No General Fund Impact *			
Social Work Board	**120,175**	**84,097**	**384,715**	**204,209**	**414,828**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Certification Board for Social Workers.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The legislation makes several changes to the fee schedule and clarifies disciplinary procedures for social workers. It reclassifies certified clinical social workers as licensed clinical social workers. It also modifies the existing social work licensure fee schedule, and introduces new fees.

ASSUMPTIONS AND METHODOLOGY: The North Carolina certification program for social workers, and the associated fees, was established in 1982. The fees have not changed since that time. In 1993 certification became mandatory for clinical social workers. Previously certification was voluntary. According to Board members, this change dramatically increased the workload of the Board. In 1996-97 the Board provided 570 clinical social work renewal certifications (CCSW). In the following fiscal year the Board offered 1630 clinical social work renewal certifications. These certifications, as well as all other certifications offered by the board, must be renewed every two years. The board charges the maximum fee of $50.00. Previous renewal revenue for clinical social workers is as follows:

Year	Clinical Social Worker Cert.	Revenue
1996-97	576	28,800
1997-98	1639	81,950

Based on the last four fiscal years, the Board believes 10% is a reasonable growth rate for the number of clinical social workers over the next five fiscal years. The legislation authorizes the

Board to increase the fee to a maximum of $200.00 for this group. However, they anticipate moving gradually to that level. They expect to charge approximately $100.00 for clinical renewals in FY 1999-00, and $125.00 in FY 00-01. No Board decision has been made about fees in the out years. Assuming the board charges $100.00 in FY 1999-00, $125.00 in FY 2000-01, and the maximum of $200 in future years, the expected revenue from clinical renewals is as follows:

Year	Clinical Social Worker Cert.	Revenue @ $50	New Revenue Levels	Change
1999-00	1803	90,145	180,290	90,145
2000-01	697	34,848	87,120	52,272
2001-02	1983	99,160	396,638	297,479
2002-03	767	38,333	153,331	114,998
2003-04	2182	109,075	436,302	327,226

(Note: These estimates, and the historical figures, assume both the clinical and provisional clinical social work certifications are raised to the levels indicated above).

The Board also certifies several other related types of social work professionals like social work managers and clinical workers with Masters' degrees. The bill also authorizes an increase in these fees. These certifications must also be renewed every two years. The board currently charges approximately $50.00 for each of these certifications. The Board anticipates increasing these fees to between $55 and $100 in FY 1999-00, and between $60 and $125 in FY 2000-01. In 1996-97 there were 177 individuals in these categories combined. In 1997-98 that number increased to 310. The board anticipates there will be 245 individuals in these categories in FY 1999-00, and 243 in FY 2000-01. The number of each type of certificate, the anticipated fee, and the associated revenue increase, is as follows:

	FY 1999-00				FY 2000-01			
	Certif.	New Fee	Revenue	**Increase**	Certif.	New Fee	Revenue	**Increase**
Social Work Managers	28	100	$ 2,800	**1,400**	23	125	$ 2,875	**1,725**
Master Social Work	83	65	$ 5,395	**1,245**	79	75	$ 5,925	**1,975**
Social Worker	134	55	$ 7,370	**670**	141	60	$ 8,460	**1,410**
TOTAL	245	220	15565	**3,315**	243	260	17260	5,110

Fiscal Research assumes these numbers will increase by 10% in the out years. (Because of the cyclical nature of certification the increase is staggered). The five-year revenue estimate for this portion of the bill is as follows:

	Revenue Increase
FY 1999-00	3,315
FY 2000-01	5,110
FY 2001-02	3,647
FY 2002-03	5,621
FY 2003-04	4,011

The bill also authorizes a fee increase for initial applications. Currently the board charges $50.00. Under the legislation the board can increase the fee to as much as $200.00. The Board believes they will charge $100 for the first two years. Last year the board drew approximately

$28,125 from initial application fees. If the fee were increased to $100, the Board would see an additional $28,125 in annual revenue. If the board charges the maximum in the out years they would see an increase of approximately $85,000 annually.

The legislation also lowers the administrative fee associated with the national written exam. Under current law the board charges $50.00 plus the actual cost of the test instrument. The bill lowers that amount to $40.00, plus test cost. The Board believes this reduction more accurately reflects the actual administrative expense. In 1997-98, 241 individuals paid an examination fee. No significant change is expected in the number of tests given. Therefore, the board will loose approximately $2,410 as a result of this provision.

The bill establishes a $25.00 fee for temporary and duplicate licenses and certificates, and a $200.00 fee for reinstatement. The Board expects the revenue from these changes to be insignificant, but feels such provisions are necessary to clarify the law. This fiscal note assumes $1,000 in revenue from these provisions.

According to Board members, the revenue from increased fees will be used to establish an office with a professionally trained director and support staff. They note that full time staff is needed to provide professional training and support for social workers and appropriate record keeping. They believe the renewal fees in the bill are in line with those charged by similar professional boards in North Carolina.

The total net change in revenue as a result of the bill is as follows:

	1999-00	2000-01	2001-02*	2002-03*	2003-04*
CCSW Renewals	90,145	52,272	297,479	114,998	327,226
Other Renewals	3,315	5,110	3,647	5,621	4,011
Initial Applications	28,125	28,125	85,000	85,000	85,000
Exams	(2,410)	(2,410)	(2,410)	(2,410)	(2,410)
Other Provisions	1,000	1,000	1,000	1,000	1,000
TOTAL	**120,175**	**84,097**	**384,715**	**204,209**	**414,828**

* Because the Board has yet to determine the fee levels for FY 2001-02 and later years, the note assumes they charge the maximum allowed in the out years.

NOTE: While certification is required for all clinical social workers, this requirement was temporarily waived for government employees. The waiver expired on January 1, 1999. As a result, some of the renewal costs may be transferred to county governments that pay for their employees' certification. However, Board representatives believe this number will be small. Neither the Board nor Fiscal Research is aware of any state payment for employee certification. If the state does not pay for its employees' certification renewals, there is no general fund impact.

FISCAL RESEARCH DIVISION 733-4910

PREPARED BY: Linda Struyk Millsaps

APPROVED BY:

DATE: Monday, May 17, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☒ Committee Substitute for
H.B. 1133 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT AN INSURER PROVIDING A HEALTH BENEFIT PLAN IS LIABLE FOR DAMAGES FOR HARM TO ITS INSUREDS OR ENROLLEES CAUSED BY THE INSURER'S FAILURE TO EXERCISE ORDINARY CARE.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 1133
Committee Substitute Favorable 4/23/99

Short Title: Health Ins./Liability. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT AN INSURER PROVIDING A HEALTH BENEFIT PLAN IS LIABLE FOR DAMAGES FOR HARM TO ITS INSUREDS OR ENROLLEES CAUSED BY THE INSURER'S FAILURE TO EXERCISE ORDINARY CARE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 1G.

"Health Care Liability.

"§ 90-21.50. Definitions.

As used in this Article, unless the context clearly indicates otherwise, the term:

(1) 'Health benefit plan' means an accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; a plan provided by a multiple employer welfare arrangement; or a plan provided by another benefit arrangement, to the extent permitted by the Employee Retirement Income Security Act of 1974, as amended, or by any waiver of or other exception to that Act provided under federal law or regulation. 'Health benefit plan' does not mean any plan implemented or administered through the Department of Health and Human

Services or its representatives. 'Health benefit plan' also does not mean any of the following kinds of insurance:

a. Accident;
b. Credit;
c. Disability income;
d. Long-term or nursing home care;
e. Medicare supplement;
f. Specified disease;
g. Dental or vision;
h. Coverage issued as a supplement to liability insurance;
i. Workers' compensation;
j. Medical payments under automobile or homeowners;
k. Insurance under which benefits are payable with or without regard to fault and that are statutorily required to be contained in any liability policy or equivalent self-insurance; and
l. Hospital income or indemnity.

(2) 'Health care provider' means:

a. An individual who is licensed, certified, or otherwise authorized under this Chapter to provide health care services in the ordinary course of business or practice of a profession or in an approved education or training program; or
b. A health care facility, licensed under Chapters 131E or 122C of the General Statutes, where health care services are provided to patients;

'Health care provider' includes:

1. An agent or employee of a health care facility that is licensed, certified, or otherwise authorized to provide health care services;
2. The officers and directors of a health care facility; and
3. An agent or employee of a health care provider who is licensed, certified, or otherwise authorized to provide health care services.

(3) 'Health care service' means a health or medical procedure or service rendered by a health care provider that:

a. Provides testing, diagnosis, or treatment of a human disease or dysfunction; or
b. Dispenses drugs, medical devices, medical appliances, or medical goods for the treatment of a human disease or dysfunction.

(4) 'Health care treatment decision' means a determination made when health care services are provided for, arranged for, paid for,

or reimbursed by an insurer or managed care entity under a health benefit plan that affects the quality of the diagnosis, care, or treatment provided to an enrollee or insured of the health benefit plan.

(5) 'Insured or enrollee' means a person that is insured by or enrolled in a health benefit plan under a policy, plan, certificate, or contract issued or delivered in this State by an insurer.

(6) 'Insurer' means an entity that writes a health benefit plan and that is an insurance company subject to Chapter 58 of the General Statutes, a service corporation organized under Article 65 of Chapter 58 of the General Statutes, a health maintenance organization organized under Article 67 of Chapter 58 of the General Statutes, or a multiple employer welfare arrangement subject to Article 49 of Chapter 58 of the General Statutes.

(7) 'Managed care entity' means an entity that:

a. Delivers, administers, or undertakes to provide for, arrange for, or reimburse for health care services, or assumes the risk for the delivery of health care services; and

b. Has a system or technique to control or influence the quality, accessibility, utilization, or costs and prices of health care services delivered or to be delivered to a defined enrollee population.

'Managed care entity' does not include: (i) an employer purchasing coverage or acting on behalf of its employees or the employees of one or more subsidiaries or affiliated corporations of the employer, or (ii) a pharmacy that is issued a permit by the North Carolina State Board of Pharmacy under this Chapter.

(8) 'Ordinary care' means:

a. For an insurer or managed care entity, that degree of care that an insurer or managed care entity of ordinary prudence would use under the same or similar circumstances; or

b. For a person that is an agent or employee of an insurer or managed care entity, that degree of care that a person of ordinary prudence in the same profession, specialty, or area of practice as the person would use in the same or similar circumstances.

(9) 'Physician' means:

a. An individual licensed to practice medicine in this State;

b. A professional association or corporation organized under Chapter 55B of the General Statutes; or

c. A person or entity wholly owned by physicians.

"§ 90-21.51. Duty to exercise ordinary care; liability for damages for harm.

(a) Each insurer or managed care entity for a health benefit plan has the duty to exercise ordinary care when making health care treatment decisions and is liable for

damages for harm to an insured or enrollee proximately caused by its failure to exercise ordinary care.

(b) In addition to the duty imposed under subsection (a) of this section, each insurer or managed care entity for a health benefit plan is liable for damages for harm to an insured or enrollee proximately caused by the health care treatment decisions made by:

(1) Its agents or employees; or

(2) Representatives that are acting on its behalf and over whom it has the right to exercise influence or significant control with respect to the actual care and treatment of the insured or enrollee which results in the failure to exercise ordinary care.

(c) It shall be a defense to any action brought under this section against an insurer or managed care entity for a health benefit plan that:

(1) Neither the insurer or managed care entity nor an agent or employee for whom the insurer or managed care entity is liable under subsection (b) of this section controlled, influenced, or participated in the health care treatment decision; and

(2) The insurer or other managed care entity did not deny or delay payment for any health care service or treatment prescribed or recommended by a physician or health care provider to the insured or enrolled.

(d) In an action brought under this Article against an insurer or managed care entity, a finding that a physician or health care provider is an agent or employee of the insurer or managed care entity may not be based solely on proof that the physician or health care provider appears in a listing of approved physicians or health care providers made available to insureds or enrollees under the insurer's or managed care entity's health benefit plan.

(e) In any action brought under this Article against an insurer or managed care entity, any law that prohibits the corporate practice of medicine may not be used as a defense by the insurer or managed care entity.

(f) An insurer or managed care entity shall not be liable for the independent actions of a health care provider, who is not an agent or employee of the insurer or managed care entity, when that health care provider fails to exercise the standard of care required by G.S. 90-21.12. A health care provider shall not be liable for the independent actions of an insurer or managed care entity when the insurer or managed care entity fails to exercise the standard of care required by this Article.

(g) Nothing in this Article imposes liability on a physician or health care provider in addition to that otherwise imposed under existing law. No insurer or managed care entity held liable under this Article shall be entitled to contribution under Chapter 1B of the General Statutes from a physician or health care provider, except where there is joint and several liability.

(h) Nothing in this Article shall be construed to create an obligation on the part of an insurer or managed care entity to provide to an insured or enrollee a health care service or treatment that is not covered under its health benefit plan.

(i) A health insurer or managed care entity may not enter into a contract with a physician, hospital, or other health care provider, or with an employer or employer group organization, that includes an indemnification or hold harmless clause for the acts or conduct of the health insurer or managed care entity. Any such indemnification or hold harmless clause is void and unenforceable to the extent of the restriction.

"§ 90-21.52. No liability under this Article on the part of an employer or employer group organization that purchases coverage or assumes risk on behalf of its employees or a pharmacy.

This Article does not create any liability on the part of an employer or employer group purchasing organization that purchases health care coverage or assumes risk on behalf of its employees or a pharmacy issued a permit by the North Carolina Board of Pharmacy under this Chapter.

"§ 90-21.53. Separate trial required.

Upon motion of any party in an action brought pursuant to this Article involving an insurer or managed care entity, the court shall order a separate trial of any claim, cross-claim, counterclaim, or third-party claim against any physician or other health care provider."

Section 2. G.S. 1A-1, Rule 42, reads as rewritten:

"Rule 42. Consolidation; separate trials.

(a) Consolidation. -- ~~When~~ Except as provided in subdivision (b)(2) of this section, when actions involving a common question of law or fact are pending in one division of the court, the judge may order a joint hearing or trial of any or all the matters in issue in the actions; he may order all the actions consolidated; and he may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay. When actions involving a common question of law or fact are pending in both the superior and the district court of the same county, a judge of the superior court in which the action is pending may order all the actions consolidated, and he may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

(b) Separate trials. --

(1) The court may in furtherance of convenience or to avoid prejudice and shall for considerations of venue upon timely motion order a separate trial of any claim, ~~crossclaim,~~ cross-claim, counterclaim, or third-party claim, or of any separate issue or of any number of claims, ~~crossclaims,~~ cross-claims, counterclaims, third-party claims, or issues.

(2) Upon motion of any party in an action instituted pursuant to Article 1G of Chapter 90 of the General Statutes involving an insurer, as defined in G.S. 90-21.50, the court shall order a separate trial of any claim, cross-claim, counterclaim, or third-party claim against a physician or other medical provider."

Section 3. This act is effective when it becomes law and applies to causes of action arising on and after July 1, 1999.

HOUSE BILL 1133:
Health Insurance/Liability

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Hackney
Date:	May 27, 1999	**Summary by:**	Susan Hayes
Version:	2nd Edition		Committee Counsel to JI

SUMMARY: ***House Bill 1133 provides that an insurer providing a health benefit plan is liable for damages for harm to its insureds or enrollees caused by the insurer's failure to exercise ordinary care. The bill received a favorable report from the House Judiciary I Committee. It passed 2nd reading on the House floor on April 27, 1999. The bill was re-referred to Finance on April 29, 1999.***

BILL ANALYSIS: House Bill 1133 enacts a new G.S 90-21.50 through 90-21.53, providing that each insurer or managed care entity for a health benefit plan has the duty to exercise ordinary care when making health care treatment decisions and is liable for damages for harm to an insured or enrollee proximately caused by its failure to do so. The bill also makes the insurer or managed care entity liable for damages for harm proximately caused by health care treatment decisions made by its agents or employees, or its representatives over whom it has the right to exercise influence or control or has actually exercised influence or control that result in the failure to exercise ordinary care.

The insurer or managed care entity has a defense if (1) neither it nor an agent or employee for whom it is liable controlled, influenced or participated in the health care treatment decision and (2) it did not deny or delay payment for any health care service or treatment prescribed or recommended by a physician or health care provider to the insured or enrolled person. The bill does not impose liability on a physician or health care provider in addition to that otherwise imposed under existing law. Also, a health insurer or managed care entity may not enter into a contract with a physician, hospital, or other health care provider that includes an indemnification or hold harmless clause for the acts or conduct of the health insurer or managed care entity. No liability is created on the part of an employer or employer group purchasing organization that purchases health care coverage or assumes risk on behalf of its employees or a pharmacy issued a permit by the NC Board of Pharmacy.

In an action under these provisions involving an insurer, on motion of any party the court must order a separate trial of any claim, cross claim, counterclaim, or third party claim against any physician or other health care provider.

This act is effective when it becomes law and applies to causes of action arising on and after July 1, 1999.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1133 2nd Edition Health Insurance/Liability

SHORT TITLE: Health Insurance/Liability

SPONSOR(S): Reps. Hackney and Luebke

FISCAL IMPACT

Yes ( ) **No (X)** **No Estimate Available (X)**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
EXPENDITURES			*No fiscal impact. No estimate available.*		
POSITIONS:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Judicial Branch

EFFECTIVE DATE: July 1, 1999

BILL SUMMARY:

HEALTH INS./LIABILITY. *TO PROVIDE THAT AN INSURER PROVIDING A HEALTH BENEFIT PLAN IS LIABLE FOR DAMAGES FOR HARM TO ITS INSUREDS OR ENROLLEES CAUSED BY THE INSURER'S FAILURE TO EXERCISE ORDINARY CARE.* Enacts new GS 58-3-300 through 58-3-303, providing that each insurer or managed care entity for a health benefit plan has the duty to exercise ordinary care when making health care treatment decisions and is liable for damages for harm to an insured or enrollee proximately caused by its failure to do so. Provides detailed definitions of relevant terms. Also makes insurer or managed care entity liable for damages for harm proximately caused by health care treatment decisions made by its (1) agents or employees or (2) representatives over whom it has the right to exercise influence or control or has actually exercised influence or control that result in the failure to exercise ordinary care. Gives insurer or managed care entity a defense if (1) neither it nor an agent or employee for whom it is liable (as described above) controlled, influenced or participated in the health care treatment decision and (2) it did not deny or delay payment for any health care service or

treatment prescribed or recommended by a physician or health care provider to the insured or enrolled person. Does not create liability on the part of an employer or employer group purchasing organization that purchases health care coverage or assumes risk on behalf of its employees or a pharmacy issued a permit by the NC Board of Pharmacy under GS Ch. 90. In an action under these provisions involving an insurer, on motion of any party the court must order a separate trial of any claim, cross claim, counterclaim, or third party claim against any physician or other health care provider. Makes conforming amendment to GS 1A-1, Rule 42. Act is effective when it becomes law and applies to causes of action arising on and after July 1, 1999.
Source: Institute of Government, Daily Bulletin, April 15, 1999.

HEALTH INS./LIABILITY. Intro. 4/15/99. House committee substitute makes the following changes to 1st edition. Transfers substantive provisions of bill from GS 58 to GS 90 and makes conforming changes. Clarifies that an insurer or managed care entity is not liable for independent actions of a health care provider, and that a health care provider is not liable for independent actions of an insurer or managed care entity. Clarifies that no additional liability is imposed by act on physicians, and that an insurer or managed care entity is not entitled to contribution from a physician or health care provider unless it is a case of joint and several liability. Makes void and unenforceable any indemnity or hold harmless agreement between health insurers or managed care entities and a health care provider or employers for acts or conduct of the health insurer or managed care entity.
Source: Institute of Government, Daily Bulletin, April 23, 1999.

ASSUMPTIONS AND METHODOLOGY:

Judicial Branch

The Fiscal Research Division believes there would be a minimal fiscal impact on the judicial system from this bill. A separate trial would be necessary upon the motion of any party to conduct a separate trial on claims, cross-claims, counterclaims, and third-party claims. Neither the Administrative Office of the Courts (AOC) nor the Fiscal Research Division are able to provide an estimate of the number of separate trials that would take place or the total cost of such separate trials. However, the Fiscal Research Division believes that the minimal impact could be absorbed with existing resources.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Tammy Lester

APPROVED BY: Tom Covington

DATE: Tuesday, April 27, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1302 A BILL TO BE ENTITLED AN ACT TO EXEMPT FROM TAX MOTOR FUEL SOLD TO CHARTER SCHOOLS.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1302

Short Title: Charter School Fuel Exemption. (Public)

Sponsors: Representatives Bonner; Sutton and Yongue.

Referred to: Finance.

April 20, 1999

A BILL TO BE ENTITLED

AN ACT TO EXEMPT FROM TAX MOTOR FUEL SOLD TO CHARTER SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-228.90(b) reads as rewritten:

"(b) Definitions. -- The following definitions apply in this Article:

(1) Reserved.

(2) Charter school board. -- A nonprofit corporation that has a charter under G.S. 115C-238.29D to operate a charter school.

~~(1)~~ (3) City. -- A city as defined by G.S. 160A-1(2). The term also includes an urban service district defined by the governing board of a consolidated city-county, as defined by G.S. 160B-2(1).

~~(1a)~~ (4) Code. -- The Internal Revenue Code as enacted as of September 1, 1998, including any provisions enacted as of that date which become effective either before or after that date.

~~(1b)~~ (5) County. -- Any one of the counties listed in G.S. 153A-10. The term also includes a consolidated city-county as defined by G.S. 160B-2(1).

~~(2)~~ (6) Reserved.

~~(3)~~ (7) Electronic Funds Transfer. -- A transfer of funds initiated by using an electronic terminal, a telephone, a computer, or magnetic tape to instruct or authorize a financial institution or its agent to credit or debit an account.

~~(4)~~ (8) Reserved.

~~(5)~~ (9) Person. -- An individual, a fiduciary, a firm, an association, a partnership, a limited liability company, a corporation, a unit of government, or another group acting as a unit. The term includes an officer or employee of a corporation, a member, a manager, or an employee of a limited liability company, and a member or employee of a partnership who, as officer, employee, member, or manager, is under a duty to perform an act in meeting the requirements of Subchapter I, V, or VIII of this Chapter or of Article 3 of Chapter 119 of the General Statutes.

~~(6)~~ (10) Secretary. -- The Secretary of Revenue.

~~(7)~~ (11) Tax. -- A tax levied under Subchapter I, V, or VIII of this Chapter or an inspection tax levied under Article 3 of Chapter 119 of the General Statutes. Unless the context clearly requires otherwise, the terms "tax" and "additional tax" include penalties and interest as well as the principal amount.

~~(8)~~ (12) Taxpayer. -- A person subject to the tax or reporting requirements of Subchapter I, V, or VIII of this Chapter or of Article 3 of Chapter 119 of the General Statutes."

Section 2. G.S. 105-449.88 reads as rewritten:

"**§ 105-449.88. Exemptions from the excise tax.**

The excise tax on motor fuel does not apply to the following:

(1) Motor fuel removed, by transport truck or another means of transfer outside the terminal transfer system, from a terminal for export, if the supplier of the motor fuel collects tax on it at the rate of the motor fuel's destination state.

(2) Motor fuel sold to the federal government for its use.

(3) Motor fuel sold to the State for its use.

(4) Motor fuel sold to a local board of education for use in the public school system.

(5) Diesel that is kerosene and is sold to an airport.

(6) Motor fuel sold to a charter school board for use for charter school purposes."

Section 3. This act becomes effective October 1, 1999.

HOUSE BILL 1302:
Charter School Fuel Exemption

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Bonner
Date:	May 27, 1999	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 1302 exempts motor fuel sold to a charter school board for use for charter school purposes from the excise tax on motor fuel. The bill becomes effective October 1, 1999.***

CURRENT LAW: The motor fuel excise tax rate has two components: a flat rate plus a variable rate. The flat rate is 17.5¢ per gallon. The variable component may change every six months. It is added to the flat rate. The variable component is equal to the greater of 3.5¢ a gallon or 7% of the weighted average wholesale price of gasoline and No. 2 diesel fuel for the most recent six-month base period. The current motor fuel tax rate is 21.2¢ a gallon.

One-half cent a gallon of the motor fuel tax revenue is dedicated to the two underground storage tank funds and the water and air quality account. Seventy-five percent (75%) of the remainder of the revenue generated by this tax is allocated to the Highway Fund and the remaining 25% is credited to the Highway Trust Fund.

The motor fuel excise tax does not apply to the following:

- Motor fuel removed in this State for transportation to another state if the supplier collects tax on the motor fuel at the rate of the motor fuel's destination state.
- Motor fuel sold to the federal government for its use.
- Motor fuel sold to the State for its use.
- Motor fuel sold to a local board of education for use in the public school system.
- Diesel that is kerosene and is sold to an airport.

BILL ANALYSIS: House Bill 1302 adds "motor fuel sold to a charter school for use for charter school purposes" to the list of motor fuel tax exemptions. A charter school is defined as a nonprofit corporation that has a charter under G.S. 115C-238.29D to operate a charter school. G.S. 115C-238.29D limits the number of charter schools to 100 schools statewide. Any person or nonprofit corporation may apply to the State Board of Education to establish a charter school. To be approved as a charter school, the applicant must meet the statutory requirements and the Board must find that the proposed school will provide or achieve improved student learning, increased learning opportunities for all students, the use of different and innovative teaching methods, new professional opportunities for teachers, and expanded educational choices for parents and students.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1302

SHORT TITLE: Charter School Fuel Exemption

SPONSOR(S): Representative Bonner

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Highway Fund	($15,643)	($23,224)	($23,558)	($23,893)	($24,060)
Highway Trust Fund	($5,214)	($7,741)	($7,853)	($7,964)	($8,020)
Total Funds	($20,857)	($30,965)	($31,411)	($31,857)	($32,080)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue – Motor Fuels Tax Division

EFFECTIVE DATE: This act becomes effective October 1, 1999.

BILL SUMMARY: The act exempts charter schools from paying the motor fuels tax.

ASSUMPTIONS AND METHODOLOGY: Based on data from the Department of Public Instruction accounting system, 22 out of 34 charter schools (65%) reported purchases of motor fuel in 1997-98. The average charter school spent $2,630 on motor fuel that year. Given the average gallon of gas sold for $1.15 per gallon in 1997-98, then those charter schools reporting fuel use consumed 2,287 gallons of motor fuel in a year.

The number of charter schools in North Carolina is capped at 100 in G.S. 115C-38.29D(6). If the current motor fuel usage rate of 65% is applied to the 100 charter schools, then 65 schools in the state will take advantage of the fuel tax exemption in future years. Future gas tax rates are projected by the Office of State Budget and Management (OSBM) using refined petroleum price and consumption data compiled by Standard & Poor's DRI. The chart below shows the estimated motor fuel tax that will be paid by charter schools in the next five years. The estimated revenue loss from a fuel tax exemption is divided between the Highway Fund (75%) and the Highway Trust Fund (25%). With an October 1, 1999 effective date, the first year revenue loss is 75% of the estimate for 1999-00.

	# using	Gallons per	Total	Tax rate	Total Tax	Highway	Trust
FY	motor fuel	school	Gallons	per gal.	Loss	Fund Loss	Fund Loss
1999-00	59	2,287	134,933	$0.2111	$ 28,484	$20,857	$6,952
2000-01	65	2,287	148,655	$0.2133	$ 31,708	$23,224	$7,741
2001-02	65	2,287	148,655	$0.2163	$ 32,154	$23,558	$7,853
2002-03	65	2,287	148,655	$0.2193	$ 32,600	$23,893	$7,964
2003-04	65	2,287	148,655	$0.2208	$ 32,823	$24,060	$8,020

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic & Robert Weiss

APPROVED BY: Tom Covington

DATE:
Wednesday, April 21, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☒ Committee Substitute for
S.B. 314 A BILL TO BE ENTITLED AN ACT TO INCORPORATE THE TOWN OF MINERAL SPRINGS.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 314*
Finance Committee Substitute Adopted 4/20/99

Short Title: Mineral Springs Incorporated. (Local)

Sponsors:

Referred to:

March 11, 1999

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE TOWN OF MINERAL SPRINGS.

The General Assembly of North Carolina enacts:

Section 1. A Charter for the Town of Mineral Springs is enacted to read:

"CHARTER OF TOWN OF MINERAL SPRINGS.

"CHAPTER I.

"INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Mineral Springs, which area is described in Section 2.1 of this Charter, are a body corporate and politic under the name 'Town of Mineral Springs'. Under that name they have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"CHAPTER II.

"CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with the law, the boundaries of the Town of Mineral Springs are as follows:

BEGINNING at a point in the southern boundary of Waxhaw Highway (State Highway 75) at its intersection with the southwestern boundary of Western Union School Road (SR1143); thence westerly with the southern boundary of Waxhaw Highway approximately 2,270 feet to its intersection with the southerly extension of the western property boundary line of parcel 001 as shown on tax map 5-030; thence northerly with said property boundary line approximately 1,620 feet to

the northern boundary of the S.A.R.R. right-of-way; thence easterly with said boundary approximately 92 feet to its intersection with the western property boundary line of parcel 012D as shown on tax map 6-084; thence northerly then northeasterly and then northwesterly with said parcel to a point being the southeastern corner of parcel 012E as shown on tax map 6-084; thence westerly then northerly and then northwesterly with said parcel until it intersects the eastern boundary of Collins Road (SR1326); thence northeasterly approximately 890 feet with said boundary to its intersection with the southeastern property boundary line of parcel 008 as shown on tax map 6-084; thence northeasterly approximately 1,504 feet, then northerly approximately 475 feet, and then westerly approximately 1,146 feet with said parcel to a point in the western boundary of Collins Road (SR1326); thence with the western boundary of Collins Road in a northerly direction to its intersection with the southern boundary of McNeely Road (SR1325); thence with the southern boundary of McNeely Road in a westerly direction to its intersection with the southerly extension of the western property boundary line of parcel 002A as shown on tax map 6-084; thence northerly approximately 260 feet with said property boundary line to its intersection with the southwestern corner of parcel 002 as shown on tax map 6-084; thence northerly approximately 260 feet with the western boundary of said parcel to its intersection with the northern boundary of Pleasant Grove Road (SR1327); thence with the northern boundary of Pleasant Grove Road in an easterly direction approximately 300 feet to its intersection with the western property boundary line of parcel 008A as shown on tax map 6-081; thence northerly with said property boundary line approximately 730 feet to the southwestern corner of parcel 007 as shown on tax map 6-081; thence easterly approximately 1,377 feet, then northerly approximately 620 feet with said parcel to a point in the southern property boundary of parcel 001 as shown on tax map 6-081; thence easterly approximately 683 feet, then northerly approximately 295 feet, then northerly approximately 798 feet, and then westerly approximately 857 feet with said parcel to a point in the western boundary of Waxhaw-Indian Trail Road (SR1008); thence with the western boundary of Waxhaw-Indian Trail Road in a northerly direction approximately 2,475 feet to its intersection with the western extension of the northern boundary of Jeanne Drive (private road); thence easterly approximately 825 feet with said road boundary to its intersection with the northwestern property boundary line of parcel 015C as shown on tax map 6-081; thence northeasterly with said property boundary line approximately 1,646 feet to the western corner of parcel 016 as shown on tax map 6-081; thence easterly with the northwestern boundary of said parcel to its intersection with the Bates Branch, being the western boundary of parcel 001B as shown on tax map 6-054; thence following the branch along said boundary in a northerly then an easterly direction to the northeast corner of said parcel; thence southeasterly with said parcel approximately 190 feet to a point, being the western corners of parcels 013 and 014 as shown on tax map 6-054; thence along the southeastern property boundary line of parcel 047 as shown on tax map 6-054 as follows: northeasterly approximately 1,105 feet, then northeasterly approximately 450 feet, then westerly approximately 450 feet, then northeasterly approximately 450 feet, then northwesterly approximately 20

feet, and then northeasterly approximately 550 feet to a point in the centerline of Shannon Road (SR1328) where said centerline intersects the southwesterly extension of the western boundary of parcel 055 as shown on tax map 6-054; thence northeasterly approximately 625 feet, then easterly approximately 580 feet with said parcel until it intersects with the northernmost corner of parcel 048 as shown on tax map 6-054; thence with said parcel as follows: southerly approximately 627 feet, then easterly approximately 196 feet, then southerly approximately 1,093 feet, then southerly approximately 565 feet, then southwesterly approximately 394 feet, then southeasterly with the northeastern boundary of Shannon Road (SR1328) approximately 550 feet to its intersection with the northern boundary of Pleasant Grove Road (SR1327), then continuing in the same direction across Pleasant Grove Road, then southwesterly with the southeastern boundary of Pleasant Grove Road approximately 215 feet, then southwesterly approximately 550 feet, then southeasterly approximately 1,691 feet, then northeasterly approximately 728 feet, then southeasterly with the northern boundary of Pleasant Grove Road approximately 860 feet, then southeasterly approximately 130 feet, then northerly approximately 1,050 feet, and then northerly approximately 1,105 feet to the westernmost corner property boundary of parcel 051 as shown on tax map 6-054; thence with said parcel southeasterly approximately 1,325 feet, then easterly approximately 895 feet to a point in the western property boundary line of parcel 001A as shown on tax map 6-033; thence with said parcel as follows: southerly approximately 1,300 feet, then northeasterly approximately 482 feet, then southeasterly approximately 244 feet, then northeasterly approximately 386 feet, then easterly approximately 27 feet, then easterly approximately 992 feet, then southerly approximately 668 feet, then westerly approximately 25 feet, then southwesterly approximately 127 feet, and then northeasterly approximately 1,218 feet to a point in an unnamed branch of Little Twelvemile Creek; then meandering northerly with said branch approximately 1,700 feet to the southwest corner property boundary of parcel 054 as shown on tax map 6-036; thence northeasterly with the western property boundary line of parcel 054, then northeasterly with the northwestern property boundary line of parcel 055, then easterly with the northern property boundary line of parcel 056, then southeasterly with the northeastern property boundary line of parcel 057, then southerly with the eastern property boundary line of parcel 058, then southwesterly with the eastern property boundary line of parcels 059 through 060, then southerly with the eastern property boundary line of parcels 061 through 068, then southeasterly with the northeastern property boundary line of parcels 069 through 074, and then southeasterly with the northeastern property boundary line of parcel 075 to its intersection with the northwestern boundary of Potter Road (SR1162), the aforementioned parcels 054 through 075 inclusive as shown on tax map 6-036; thence northeasterly along the northwestern boundary of Potter Road approximately 65 feet to the intersection of the extension of the southern boundary of Roscoe Howey Road (SR1332); thence easterly along the southern boundary of Roscoe Howey Road approximately 890 feet to the intersection with the Little Twelvemile Creek; thence generally southeasterly with the Little Twelvemile Creek as it forms the western

corner of the property boundary line of parcel 188 as shown on tax map 5-033; thence with said parcel westerly approximately 2,090 feet, and then northerly approximately 2,345 feet to the intersection of the property boundary line with the southern boundary of Western Union School Road; thence with the southern boundary of Western Union School Road in a northwesterly direction approximately 960 feet to the point and place of BEGINNING.

EXCEPTED and EXCLUDED from the above described corporate boundary is all of that tract of land consisting of parcel 001 as shown on tax map 6-036, comprising 37.160 acres, and more commonly known as the Pleasant Grove Campground.

"CHAPTER III.

"GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Mineral Springs is the Town Council, which has six members and the Mayor.

"Section 3.2. **Temporary Officers.** Until the initial election in 1999 provided for by Section 4.1 of this Charter, Frederick Becker III is hereby appointed Mayor, and William Henry Blythe, Jr., Gerald Countryman, Lundeen Cureton, Thomas Kalin, Alice Mabe, and Peggy Neill are hereby appointed members of the Town Council, and they shall possess and may exercise the powers granted to the Mayor and Town Council until their successors are elected or appointed and qualify pursuant to this Charter.

"Section 3.3. **Manner of Electing Town Council; Term of Office.** The qualified voters of the entire Town shall elect the members of the Town Council. Except as provided by this section, members are elected to a four-year term of office. In 1999, the three candidates receiving the highest numbers of votes are elected to four-year terms, and the three candidates receiving the next highest numbers of votes are elected to two-year terms. In 2001 and each two years thereafter, three members are elected to four-year terms.

"Section 3.4. **Manner of Electing Mayor; Term of Office.** The qualified voters of the entire Town shall elect the Mayor. The Mayor shall be elected in 1999 and each two years thereafter for a two-year term.

"CHAPTER IV.

"ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Town officers shall be elected on a nonpartisan basis and results determined by a plurality as provided in G.S. 163-292.

"CHAPTER V.

"ADMINISTRATION.

"Section 5.1. **Town to Operate Under Mayor-Council Plan.** The Town of Mineral Springs operates under the Mayor-Council Plan as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes.

"Section 5.2. **Budget Ordinance; Municipal Taxes.** From and after the effective date of this act, the citizens and property in the Town of Mineral Springs shall be

subject to municipal taxes levied for the year beginning July 1, 1999, and for that purpose the Town shall obtain from Union County a record of property in the area herein incorporated which was listed for property taxes as of January 1, 1999. The Town may adopt a budget ordinance for fiscal year 1999-2000 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 1999-2000, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance, and thereafter in accordance with the schedule in G.S. 105-360 as if the taxes had been due and payable on September 1, 1999. If this act is ratified before July 1, 1999, the Town may adopt a budget ordinance for fiscal year 1998-1999 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical, but no ad valorem taxes may be levied for the 1998-1999 fiscal year."

Section 2. On a date established by the Union County Board of Elections no earlier than 60 nor later than 120 days after this bill becomes law, the Union County Board of Elections shall conduct a special election for the purpose of submission to the qualified voters of the area described in Section 2.1 of the Charter of the Town of Mineral Springs, the question of whether such area shall be incorporated as the Town of Mineral Springs.

Section 3. In the election, the question on the ballot shall be:

"[ ]FOR [ ]AGAINST

Incorporation of the Town of Mineral Springs".

Section 4. In the election, if a majority of the votes are cast "For the Incorporation of the Town of Mineral Springs", Sections 1 through 3 of this act become effective on the date that the Union County Board of Elections certifies the results of the election. Otherwise, Section 1 of this act has no force and effect.

Section 5. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 314*
Finance Committee Substitute Adopted 4/20/99

Short Title: Mineral Springs Incorporated. (Local)

Sponsors:

Referred to:

March 11, 1999

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE TOWN OF MINERAL SPRINGS.

The General Assembly of North Carolina enacts:

Section 1. A Charter for the Town of Mineral Springs is enacted to read:

"CHARTER OF TOWN OF MINERAL SPRINGS.

"CHAPTER I.

"INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Mineral Springs, which area is described in Section 2.1 of this Charter, are a body corporate and politic under the name 'Town of Mineral Springs'. Under that name they have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"CHAPTER II.

"CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with the law, the boundaries of the Town of Mineral Springs are as follows:

BEGINNING at a point in the southern boundary of Waxhaw Highway (State Highway 75) at its intersection with the southwestern boundary of Western Union School Road (SR1143); thence westerly with the southern boundary of Waxhaw Highway approximately 2,270 feet to its intersection with the southerly extension of the western property boundary line of parcel 001 as shown on tax map 5-030; thence northerly with said property boundary line approximately 1,620 feet to

the northern boundary of the S.A.R.R. right-of-way; thence easterly with said boundary approximately 92 feet to its intersection with the western property boundary line of parcel 012D as shown on tax map 6-084; thence northerly then northeasterly and then northwesterly with said parcel to a point being the southeastern corner of parcel 012E as shown on tax map 6-084; thence westerly then northerly and then northwesterly with said parcel until it intersects the eastern boundary of Collins Road (SR1326); thence northeasterly approximately 890 feet with said boundary to its intersection with the southeastern property boundary line of parcel 008 as shown on tax map 6-084; thence northeasterly approximately 1,504 feet, then northerly approximately 475 feet, and then westerly approximately 1,146 feet with said parcel to a point in the western boundary of Collins Road (SR1326); thence with the western boundary of Collins Road in a northerly direction to its intersection with the southern boundary of McNeely Road (SR1325); thence with the southern boundary of McNeely Road in a westerly direction to its intersection with the southerly extension of the western property boundary line of parcel 002A as shown on tax map 6-084; thence northerly approximately 260 feet with said property boundary line to its intersection with the southwestern corner of parcel 002 as shown on tax map 6-084; thence northerly approximately 260 feet with the western boundary of said parcel to its intersection with the northern boundary of Pleasant Grove Road (SR1327); thence with the northern boundary of Pleasant Grove Road in an easterly direction approximately 300 feet to its intersection with the western property boundary line of parcel 008A as shown on tax map 6-081; thence northerly with said property boundary line approximately 730 feet to the southwestern corner of parcel 007 as shown on tax map 6-081; thence easterly approximately 1,377 feet, then northerly approximately 620 feet with said parcel to a point in the southern property boundary of parcel 001 as shown on tax map 6-081; thence easterly approximately 683 feet, then northerly approximately 295 feet, then northerly approximately 798 feet, and then westerly approximately 857 feet with said parcel to a point in the western boundary of Waxhaw-Indian Trail Road (SR1008); thence with the western boundary of Waxhaw-Indian Trail Road in a northerly direction approximately 2,475 feet to its intersection with the western extension of the northern boundary of Jeanne Drive (private road); thence easterly approximately 825 feet with said road boundary to its intersection with the northwestern property boundary line of parcel 015C as shown on tax map 6-081; thence northeasterly with said property boundary line approximately 1,646 feet to the western corner of parcel 016 as shown on tax map 6-081; thence easterly with the northwestern boundary of said parcel to its intersection with the Bates Branch, being the western boundary of parcel 001B as shown on tax map 6-054; thence following the branch along said boundary in a northerly then an easterly direction to the northeast corner of said parcel; thence southeasterly with said parcel approximately 190 feet to a point, being the western corners of parcels 013 and 014 as shown on tax map 6-054; thence along the southeastern property boundary line of parcel 047 as shown on tax map 6-054 as follows: northeasterly approximately 1,105 feet, then northeasterly approximately 450 feet, then westerly approximately 450 feet, then northeasterly approximately 450 feet, then northwesterly approximately 20

feet, and then northeasterly approximately 550 feet to a point in the centerline of Shannon Road (SR1328) where said centerline intersects the southwesterly extension of the western boundary of parcel 055 as shown on tax map 6-054; thence northeasterly approximately 625 feet, then easterly approximately 580 feet with said parcel until it intersects with the northernmost corner of parcel 048 as shown on tax map 6-054; thence with said parcel as follows: southerly approximately 627 feet, then easterly approximately 196 feet, then southerly approximately 1,093 feet, then southerly approximately 565 feet, then southwesterly approximately 394 feet, then southeasterly with the northeastern boundary of Shannon Road (SR1328) approximately 550 feet to its intersection with the northern boundary of Pleasant Grove Road (SR1327), then continuing in the same direction across Pleasant Grove Road, then southwesterly with the southeastern boundary of Pleasant Grove Road approximately 215 feet, then southwesterly approximately 550 feet, then southeasterly approximately 1,691 feet, then northeasterly approximately 728 feet, then southeasterly with the northern boundary of Pleasant Grove Road approximately 860 feet, then southeasterly approximately 130 feet, then northerly approximately 1,050 feet, and then northerly approximately 1,105 feet to the westernmost corner property boundary of parcel 051 as shown on tax map 6-054; thence with said parcel southeasterly approximately 1,325 feet, then easterly approximately 895 feet to a point in the western property boundary line of parcel 001A as shown on tax map 6-033; thence with said parcel as follows: southerly approximately 1,300 feet, then northeasterly approximately 482 feet, then southeasterly approximately 244 feet, then northeasterly approximately 386 feet, then easterly approximately 27 feet, then easterly approximately 992 feet, then southerly approximately 668 feet, then westerly approximately 25 feet, then southwesterly approximately 127 feet, and then northeasterly approximately 1,218 feet to a point in an unnamed branch of Little Twelvemile Creek; then meandering northerly with said branch approximately 1,700 feet to the southwest corner property boundary of parcel 054 as shown on tax map 6-036; thence northeasterly with the western property boundary line of parcel 054, then northeasterly with the northwestern property boundary line of parcel 055, then easterly with the northern property boundary line of parcel 056, then southeasterly with the northeastern property boundary line of parcel 057, then southerly with the eastern property boundary line of parcel 058, then southwesterly with the eastern property boundary line of parcels 059 through 060, then southerly with the eastern property boundary line of parcels 061 through 068, then southeasterly with the northeastern property boundary line of parcels 069 through 074, and then southeasterly with the northeastern property boundary line of parcel 075 to its intersection with the northwestern boundary of Potter Road (SR1162), the aforementioned parcels 054 through 075 inclusive as shown on tax map 6-036; thence northeasterly along the northwestern boundary of Potter Road approximately 65 feet to the intersection of the extension of the southern boundary of Roscoe Howey Road (SR1332); thence easterly along the southern boundary of Roscoe Howey Road approximately 890 feet to the intersection with the Little Twelvemile Creek; thence generally southeasterly with the Little Twelvemile Creek as it forms the western

boundary of parcel 2A as shown on tax map 6-015 to its intersection with the northern property boundary line of parcel 025 as shown on tax map 6-015; thence with said parcel southwesterly approximately 660 feet, then southerly approximately 1,950 feet to the intersection of its western property boundary line with the northern boundary of the S.A.R.R. right-of-way, thence northeasterly with the northern boundary of the S.A.R.R. right-of-way approximately 3,990 feet to its intersection with the western property boundary line of parcel 003 as shown on tax map 9-429; thence with said parcel northeasterly approximately 295 feet, then southeasterly approximately 970 feet, then southerly approximately 1,155 feet, then southwesterly approximately 106 feet, then southerly approximately 810 feet to the intersection of the southern extension of its eastern property boundary line with the southern boundary of Old Waxhaw-Monroe Road (SR1150); thence southwesterly with the southern boundary of Old Waxhaw-Monroe Road approximately 265 feet to its intersection with the property boundary line of parcel 001B as shown on tax map 9-417; thence with said parcel southeasterly approximately 130 feet, then northeasterly approximately 809 feet, then northeasterly approximately 628 feet, then easterly approximately 307 feet, then northwesterly approximately 169 feet, then northeasterly approximately 134 feet, then southeasterly approximately 830 feet, then southeasterly approximately 658 feet, then southwesterly approximately 294 feet, then southeasterly approximately 866 feet, then southerly approximately 221 feet, then southerly approximately 109 feet, then southeasterly approximately 237 feet, then southerly approximately 49 feet, then easterly approximately 193 feet, then northerly approximately 894 feet, then northeasterly approximately 606 feet, then southeasterly approximately 129 feet, then southeasterly approximately 120 feet, then northeasterly approximately 1,428 feet, then northerly approximately 661 feet, then northwesterly approximately 320 feet, then northwesterly approximately 140 feet, then northeasterly approximately 286 feet, then easterly approximately 967 feet, then southerly approximately 568 feet, then southwesterly approximately 112 feet, then southwesterly approximately 259 feet, then southerly approximately 561 feet, then southeasterly approximately 734 feet, then southeasterly approximately 597 feet, then southerly approximately 1 foot, then southerly approximately 138 feet, then westerly approximately 165 feet, then northwesterly approximately 118 feet, then northwesterly approximately 82 feet, then northwesterly approximately 998 feet, then westerly approximately 1,277 feet, then southerly approximately 559 feet to the intersection of the property boundary line with the northern boundary of Doster Road (SR1149), then with the northern boundary of Doster Road easterly approximately 145 feet to its intersection with the northern extension of the eastern property boundary line, then southerly approximately 81 feet, then southerly approximately 1,546 feet, then northwesterly approximately 1,066 feet, then northerly approximately 594 feet, then northeasterly approximately 443 feet, and then northerly approximately 231 feet to the intersection of the property boundary line with the southern boundary of Doster Road; thence westerly with the southern boundary of Doster Road approximately 690 feet to its intersection with the western property boundary line of parcel 001 as shown on tax map 9-417; thence with said parcel southwesterly approximately 2,455

feet, and then westerly approximately 1,960 feet to the intersection of the property boundary line with the eastern property boundary line of parcel 43 as shown on tax map 6-018; thence with said parcel southerly approximately 820 feet, then northwesterly approximately 475 feet to the intersection of the property boundary line with the northern boundary of Crow Road (SR1147), then northwesterly with the northern boundary of Crow Road approximately 990 feet to its intersection with the property boundary line, then northwesterly approximately 125 feet, and then southwesterly approximately 937 feet to the northeast corner of the property boundary line of parcel 006 as shown on tax map 6-017; thence with said parcel southwesterly approximately 194 feet, then northwesterly approximately 35 feet, then southwesterly approximately 40 feet, then southeasterly approximately 40 feet, then southwesterly approximately 980 feet, then southeasterly approximately 1,193 feet, then southwesterly approximately 676 feet, then northwesterly approximately 822 feet, and then northwesterly approximately 770 feet to the intersection of the southern property boundary line with the eastern property boundary line of parcel 002B as shown on tax map 6-017; thence with said parcel southerly approximately 30 feet, and then northeasterly approximately 1,537 feet to the intersection of the southern property boundary line with the eastern property boundary line of parcel 001 as shown on tax map 6-017; thence with said parcel southwesterly approximately 167 feet, and then northwesterly approximately 571 feet to the intersection of the southern property line with the southeastern boundary of Potter Road (SR1162); thence southwesterly with the southeastern boundary of Potter Road approximately 2,080 feet to its intersection with the southerly extension of the western property boundary line of parcel 019J as shown on tax map 5-006; thence northerly with said property boundary line approximately 637 feet to its intersection with the southern property boundary line of parcel 015 as shown on tax map 5-006; thence westerly with said property boundary line approximately 390 feet to its intersection with the southeastern corner of parcel 001A as shown on tax map 5-003; thence with said parcel westerly approximately 717 feet, then westerly approximately 1,591 feet, then westerly approximately 197 feet, then northwesterly approximately 360 feet, then northwesterly approximately 714 feet, then northwesterly approximately 337 feet, and then northerly approximately 300 feet to the intersection of the property boundary line with the northernmost corner of parcel 009G as shown on tax map 5-006; thence with said parcel southwesterly approximately 462 feet, then westerly approximately 530 feet, and then westerly approximately 246 feet to the intersection of the property boundary line with the eastern property boundary line of parcel 053 as shown on tax map 5-033; thence southerly with said property boundary line approximately 1,000 feet to the intersection of its southern extension with the centerline of Western Union School Road (SR1143); thence from the intersection of the centerline of Western Union Road with the northern extension of the western property boundary line of parcel 010 as shown on tax map 5-006 southerly with said property boundary line approximately 590 feet to its intersection with the northwest corner of the property boundary line of parcel 011 as shown on tax map 5-006; thence southerly with said property boundary line approximately 208 feet to its intersection with the northeast

corner of the property boundary line of parcel 188 as shown on tax map 5-033; thence with said parcel westerly approximately 2,090 feet, and then northerly approximately 2,345 feet to the intersection of the property boundary line with the southern boundary of Western Union School Road; thence with the southern boundary of Western Union School Road in a northwesterly direction approximately 960 feet to the point and place of BEGINNING.

EXCEPTED and EXCLUDED from the above described corporate boundary is all of that tract of land consisting of parcel 001 as shown on tax map 6-036, comprising 37.160 acres, and more commonly known as the Pleasant Grove Campground.

"CHAPTER III.

"GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Mineral Springs is the Town Council, which has six members and the Mayor.

"Section 3.2. **Temporary Officers.** Until the initial election in 1999 provided for by Section 4.1 of this Charter, Frederick Becker III is hereby appointed Mayor, and William Henry Blythe, Jr., Gerald Countryman, Lundeen Cureton, Thomas Kalin, Alice Mabe, and Peggy Neill are hereby appointed members of the Town Council, and they shall possess and may exercise the powers granted to the Mayor and Town Council until their successors are elected or appointed and qualify pursuant to this Charter.

"Section 3.3. **Manner of Electing Town Council; Term of Office.** The qualified voters of the entire Town shall elect the members of the Town Council. Except as provided by this section, members are elected to a four-year term of office. In 1999, the three candidates receiving the highest numbers of votes are elected to four-year terms, and the three candidates receiving the next highest numbers of votes are elected to two-year terms. In 2001 and each two years thereafter, three members are elected to four-year terms.

"Section 3.4. **Manner of Electing Mayor; Term of Office.** The qualified voters of the entire Town shall elect the Mayor. The Mayor shall be elected in 1999 and each two years thereafter for a two-year term.

"CHAPTER IV.

"ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Town officers shall be elected on a nonpartisan basis and results determined by a plurality as provided in G.S. 163-292.

"CHAPTER V.

"ADMINISTRATION.

"Section 5.1. **Town to Operate Under Mayor-Council Plan.** The Town of Mineral Springs operates under the Mayor-Council Plan as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes.

"Section 5.2. **Budget Ordinance; Municipal Taxes.** From and after the effective date of this act, the citizens and property in the Town of Mineral Springs shall be

subject to municipal taxes levied for the year beginning July 1, 1999, and for that purpose the Town shall obtain from Union County a record of property in the area herein incorporated which was listed for property taxes as of January 1, 1999. The Town may adopt a budget ordinance for fiscal year 1999-2000 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 1999-2000, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance, and thereafter in accordance with the schedule in G.S. 105-360 as if the taxes had been due and payable on September 1, 1999. If this act is ratified before July 1, 1999, the Town may adopt a budget ordinance for fiscal year 1998-1999 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical, but no ad valorem taxes may be levied for the 1998-1999 fiscal year."

Section 2. On a date established by the Union County Board of Elections no earlier than 60 nor later than 120 days after this bill becomes law, the Union County Board of Elections shall conduct a special election for the purpose of submission to the qualified voters of the area described in Section 2.1 of the Charter of the Town of Mineral Springs, the question of whether such area shall be incorporated as the Town of Mineral Springs.

Section 3. In the election, the question on the ballot shall be:

"[ ]FOR [ ]AGAINST

Incorporation of the Town of Mineral Springs".

Section 4. In the election, if a majority of the votes are cast "For the Incorporation of the Town of Mineral Springs", Sections 1 through 3 of this act become effective on the date that the Union County Board of Elections certifies the results of the election. Otherwise, Section 1 of this act has no force and effect.

Section 5. This act is effective when it becomes law.

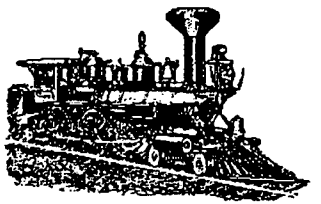
A Short History Of

Mineral Springs

North Carolina

Mineral Springs is located on the Western side of Union County, North Carolina with a clear connection to its roots in the past and an open vision for the progressive future. Of the residents, merchants and churches, it can be said that the community enjoys a "down-home" closeness and kinship that harks back to the olden days of the past. The farming community of that past day was filled with work, play, and worship that drew the people of this area into a close knit unit. It is hoped that all who come here will find this same spirit in these modern days.

The historical background of Mineral Springs is very interesting. The geography of this community is based on several main features. Historic Potters Road is a landmark that has lasted from early, Pre-Revolutionary War times. Built by the British General Potter, it was a main route of passage through the area. The Pleasant Grove Campground to the West of the present town became a landmark that bound the community to its worship and fellowship in 1828. To the Northwest of the present town is found the old Winchester Post Office building near the present intersection of Potter Road and New Town Road. This building is said to be one of the oldest, surviving buildings in the area. The spring that gave the community its name is located about 1/4 mile East of the old Mineral Springs school, off Potters Road. Reported to give mineral water, the spring's water was used for cures all across the state. In 1888 the railroad came through. The intersection was then called *"Potters Crossing"* and in that year the name *"Mineral Springs"* was applied to our community.



But this community is not just landmarks and history. In the beginning days of the settlement of this area, people came to live in this pleasant region and played the leading role in the development of the area. Around the 1760's, about twelve years after the neighboring community of "the Waxhaws" (Around the old Waxhaw Presbyterian Church in S.C.) was settled there were settlers here. Most were Scotch-Irish in those early days. In the 1760's there were families here with names like Bickett, Doster, Osborne, Polk and Walker. These earliest names were joined by many names like Gordon, Houston, Howie, Jackson, Laney, McCorkle, Penegar, Winchester and Wolfe, among others. These are still common to this area. The farming changed from one crop to another over the years and then the railroad came to offer transportation (at one time six passenger trains a day came through our town) and industry offered jobs outside the community in Monroe and Charlotte, North Carolina as well as Lancaster and Fort Mill, South Carolina. Many factors have changed during this time but true community values have remained over the passing of years - It was not the virgin forest of the Carolinas that made this place attractive - they have gone. It was not the hundred acre plantation fields that gave the attraction to Mineral Springs - All that has changed. It was not the prosperity of the railroad - Much of that now just goes through our town.

It, of course, was then and is now, the people. It is no coincidence that the Pre-amble to the Constitution opens with these words: "We the people..." Mineral Springs has grown by many with many races and creeds but there are a few things that have lasted. *Good neighbors, Reliable merchants and craftsmen* and *Friendly churches* are still the attractions that stand out above all else in Mineral Springs. We are thankful that we have a community that has not lost the values of its historic American heritage and these values can belong to all Americans in any community.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 622 A BILL TO BE ENTITLED AN ACT TO IMPOSE ADDITIONAL FEES AND COSTS AND TO INCREASE EXISTING FEES COLLECTED UNDER THE NURSING HOME ADMINISTRATORS BOARD ACT.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

H. B. No. _____ DATE 5/27/99

S. B. No. 622 Amendment No. _____
(to be filled in by Principal Clerk)

Rep.) Braswell
Sen.)

moves to amend the bill on page 2, line 16-29

by deleting those lines;

and on page 2, line 30, by deleting "section 3." and substituting "section 2."

SIGNED Jerry Braswell

ADOPTED ✓ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-217
SENATE BILL 622

AN ACT TO IMPOSE ADDITIONAL FEES AND COSTS AND TO INCREASE EXISTING FEES COLLECTED UNDER THE NURSING HOME ADMINISTRATORS BOARD ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-280 reads as rewritten:

"**§ 90-280. Fees; display of license; duplicate license; inactive list.**

(a) Each applicant for an examination administered by the Board and each applicant for an administrator-in-training program shall pay a processing fee set by the Board not to exceed ~~two hundred dollars ($200.00).~~ one hundred dollars ($100.00) plus the actual cost of the exam.

(b) Each person licensed as a nursing home administrator shall be required to pay a license fee in an amount set by the Board not to exceed five hundred dollars ($500.00). A license shall expire on the thirtieth day of September of the second year following its issuance and shall be renewable biennially upon payment of a renewal fee set by the Board not to exceed five hundred dollars ($500.00).

(c) Each person licensed as a nursing home administrator shall display his license certificate, along with the current certificate of renewal, in a conspicuous place in his place of employment.

(d) Any person licensed as a nursing home administrator may receive a duplicate license by payment of a fee set by the Board not to exceed twenty-five dollars ($25.00).

(e) Any person licensed as a nursing home administrator who is not acting, serving, or holding himself out to be a nursing home administrator may have his name placed on an inactive list for such period of time not to exceed ~~five~~ four years upon payment of a fee set by the Board not to exceed ~~twenty-five dollars ($25.00).~~ fifty dollars ($50.00) per year. Each year during that four-year period, upon request and payment of the fee, the person's name may remain on an inactive list for one additional year.

(f) Any person having a temporary license issued pursuant to G.S. 90-278(3) shall pay a fee in an amount set by the Board not to exceed ~~one~~ two hundred dollars ~~($100.00).~~ ($200.00). If the Board renews the temporary license, no further fee shall be required.

(g) The Board may set fees not to exceed two hundred and fifty dollars ($250.00) for conducting and administering initial training and continuing education courses, and may set a fee not to exceed one hundred dollars ($100.00) for certifying a course submitted for review by another individual or agency wishing to offer such ~~courses.~~ courses or may set an annual fee not to exceed two thousand dollars ($2,000) for certifying a course provider in lieu of certifying each course offered by the provider."

Section 2. This act becomes effective October 1, 1999.

In the General Assembly read three times and ratified

this the 16th day of June 1999.

s/ Dennis A. Wicker
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 11:24 a.m. this 25th day of June, 1999

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 622 (Second Edition)

SHORT TITLE: Nursing Home Admin. Bd./Fees

SPONSOR(S): Senator Kerr

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Special Revenue Fund					
Inactive Status	$1,425	$1,425	$1,425	$1,425	$1,425
Temporary License	$4,600	$4,600	$4,600	$4,600	$4,600
Contested Cases	$5,000	$5,000	$5,000	$5,000	$5,000
Total	$11,025	$11,025	$11,025	$11,025	$11,025

EXPENDITURES Not Yet Determined by Board

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina State Board of Examiners for Nursing Home Administrators

EFFECTIVE DATE: Sections 1 and 2 of the bill are effective October 1, 1999. The remainder of the bill is effective when it becomes law.

BILL SUMMARY: The bill makes the following changes: 1) changes the exam fee from up to $200 to an amount up to $100 plus cost of the exam; 2) increases the fee for going into inactive status from $25 to $50 per year and reduces the period of inactive status from 5 years to 4 years; 3) increases the cost of a temporary license from $100 to $200, but keeps free renewal of temporary license; 4) sets a maximum annual fee of $2000 for course providers of Continuing Education courses; and 5) allows recovery of costs of enforcement proceedings of up to $5000.

ASSUMPTIONS AND METHODOLOGY:

I. Exams

The Board of Examiners for Nursing Home Administrators (State Board) now collects $200 for examination of administrators-in-training. From this fee, $150 is sent to the National Association of Boards of Examiners for Nursing Home Administrators and $50 is retained by the State Board to cover processing costs. In January 2000, administrators-in-training will pay the National Board directly for the exam. The proposed language in section one of the bill allows the State Board to collect up to $100 for processing the exam and states that exam applicants will pay the

actual cost of the exam. Since the State Board has no plans to increase their processing fee beyond the $50 now charged, revised 90-280(a) has no fiscal impact.

II. Inactive Status

In each of the last two years, there have been 57 applicants for inactive status. Revised 90-280(e) increases the fee from $25 to $50 per year and reduces the time permitted on inactive status from 5 to 4 years. This change could encourage former nursing home administrators to reapply for a permanent license or simply let their license lapse. The State Board makes no prediction on the future of this group, but simply projects that an average of 57 applicants each year will pay the new $50 rate. At this new rate, the State Board will collect $1,425 in new revenue each year.

III. Temporary License

The State Board issued 46 temporary licenses in 1997-98 and has issued 44 temporary licenses in the first 9 months of 1998-99. When the State Board meets every six weeks it approves temporary licenses until the next exam period, which are held four times a year. The State Board expects the number of temporary licenses to remain at 46 per year even with the increase to $200 in 90-280(f). This will generate $4,600 in additional revenue each year.

IV. Course Fees

The State Board may charge up to $100 to certify a continuing education course offered by an agency or individual, but now charges $50 per course. 90-280(g) offers a new option to groups who provide numerous continuing education courses. The State Board believes such groups as the NC Health Care Facilities Association, the NC Nonprofit Association, and the Northwest AHEC will take advantage of this $2,000 annual fee. The new fee will reduce the paperwork on both the State Board and the course sponsors and is not expected to reduce course revenue.

V. Contested Cases

The State Board has witnessed an increased number of enforcement cases in recent years due to the increased inspection efforts of the Division of Facility Services in the Department of Health and Human Services. The State Board receives about 20 cases a year that they try to resolve by consent order. However, about one case per year cannot be easily resolved due to the respondent's failure to cooperate in good faith in the investigation and proceeding. The State Board can charge up to $5,000 in each of these cases to recover administrative costs.

Fund Balances

Year Ended June 30, 1998	$88,325
Year Ended June 30, 1997	$159,708
Year Ended June 30, 1996	$145,813
Year Ended June 30, 1995	$161,690

PREPARED BY: Richard Bostic

APPROVED BY: Tom Covington

DATE: Tuesday, May 25, 1999

House Finance Committee Hearing
May 27, 1999 • 8:30 am
Legislative Office Bldg. (Room 544)

Summary of Comments from Carl Rist, Corporation for Enterprise Development

1. **Impact of William S. Lee Quality Jobs and Business Expansion Act remains uncertain.**
   - According to the Department of Commerce, since the passage of the Act:
     - Job creation and capital investment have increased in North Carolina,
     - Industries eligible for the tax credits under the Act have created more jobs and generated more new investment, and
     - Industrial recruitment and expansion in Tier 1 and 2 counties compares favorably to the rest of the state (on a per capita basis).
   - According to the Budget and Tax Center, however:
     - Job creation was slower in 1998 than in 1997, and
     - Relatively affluent communities (Tiers 4 and 5) still receive a disproportionate share of new job creation (on a per capita basis).
   - According to a recent story in the News and Observer:
     - The gap in income between North Carolinians and all Americans widened last year for the first time in almost a decade, and
     - North Carolina workers did *worse* than their counterparts in five of nine major industries, including manufacturing.
   - Overall, the evidence from the best studies of economic development tax incentives indicates that they:
     - At best, only make a difference on the margin, and
     - At worst, subsidize firms for decisions they would have made anyway.

2. **Given the Act's as yet uncertain impact (and the current budget shortfall), standing pat rather than expanding the Act is the wisest course of action. This includes:**
   - Maintaining the current sunset in 2002, and
   - Augmenting the Act only after a thorough evaluation. Best practice principles of sunset reviews (to make them meaningful rather than perfunctory) include:
     - Providing appropriate resources and time for the sunset review,
     - Looking at not only effectiveness, but also appropriateness and efficiency,
     - Ensuring that the evaluator is responsive to the various state agencies that have a stake in the evaluation (e.g. Department of Commerce, Department of Revenue, Fiscal Research Division of General Assembly, Governor's Office), and
     - Providing opportunities for public input.

3. **Finally, given that a primary objective of the Act is to ensure that economic growth reaches people in all parts of the state (esp. rural and high-poverty urban areas), the Act should move in the direction of more targeting, not less. This means:**
   - Opposing changes to expand credits to specific industries or to specific communities by modifying the tier system,
   - Supporting changes to expand credits for improvement projects in high-poverty development zones, and
   - Adding changes that would require companies receiving credits in Tiers 4 and 5 to sign "First Source" agreements.

Contact: Carl Rist
Corporation for Enterprise Development
123 West Main St., 3rd Floor
Durham, NC 27701
919-688-6444; rist@cfed.org

VISITOR REGISTRATION SHEET

HOUSE FINANCE COMMITTEE May 27, 1999

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jane Clark Moorman	NC Certification Board for Social Work Asheboro
Marjorie Howe CCSW	NC Soc for Clinical Social Work
Dr. Diane Ranes	NC Society Clinical Social Work
John Baily	NCDOR
W.A. (Pete) Kodder	Forsyth County - NCAAD, NCTCA
Patti Seawell	NC DOR
Don DALton	NCHA 2400 Weston Parkway, Cary
Ted Goins	NC State Board of Examiners for Nursing Home Administrators
Jane Baker	NC State Board of Examiners for Nursing Home Administrators
Paul Shultz	Allen + Pinnix
Bill Young	AHHC
Amy Hobbs	NCHMA
Ben Murray	NC NA
Bob Pinson	Jordan Price Wall
HUGH TILSON	NCHA
Nicole Dusenberry	SBE
Tommy Worth	Carolinas Health Care System
Steve Woodson	NC Farm Bureau
Mike Carpenter	NCCOA
Ralph E. Hise Jr	Legislative Intern

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Tuesday, June 1, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 1289 – Limit Recycling Tax Incentives – Rep. Luebke
HB 1470 – Impaired Dental Hygienists / Fee – Rep. Allen

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Tuesday, June 1, 1999

The House Committee on Finance met on Tuesday, June 1, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke, and Miller; Vice Chairs Jarrell; Representatives Braswell, Bridgeman, Brown, Capps, Church, Cox, Creech, Decker, Eddins, Edwards, Gibson, Goodwin, Hackney, Hill, McCombs, Morris, Pope, Rayfield, Tucker, Wilson, and Womble. Staff including Cindy Avrette, Richard Bostic, Mary Shuping, and Linda Shuping were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Allen called the meeting to order. Chair Luebke then took control while Rep. Allen presented HB 1470.

Rep. Allen was recognized to explain HB 1470, A BILL TO BE ENTITLED AN ACT ALLOWING THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS TO ENTER INTO AGREEMENTS WITH SPECIAL IMPAIRED DENTIST PEER REVIEW ORGANIZATIONS TO INCLUDE PROGRAMS FOR IMPAIRED DENTAL HYGIENISTS AND TO COLLECT FEES TO FUND SUCH PROGRAMS. The Chair recognized Mr. William Potter of the N.C. Dental Society. The Chair recognized Ms. Parker, Dr. Ben Brown, and Ms. Christine Lockwood, all from the Board of Examiners. Ms. Parker and Mr. Potter answered members' questions. The Chair recognized Ms. Jan Ramquist of the N.C. Dental Hygienists Association who stated the other organizations did not work with her organization on this bill. Cindy Avrette answered members' questions. Rep. Jarrell sent forward an amendment. Members questioned Rep. Jarrell on the amendment. Members questioned Mr. Potter. Rep. Jarrell asked to displace the amendment. The Chair stated that the bill would be displaced and recalendared. The bill, Amendment, Bill Summary, and Fiscal Note are included in these minutes.

Rep. Allen replaced Rep. Luebke as Chair.

Rep. Luebke was recognized to explain HB 1289, A BILL TO BE ENTITLED AN ACT TO REMOVE THE SPECIAL TAX TREATMENT FOR EQUIPMENT AND FACILITIES FOR RECYCLING, WASTE REDUCTION, OR RESOURCE RECOVERY WHEN ACQUIRED MORE THAN TWO YEARS PRIOR TO THE DATE OF APPLICATION FOR CERTIFICATION BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND TO LIMIT TO THREE YEARS THE CERTIFICATION FOR SPECIAL TAX TREATMENT FOR REAL PROPERTY USED FOR RECYCLING, WASTE REDUCTION, OR RESOURCE RECOVERY. This bill is the 1999 Fee bill. Rep. Luebke stated there would only be discussion on the bill and no vote at this meeting. Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion only. Rep. Luebke explained the bill. Cindy Avrette also commented and Linda Millsaps explained the fiscal note. The Chair recognized Mr. Prost of the Department of Insurance who answered members' questions. The Chair recognized Mr. Kaplan of Kaiser Permamente who commented. Members commented and questioned Mr. Prost and Mr.

Kaplan. The bill, the Proposed Committee Substitute, Bill Summary, and Fiscal Note are included in these minutes.

There being no further business, the Chair adjourned the meeting at 10:00 a.m.

Respectfully submitted:

Representative Gordon Allen
Chair

Representative Paul Luebke
Chair

Kristen L. Crosson
Assistant to the Committee

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1289
PROPOSED COMMITTEE SUBSTITUTE
H1289-PCSRBX-1

Short Title: Set Reg. Fees/Expand Ins. Reg. Fee. (Public)

Sponsors:

Referred to: Finance.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO SET THE PUBLIC UTILITY REGULATORY FEES, TO SET THE INSURANCE REGULATORY CHARGE, AND TO IMPOSE THE INSURANCE REGULATORY CHARGE ON SERVICE CORPORATIONS AND ON HEALTH MAINTENANCE ORGANIZATIONS.

The General Assembly of North Carolina enacts:

Section 1. The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is nine-hundredths percent (0.09%) of each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 1999.

Section 2. The annual fee imposed on The North Carolina Electric Membership Corporation under G.S. 62-302(b1) for the 1999-2000 fiscal year is two hundred thousand dollars ($200,000).

Section 3. The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is six and one-half percent (6.5%) for the 1999 calendar year.

Section 4. G.S. 58-6-25 reads as rewritten:

"**§ 58-6-25. Insurance regulatory charge.**

(a) Charge Levied. -- There is levied on each insurance company an annual charge for the purposes stated in subsection (d) of this section. ~~As used in this section, the term "insurance~~

~~company" means a company that pays the gross premiums tax levied in G.S. 105-228.5 and G.S. 105-228.8, except a service corporation subject to Article 65 of this Chapter. A health maintenance organization subject to Article 67 of this Chapter is not subject to those taxes and is therefore not subject to the charge levied in this section.~~ The charge levied in this section is in addition to all other fees and taxes. The percentage rate of the charge is established pursuant to subsection (b) of this section. Fore each insurance company that is not an Article 65 corporation nor a health maintenance organization, the rate is applied to ~~charge shall be at a percentage rate of~~ the company's premium tax liability for the taxable year. For Article 65 corporations and health maintenance organizations, the rate is applied to a presumed premium tax liability for the taxable year calculated as if the corporation or organization were an insurer providing health insurance. In determining an insurance company's premium tax liability for a taxable year, the following shall be disregarded:

(1) Additional taxes imposed by G.S. 105-228.8.

(2) The additional local fire and lightning tax imposed by G.S. 105-228.5(d)(4).

(3) Any tax credits for guaranty or solvency fund assessments under G.S. 105-228.5A or G.S. 97-133(a).

(4) Any tax credits allowed under Chapter 105 of the General Statutes other than tax payments made by or on behalf of the taxpayer.

(b) Rates. -- The rate of the charge for ~~the 1991 taxable year shall be six and five-tenths percent (6.5%). For subsequent taxable years, the rate~~ each taxable year shall be the percentage rate established by the General Assembly. When the Department prepares its budget request for each upcoming fiscal year, the Department shall propose a percentage rate of the charge levied in this section. The Governor shall submit that proposed rate to the General Assembly each fiscal year. The General Assembly shall set by law the percentage rate of the charge levied in this section. The percentage rate may not exceed the rate necessary to generate funds sufficient to defray the estimated cost of the operations of the Department for each upcoming fiscal year, including a reasonable margin for a reserve fund. The amount of the reserve may not exceed one-third of the estimated cost of operating the Department for each upcoming fiscal year. In calculating the amount of the reserve, the General Assembly shall consider all relevant factors that may affect the cost of

operating the Department or a possible unanticipated increase or decrease in North Carolina premiums or other charge revenue.

(c) Returns; When Payable. -- The charge levied on each health maintenance organization is payable March 15 following the end of each taxable year. The charge levied on each insurance company other than a health maintenance organization is payable at the time the insurance company remits its premium tax. If the insurance company is required to remit installment payments of premiums tax under G.S. 105-228.5 for a taxable year, it shall also remit installment payments of the charge levied in this section for that taxable year at the same time and on the same basis as the premium tax installment payments. Each installment payment shall be equal to at least thirty-three and one-third percent (33.3%) of the insurance company's regulatory charge liability incurred in the immediately preceding taxable year.

Every insurance company shall, on or before the date the charge levied in this section is due, file a return on a form prescribed by the Secretary of Revenue. The return shall state the company's total North Carolina premiums or presumed premiums for the taxable year and shall be accompanied by any supporting documentation that the Secretary of Revenue may by rule require.

(d) Use of Proceeds. -- The Insurance Regulatory Fund is created in the State treasury, under the control of the Office of State Budget and Management. The proceeds of the charge levied in this section and all fees collected under Articles 69 through 71 of this Chapter and under Articles 9 and 9C of Chapter 143 of the General Statutes shall be credited to the Fund. The Fund shall be placed in an interest-bearing account and any interest or other income derived from the Fund shall be credited to the Fund. Moneys in the Fund may be spent only pursuant to appropriation by the General Assembly and in accordance with the line item budget enacted by the General Assembly. The Fund is subject to the provisions of the Executive Budget Act, except that no unexpended surplus of the Fund shall revert to the General Fund. All money credited to the Fund shall be used to reimburse the General Fund for the following:

(1) Money appropriated to the Department of Insurance to pay its expenses incurred in regulating the insurance industry and other industries in this State.

(2) Money appropriated to State agencies to pay the expenses incurred in regulating the insurance industry, in certifying statewide data processors under Article 11A of Chapter 131E of the General

Statutes, and in purchasing reports of patient data from statewide data processors certified under that Article.

(3) Money appropriated to the Department of Revenue to pay the expenses incurred in collecting and administering the taxes on insurance companies levied in Article 8B of Chapter 105 of the General Statutes.

(e) Definitions. -- The following definitions apply in this section:

(1) Article 65 corporation. -- Defined in G.S. 105-228.3.

(2) Insurance company. -- A company that pays the gross premiums tax levied in G.S. 105-228.5 and G.S. 105-228.8 or a health maintenance organization.

(3) Insurer. -- Defined in G.S. 105-228.3."

Section 5. Section 1 of this act becomes effective July 1, 1999. Section 2 of this act becomes effective July 1, 1999, if and only if House Bill 476, which provides that the Utilities Commission must provide oversight of the electric membership corporations that form subsidiaries to provide services other than electricity, is enacted. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

HOUSE BILL 1289

Short Title: Limit Recycling Tax Incentives. (Public)

Sponsors: Representative Luebke.

Referred to: Finance.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO REMOVE THE SPECIAL TAX TREATMENT FOR EQUIPMENT AND FACILITIES FOR RECYCLING, WASTE REDUCTION, OR RESOURCE RECOVERY WHEN ACQUIRED MORE THAN TWO YEARS PRIOR TO THE DATE OF APPLICATION FOR CERTIFICATION BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND TO LIMIT TO THREE YEARS THE CERTIFICATION FOR SPECIAL TAX TREATMENT FOR REAL PROPERTY USED FOR RECYCLING, WASTE REDUCTION, OR RESOURCE RECOVERY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-294(a)(3) reads as rewritten:

"(3) Develop and adopt rules to establish standards for qualification as a 'recycling, reduction or resource recovering facility' or as 'recycling, reduction or resource recovering equipment' for the purpose of special tax classifications or treatment, and to certify as qualifying those applicants which meet the established standards. The standards shall be developed to qualify only those facilities and equipment exclusively used in the actual waste recycling, reduction or resource recovering process and shall exclude any incidental or supportive facilities and ~~equipment;~~ equipment. Facilities or equipment acquired by the applicant or a related person more than two years prior to the date application is made for certification under this subdivision shall not be certified as qualifying for special tax classification or treatment under this

subdivision. A certificate that qualifies real property for special tax classification or treatment under this subdivision shall be limited to three years from the date the certificate is issued and shall not be renewed or reissued for that applicant or a related person. For purposes of this subdivision, 'related person' means a related person as determined under section 267(b) or 707(b) of the Internal Revenue Code."

Section 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 1999.

HOUSE BILL 1289:
Set Regulatory Fees/Expand Insurance Regulatory Fee

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Luebke
Date:	June 1, 1999	**Summary by:**	Cindy Avrette
Version:	PCS for 1st Edition H1289-PCSRBX-1		Committee Counsel

SUMMARY: ***The proposed committee substitute for House Bill 1289 sets the public utility regulatory fee for insurance companies at 0.09%, it sets the public utility regulatory fee on The North Carolina Electric Membership Corporation at $200,000, and it sets the insurance regulatory charge at 6.5%. It also imposes the insurance regulatory charge on HMOs, Blue Cross Blue Shield of NC, and Delta Dental of NC.***

PUBLIC UTILITY REGULATORY FEE: **Section 1** sets the public utility regulatory fee for fiscal year 1999-2000 at 0.09%. The rate maintains the current 0.09% rate set in fiscal year 1997-98. The utility regulatory fee was imposed in 1989. Its purpose is to defray the State's cost in regulating public utilities. The regulatory fee is imposed on all utilities that are subject to regulation by the North Carolina Utilities Commission. The fee is a percentage of the utility's North Carolina jurisdictional revenues. In general, jurisdictional revenue is revenue derived from providing utility service in North Carolina.

In addition to funding the State's cost in regulating public utilities, the money in the Utilities Commission and Public Staff Fund was used last biennium to finance the work of the Study Commission on the Future of Electric Service in North Carolina. Legislation has been introduced this session, House Bill 777 and Senate Bill 266, to continue funding this Commission with revenue from the Fund for the upcoming fiscal year. The General Assembly established the Commission in 1997. The purpose of the Commission is to examine the cost, adequacy, availability, and pricing of electric rates and service in North Carolina to determine whether legislation is necessary to assure an adequate and reliable source of electricity and an economical, fair, and equitable rates for all consumers of electricity in North Carolina.

Section 2 of the bill establishes the public utility regulatory fee to be paid by The North Carolina Electric Membership Corporation for the 1999-2000 fiscal year at $200,000. This section becomes effective if and only if House Bill 476 is enacted. House Bill 476 authorizes electric membership corporations to form subsidiary corporations that may provide energy services and products, telecommunications services and products, and water and wastewater collection and treatment. The subsidiaries must fully compensate the electric membership corporation for its use of the corporation's personnel, services, equipment, and property. Under House Bill 476, the Utilities Commission is charged with regulating this aspect of the subsidiary's business. To pay for the cost of this regulation, the bill creates a flat regulatory fee to be paid The North Carolina Electric Membership Corporation to the Utilities Commission and Public Staff Fund. The General Assembly must establish the flat fee amount each year. This bill sets the fee amount at $200,000 for the 1999-2000 fiscal year.

INSURANCE REGULATORY CHARGE: **Section 3** increases the insurance regulatory charge from 6% to 6.5%. This charge was first imposed in 1991. Its purpose is to make the Department of Insurance receipt-supported and thereby eliminate General Fund support of the Department. The regulatory fee is imposed on insurance companies that pay the gross premiums tax, other than service corporations such as Blue Cross Blue Shield and Delta Dental Corporation. Health maintenance organizations do not pay the regulatory charge because they do not pay the gross premiums tax. The charge is a percentage of the insurance company's premiums tax liability.

In 1995, the General Assembly eliminated the insurance audit and examination fees for insurance companies, HMOs, medical corporations, and guaranty associations. The revenue generated by these audit fees was an estimated $4.5 million annually. Consequently, the costs of the audits are now paid for by the insurance regulatory charge as part of the costs of regulating the insurance industry.

Section 4 of the bill imposes the regulatory charge on the HMOs and the medical corporations. The fee is levied on an imaginary amount of dollars the HMOs and medical corporations would owe if they paid the gross premiums tax at the 1.9% rate like other insurers. HMOs do not pay the gross premiums tax. Medical corporations pay the gross premiums tax at a rate of one-half of one percent (0.05%).

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1289 (House Finance Committee Substitute)

SHORT TITLE: Set Regulatory Fees/Expand Ins. Reg. Fee

SPONSOR(S):

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

($ Millions)

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Utilities Special Fund	$8.7	($0.36 million increase over FY 1998-99)			
(Regulatory Fee Revenue = $8.5)					
(NC EMC Fee = $0.2)					
Insurance Regulatory Fund	$21.7	($2.5 million increase over 1998)			

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: N.C. Department of Insurance, N.C. Utilities Commission/Public Staff.

EFFECTIVE DATE: Section 1 becomes effective July 1, 1999. The remainder becomes effective when it becomes law.

BILL SUMMARY: Each year the General Assembly must set the regulatory fees for the insurance industry and public utilities. The bill sets the public utility regulator fee at nine-hundredths percent (0.09%) of each public utility's North Carolina jurisdictional revenues. The bill also sets the insurance regulatory fee at 6.5 percent of a company's premiums tax liability. The bill also applies the insurance regulatory fee to Health Maintenance Organizations (HMO). The rate for HMOs is based on a "presumed premiums tax liability". This presumed liability is calculated on what these companies would have paid in premiums tax if they were liable for such a tax (the HMOs do not pay a premiums tax). The bill applies the fee to a presumed premiums tax liability of 1.9% of the company's premium base. The bill also presumes an Article 65 corporate tax liability of 1.9% of their premium base. (Their actual premiums tax rate is 0.5%). The HMO payment is due on March 15th of each year for the previous year's tax. All other companies remit the fee when they pay the premiums tax.

ASSUMPTIONS AND METHODOLOGY: The bill addresses three fees - the public utilities regulatory fee, the electric membership corporation regulatory fee, and the insurance regulatory fee.

Public Utilities Regulatory Fee: The legislation sets the utilities regulatory fee at 0.09% of each public utilities' North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 1999. (This maintains the current 0.09% rate set in fiscal year 1998-99.) The revenue generated from this fee supports the operations of the North Carolina Utilities Commission and Public Staff.

G.S. 62-302(b)(2) states that the percentage rate established by the General Assembly and assessed by the Commission "may not exceed the amount necessary to generate funds sufficient to defray the estimated cost of the operations of the Commission and Public Staff for the upcoming fiscal year, including a reasonable margin for a reserve fund." The Utilities Commission estimates that combined operations of the Commission and the Public Staff in FY 1999-2000 will require expenditures of not less than $10,244,533. Revenues generated by the proposed utilities regulatory fee are estimated to be $8,500,000. The balance will be derived from other revenues generated by Commission fees and charges, or from the Accumulated Fee Margin Reserve Account.

The Utilities Commission indicates that the status of the Accumulated Fee Margin Reserve is as follows:

Balance as of 6/30/99	$ 7,414,519
Add: Estimated Collections and Interest for FY 1999-2000 using 0.09%	$ 9,400,000
Total Funds Available	$16,814,519
Less: Estimated FY 1999-2000 Expenditures Reimbursable from Fees	$(10,244,553)*
Estimated Margin Reserve for Period Ending 6/30/2000	$ 6,569,966

** The Utilities Commission indicates that potential costs incurred by the Legislative Study Commission on the Future of Electric Service in North Carolina are not included in FY 1999-2000 estimated expenditures. That cost, if any, is not estimated at this time. House Bill 777 and Senate Bill 26, both introduced this session, extend the authorization of study commission expenses from the reserve fund through FY 1999-2000. Both bills have been referred to their respective chambers' appropriations committees for consideration.*

Based on the projected Fee Margin Reserve, the fee of 0.09% should be sufficient to cover the operations of the Utilities Commission and Public Staff.

North Carolina Electric Membership Corporation (EMC) Regulatory Fee: House Bill 1289 PCS also establishes a regulatory fee to be paid by the North Carolina EMC totaling $200,000. This fee relates back to House Bill 476, which authorizes electric membership corporations to form subsidiary corporations to provide additional services beyond traditional electric services. House Bill 476 charges the Utilities Commission with regulating these new subsidiaries. The North Carolina EMC will now be required to remit an annual fee to the Utilities Special Fund to pay for the cost of this regulation. The Utilities Commission estimates that $200,000 will be sufficient to cover these anticipated costs in FY 1999-2000.

Insurance Regulatory Fee: This portion of the bill changes the existing law in three ways. First, the bill sets the insurance regulatory charge effective for calendar year 1999 at 6.5%. (This is an increase of 0.5% over the previous year). The charge is based on a percentage of a company's premiums tax liability for the taxable year. Every insurance company subject to the premiums tax levied under G.S. 105-228.5 is required to pay the insurance regulatory charge.

Companies that do not pay the premiums tax calculate what their premiums tax liability would be if they were liable for the tax. This is called the "presumed premiums tax". This presumed premiums tax is used to determine the regulatory fee liability.

G.S. 58-6-25(b) states that the percentage rate, set annually, cannot exceed the rate necessary to generate funds sufficient to defray the estimated cost of operating the Department of Insurance for the upcoming year including a reasonable margin for a reserve fund. The reserve fund should not exceed one-third of the estimated operating cost. The revenue collected from the charge is deposited into the Insurance Regulatory Fund invested with the State Treasurer and managed by the Office of State Budget and Management. Funds generated by the regulatory charge are used to reimburse the General Fund for the amount appropriated to the Department of Insurance.

The historic base against which the fee is charged, and the associated rate, is listed below.

	1997-98	1998-99
Estimated Gross Premiums Tax	$268 million	$281 million
Regulatory Rate	0.0875	0.06
Total Revenue	$23.45 million	$16.86 million

The historic base excludes Health Maintenance Organizations, and includes Article 65 companies (Blue Cross/Blue Shield and Delta Dental) at a reduced rate.

If the fee were levied only on companies in the existing base, and at the existing presumed premiums tax rate, the revenue for 1999-00 would be as follows:

	1999-00
Estimated Gross Premiums Tax	$295.05 million
Regulatory Rate	0.065
Total Revenue	$19.18 million

The bill also adds HMOs to the list of companies that are charged a regulatory fee. The Department of Insurance estimates that the HMOs will add approximately $34.2 million to the base against which the regulatory fee is charged. This is based on their presumed premiums tax liability. Applying the 6.5% regulatory fee to the $34.2 million creates an additional $2.2 million in regulatory fee revenue.

Finally, the bill increases the base associated with Blue Cross/Blue Shield and Delta Dental. These are Article 65 companies. Both of these companies pay premiums taxes at a reduced rate. While all other insurance companies with a premiums tax liability pay at the rate of 1.9%, these companies pay at a reduced 0.5% rate. The regulatory fee is charged on their reduced premiums tax amount. The bill increases the presumed rate for these companies to 1.9%. The Department of Insurance estimates that this will add $4.1 million to the base against which the regulatory fee is charged. As a result, this portion of the bill increases revenue by $286,450.

When totaled, the three changes to the insurance regulatory fee statutes create $21.7 million in revenue. However the Department estimates that $3.3 million in refunds will be made to companies that overpaid their surcharge in previous years. Thus, the net collections will be $18.4 million. The Department estimates that the operating expenditures for 1999-2000 will be approximately $21 million and that the reserve fund will have a beginning balance of $8.7 million. The total available from the reserve fund ($8.7 million) and the estimated net collections ($18.4 million) will be $27.1 million. The total available less the estimated operating expenditures of $21 million will leave a year-end reserve balance of $6.1 million, which is slightly less than one-third of the estimated operating expenditures.

Based on the above, the regulatory surcharge rate of 6.5% assessed against companies in the existing base, HMOs, and Article 65 companies is sufficient to defray the estimated cost of the operations of the Department including a reasonable reserve fund.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Jennifer Herrera, Marilyn Chism, and Linda Struyk Millsaps

APPROVED BY:

DATE:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

HOUSE BILL 1470

Short Title: Impaired Dental Hygienists/Fee. (Public)

Sponsors: Representative Allen.

Referred to: Finance.

May 13, 1999

A BILL TO BE ENTITLED

AN ACT ALLOWING THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS TO ENTER INTO AGREEMENTS WITH SPECIAL IMPAIRED DENTIST PEER REVIEW ORGANIZATIONS TO INCLUDE PROGRAMS FOR IMPAIRED DENTAL HYGIENISTS AND TO COLLECT FEES TO FUND SUCH PROGRAMS.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 90 is amended by adding a new section to read:

"**§ 90-48.3. Board authority to include impaired dental hygienists in programs developed for impaired dentists.**

The Board may enter into agreements with special impaired dentist peer review organizations to include programs for impaired dental hygienists, and the provisions of G.S. 90-48.2 shall apply to any such agreements and programs. Special impaired dentist peer review organizations shall have the authority to appoint to the organizations, upon the recommendation of the dental hygienist member of the Board, one additional member who is a licensed dental hygienist and the member shall participate in activities and programs as they relate to impaired dental hygienists. Peer liaisons and volunteers participating in programs for impaired dental hygienists may be dental hygienists. Dental hygienists who work with special impaired dentist peer review organizations in conducting programs for impaired dental hygienists shall have the same protections and responsibilities as members of traditional State and local dental society peer review committees under Article 2A of this Chapter and as provided in G.S. 90-48.2. The provisions of G.S. 90-48.2

regarding confidentiality shall also be applicable to all dental hygienist activities authorized under this section."

Section 2. G.S. 90-223 is amended by adding a new subsection to read:

"(e) The Board shall have the authority to provide for programs for impaired dental hygienists as authorized in G.S. 90-48.3."

Section 3. G.S. 90-232 reads as rewritten:

"**§ 90-232. Fees.**

In order to provide the means of carrying out and enforcing the provisions of this Article and the duties devolving upon the North Carolina State Board of Dental Examiners, it is authorized to charge and collect fees established by its rules and regulations not exceeding the following:

(1)	Each applicant for examination	$125.00
(2)	Each renewal certificate, which fee shall be annually fixed by the Board and not later than November 30 of each year it shall give written notice of the amount of the renewal fee to each dental hygienist licensed to practice in this State by mailing such notice to the last address of record with the Board of each such dental hygienist	60.00
(3)	Each restoration of license	60.00
(4)	Each provisional license	60.00
(5)	Each certificate of license to a resident dental hygienist desiring to change to another state or territory	25.00
(6)	Annual fee to be paid upon license renewal to assist in funding programs for impaired dental hygienists	40.00.

All fees shall be payable in advance to the Board and shall be disposed of by the Board in the discharge of its duties under this Article."

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

HOUSE BILL 1470:
Impaired Dental Hygienists/Fee

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Allen
Date:	June 1, 1999	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 1470 authorizes the State Board of Dental Examiners to include impaired dental hygienists in programs developed for impaired dentists. The bill imposes an additional $40 annual fee on dental hygienists to support the programs for impaired dental hygienists.***

CURRENT LAW: The "Caring Dentist Program" is a program established through agreements between the State Board of Dental Examiners and special impaired dentist peer review organizations formed by the North Carolina Dental Society. The purpose of the program is to identify dentists who have a chemical dependency or a mental illness. If an impairment exists, the peer review organization seeks to intervene and treat the dentist. The peer review organization must report information to the State Board of Dental Examiners if it determines that:

- The dentist constitutes an imminent danger to the public or himself.
- The dentist refuses to cooperate with the program, refuses to submit to treatment, or is still impaired after treatment and exhibits professional incompetence.
- It reasonably appears that there are other grounds for disciplinary action.

The agreements, which establish the Caring Dentist Program, must provide for the investigation, review, and evaluation of information about the practice of licensed dentists as the practices may relate to an impairment. They must also provide for the identification, intervention, treatment, referral, and follow-up care of impaired dentists and for the due process rights of the dentist subject to the Program.

The members of the special impaired dentist peer review organization are volunteer Dental Society members selected by the Board of Directors of the Caring Dentist Program. The members may not be held liable in damages to any person for any action taken or recommendation made within the scope of the functions of that committee. As a general rule, the proceedings and records of a committee must be held in confidence and may not be subject to discovery or introduction into evidence in any civil action arising out of the matters which are the subject of an evaluation and review by the committee

The Board of Directors of the Caring Dentist Program is comprised of representatives from the Dental Society, the State Board of Dental Examiners, and the UNC School of Dentistry. Dentists must pay an annual fee of $50, in addition to the annual renewal fee, to help support the special peer review organizations for impaired dentists.

BILL ANALYSIS: House Bill 1470 would allow the State Board of Dental Examiners to enter into agreements with special impaired dentist peer review organizations to include programs for impaired

dental hygienists. The provisions required to be in the agreements concerning impaired dentists would also apply to the agreements concerning impaired dental hygienists.

The bill would give the special impaired dentist peer review organizations the authority to appoint to the organizations one additional member who is a licensed dental hygienist. The organization would make the appointment upon the recommendation of the dental hygienist member of the State Board of Dental Examiners. The dental hygienist member of the State Board is elected by all the licensed dental hygienists. The dental hygienist member of the peer review organization would participate in activities and programs as they relate to impaired dental hygienists. Dental hygienists who work with the special peer review organizations would have the same responsibilities and protections that the dental members have.

The bill would also impose an additional annual $40 fee on dental hygienists. The fee would be payable upon license renewal. Licenses must be renewed on or before January 1 of each year. The fee would be used to help fund programs for impaired dental hygienists.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1470 (First Edition)

SHORT TITLE: Impaired Dental Hygienists/Fee

SPONSOR(S): Representative Allen

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES *					
NC Caring Dentist Program	$177,840	$183,887	$190,139	$196,603	$203,288
EXPENDITURES	Not yet determined by Board				

* Assume maximum $40 fee

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina State Board of Dental Examiners, North Carolina Dental Society

EFFECTIVE DATE: The act is effective when it becomes law.

BILL SUMMARY:
This bill authorizes the North Carolina State Board of Dental Examiners to include impaired dental hygienists in programs developed for impaired dentists. The bill imposes an annual $40 fee on dental hygienists to support the program for impaired dental hygienists.

BACKGROUND:
The 1993 General Assembly approved HB 914 (SL 93, chapter 420) that authorized the North Carolina State Board of Dental Examiners to collect a fee of up to $50 from licensed dentists to be used for a program for impaired dentists operated by a new state – sanctioned peer review organization. The N.C. State Board of Dental Examiners and the N.C. Dental Society signed a Memorandum of Agreement on May 21, 1994 to create the Caring Dentist Program . The purpose of the Caring Dentist Program is to provide intervention and rehabilitation for dental practitioners impaired by chemical dependency or mental illness. Appropriate treatment programs and aftercare monitoring are sought for the impaired dentists. An eight-member Board of Directors oversees the Caring Dentist Program.

Although G.S. 90-39 allows a fee of $50 to be charged to pay for the program, only $15 has been assessed each dentist renewing his license since 1994. (NCAC 21-16M.0001) Actual fees collected in 1997 were $55,300 and actual program expenses for 1997 were $43,681. The 1997 fund balance for the program was $88,861.74. This fee is proposed to rise to $25 in 1999 and annual revenue will rise to $97,775. The increase will be used to fund a full-time director.

ASSUMPTIONS AND METHODOLOGY:
House Bill 1470 will allow the N.C. State Board of Dental Examiners to create a program for impaired dental hygienists similar to the Caring Dentist Program. The bill allows the Board to charge up to $40 for this program. Although the Director of the State Board of Dental Examiners suggested the initial fee would probably be $15, this fiscal note assumes the maximum of $40 for budget projection purposes. As of April 1, 1999, North Carolina has 4,446 licensed dental hygienists. Over the last five years, the number of licensed hygienists has grown 3.4% per year. This growth rate is projected to continue over the next five years as shown in the chart below.

	Hygienists	Revenue
FY 1999-00	4,446	$177,840
FY 2000-01	4,597	$183,887
FY 2001-02	4,753	$190,139
FY 2002-03	4,915	$196,603
FY 2003-04	5,082	$203,288
FY 2004-05	5,255	$210,200

Since the $40 fee is assessed upon renewal, the 4,446 currently licensed hygienists will pay the new fee in FY 1999-00. Those receiving a license in FY 1999-00 will begin paying the additional $40 fee in FY 2000-01 and so on. This simplified chart is an estimate and can not precisely account for attrition and new applicants each year.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY:

DATE:

displaced

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1470

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1470-ARB-1 Page 1 of __

Date 6/1 ,1999

Comm. Sub. []
Amends Title [YES]

Representative Jarrell

moves to amend the bill on page 1, line 4, by deleting the word "DENTIST" and substituting the words "DENTAL HYGIENIST";

and on page 1, lines 12 and 21, by deleting the word "dentist" and substituting the words "dental hygienist";

and on page 1, lines 14 through 19, by deleting the sentence that begins on line 14;

and on page 1, line 20, by deleting the word "may" and substituting the word "shall";

and on page 2, line 25, by deleting the figure "40.00" and substituting the figure "50.00";

and on page 2, line 27, by adding the following at the end of that line to read:
"In no event may the annual fee imposed on dental hygienists to fund the impaired dental hygienists program exceed the annual fee imposed on dentists to fund the impaired dentists program.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

HOUSE FINANCE COMMITTEE

Wednesday, June 2, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BUDGET BRIEFING PRESENTATION

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Wednesday, June 2, 1999

The House Committee on Finance met on Wednesday, June 2, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke; Vice Chairs Jarrell; Representatives Braswell, Bridgeman, Brown, Buchanan, Capps, Church, Cox, Creech, Cunningham, Decker, Dedmon, Eddins, Edwards, Gibson, Goodwin, Gray, Hill, McComas, McCombs, Miner, Morris, Mosley, Pope, Rayfield, Starnes, Tucker, Wilson, Womble, and Wright. Staff including Cindy Avrette, Richard Bostic, Mary Shuping, and Linda Shuping were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Luebke called the meeting to order to hear a Budget briefing presentation:

The three Chairs of Appropriations were recognized. Reps. Easterling, Hardaway, and Redwine commented on the process of the budget bill in their committee.

The Chair recognized Rep. Rogers, Chair of the Education subcommittee to comment.

The Chair recognized Rep. Boyd-McIntyre, Chair of the UNC System's subcommittee to comment.

The Chair recognized Rep. Oldham, Chair of the Community College subcommittee to comment.

The Chair recognized Rep. Nye, Chair of the Human Resources subcommittee to comment.

The Chair recognized Rep. Fox, Chair of the N.E.R. subcommittee to comment.

The Chair recognized Rep. Culpepper, Chair of the Justice & Public Safety subcommittee to comment.

The Chair recognized Rep. Jeffus, Chair of the General Government departments subcommittee to comment.

The Chair recognized Rep. Crawford, Chair of the Highway Trust Fund subcommittee to comment. The Chair recognized Rep. Cole to explain the special provisions in the Highway Trust Fund.

The Chair recognized Rep. Wright, Chair of the Capital Committee to comment.

There being no further business, the Chair adjourned the meeting at 10:00 a.m.

Respectfully submitted:

_____

Representative Paul Luebke
Chair

_____

Kristen L. Crosson
Assistant to the Committee

MEETING CANCELLED.

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Thursday, June 3, 1999**

TIME: **8:30 a.m.**

LOCATION: **544 LOB**

The following bills will be considered (Bill # & Short Title):
HB 63 - Review Tax Credits Periodically - Rep. Gray
HB 286 - Adoption Record and Registry - Rep. Earle
HB 672 - Various Local Occupancy Taxes - Rep. Gibson
HB 1470 - Impaired Dental Hygienists / Fee - Rep. Allen
HB 1479 - Newsprint Tax Credit Change - Rep. Miller
SB 618 - Macon County Airport Authority - Sen. Carpenter

Respectfully,

Representatives Miller, Luebke, Allen
Co-Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **11:30 am** on **June 2, 1999**.

___Principal Clerk
___Reading Clerk - House Chamber

Kristen Crosson (Committee Clerk)

North Carolina General Assembly
House of Representatives
State Legislative Building
Raleigh 27601-1096

REPRESENTATIVE LYONS GRAY
39TH DISTRICT

OFFICE ADDRESS: ROOM 533 LEGISLATIVE OFFICE BLDG.
RALEIGH, NC 27601-1096
TELEPHONE: (919) 733-5820
(919) 838-1757 FAX

HOME ADDRESS: 420-C WEST FOURTH ST.
WINSTON SALEM, NC 27101-2805
(336) 722-2311

COMMITTEES:

FINANCE
ETHICS
TECHNOLOGY
TRAVEL & TOURISM
HIGHWAY SAFETY
JUDICIARY I
PENSIONS & RETIREMENT
STATE PARKS & PROPERTIES
UNC BOARD OF GOVERNORS
SELECT COMMITTE ON TOBACCO SETTLEMENT

MEMORANDUM

TO: Reps. Gordon Allen, Paul Luebke, & George Miller

FROM: Rep. Lyons Gray

DATE: June 3, 1999

RE: House Bill 63

Pursuant to Rule 36, as principal sponsor of House Bill 63, I request that this bill not be considered.

LG/cb

L Gray 6/3

MEETING CANCELLED.

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Thursday, June 3, 1999**

TIME: **8:30 a.m.**

LOCATION: **544 LOB**

The following bills will be considered (Bill # & Short Title):
HB 63 - Review Tax Credits Periodically - Rep. Gray
HB 286 - Adoption Record and Registry - Rep. Earle
HB 672 - Various Local Occupancy Taxes - Rep. Gibson
HB 1470 - Impaired Dental Hygienists / Fee - Rep. Allen
HB 1479 - Newsprint Tax Credit Change - Rep. Miller
SB 618 - Macon County Airport Authority - Sen. Carpenter

Respectfully,

Representatives Miller, Luebke, Allen
Co-Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **10:30 am** on **June 3, 1999**.

___Principal Clerk
___Reading Clerk - House Chamber

Kristen Crosson (Committee Clerk)

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Tuesday, June 8, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 541 – Buoy Fishing / Special Fishing Device – Rep. Mitchell
HB 1397 – Expand Development Zones – Rep. Cole
HB 1470 – Impaired Dental Hygienists / Fee – Rep. Allen
HB 1472 – Simplify Renewable Energy Credits – Rep. Hackney
HB 1473 – Renewable Energy MFR. Credit – Rep. Hackney
SB 843 – Nurses Aides II Registry Fees – Sen. Weinstein

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Tuesday, June 8, 1999

The House Committee on Finance met on Tuesday, June 8, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke; Vice Chairs Jarrell; Representatives Braswell, Bridgeman, Brown, Buchanan, Church, Cox, Cunningham, Dedmon, Eddins, Edwards, Gibson, Goodwin, Gray, Hackney, Hill, McComas, McCombs, Miner, Morris, Rayfield, Tucker, Wilson, and Womble. Staff including Cindy Avrette, Richard Bostic, Mary Shuping, Martha Harris, and David Crotts were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Allen called the meeting to order to consider the following bills:

Sen. Weinstein was recognized to explain HB 843, A BILL TO BE ENTITLED AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF NURSING TO INCREASE THE ANNUAL FEE CHARGE NURSES AIDES II. Rep. Hill sent forward an amendment and moved for its adoption. The amendment was adopted. Rep. Hill moved to roll the amendment into the bill to make a committee substitute, and then vote favorable to the committee substitute and unfavorable to original bill. The motion passed. The bill, the Amendment, Bill Summary, and Fiscal Note are included in these minutes.

Representative Mitchell was recognized to explain HB 541, A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT TROTLINES, BUOY SETS, AND SET HOOKS ARE SPECIAL FISHING DEVICES. Rep. Buchanan moved for a favorable report. Rep. Cunningham inquired about the fees. Rep. Jarrell inquired about the enforcement. Rep. Gibson stated he thought the bills contained too many fishing devices. The Chair recognized Dick Hamilton, Assistant Director of the Wildlife Commission which supported the bill. Rep. Eddins inquired about the bill's effect on private ponds. Dick Hamilton replied that the bill would not affect private ponds, but would affect all public inland waters. Rep. Goodwin sent forward an amendment which would make the bill's effective date October 4, 1999. The amendment passed. Rep. Buchanan moved to roll the amendment into the bill to make a committee substitute, and then vote favorable to the committee substitute and unfavorable to original bill. The motion passed. The bill, the Amendment, Bill Summary, and Fiscal Note are included in these minutes.

Rep. Cole was recognized to explain HB 1397, A BILL TO BE ENTITLED AN ACT TO MAKE MORE MUNICIPALITIES ELIGIBLE FOR DEVELOPMENT ZONES. Rep. Cunningham moved for a favorable report. Rep. Womble inquired as to why this issue was not addressed before. Dave Crotts responded the change was recently recommended by the Department of Administration. Rep. Jarrell asked if this bill was similar to its identical Senate bill. Cindy Avrette replied that HB 1397 also encompassed the Senate bill. Rep. Rayfield asked a fiscal question to which Dave Crotts responded. Rep. Pope asked whether this bill affects economic gerrymandering, and Cindy Avrette replied the bill does not address that issue. Rep. Luebke asked Dave Crotts whether the methodology behind the fiscal note presumed about job patterns. Rep. Womble asked whether entire municipalities can be development zones and Rep. Cole replied yes.

Rep. Eddins inquired about hiring practices in these zones. Rep. Cunningham's motion for a favorable report passed. The bill, Bill Summary, and Fiscal Note are included in these minutes.

The Chair appointed a subcommittee to study Rep. Wilson's HB 315. Rep. Braswell was appointed as Chair and Reps. Cox, McCombs, and Wilson as members.

Rep. Allen was recognized to explain HB 1470, A BILL TO BE ENTITLED AN ACT ALLOWING THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS TO ENTER INTO AGREEMENTS WITH SPECIAL IMPAIRED DENTIST PEER REVIEW ORGANIZATIONS TO INCLUDE PROGRAMS FOR IMPAIRED DENTAL HYGIENISTS AND TO COLLECT FEES TO FUND SUCH PROGRAMS. Cindy Avrette explained the changes between the Proposed Committee Substitute and the bill. The Chair recognized Ms. Jan Ramquist of the North Carolina Dental Hygiene Association who stated her organization was agreeable to the Proposed Committee Substitute. Mr. Potter of the North Carolina Dental Society stated his organization was also agreeable to the Proposed Committee Substitute. Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion purposes only. The motion passed. Rep. Brown moved to give the Proposed Committee Substitute a favorable report and unfavorable to the original bill. The motion passed. The bill, Proposed Committee Substitute, Bill Summary, and Fiscal Note are included in these minutes.

Rep. Luebke was recognized to explain Rep. Hackney's HB 1472, A BILL TO BE ENTITLED AN ACT TO SIMPLIFY AND MODERNIZE TAX CREDITS FOR INVESTING IN RENEWABLE ENERGY SOURCES. Cindy Avrette explained the Bill Summary and chart. The Chair recognized Mr. Mike Nicholas of Innovative Designs company, the chair of the North Carolina Solar Center, and a board member of Duke Energy. Mike Nicholas stated he supported the bill and spoke briefly on the savings of solar energy. The Chair recognized Mr. Chris Larsen of the North Carolina Solar Energy Association who supported the bill and explained why renewable tax credits were necessary. The Chair recognized Mr. Bill Brinker, the president of Enerdyne Power who supported the bill. The Chair recognized Mr. Larry Shirley of the North Carolina State Solar Center whom supported the bill. Rep. Brown asked Mr. Brinker about landfills. Rep. Edwards asked Mr. Nicholas how the tax credits pertain to the private homeowners. Rep. Pope asked how the tax credits compared with federal credits. Cindy Avrette replied that these would be in addition to federal credits, but would not be a double benefit. Rep. McComas inquired as to whether this bill needed a sunset date. Cindy Avrette responded that it did not. Mr. Larsen answered an earlier question regarding tax credits for homeowners. Rep. Gibson sent forward an amendment and it was adopted. Rep. Luebke moved to roll the amendment into the bill to make a committee substitute, and then vote favorable to the committee substitute and unfavorable to original bill. The motion passed. The bill, the Proposed Committee Substitute, the Amendment, Bill Summary, Chart, Fiscal Note, and public speakers' handouts are included in these minutes.

Rep. Luebke was recognized to explain Rep. Hackney's HB 1473, A BILL TO BE ENTITLED AN ACT TO MODIFY THE INCOME TAX CREDIT FOR MANUFACTURERS OF CERTAIN RENEWABLE ENERGY EQUIPMENT. Rep. McComas asked if the tax credits reduces the book value of assets thereby. Cindy Avrette stated she does not believe they are related. The bill was postponed till later due to the meeting's end.

There being no further business, the Chair adjourned the meeting at 10:00 a.m.

Respectfully submitted:

Representative Gordon Allen
Chair

Kristen L. Crosson

Kristen L. Crosson
Assistant to the Committee

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 541 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT TROTLINES, BUOY SETS, AND SET HOOKS ARE SPECIAL FISHING DEVICES.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

HOUSE BILL 541

Short Title: Buoy Fishing/Special Fishing Device. (Public)

Sponsors: Representative Mitchell.

Referred to: Wildlife Resources, if favorable, Finance.

March 23, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT TROTLINES, BUOY SETS, AND SET HOOKS ARE SPECIAL FISHING DEVICES.

The General Assembly of North Carolina enacts:

Section 1. G. S. 113-272.3 reads as rewritten:

"**§ 113-272.3. Special provisions respecting special devices; fishing licenses; grabbling; taking bait fish; use of landing nets; lifetime licenses issued from Wildlife Resources Commission headquarters; personalized lifetime sportsman combination licenses.**

(a) The Wildlife Resources Commission by rule may define the meaning of 'hook and line' and 'special device' as applied to fishing techniques. Any technique of fishing that may be lawfully authorized which employs neither the use of any special device nor hook and line must be pursued under the appropriate hook-and-line fishing license.

(a1) Notwithstanding subsection (a) of this section, trotlines, buoy sets, and set hooks as defined in this section are special fishing devices. The use of any of these special fishing devices requires the special device fishing license as provided by G.S. 113-272.2. A licensed individual fishing any set hook in inland public water shall be within 100 yards of the set hook at all times. Buoy sets, trotlines, gill nets, fish traps, and any other special device that the Wildlife Resources Commission determines should be marked for the convenience and safety of the public shall be marked with yellow buoys made of solid foam or other solid buoyant material no less than five inches in their smallest dimension. Double buoys as described in this subsection shall be used to mark each end of anchored, fixed, or drift gill nets and trotlines. Buoys shall be marked with the owner's name and address, special device fishing license

number, or vessel registration number either by engraving the buoys or by attaching engraved metal or plastic tags to the buoys.

(b) In accordance with established fishing customs and the orderly conservation of wildlife resources, the Wildlife Resources Commission may by rule provide for use of nets or other special devices which it may authorize as an incident to hook-and-line fishing or for procuring bait fish without requiring a special device license. In this instance, however, the individual fishing must meet applicable hook-and-line license requirements.

(c) Lifetime licenses are issued from the Wildlife Resources Commission headquarters. Each application for an Infant Lifetime Sportsman or Youth Lifetime Sportsman License must be accompanied by a certified copy of the birth certificate of the individual to be named as the license holder.

(d) In issuing lifetime sportsman combination licenses, the Wildlife Resources Commission is authorized to adopt rules to establish a personalized series and to charge a five dollar ($5.00) administrative fee, to be deposited in the Wildlife Fund, to defray the cost of issuance of the personalized license.

(e) The following definitions apply in this section:

(1) Buoy set. -- A hook and line affixed to an approved buoy as provided in G.S. 113-272.3(a1).

(2) Set hook. -- A hook and line affixed to a stationary object or anchor and not under the immediate control of a licensed individual.

(3) Trotline. -- A line having multiple hooks that is attached to a stationary object or anchor at either or both ends."

Section 3. This act becomes effective July 1, 1999.

HOUSE BILL 541:
Buoy Fishing/Special Devices

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Mitchell
Date:	June 8, 1999	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 541 would require an individual to obtain a special fishing device license to fish using a trotline, buoy set, or set hooks.***

CURRENT LAW: A trotline is a line having multiple hooks that is attached to a stationary object or anchor at either or both ends. A set hook is a hook and line affixed to a stationary object or anchored and not under the immediate control of a licensed individual. A buoy set is a hook and line affixed to an approved buoy.

Anyone fishing with a special fishing device must obtain a special device fishing license. A special fishing device is any device used in fishing other than a hook-and-line. G.S. 113-272.3 gives the Wildlife Resources Commission the authority to define by rule the terms "hook-and-line" and "special fishing device". The rules require define a "special fishing device" as the following: bow and arrow, nets, traps, spears, crab pots, and eel pots. The rules do not include "trotlines" or "set hooks" as "special fishing devices."

Under the current rules of the Wildlife Resources Commission, an individual who uses a trotline or a set hook must follow all of the following requirements:

- Cannot use live bait.
- Trotlines must be set parallel to the nearest shore in impounded waters.
- Each trotline must have attached to it the name and address of the user.
- Each trotline must be conspicuously marked at each end with a prominent floating object. The object cannot be a metal can or glass container. It may be a plastic jug, flag, cork, styrofoam, or similar material that will float.
- Trotlines must be fished daily and all fish removed. Untended trotlines, as evidenced by the absence of bait, may be removed from the water by wildlife enforcement officers.

BILL ANALYSIS: House Bill 541 would define "trotlines", "set hooks" and "buoy sets" as special fishing devices and would require an individual who uses one of these fishing devices to obtain a special device fishing license. This license would be in addition to other hunting and fishing licenses and in addition to Lifetime Sportsman Licenses. The license fee would be as follows:

Category	Amount
Resident Noncommercial Special Device License	$ 10.00
Resident Commercial Special Device License	$100.00
Nonresident Noncommercial Special Device License	$ 50.00
Nonresident Commercial Special Device License	$100.00

House Bill 541 would also impose the following conditions on fishing with a trotline, set hook, or buoy set:

- A person fishing with a set hook must be within 100 yards of the set hook at all times.
- Buoy sets and trotlines must be marked with yellow buoys made of solid foam or other solid buoyant material no less than five inches in their smallest dimension. Also, double buoys must be used to mark each end of gill nets and trotlines. This requirement enhances the current requirement in the rules. Under the rules, these fishing devices must be marked, but the individual has more latitute in the type of marker that may be used.
- Buoys must be marked with the owner's name and address, special fishing device license number, or vessel registration number either by engraving the buoys or by attaching engraved metal or plastic tags to the buoys. Under the current rules, the devices must have attached to them the owner's name and address legibly inscribed.

DRAFT FOR REVIEW ONLY

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: H.B. 541

SHORT TITLE: Buoy Fishing/Special Fishing Device

SPONSOR(S): Rep. Mitchell

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Wildlife Resource Fund	**$9,150**	**$9,150**	**$9,150**	**$9,150**	**$9,150**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Wildlife Resource Commission.

EFFECTIVE DATE: July 1, 1999.

BILL SUMMARY: The bill defines trotlines, buoy sets, and set hooks as "special devices." Individuals who use these types of fishing devices must secure a "special device" license. The legislation also that a licensed individual fishing with a set hook in inland public water must be within 100 yards of the set hook at all times. The proposal clarifies that buoy sets, trotlines, gill nets, fish traps, and any other special device designated by the Wildlife Resource Commission (Wildlife) must be marked with yellow buoys make of solid foam or other solid buoyant material no less than five inches square. Double buoys must be used to mark each end of anchored, fixed, or drift gill nets and trotlines. The buoys must be marked with the owner's name, address, and special device fishing license number. The vessel registration number may be used in place of the license number. The information must either be engraved into the buoys or engraved in metal or plastic tags that are attached to the buoys. Finally, the bill defines a buoy set, a set hook, and a trotline.

ASSUMPTIONS AND METHODOLOGY: The primary fiscal impact is a result of the license requirements. Under the bill individuals who use trotlines, buoy sets, set hooks gill nets, fish traps, and other devices designated by Wildlife must have a special device license. In the past a license has been required for many of these devices. An annual, special device license for personal use costs $10.00. An annual commercial license for special devices costs $100.00. In FY 98 Wildlife sold less than 3,000 special device fishing licenses. They estimate that approximately 500 additional licenses will be issued as a result of the bill. Of these they believe

475 will be issued for personal use, while 25 will be used for commercial use. Assuming the license cost remains $10.00 and $100.00 the projected revenue is listed below.

	Cost	Number	Total Revenue
Individual Licenses	$10	475	$4,750
Commercial License	$100	25	$2,500
TOTAL		500	$ 7,250

Wildlife reports that in the past approximately 10% of special device licenses are sold to non-residents. The fee for a non-resident individual license is $50.00. The commercial license fee for both residents and non-residents is $100.00. Assuming that 10% of licensees in each category are non-residents, the estimated revenue increase is as follows:

	# Resident	Cost	Revenue	# Non-Resident	Cost	Revenue	Total Revenue
Individual Licenses	428	$10	$4,275	48	$50	$2,375	$6,650
Commercial License	23	$100	$2,250	3	$100	$250	$2,500
TOTAL	450		$ 6,525	50		$ 2,625	$ 9,150

No significant growth is expected in the number of licenses in the next few years.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY:

DATE:

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 1397 A BILL TO BE ENTITLED AN ACT TO MAKE MORE MUNICIPALITIES ELIGIBLE FOR DEVELOPMENT ZONES.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 1397
Committee Substitute Favorable 5/13/99

Short Title: Expand Development Zones. (Public)

Sponsors:

Referred to:

April 29, 1999

A BILL TO BE ENTITLED

AN ACT TO MAKE MORE MUNICIPALITIES ELIGIBLE FOR DEVELOPMENT ZONES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-129.3A(a) reads as rewritten:

"(a) Development Zone Defined. -- A development zone is an area comprised of one or more contiguous census tracts, census block groups, or both in the most recent federal decennial census that meets all of the following conditions:

(1) It is located in whole or in part in a ~~city~~ municipality with a population of more than ~~5,000~~ 1,000 according to the most recent annual population estimates certified by the State Planning Officer.

(2) It has a population of 1,000 or more according to the most recent annual population estimates certified by the State Planning Officer.

(3) More than twenty percent (20%) of its population is below the poverty level according to the most recent federal decennial census."

Section 2. This act becomes effective January 1, 2000.

HOUSE BILL 1397:
Expand Development Zones

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Cole
Date:	June 8, 1999	**Summary by:**	Cindy Avrette
Version:	2nd Edition		Committee Counsel

SUMMARY: ***House Bill 1397 would expand the definition of a development zone, effective for taxable years beginning on or after January 1, 2000.***

CURRENT LAW: Last session, the General Assembly provided for the designation of economically distressed areas located within municipalities as State development zones and authorized enhanced incentives for businesses that locate in a development zone. A development zone is defined as an area that meets both of the following conditions:

1. It consists of one or more contiguous census tracts, block groups, or both, that has a population of 1,000 or more and at least 20% of whom are below the poverty level.
2. It is located at least partly in a municipality with a population over 5,000.

If a business locates in a development zone, the wage standard it has to meet is the same as for Tier One counties - slightly lower than the standard for other counties. In addition, if a business locates in a development zone, its maximum worker training credit is $1,000 rather than $500, it receives an additional $4,000 per job on its jobs tax credit, and there is no threshold for the credit for investing in machinery and equipment.

The Secretary of Commerce designates development zones upon the request of a taxpayer or a local government. The designation is effective for four years. In addition to the enhanced tax incentives discussed above, a development zone may qualify for priority in receiving community development block grants if the municipality's governing body adopts a strategy to improve the zone and establishes a committee to implement the strategy, in accordance with guidelines established by the Department of Commerce.

BILL ANALYSIS: House Bill 1397 would increase the number of municipalities that may qualify as a development zone by reducing the municipality's population requirement from 5,000 to 1,000. Approximately 61 additional cities would be eligible to have an area within their limits designated as a development zone. This bill incorporates the provisions of House Bill 1327 which would reduce the population requirement from 5,000 to 2,700. Rep. Bonner introduced House Bill 1327. That bill is in the House Economic Growth Committee.

FISCAL ANALYSIS MEMORANDUM

DATE: June 3, 1999

TO: Rep. Nelson Cole

FROM: Dave Crotts
Fiscal Research Division

RE: HB 1397 (Comm. Sub. Favorable 5/13/99)
Expand Development Zones

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES*(State GF)			**-132,000**	**-397,000**	**-794,000**

PRINCIPAL DEPARTMENTAFFECTED: The designation of enterprise zones is made by the N.C. Department of Commerce. The tax credits are administered by the Department of Revenue.

EFFECTIVE DATE: Tax years beginning on or after January 1, 2000.

*The cost reaches a maximum of $1.2 million in the 04-05 fiscal year.

BILL SUMMARY: **Lowers the minimum population requirement for an enterprise zone from 5,000 to 1,500 effective for tax years beginning on or after January 1, 2000.**

The 1998 modification of the Bill Lee Act (state economic incentives) provided for the designation of economically distressed areas located within cities as State development zones and authorized enhanced tax incentives for businesses that locate in a zone, effective beginning with the 1999 tax year. A zone is defined as an area that meets all of the following conditions: (1) contains 1 or more contiguous census tracts, block groups, or both, (2) has a population of 1,000 or more, at least 20% of whom are below the poverty level, and (3) is located at least partly in a city with a population of over 5,000

The enhanced incentives include a $1,000 worker training credit (versus $500), no threshold for the investment tax credit for machinery and equipment, an additional $4,000 per job on the jobs tax credit, and the wage standard is the same as that for the most distressed county.

(Over)

ASSUMPTIONS AND METHODOLOGY:

The impact estimates were calculated by the Community Assistance Division of the Department of Commerce using the Geographic Information System (GIS). The analysis indicates that 61 additional cities would be added to the eligibility list. The cost estimates were determined using job creation data for 1996-98 as tabulated by the Department. A key assumption was that the total zone population was used as the 1997 population for cities having at least one census tract or block group with 20% or more poverty. This assumption was based on a review of the 40 approved zones as of February 1, 1999. The total 1990 census population in zone of cities under 20,000 population was approximately equal to the total 1997 population in those communities.

As in the original Bill Lee Act estimates, the jobs credit assumes that 15% of eligible companies will take the credit the first year, 30% the second year, and 45% in Year 3

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 1470 A BILL TO BE ENTITLED AN ACT ALLOWING THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS TO ENTER INTO AGREEMENTS WITH SPECIAL IMPAIRED DENTIST PEER REVIEW ORGANIZATIONS TO INCLUDE PROGRAMS FOR IMPAIRED DENTAL HYGIENISTS AND TO COLLECT FEES TO FUND SUCH PROGRAMS.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1470
Proposed Committee Substitute H1470-PCSX8142-RB

Short Title: Impaired Dental Hygienists/Fee. (Public)

Sponsors:

Referred to:

May 13, 1999

A BILL TO BE ENTITLED

AN ACT ALLOWING THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS TO ENTER INTO AGREEMENTS WITH SPECIAL IMPAIRED DENTIST PEER REVIEW ORGANIZATIONS TO INCLUDE PROGRAMS FOR IMPAIRED DENTAL HYGIENISTS, TO COLLECT FEES TO FUND SUCH PROGRAMS, AND TO PROVIDE FOR REPRESENTATION FOR DENTAL HYGIENISTS ON THE STATEWIDE SUPERVISORY COMMITTEE.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 90 is amended by adding a new section to read:

"**§ 90-48.3. Board authority to include impaired dental hygienists in programs developed for impaired dentists.**

The Board may enter into agreements with special impaired dentist peer review organizations to include programs for impaired dental hygienists, and the provisions of G.S. 90-48.2 shall apply to any such agreements and programs. Special impaired dentist peer review organizations shall have the authority to appoint to the organizations, upon the recommendation of the dental hygienist member of the Board, one additional member who is a licensed dental hygienist and the member shall participate in activities and programs as they relate to impaired dental hygienists. Peer liaisons and volunteers participating in programs for impaired dental hygienists shall be dental hygienists. Dental hygienists who work with special impaired dentist peer review organizations in conducting programs for impaired dental hygienists shall have the same protections and responsibilities as members of

traditional State and local dental society peer review committees under Article 2A of this Chapter and as provided in G.S. 90-48.2. The provisions of G.S. 90-48.2 regarding confidentiality shall also be applicable to all dental hygienist activities authorized under this section."

Section 2. G.S. 90-223 is amended by adding a new subsection to read:

"(e) The Board shall have the authority to provide for programs for impaired dental hygienists as authorized in G.S. 90-48.3."

Section 3. G.S. 90-232 reads as rewritten:

"**§ 90-232. Fees.**

In order to provide the means of carrying out and enforcing the provisions of this Article and the duties devolving upon the North Carolina State Board of Dental Examiners, it is authorized to charge and collect fees established by its rules and regulations not exceeding the following:

(1)	Each applicant for examination	$125.00
(2)	Each renewal certificate, which fee shall be annually fixed by the Board and not later than November 30 of each year it shall give written notice of the amount of the renewal fee to each dental hygienist licensed to practice in this State by mailing such notice to the last address of record with the Board of each such dental hygienist	60.00
(3)	Each restoration of license	60.00
(4)	Each provisional license	60.00
(5)	Each certificate of license to a resident dental hygienist desiring to change to another state or territory	25.00
(6)	Annual fee to be paid upon license renewal to assist in funding programs for impaired dental hygienists	40.00.

In no event may the annual fee imposed on dental hygienists to fund the impaired dental hygienists program exceed the annual fee imposed on dentists to fund the impaired dentist program. All fees shall be payable in advance to the Board and shall be disposed of by the Board in the discharge of its duties under this Article."

Section 4. G.S. 90-48.2(a) reads as rewritten:

"(a) The State Board of Dental Examiners may, under rules adopted by the Board in compliance with Chapter 150B of the General Statutes, enter into agreements with special impaired dentist peer review organizations formed by the North Carolina Dental Society. The organizations shall be made up of Dental Society members designated by the Society, the Board, and the Dental School of the University of North Carolina. Peer review activities to be covered by such agreements shall include investigation, review and evaluation of records, reports, complaints, litigation, and other information about the practices and practice patterns of dentists licensed by the Board, as such matters may relate to impaired dentists. Special impaired dentist peer review organizations may include a statewide supervisory committee and various

regional and local components or subgroups. The statewide supervisory committee shall consist of representatives from the North Carolina Dental Society, the UNC School of Dentistry, and the Board. When the statewide supervisory committee considers activities and programs that relate to impaired dental hygienists pursuant to G.S. 90-48.3, its membership shall be expanded to include two dental hygienists appointed upon the recommendation of the dental hygienist member of the Board."

Section 5. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1470

Short Title: Impaired Dental Hygienists/Fee. (Public)

Sponsors: Representative Allen.

Referred to: Finance.

May 13, 1999

A BILL TO BE ENTITLED

AN ACT ALLOWING THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS TO ENTER INTO AGREEMENTS WITH SPECIAL IMPAIRED DENTIST PEER REVIEW ORGANIZATIONS TO INCLUDE PROGRAMS FOR IMPAIRED DENTAL HYGIENISTS AND TO COLLECT FEES TO FUND SUCH PROGRAMS.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 90 is amended by adding a new section to read:

"§ 90-48.3. Board authority to include impaired dental hygienists in programs developed for impaired dentists.

The Board may enter into agreements with special impaired dentist peer review organizations to include programs for impaired dental hygienists, and the provisions of G.S. 90-48.2 shall apply to any such agreements and programs. Special impaired dentist peer review organizations shall have the authority to appoint to the organizations, upon the recommendation of the dental hygienist member of the Board, one additional member who is a licensed dental hygienist and the member shall participate in activities and programs as they relate to impaired dental hygienists. Peer liaisons and volunteers participating in programs for impaired dental hygienists may be dental hygienists. Dental hygienists who work with special impaired dentist peer review organizations in conducting programs for impaired dental hygienists shall have the same protections and responsibilities as members of traditional State and local dental society peer review committees under Article 2A of this Chapter and as provided in G.S. 90-48.2. The provisions of G.S. 90-48.2

regarding confidentiality shall also be applicable to all dental hygienist activities authorized under this section."

Section 2. G.S. 90-223 is amended by adding a new subsection to read:

"(e) The Board shall have the authority to provide for programs for impaired dental hygienists as authorized in G.S. 90-48.3."

Section 3. G.S. 90-232 reads as rewritten:

"**§ 90-232. Fees.**

In order to provide the means of carrying out and enforcing the provisions of this Article and the duties devolving upon the North Carolina State Board of Dental Examiners, it is authorized to charge and collect fees established by its rules and regulations not exceeding the following:

(1)	Each applicant for examination	$125.00
(2)	Each renewal certificate, which fee shall be annually fixed by the Board and not later than November 30 of each year it shall give written notice of the amount of the renewal fee to each dental hygienist licensed to practice in this State by mailing such notice to the last address of record with the Board of each such dental hygienist	60.00
(3)	Each restoration of license	60.00
(4)	Each provisional license	60.00
(5)	Each certificate of license to a resident dental hygienist desiring to change to another state or territory	25.00
(6)	Annual fee to be paid upon license renewal to assist in funding programs for impaired dental hygienists	40.00.

All fees shall be payable in advance to the Board and shall be disposed of by the Board in the discharge of its duties under this Article."

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

HOUSE BILL 1470:
Impaired Dental Hygienists/Fee

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Allen
Date:	June 8, 1999	**Summary by:**	Cindy Avrette Committee Counsel
Version:	PCS for 1st Edition		

SUMMARY: ***House Bill 1470 authorizes the State Board of Dental Examiners to include impaired dental hygienists in programs developed for impaired dentists. The bill imposes an additional $40 annual fee on dental hygienists to support the programs for impaired dental hygienists.***

PROPOSED COMMITTEE SUBSTITUTE: The House Finance Committee began discussing House Bill 1470 last Tuesday. The Committee Substitute for House Bill 1470 changes the bill in three ways:

- It requires that the peer liaisons and volunteers who work with impaired dental hygienists BE dental hygienists.
- It provides that the annual fee imposed on dental hygienists to fund the impaired dental hygienists program cannot e exceed the amount imposed on dentists to fund the impaired dentist program.
- It adds two dental hygienists to the statewide supervisory committee, commonly known as the Board of Directors of the Caring Dentist Program, appointed upon the recommendation of the dental hygienist member of the Board. The two dental hygienist members must be included in the committee's proceedings whenever the committee considers activities and programs that relate to impaired dental hygienists.

CURRENT LAW: The "Caring Dentist Program" is a program established through agreements between the State Board of Dental Examiners and special impaired dentist peer review organizations formed by the North Carolina Dental Society. The purpose of the program is to identify dentists who have a chemical dependency or a mental illness. If an impairment exists, the peer review organization seeks to intervene and treat the dentist. The peer review organization must report information to the State Board of Dental Examiners if it determines that:

- The dentist constitutes an imminent danger to the public or himself.
- The dentist refuses to cooperate with the program, refuses to submit to treatment, or is still impaired after treatment and exhibits professional incompetence.
- It reasonably appears that there are other grounds for disciplinary action.

The agreements, which establish the Caring Dentist Program, must provide for the investigation, review, and evaluation of information about the practice of licensed dentists as the practices may relate to an impairment. They must also provide for the identification, intervention, treatment, referral, and follow-up of impaired dentists and for the due process rights of the dentist subject to the Program.

The members of the special impaired dentist peer review organization are volunteer Dental Society members selected by the Board of Directors of the Caring Dentist Program. The members may not be held liable in damages to any person for any action taken or recommendation made within the scope of the functions of that committee. As a general rule, the proceedings and records of a committee must be held in confidence and may not be subject to discovery or introduction into evidence in any civil action arising out of the matters which are the subject of an evaluation and review by the committee

The Board of Directors of the Caring Dentist Program is comprised of representatives from the Dental Society, the State Board of Dental Examiners, and the UNC School of Dentistry. Dentists must pay an annual fee of $50, in addition to the annual renewal fee, to help support the special peer review organizations for impaired dentists.

BILL ANALYSIS: House Bill 1470 would allow the State Board of Dental Examiners to enter into agreements with special impaired dentist peer review organizations to include programs for impaired dental hygienists. The provisions required to be in the agreements concerning impaired dentists would also apply to the agreements concerning impaired dental hygienists.

The bill would give the special impaired dentist peer review organizations the authority to appoint to the organizations one additional member who is a licensed dental hygienist. The organization would make the appointment upon the recommendation of the dental hygienist member of the State Board of Dental Examiners. The dental hygienist member of the State Board is elected by all the licensed dental hygienists. The dental hygienist member of the peer review organization would participate in activities and programs as they relate to impaired dental hygienists. Dental hygienists who work with the special peer review organizations would have the same responsibilities and protections that the dental members have.

The bill would add two dental hygienists to the statewide supervisory committee of the Caring Dentist Program. The dental hygienist members would be present whenever the Committee considers activities and programs that relate to impaired dental hygienists. The two dental hygienists would be appointed to the committee upon the recommendation of the dental hygienist member of the Board.

The bill would also impose an additional annual fee on dental hygienists. The fee could not exceed $40, not could it exceed the annual fee amount imposed on dentists for the impaired dentist program. The fee would be payable upon license renewal. Licenses must be renewed on or before January 1 of each year. The fee would be used to help fund programs for impaired dental hygienists.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1470 (First Edition)

SHORT TITLE: Impaired Dental Hygienists/Fee

SPONSOR(S): Representative Allen

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES *					
NC Caring Dentist Program	$177,840	$183,887	$190,139	$196,603	$203,288
EXPENDITURES	Not yet determined by Board				

* Assume maximum $40 fee

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina State Board of Dental Examiners, North Carolina Dental Society

EFFECTIVE DATE: The act is effective when it becomes law.

BILL SUMMARY:
This bill authorizes the North Carolina State Board of Dental Examiners to include impaired dental hygienists in programs developed for impaired dentists. The bill imposes an annual $40 fee on dental hygienists to support the program for impaired dental hygienists.

BACKGROUND:
The 1993 General Assembly approved HB 914 (SL 93, chapter 420) that authorized the North Carolina State Board of Dental Examiners to collect a fee of up to $50 from licensed dentists to be used for a program for impaired dentists operated by a new state – sanctioned peer review organization. The N.C. State Board of Dental Examiners and the N.C. Dental Society signed a Memorandum of Agreement on May 21, 1994 to create the Caring Dentist Program . The purpose of the Caring Dentist Program is to provide intervention and rehabilitation for dental practitioners impaired by chemical dependency or mental illness. Appropriate treatment programs and aftercare monitoring are sought for the impaired dentists. An eight-member Board of Directors oversees the Caring Dentist Program.

Although G.S. 90-39 allows a fee of $50 to be charged to pay for the program, only $15 has been assessed each dentist renewing his license since 1994. (NCAC 21-16M.0001) Actual fees collected in 1997 were $55,300 and actual program expenses for 1997 were $43,681. The 1997 fund balance for the program was $88,861.74. This fee is proposed to rise to $25 in 1999 and annual revenue will rise to $97,775. The increase will be used to fund a full-time director.

ASSUMPTIONS AND METHODOLOGY:

House Bill 1470 will allow the N.C. State Board of Dental Examiners to create a program for impaired dental hygienists similar to the Caring Dentist Program. The bill allows the Board to charge up to $40 for this program. Although the Director of the State Board of Dental Examiners suggested the initial fee would probably be $15, this fiscal note assumes the maximum of $40 for budget projection purposes. As of April 1, 1999, North Carolina has 4,446 licensed dental hygienists. Over the last five years, the number of licensed hygienists has grown 3.4% per year. This growth rate is projected to continue over the next five years as shown in the chart below.

	Hygienists	Revenue
FY 1999-00	4,446	$177,840
FY 2000-01	4,597	$183,887
FY 2001-02	4,753	$190,139
FY 2002-03	4,915	$196,603
FY 2003-04	5,082	$203,288
FY 2004-05	5,255	$210,200

Since the $40 fee is assessed upon renewal, the 4,446 currently licensed hygienists will pay the new fee in FY 1999-00. Those receiving a license in FY 1999-00 will begin paying the additional $40 fee in FY 2000-01 and so on. This simplified chart is an estimate and can not precisely account for attrition and new applicants each year.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY:

DATE:

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 1472 A BILL TO BE ENTITLED AN ACT TO SIMPLIFY AND MODERNIZE TAX CREDITS FOR INVESTING IN RENEWABLE ENERGY SOURCES.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1472
Proposed Committee Substitute H1472-PCS3436-RB

Short Title: Simplify Renewable Energy Credits. (Public)

Sponsors:

Referred to:

May 13, 1999

A BILL TO BE ENTITLED

AN ACT TO SIMPLIFY AND MODERNIZE TAX CREDITS FOR INVESTING IN RENEWABLE ENERGY SOURCES.

The General Assembly of North Carolina enacts:

Section 1. The following sections of Chapter 105 of the General Statutes are repealed:

§ 105-130.23.	Credit against corporate income tax for solar energy equipment in residential buildings.
§ 105-151.2.	Credit for solar energy equipment.
§ 105-130.26.	Credit for conversion of industrial boiler to wood fuel.
§ 105-151.5.	Credit for conversion of industrial boiler to wood fuel.
§ 105-130.27A.	Credit for construction of a peat facility.
§ 105-130.29.	Credit for construction of an olivine brick facility.
§ 105-130.30.	Credit for construction of a methane gas facility.
§ 105-151.10.	Credit for construction of a methane gas facility.
§ 105-130.31.	Credit for installation of a wind energy device.
§ 105-151.9.	Credit for installation of a wind energy device.
§ 105-130.32.	Credit for installation of solar energy equipment for the production of heat or electricity in certain processes.
§ 105-151.8.	Credit for installation of solar energy equipment for the production of heat or electricity in certain processes.
§ 105-130.33.	Credit against corporate income tax for installation of a hydroelectric generator.

§ 105-151.7. Credit for installation of a hydroelectric generator.

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

"ARTICLE 3B.

"Business ~~Tax Credit.~~ and Energy Tax Credits.

"§ 105-129.15. Definitions.

The following definitions apply in this Article:

(1) Business property. -- Tangible personal property that is used by the taxpayer in connection with a business or for the production of income and is capitalized by the taxpayer for tax purposes under the Code. The term does not include, however, a luxury passenger automobile taxable under section 4001 of the Code or a watercraft used principally for entertainment and pleasure outings for which no admission is charged.

(2) Cost. -- In the case of property owned by the taxpayer, cost is determined pursuant to regulations adopted under section 1012 of the Code, subject to the limitation on cost provided in section 179 of the Code. In the case of property the taxpayer leases from another, cost is value as determined pursuant to G.S. 105-130.4(j)(2).

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

(3) Hydroelectric generator. -- A machine that produces electricity by water power or by the friction of water or steam.

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

(5) Renewable biomass resources. -- Organic matter produced by terrestrial and aquatic plants and animals, such as standing vegetation, aquatic crops, forestry and agricultural residues, landfill wastes, and animal wastes.

(6) Renewable energy property. -- Any of the following machinery and equipment or real property:

a. Biomass equipment that uses renewable biomass resources for biofuel production of ethanol, methanol, and biodiesel; anaerobic biogas production of methane utilizing agricultural and animal waste or garbage; or commercial thermal or electrical generation from renewable energy crops or wood waste materials. The term also includes related devices for converting, conditioning, and storing the liquid fuels, gas, and electricity produced with biomass equipment.

b. Hydroelectric generators located at existing dams or in free-flowing waterways, and related devices for water supply and control, and converting, conditioning, and storing the electricity generated.

c. Solar energy equipment that uses solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, daylighting, generating electricity, distillation, desalination, detoxification, or the production of industrial or commercial process heat. The term also includes related devices necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy.

d. Wind equipment required to capture and convert wind energy into electricity or mechanical power, and related devices for converting, conditioning, and storing the electricity produced.

"§ 105-129.16. Credit for investing in business property.

(a) Credit. -- If a taxpayer that has purchased or leased business property places it in service in this State during the taxable year, the taxpayer is allowed a credit equal to four and one-half percent (4.5%) of the cost of the property. The maximum credit allowed a taxpayer for property placed in service during a taxable year is four thousand five hundred dollars ($4,500). The entire credit may not be taken for the taxable year in which the property is placed in service but must be taken in five equal installments beginning with the taxable year in which the property is placed in service.

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

(c) No Double Credit. -- A taxpayer that claims the credit allowed under Article 3A of this Chapter with respect to business property may not take the credit allowed in this section with respect to the same property. A taxpayer may not take the credit allowed in this section for business property the taxpayer leases from another unless the taxpayer obtains the lessor's written certification that the lessor will not capitalize the property for tax purposes under the Code and the lessor will not claim the credit allowed in this section with respect to the property.

"§ 105-129.16A. Credit for investing in renewable energy property.

(a) Credit. -- If a taxpayer that has constructed, purchased, or leased renewable energy property places it in service in this State during the taxable year, the taxpayer is allowed a credit equal to thirty-five percent (35%) of the cost of the property. In the case of renewable energy property that serves a single-family dwelling, the credit must be taken for the taxable year in which the property is placed in service. For all other renewable energy property, the entire credit may not be taken for the taxable year in which the property is placed in service but must be taken in five equal installments beginning with the taxable year in which the property is placed in service.

(b) Expiration. -- If, in one of the years in which the installment of a credit accrues, the renewable energy property with respect to which the credit was claimed is disposed of, taken out of service, or moved out of State, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17. No credit is allowed under this section to the extent the cost of the renewable energy property was provided by public funds.

(c) Ceilings. -- The credit allowed by this section may not exceed the applicable ceilings provided in this subsection.

(1) Nonresidential Property. -- A ceiling of two hundred fifty thousand dollars ($250,000) per installation applies to renewable energy property placed in service for any purpose other than residential.

(2) Residential Property. -- The following ceilings apply to renewable energy property placed in service for residential purposes:

a. One thousand four hundred dollars ($1,400) per dwelling unit for solar energy equipment for domestic water heating.

b. Three thousand five hundred dollars ($3,500) per dwelling unit for solar energy equipment for active space heating, combined active space and domestic hot water systems, and passive space heating.

c. Ten thousand five hundred dollars ($10,500) per installation for any other renewable energy property for residential purposes.

(d) No Double Credit. -- A taxpayer that claims any other credit allowed under this Chapter with respect to renewable energy property may not take the credit allowed in this section with respect to the same property. A taxpayer may not take the credit allowed in this section for renewable energy property the taxpayer leases from another unless the taxpayer obtains the lessor's written certification that the lessor will not claim a credit under this Chapter with respect to the property.

"**§ 105-129.17. Tax election; cap.**

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

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

"**§ 105-129.18. Substantiation.**

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

"**§ 105-129.19. Reports.**

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

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

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

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

Section 3. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute repealed by this act before the effective date of its repeal, nor does it affect the right to any refund or credit of a tax that accrued under the repealed statute before the effective date of its repeal.

Section 4. This act is effective for taxable years beginning on or after January 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1472

Short Title: Simplify Renewable Energy Credits. (Public)

Sponsors: Representatives Hackney, Luebke, and McComas (Primary Sponsors).

Referred to: Finance.

May 13, 1999

A BILL TO BE ENTITLED

AN ACT TO SIMPLIFY AND MODERNIZE TAX CREDITS FOR INVESTING IN RENEWABLE ENERGY SOURCES.

Whereas, renewable energy is North Carolina's only indigenous energy source; and

Whereas, currently, thirty cents of every dollar spent on electricity in North Carolina goes out-of-state for fuel costs and every dollar spent on renewable energy circulates through our economy, helping to create over three dollars in local benefits; and

Whereas, many of North Carolina's large metropolitan areas, because of air pollution, are currently, or will soon be, facing development growth restrictions imposed by the United States Environmental Protection Agency for "non-attainment" of minimal air quality standards; and

Whereas, North Carolina currently ranks twelfth in the United States in carbon dioxide emissions, releasing 126.5 million tons into the atmosphere each year; and

Whereas, coal burning is creating increasingly negative health and environmental impacts through the release of sulfur dioxides, nitrous oxides, particulates, ozone, mercury, and lead; and

Whereas, renewable energy creates more jobs per unit of energy than fossil fuels or nuclear power; and

Whereas, a 1998 poll conducted by the University of North Carolina School of Journalism indicates that, by three-to-one, North Carolinians want electricity providers to implement solar energy options, even if they cost more; and

Whereas, renewable energy is, in the long term, the only energy option that can ensure sustainable development; and

Whereas, tax incentives can help stimulate the demand for environmentally sound, renewable energy options, help grow the solar industry in our State, produce a stronger local economy, and allow North Carolina to continue to grow but in a sustainable manner; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The following sections of Chapter 105 of the General Statutes are repealed:

§ 105-130.23. Credit against corporate income tax for solar energy equipment in residential buildings.
§ 105-151.2. Credit for solar energy equipment.
§ 105-130.26. Credit for conversion of industrial boiler to wood fuel.
§ 105-151.5. Credit for conversion of industrial boiler to wood fuel.
§ 105-130.27A. Credit for construction of a peat facility.
§ 105-130.29. Credit for construction of an olivine brick facility.
§ 105-130.30. Credit for construction of a methane gas facility.
§ 105-151.10. Credit for construction of a methane gas facility.
§ 105-130.31. Credit for installation of a wind energy device.
§ 105-151.9. Credit for installation of a wind energy device.
§ 105-130.32. Credit for installation of solar energy equipment for the production of heat or electricity in certain processes.
§ 105-151.8. Credit for installation of solar energy equipment for the production of heat or electricity in certain processes.
§ 105-130.33. Credit against corporate income tax for installation of a hydroelectric generator.
§ 105-151.7. Credit for installation of a hydroelectric generator.

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

"ARTICLE 3B.

"Business ~~Tax Credit.~~ and Energy Tax Credits.

"**§ 105-129.15. Definitions.**

The following definitions apply in this Article:

(1) Business property. -- Tangible personal property that is used by the taxpayer in connection with a business or for the production of income and is capitalized by the taxpayer for tax purposes under the Code. The term does not include, however, a luxury passenger automobile taxable under section 4001 of the Code or a watercraft used principally for entertainment and pleasure outings for which no admission is charged.

(2) Cost. -- In the case of property owned by the taxpayer, cost is determined pursuant to regulations adopted under section 1012 of the Code, subject to the limitation on cost provided in section 179 of the Code. In the case of property the taxpayer leases from

another, cost is value as determined pursuant to G.S. 105-130.4(j)(2).

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

(3) Hydroelectric generator. -- A machine that produces electricity by water power or by the friction of water or steam.

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

(5) Renewable biomass resources. -- Organic matter produced by terrestrial and aquatic plants and animals, such as standing vegetation, aquatic crops, forestry and agricultural residues, landfill wastes, and animal wastes.

(6) Renewable energy property. -- Any of the following machinery and equipment or real property:

a. Biomass equipment that uses renewable biomass resources for biofuel production of ethanol, methanol, and biodiesel; anaerobic biogas production of methane utilizing agricultural and animal waste or garbage; or commercial thermal or electrical generation from renewable energy crops or wood waste materials. The term also includes related devices for converting, conditioning, and storing the liquid fuels, gas, and electricity produced with biomass equipment.

b. Hydroelectric generators located at existing dams or in free-flowing waterways, and related devices for water supply and control, and converting, conditioning, and storing the electricity generated.

c. Solar energy equipment that uses solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, daylighting, generating electricity, distillation, desalination, detoxification, or the production of industrial or commercial process heat. The term also includes related devices necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy.

d. Wind equipment required to capture and convert wind energy into electricity or mechanical power, and related devices for converting, conditioning, and storing the electricity produced.

"**§ 105-129.16. Credit for investing in business property.**

(a) Credit. -- If a taxpayer that has purchased or leased business property places it in service in this State during the taxable year, the taxpayer is allowed a credit equal to four and one-half percent (4.5%) of the cost of the property. The maximum credit allowed a taxpayer for property placed in service during a taxable year is four thousand five hundred dollars ($4,500). The entire credit may not be taken for the taxable year in which the property is placed in service but must be taken in five

equal installments beginning with the taxable year in which the property is placed in service.

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

(c) No Double Credit. -- A taxpayer that claims the credit allowed under Article 3A of this Chapter with respect to business property may not take the credit allowed in this section with respect to the same property. A taxpayer may not take the credit allowed in this section for business property the taxpayer leases from another unless the taxpayer obtains the lessor's written certification that the lessor will not capitalize the property for tax purposes under the Code and the lessor will not claim the credit allowed in this section with respect to the property.

"**§ 105-129.16A. Credit for investing in renewable energy property.**

(a) Credit. -- If a taxpayer that has constructed, purchased, or leased renewable energy property places it in service in this State during the taxable year, the taxpayer is allowed a credit equal to thirty-five percent (35%) of the cost of the property. In the case of renewable energy property that serves a single-family dwelling, the credit must be taken for the taxable year in which the property is placed in service. For all other renewable energy property, the entire credit may not be taken for the taxable year in which the property is placed in service but must be taken in five equal installments beginning with the taxable year in which the property is placed in service.

(b) Expiration. -- If, in one of the years in which the installment of a credit accrues, the renewable energy property with respect to which the credit was claimed is disposed of, taken out of service, or moved out of State, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17. No credit is allowed under this section to the extent the cost of the renewable energy property was provided by public funds.

(c) Ceilings. -- The credit allowed by this section may not exceed the applicable ceilings provided in this subsection.

(1) Nonresidential Property. -- A ceiling of two hundred fifty thousand dollars ($250,000) per installation applies to renewable energy property placed in service for any purpose other than residential.

(2) Residential Property. -- The following ceilings apply to renewable energy property placed in service for residential purposes:

a. One thousand four hundred dollars ($1,400) per dwelling unit for solar energy equipment for domestic water heating.

b. Three thousand five hundred dollars ($3,500) per dwelling unit for solar energy equipment for active space heating,

combined active space and domestic hot water systems, and passive space heating.

c. Ten thousand five hundred dollars ($10,500) per installation for any other renewable energy property for residential purposes.

(d) No Double Credit. -- A taxpayer that claims any other credit allowed under this Chapter with respect to renewable energy property may not take the credit allowed in this section with respect to the same property. A taxpayer may not take the credit allowed in this section for renewable energy property the taxpayer leases from another unless the taxpayer obtains the lessor's written certification that the lessor will not claim a credit under this Chapter with respect to the property.

"**§ 105-129.17. Tax election; cap.**

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

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

"**§ 105-129.18. Substantiation.**

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

"**§ 105-129.19. Reports.**

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

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

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

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

Section 3. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute repealed by this act before the effective date of its repeal, nor does it affect the right to any refund or credit of a tax that accrued under the repealed statute before the effective date of its repeal.

Section 4. This act is effective for taxable years beginning on or after January 1, 2000.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

H. B. No. 1472 ✓ DATE 6/8/99

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

(Rep.) Gibson
Sen.)

moves to amend the bill on page 1, line 4

~~by~~ through Page 2, line 6 by deleting those lines.

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 1472:
Simplify Renewable Energy Credits

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Hackney
Date:	June 8, 1999	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 1472 repeals 8 corporate and individual income energy tax credits and replaces them with a tax credit for investing in renewable energy property. The credit is equal to 35% of the cost of the property. In the case of renewable energy property that serves a single-family dwelling, the credit must be taken for the taxable year in which the property is placed in service. For all other renewable energy property, the credit must be taken in five equal installments, beginning with the taxable year in which the property is placed in service. The credit has different caps, depending on the type of property. The bill becomes effective for taxable years beginning on or after January 1, 2000.***

CURRENT LAW: The General Assembly enacted several individual and corporate income tax credits in the 1980s to encourage the use of energy saving devices:

- Solar energy equipment.
- Conversion of industrial boilers to wood fuel.
- Peat facility.
- Olivine brick facility.
- Methane gas facility.
- Wind energy device.
- Solar energy equipment for the production of heat or electricity.
- Hydroelectric generator.

Of these credits, there is no evidence that the ones for peat, wind energy, olivine bricks, and methane have ever been used. The amount of the credit, the credit ceiling, and the credit carry-forward differ for each credit. (See the attached chart)

BILL ANALYSIS: House Bill 1472 repeals the 8 energy tax credits listed above and replaces them with an energy tax credit that may be claimed against the franchise tax or the individual or corporate income tax. The bill provides a tax credit for investing in renewable energy property that the taxpayer places in service in this State during the taxable year. Renewable energy property is defined as any of the following machinery and equipment or real property:

- Biomass equipment that uses renewable biomass resources for biofuel production of ethanol,

methanol, and biodiesel. Renewable biomass resources are organic matter produced by terrestrial and aquatic plants and animals, such as standing vegetation, forestry and agricultural residues, landfill wastes, and animal wastes.

- Hydroelectric generators.
- Solar energy equipment.
- Wind equipment.

The amount of the credit is 35% of the cost of the property placed in service. In the case of renewable energy property that serves a single-family dwelling, the credit must be taken for the taxable year in which the property is placed in service. For all other renewable energy property, the credit must be taken in five equal installments, beginning with the taxable year in which the property is placed in service. The credit may not exceed the following amounts:

Type of Property	Ceiling Amount
Nonresidential Property	$250,000 per installation
Residential Property – Solar energy equipment for domestic water heating	$1,400 per dwelling unit
Residential Property – Solar energy equipment for active space heating, combined active space and domestic hot water systems, and passive space heating	$3,500 per dwelling unit
Residential Property – All other renewable energy property for residential purposes	$10,000 per installation

The credit is patterned after the business tax credit. Like the business tax credit, the energy tax credit created in this bill has the following limitations and conditions:

- The energy tax credit may not exceed 50% of the tax against which it is claimed for the taxable year. Any unused portion of the credit may be carried forward for the succeeding five years.
- A taxpayer that claims any other credit allowed with respect to renewable energy property may not take this energy tax credit with respect to the same property.
- A taxpayer may not take this energy tax credit if the taxpayer leases the property from another unless the taxpayer obtains the lessor's written certification that the lessor will not claim a credit with respect to this property.
- The Department of Revenue must report each year on the number of taxpayers claiming the credits, the cost of the property for which the credits were claimed, and the total cost to the General Fund of the credits claimed.
- The Article allowing the business tax credit and, consequently the energy tax credit, is repealed effective January 1, 2002.

Renewable Energy Credits Replaced in House Bill 1472

Citation	Short Title	Percent	Ceiling	Notes
§ 105-130.23.	Credit against corporate income tax for solar energy equipment in residential buildings.	40%	$1,500 per unit	Five-year carryforward
§ 105-151.2.	Credit for solar energy equipment.	40%	$1,500 per unit	Five-year carryforward
§ 105-130.26.	Credit for conversion of industrial boiler to wood fuel.	15%	None	Five-year carryforward
§ 105-151.5.	Credit for conversion of industrial boiler to wood fuel.	15%	None	Five-year carryforward
§ 105-130.27A.	Credit for construction of a peat facility.	20%	None	Five-year carryforward
§ 105-130.29.	Credit for construction of an olivine brick facility.	20%	None	Five-year carryforward; not replaced in bill
§ 105-130.30.	Credit for construction of a methane gas facility.	10%	$2,500 per installation	No carryforward
§ 105-151.10.	Credit for construction of a methane gas facility.	10%	$2,500 per installation	No carryforward
§ 105-130.31.	Credit for installation of a wind energy device.	10%	$1,000 per installation	No carryforward
§ 105-151.9.	Credit for installation of a wind energy device.	10%	$1,000 per installation	No carryforward
§ 105-130.32.	Credit for installation of solar energy equipment for the production of heat or electricity in certain processes.	35%	$25,000 per installation	No carryforward
§ 105-151.8.	Credit for installation of solar energy equipment for the production of heat or	35%	$25,000 per installation	No carryforward

Citation	Short Title	Percent	Ceiling	Notes
	electricity in certain processes.			
§ 105-130.33.	Credit against corporate income tax for installation of a hydroelectric generator.	10%	$5,000 per installation	No carryforward
§ 105-151.7.	Credit for installation of a hydroelectric generator.	10%	$5,000 per installation	No carryforward

HOUSE BILL 1472:
Simplify Renewable Energy Credits

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Hackney
Date:	June 8, 1999	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 1472 repeals 8 corporate and individual income energy tax credits and replaces them with a tax credit for investing in renewable energy property. The credit is equal to 35% of the cost of the property. In the case of renewable energy property that serves a single-family dwelling, the credit must be taken for the taxable year in which the property is placed in service. For all other renewable energy property, the credit must be taken in five equal installments, beginning with the taxable year in which the property is placed in service. The credit has different caps, depending on the type of property. The bill becomes effective for taxable years beginning on or after January 1, 2000.***

CURRENT LAW: The General Assembly enacted several individual and corporate income tax credits in the 1980s to encourage the use of energy saving devices:

- Solar energy equipment.
- Conversion of industrial boilers to wood fuel.
- Peat facility.
- Olivine brick facility.
- Methane gas facility.
- Wind energy device.
- Solar energy equipment for the production of heat or electricity.
- Hydroelectric generator.

Of these credits, there is no evidence that the ones for peat, wind energy, olivine bricks, and methane have ever been used. The amount of the credit, the credit ceiling, and the credit carry-forward differ for each credit. (See the attached chart)

BILL ANALYSIS: House Bill 1472 repeals the 8 energy tax credits listed above and replaces them with an energy tax credit that may be claimed against the franchise tax or the individual or corporate income tax. The bill provides a tax credit for investing in renewable energy property that the taxpayer places in service in this State during the taxable year. Renewable energy property is defined as any of the following machinery and equipment or real property:

- Biomass equipment that uses renewable biomass resources for biofuel production of ethanol,

methanol, and biodiesel. Renewable biomass resources are organic matter produced by terrestrial and aquatic plants and animals, such as standing vegetation, forestry and agricultural residues, landfill wastes, and animal wastes.

- Hydroelectric generators.
- Solar energy equipment.
- Wind equipment.

The amount of the credit is 35% of the cost of the property placed in service. In the case of renewable energy property that serves a single-family dwelling, the credit must be taken for the taxable year in which the property is placed in service. For all other renewable energy property, the credit must be taken in five equal installments, beginning with the taxable year in which the property is placed in service. The credit may not exceed the following amounts:

Type of Property	Ceiling Amount
Nonresidential Property	$250,000 per installation
Residential Property – Solar energy equipment for domestic water heating	$1,400 per dwelling unit
Residential Property – Solar energy equipment for active space heating, combined active space and domestic hot water systems, and passive space heating	$3,500 per dwelling unit
Residential Property – All other renewable energy property for residential purposes	$10,000 per installation

The credit is patterned after the business tax credit. Like the business tax credit, the energy tax credit created in this bill has the following limitations and conditions:

- The energy tax credit may not exceed 50% of the tax against which it is claimed for the taxable year. Any unused portion of the credit may be carried forward for the succeeding five years.
- A taxpayer that claims any other credit allowed with respect to renewable energy property may not take this energy tax credit with respect to the same property.
- A taxpayer may not take this energy tax credit if the taxpayer leases the property from another unless the taxpayer obtains the lessor's written certification that the lessor will not claim a credit with respect to this property.
- The Department of Revenue must report each year on the number of taxpayers claiming the credits, the cost of the property for which the credits were claimed, and the total cost to the General Fund of the credits claimed.
- The Article allowing the business tax credit and, consequently the energy tax credit, is repealed effective January 1, 2002.

Renewable Energy Credits Replaced in House Bill 1472

Citation	Short Title	Percent	Ceiling	Notes
§ 105-130.23.	Credit against corporate income tax for solar energy equipment in residential buildings.	40%	$1,500 per unit	Five-year carryforward
§ 105-151.2.	Credit for solar energy equipment.	40%	$1,500 per unit	Five-year carryforward
§ 105-130.26.	Credit for conversion of industrial boiler to wood fuel.	15%	None	Five-year carryforward
§ 105-151.5.	Credit for conversion of industrial boiler to wood fuel.	15%	None	Five-year carryforward
§ 105-130.27A.	Credit for construction of a peat facility.	20%	None	Five-year carryforward
§ 105-130.29.	Credit for construction of an olivine brick facility.	20%	None	Five-year carryforward; not replaced in bill
§ 105-130.30.	Credit for construction of a methane gas facility.	10%	$2,500 per installation	No carryforward
§ 105-151.10.	Credit for construction of a methane gas facility.	10%	$2;500 per installation	No carryforward
§ 105-130.31.	Credit for installation of a wind energy device.	10%	$1,000 per installation	No carryforward
§ 105-151.9.	Credit for installation of a wind energy device.	10%	$1,000 per installation	No carryforward
§ 105-130.32.	Credit for installation of solar energy equipment for the production of heat or electricity in certain processes.	35%	$25,000 per installation	No carryforward
§ 105-151.8.	Credit for installation of solar energy equipment for the production of heat or electricity in certain processes.	35%	$25,000 per installation	No carryforward
§ 105-130.33.	Credit against corporate income tax for	10%	$5,000 per	No carryforward

Citation	Short Title	Percent	Ceiling	Notes
	installation of a hydroelectric generator.		installation	
§ 105-151.7.	Credit for installation of a hydroelectric generator.	10%	$5,000 per installation	No carryforward

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1472 (First Edition)

SHORT TITLE: Simplify Renewable Energy Credits

SPONSOR(S): Representatives Hackney, Luebke, and McComas

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES General Fund	see **ASSUMPTIONS AND METHODOLOGY**				

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

EFFECTIVE DATE: This act is effective for taxable years beginning on or after January 1, 2000.

BILL SUMMARY:
The bill repeals a number of energy related corporate and individual income tax credits and creates a new income tax credit for investing in renewable energy property. The credit is equal to 35% of the cost of the property and must be taken over 5 years in equal installments (one year if residential). The credit has a maximum of $250,000 for nonresidential and $10,500 for residential. The credit cannot be taken if any other renewable energy credit is taken on the project.

BACKGROUND:

The following credits are repealed by this act:

Tax Credit for	Eligible Expenditures	Amount %/ Maximum	Type*	Notes
Solar Heating, Cooling, and Hot Water Systems, or Electricity 105-130.23 105-151.2	Material and installation Costs.	40%	I	Covers active and passive solar systems.
		$1,500	C	Full credit is given to any non-structural items used primarily to collect, store, transfer, or control solar energy. Five year carry forward.

*Type refers to (C) – Corporate income tax credit or (I) – Individual income tax credit

Tax Credit for	Eligible Expenditures	Amount %/ Maximum	Type*	Notes
Peat Processing Facility 105-130.27A	Installation and equipment costs to construct peat processing facility.	20% none	C	Peat, partially carbonized vegetable matter, is found in many eastern NC coastal counties. Five year carry forward.
Olivine Thermal Storage Brick Facility 105-130.29	Installation and equipment Costs of construction of a manufacturing plant to produce olivine thermal storage brick	20% none	C	Olivine is a mineral found in North Carolina. Ceramics and bricks made from olivine hold heat unusually well. Five year carry forward.
Methane Gas Facility 105-130.30 105-151.10	Installation and equipment costs of construction of a facility to produce methane gas from renewable Biomass resources.	10% $2,500	C,I	Methane gas can be produced from animal waste and burned as a fuel to produce heat. No carry forward.
Hydroelectric Generator 150-130.33 150-151.7	Installation and equipment costs of a hydroelectric generator of at least 3 KW capacity.	10% $5,000	C,I	Credit covers dams built at existing dams or free-flowing streams. Eligible installation costs include spillway and other site construction necessary to accommodate the hydroelectric generator. No carry forward.
Wind Energy Device 150-130.31 150-151.9	Installation and equipment costs of a wind powered device for the production of electricity.	10% $1,000	C,I	Must own or control the site at the time the devise is installed to claim the credit. No carry forward.
Solar Industrial Process Heat 105-130.32 105-151.8	Installation and equipment costs for solar systems used in a manufacturing process.	35% $25,000	C,I	A manufacturing process is one that produces a product. Service industries such as laundromats, hotels, and restaurants are likely candidates for this credit.
Wood Boilers 105-130.26 105-151.5	Installation and equipment costs of conversion of oil or gas fired industrial boilers to wood use.	15% none	C,I	Credit does not cover the installation of new boiler systems. Only conversions are eligible. Five year carry forward.

*Type refers to (C) – Corporate income tax credit or (I) – Individual income tax credit

ASSUMPTIONS AND METHODOLOGY:

The elimination of the credits for peat, wind energy, olivine bricks, and methane will have no fiscal impact on the General Fund. Based on Department of Revenue data from the 1980's and on interviews with the Energy Division in the Department of Commerce, the tax credits for peat, wind energy, olivine bricks, and methane have never been used. The Department of Revenue reported zero use of these credits from 1981 to 1987. (Unfortunately, the Department of Revenue has not tracked these energy credits since 1987.) The U.S. Department of Energy (DOE) reported in 1995 that no electricity was purchased by North Carolina utilities from nonutility facilities using geothermal, wind, solar, or non-wood biomass sources. DOE did report electricity purchases from conventional hydroelectric, wood/wood waste, and municipal waste facilities.

The fiscal impact for the new renewable energy tax credit cannot be estimated. The energy credits that have been most commonly used in North Carolina are for solar energy and for conversion of industrial boilers to wood fuel. Hydroelectric power is prevalent in the state, but it is not known whether these companies have taken the existing state tax credit for hydroelectric generators. The North Carolina Solar Energy Association estimates that 50 to 100 residential solar tax credits are taken each year, but the Department of Revenue has no data to confirm this estimate. Solar advocates believe the number of solar credits will increase due to the Million Solar Roofs Initiative that DOE began in 1997 to install a million solar energy systems on one million U.S. buildings by the year 2010. However, it is uncertain how effective this initiative will be since it did not come with federal tax credits that previously accompanied energy legislation in the late 1970's and early 1980's. North Carolina taxpayers used $224,004 in tax credits solar hot water heating in FY 1982-83 when a federal tax credit was available. After the federal tax credit ended in 1985, no taxpayer applied for a state residential solar credit in FY 1987-88. At a minimum, if the current trend of 50 to 100 residential solar projects each year continues, the cost of the program could increase approximately $100,000 to $200,000 because the maximum credit amount per dwelling increases from $1500 to $3500 under this bill.

It is also uncertain whether industrial and nonresidential users will take advantage of the new energy tax credit given that the price per kilowatt hour of electricity produced by alternative energy sources far exceeds the price of electricity produced by conventional sources. In a July 1998 report to the Legislative Study Commission on the Future of Electric Service in North Carolina, the Research Triangle Institute reported the average price per kilowatt hour in North Carolina for commercial customers was 6.45 cents and for industrial customers was 4.79 cents. On the other hand, DOE reported in "Renewable Energy 1998:Issues and Trends" that in 1995 U.S. electric utilities paid the following prices for electricity generated by alternative sources:

Solar	15.80 cents per kilowatt hour
Biomass other than wood	12.31 cents per kilowatt hour
Geothermal	11.77 cents per kilowatt hour
Wind	11.64 cents per kilowatt hour
Wood/ Wood Waste	9.67 cents per kilowatt hour

In addition to price considerations, some companies may have less corporate income tax liability against which to take a tax credit. The North Carolina corporate income tax rate has been reduced from 7.75% to 6.9 % in the last four years. In addition, many companies have reduced their tax liability by taking advantage of income tax credits provided by the William S. Lee Quality Jobs and Business Expansion Act.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY: Tom Covington

DATE: Monday, June 07, 1999

ENERDYNE Power Systems Inc.
7301 Carmel Executive Park · Suite 208 · Charlotte, NC 28226
704/544-1001 · Fax 704/544-0508

June 7, 1999

Representative Paul Luebke
Chair, House Finance Committee
Legislative Office Building
Raleigh, NC 27601-1096

RE: HOUSE BILL 1472 - IN SUPPORT OF THIS BILL

Dear Representative Luebke:

We support House Bill 1472 and all efforts to support renewable resources in North Carolina. The Bill focuses on supporting the outside investment of the business community in helping many cities and counties be proactive in the environmental mitigation of landfill gas as one of the energy sources. Landfill gas systems are expensive to install and to operate. The gas can be used to fire boilers, run steam turbines, gas turbines, and reciprocating engines. It actually burners cleaner than natural gas with 35% lower or reduced NOX emissions. By capturing the fugitive emissions from an average size landfill, the CO2 reduction is substantial from capture at the flare alone. The benefits are doubled when the flared gas is put to a constructive use sometimes eliminating the emission source almost 100%.

This Bill highlights the ranking of North Carolina as twelfth in the US releasing 126.5 million tons of CO2 each year. Landfill gas projects at the top forty landfills in the State would have emission reduction equivalents of almost 6% of this number. This is substantial and should be supported with this legislation. Attached is an example of a mid range 2-3 million ton landfill showing the emission benefits of the capture by the flare and the number without the flare and being put to a beneficial use by several customers. We can reduce these current emissions / liabilities and make them into real benefits for each community and the State. Please look to the successful ventures close-by with Wake County and Mallinckrodt Chemical in North Raleigh, with The City of Raleigh and Ajinomoto in East Raleigh, and with Pitt County and the Pitt County Memorial Hospital / University Health Care Systems. We believe that House Bill 1472 can help be a part of making new successes.

Sincerely,

William H. Brinker

William H. Brinker
President

LANDFILL METHANE OUTREACH PROGRAM

North Wake County Landfill
Raleigh, NC

The North Carolina State Workshop - Landfill Tour
February 2, 1999

Landfill Gas Energy Makes Sense in Wake County

The landfill gas-to-energy project at the North Wake County Landfill has demonstrated that using landfill gas to fuel a boiler is a winning combination.

This project, co-developed by Enerdyne Power Systems and DTE Biomass, uses landfill gas to produce steam that is used as heat at Mallinckrodt Industries. The North Wake Landfill, which has 1.4 million tons of waste in place, is capable of delivering nearly a million cubic feet per day of landfill gas. This gas is transported via a two-mile pipeline to a landfill gas-fired boiler at the Raleigh Steam facility. There, a 25,000 pound per hour boiler produces the steam that is sold to the chemical plant.

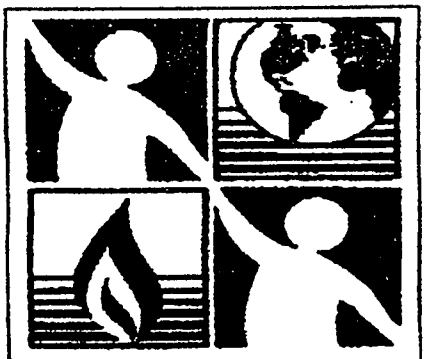
Recovering and utilizing this landfill gas prevents emissions of methane, a potent greenhouse gas, and other air pollutants, from entering the atmosphere. Landfill gas-to-energy also provides an economical and reliable source of energy that Mallinckrodt Chemical depends on.

Vicky Will, Plant Manager at Mallinckrodt Chemical, was instrumental in the planning and implementation of this project. Wayne Woodlief, of Wake County, and Bill Brinker, of Enerdyne Energy Systems, were also key players in the development of the project.

The Environmental Protection Agency thanks Wake County, Enerdyne Power Systems, DTE Biomass, and Mallinckrodt Industries for participating in the Landfill Methane Outreach Program.

Landfill Information:
North Wake County Landfill
9100 Deponie Drive, SR 2006
Raleigh, NC 27602
Waste in Place.....1.4 million tons
Daily Acceptance Rate.....1500 (+) tons
LF Area.....220 acres

Contact:
Mr. Wayne Woodlief, Wake County
P.O. Box 550
Raleigh, NC 27602
Phone No:.....(919) 856-6186



The Power of PARTNERSHIPS

Strategies for Successful LFGTE Project Development

AVOIDED CO_2 EMISSIONS FOR INSTALLING LFG COLLECTION SYSTEM

			With Flare			Without Flare		Total With Flare		Total Without Flare		
Year	LFG Generation Rates (cfm)	LFG Recovery Rates (cfm)	Flare Combusted CO_2 (lb CO_2/hr)	Fugitive and Uncombusted CO2 (lb CO_2/hr)	Fugitive and Uncombusted CH_4 (lb CH_4/hr)	No Flare CO_2 (lb CO_2/hr)	No Flare CH_4 (lb CH_4/hr)	Total LFG Emissions as CO_2 lb CO_2/hr	Total LFG Emissions as CO_2 (tons CO_2/yr)	Total LFG Emissions as CO_2 (lb CO_2/hr)	Total LFG Emissions as CO_2 (tons CO_2/yr)	Net CO_2 Emissions -Avoided- (tons CO_2/yr)
1999	1,312	996	6,109	934	425	3,650	1,660	15,967	69,935	38,501	168,635	98,700
2000	1,385	1,051	6,447	988	449	3,853	1,752	16,865	73,868	40,843	178,018	104,150
2001	1,461	1,108	6,796	1,044	475	4,064	1,848	17,805	77,986	42,874	187,786	109,798
2002	1,540	1,169	7,170	1,097	499	4,284	1,948	18,744	82,097	45,192	197,940	115,843
2003	1,623	1,231	7,551	1,159	527	4,515	2,053	19,776	86,621	47,627	208,608	121,987
2004	1,710	1,297	7,955	1,221	555	4,757	2,163	20,836	91,263	50,161	219,791	128,528
2005	1,622	1,230	7,545	1,159	527	4,512	2,052	19,770	86,592	47,598	208,480	121,888
2006	1,538	1,167	7,158	1,097	499	4,278	1,945	18,730	82,038	45,133	197,683	115,645
2007	1,459	1,107	6,790	1,041	473	4,059	1,846	17,769	77,830	42,815	187,529	109,699
2008	1,383	1,050	6,440	985	448	3,847	1,749	16,829	73,710	40,585	177,761	104,051
2009	1,312	995	6,103	937	426	3,650	1,660	15,990	70,034	38,501	168,635	98,601
2010	1,244	944	5,790	887	403	3,460	1,574	15,148	66,348	36,508	159,894	93,547
2011	1,180	895	5,490	843	383	3,282	1,493	14,378	62,977	34,627	151,668	88,691
2012	1,119	849	5,208	798	363	3,113	1,415	13,629	59,695	32,837	143,828	84,133
2013	1,061	805	4,938	757	344	2,951	1,342	12,923	56,601	31,135	136,373	79,772
2014	1,007	764	4,686	718	327	2,801	1,274	12,265	53,723	29,551	129,432	75,709
2015	955	724	4,441	683	311	2,657	1,208	11,645	51,003	28,025	122,749	71,746
2016	905	687	4,214	645	293	2,517	1,145	11,014	48,243	26,558	116,322	68,079
2017	859	851	3,993	615	280	2,390	1,087	10,479	45,898	25,208	110,409	64,512
2018	814	818	3,781	580	264	2,264	1,030	9,905	43,384	23,887	104,625	61,241
2019	772	586	3,594	550	250	2,148	977	9,397	41,157	22,655	99,227	58,070
2020	732	558	3,410	521	237	2,036	926	8,901	38,988	21,481	94,086	55,097

Attachment C

ENERDYNE
Power Systems Inc.

7301 Carmel Executive Park · Suite 208 · Charlotte, NC 28226
704/544-1001 · Fax 704/544-0508

June 7, 1999

Representative Paul Luebke
Chair, House Finance Committee
Legislative Office Building
Raleigh, NC 27601-1096

RE: HOUSE BILL 1472 - IN SUPPORT OF THIS BILL

Dear Representative Luebke:

We support House Bill 1472 and all efforts to support renewable resources in North Carolina. The Bill focuses on supporting the outside investment of the business community in helping many cities and counties be proactive in the environmental mitigation of landfill gas as one of the energy sources. Landfill gas systems are expensive to install and to operate. The gas can be used to fire boilers, run steam turbines, gas turbines, and reciprocating engines. It actually burners cleaner than natural gas with 35% lower or reduced NOX emissions. By capturing the fugitive emissions from an average size landfill, the CO2 reduction is substantial from capture at the flare alone. The benefits are doubled when the flared gas is put to a constructive use sometimes eliminating the emission source almost 100%.

This Bill highlights the ranking of North Carolina as twelfth in the US releasing 126.5 million tons of CO2 each year. Landfill gas projects at the top forty landfills in the State would have emission reduction equivalents of almost 6% of this number. This is substantial and should be supported with this legislation. Attached is an example of a mid range 2-3 million ton landfill showing the emission benefits of the capture by the flare and the number without the flare and being put to a beneficial use by several customers. We can reduce these current emissions / liabilities and make them into real benefits for each community and the State. Please look to the successful ventures close-by with Wake County and Mallinckrodt Chemical in North Raleigh, with The City of Raleigh and Ajinomoto in East Raleigh, and with Pitt County and the Pitt County Memorial Hospital / University Health Care Systems. We believe that House Bill 1472 can help be a part of making new successes.

Sincerely,

William H. Brinker

William H. Brinker
President

AVOIDED CO_2 EMISSIONS FOR INSTALLING LFG COLLECTION SYSTEM

Year	LFG Generation Rates (cfm)	LFG Recovery Rates (cfm)	With Flare			Without Flare		Total With Flare		Total Without Flare		Net CO_2 Emissions -Avoided- (tons CO_2/yr)
			Flare Combusted CO_2 (lb CO_2/hr)	Fugitive and Uncombusted CO2 (lb CO_2/hr)	Fugitive and Uncombusted CH_4 (lb CH_4/hr)	No Flare CO_2 (lb CO_2/hr)	No Flare CH_4 (lb CH_4/hr)	Total LFG Emissions as CO_2 lb CO_2/hr	Total LFG Emissions as CO_2 (tons CO_2/yr)	Total LFG Emissions as CO_2 (lb CO_2/hr)	Total LFG Emissions as CO_2 (tons CO_2/yr)	
1999	1,312	998	6,109	934	425	3,650	1,660	15,987	69,935	38,501	168,635	98,700
2000	1,385	1,051	6,447	988	449	3,853	1,752	16,865	73,868	40,843	178,018	104,150
2001	1,461	1,108	6,796	1,044	475	4,064	1,848	17,805	77,988	42,874	187,788	109,798
2002	1,540	1,169	7,170	1,097	488	4,284	1,948	18,744	82,097	45,192	197,940	115,843
2003	1,623	1,231	7,551	1,158	527	4,515	2,053	19,776	86,621	47,827	208,608	121,987
2004	1,710	1,297	7,955	1,221	555	4,757	2,163	20,836	91,263	50,181	219,791	128,528
2005	1,622	1,230	7,545	1,159	527	4,512	2,052	19,770	86,592	47,596	208,480	121,888
2006	1,538	1,167	7,158	1,097	498	4,278	1,945	18,730	82,038	45,133	197,683	115,645
2007	1,459	1,107	6,790	1,041	473	4,059	1,846	17,769	77,830	42,815	187,529	109,699
2008	1,383	1,050	6,440	985	448	3,847	1,749	16,828	73,710	40,585	177,761	104,051
2009	1,312	995	6,103	937	426	3,650	1,660	15,990	70,034	38,501	168,635	98,601
2010	1,244	944	5,790	887	403	3,460	1,574	15,148	66,348	36,508	159,894	93,547
2011	1,180	895	5,490	843	383	3,282	1,493	14,378	62,977	34,627	151,668	88,691
2012	1,119	849	5,208	798	363	3,113	1,415	13,629	59,695	32,837	143,828	84,133
2013	1,061	805	4,938	757	344	2,951	1,342	12,923	56,601	31,135	136,373	79,772
2014	1,007	764	4,686	718	327	2,801	1,274	12,265	53,723	29,551	129,432	75,709
2015	955	724	4,441	683	311	2,657	1,208	11,645	51,003	28,025	122,749	71,746
2016	905	687	4,214	645	293	2,517	1,145	11,014	48,243	26,538	116,322	68,079
2017	859	651	3,993	615	280	2,390	1,087	10,479	45,898	25,208	110,409	64,512
2018	814	618	3,781	580	264	2,264	1,030	9,905	43,384	23,887	104,625	61,241
2019	772	586	3,584	550	250	2,148	977	9,397	41,157	22,655	99,227	58,070
2020	732	558	3,410	521	237	2,036	926	8,901	38,988	21,481	94,086	55,097

Attachment C

LANDFILL METHANE OUTREACH PROGRAM

North Wake County Landfill
Raleigh, NC

The North Carolina State Workshop - Landfill Tour
February 2, 1999

Landfill Gas Energy Makes Sense in Wake County

The landfill gas-to-energy project at the North Wake County Landfill has demonstrated that using landfill gas to fuel a boiler is a winning combination.

This project, co-developed by Enerdyne Power Systems and DTE Biomass, uses landfill gas to produce steam that is used as heat at Mallinckrodt Industries. The North Wake Landfill, which has 1.4 million tons of waste in place, is capable of delivering nearly a million cubic feet per day of landfill gas. This gas is transported via a two-mile pipeline to a landfill gas-fired boiler at the Raleigh Steam facility. There, a 25,000 pound per hour boiler produces the steam that is sold to the chemical plant.

Recovering and utilizing this landfill gas prevents emissions of methane, a potent greenhouse gas, and other air pollutants, from entering the atmosphere. Landfill gas-to-energy also provides an economical and reliable source of energy that Mallinckrodt Chemical depends on.

Vicky Will, Plant Manager at Mallinckrodt Chemical, was instrumental in the planning and implementation of this project. Wayne Woodlief, of Wake County, and Bill Brinker, of Enerdyne Energy Systems, were also key players in the development of the project.

The Environmental Protection Agency thanks Wake County, Enerdyne Power Systems, DTE Biomass, and Mallinckrodt Industries for participating in the Landfill Methane Outreach Program.

Landfill Information:
North Wake County Landfill
9100 Deponie Drive, SR 2006
Raleigh, NC 27602
Waste in Place.....1.4 million tons
Daily Acceptance Rate.....1500 (+) tons
LF Area.....220 acres

Contact:
Mr. Wayne Woodlief, Wake County
P.O. Box 550
Raleigh, NC 27602
Phone No:.....(919) 856-6186

The Power of PARTNERSHIPS

Strategies for Successful LFGTE Project Development

INNOVATIVE DESIGN
850 W. MORGAN ST., RALEIGH, NC 27603, 919/832-6303 FAX 919/832-3339

House Bill 1472: An Act to Simplify and Modernize Tax Credits for Investing in Renewable Energy Sources

House Bill 1473: An Act to Modify the Income Tax Credits for Manufacturers of Certain Renewable Energy Equipment

Presentation by: Michael H. Nicklas

President of Innovative Design
Duke Solar Board
Chair of North Carolina Solar Center
Past Chair of North Carolina Solar Energy Association
Past Chair of the American Solar Energy Society
Past President of International Solar Energy Society

Presentation to: North Carolina House Finance Committee
June 8, 1999

My architectural firm, Innovative Design, was established 22 years ago with our primary focus being that of designing environmentally sensitive, solar buildings. Over the past two decades we have designed solar buildings built 4500 times. Forty-four hundred of these solar buildings were constructed in North Carolina, 4,100 for homeowners. Our North Carolina projects have saved over $49 million dollars in energy and reduced carbon dioxide emissions by 384,000 tons. The accumulative benefit to North Carolina's economy, from just our firm's solar energy projects, has now reach $150 million. Because these buildings incorporated solar energy features, North Carolinia homeowners and businesses will continue to save over $3.4 million annually.

By number of registered architects, our architectural firm is the third largest in the Triangle, employing an average of 10 to 12 people. Additionally, I estimate that the solar components of our buildings are responsible for the employment of 40 to 50 people for the past two decades.

By 2010 we project these solar buildings will have reduced carbon dioxide emissions by over 700,000 tons and saved $90 million in energy. Within the next ten years the accumulative benefits to local economies within North Carolina, by not having their energy dollars leave their communities, will surpass $270 million.

The North Carolina's solar energy tax credits, to a great degree, are directly responsible for the magnitude of these energy savings and jobs created. Without them, the majority of our clients would have never gone that next step. I estimate the tax credits associated with these projects (the great majority for solar homes) is approximately $2 million. Fifty jobs per year for twenty years and the $150 million ($270 million by 2010) in economic benefit to North Carolina communities, at a cost of $2 million, is a pretty good deal - particularly since these savings don't begin to reflect the benefits derived from reduced pollution, improved health, greater agricultural productivity, and greater energy independence.

Across our country and across North Carolina, the average citizen wants our government, at all levels, to create incentives that encourage the use of solar energy. In a national poll conducted by Research Strategy Management, Inc. and released just this week, found that an overwhelming 80% of Americans favor tax incentives to increase the use of renewable energy. North Carolinians simply want solar because it helps our environment by reducing air and water pollution, it creates jobs, and it keeps our energy dollars in our local communities.

I would like to thank those of you from both parties that voted years ago to support solar energy. Our current credits have, in many ways, worked because they have facilitated the introduction of early solar technologies into the marketplace. They have helped in bringing down costs and making some of these technologies more accessible to the average citizen. And, they have helped reduce energy costs for North Carolinians by hundreds of millions of dollars and created hundreds of jobs.

However, these revisions to our existing credits also make sense because they modify the credit amounts to reflect the type of incentives needed today to spur action by homeowners and businesses. The proposed modifications, in some cases, reflect reductions in incentives for the more mature technologies while other, more advanced, cutting edge technologies will require higher incentives The proposed modifications are also fairer because they open the credits to all renewable energy technologies.

I would encourage you to favorably support House Bills 1472 and 1473. Your children and grandchildren will thank you.

Poll Confirms North Carolinians Want Renewable Energy...And Are Willing to Pay For It!

By Larry Shirley, NCSEA Board of Directors

The highly regarded Carolina Poll, conducted each year by the UNC School of Journalism to determine North Carolinians' attitudes on key issues, has released the results of its 1998 poll, in which several of the questions directly addressed renewable energy. The Poll's results included these significant findings:

- 58.4% of North Carolina's citizens support requiring all sellers of electricity in the state to generate a percentage of their electricity from renewable energy sources; only 19.2% were opposed;

- 56.6% support adding an extra charge of at least 1% to each customer's utility bill to help pay for renewable energy and energy efficiency programs; only 30.1% opposed this measure;

- 50.8% are willing to pay $1 or more each month, in addition to their regular bill, to enable them to purchase their electricity from renewable sources; 37.9% were willing to spend $6 or more per month; 11.1% would spend more than $20 a month extra; and only 27% said they would not pay a premium; and

- 65.4% favor requiring electricity suppliers to disclose on the customer's bill information on the fuels (i.e. types and emissions) used to generate their electricity; only 15.2% opposed this measure.

"The poll confirms what we have long suspected," said Richard Harkrader, Chairman of the N.C. Solar Energy Association. "North Carolinians not only are strongly in support of developing and using our only indigenous energy resource, renewable energy, they are also willing to pay for it."

The North Carolina Poll's results mirror the poll results that have been gathered by independent polling firms in Texas, Louisiana, Oklahoma and several other states. In many of these states, the poll results have spurred local utilities to offer "green" electricity, or electricity generated from renewable resources, such as wind, solar, hydro and biomass resources.

Released just as North Carolina's legislative commission studying the restructuring of electric power is set to reconvene after being in hiatus during the recent legislative session, renewable energy advocates believe the poll's results could have a profound impact on the Commission's forthcoming recommendations.

"The Study Commission now has the clear support of North Carolina's citizenry to take specific actions to see that renewable energy resources are strengthened and advanced as part of any plan to restructure the state's electric power system," stated Harkrader. "Fulfilling this mandate from their constituents should lead them to do four things:

Currently, North Carolina, like most other states, is considering restructuring its electric utility industry to allow for competition among electricity providers. I'm going to ask you some questions about restructuring our state's electric utility industry, and I want you to tell me how you, personally, feel about these issues. If you haven't thought enough about a particular issue to have an opinion yet, just say so and we'll go on to the next item.

In this survey, BIOMASS refers to the burning of wood and other plant products to produce electricity. HYDROPOWER refers to the use of moving water to produce electricity. SOLAR POWER refers to the conversion of the sun's energy into elct.

Electricity fuel source info on bill

To give customers the information they will need to make informed energy purchases, some states are requiring their utility companies to include information on electric bills about the fuels used to produce electricity and the environmental impacts from the use of these fuels. Would you strongly favor, favor, oppose, or strongly oppose a proposal to require every seller of electricity in North Carolina to provide fuel and emissions information on customer bills?

1. STRONGLY FAVOR
2. FAVOR
3. OPPOSE
4. STRONGLY OPPOSE
5. DON'T KNOW/ NO ANSWER

FUELINFO

N	Valid	584
	Missing	0
-		

FUELINFO

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 STRONGLY FAVOR	176	30.2	30.2	30.2
	2 FAVOR	205	35.2	35.2	65.4
	3 OPPOSE	74	12.7	12.7	78.0
	4 STRONGLY OPPOSE	15	2.5	2.5	80.5
	5 DON'T KNOW; NO ANSWER	114	19.5	19.5	100.0
	Total	584	100.0	100.0	

How much spend on renewable sources

Suppose the North Carolina electricity market were restructured to allow you a choice of buying electricity generated by nonpolluting renewable energy sources such as solar, wind, and small hydropower at a higher cost, or electricity produced by nuclear and coal at a lower cost. About how much more, if any, would you be willing to spend on your utility bill each month for electricity produced from renewable energy sources?

[INTERVIEWER: DON'T READ ANSWERS UNLESS NECESSARY]

1. none
2. between $1 and $5 per month
3. between $6 and $10 per month
4. between $11 and $15 per month
5. between $16 and $20 per month
6. More than $20 per month
7. DON'T KNOW/ NO ANSWER
8. RESPONDENT ASKS FOR MORE INFORMATION

Statistics

RENEWSPN

N	Valid	584
	Missing	0

RENEWSPN

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 none	158	27.0	27.0	27.0
	2 between $1 and $5 per month	75	12.9	12.9	39.9
	3 between $6 and $10 per month	101	17.3	17.3	57.2
	4 between $11 and $15 per month	29	5.0	5.0	62.2
	5 between $16 and $20 per month	27	4.5	4.5	66.7
	6 More than $20 per month	65	11.1	11.1	77.8
	7 DON'T KNOW; NO ANSWER	130	22.2	22.2	100.0
	Total	584	100.0	100.0	

Table 1. Preferred Approaches for Meeting Energy Needs When Renewables are Considered.

"In order to help provide for the country's overall need for energy in the future, which do you think should be emphasized most?"

	Dec. 1990 (%)
Finding different energy sources such as solar and wind	59
Finding ways to use less energy	25
Finding ways to produce more oil, gas, and coal	11
Don't know	5
	100

Source: Constructed by the author using data from Research/Strategy/Management and Greenberg/Lake, The Analysis Group

P128-G1181518

Table 2. Preferences among Energy Alternatives for R&D Funding, 1995.

"Which of DOE's R&D programs do you think should receive the highest priority of funding in DOE's R&D budget? And which do you think should be subject to funding cuts first?" (December 1995)

	Highest Priority to Fund %	Cut Funding First %
Renewable energy involving solar, wind, geothermal, biomass, and hydroelectric power	34	14
Technologies to improve energy efficiency and conservation	21	4
Natural gas	9	5
Fossil fuels such as oil, gasoline, and coal	9	20
Nuclear power	9	30
None of these	5	6
Don't know	14	20

Source: Constructed by the author using data from Research/Strategy/Management (1996)

P209-B258607

Table 3. Top Environmental Concerns.

"What do you think is the single most important environmental problem facing the country today?" (1990) [Open-ended]

Environmental Problem	Proportion Responding (%)
Air pollution	13
Water pollution	8
Pollution	7
Greenhouse effect	7
Recycling	5
Disposal of waste	5
Lack of landfills	4
Cleaner drinking water	4
Water and air pollution	4
Trash disposal	3
Waste management	3
Oil spills	3
Industrial waste	3
Deforestation	3
Acid rain	3
Car pollution	2
Using up natural resources	2
Litter	1
Insecticides	1
Other	5
Don't know	12

Source: Constructed by the author using data from Cambridge Reports/ Research International

P128-G1181531

Table 4. Connecting Fossil Fuel Use with the Greenhouse Effect (1993).

"...Every time we use coal or oil or gas, we contribute to the greenhouse effect."

	%
Definitely/probably true	64
Probably/definitely *not* true	24
Don't know	12
	100

Source: Constructed by the author using data from National Opinion Research Center

P128-G1181508

Table 5. Percentages Showing Comparative Preferences for Energy Sources on Several Factors, 1993.

Factor	Solar	Hydro-electric	Natural Gas	Oil and Gasoline	Nuclear	Coal	Don't Know
Best for environment	55	22	12	3	3	3	2
Safest	50	24	12	3	2	6	3
Most abundant	29	18	16	15	6	11	4
Makes the U.S. most self reliant	22	16	18	8	20	9	7
Least expensive	32	17	19	6	4	15	6
Best for U.S. economy	25	18	19	15	11	7	5
Most positive for you	34	22	22	11	5	3	3
Will play increasing role in 21st century	43	8	8	6	29	1	5

Source: Constructed by the author using data from Wirthlin Group (1993)

P209-B258606

Table 6. Willingness to Pay More Taxes for Solving Major Environmental Problems (1992).

Environmental Problem	Definitely Willing	Might Be Willing	Probably or Definitely Not Willing	Don't Know
Water pollution	52	26	20	2
Developing solar and wind power	47	24	25	4
Air pollution	44	29	25	2
Developing new energy conservation measures	43	27	25	5
Protecting wilderness lands from oil and gas exploration	42	24	31	3
Ozone layer depletion	36	28	29	7
Solid waste disposal	35	30	33	2
Greenhouse effect	33	28	32	7
Acid rain	30	29	34	7

Source: Constructed by the author using data from Cambridge Energy Research Associates/Opinion Dynamics

P128-G1181520

Table 7. Willingness to Pay Higher Prices to Protect the Environment, 1993–1994.

	Percentage	
Willingness to Pay	1993	1994
Very willing	11	9
Fairly willing	42	37
Unsure	25	27
Not very willing	15	17
Not at all willing	7	9

Source: Constructed by the author using data from National Opinion Research Center

P209-B258609

Table 8. Percentages Willing to Pay More for Less Environmentally Harmful Electricity, 1990–1994.

Amount More Willing to Pay	9/90	5/94
$0–5/month	22	40
6–10	29	20
11–20	21	18
21+	26	22

Source: Constructed by the author using data from Cambridge Reports/Research International

P209-8258610

Table 9. Willingness to Pay More for Renewable Electricity, 1995.

"Suppose you have the chance to choose your electric company the same way you now can choose your long-distance phone company and the choice was between a utility company that uses coal to generate electricity and a utility company that produces electricity using cleaner, but slightly more expensive, renewable energy sources? Of the following, which indicates how much more you would be willing to spend per month for electricity generated from cleaner renewable sources?"

Response	%
No more	24
Up to 2% per month	23
Up to 5%	26
Up to 10%	19
Up to 20%	5
More than 20%	3

Source: Constructed by author using data from Research/Strategy/Management (1996)

P209-8258608

SUSTAINABLE ENERGY COALITION
315 Circle Avenue, #2; Takoma Park, MD 20912-4836
(301-270-2258; fax: 301-891-2866)

SURVEY SHOWS AMERICANS WOULD FUND RENEWABLE ENERGY & ENERGY EFFICIENCY BUT CUT FUNDING FOR NUCLEAR POWER & FOSSIL FUELS;

PUBLIC STRONGLY FAVORS TAX INCENTIVES AND PROVISIONS TO PROMOTE SUSTAINABLE ENERGY IN ELECTRIC UTILITY RESTRUCTURING

For Release: June 3, 1999
Thursday, 9:30 a.m. (Eastern Time)

Contact: Henry Griggs 202-326-8714
Ken Bossong 301-270-2258

Washington DC -- A national public opinion survey released today by a broad coalition of business, environmental, consumer, and energy policy organizations confirms that most citizens believe renewable energy and energy efficiency should be given priority for federal energy funding but that nuclear power and fossil fuels should be the first technologies subject to budget cuts.

Furthermore, by large margins, the public favors inclusion of provisions to promote sustainable energy technologies and consumer disclosure in federal electric utility restructuring legislation but oppose having electricity customers pay for uneconomic nuclear plants. Finally, Americans overwhelmingly support federal tax incentives to encourage the use of renewable energy in electricity production and to encourage the purchase of energy-efficient automobiles, homes, and heating and cooling systems.

These are among the key findings of the survey, "America Speaks Out on Energy: Funding Priorities, Electric Utility Restructuring, and Tax Incentives" conducted for the Sustainable Energy Coalition by Research/Strategy/ Management, Inc. of Sterling, Virginia from May 10-18 among a sample of 1,029 adult Americans 18 years of age and older. The survey has a margin of error of +/-3.0%.

For the fifth year in a row, a majority of all Americans (62%), and more than two-thirds (69%) of those expressing a preference, would give the highest priority to funding the U.S. Department of Energy's (DOE) renewable energy (i.e., solar, wind, geothermal, biomass, and hydroelectric) and energy efficiency research and development (R&D) programs. On the other hand, nearly a third (31%) of respondents selected nuclear power as the first R&D program that should be subject to budget cuts, followed by fossil fuels (21%). Only 5% would cut funding for energy efficiency R&D while just 9% would reduce the renewable energy budget.

These findings, which reflect even higher levels of support for sustainable energy programs than were measured in the Coalition's earlier polls, cut across all political, gender, age, geographic, and income categories. Ironically, recent votes by the House Science Committee and Senate Appropriations Committee would allocate federal energy dollars in a manner completely at odds with the

public's preferences.

By large margins, 78% of respondents support including a Renewable Energy Portfolio Standard requiring 10% of electricity be generated from solar, wind, geothermal, and biomass sources as part of federal electric utility restructuring legislation.

In addition, 59% favor creating a Public Benefits Fund, supported by a 2-3% surcharge on utility bills, to fund energy efficiency, low-income energy assistance, and renewable energy R&D programs. There is also near-unanimity (89%) among Americans that electricity providers should be required to tell their customers the type of fuel being used to generate electricity as well as the type and amounts of air pollutants being emitted.

However, a lopsided majority (76%) of consumers believe electric utilities' shareholders, and not their customers, should be required to pay off the cost of uneconomic nuclear power plants as the utility industry is deregulated. Neither the White House nor anyone in Congress has yet to introduce a utility restructuring proposal that reflects the public's preferences.

More than 80% of respondents favor tax incentives to increase the use of renewable energy for the production of electricity either strongly (45%) or at least somewhat (36%). Furthermore, Americans overwhelmingly support making tax incentives available to encourage the purchase of energy-efficient vehicles, new homes, and heating and cooling equipment. More than three-quarters (77%) support such incentives for the purchase of automobiles that are at least twice as energy efficient as the average new car either strongly (46%) or at least somewhat (31%).

An even larger share of citizens (83%) support tax incentives to spur the purchase of new homes that are at least 30% more energy efficient than the average new home either strongly (51%) or at least somewhat (32%). Finally, 84% of those surveyed believe tax incentives should be made available to encourage the purchase of home heating and cooling systems that are at least 30% more energy-efficient with a majority (51%) agreeing strongly and another third (33%) agreeing at least somewhat. The findings suggest that the public is ready to support the Clinton Administration's yet-to-be-introduced package of tax incentives that comprise its Climate Change Technology Initiative.

# # # #

Copies of the 50-page survey, "America Speaks Out on Energy: Budget Priorities, Electric Utility Restructuring, and Tax Incentives" are available for $15 (pre-paid).

The Sustainable Energy Coalition is a coalition of 35 national business, environmental, consumer, and energy policy organizations (list available upon request) founded in 1992 to promote a shift in federal energy priorities away from nuclear and fossil fuels and towards renewables and energy efficiency.

20% Renewable Energy In North Carolina by 2010: Technically Possible, Economically Feasible and Environmentally Necessary

Michael Nicklas
Resident of Cary, North Carolina
President of Innovative Design
Past Chair of North Carolina Solar Energy Society
Past Chair of American Solar Energy Society
Past President of International Solar Energy Society

In 1992 the North Carolina Energy Policy Council, in recognition that our state should be moving towards a more sustainable energy future, established an objective of meeting 20% of North Carolina's annual energy needs with renewable energy by the year 2010. (1) To those concerned with sustainable development, this 20% goal by 2010 serves as the benchmark by which our current utility restructuring effort will be judged. To those engaged in evaluating deregulation it is important to understand that this level of contribution is technically possible, economically feasible and environmentally necessary.

Several important studies have taken place during the recent years which indicate that meeting 20% of our energy needs with renewable energy sources by 2010 is important to North Carolina's economic and environmental future.

Technical Potential

In 1990 the US Department of Energy, in preparation of our National Energy Strategy, organized an evaluation by our National Laboratories of already commercialized and emerging renewable energy technologies that would have an impact on energy choices between 1990 and 2030. The conclusions of this analysis stated that, through increased research, development, and demonstration initiatives, the contributions from renewables could increase from the 1988 level of 8.0% and reach 17.8% by 2010, 26.7 percent in 2020 and approximately 39.6 percent by 2030. These projections assumed a level of energy efficiency efforts that would tend to slow overall demand to about 1.3 percent per year and result in total demand in 2030 of 144.2 quads. But, with enhanced energy efficiency, the growth rate could be cut to one-half percent per year and the contribution that renewables could provide of total demand would increase to over 20% in 2010. (3)

Since 1990 increased RD&D funding for renewables coupled with federal and state tax incentives has resulted in an increase in the use of renewables. Unfortunately, energy demand, greatly impacted by reduced DSM efforts by utilities, has increased much higher than the 0.5% per year rate and even slightly ahead of the 1.3% pace. This has resulted in a 1997 total demand in the United States of 94.5 quadrillion Btu's. Because of this increase in demand, and despite the increase in use of renewables, the percentage of renewable energy in the United States in 1997 remained approximately the same (7.8%).

The good news is that from a technical standpoint, significant advances have been taking place in almost every renewable technology and, nationwide, the percentage of renewables is increasing. In the utility sector renewables are increasing at 2.9% per year. Non-utility generators are increasing at a greater rate of 3.7% per year and, within this sector, solar, wind and geothermal are growing at a strong 8.9% per year pace. The potential looks very good as manufacturing processes continue to improve and more innovative approaches improve cost-effectiveness. If over the next decade energy growth can be contained (through enhanced energy efficiency efforts) to a rate of one-half percent per year, energy demand in the United States would increase to 100.8 quads. In turn, if the use of renewable energy sources were to increase by a rate of 8.5% per year (slightly less than that currently occurring in the solar, wind, and geothermal sector of non-utility generators), the contribution nationwide would increase to 19.7 quads and represent 19.6% of total needs.

In contrast, the United Nations Committee on the Development of New and Renewable Sources of Energy in 1992 analyzed the projected potential of renewable energy worldwide. What they determined was that, on a global basis in 1985, renewable energy options provided 17.5 percent of the world's energy needs, an amount equal to 7,669 Mtoe. At that time renewable energy options provided 8.5 percent of the industrialized counties' needs and 38.3 percent of the developing countries' annual requirements. (5)

The UN Committee projected that by 2020 the utilization of renewables could surpass 3.5 times the 1985 mark and reach 4,889 Mtoe. If the energy demand projected by the World Energy Council reached their projected 13,500 Mtoe in 2020, renewables would then be providing 36% of global energy needs. This study indicates that in the already industrialized countries the potential exists, from a technological standpoint, to increase the contribution from renewable energy from 461 mtoe in 1985 to a minimum of 1853 mtoe in 2020 - a four fold increase that will advance the industrialized countries from 8.5% renewable energy position in 1985 to 31% in 2020.

Economically Practical Renewable Energy Potential

A 1991 analysis conducted by the Alliance to Save Energy, the American Council for an Energy-Efficient Economy, the Natural Resources Defence Council and the Union of Concerned Scientists looked at several different scenarios and concluded that US renewable energy use could increase dramatically between now and the year 2030 but would be significantly dependent upon the level of energy efficiency reached.

Depending upon the scenario, the percentage of renewable energy would increase from the 1988 level of 8.6% contribution to between 35% and 53% by 2030. The Market Case examines a "policy driven" scenario that encourages efficiency and renewables. This analysis reflects a scenario of what renewable energy could achieve based on cost-effectiveness and governmental policies which would only encourage implementation but not add further financial inducements. The study concluded that with governmental policies that would result in cost-effective renewable solutions being implemented, the percentage of renewables from the Market Driven Case would reach 17.8% of total energy demand in 2010 and rise to 35.3% in 2030. (6)

The Environmental Imperative

In 1990, Intergovernmental Panel on Climate Change concluded that a 60% reduction in global CO2 was required to just stabilize atmospheric concentration. However, the World Energy Congress estimated that by 2020, our current path will result in a 69% increase in CO2 - due mostly to a projected 75% increase in global energy demand. Energy use throughout the world is now responsible for 6 billion tons of carbon being dumped into our atmosphere each year - an amount that, unless significant changes in consumption patterns occur, will reach 10 billion tons by 2010. Of this amount, 2.3 billion tons of carbon emissions are the result of coal burning (7). Unless we switch to a more sustainable energy path, US emissions will reach 30% above 1990 levels by the year 2010.

In 1992 the heads of state of over 160 countries gathered in Rio de Janeiro to address this issue, the most important of our time. As a result of the Earth Summit, the United States initiated a US Climate Change Action Plan to reduce greenhouse gas (GHG) emissions to 1990 levels by the year 2000. Unfortunately, from 1990 to 1996 little action took place to reverse the trend of increasing pollution and GHG emissions rose by another 8%. (8) Recognizing that not enough had been done that would enable the US to meet the goals of the Climate Action Plan, the US negotiated a new objective in Kyoto (now being challenged by Congress) to reduce greenhouse gas emissions to 7% below 1990 levels, but not until the year 2010. Even if we reach this goal we will fall considerably short of the 60% reduction necessary to stabilize our atmospheric concentrations of CO2.

Within the same 1991 analysis conducted by the Alliance to Save Energy, the American Council for an Energy-Efficient Economy, the Natural Resources Defence Council and the Union of Concerned Scientists, another scenario looked at an Environmental Case, that took into account the societal impacts of energy security and environmental degradation, and a Climate Stabilization Case. (6)

Under the Environmental Case, as more societal impacts are accounted for, the renewable contribution was predicted to grow by 21.5% in 2010 and 41.7% in 2030. The CO2 emissions would, correspondingly, be cut by 30% in 2010 and in half by 2030. However, to achieve the desired reduction in CO2 necessary for Climate Stabilization, both significant increased use in renewables coupled with enhanced energy efficiency gains, would be required. In this sustainable energy scenario renewable energy use would have to increase to 26.3% by 2010 and reach 53% by 2030. Additionally, the energy demand (through improved energy efficiency) would need to be reduced by 19% in 2010 and 27% in 2030. (6)

A final analysis better places our environmental imperative into perspective. This analysis, conducted by the International Solar Energy Society, concluded that if we are to stabilize our atmospheric concentration of carbon dioxide we would need to accomplish two objectives. (9) The first is that we would need to reach a global contribution from renewable energy of 40% by 2020. Based upon an estimated total global demand of 13.5 gtoe in 2020, this would mean that renewable sources would have to increase from

1.4 gtoe to 5.5 gtoe. This leaves approximately 8 gtoe in demand. The critical second component that is necessary is that the pollutant impact from this remaining 8 gtoe in demand, must be cut in half. This must occur through either a doubling of the efficiency of delivery or reducing, in half, the pollutants associated with the energy production.

If this scenario is achieved we will reduce the carbon dioxide by the 60% amount estimated by the Intergovernmental Panel on Climate Change and still meet our energy demand. Anything less than this will mean an increasing atmospheric concentration in greenhouse gases and rising global temperatures. Our "hidden" societal and environmental impacts already cost Americans $250 billion each year (in addition to our national energy bill) from increased health problems, loss of agricultural productivity, military costs associated with imported oil, and environmental destruction. And, this doesn't consider any costs associated with climate change. It is clear that North Carolina must do our part to insure that our energy future focuses much more strongly on environmentally sound renewable energy. It is also clear that achieving a 20% renewable energy goal in North Carolina is technically possible and economically sound.

(1) North Carolina State Energy Policy, Energy Policy Council, December, 1992

(2) The Potential of Renewable Energy: An Interlaboratory White Paper, March 1990

(3) The Potential of Renewable Energy: An Interlaboratory White Paper, reported in Congressional Research Service Issue Brief, July 20, 1990

(4) US Energy Information Agency, Short-Term Energy Outlook, April, 1998

(5) UN Report of the Secretary General, Solar Energy: A strategy in support of environment and development, UNSEGED, 1992; World Energy Congress and Dessus, Pharabod, Devin; Renewable Energies: Actually Accessible Regional Potentials and Environmental Impacts Analysis for the Nineties; La Houille Blanche, No.1, January, 1992

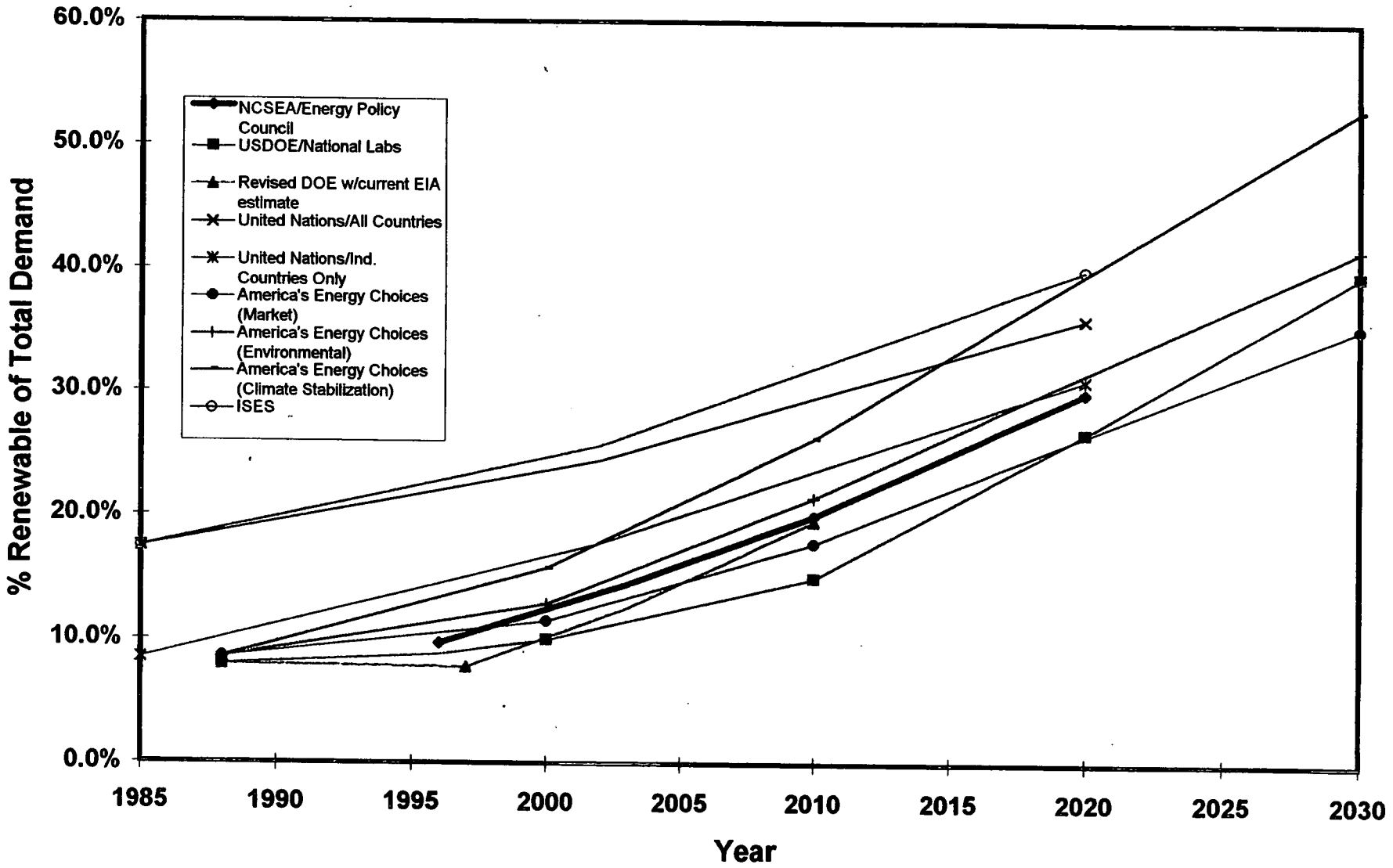
(6) America's Energy Choices; Alliance to Save Energy, ACREEE, Natural Resources Defense Council, Union of Concerned Scientists; 1991

(7) Vital Signs: The Trends that are Shaping our Future; Brown, Lester and Kane, Hal and Roodman, David Malin; Worldwatch Institute; 1994

(8) The Economic and Greenhouse Gas Emission Impacts of Electric Energy Efficiency Investments: A Wisconsin Case Study; USDOE and Oak Ridge National Lab; Feb, 1998

(9) Official Opening Speech of Michael Nicklas at ISES World Congress, Harare, Zimbabwe, International Solar Energy Society, 1995

Contribution of Renewable Energy In Meeting Energy Demand



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1473

Short Title: Renewable Energy Mfr Credit. (Public)

Sponsors: Representatives Hackney and Luebke (Primary Sponsors).

Referred to: Finance.

May 13, 1999

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE INCOME TAX CREDIT FOR MANUFACTURERS OF CERTAIN RENEWABLE ENERGY EQUIPMENT.

Whereas, renewable energy is North Carolina's only indigenous energy source; and

Whereas, currently, thirty cents of every dollar spent on electricity in North Carolina goes out-of-state for fuel costs and every dollar spent on renewable energy circulates through our economy, helping to create over three dollars in local benefits; and

Whereas, many of North Carolina's large metropolitan areas, because of air pollution, are currently, or will soon be, facing development growth restrictions imposed by the United States Environmental Protection Agency for "nonattainment" of minimal air quality standards; and

Whereas, North Carolina currently ranks twelfth in the United States in carbon dioxide emissions, releasing 126.5 million tons into the atmosphere each year; and

Whereas, coal burning is creating increasingly negative health and environmental impacts through the release of sulfur dioxides, nitrous oxides, particulates, ozone, mercury, and lead; and

Whereas, renewable energy creates more jobs per unit of energy than fossil fuels or nuclear power; and

Whereas, a 1998 poll conducted by the University of North Carolina School of Journalism indicates that, by three-to-one, North Carolinians want electricity providers to implement solar energy options, even if they cost more; and

Whereas, renewable energy is, in the long term, the only energy option that can ensure sustainable development; and

Whereas, tax incentives can help stimulate the demand for environmentally sound, renewable energy options, help grow the solar industry in our State, produce a stronger local economy, and allow North Carolina to continue to grow, but in a sustainable manner; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-130.28 reads as rewritten:

"**§ 105-130.28. Credit against corporate income tax for construction of a ~~photovoltaic~~ renewable energy equipment facility.**

(a) ~~Any~~ Credit. -- A corporation that constructs in North Carolina a facility for the ~~production of photovoltaic~~ manufacture of renewable energy equipment is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the installation and equipment costs of construction paid during the taxable year. The entire credit may not be taken for the taxable year in which the costs are paid but must be taken in five equal installments beginning with the taxable year in which the costs are paid.

No credit is allowed, however, to the extent that any of the costs of the equipment were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the facility at the time of construction. ~~The credit allowed by this section may not exceed the amount of the tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except payments of tax made by or on behalf of the taxpayer.~~

(b) ~~As used in this section, "photovoltaic equipment" means those products designed, manufactured, and produced to convert sunlight directly into electricity.~~ Definitions. -- The following definitions apply in this section:

(1) Biomass equipment. -- Products designed to use renewable biomass resources for biofuel production of ethanol, methanol, and biodiesel; anaerobic biogas production of methane utilizing agricultural and animal waste or garbage; or commercial thermal or electrical generation from renewable energy crops or wood waste materials. The term also includes related devices for converting, conditioning, and storing the liquid fuels, gas, and electricity produced with biomass equipment.

(2) Renewable biomass resources. -- Organic matter produced by terrestrial and aquatic plants and animals, such as standing vegetation, aquatic crops, forestry and agricultural residues, landfill wastes, and animal wastes.

(3) Renewable energy equipment. -- Biomass equipment, solar electric or thermal equipment, and wind energy equipment.

(4) Solar electric or thermal equipment. -- Products designed to convert sunlight into electricity or heat.

(5) Wind energy equipment. -- Products designed to capture and convert wind energy into electricity or mechanical power.

(c) Carryforward. -- The credit allowed by this section may not exceed the amount of the tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except payments of tax made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward for the succeeding 10 years. ~~The amount of credit allowed under this section may be carried over for the next succeeding five years.~~

(d) No Double Credit. -- A taxpayer that claims any other credit allowed under this Chapter with respect to construction of a facility for the manufacture of renewable energy equipment may not take the credit allowed in this section with respect to the same facility."

Section 2. This act is effective for taxable years beginning on or after January 1, 2000.

HOUSE BILL 1473:
Renewable Energy Manufacturers Credit

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Hackney
Date:	June 8, 1999	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 1473 expands the current corporate tax credit for the construction of a photvoltaic equipment to include the construction of other types of renewable energy equipment. The bill provides that the credit must be taken in five equal installments and extends the carry forward from 5 years to 10 years. The bill becomes effective for taxable years beginning on or after January 1, 2000.***

CURRENT LAW: A corporation that constructs a facility for the production of photovoltaic equipment is allowed a credit equal to 25% of the installation and equipment costs of construction paid during the taxable year. The amount of the credit may not exceed the amount of tax owed; any unused credit may be carried forward for five years. Photovoltaic equipment means products designed, manufactured, and produced to convert sunlight directly into electricity.

The credit is not allowed to the extent that federal, State, or local grants provide any of the costs of the equipment. To secure the credit, the taxpayer must own or control the facility at the time of construction.

BILL ANALYSIS: House Bill 1473 would allow a corporation that constructed a facility in North Carolina for the manufacture of renewable energy equipment to receive a corporate income tax credit equal to 25% of the installation and equipment costs of construction paid during the taxable year. Renewable energy equipment is defined by the bill as biomass equipment, solar electric or thermal equipment, and wind energy equipment. This broad definition encompasses the current definition of photovoltaic equipment.

The credit allowed under this bill differs from the current credit in the following ways:

- The credit could not be taken for the taxable year in which the costs are paid, but would be taken in five equal installments beginning with the taxable year in which the costs are paid.
- Any unused portion of the credit may be carried forward for 10 years instead of 5 years.
- A taxpayer that claims any other credit with respect to the construction of a facility to manufacture renewable energy equipment may not take this credit with respect to the same facility.

NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1473 (First Edition)

SHORT TITLE: Renewable Energy Manufacturer Credit

SPONSOR(S): Representatives Hackney and Luebke

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES GENERAL FUND	See **ASSUMPTIONS AND METHODOLOGY**				

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

EFFECTIVE DATE: This act is effective for taxable years beginning on or after January 1, 2000.

BILL SUMMARY:
HB 1473 replaces the corporate tax credit for constructing a photovoltaic (PV) equipment facility with a corporate tax credit for constructing a renewable energy equipment facility. The tax credit is taken in five equal installments over five years. Unused tax credits have a 10 year carryforward. No taxpayer may receive more than one tax credit for this type of facility.

ASSUMPTIONS AND METHODOLOGY:
The current corporate income tax credit for constructing photovoltaic manufacturing facilities has not been used since it was created in 1981. The Department of Revenue reported no usage of the credit from 1981 to 1987. After 1987, no separate accounting was done for each energy credit. Officials with the North Carolina Solar Center and the North Carolina Solar Energy Association do not recall this credit ever being used. These solar energy advocates believe the existing law's 5-year carry forward period is too short for new companies to show a profit and benefit from the tax incentive. The credit in HB 1473 lengthens the carry forward period from 5 to 10 years and expands credit eligibility to include biomass and wind energy equipment.

This fiscal note cannot predict the number of firms that will apply for this revised corporate tax credit nor the amount of credit to be requested. However, if only one firm applies for the credit, there will be a General Fund revenue loss due to the absence of applicants for the current tax credit program. The Chief of the Renewable Energy Branch of the U.S. Department of Energy (DOE) believes North Carolina is a good candidate for a small photovoltaic (PV) company using specialized technology and for a biomass equipment company working with the wood products

industry. An example of a small PV company is Atlantis Energy, which built a $1.5 million plant in Cape Charles Virginia in 1995 to produce custom designed PV modules. A biomass equipment plant might be attracted to the North Carolina wood products industry that produced 1,730 million kilowatt hours of energy from wood and wood waste in 1995. (DOE/Energy Information Administration)

The Chief of the DOE Renewable Energy Branch believes that manufacturers of photovoltaic (PV) and biomass equipment will expand production capacity over the next five years. The Million Solar Roofs Initiative that DOE began in 1997 aims to install a million solar energy systems on one million U.S. buildings by the year 2010. Since 64% of the shipments from the nation's 24 manufacturers of PV cells and modules (DOE 1995 estimate) are exported, an increase in domestic demand should prompt an expansion of PV plant capacity.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY: Tom Covington

DATE: Monday, June 07, 1999

NORTH CAROLINA SOLAR ENERGY ASSOCIATION

2501 Blue Ridge Road Suite 150
(919) 832-7601 fax (919) 863-4101
e mail ncsea@mindspring.com
Richard Harkrader, Chair (919) 489-1656

June 7, 1999

INFORMATION SHEET ON

H 1473 - An Act to Modify the Income Tax Credit for Manufacturers of Certain Renewable Energy Equipment

Why is H 1473 necessary?

This bill revises G.S. 105-130.28, a tax credit for manufacturers of photovoltaic (PV) equipment. (PV equipment produces electricity directly from sunlight. This technology is growing 40% per year and is already a $1 billion business per year worldwide.) The current credit has NOT been used and the revision corrects the problems found in the existing legislation by recruiters. In trying to recruit a PV manufacturing facility, the NC Solar Center at NC State University found that the 5-year carry forward limitation was too short a time period for companies they were recruiting to benefit from the incentive. The revision extends the carry forward provision to 10 years and eliminates the discrimination against other renewable technologies by extending the credit to manufacturers of other renewable energy equipment such as: wind; small scale hydro; biomass equipment which generates methane gas and/or electricity from hog or poultry waste or land fill gas; and solar thermal equipment which captures high temperature heat for manufacturing processes, electricity generation, or heating and cooling large buildings.

Why is a renewable energy manufacturer's tax credits necessary?

H 1473 is an incentive for manufacturers to locate their facilities in NC. The industries involved are new high tech firms that invent, design, build and sell renewable energy equipment. They are creative enterprises producing new products which involves the high risk of doing something new but, also, potentially high rewards of a new, fast growing market place for clean energy. These incentives will encourage North Carolina-based investments in R&D, industrial plants and jobs and enable our industrial recruiters to compete with other states and foreign countries for these facilities. Two years ago we lost two photovoltaic manufacturing plants to Virginia because they have better incentives. However, these companies want to locate close to the demand for their product and with this new legislation NC will look very attractive.

How much will it cost?

We do not know of any use of the existing credit. It is hard to estimate how many times the new credit will be used. Each manufacturing facility could cost ten million dollars or more which could generate a potential credit of $2,500,000 each. The revenue impact would fall in 3 to 5 years from enactment at the earliest because of long planning and construction times for projects of this size. Assuming 3 facilities every 10 years costing $10,000,000 each, the credit

over>>

could average $750,000 per year IF each company has a state tax liability allowing them to take the full credit. To reduce the fiscal impact of the existing legislation, the revised credit includes new limitations of a mandatory 5 year installment of the credit and a provision eliminating the use of this credit in combination with other investment credits.

Who will benefit from the revised credit?

1) Businesses will get incentives for being leaders in bringing clean, renewable energy to our state.

2) New jobs and companies will be created and recruited to North Carolina to satisfy the demand created by the energy equipment credit (H 1472) and US Department of Energy's Million Solar Roofs Initiative. Currently, a photovoltaic company, a solar thermal company, and at least one biomass (animal waste) equipment manufacturer are prospects for locating in NC.

3) North Carolina's reputation as a national leader in business creation and innovation will be enhanced. Because of the North Carolina Solar Center and the North Carolina Solar Energy Association, North Carolina is already one of handful of states leading in solar energy (the others are California, Florida, New Mexico and Nevada). This legislation will bring us national recognition and expand our leadership position to include all renewable energy technologies.

NORTH CAROLINA SOLAR ENERGY ASSOCIATION

2501 Blue Ridge Road Suite 150
(919) 832-7601 fax (919) 863-4101
e mail ncsea@mindspring.com
Richard Harkrader, Chair (919) 489-1656

June 7, 1999

INFORMATION SHEET ON

H 1473 - An Act to Modify the Income Tax Credit for Manufacturers of Certain Renewable Energy Equipment

Why is H 1473 necessary?

This bill revises G.S. 105-130.28, a tax credit for manufacturers of photovoltaic (PV) equipment. (PV equipment produces electricity directly from sunlight. This technology is growing 40% per year and is already a $1 billion business per year worldwide.) The current credit has NOT been used and the revision corrects the problems found in the existing legislation by recruiters. In trying to recruit a PV manufacturing facility, the NC Solar Center at NC State University found that the 5-year carry forward limitation was too short a time period for companies they were recruiting to benefit from the incentive. The revision extends the carry forward provision to 10 years and eliminates the discrimination against other renewable technologies by extending the credit to manufacturers of other renewable energy equipment such as: wind; small scale hydro; biomass equipment which generates methane gas and/or electricity from hog or poultry waste or land fill gas; and solar thermal equipment which captures high temperature heat for manufacturing processes, electricity generation, or heating and cooling large buildings.

Why is a renewable energy manufacturer's tax credits necessary?

H 1473 is an incentive for manufacturers to locate their facilities in NC. The industries involved are new high tech firms that invent, design, build and sell renewable energy equipment. They are creative enterprises producing new products which involves the high risk of doing something new but, also, potentially high rewards of a new, fast growing market place for clean energy. These incentives will encourage North Carolina-based investments in R&D, industrial plants and jobs and enable our industrial recruiters to compete with other states and foreign countries for these facilities. Two years ago we lost two photovoltaic manufacturing plants to Virginia because they have better incentives. However, these companies want to locate close to the demand for their product and with this new legislation NC will look very attractive.

How much will it cost?

We do not know of any use of the existing credit. It is hard to estimate how many times the new credit will be used. Each manufacturing facility could cost ten million dollars or more which could generate a potential credit of $2,500,000 each. The revenue impact would fall in 3 to 5 years from enactment at the earliest because of long planning and construction times for projects of this size. Assuming 3 facilities every 10 years costing $10,000,000 each, the credit

over>>

could average $750,000 per year IF each company has a state tax liability allowing them to take the full credit. To reduce the fiscal impact of the existing legislation, the revised credit includes new limitations of a mandatory 5 year installment of the credit and a provision eliminating the use of this credit in combination with other investment credits.

Who will benefit from the revised credit?

1) Businesses will get incentives for being leaders in bringing clean, renewable energy to our state.

2) New jobs and companies will be created and recruited to North Carolina to satisfy the demand created by the energy equipment credit (H 1472) and US Department of Energy's Million Solar Roofs Initiative. Currently, a photovoltaic company, a solar thermal company, and at least one biomass (animal waste) equipment manufacturer are prospects for locating in NC.

3) North Carolina's reputation as a national leader in business creation and innovation will be enhanced. Because of the North Carolina Solar Center and the North Carolina Solar Energy Association, North Carolina is already one of handful of states leading in solar energy (the others are California, Florida, New Mexico and Nevada). This legislation will bring us national recognition and expand our leadership position to include all renewable energy technologies.

Statement by

Larry E. Shirley
Executive Director
North Carolina Solar Center
North Carolina State University

House Finance Committee
North Carolina General Assembly
June 8, 1999

At the request of Representative Paul Leubke, I have been asked to briefly review **House Bill 1473,** ***An Act to Modify the Income Tax Credits for Manufacturers of Certain Renewable Energy Equipment.*** I appreciate this opportunity and thank the Committee for their willingness to review and consider this matter.

I serve as the Executive Director of the North Carolina Solar Center, a statewide solar energy center sponsored by the Energy Division of the N.C. Department of Commerce and operated by the College of Engineering at North Carolina State University. I have served in this position since the Center's founding in 1988 and have also served as the chairman of the American Solar Energy Society and on the Boards of the N.C. Solar Energy Association, Passive Solar Industries Council and Interstate Renewable Energy Council.

House Bill 1473 comes forward at a particularly important time in North Carolina. Currently, we have a major manufacturer of photovoltaic, or solar electric, systems that is giving serious consideration to location of their plant in North Carolina. Based in California, this company is seeking an East Coast manufacturing site and has narrowed their list of states to Virginia and North Carolina. The company plans to build a plant that will produce 10+ megawatts of concentrating photovoltaic systems, with the majority of the plant's output being shipped overseas. For this level of output, the number of employees to be hired for the plant is expected to number 200-300.

At present, North Carolina offers a 25 percent tax credit toward the cost of the plant and related equipment of a photovoltaic plant, a credit established many years ago in recognition of the high technology, high quality jobs that are produced by this industry for a clean energy source in a field that is growing 30-40 percent annually. Unfortunately, although there have been serious inquiries through the years, no company has yet availed itself of this opportunity.

My conversations with the CEOs of several photovoltaic companies have been enlightening in trying to determine the reasons for their decisions to move to other locations. Of particular relevance is that many of these companies are young start-ups, or subsidiaries and joint ventures of major companies, who do not expect to show an immediate profit on their venture. As a result, their tax liability will not be sufficient in the early years to take full advantage of this

credit during the current five-year carry-forward period. In this instance, a longer carry-forward period is needed. House Bill 1474 provides for a doubling of this period to ten years.

Another deterrent to location in North Carolina is our chief competitor in this field, Virginia. In 1995, the Cavalier state allocated $22.5 million in appropriations over five years to pay photovoltaic manufacturers up to $.75 per watt for each photovoltaic panel produced in Virginia. Together with a very aggressive recruitment campaign, this incentive has netted Virginia two solar plants to date, with a possible third plant on the horizon.

To best compete with Virginia, our state has stepped up its recruitment efforts through the Solar Center and N.C. Department of Commerce. The longer carry-forward period under HB 1473 would give these recruitment efforts a better tool in which to do battle with our friendly neighbor to the North. Together with our revised incentives for solar systems as proposed under companion **HB 1472**, ***An Act to Simplify and Modernize Tax Credits for Investing in Renewable Energy Sources***, we also have a much better market for photovoltaic systems within the state than Virginia, an asset in this recruitment struggle.

HB 1473 would also expand this manufacturing incentive to other manufacturers of renewable energy equipment, such as wind, biomass, solar thermal and small hydro equipment manufacturers. In general, these manufacturers represent clean renewable energy sources, indigenous to North Carolina, that the state is promoting for use and development. Location of such manufacturers in North Carolina would add quality jobs and strengthen our renewable energy sector, building industries that could help to preserve our environment and foster a sustainable economy.

One in-state company that could potentially benefit from the expansion of this incentive to other renewable energy sources is Duke Solar Company. A joint venture of Duke Engineering and Services Company and private investors, the Company is planning to build its headquarters on Centennial Campus at NC State University. The state could improve its chances of attracting Duke Solar's future manufacturing and assembly operations if it would make this credit available to other companies working with other renewable energy technologies. Duke Solar is developing several solar thermal and biomass technologies.

The revenue impacts on the state treasury are expected to be 3-5 years out under this bill, since it would take some time for a company to locate a plant and become operational. In addition, HB 1473 has provisions that require payments to be made in no less than five annual installments and will disallow use of the general investment tax credit for the same plant. Thus, if two plants, each valued at $5 million, were to be constructed in North Carolina by the end of 2002, the revenue impact on the state would be no more than $500,000 per year over the succeeding five years (2002-2006). This amount could be less per year if the companies stretch their credit repayment over a longer time frame, such as ten years.

The location of renewable energy manufacturing plants in North Carolina will bolster the economy, protect our environment and provide quality jobs for our citizens. With the restrictions that limit the impact on the state treasury and spread its revenue impact out over five or more years, it is a sound and quality investment for the future of North Carolina.

Statement by

Larry E. Shirley
Executive Director
North Carolina Solar Center
North Carolina State University

House Finance Committee
North Carolina General Assembly
June 8, 1999

At the request of Representative Paul Leubke, I have been asked to briefly review **House Bill 1473,** ***An Act to Modify the Income Tax Credits for Manufacturers of Certain Renewable Energy Equipment.*** I appreciate this opportunity and thank the Committee for their willingness to review and consider this matter.

I serve as the Executive Director of the North Carolina Solar Center, a statewide solar energy center sponsored by the Energy Division of the N.C. Department of Commerce and operated by the College of Engineering at North Carolina State University. I have served in this position since the Center's founding in 1988 and have also served as the chairman of the American Solar Energy Society and on the Boards of the N.C. Solar Energy Association, Passive Solar Industries Council and Interstate Renewable Energy Council.

House Bill 1473 comes forward at a particularly important time in North Carolina. Currently, we have a major manufacturer of photovoltaic, or solar electric, systems that is giving serious consideration to location of their plant in North Carolina. Based in California, this company is seeking an East Coast manufacturing site and has narrowed their list of states to Virginia and North Carolina. The company plans to build a plant that will produce 10+ megawatts of concentrating photovoltaic systems, with the majority of the plant's output being shipped overseas. For this level of output, the number of employees to be hired for the plant is expected to number 200-300.

At present, North Carolina offers a 25 percent tax credit toward the cost of the plant and related equipment of a photovoltaic plant, a credit established many years ago in recognition of the high technology, high quality jobs that are produced by this industry for a clean energy source in a field that is growing 30-40 percent annually. Unfortunately, although there have been serious inquiries through the years, no company has yet availed itself of this opportunity.

My conversations with the CEOs of several photovoltaic companies have been enlightening in trying to determine the reasons for their decisions to move to other locations. Of particular relevance is that many of these companies are young start-ups, or subsidiaries and joint ventures of major companies, who do not expect to show an immediate profit on their venture. As a result, their tax liability will not be sufficient in the early years to take full advantage of this

credit during the current five-year carry-forward period. In this instance, a longer carry-forward period is needed. House Bill 1474 provides for a doubling of this period to ten years.

Another deterrent to location in North Carolina is our chief competitor in this field, Virginia. In 1995, the Cavalier state allocated $22.5 million in appropriations over five years to pay photovoltaic manufacturers up to $.75 per watt for each photovoltaic panel produced in Virginia. Together with a very aggressive recruitment campaign, this incentive has netted Virginia two solar plants to date, with a possible third plant on the horizon.

To best compete with Virginia, our state has stepped up its recruitment efforts through the Solar Center and N.C. Department of Commerce. The longer carry-forward period under HB 1473 would give these recruitment efforts a better tool in which to do battle with our friendly neighbor to the North. Together with our revised incentives for solar systems as proposed under companion **HB 1472**, ***An Act to Simplify and Modernize Tax Credits for Investing in Renewable Energy Sources***, we also have a much better market for photovoltaic systems within the state than Virginia, an asset in this recruitment struggle.

HB 1473 would also expand this manufacturing incentive to other manufacturers of renewable energy equipment, such as wind, biomass, solar thermal and small hydro equipment manufacturers. In general, these manufacturers represent clean renewable energy sources, indigenous to North Carolina, that the state is promoting for use and development. Location of such manufacturers in North Carolina would add quality jobs and strengthen our renewable energy sector, building industries that could help to preserve our environment and foster a sustainable economy.

One in-state company that could potentially benefit from the expansion of this incentive to other renewable energy sources is Duke Solar Company. A joint venture of Duke Engineering and Services Company and private investors, the Company is planning to build its headquarters on Centennial Campus at NC State University. The state could improve its chances of attracting Duke Solar's future manufacturing and assembly operations if it would make this credit available to other companies working with other renewable energy technologies. Duke Solar is developing several solar thermal and biomass technologies.

The revenue impacts on the state treasury are expected to be 3-5 years out under this bill, since it would take some time for a company to locate a plant and become operational. In addition, HB 1473 has provisions that require payments to be made in no less than five annual installments and will disallow use of the general investment tax credit for the same plant. Thus, if two plants, each valued at $5 million, were to be constructed in North Carolina by the end of 2002, the revenue impact on the state would be no more than $500,000 per year over the succeeding five years (2002-2006). This amount could be less per year if the companies stretch their credit repayment over a longer time frame, such as ten years.

The location of renewable energy manufacturing plants in North Carolina will bolster the economy, protect our environment and provide quality jobs for our citizens. With the restrictions that limit the impact on the state treasury and spread its revenue impact out over five or more years, it is a sound and quality investment for the future of North Carolina.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 843 A BILL TO BE ENTITLED AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF NURSING TO INCREASE THE ANNUAL FEE CHARGED NURSES AIDES II.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

☒ With a favorable report as to House committee substitute bill (# 1), ☐ ~~which changes the title,~~ unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 843
Finance Committee Substitute Adopted 4/27/99
Proposed Committee Substitute S843-PCS1750-SC

Short Title: Nurses Aides II Registry Fees. (Public)

Sponsors:

Referred to:

April 13, 1999

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF NURSING TO INCREASE THE ANNUAL FEE CHARGED NURSES AIDES II.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-171.55(a) reads as rewritten:

"(a) The Board of Nursing, established pursuant to G.S. 90-171.21, shall establish a Nurses Aides Registry for persons functioning as nurses aides regardless of title. The Board shall consider those Level I nurses aides employed in State licensed or Medicare/Medicaid certified nursing facilities who meet applicable State and federal registry requirements as adopted by the North Carolina Medical Care Commission as having fulfilled the training and registry requirements of the ~~Board, except for the fee requirements prescribed by this section.~~ Board. The Board may not charge an annual fee to a nurse aide I registry applicant. The Board may charge an annual fee of ~~five dollars ($5.00) for each registry applicant.~~ twelve dollars ($12.00) for each nurse aide II registry applicant. The Board shall adopt rules to ensure that whenever possible, the fee is collected through the employer or prospective employer of the registry applicant. Fees collected may be used by the Board in administering the registry. The Board's authority granted by this Article shall not conflict with the authority of the Medical Care Commission."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 843
Finance Committee Substitute Adopted 4/27/99

Short Title: Nurses Aides II Registry Fees. (Public)

Sponsors:

Referred to:

April 13, 1999

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF NURSING TO INCREASE THE ANNUAL FEE CHARGED NURSES AIDES II.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-171.55(a) reads as rewritten:

"(a) The Board of Nursing, established pursuant to G.S. 90-171.21, shall establish a Nurses Aides Registry for persons functioning as nurses aides regardless of title. The Board shall consider those Level I nurses aides employed in State licensed or Medicare/Medicaid certified nursing facilities who meet applicable State and federal registry requirements as adopted by the North Carolina Medical Care Commission as having fulfilled the training and registry requirements of the Board, except for ~~the~~ any fee requirements prescribed by this section. The Board may charge an annual fee of ~~five dollars ($5.00) for each registry applicant.~~ twelve dollars ($12.00) for each nurse aide II registry applicant. The Board shall adopt rules to ensure that whenever possible, the fee is collected through the employer or prospective employer of the registry applicant. Fees collected may be used by the Board in administering the registry. The Board's authority granted by this Article shall not conflict with the authority of the Medical Care Commission."

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

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 843

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S843-ASC-002 Page 1 of __

Date June 8 ,1999

Comm. Sub. []
Amends Title []
Second Edition

Representative _____ :

moves to amend the bill on page 1, lines 11 and 12 ,
by rewriting ~~the lines to read:~~

"having fulfilled the training and registry requirements of the ~~Board, except for the fee requirements prescribed by this section.~~ Board. The Board may not charge an annual fee to a nurse aide I registry applicant. The Board may charge an annual".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

SENATE BILL 843:
Nurses Aides II Registry Fees

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Weinstein
Date:	June 8, 1999	**Summary by:**	Mary Shuping
Version:	2nd Edition		Research Assistant

SUMMARY: ***Senate Bill 843 raises the annual registration fee for Nurse Aide II's from $5.00 to $12.00 and clarifies that the fee does not apply to Nurse Aide I's.***

CURRENT LAW: Currently, in North Carolina there are two levels of Nurse Aides – Nurse Aide I's and Nurse Aide II's.

Nurse Aide I's: States are required by federal regulation to maintain a registry of nurse aides in long term care facilities. G.S. 90-171.55(a) further requires that nurse aides who are employed in other health care facilities must also be listed in the registry. In North Carolina, these nurse aides are classified as "Nurse Aide I's," and the registry is maintained in the Department of Health & Human Services, Division of Facility Services.

Federal regulations further require that nurse aides employed in long term care facilities complete a competency evaluation program that includes at least 75 hours of training. Pursuant to rules adopted by the North Carolina Board of Nursing, all persons employed as Nurse Aide I's must complete this competency and evaluation program in order to perform basic nursing skill and patient care activities.

Finally, pursuant to federal regulations, Nurse Aide I's listed in the registry cannot be charged a registration fee; however, current G.S. 90-171.55(a) requires that all nurse aides, regardless of title, pay the $5.00 registration fee.

Nurse Aide II's: Nurse Aide II's perform more complex nursing skills than Nurse Aide I's, including emphasis on sterile techniques in elimination, oxygenation, and nutrition. Nurse Aide II's must complete a competency and evaluation program approved by the Board of Nursing that includes at least 80 hours of theory and 80 hours of supervised clinical instruction.

Nurse Aide II's must also be listed on the Division of Facility Services Nurses Aide Registry with no substantiated findings of abuse, neglect, or misappropriation of property.

Listing on Registry Not Required: Listing on the Nurses Aide Registry is not required if the care is performed by the patient themselves, their families or significant others, or by caretakers who provide personal care to individuals whose health care needs are incidental to the personal care required.

BILL ANALYSIS: Senate Bill 843 does the following:

- Raises the annual registration fee for Nurse Aide II's from $5.00 to $12.00.
- Clarifies that only Nurse Aide II's are required to pay the fee.

EFFECTIVE DATE: This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 843 (Senate Finance Committee Substitute)

SHORT TITLE: Nurses Aides II Registry Fees

SPONSOR(S): Senator Weinstein, et al.

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Bd. Operating Fund	$73,500	$73,500	$73,500	$73,500	$73,500
EXPENDITURES	To be determined by Board of Nursing				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Board of Nursing

EFFECTIVE DATE: The act is effective when it becomes law.

BILL SUMMARY:
The act increases the annual fee from $5 to $12 for a Nurse Aide II to be listed on the Nurse Aid Registry with the North Carolina Board of Nursing.

BACKGROUND:
The 1989 Federal Omnibus Budget Reconciliation Act (OBRA) mandated the creation of a Nurse Aide Registry in every state. In North Carolina, the Division of Facility Services in the Department of Health and Human Services list the Nurse Aide I and the North Carolina Board of Nursing list the Nurse Aide II. To be listed on the Nurse Aide Registry, a Nurse Aide I must have 75 hours of training and a Nurse Aide II must have an additional 160 hours of training. Both Nurse Aides I and II must be under the supervision of a licensed nurse.

ASSUMPTIONS AND METHODOLOGY:
The Board of Nursing anticipates 10,500 new and renewed Nurse Aid II registrants each year. The current $5 fee, unchanged since 1989, generates approximately $52,500 each year. The proposed $12 fee will generate $126,000 each year. **The net revenue increase to the Board's operating fund is $73,500 each year.**

The Board of Nursing requests the increase because expenses for the Nurse Aide II Registry exceed the revenues. A cost analysis for fiscal year 1998 found the Nurse Aide Registry expenditures equal to $117,506, but Registry revenues equal to $66,865. The $50,641 deficit in this program for 1998 was covered from RN and LPN licensure fees. With the passage of SB 843, the revenues from the Nurse Aide II Registry of $126,000 will pay the expenses of $117,506 with a remaining surplus of $8,494. The Board of Nursing had a fund balance of $650,852 on June 30, 1998.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY: Tom Covington

DATE: Tuesday, April 27, 1999

VISITOR REGISTRATION SHEET

HOUSE FINANCE COMMITTEE 6-8-99

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Michael Taylor	State Construction office Raleigh
William BRINKER	ENERGYNE POWER - CHARLOTTE, NC
Patti Seawell	NC DOR
Lennie Collins	NC DOR
Hoyne Brown	306 Ransom St, Chapel Hill, NC 27516
Louis J GERICS	INNOVATIVE DESIGN INC, RALEIGH
Jim Grady	Innovative Design, Inc. Raleigh
Barb Rabe	NCWRC
Richard Hamilton	NCWRC
Tim BEAVER	ENERGYNE POWER SYSTEMS, INC
Chris Larsen	NC Solar Energy Association
MICHAEL NICHOLAS	INNOVATIVE DESIGN
William Potter	NC DENTAL SOCIETY
Larry Shirley	NC Solar Center
Bill McNeil	NC DCA
Kgtil Carstens	SLO
[illegible]	NCA&DA
Sharron Stroud	Energy Division
Cam Cruz	BDM#L
Susan Markham	EQAS
Amy Hobbs	NCHMA
Tina Piercy	NC Dental Society
Walter Hyde	Visitor
Garrett [illegible]	ZDA, PA
Paul Lyons	OSBM
John McAlister	Duke Energy
Butch Pennells	NC Soft Drink Assoc.

VISITOR REGISTRATION SHEET

HOUSE FINANCE COMMITTEE

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jim Blackburn	County Commrs Assoc.
Vic McBride	WDA
[illegible]	CPTL
Hal Miller	NCACCT

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Wednesday, June 9, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 964 - Municipal Incorporation Process - Rep. Jarrell
SB 618 - Macon County Airport Authority - Sen. Carpenter

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Wednesday, June 9, 1999

The House Committee on Finance met on Wednesday, June 9, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke; Vice Chairs Jarrell and Wood; Representatives Braswell, Bridgeman, Brown, Buchanan, Church, Cox, Creech, Cunningham, Decker, Dedmon, Eddins, Edwards, Gibson, Goodwin, Gray, Hackney, Hill, McCombs, Morris, Pope, Rayfield, Starnes, Tucker, Wilson, Womble, and Wright. Staff including Cindy Avrette, Richard Bostic, Gerry Cohen, Mary Shuping, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Luebke called the meeting to order to consider the following bills:

Sen. Carpenter was recognized to explain SB 618, A BILL TO BE ENTITLED AN ACT TO ENABLE THE COUNTY OF MACON TO ESTABLISH AN AIRPORT AUTHORITY FO RTHE MAINTENANCE OF AIRPORT FACILITIES IN THE COUNTY. Rep. Rayfield sent forward an amendment and moved for its adoption. Cindy Avrette explained the amendment. Rep. Brown moved to roll the amendment into a Proposed Committee Substitute and then give the Proposed Committee Substitute a favorable report and an unfavorable report to the original bill. The motion passed. The bill, Proposed Committee Substitute, amendment, and Fiscal Note are included in these minutes.

Rep. Jarrell was recognized to explain HB 964, A BILL TO BE ENTITLED AN ACT TO REVISE THE MUNICIPAL INCORPORATION PROCESS SO AS TO PROVIDE MORE SCRUTINY. Members questioned Gerry Cohen and Rep. Jarrell. The Chair recognized Mr. Andy Romany of the League of Municipalities who stated his organization supported the bill. The Chair recognized Mr. Jim Blackburn of the County Commissioners' Association who stated his organization supported the bill. Rep. Allen sent forward an amendment and moved for its adoption. Rep. Hackney questioned Gerry Cohen. The amendment was adopted. Rep. Pope sent forward an amendment and moved for its adoption. Rep. Jarrell stated she opposed Rep. Pope's amendment. Members commented on the amendment. The Pope amendment was adopted with a vote of 16 ayes, 11 nays. Rep. Hackney sent forward an amendment and moved for its adoption. Members questioned Rep. Hackney and Gerry Cohen. The amendment was adopted. Rep. Cunningham moved to roll the amendments into a Proposed Committee Substitute and then give the Proposed Committee Substitute a favorable report and an unfavorable report to the original bill. The motion passed. The Proposed Committee Substitute, amendments, Bill Summary and Fiscal Note are included in these minutes.

There being no further business, the Chair adjourned the meeting at 10:00 a.m.

Respectfully submitted:

Representative Paul Luebke
Chair

Kristen L. Crosson

Kristen L. Crosson
Assistant to the Committee

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 964 A BILL TO BE ENTITLED AN ACT TO REVISE THE MUNICIPAL INCORPORATION PROCESS SO AS TO PROVIDE MORE SCRUTINY.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 964

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H964-ASC-001 Page 1 of __

Date June 9 ,1999

Comm. Sub. []
Amends Title []
Second Edition

Representative :

moves to amend the bill on page 5, line 10,
by deleting the word "Corporations" and substituting the word
"Incorporations".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

adopted

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 964 DATE June 9, 1999

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) _____
Sen.)

moves to amend the bill on page 1, lines 11-16

( ) WHICH CHANGES THE TITLE

by rewriting those lines to read:

"The petition must contain a statement that the proposed municipality will have a budget ordinance with an ad valorem tax levy of at least five cents (5¢) on the one hundred dollar ($100.00) valuation upon all taxable property within its corporate limits. The petition must contain a

further moves to amend the bill on page 3, line 11 by deleting the underlined material

further moves to amend the bill on page 3, line 14 by deleting "and" by deleting all of lines 15 to 19 and on page 3, line 20, by deleting the underlined material."

SIGNED Pope

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 964 DATE June 9, 1999

S. B. No. _____ Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) _____
Sen.)

moves to amend the bill on page 94, line 37, 26 and page 95 lines 3 and 8, ( ) WHICH CHANGES THE TITLE by adding the following immediately after the period at the end of the line:

"No municipality may receive any funds under this section, regardless of the date of its incorporation, unless a majority of the mileage of its streets are open to the public. The previous sentence becomes effective with respect to distributions of funds on or ~~after~~ July 1, 1999."

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 964
Committee Substitute Favorable 6/7/99
Proposed Committee Substitute H964-PCSX7250-RB

Short Title: Municipal Incorporation Process. (Public)

Sponsors:

Referred to:

April 12, 1999

A BILL TO BE ENTITLED

AN ACT TO REVISE THE MUNICIPAL INCORPORATION PROCESS SO AS TO PROVIDE MORE SCRUTINY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 120-163(c) reads as rewritten:

"(c) The petition must include a proposed name for the city, a map of the city, a list of proposed services to be provided by the proposed municipality, the names of three persons to serve as interim governing board, a proposed charter, a statement of the estimated population, assessed valuation, degree of development, population density, and recommendations as to the form of government and manner of election. The petition must contain a statement that the proposed municipality will have a budget ordinance with an ad valorem tax levy of at least five cents (5¢) on the one hundred dollar ($100.00) valuation upon all taxable property within its corporate limits. The petition must contain a statement that the proposed municipality will offer four of the following services no later than the first day of the third fiscal year following the effective date of the incorporation: (i) police protection; (ii) fire protection; (iii) solid waste collection or disposal; (iv) water distribution; (v) street maintenance; (vi) street construction or right-of-way acquisition; (vii) street lighting; and (viii) zoning. In order to qualify for providing police protection, the proposed municipality must propose either to provide police service or to have services provided by contract with a county or another municipality that proposes that the

other government be compensated for providing supplemental protection. The proposed municipality may not contain any noncontiguous areas."

Section 2. G.S. 120-167 reads as rewritten:

"**§ 120-167. Additional criteria; population.**

The Commission may not make a positive recommendation unless the proposed municipality has a permanent population of at least ~~100.~~ 100 and a population density (either permanent or seasonal) of at least 250 persons per square mile."

Section 3. G.S. 120-168 reads as rewritten:

"**§ 120-168. Additional criteria; development.**

~~Except when the entire proposed municipality is within two miles of the Atlantic Ocean, Albemarle Sound, or Pamlico Sound, the~~ The Commission may not make a positive recommendation unless forty percent (40%) of the area is developed for residential, commercial, industrial, institutional, or governmental uses, or is dedicated as open space under the provisions of a zoning ordinance, subdivision ordinance, conditional or special use permit, or recorded restrictive covenants."

Section 4. G.S. 120-169.1 reads as rewritten:

"**§ 120-169.1. Additional criteria; level of development, ~~services.~~ services; financial impact on other local governments.**

~~(a) Level of Development. -- The Commission may not make a positive recommendation unless the entire area proposed for incorporation meets the applicable criteria for development under G.S. 160A-36(c) or G.S. 160A-48(c).~~

(b) Services. -- The Commission may not make a positive recommendation unless the area to be incorporated submits a plan for providing a reasonable level of municipal services. This plan shall be based on the proposed services stated in the petition under G.S. 120-163(c). ~~To meet the requirements of this subsection, the persons submitting the plan for incorporation must propose to provide at least two of the following services:~~

~~(1) Police protection.~~
~~(2) Fire protection.~~
~~(3) Garbage and refuse collection or disposal.~~
~~(4) Water distribution.~~
~~(5) Sewer collection or disposal.~~
~~(6) Street maintenance, construction, or right-of-way acquisition.~~
~~(7) Street lighting.~~
~~(8) Adoption of citywide planning and zoning.~~

(c) The Commission in its report shall indicate the impact on other municipalities and counties of diversion of already levied local taxes or State-shared revenues from existing local governments to support services in the proposed municipality."

Section 5. G.S. 136-41.2 reads as rewritten:

"**§ 136-41.2. Eligibility for funds; municipalities incorporated since January 1, 1945.**

(a) No municipality shall be eligible to receive funds under G.S. 136-41.1 unless it has conducted the most recent election required by its charter or the general law, whichever is applicable, for the purpose of electing municipal officials. The literal

requirement that the most recent required election shall have been held may be waived only:

(1) Where the members of the present governing body were appointed by the General Assembly in the act of incorporation and the date for the first election of officials under the terms of that act has not arrived; or,

(2) Where validly appointed or elected officials have advertised notice of election in accordance with law, but have not actually conducted an election for the reason that no candidates offered themselves for office.

(b) No municipality shall be eligible to receive funds under G.S. 136-41.1 unless it has levied an ad valorem tax for the current fiscal year of at least five cents (5¢) on the one hundred dollars ($100.00) valuation upon all taxable property within its corporate limits, and unless it has actually collected at least fifty percent (50%) of the total ad valorem tax levied for the preceding fiscal year; provided, however, that, for failure to have collected the required percentage of its ad valorem tax levy for the preceding fiscal year:

(1) No municipality making in any year application for its first annual allocation shall be declared ineligible to receive such allocation; and

(2) No municipality shall be declared ineligible to receive its share of the annual allocation to be made in the year 1964.

(c) No municipality shall be eligible to receive funds under G.S. 136-41.1 unless it has formally adopted a budget ordinance in substantial compliance with G.S. 160-410.3, showing revenue received from all sources, and showing that funds have been appropriated for at least two of the following municipal ~~services:~~ services if the municipality was incorporated with an effective date prior to January 1, 2000, water distribution; sewage collection or disposal; garbage and refuse collection or disposal; fire protection; police protection; street maintenance, construction, or right-of-way acquisition; or street ~~lighting.~~ lighting, or at least four of the following municipal services if the municipality was incorporated with an effective date of on or after January 1, 2000: (i) police protection; (ii) fire protection; (iii) solid waste collection or disposal; (iv) water distribution; (v) street maintenance; (vi) street construction or right-of-way acquisition; (vii) street lighting; and (viii) zoning.

(d) The provisions of this section shall not apply to any municipality incorporated prior to January 1, 1945."

Section 6. G.S. 105-472 is amended by adding a new subsection to read:

"(d) No municipality may receive any funds under this section if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this section, regardless of the date of its incorporation, unless a majority of the mileage of its streets are open to the public. The previous sentence becomes effective with respect to distribution of funds on or after July 1, 1999."

Section 7. G.S. 105-486 is amended by adding a new subsection to read:

"(d) No municipality may receive any funds under this section if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this section, regardless of the date of its incorporation, unless a majority of the mileage of its streets are open to the public. The previous sentence becomes effective with respect to distribution of funds on or after July 1, 1999."

Section 8. Chapter 1096 of the 1967 Session Laws is amended by adding a new section to read:

"Section 10.2. No municipality may receive any funds under this act if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this act, regardless of the date of its incorporation, unless a majority of the mileage of its streets are open to the public. The previous sentence becomes effective with respect to distribution of funds on or after July 1, 1999."

Section 9. G.S. 105-501 reads as rewritten:

"**§ 105-501. Distribution of additional taxes.**

The Secretary shall, on a quarterly basis, allocate the net proceeds of the additional one-half percent (1/2%) sales and use taxes levied under this Article to the taxing counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The Secretary shall then adjust the amount allocated to each county as provided in G.S. 105-486(b). The amount allocated to each taxing county shall then be divided among the county and the municipalities located in the county in accordance with the method by which the one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed. No municipality may receive any funds under this section if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this section, regardless of the date of its incorporation, unless a majority of the mileage of its streets are open to the public. The previous sentence becomes effective with respect to distribution of funds on or after July 1, 1999.

If any taxes levied under this Article by a county have not been collected in that county for a full quarter because of the levy or repeal of the taxes, the Secretary shall distribute a pro rata share to that county for that quarter based on the number of months the taxes were collected in that county during the quarter.

In determining the net proceeds of the tax to be distributed, the Secretary shall deduct from the collections to be allocated an amount equal to one-fourth of the costs during the preceding fiscal year of:

(1) The Department of Revenue in performing the duties imposed by G.S. 105-275.2 and by Article 15 of this Chapter.

(2) The Property Tax Commission.

(3) The Institute of Government in operating a training program in property tax appraisal and assessment.

(4) The personnel and operations provided by the Department of State Treasurer for the Local Government Commission."

Section 10. G.S. 105-113.82 is amended by adding a new subsection to read:

"(h) No municipality may receive any funds under this section if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this section, regardless of the date of its incorporation, unless a majority of the mileage of its streets are open to the public. The previous sentence becomes effective with respect to distribution of funds on or after July 1, 1999."

Section 11. G.S. 105-116.1 is amended by adding a new subsection to read:

"(e) No municipality may receive any funds under this section if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this section, regardless of the date of its incorporation, unless a majority of the mileage of its streets are open to the public. The previous sentence becomes effective with respect to distribution of funds on or after July 1, 1999."

Section 12. Section 1 of this act applies with respect to municipalities for which the Joint Legislative Commission on Municipal Incorporations makes recommendations on or after the date this act becomes law. The remainder of this act is effective when it becomes law.

HOUSE BILL 964:
Municipal Incorporation Process

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Jarrell
Date:	June 9, 1999	**Summary by:**	Cindy Avrette
Version:	2nd Edition		Committee Counsel

SUMMARY: House Bill 964 changes the criteria for incorporation that the Joint Legislative Commission on Municipal Incorporations considers when making its recommendation to the General Assembly on whether an area should be allowed to incorporate. It also provides that a municipality incorporated on or after January 1, 2000, may not receive Powell Bill fund money, local sales tax revenue, beer and wine gross receipts tax revenue, or gross receipts franchise tax revenue unless it meets the following criteria:

- *At least 1/3 of its estimated revenues comes from local taxes.*
- *It has actually collected at least 50% of the total property tax levied for the preceding year. (This provision is not new for Powell Bill fund money.)*
- *It provides at least four municipal services. (Under current law, it must provide two services to receive Powell Bill fund money.)*

This act applies to municipalities for which the Joint Legislative Commission on Municipal Incorporations makes recommendations on or after the date this act becomes law.

CURRENT LAW: In 1985, the General Assembly created the Joint Legislative Commission on Municipal Incorporation. Although a municipality does not need the recommendation of the Commission to be incorporated, it is highly encouraged. House Rule 35.1 requires that a municipality seeking incorporation have an assessment report from the Commission before the House of Representatives may consider it.

The process of seeking the recommendation of the Commission is commenced by filing with the Commission a petition signed by 15% of the registered voters of the area proposed to be incorporated. The petition must include several things, including a list of proposed services to be provided, assessed valuation, and the degree of development and population density. The petitioner must notify the county commissioners of the county where the proposed municipality will be located, as well as the cities in that county and any city within 5 miles of the proposed municipality. The petitioners must also publish for two consecutive weeks a notice in the newspaper of the intent to incorporate.

The Commission must give the proposed area to be incorporated a positive recommendation if the area meets all of the following criteria:

- Petition requirements and notice requirements have been met.
- The proposed municipality is NOT located within 1 mile of a city of 5,000 to 9,999; within 3 miles of a city of 10,000 to 24,999; within 4 miles of a city of 25,000 to 49,999; within 5 miles of a city of 50,000 or more. There are four exceptions to this requirement.

- The proposed municipality has a permanent population of at least 100.
- At least 40% of the area is developed for residential, commercial, industrial, institutional, or governmental uses.
- None of the proposed municipality is located within an existing municipality.
- The proposed municipality can provide at a reasonable tax rate the services requested by the petition and that it can provide at a reasonable tax rate the types of services usually provided by similar municipalities.

Cities receive certain State shared taxes: the franchise tax, the gasoline tax, and the beer and wine taxes. Together, these taxes contribute 10% to 25% of a city's general fund revenue. The legislation that first established the gasoline tax distribution is known as the Powell Bill and the money distributed to the cities is often called Powell Bill funds. To receive Powell Bill funds, a city must meet the following conditions:

- It has levied a property tax for the current fiscal year of at least 5 cents on the $100 valuation upon all taxable property within its corporate limits.
- It has actually collected at least 50% of the total property tax levied for the preceding fiscal year.
- It has adopted a budget ordinance showing revenue received from all sources and showing that funds have been appropriated for at least two of the following services: water, wastewater, garbage collection, fire protection; police protection; street maintenance; or street lighting.

BILL ANALYSIS: House Bill 964 changes some of the criteria that the Joint Legislative Commission on Municipal Incorporations must consider:

- The petition must contain a statement that the proposed municipality will have a budget ordinance with estimated tax revenues of not less than 1/3 of total revenues (excluding public enterprises, gifts, grants, and loans) within the first full fiscal year following incorporation;
- The petition must also contain a statement that the municipality will offer four of the following services within the third fiscal year of incorporation—police protection, fire protection, solid waste collection, water distribution, street maintenance, street construction, street lighting, and zoning. Current law requires the proposed municipality to submit a plan that proposes at least two of the services.
- The proposed municipality to have a population density of at least 250 persons per square mile. This is in addition to the existing requirement of a permanent population of at least 100 persons.
- It removes the exception from the requirement that at least 40% of the area be developed for urban uses or dedicated as open space. This exception currently applies to proposed municipalities within two miles of the Atlantic Ocean, Albemarle Sound or Pamlico Sound.
- It removes the requirement that, for the Commission to make a positive recommendation on the proposed incorporation, the entire area meet the development criteria in the involuntary annexation statutes.
- It adds a requirement that the Commission must include in its report the impact on other municipalities and counties of the diversion of already levied local taxes and State-shared revenues to support services in the proposed municipality.

The bill also provides that no municipality incorporated on or after January 1, 2000, shall be eligible to receive a variety of State funds if it does not meet the following conditions:

- Its adopted budget ordinance estimates revenues from local tax sources to be less than 1/3 of its total revenues (excluding public enterprises, gifts, grants, and loans) within the first full fiscal year following incorporation. The local tax sources are: property tax, privilege tax, animal tax, motor vehicle tax, and cable TV tax.
- Its adopted budget ordinance shows that funds have been appropriated for at least four of the following services -- police protection, fire protection, solid waste collection, water distribution, street maintenance, street construction, street lighting, and zoning. Current law requires the proposed municipality to submit a plan that proposes at least two of the services.

The State funds that it would not receive are local sales tax revenues and the State shared taxes: franchise tax, beer and wine taxes, and Powell Bill funds. Under current law, a municipality does not have to meet any criteria to receive local sales tax revenue, franchise tax, or beer and wine taxes. It does have to meet some criteria to receive Powell Bill funds.

Tim Hovis, Counsel to the House Ways & Means Committee, contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: H.B. 964 Municipal Incorporation Process

SHORT TITLE: Municipal Incorporation Process

SPONSOR(S): Representative Jarrell

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES	No General Fund Impact See Assumptions and Methodology				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Local Government Commission, Joint Legislative Commission of Municipal Corporations, Department of Revenue, and potential local governments.

EFFECTIVE DATE: Section 1 of this act applies with respect to municipalities for which the Joint Legislative Commission on Municipal Corporations makes recommendations on or after the date this act becomes law. The remainder of this act is effective when it becomes law.

BILL SUMMARY: The bill makes several changes to the municipal incorporation process. First, it requires communities petitioning for incorporation to state, in the petition, that they will provide at least four key municipal services. Current law requires that they provide two services. The services that qualify under the bill are police protection, fire protection, solid waste collection or disposal, water distribution, street maintenance, street construction or right-of-way acquisition, street lighting, and zoning. In order to provide qualifying policy protection the municipality must provide the service directly or contract with another area to provide the service. If contracting occurs, the area providing service must be compensated for their effort. Second, the petitioning community must promise to levy an ad valorum tax of at least $0.20 per $100.00 of accessed value. The tax must be levied within three fiscal years of incorporation. The current minimum rate is $0.05 per $100.00 of accessed value.

Next the bill modifies the population requirement. Under current law a potential municipality must have a permanent population of 100 or more. The bill retains that standard, but also requires a population density of at least 250 person per square mile. Seasonal residents can be included in the density estimate. Forth, the bill requires the petitioning community to report on the fiscal impact incorporation would have on existing communities. Specifically, it requires an analysis of the potential diversion of existing local taxes or State-shared revenues from existing local governments to the new municipality. Finally, it prohibits distribution of the local portion

of sales tax, beer and wine tax, and gross receipts tax to the municipality unless they met the above requirements, and all others in G.S. 136-41.2.

ASSUMPTIONS AND METHODOLOGY: Overall the bill increases the requirements for a community to incorporate as a municipality. Because the bill deals with the incorporation requirements for new communities, there will be no significant impact on existing communities. Over time, the bill may have some impact on the proportion of sales, beer and wine, and gross receipts taxes an existing community receives. By making it more difficult to incorporate the bill may allow existing community to retain a larger portion these taxes, since the funds will not be siphoned off to a new community. The bill also has the potential to increase the tax residents of a new community pay, since it increases the minimum tax a municipality can levy. Finally, the bill could increase expenditures for public services, since it requires new communities to provide more services than existing law. However, because Fiscal Research can not accurately predict incorporations, or the services a new community might provide, with or without the bill, we can not accurately estimate the potential fiscal impact of the legislation. The bill will have no impact on the State's General Fund. The only potential impact is at the local level.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY: Tom Covington

DATE: Monday, April 19, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
S.B. 618 A BILL TO BE ENTITLED AN ACT TO ENABLE THE COUNTY OF MACON TO ESTABLISH AN AIRPORT AUTHORITY FOR THE MAINTENANCE OF AIRPORT FACILITIES IN THE COUNTY.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 618

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S618-ARB-6/8 Page 1 of __

Date June 9 ,1999

Comm. Sub. []
Amends Title []

Representative Rayfield

moves to amend the bill on page 5, line 38, by rewriting the line to read:

"Section 18. S.L. 1989-955 is repealed.
Section 19. This act is effective when it becomes law.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 618
Proposed Committee Substitute S618-PCS1750-RB

Short Title: Macon County Airport Authority. (Local)

Sponsors:

Referred to:

March 30, 1999

A BILL TO BE ENTITLED

AN ACT TO ENABLE THE COUNTY OF MACON TO ESTABLISH AN AIRPORT AUTHORITY FOR THE MAINTENANCE OF AIRPORT FACILITIES IN THE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There is hereby created the "Macon County Airport Authority" (for brevity hereinafter referred to as the "Airport Authority"), which shall be a body both corporate and politic, having the powers and jurisdiction hereinafter enumerated and such other and additional powers as shall be conferred upon it by general law and future acts of the General Assembly.

Section 2. The Airport Authority shall consist of five members, who shall be residents of Macon County and who shall be appointed to staggered terms of six years by the Macon County Board of Commissioners. Members may succeed themselves in office and serve more than one term. Two initial appointments to the Airport Authority shall be for two years, two initial appointments to the Airport Authority shall be for four years, and the remaining initial appointment to the Airport Authority shall be for six years.

When vacancies occur in the membership of the Airport Authority, for any reason, the remaining members of the Airport Authority shall submit a list of two or more candidates to the Macon County Board of Commissioners. The Board of Commissioners shall either select one from that list to fill the unexpired term of the vacant office or shall request that the Airport Authority submit additional candidates.

The Airport Authority shall submit additional candidates upon request until the Board of Commissioners selects a member from the candidates submitted.

Each member shall take and subscribe before the Clerk of Superior Court of Macon County an oath of office and file the same with the Macon County Board of Commissioners. Membership on the Macon County Board of Commissioners and the Airport Authority shall not constitute double office holding within the meaning of Article VI, Section 9, of the Constitution of North Carolina.

Section 3. The Airport Authority may adopt suitable bylaws for its management. The members of the Airport Authority may receive compensation, per diem, or otherwise as the Macon County Board of Commissioners from time to time determines. Members shall be allowed and paid their actual expenses incurred in transacting the business and at the instance of the Airport Authority. Members of the Airport Authority shall not be personally liable for their acts as members of the Airport Authority, except for acts resulting from misfeasance or malfeasance.

Section 4.(a) The Airport Authority shall constitute a body, both corporate and politic, and shall have the following powers and authority:

(1) To purchase, acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and regulate airports and landing fields for the use of airplanes and other aircraft within the limits of the county and for this purpose to purchase, improve, own, hold, lease, or operate real or personal property. The Airport Authority may exercise these powers alone or in conjunction with the County of Macon.

(2) To sue and be sued in the name of the Airport Authority, to make contracts and hold any personal property necessary for the exercise of the powers of the Airport Authority, and acquire by purchase, lease, or otherwise any existing lease, leasehold right, or other interest in any existing airport located in the county.

(3) To charge and collect reasonable and adequate fees and rents for the use of airport property or for services rendered in the operation of the airport.

(4) To make all reasonable rules and regulations it deems necessary for the proper maintenance, use, operation, and control of the airport, including public safety, and provide penalties for the violation of these rules and regulations; provided, the rules and regulations and schedules of fees not be in conflict with the laws of North Carolina and the regulations of the Federal Aviation Administration. The Airport Authority may administer and enforce any airport zoning regulations adopted by the County of Macon.

(5) To issue bonds pursuant to Article 5 of Chapter 159 of the General Statutes.

(6) To sell, lease, or otherwise dispose of any property, real or personal, belonging to the Airport Authority, according to the

procedures described in Article 12 of Chapter 160A of the General Statutes, but no sale of real property shall be made without the approval of the Macon County Board of Commissioners.

(7) To purchase any insurance that the Federal Aviation Administration or the Airport Authority shall deem necessary. The Airport Authority shall be responsible for any and all insurance claims or liabilities.

(8) To deposit or invest and reinvest any of its funds as provided by the Local Government Finance Act, as it may be amended from time to time, for the deposit or investment of unit funds.

(9) To purchase any of its outstanding bonds or notes.

(10) To operate, own, lease, control, regulate, or grant to others, for a period not to exceed 20 years, the right to operate on any airport premises restaurants, snack bars, vending machines, food and beverage dispensing outlets, rental car services, catering services, novelty shops, insurance sales, advertising media, merchandising outlets, motels, hotels, barbershops, automobile parking and storage facilities, automobile service establishments, and all other types of facilities as may be directly or indirectly related to the maintenance and furnishing to the general public of a complete air terminal installation.

(11) To contract with persons, firms, or corporations for terms not to exceed 20 years, for the operation of airline-scheduled passenger and freight flights, nonscheduled flights, and any other airplane activities not inconsistent with the grant agreements under which the airport property is held.

(12) To erect and construct buildings, hangars, shops, and other improvements and facilities, not inconsistent with or in violation of the agreements applicable to and the grants under which the real property of the airport is held; to lease these improvements and facilities for a term or terms not to exceed 20 years; to borrow money for use in making and paying for these improvements and facilities, secured by and on the credit only of the lease agreements in respect to these improvements and facilities, and to pledge and assign the leases and lease agreements as security for the authorized loans.

(13) Subject to the limitations set out in this act, to have all the same power and authority granted to cities and counties pursuant to Chapter 63 of the General Statutes, Aeronautics.

(14) To have a corporate seal, which may be altered at will.

Section 4.(b) The Airport Authority shall possess the same exemptions in respect to payment of taxes and license fees and be eligible for sales and use tax refunds to the same extent as provided for municipal corporations by the laws of the State of North Carolina.

Section 5. The Airport Authority may acquire from the county, by agreement with the county, and the county may grant and convey, either by gift or for such consideration as the county may deem wise, any real or personal property which it now owns or may hereafter acquire, including nontax monies, and which may be necessary for the construction, operation, and maintenance of any airport located in the county.

Section 6. Any lands acquired, owned, controlled, or occupied by the Airport Authority shall be, and are declared to be, acquired, owned, controlled, and occupied for a public purpose.

Section 7. Private property needed by the Airport Authority for any airport, landing field, or as facilities of an airport or landing field, may be acquired by gift or devise, or may be acquired by private purchase or by the exercise of eminent domain pursuant to Chapter 40A of the General Statutes, as a local public condemnor, including the provisions of G.S. 40A-42. If property acquired by gift, devise, purchase, or condemnation has a burial ground or graveyard, then it shall be lawful for the Airport Authority, after 30 days' notice to the surviving spouse or next of kin of the deceased buried there or the person in control of the graves, if they are known, to remove the interred body and reinter the body in another cemetery in Macon County. If no surviving spouse or next of kin or person in control can be found, then the Airport Authority may advertise for four consecutive weeks in a newspaper published in Macon County of the intended removal of the graves. The removal shall then be conducted under the supervision of the Clerk of the Superior Court of Macon County or his or her representative. The expense of the removal shall be borne by the Airport Authority.

Section 8. The Airport Authority shall make an annual report to the Macon County Board of Commissioners setting forth in detail the operations and transactions conducted by it pursuant to this act. The Airport Authority shall not have the power to pledge the credit of Macon County, or any subdivision thereof, or to impose any obligation on Macon County, or any of its subdivisions, except when that power is expressly granted by statute.

Section 9. Subject to the limitations as set out in this act, all rights and powers given and granted to counties or municipalities by general law, which may now be in effect, or enacted in the future, relating to the development, regulation, and control of municipal airports and the regulation of aircraft are now concurrently vested in the Airport Authority. The Macon County Board of Commissioners may delegate its powers under these acts to the Airport Authority, and the Airport Authority shall have concurrent rights with Macon County to control, regulate, and provide for the development of aviation in Macon County.

Section 10. The Airport Authority may contract with and accept grants from the Federal Aviation Administration, the State of North Carolina, or any of the agencies or representatives of either of said governmental bodies relating to the purchase of land and air easements and to the grading, constructing, equipping, improving, maintaining, or operating of an airport or its facilities or both.

Section 11. The Airport Authority may employ or contract with any agents, engineers, attorneys, and other persons whose services may be deemed by the Airport Authority to be necessary and useful in carrying out the provisions of Sections 1 through 10 of this act.

Section 12. The Macon County Board of Commissioners may appropriate funds derived from any source including ad valorem taxes to carry out the provisions of this act in any proportion or upon any basis as may be determined by the Macon County Board of Commissioners. The Macon County Board of Commissioners may provide county services to the Airport Authority upon any basis as may be determined by the Macon County Board of Commissioners.

Section 13. The Airport Authority may expend the funds that are appropriated by the county for joint airport purposes and may pledge the credit of the Airport Authority to the extent of the appropriated funds.

Section 14. The Airport Authority shall elect from among its members a chair and other officers at its initial meeting and then biennially thereafter. Officers shall be eligible to succeed themselves in office and to serve consecutive terms at the will of the members of the Airport Authority. A majority of the Airport Authority shall control its decisions. Each member of the Airport Authority, including the chair, shall have one vote. The Airport Authority shall meet at the places and times designated by the chair.

Section 15. If an airport established pursuant to this act ceases to be operated by the Airport Authority, or if any property acquired pursuant to this act for airport purposes is abandoned, then the title to that real or personal property, or rights under any existing lease, shall revert to and vest in the County of Macon and on the sale of that property, the proceeds shall vest totally in the County of Macon.

Section 16. The powers granted to the Airport Authority shall not be effective until the members of the Airport Authority have been appointed by the Macon County Board of Commissioners, and nothing in this act shall require the Board of Commissioners to make the initial appointments. It is the intent of this act to enable but not to require the formation of the Macon County Airport Authority.

Section 17. If any one or more sections, clauses, sentences, or parts of this act shall be adjudged invalid, such judgment shall not affect, impair, or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provisions held invalid, and the inapplicability or invalidity of any section, clause, sentence, or part of this act in one or more instances or circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance.

Section 18. S.L. 1989-955 is repealed.

Section 19. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 618

Short Title: Macon County Airport Authority. (Local)

Sponsors: Senator Carpenter.

Referred to: Finance.

March 30, 1999

A BILL TO BE ENTITLED

AN ACT TO ENABLE THE COUNTY OF MACON TO ESTABLISH AN AIRPORT AUTHORITY FOR THE MAINTENANCE OF AIRPORT FACILITIES IN THE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There is hereby created the "Macon County Airport Authority" (for brevity hereinafter referred to as the "Airport Authority"), which shall be a body both corporate and politic, having the powers and jurisdiction hereinafter enumerated and such other and additional powers as shall be conferred upon it by general law and future acts of the General Assembly.

Section 2. The Airport Authority shall consist of five members, who shall be residents of Macon County and who shall be appointed to staggered terms of six years by the Macon County Board of Commissioners. Members may succeed themselves in office and serve more than one term. Two initial appointments to the Airport Authority shall be for two years, two initial appointments to the Airport Authority shall be for four years, and the remaining initial appointment to the Airport Authority shall be for six years.

When vacancies occur in the membership of the Airport Authority, for any reason, the remaining members of the Airport Authority shall submit a list of two or more candidates to the Macon County Board of Commissioners. The Board of Commissioners shall either select one from that list to fill the unexpired term of the vacant office or shall request that the Airport Authority submit additional candidates. The Airport Authority shall submit additional candidates upon request until the Board of Commissioners selects a member from the candidates submitted.

Each member shall take and subscribe before the Clerk of Superior Court of Macon County an oath of office and file the same with the Macon County Board of Commissioners. Membership on the Macon County Board of Commissioners and the Airport Authority shall not constitute double office holding within the meaning of Article VI, Section 9, of the Constitution of North Carolina.

Section 3. The Airport Authority may adopt suitable bylaws for its management. The members of the Airport Authority may receive compensation, per diem, or otherwise as the Macon County Board of Commissioners from time to time determines. Members shall be allowed and paid their actual expenses incurred in transacting the business and at the instance of the Airport Authority. Members of the Airport Authority shall not be personally liable for their acts as members of the Airport Authority, except for acts resulting from misfeasance or malfeasance.

Section 4.(a) The Airport Authority shall constitute a body, both corporate and politic, and shall have the following powers and authority:

(1) To purchase, acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and regulate airports and landing fields for the use of airplanes and other aircraft within the limits of the county and for this purpose to purchase, improve, own, hold, lease, or operate real or personal property. The Airport Authority may exercise these powers alone or in conjunction with the County of Macon.

(2) To sue and be sued in the name of the Airport Authority, to make contracts and hold any personal property necessary for the exercise of the powers of the Airport Authority, and acquire by purchase, lease, or otherwise any existing lease, leasehold right, or other interest in any existing airport located in the county.

(3) To charge and collect reasonable and adequate fees and rents for the use of airport property or for services rendered in the operation of the airport.

(4) To make all reasonable rules and regulations it deems necessary for the proper maintenance, use, operation, and control of the airport, including public safety, and provide penalties for the violation of these rules and regulations; provided, the rules and regulations and schedules of fees not be in conflict with the laws of North Carolina and the regulations of the Federal Aviation Administration. The Airport Authority may administer and enforce any airport zoning regulations adopted by the County of Macon.

(5) To issue bonds pursuant to Article 5 of Chapter 159 of the General Statutes.

(6) To sell, lease, or otherwise dispose of any property, real or personal, belonging to the Airport Authority, according to the procedures described in Article 12 of Chapter 160A of the General

Statutes, but no sale of real property shall be made without the approval of the Macon County Board of Commissioners.

(7) To purchase any insurance that the Federal Aviation Administration or the Airport Authority shall deem necessary. The Airport Authority shall be responsible for any and all insurance claims or liabilities.

(8) To deposit or invest and reinvest any of its funds as provided by the Local Government Finance Act, as it may be amended from time to time, for the deposit or investment of unit funds.

(9) To purchase any of its outstanding bonds or notes.

(10) To operate, own, lease, control, regulate, or grant to others, for a period not to exceed 20 years, the right to operate on any airport premises restaurants, snack bars, vending machines, food and beverage dispensing outlets, rental car services, catering services, novelty shops, insurance sales, advertising media, merchandising outlets, motels, hotels, barbershops, automobile parking and storage facilities, automobile service establishments, and all other types of facilities as may be directly or indirectly related to the maintenance and furnishing to the general public of a complete air terminal installation.

(11) To contract with persons, firms, or corporations for terms not to exceed 20 years, for the operation of airline-scheduled passenger and freight flights, nonscheduled flights, and any other airplane activities not inconsistent with the grant agreements under which the airport property is held.

(12) To erect and construct buildings, hangars, shops, and other improvements and facilities, not inconsistent with or in violation of the agreements applicable to and the grants under which the real property of the airport is held; to lease these improvements and facilities for a term or terms not to exceed 20 years; to borrow money for use in making and paying for these improvements and facilities, secured by and on the credit only of the lease agreements in respect to these improvements and facilities, and to pledge and assign the leases and lease agreements as security for the authorized loans.

(13) Subject to the limitations set out in this act, to have all the same power and authority granted to cities and counties pursuant to Chapter 63 of the General Statutes, Aeronautics.

(14) To have a corporate seal, which may be altered at will.

Section 4.(b) The Airport Authority shall possess the same exemptions in respect to payment of taxes and license fees and be eligible for sales and use tax refunds to the same extent as provided for municipal corporations by the laws of the State of North Carolina.

Section 5. The Airport Authority may acquire from the county, by agreement with the county, and the county may grant and convey, either by gift or for such consideration as the county may deem wise, any real or personal property which it now owns or may hereafter acquire, including nontax monies, and which may be necessary for the construction, operation, and maintenance of any airport located in the county.

Section 6. Any lands acquired, owned, controlled, or occupied by the Airport Authority shall be, and are declared to be, acquired, owned, controlled, and occupied for a public purpose.

Section 7. Private property needed by the Airport Authority for any airport, landing field, or as facilities of an airport or landing field, may be acquired by gift or devise, or may be acquired by private purchase or by the exercise of eminent domain pursuant to Chapter 40A of the General Statutes, as a local public condemnor, including the provisions of G.S. 40A-42. If property acquired by gift, devise, purchase, or condemnation has a burial ground or graveyard, then it shall be lawful for the Airport Authority, after 30 days' notice to the surviving spouse or next of kin of the deceased buried there or the person in control of the graves, if they are known, to remove the interred body and reinter the body in another cemetery in Macon County. If no surviving spouse or next of kin or person in control can be found, then the Airport Authority may advertise for four consecutive weeks in a newspaper published in Macon County of the intended removal of the graves. The removal shall then be conducted under the supervision of the Clerk of the Superior Court of Macon County or his or her representative. The expense of the removal shall be borne by the Airport Authority.

Section 8. The Airport Authority shall make an annual report to the Macon County Board of Commissioners setting forth in detail the operations and transactions conducted by it pursuant to this act. The Airport Authority shall not have the power to pledge the credit of Macon County, or any subdivision thereof, or to impose any obligation on Macon County, or any of its subdivisions, except when that power is expressly granted by statute.

Section 9. Subject to the limitations as set out in this act, all rights and powers given and granted to counties or municipalities by general law, which may now be in effect, or enacted in the future, relating to the development, regulation, and control of municipal airports and the regulation of aircraft are now concurrently vested in the Airport Authority. The Macon County Board of Commissioners may delegate its powers under these acts to the Airport Authority, and the Airport Authority shall have concurrent rights with Macon County to control, regulate, and provide for the development of aviation in Macon County.

Section 10. The Airport Authority may contract with and accept grants from the Federal Aviation Administration, the State of North Carolina, or any of the agencies or representatives of either of said governmental bodies relating to the purchase of land and air easements and to the grading, constructing, equipping, improving, maintaining, or operating of an airport or its facilities or both.

Section 11. The Airport Authority may employ or contract with any agents, engineers, attorneys, and other persons whose services may be deemed by the Airport Authority to be necessary and useful in carrying out the provisions of Sections 1 through 10 of this act.

Section 12. The Macon County Board of Commissioners may appropriate funds derived from any source including ad valorem taxes to carry out the provisions of this act in any proportion or upon any basis as may be determined by the Macon County Board of Commissioners. The Macon County Board of Commissioners may provide county services to the Airport Authority upon any basis as may be determined by the Macon County Board of Commissioners.

Section 13. The Airport Authority may expend the funds that are appropriated by the county for joint airport purposes and may pledge the credit of the Airport Authority to the extent of the appropriated funds.

Section 14. The Airport Authority shall elect from among its members a chair and other officers at its initial meeting and then biennially thereafter. Officers shall be eligible to succeed themselves in office and to serve consecutive terms at the will of the members of the Airport Authority. A majority of the Airport Authority shall control its decisions. Each member of the Airport Authority, including the chair, shall have one vote. The Airport Authority shall meet at the places and times designated by the chair.

Section 15. If an airport established pursuant to this act ceases to be operated by the Airport Authority, or if any property acquired pursuant to this act for airport purposes is abandoned, then the title to that real or personal property, or rights under any existing lease, shall revert to and vest in the County of Macon and on the sale of that property, the proceeds shall vest totally in the County of Macon.

Section 16. The powers granted to the Airport Authority shall not be effective until the members of the Airport Authority have been appointed by the Macon County Board of Commissioners, and nothing in this act shall require the Board of Commissioners to make the initial appointments. It is the intent of this act to enable but not to require the formation of the Macon County Airport Authority.

Section 17. If any one or more sections, clauses, sentences, or parts of this act shall be adjudged invalid, such judgment shall not affect, impair, or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provisions held invalid, and the inapplicability or invalidity of any section, clause, sentence, or part of this act in one or more instances or circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance.

Section 18. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 618 D Macon County Airport Authority

SHORT TITLE: Macon County Airport Authority

SPONSOR(S): Senator Carpenter

FISCAL IMPACT

Yes ( ) **No (x)** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
General Fund	*** See Assumptions and Methodology ***				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Macon County Airport Authority, Macon County Government, and the Sales Tax Division of the Department of Revenue.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The legislation creates the Macon County Airport Authority and sets rules for it governance and operation. It also extends the sales and use tax refund provisions generally applied to county and city governments to the Macon County Airport Authority.

ASSUMPTIONS AND METHODOLOGY: The only potential fiscal impact of the bill is the sales tax refund. Under G.S. 105-164.14(c), certain government entities are eligible for refund of the sales taxes they paid on purchases in the previous fiscal year. This refund is issued annually. The types of government organizations that are currently eligible for the refund include city and county governments, municipal sewer districts, water and sewer authorities, public health authorities, a council of government, schools, and regional pubic transportation authorities. The law also states that local airport authorities, created by the General Assembly, may be eligible for the refund if the authority meets at least one of the following criteria: it has all the rights of a municipality, a local act of the General Assembly declares it to be a municipality, or a local act of the General Assembly specifically authorizes it to receive the refund. In addition to creating the Authority, the bill specifically authorizes the Macon County Airport Authority to receive the sales tax refund.

According to the Macon County Planning Office, the Airport Authority intends to make significant capital improvements to the airport. These will be funded primarily through Department of Transportation funds. However, because all airport related purchases are currently made through the county, and would continue to be handled by the county if the bill does not pass, there is no fiscal impact. Since the purchases are made through the county, and the county receives the sales tax refund, the bill only changes who applies for the refund. It does not affect the amount of the refund. Therefore, there is no fiscal impact.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY: Tom Covington

DATE: Monday, April 26, 1999

VISITOR REGISTRATION SHEET

6/9, 1999 — Finance

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
LENNIE COLLINS	NC DOR
Patti Staubli	"
Sherry Pounds	Holiday Inn Express, Selma
Marcelle Jackson	AYAR Management Inc
Hank Daniels	chairman of Johnston Cty Tourism Authority
Donna Baily-Taylor	JCVC PO Box 1990 Smithfield NC 27577
Becky Branson	Royal Inn 1780 Industrial Pk Dr. Selma NC 27576
AKSHAY DESAI	COMFORT INN, 170S INDUSTRIAL PARK DR. SELMA, NC 27576
ANAND MAHESHWARI	REGENCY INN, HWY I-95 EXIT 97 & US70 SELMA, NC 27576
HARIN AMIN	DAYS INN I95 & 70 EAST SELMA, NC 27576
John McAlister	Duke Energy
[illegible]	NCFPC
[illegible]	NCFPC
Amy Hobbs	NCHMA
Jim Hobbs	NCHMA
[illegible]	NCNRA
MRS. PAT WHEELER	SENATE CO-CHAIR, L.R.C. Adoption Registry Comm.
Lyman Gregory	1250 Ephesus Church Rd, G-7, Chapel Hill, NC 27514
Cam Cowan	BPMHL
Esther Hugh	DHHS/DSS
Joni Hart	798 Clifton Lane - Sanford NC
J. Blackburn	Counties
[illegible]	N.C.A.M.
[illegible]	USADA
PARKER REIST	205 GLENHILL LN. CHAPEL HILL, NC
Alice Garland	Electricities
Edith Votta	Children's Home Society of NC, P.O. Box 14608 Greensboro 27415
Nancy N. Le	504 Ladford Ln. High Point, NC 27265

VISITOR REGISTRATION SHEET

6/9, 1999 — Finance

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Scott Mouw	DENR / DPPEA
Rebecca S Ryals	E.D. Chadwick & Co 109 N Raiford St Selma 27576
Sandra Ryals	E. D. Chadwick & Co 109 N Raiford St Selma
Paul Ziglin	OSBM
JD Gaskins	Town of Selma
Bruce Radford	Town of Selma
Gary Jackson	Town of Selma
Rosemarie Wagaman	RR St Antiques Selma
Jere Upchurch	CP&L
Bob Robbins	NC HBA (Home Builders)
Carmen Caruth	Winston-Salem Home Builders Assoc
Stephanie Mansur	NC Assoc. of Realtors

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL
CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Thursday, June 10, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 286 – Adoption Records and Registry – Rep. Earle

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Thursday, June 10, 1999

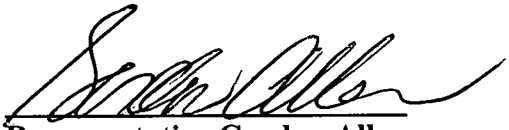
The House Committee on Finance met on Thursday, June 10, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke, Miller; Vice Chairs Jarrell; Representatives Bridgeman, Brown, Buchanan, Church, Cox, Creech, Cunningham, Decker, Dedmon, Eddins, Edwards, Fitch, Gibson, Goodwin, Gray, Hackney, Hill, McComas, McCombs, Rayfield, Starnes, Tucker, Wilson, and Womble. Staff including Cindy Avrette, Richard Bostic, Mary Shuping were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Allen called the meeting to order to consider the following bills:

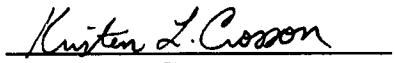
Rep. Earle was recognized to explain HB 286, A BILL TO BE ENTITLED AN ACT TO AMEND THE ADOPTION LAWS PERTAINING TO ACCESS TO ADOPTION RECORDS AND TO ESTABLISH AN ADOPTION REGISTRY. Rep. Rayfield moved to adopt the Proposed Committee Substitute for discussion purposes only. The motion passed. Chair Allen recognized Edith Voda of the Childrens' Home Society. Ms. Voda read a prepared statement by Dolores Mitchell, a birth mother, and stated her organization supported the bill. The Chair recognized Jan Reist of Chapel Hill who stated she was opposed to the bill and her handouts are included in the minutes. The Chair recognized Louise Greeves of the Childrens' Home Society and an adoptive parent who supported the bill. The Chair recognized John Rust of the N.C. Family Policy Council whose organization was opposed to the bill. The Chair recognized Limond Gregory, an adult adoptee, who supported the bill. The Chair recognized Toni Hart, an adoptive parent, who was opposed to the bill. The members asked questions of Rep. Earle and Rep. Jarrell asked Limond Gregory a question regarding the availability of information on the internet. Rep. Cox sent forward an amendment raising the age from eighteen to twenty-one and moved for its adoption. The amendment was adopted. Rep. Eddins sent forward an amendment addressing a possible loophole regarding contact information between the birth mother and adoptee on p.3, line 36 and moved for its adoption. After discussion on the amendment, the Chair adjourned the meeting and stated HB 286 would be discussed again at the After Session meeting on Tuesday, June 15, 1999. The bill, the Proposed Committee Substitute, the Amendments, Bill Summary, Fiscal Note, and public handouts are included in these minutes.

There being no further business, the Chair adjourned the meeting at 10:00 a.m.

Respectfully submitted:



Representative Gordon Allen
Chair



Kristen L. Crosson
Assistant to the Committee

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 286

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H286-ASC-003

Date June 10 ,1999

Comm. Sub. [YES]
Amends Title []
H286-PCSSC-001

Representative Cox :

1 moves to amend the bill on page 2, line 25,
2 by deleting "18" and substituting "21".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

displaced

(Please type or use ballpoint pen)

EDITION No. H286 PCSSC-001 ~~ASC-002~~

H. B. No. _____ DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE PCS

(Rep.) Eddins
Sen.)

moves to amend the bill on page 3, line 36

( ) WHICH CHANGES THE TITLE

by adding the following sentence at the end of that line:

"No identifying information about an adoptee may be disclosed to a biological father or a biological sibling unless the biological mother has also submitted a consent form and the consent form has not been revoked under G.S. 48-11-104(c)."

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 286
Committee Substitute Favorable 4/19/99
PROPOSED COMMITTEE SUBSTITUTE
H286-PCSSC-001

ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION.
2-JUN-99/12:59:45

Short Title: Adoption Records and Registry. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE ADOPTION LAWS PERTAINING TO ACCESS TO ADOPTION RECORDS AND TO ESTABLISH AN ADOPTION REGISTRY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 48 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 11.

"Adoption Registry.

"§ 48-11-101. Definitions.

In this Article, the following definitions apply:

(1) 'Biological father' means any of the following:

a. A person presumed by law to be the biological father of the adoptee.

b. A person who has established paternity by affidavit under G.S. 130A-101(f) or judicially.

c. A person who has legitimated the adoptee under G.S. 49-10 or under a similar law of another

state, or by marriage to the biological mother of the adoptee.

(2) 'Biological relative' means the adoptee's biological mother, biological father, or biological sibling.

(3) 'Biological sibling' includes a half-sibling related to the adoptee through the biological mother or through the biological father only as defined in subdivision (1) of this section.

"§ 48-11-102. Department to establish and maintain mutual consent, voluntary adoption registry.

The Department shall establish and maintain a statewide, confidential, mutual consent, voluntary adoption registry for receiving, filing, and retaining documents that request, authorize, or revoke consent to the release of identifying information. The purpose of the registry is to facilitate voluntary contact between adoptees and their biological relatives when both the adoptee and the biological relative consent to that contact.

"§ 48-11-103. Authorized users of the registry.

(a) Use of the registry is limited to adoptees and their biological relatives.

(b) No adoptee or biological relative shall be permitted to file a consent form with the registry until that person has reached the age of 18 years.

"§ 48-11-104. Information to be collected in the registry.

(a) A person authorized to use the registry may consent to the disclosure of identifying information about the person or request the disclosure of identifying information about an adoptee or a biological relative by filing with the Department a consent form that sets forth all of the following information to the extent known by the person submitting the form:

(1) The current name, address, and telephone number of the person submitting the form.

(2) Any prior names used by that person.

(3) The original and adopted name of the adoptee.

(4) The place of birth, date of birth, and sex of the adoptee.

(5) The name and address of the agency that placed the adoptee or prepared the report to the court.

(6) The persons to whom identifying information about the person submitting the consent form may be disclosed.

(7) If submitted by a biological relative, the relationship of that relative to the adoptee.

(b) The person submitting the consent form shall notify the registry of any change in that person's name, address, or telephone number that occurs after the person files the consent form.

(c) Consent may be revoked at any time by a person who submitted the consent form by submitting a revocation form to the registry.

(d) The registry shall obtain only information necessary for identifying registrants. In no event shall the registry obtain or release information of any kind pertaining to the adoptive parents of or adoptive siblings to the adoptee.

"§ 48-11-105. Requirements for forms submitted to the registry.

(a) Each of the following requirements applies to any consent or revocation form filed with the registry:

(1) It shall be notarized.

(2) It is effective as of the time it is filed with the registry.

(3) It may be revoked at any time by the person who submitted it.

(b) No consent or revocation form shall be accepted by the registry until the person submitting it presents satisfactory proof of the person's identity in accordance with rules adopted by the Social Services Commission.

"§ 48-11-106. Disclosure of information contained in the registry.

(a) The Department shall process each consent form filed with the registry in an attempt to match the adoptee with a biological relative. There is a match when an adoptee and a biological relative have both filed consent forms with the registry designating the other as a person to whom identifying information may be disclosed. No identifying information about an adoptee may be disclosed to a biological relative unless that relative has been designated to receive identifying information by the adoptee on the adoptee's consent form.

(b) No identifying information shall be disclosed under this section until the Department determines there is a match. If the Department determines there is a match, then the Department shall, within one month of the filing of the latter of the corresponding consent forms, send a copy of the corresponding consent forms to the agency that placed the adoptee or prepared the report to the court. The agency shall then notify the persons who submitted the consent forms of the match and disclose

to them the identifying information contained in the consent forms.

(c) If the agency that placed the adoptee or prepared the report to the court is no longer in existence at the time the Department determines there is a match, then any notification or disclosure required by this section shall be made by an employee or agent of the Department.

(d) All communications with adoptees and biological relatives required by this section shall be made by a social worker who has expertise in post-adoption services. These communications are confidential.

(e) If the Department or the agency has information that the person about whom identifying information is requested is deceased, the fact of the person's death shall be disclosed to the requesting person. No identifying information about the deceased person shall be disclosed, except pursuant to G.S. 48-9-104, unless the registry has on file an unrevoked consent form filed by the deceased person authorizing the disclosure of identifying information to the requesting person.

(f) Any employee of the Department or an agency who releases information or makes authorized contacts in good faith and in compliance with this Article shall be immune from civil and criminal liability for the release of information or authorized contact.

"§ 48-11-107. Recommendation of counseling.

The Department shall recommend to a person submitting any form to the registry that the person obtain counseling, voluntarily, at that person's own expense, from a licensed counselor.

"§ 48-11-108. Fees for using the registry.

The Department shall charge a fee of fifty dollars ($50.00) for filing a consent form with the registry at the time of filing. The fee shall be applied to the maintenance of the registry. Any fee authorized by this section may be waived for any person who provides an affidavit of financial inability to pay the fee.

"§ 48-11-109. Adoption of rules for the registry.

The Social Services Commission shall adopt rules for use of and access to the registry in accordance with the requirements of this Article.

"§ 48-11-110. Department to publicize the registry.

The Department shall announce and publicize to the general public the existence of the registry and the procedure for the consensual release of identifying information.

"§ 48-11-111. Department to provide necessary forms and cooperate with registries in other states.

The Department shall develop and furnish any forms necessary to carry out the provisions of this Article. The Department shall cooperate with registries in other states to facilitate the matching of documents filed pursuant to this Article by individuals in different states.

"**§ 48-11-112. Violation and penalty.**

It is unlawful for a person having custody of or access to documents filed under this Article to disseminate or permit dissemination of information contained in them except as authorized by this Article. Any person who willfully violates the provisions of this section is guilty of a Class I felony."

Section 2. G.S. 48-1-101(4) reads as rewritten:

"(4)'Agency' means a public or private association, corporation, institution, or other person or entity that is licensed or otherwise authorized by the law of the jurisdiction where it operates to place minors for adoption. "Agency" also means a county department of social services in this ~~State.~~ State, or a consolidated county human services agency created pursuant to G.S. 153A-77."

Section 3. G.S. 48-10-105 reads as rewritten:

"**§ 48-10-105. Unauthorized disclosure of information.**

(a) Except as authorized in G.S. 48-3-205 or in Article 9 or Article 11 of this Chapter, no identifying or nonidentifying information contained in a report or records described therein may be disclosed by present or former employees or officials of the court, an agency, the State, a county, an attorney or other provider of professional services, or any person or entity who wrongfully obtains such a report or records.

(b) ~~A~~ Except as provided in G.S. 48-11-112, a person who knowingly makes an unauthorized disclosure of identifying information is guilty of a Class 1 misdemeanor.

(c) The district court may enjoin from further violations any person who makes an unauthorized disclosure.

(d) Notwithstanding the penalties provided in subsection (b) of this section, an individual who is the subject of any of this information may bring a civil action for equitable or monetary relief or both against any person or entity who makes an unauthorized disclosure of the information."

Section 4. The Department of Health and Human Services shall report to the members of the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Human Resources Subcommittee one week prior to the convening of the 2001 Session of the General Assembly. The report shall include the following:

(1) The actual cost to establish and maintain the registry.
(2) Information on the usage of the registry.
(3) The amount of fees collected.
(4) Whether or not the funds appropriated and fees collected are sufficient to maintain the registry.

Section 5. This act becomes effective January 1, 2000 only if funds are appropriated by the 1999 General Assembly to implement this act. G.S. 48-11-112 as enacted in Section 1 of this act becomes effective January 1, 2000, and applies to offenses committed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 286
Committee Substitute Favorable 4/19/99

Short Title: Adoption Records and Registry. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE ADOPTION LAWS PERTAINING TO ACCESS TO ADOPTION RECORDS AND TO ESTABLISH AN ADOPTION REGISTRY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 48 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 11.

"Adoption Registry.

"**§ 48-11-101. Definitions.**

In this Article, the following definitions apply:

(1) 'Biological father' means any of the following:

a. A person presumed by law to be the biological father of the adoptee.

b. A person who has established paternity by affidavit under G.S. 130A-101(f) or judicially.

c. A person who has legitimated the adoptee under G.S. 49-10 or under a similar law of another state, or by marriage to the biological mother of the adoptee.

(2) 'Biological relative' means the adoptee's biological mother, biological father, or biological sibling.

(3) 'Biological sibling' includes a half-sibling related to the adoptee through the biological mother or through the biological father only as defined in subdivision (1) of this section.

"**§ 48-11-102. Department to establish and maintain mutual consent, voluntary adoption registry.**

The Department shall establish and maintain a statewide, confidential, mutual consent, voluntary adoption registry for receiving, filing, and retaining documents that request, authorize, or deny authorization of the release of identifying information. The purpose of the registry is to facilitate voluntary contact between adoptees and their biological relatives when both the adoptee and the biological relative consent to that contact.

"**§ 48-11-103. Authorized users of the registry.**

(a) Use of the registry is limited to adoptees and their biological relatives.

(b) No adoptee or biological relative shall be permitted to file a consent form with the registry until that person has reached the age of 18 years.

"**§ 48-11-104. Information to be collected in the registry.**

(a) A person eligible to use the registry may consent to the disclosure of identifying information about the person or request the disclosure of identifying information about an adoptee or a biological relative by filing with the Department a consent form that sets forth all of the following information to the extent known by the person submitting the form:

(1) The current name, address, and telephone number of the person submitting the form.

(2) Any prior names used by that person.

(3) The original and adopted name of the adoptee.

(4) The place of birth, date of birth, and sex of the adoptee.

(5) The name and address of the agency that placed the adoptee or prepared the report to the court.

(6) The persons to whom identifying information about the person submitting the consent form may be disclosed.

(7) If submitted by a biological relative, the relationship of that relative to the adoptee.

(b) The person submitting the consent form shall notify the registry of any change in that person's name, address, or telephone number that occurs after the person files the consent form.

(c) Consent may be revoked at any time by a person who submitted the consent form by submitting a revocation form to the registry.

(d) The registry shall obtain only information necessary for identifying registrants. In no event shall the registry obtain or release information of any kind pertaining to the adoptive parents of or adoptive siblings to the adoptee.

"**§ 48-11-105. Requirements for forms submitted to the registry.**

(a) Each of the following requirements applies to any consent or revocation form filed with the registry:

(1) It shall be notarized.

(2) It is effective as of the time it is filed with the registry.

(3) It may be revoked at any time by the person who submitted it.

(b) No consent or revocation form shall be accepted by the registry until the person submitting it presents satisfactory proof of the person's identity in accordance with rules adopted by the Social Services Commission.

"§ 48-11-106. Disclosure of information contained in the registry.

(a) The Department shall process each consent form filed with the registry in an attempt to match the adoptee with a biological relative. There is a match when an adoptee and a biological relative have both filed consent forms with the registry designating the other as a person to whom identifying information may be disclosed. No identifying information about an adoptee may be disclosed to a biological relative unless that relative has been designated to receive identifying information by the adoptee on the adoptee's consent form.

(b) No identifying information shall be disclosed under this section until the Department determines there is a match. If the Department determines there is a match, then the Department shall, within one month of the filing of the latter of the corresponding consent forms, send a copy of the corresponding consent forms to the agency that placed the adoptee or prepared the report to the court. The agency shall then notify the persons who submitted the consent forms of the match and disclose to them the identifying information contained in the consent forms.

(c) If the agency that placed the adoptee or prepared the report to the court is no longer in existence at the time the Department determines there is a match, then any notification or disclosure required by this section shall be made by an employee or agent of the Department.

(d) All communications with adoptees and biological relatives required by this section shall be made by a social worker who has expertise in post-adoption services. These communications are confidential.

(e) If the Department has information that the person about whom identifying information is requested is deceased, the fact of the person's death shall be disclosed to the requesting person. No identifying information about the deceased person shall be disclosed, except pursuant to G.S. 48-9-104, unless the registry has on file an unrevoked consent form filed by the deceased person authorizing the disclosure of identifying information to the requesting person.

"§ 48-11-107. Recommendation of counseling.

The Department shall recommend to a person submitting any form to the registry that the person obtain counseling, voluntarily, at that person's own expense, from a licensed counselor.

"§ 48-11-108. Fees for using the registry.

The Department shall charge a fee of fifty dollars ($50.00) for filing a consent form with the registry at the time of filing. The fee shall be applied to the maintenance of the registry. Any fee authorized by this section may be waived for any person who provides an affidavit of financial inability to pay the fee.

"§ 48-11-109. Adoption of rules for the registry.

The Social Services Commission shall adopt rules for use of and access to the registry in accordance with the requirements of this Article.

"**§ 48-11-110. Department to publicize the registry.**

The Department shall announce and publicize to the general public the existence of the registry and the procedure for the consensual release of identifying information.

"**§ 48-11-111. Department to provide necessary forms and cooperate with registries in other states.**

The Department shall develop and furnish any forms necessary to carry out the provisions of this Article. The Department shall cooperate with registries in other states to facilitate the matching of documents filed pursuant to this Article by individuals in different states.

"**§ 48-11-112. Violation and penalty.**

It is unlawful for a person having custody of or access to documents filed under this Article to disseminate or permit dissemination of information contained in them except as authorized by this Article. Any person who willfully violates the provisions of this section is guilty of a Class I felony."

Section 2. G.S. 48-10-105 reads as rewritten:

"**§ 48-10-105. Unauthorized disclosure of information.**

(a) Except as authorized in G.S. 48-3-205 or in Article 9 or Article 11 of this Chapter, no identifying or nonidentifying information contained in a report or records described therein may be disclosed by present or former employees or officials of the court, an agency, the State, a county, an attorney or other provider of professional services, or any person or entity who wrongfully obtains such a report or records.

(b) ~~A~~ Except as provided in G.S. 48-11-112, a person who knowingly makes an unauthorized disclosure of identifying information is guilty of a Class 1 misdemeanor.

(c) The district court may enjoin from further violations any person who makes an unauthorized disclosure.

(d) Notwithstanding the penalties provided in subsection (b) of this section, an individual who is the subject of any of this information may bring a civil action for equitable or monetary relief or both against any person or entity who makes an unauthorized disclosure of the information."

Section 3. There is appropriated from the General Fund to the Department of Health and Human Services the sum of one hundred sixty-seven thousand dollars ($167,000) for the 1999-2000 fiscal year and the sum of one hundred sixty thousand dollars ($160,000) for the 2000-2001 fiscal year to establish and maintain the registry created in Article 11 of Chapter 48 of the General Statutes as enacted in Section 1 of this act.

Section 4. Section 3 of this act becomes effective July 1, 1999. The remainder of this act becomes effective January 1, 2000. G.S. 48-11-112 as enacted in Section 1 of this act becomes effective January 1, 2000, and applies to offenses committed on or after that date.

HOUSE BILL 286:
Adoption Records and Registry

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Representative Earle
Date:	June 3, 1999	**Summary by:**	Mary Shuping
Version:	PCS for 2nd Edition H286-PCSSC-001		Research Assistant

SUMMARY: ***House Bill 286 establishes a statewide, voluntary, confidential, mutual consent adoption registry in the Department of Health and Human Services (DHHS). Only adult adoptees or adult biological relatives of adoptees will be able to receive identifying information and only if a consent form has been filed by the other person. An appropriation to establish and maintain the registry has been included in the House budget.***

CURRENT LAW: Generally, adoption law prohibits the disclosure of information connected to an adoption. However, nonidentifying information, including the age of the biological parents at the time of an adoptee's birth, the educational level of the biological parents, and all reasonably available nonidentifying information about the health of the minor, the biological parents, and other members of the biological parents' families must be given to the prospective adoptive parents prior to the adoption. In addition, upon reaching the age of 18, the adoptee may obtain this nonidentifying information by making a written request. An adult adoptee may also obtain certain identifying information about his or her biological relatives upon petition of the court. The information must be necessary for the protection of the adoptee or the public, and the court must find that disclosure is in the best interest of the adoptee, after weighing the interests of the adoptee's biological and adoptive family members.

BACKGROUND: In 1997, the Legislative Research Commission authorized the study of an adoption registry. According to the Committee's report, 47 other states have adoption registries. As a result of the Committee's report, bills similar to House Bill 286 were introduced during the 1998 session.

BILL ANALYSIS: House Bill 286 adds Article 11 to Chapter 48 of the General Statutes to establish a statewide, confidential, mutual consent, voluntary adoption registry to be maintained by the Department of Health and Human Services (DHHS) and accessible only to adoptees and biological relatives who have filed consent forms with the Department. Therefore, both the adoptee and his or her biological relative(s) must file consent forms with DHHS before any information is released.

The proposed committee substitute (H286-PCSSC-001) adds an immunity clause for employees acting in accordance with law; removes the appropriation and makes the bill effective only if the necessary funds are appropriated; adds a reporting requirement for DHHS; and makes several technical changes.

Following is an analysis of the bill.

Requirement to establish an adoption registry. *(Page. 2, Lines 10-19)* DHHS is required to establish and maintain an adoption registry that is statewide, confidential, based on mutual consent of the adoptee and his or her biological relatives, and voluntary. The purpose of the registry is to facilitate voluntary contact between adoptees and their biological relatives but only when both parties consent to that contact.

Authorized users of the registry. *(Page 2, Lines 20-25)* Only adoptees aged 18 or older, and their biological relatives are authorized to file a consent form with the adoption registry.

"Biological Relatives" include only the following:

- Biological father. *(Page 1, Line 11 – Page 2, Line 2)*
- Biological mother.
- Biological sibling. *(Page 2, Lines 6-9)*

Information in the registry. *(Page 2, Line 26 – Page 3, Line 25)* Adoptees and biological relatives may consent to or request the disclosure of identifying information by filing a notarized consent form with DHHS.

- To the extent possible, the consent form must contain:
  1. The person's current name, address, and phone number.
  2. Any prior names used by the person.
  3. The original and adopted name of the adoptee.
  4. The place and date of birth, and sex of the adoptee.
  5. The name and address of the agency that placed the adoptee.
  6. The persons to whom any identifying information about the person submitting the consent form may be disclosed.
  7. The relationship of the biological relative to the adoptee.
- Consent may be revoked at any time by submitting a revocation form.
- Consent or revocation forms cannot be accepted until the person presents satisfactory proof of his or her identity.
- No information concerning the adoptee's adoptive parents or siblings may be released.

Disclosure of information contained in the registry. *(Page 3, Line 26 – Page 4, Line 24)*

- When DHHS finds a match between a biological relative and adoptee, both of whom have authorized the disclosure of information to the other, DHHS will notify the agency which arranged the adoption, and that agency will notify the individuals. (If the agency is no longer in existence, DHHS will make the notification.)
- Communications with adoptees and biological relatives are confidential and must be made by a social worker who has expertise in post-adoption services.
- If the person about whom information is requested is deceased, the fact of the person's death must be disclosed *if* there is an unrevoked consent form on file, or if ordered by the court.
- Any employee of DHHS or an agency who releases information or makes an authorized contact in good faith and in compliance with the law is immune from civil and criminal liability.
- Any person who makes unauthorized dissemination of information from the registry is guilty of a Class I felony. *(Page 5, Lines 6-11)*

Recommendation of counseling for adoptees and biological relatives. *(Page 4, Lines 25-28)* DHHS is required to recommend that anyone who submits a consent form obtain professional counseling, voluntarily and at that person's own expense.

Fees. *(Page 4, Lines 29-34)* DHHS is required to collect a fee of $50.00 for filing a consent form. The fee will be applied to the maintenance of the registry and may be waived for any person who provides an affidavit of an inability to pay the fee.

Adoption of rules & DHHS to publicize registry. *(Page 4, Lines 35-42)* The Social Services Commission must adopt rules to implement the use of and access to the registry. DHHS must publicize the existence of and procedures for access to the registry.

Cooperation with other states. *(Page 4, Line 43 – Page 5, Line 5)* DHHS is required to cooperate with other states that operate registries in order to facilitate the matching of individuals.

Sections 2 and 3 of the bill make technical and clarifying changes.

Section 4 requires DHHS to report to the General Assembly prior to the convening of 2001 session on the cost to establish and maintain the registry, the usage of the registry, and the amount of fees collected.

EFFECTIVE DATE: House Bill 286 becomes effective January 1, 2000 only if the funds necessary to establish and maintain the registry are appropriated. The criminal penalty applies to offenses committed on or after that date.

Robin Johnson, Committee Counsel, House Judiciary II Committee, contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

(DRAFT) LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 286

SHORT TITLE: Adoption Records and Registry

SPONSOR(S): Representative Beverly Earle

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES	$19,960	$45,920	$52,800	$60,720	$69,840
EXPENDITURES	$186,720	$205,218	$219,156	$237,044	$275,877
NET FUNDS	$166,760	$159,298	$166,356	$176,324	$206,037
POSITIONS:	3.50	4.0	4.5	5.0	6.0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Health and Human Services, Division of Social Services

EFFECTIVE DATE: January 1, 2000 (Except Section 3 which includes an appropriation and is effective July 1, 1999)

BILL SUMMARY: Amends G.S. 48-11-101 by adding a new Article to establish and maintain a voluntary adoption registry to facilitate voluntary contact between mutually consenting adopted individuals and their biological families.

ASSUMPTIONS AND METHODOLOGY: North Carolina general statutes currently allow the state and other licensed adoption agencies to provide certain non-identifying information to individuals regarding adoptees and their biological families. Since HB 286 would create a new system of adoption data collection and retrieval, the following information is based on other states' experiences and data as well as the North Carolina's best estimate on the resources needed to meet the mandates in the bill:

DEPARTMENT OF HEALTH AND HUMAN SERVICES:

The following assumptions were used to estimate the cost of implementation of HB 286:

(1) 750 estimated adoption inquiries were received during FY97/98;
(2) 33% projected growth in inquiries during FY99/00 due to creation of registry and public awareness campaign;
(3) 998 adoption inquiries are projected for FY99/00 (six months of operation of the adoption registry);
(4) Growth in inquiries will level off in years two through five to 15% each year;
(5) Processing time for one completed registry consent form is estimated at 3.5 hours (pre-1984 adoption data may be labor intensive due to the manner of data storage);
(6) DHHS, Division of Information Resources Management estimates that approximately $8,000 is needed to develop an automated adoption registry tracking system and $5,000 is needed to maintain the system annually;
(7) DHHS estimates that $50,000 is needed for the public awareness campaign mandated in the bill (assumes notification to general public and private adoption agencies; advertisement in various news media, public service announcements and maintenance of a toll free telephone number);
(8) $50.00 fee will generate approximately $19,960 in revenue to offset the cost of operation during the first six months of operation (bill is effective for six months during FY99/00)
(499 x $50/inquiry = $24,950; estimated 20% of users will verify inability to pay $50 fee
($24,950 - 4,990 = $19,960);
(9) 31,952 adoptions were finalized in North Carolina from FY85/86 to FY96/97; and
(10) No federal revenues are available to offset the cost of this proposed service.

The following chart details projected costs and revenues over a five-year period:

Item	Year 1	Year 2	Year 3	Year 4	Year 5
1.0 Social Work Consultant[1]	$33,184	$49,776	$49,776	$49,776	$49,776
1.0 Social Work Consultant	16,592	49,776	49,776	49,776	49,776
1.0 Social Work Consultant	0	0	24,888	49,776	49,776
1.0 Clerk V	0	0	0	0	30,333
1.0 Clerk V[1]	20,222	30,333	30,333	30,333	30,333
1.0 Clerk V[1]	20,222	30,333	30,333	30,333	30,333
Office Supplies	15,000	15,000	22,050	22,050	23,550
Computer	12,000	0	4,000	0	4,000
Office Furniture	9,000	0	3,000	0	3,000
Adoption Registry System	8,000	0	0	0	0
System Maintenance	2,500	5,000	5,000	5,000	5,000
Public Awareness Campaign	50,000	25,000	0	0	0
TOTAL	$186,720	$205,218	$219,156	$237,044	$275,877

Revenue Projections	Year 1	Year 2	Year 3	Year 4	Year 5
User's Fees[2]	24,950	57,400	66,000	75,900	87,300
Less 20% Waived Fees	-4,990	-11,480	-13,200	-15,180	-17,460
Net Revenue/Fees	19,960	45,920	52,800	60,720	69,840

NET APPROPRIATIONS	$166,760	$159,298	$166,356	$176,324	$206,037

NOTE:

[1]Year 1 staff costs are projected for 8 months.

[2]Effective date of HB 286 is 1/1/00; thus Year 1 revenue projections are projected for 6 months.

JUDICIAL DEPARTMENT:

HB 286 amends G.S. 48-11-101 to add a new section which makes it a Class I felony for individuals convicted of possessing or disseminating unauthorized information contained in the Adoption Registry. Due to the small numbers of cases and the limited access to data, no fiscal impact is anticipated.

TECHNICAL CONSIDERATIONS: None.

FISCAL RESEARCH DIVISION
733-4910
PREPARED BY: Karen Hammonds-Blanks, Senior Fiscal Analyst

APPROVED BY: Tom Covington

DATE:

Tuesday, April 20, 1999

House Bill 286
June 9, 1999
Jan Reist

House Bill 286, Adoption Registry, is yet another version of proposed legislation brought to the North Carolina Legislature regularly for close to 20 years by advocates for open adoption records. This group, representing less than 5% of those for whom it claims to speak[1], has regularly prevailed upon various legislators to sponsor these bills. Fortunately such legislation has been consistently defeated by the conscience and good sense of legislators once they have been made aware of the other side, the other 95% - adoptees who are quietly and unquestioningly part of their families, and would have a fundamental right undermined if such legislation were to be enacted, the right for every child to have complete security in his or her family. It would also be a breach of promise to birthparents who were promised their privacy and have moved on to other lives.

House Bill 286 appears to be less aggressive than some of its predecessors and yet it too has the potential for destroying adoption as we know it by giving credibility to another family. The North Carolina Law, in its Chapter on adoption, emphatically emphasizes the totality of adoption. This is stated in the introductory Legislative Intent

"...and to protect the (adoptees) from interference long after they have become properly adjusted in their adoptive home by biological parents..."

to case after case which used language such as:

"complete substitution of families"

"(an adoptee) becomes a complete stranger to the bloodline of his natural parents"

"the right of a natural mother after she has permitted the child's adoption by others is no greater than a stranger to a child,"

and so forth.

It is with this understanding that birth mothers gave up their children for adoption and families made the children their own.

This is the way it needs to be for the emotional security and stability of all involved. A child becomes just as much a part of his new family as any birth child, the birth parents get on with their lives without fearing the adoption will come back to haunt them.

What chance does the institution of adoption in America have when birth mothers are not allowed to "put it behind them", children are told that there is another family somewhere, and adoptive parents are little more than temporary foster care providers. It would seem abortions are the only answer for women with untimely pregnancies, and adopting abroad the only sensible

[1] - The National Council for Adoption, Washington, D.C give the percentage of adoptees wanting to find their birth parent(s) or vice versa as something less than 5%.

answer for couples wanting a child who would truly be their own and free from threats of interference.

A child cannot be totally secure in one family if a second is given credibility. He/she cannot feel complete security if a second is lurking in the background. It may seem harmless if there is a registry where each side, the adoptee and birth parent, must have filed to have access to the other. But as proposed in this bill, there are mechanics for pressure being brought to bear, including unwritten psychological pressure on an adoptee or birth parent who, not wanting to disrupt their lives, still are made to wonder if there is someone out there waiting for them. The media makes such issues very poignant and compelling.

Consider the emotional trip laid on a child seeing a drama of a birth mother dying of cancer vainly checking the registry sources week after week hoping that there will be a match "in time", and a child wondering if he or she should do something. I know our daughter would! I can hear her saying "Mommie, that's so sad – do you think there is someone out there waiting for me? Do you think I should do something?"

In addition to giving credibility to another family, and the psychological baggage that comes with an adoption registry and its attendant advertisements, there are other dangers:

A passive registry has been used by many states as but a stepping stone to more open records, and all indications are that from statement after statement this is the intent of those pushing for this legislation.

It is argued that most states have this legislation, so why not North Carolina? According, again, to the National Council for Adoption states with this legislation are experiencing the problems I mentioned above and are rethinking the whole issue.

Now more than ever with families in chaos and unsettling issues such as abortion, test tube babies and surrogate parents facing us, adoption needs to have its intended absoluteness and shouldn't be undermined. To do so undermines the security and stability of adopted children and their families and makes abortion the only logical solution for an unwanted pregnancy.

PLEASE PRESS HARD - 5 COPIES

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. H286 ~~AGC 002~~ PCSSC-001

H. B. No. _____ DATE _____

S. B. No. _____ Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE PCS

(Rep.) Eddins
Sen.)

moves to amend the bill on page 3, line 36

( ) WHICH CHANGES THE TITLE

by adding the following sentence at the end of that line:

"No identifying information about an adoptee may be disclosed ~~to a biological father or a biological sibling~~ unless the biological mother has also submitted a consent form and the consent form has not been revoked under G.S. 48-11-104(c)."

SIGNED Rep. Eddins

ADOPTED _____ FAILED _____ TABLED _____

I am writing this to you as a birthmother and as an adoptive mother. Thirty four years ago, when I was 18, I gave up my first born for adoption. There were few options in those days for an unwed, teenage girl. I knew I could not care for her or give her all the things a beautiful child deserves and needs. It was the first, but unfortunately not the last, unbearably difficult thing I have had to do. After having to carry this child for nine months, care for her and nurture her while she was in my womb, labor with her, and bring her into this world. I had to lose her. That was devastating. I thought for a while I would die. Then when I thought it could not get any worse I was asked to do even more. I was asked to forget about her, to never talk about her, and never know how she was doing. Was she happy? Did I make the right choice? Was she even alive? I was asked to never know.

You may think that birthmothers want to be left alone. You may think that there was a covenant made at the time of placement that promised that we would never be found. There wasn't. That was just the way things were done. There were no options given to us if we were to choose adoption for our children. We were told we would forget, that we would move on. We did not forget.

I belong to a support/growth group in Greensboro for members of the adoption triad. In the four years that I have been with the group a number of birth mothers have come to us for support. Several birthmothers came to the group while they were still "in the closet", still feeling the shame of placement twenty, thirty years after giving up their children. The change in them, once they find or are found by their birth children, was unbelievable. It was like a weight had been taken off their shoulders; like a veil had been lifted.

I was reunited with my birth daughter four years ago. We have a nice relationship. The reunion has been a great source of healing and growth for both of us. But I know that birthmothers who find, or are found, do not become mothers. We will always be birthmothers. Our sons and daughters have their mothers and their fathers. We lost that role when we lost them. But finding them gives us something else. It gives us answers, it gives us relief, it gives us peace.

The research shows that the majority of birthmothers either want to be found or are agreeable to being found. Our group certainly supports that. Please don't keep this barrier to healing in place. Please open the doors for more birthmothers to find peace.

Delores Mitchell
7504 Endo Trail Rd.
Greensboro, NC 27409

House Bill 286
June 9, 1999

My name is Parker Reist and I live in Chapel Hill. I would like to voice my opposition to House Bill 286, Adoption Registry. This proposed legislation, although seemingly bland and unthreatening, would change the whole concept of adoption as it is now practiced in North Carolina. As stated in the North Carolina Statuates, the process of adoption makes the adoptee and birth parents strangers. And for good reason. Once having decided on adoption, the birthparents need to get on with their lives and the adoptee needs to settle in completely with his or her new family, the family which they are leagally bound to for life. A state mandated adoption registry says to the birthparents and adoptee, "Well, you're not really complete strangers,.and your new family is not really you whole family." How unsettling. Does this make an adoptive parent a fancy foster parent? But the whole concept of adoption is compromised.

At present, any birthparent or adoptee wanting to search out each other can do it on the internet – and, so I'm told, quite easily. And how many people want to make this contact? According to the National Council on Adoption, about 5%. The other 95% are happy with the status quo.

So why should the State of North Carolina lend its name to sanctioning the undermining of adoption for a small, vocal group of 5%? By creating an adoption registry the state is giving tacit approval to the notion that adoption isn't really adoption, at least not the way North Carolina defines it in its laws.

Furthermore, consider the registry process. One person applies and submits his/her name. How does this name get matched with the adoptee or birth parent's name? All the records of the other potential parties must be opened to see if there is a match. Records can't be matched without opening them. And we'll need a bureaucratic structure to do this. But this can be done on the internet, as it is already. So all this legislation does is undermine the adoption process and add bureaucracy. In addition, there is also the very real potential for abuse here.

I hope you will agree that 95% of birthparents and adoptees are satisfied with things as they are, and that this piece of proposed legislation doesn't make sense.

June 8, 1999

Mrs. Jan Reist
205 Glenhill Lane
Chapel Hill, NC 27514

Re: House Bill 286 - Adoption Record, Registry

Dear Mrs. Reist,

I am very much against the subject bill which opens the records of adoptions, and I support your activities to prevent it from becoming law.

The availability of records making it easier to locate biological parents would create an emotional roller coaster for the large majority of both parties.

Personally, if my two adopted children, even though they are now ages 38 and 36, decided to pursue locating and contacting their biological parents I would feel all my efforts were in vain and my role relegated to that of a foster parent.

There is no question in my mind that I would have been reluotant to adopt if there had been any hint that the assurance of confidentiality might be broken in the future.

Incidentally, I firmly believe that the "happy reunions" of adopted children with their biological parents as periodically documented in the media are orchestrated strictly for TV consumption.

Sincerely,

Josephine F. Walker

Josephine F. Walker
3208 Paddington Lane
Winston-Salem, NC 27106

VISITOR REGISTRATION SHEET

June 10 1999 — House Finance

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Amy Hobbs	NCHMA
Jim Hobbs	NCHMA
Jeffrey Schuetzberg	CFB
Lennie Collins	NC DOR
Patti Seawell	
ANAND MAHESHWARI	REGENCY INN, HWY I-95 EXIT 97 & US 70 SELMA NC 27576
HARIN AMIN	DAYS INN I 95 & 70 E. SELMA, NC 27576
AKSHAY DESAI	1705 INDUSTRIAL PARK DR, SELMA, N.C. 27576
Stephen Staniek	NCFPC
John Kunt	NCFPC
Joel Wilson	Sen Lee
PARKER REIST	CHAPEL HILL, NC
Jan Reist	
JoAnn Lam	DHHS/DSS
Frances Pollock	DHHS/DSS
PAT WHEELER	SENATE CO-CHAIR LRC Adoption Registry Comm.
S. Lynne Hamlet	Sen. Lee
Edith Vatt	Children's Home Society PO Box 14608 Greensboro, NC 27415
Louise Greaves	Children's Home Society of NC
Lyman Gregory	1250 Express Church Rd. 6-7, Chapel Hill, NC 27514
Becky Brannon	Royal Inn Selma NC 27576
Marcelle Jackson	AXAR Management 2406 Roberts Ave. Lumberton NC 28358
Hank Daniels	Chairman, Jo Cty Tourism Authority
Donna Barbee-Taylor	JCVB PO Box 1990 Smithfield NC 27577
Shirley MacPherson	Rep. Culbreth-Hen. Rosemary
ALBERT KENSAK	
Joni Hart	Sanford, NC
Jasmine Hart	Sanford, NC
AL DE ITch	DOA/YAID

VISITOR REGISTRATION SHEET

June 10, 1999 — Finance

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Spero Peluso	State Const. Office
Polly Chatham	Alice Wonderland 1104 Anderson St. Selma NC.
Paul Spain	OSBM
Margaret Schwartzberg	Red Road St Antique Shop Selma NC.
Colby Jackson	Town of Selma
Jennifer Mashkins	Town of Selma
Rosemarie Waggoner	1st St. Antiques Selma
JD Gaskins	Town of Selma HB 1672
MC Larson	Town of Selma HB 1672
B Ludlum	Town of Selma HB 672
Joe Moore	Mayor of Selma HB 672
Scott Mouw	NC APPEA / DENR
Markham	EGHS
Jim Blackburn	Assoc. County Commissioners
Marina Davis	Electricities
Linda Smith	Delta Dental Plan, NC.
Allen Sheppard	Town of Selma HB 672
Al Williams	American Music Jubilee - Selma
Tony Davis	American Music Jubilee - Selma
Darrell W. Legab	USADA President
Donna Reid	Country Sampler - Selma
Barbara Sheppard	Triple B Antiques - Selma
George Sheppard	Sheppards Enterprise - Selma
Bruce Radford	Town of Selma
Dr. Pat Heran	CCAM
B Powell	Jordan Price Assoc
C. Porter	Bone & Associates
Donald Clark	Johnson Controls, Inc
Mona Munchbach	Pappas Spruill

VISITOR REGISTRATION SHEET

, 1999

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mike Esposito	NCTBA

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 672
PROPOSED COMMITTEE SUBSTITUTE
H672-PCSRBX-1
DO NOT USE FOR FLOOR AMENDMENTS, LINE NUMBERS MAY CHANGE

Short Title: Various Local Occupancy Taxes. (Local)

Sponsors: Representative Gibson.

Referred to: Finance.

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE VARIOUS COUNTIES AND TOWNS TO LEVY ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAXES.

The General Assembly of North Carolina enacts:

PART I. TOWN OF NORWOOD

Section 1. Occupancy tax. (a) Authorization and scope. The Board of Commissioners of the Town of Norwood may levy a room occupancy tax of up to five percent (5%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 1.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 1.(c) Distribution and use of tax revenue. The town shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Norwood Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Norwood and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 2. Tourism Development Authority. (a) Appointment and membership. When the Norwood Board of Commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The Norwood Board of Commissioners shall designate one member of the Authority as

chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Norwood shall be the ex officio finance officer of the Authority.

Section 2.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 1 of this Part. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

Section 2.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Norwood Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 3. Town administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy, Shelby, and Statesville, to the ~~Town of~~ Towns of Norwood and St. ~~Pauls~~ Pauls, and to the municipalities in Brunswick County."

PART II. ANSON COUNTY

Section 4. Occupancy tax. (a) Authorization and scope. The Anson County Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 4.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

Section 4.(c) Distribution and use of tax revenue. Anson County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Anson Tourism Development Authority.

The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Anson County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.

Section 5. Tourism Development Authority. (a) Appointment and membership. When the board of commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the city and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the city. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Anson County shall be the ex officio finance officer of the Authority.

Section 5.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 4 of this Part. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

Section 5.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 6. County Administrative Provisions. Section 3(b) of S.L. 1997-102, as amended by Section 2 of S.L. 1997-255, Section 2 of S.L. 1997-342, Section 3 of S.L. 1997-364, Section 6 of S.L. 1997-410, and Section 2 of S.L. 1998-14, reads as rewritten:

"(b) This section applies only to Anson, Avery, Brunswick, Davie, Madison, Nash, Person, Randolph, and Scotland Counties."

PART III. TOWN OF WADESBORO

Section 7. Occupancy tax. (a) Authorization and scope. The Board of Commissioners of the Town of Wadesboro may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 7.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 7.(c) Distribution and use of tax revenue. The town shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Wadesboro Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Wadesboro and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 8. Tourism Development Authority. (a) Appointment and membership. When the Wadesboro Board of Commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The Wadesboro Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Wadesboro shall be the ex officio finance officer of the Authority.

Section 8.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 7 of this Part. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

Section 8.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Wadesboro Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 9. Town administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy, Shelby, and Statesville, to the ~~Town of~~ Towns of St. Pauls and Wadesboro, and to the municipalities in Brunswick County."

PART IV. MONTGOMERY COUNTY

Section 10. Occupancy tax. (a) Authorization and scope. The Montgomery County Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 10.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

Section 10.(c) Distribution and use of tax revenue. Montgomery County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Montgomery Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Montgomery County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.

Section 11. Tourism Development Authority. (a) Appointment and membership. When the board of commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the city and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the city. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Montgomery County shall be the ex officio finance officer of the Authority.

Section 11.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes

provided in Section 10 of this Part. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

Section 11.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 12. County Administrative Provisions. Section 3(b) of S.L. 1997-102, as amended by Section 2 of S.L. 1997-255, Section 2 of S.L. 1997-342, Section 3 of S.L. 1997-364, Section 6 of S.L. 1997-410, and Section 2 of S.L. 1998-14, reads as rewritten:

"(b) This section applies only to Avery, Brunswick, Davie, Madison, Montgomery, Nash, Person, Randolph, and Scotland Counties."

PART V. TOWN OF BISCOE

Section 13. Occupancy tax. (a) Authorization and scope. The Board of Commissioners of the Town of Biscoe may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 13.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 13.(c) Distribution and use of tax revenue. The town shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Biscoe Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Biscoe and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred

thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 14. Tourism Development Authority. (a) Appointment and membership. When the Biscoe Board of Commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The Biscoe Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Biscoe shall be the ex officio finance officer of the Authority.

Section 14.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 13 of this Part. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

Section 14.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Biscoe Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 15. Town administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy, Shelby, and Statesville, to the ~~Town of~~ Towns of Biscoe and St. ~~Pauls~~ Pauls, and to the municipalities in Brunswick County."

PART VI. TOWN OF TROY

Section 16. Occupancy tax. (a) Authorization and scope. The Board of Commissioners of the Town of Troy may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 16.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 16.(c) Distribution and use of tax revenue. The town shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Troy Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Troy and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 17. Tourism Development Authority. (a) Appointment and membership. When the Troy Board of Commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The Troy Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Troy shall be the ex officio finance officer of the Authority.

Section 17.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 16 of this Part. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

Section 17.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Troy Board of Commissioners on its receipts and expenditures for the

preceding quarter and for the year in such detail as the board may require.

Section 18. Town administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy, Shelby, and Statesville, to the ~~Town of~~ Towns of St. Pauls and Troy, and to the municipalities in Brunswick County."

PART VII. TOWN OF SELMA

Section 19. Occupancy tax. (a) Authorization and scope. The Town Council of the Town of Selma may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 19.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 19.(c) Distribution and use of tax revenue. The town shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Selma Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Selma and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market

research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 20. Tourism Development Authority. (a) Appointment and membership. When the Selma Town Council adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The Selma Town Council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Selma shall be the ex officio finance officer of the Authority.

Section 20.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 19 of this Part. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

Section 20.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Selma Town Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 21. Town administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy, Shelby, and Statesville, to the ~~Town of~~ Towns of Selma and St. ~~Pauls~~ Pauls, and to the municipalities in Brunswick County."";

PART VIII. CITY OF KINGS MOUNTAIN

Section 22. Occupancy tax. (a) Authorization and scope. The City Council of the City of Kings Mountain may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 22.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 22.(c) Distribution and use of tax revenue. The city shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Kings Mountain Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Kings Mountain and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a city or to attract tourists or business travelers to the city. The term includes tourism-related capital expenditures.

Section 23. Tourism Development Authority. (a) Appointment and membership. When the Kings Mountain City Council adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a city Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the city and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the city. The Kings Mountain City Council shall designate one member of the Authority as chai and shall determine the compensation, if any, to be paid t members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Kings Mountain shall be the ex officio finance officer of the Authority.

Section 23.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 19 of this Part. The Authority shall promote travel, tourism, and conventions in the city, sponsor tourist-related events and activities in the city, and finance tourist-related capital projects in the city.

Section 23.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Kings Mountain City Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the council may require.

Section 24. City administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A 215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies t the Cities of Goldsboro, Kings Mountain, Lumberton, Mount Airy,

Shelby, and Statesville, to the Town of St. Pauls and to the municipalities in Brunswick County."

PART IX. EFFECTIVE DATES

Section 25. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 672
PROPOSED COMMITTEE SUBSTITUTE
H672-PCSRBX-1
DO NOT USE FOR FLOOR AMENDMENTS, LINE NUMBERS MAY CHANGE

Short Title: Various Local Occupancy Taxes. (Local)

Sponsors: Representative Gibson.

Referred to: Finance.

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE VARIOUS COUNTIES AND TOWNS TO LEVY ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAXES.

The General Assembly of North Carolina enacts:

PART I. TOWN OF NORWOOD

Section 1. Occupancy tax. (a) Authorization and scope. The Board of Commissioners of the Town of Norwood may levy a room occupancy tax of up to five percent (5%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 1.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 1.(c) Distribution and use of tax revenue. The town shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Norwood Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Norwood and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 2. Tourism Development Authority. (a) Appointment and membership. When the Norwood Board of Commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The Norwood Board of Commissioners shall designate one member of the Authority as

chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Norwood shall be the ex officio finance officer of the Authority.

Section 2.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 1 of this Part. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

Section 2.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Norwood Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 3. Town administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy, Shelby, and Statesville, to the ~~Town of~~ Towns of Norwood and St. ~~Pauls~~ Pauls, and to the municipalities in Brunswick County."

PART II. ANSON COUNTY

Section 4. Occupancy tax. (a) Authorization and scope. The Anson County Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 4.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

Section 4.(c) Distribution and use of tax revenue. Anson County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Anson Tourism Development Authority.

The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Anson County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.

Section 5. Tourism Development Authority. (a) Appointment and membership. When the board of commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the city and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the city. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

individuals who are affiliated with businesses that collect the tax in the city and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the city. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Anson County shall be the ex officio finance officer of the Authority.

Section 5.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 4 of this Part. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

Section 5.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 6. County Administrative Provisions. Section 3(b) of S.L. 1997-102, as amended by Section 2 of S.L. 1997-255, Section 2 of S.L. 1997-342, Section 3 of S.L. 1997-364, Section 6 of S.L. 1997-410, and Section 2 of S.L. 1998-14, reads as rewritten:

"(b) This section applies only to Anson, Avery, Brunswick, Davie, Madison, Nash, Person, Randolph, and Scotland Counties."

PART III. TOWN OF WADESBORO

Section 7. Occupancy tax. (a) Authorization and scope. The Board of Commissioners of the Town of Wadesboro may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 7.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 7.(c) Distribution and use of tax revenue. The town shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Wadesboro Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Wadesboro and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year

and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 8. Tourism Development Authority. (a) Appointment and membership. When the Wadesboro Board of Commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The Wadesboro Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Wadesboro shall be the ex officio finance officer of the Authority.

Section 8.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 7 of this Part. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

Section 8.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Wadesboro Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 9. Town administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy, Shelby, and Statesville, to the ~~Town of~~ Towns of St. Pauls and Wadesboro, and to the municipalities in Brunswick County."

PART IV. MONTGOMERY COUNTY

Section 10. Occupancy tax. (a) Authorization and scope. The Montgomery County Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 10.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

Section 10.(c) Distribution and use of tax revenue. Montgomery County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Montgomery Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Montgomery County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.

Section 11. Tourism Development Authority. (a) Appointment and membership. When the board of commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the city and at least three-fourths of the members must be individuals who are currently active in the

promotion of travel and tourism in the city. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Montgomery County shall be the ex officio finance officer of the Authority.

Section 11.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 10 of this Part. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

Section 11.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 12. County Administrative Provisions. Section 3(b) of S.L. 1997-102, as amended by Section 2 of S.L. 1997-255, Section 2 of S.L. 1997-342, Section 3 of S.L. 1997-364, Section 6 of S.L. 1997-410, and Section 2 of S.L. 1998-14, reads as rewritten:

"(b) This section applies only to Avery, Brunswick, Davie, Madison, Montgomery, Nash, Person, Randolph, and Scotland Counties."

PART V. TOWN OF BISCOE

Section 13. Occupancy tax. (a) Authorization and scope. The Board of Commissioners of the Town of Biscoe may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 13.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 13.(c) Distribution and use of tax revenue. The town shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Biscoe Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Biscoe and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 14. Tourism Development Authority. (a) Appointment and membership. When the Biscoe Board of Commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The Biscoe Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Biscoe shall be the ex officio finance officer of the Authority.

Section 14.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 13 of this Part. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

Section 14.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Biscoe Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 15. Town administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy, Shelby, and Statesville, to the ~~Town of~~ Towns of Biscoe and St. ~~Pauls~~ Pauls, and to the municipalities in Brunswick County."

PART VI. TOWN OF TROY

Section 16. Occupancy tax. (a) Authorization and scope. The Board of Commissioners of the Town of Troy may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 16.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 16.(c) Distribution and use of tax revenue. The town shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Troy Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Troy and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 17. Tourism Development Authority. (a) Appointment and membership. When the Troy Board of Commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The Troy Board of Commissioners

shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Troy shall be the ex officio finance officer of the Authority.

Section 17.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 16 of this Part. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

Section 17.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Troy Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 18. Town administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy, Shelby, and Statesville, to the ~~Town of~~ Towns of St. Pauls and Troy, and to the municipalities in Brunswick County."

PART VII. EFFECTIVE DATES

Section 19. This act is effective when it becomes law.

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Tuesday, June 15, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 315 - Motor Vehicle Tax Value - Rep. Wilson
HB 723 - Dark Window Inspection Fee - Rep. Insko
HB 782 - Wilkes Fire Districts - Rep. Brown
HB 1433 - Use Tax Payment/Other Changes - Rep. Miller
HB 1473 - Renewable Energy Mfr. Credit - Reps. Hackney and Luebke
HB 1476 - Update I.R.C. Reference - Rep. Miller
SB 56 - Sunset / Term of Energy Savings CTRCT - Sen. Lee

ADJOURNMENT OF MEETING

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS
THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

AFTER SESSION MEETING

Tuesday, June 15, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 286 – Adoption Records and Registry – Rep. Earle

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Tuesday, June 15, 1999

The House Committee on Finance met on Tuesday, June 15, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke; Vice Chairs Jarrell; Representatives Braswell, Bridgeman, Brown, Buchanan, Capps, Church, Cox, Dedmon, Eddins, Edwards, Gibson, Goodwin, Hackney, Hill, McCombs, Pope, Rayfield, Tucker, Womble, and Wright. Staff including Cindy Avrette, Richard Bostic, Mary Shuping, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Allen called the meeting to order to consider the following bills:

Rep. Brown was recognized to explain HB 782, A BILL TO BE ENTITLED AN ACT RELATING TO WILKES COUNTY. Rep. Hill moved to adopt the Proposed Committee Substitute for discussion only. Rep. Hill moved to give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. The motion passed. The Proposed Committee Substitute is included in these minutes.

Rep. Wilson was recognized to explain HB 315, A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT A MOTOR VEHICLE'S PROPERTY TAX VALUE MAY NOT EXCEED ITS TRADE-IN VALUE. Rep. Brown questioned Rep. Wilson. The Chair recognized Mr. Jim Blackburn of the County Commissioner's Association who stated his organization supported the bill. Reps. Jarrell, Braswell, and Eddins questioned Mr. Blackburn. Linda Millsaps explained the fiscal note. Rep. Capps moved for a favorable report. Cindy Avrette and Rep. Wilson answered Rep. Rayfield's question. Rep. Wilson answered a question by Rep. Buchanan. Rep. Capps moved to give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. The motion passed. The Proposed Committee Substitute, the Amendments, Bill Summary, Fiscal Note, and public handouts are included in these minutes.

Rep. Luebke was recognized to explain HB 1473, A BILL TO BE ENTITLED AN ACT TO MODIFY THE INCOME TAX CREDIT FOR MANUFACTURERS OF CERTAIN RENEWABLE ENERGY EQUIPMENT. Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion only. Rep. Luebke moved to give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. The motion passed. The bill, the Proposed Committee Substitute, Bill Summary, and Fiscal Note are included in these minutes.

Rep. Luebke was recognized to explain Rep. Miller's HB 1433, A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR INDIVIDUALS TO PAY THEIR ANNUAL USE TAX WITH THEIR INCOME TAX FORMS, TO PROMOTE ELECTRONIC FILING, AND TO IMPROVE TAX COLLECTION. Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion only. Cindy Avrette explained the bill. The Chair recognized Ms. Sabra Faires of the North Carolina Department of Revenue who answered members' questions. The Chair decided to displace the bill for another day. The Proposed Committee Substitute and Fiscal Note are included in these minutes.

Sen. Lee was recognized to explain SB 56, A BILL TO BE ENTITLED AN ACT TO INCLUDE SERVICES IN THE DEFINITION OF ENERGY CONSERVATION MEASURES, TO EXTEND THE MAXIMUM DURATION OF A GUARANTEED ENERGY SAVINGS CONTRACT, AND TO REPEAL THE SUNSET REGARDING THE AUTHORITY OF A LOCAL GOVERNMENTAL UNIT TO ENTER INTO A GUARANTEED ENERGY SAVINGS CONTRACT FOR A LOCAL PUBLIC FACILITY. Rep. Buchanan moved to give SB 56 a favorable report. The Chair recognized Mr. Marvin Musselwhite of John Controls to answer Rep. Hackney's question. The motion passed. The bill and the Bill Summary are included in these minutes.

Rep. Insko was recognized to explain HB 723, A BILL TO BE ENTITLED AN ACT TO REDUCE THE AFTER-FACTORY WINDOW TINTING INSPECTION FEE FOR PERSONS WITH DOCUMENTED MEDICAL CONDITIONS THAT REQUIRE WINDOW TINTING. Rep. Brown moved for a favorable report. The motion passed. The bill, Bill Summary, and Fiscal Note, are included in these minutes.

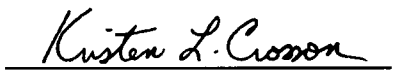
Rep. Luebke was recognized to explain HB 1476, A BILL TO BE ENTITLED AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DEFINING AND DETERMINING CERTAIN STATE TAX PROVISIONS. Cindy Avrette explained the bill. The Chair recognized Ms. Sabra Faires of the North Carolina Department of Revenue who answered Rep. Hackney's questions. The Chair recognized Mr. Tom Dixon of the Criminal Section of the Department of Revenue who answered Rep. Capps' question. Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion purposes only. Rep. Hackney moved to give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. Richard Bostic explained the fiscal note in response to Rep. Eddins' question. Rep. Pope questioned Ms. Faires. The motion passed. Rep. Pope was recorded as voting no. The Proposed Committee Substitute, Bill Summary, and Fiscal Note are included in these minutes.

There will be an AFTER SESSION meeting to discuss HB 286 today.

There being no further business, the Chair adjourned the meeting at 10:00 a.m.

Respectfully submitted:

Representative Gordon Allen
Chair



Kristen L. Crosson
Assistant to the Committee

MINUTES
HOUSE COMMITTEE ON FINANCE

Tuesday, June 15, 1999
AFTER SESSION MEETING

The House Committee on Finance met on Tuesday, June 15, 1999 in Room 544 of the Legislative Office Building AFTER SESSION. The following members were present: Chairs Allen, Luebke, Miller; Vice Chairs Jarrell and Wood; Representatives Braswell, Bridgeman, Brown, Buchanan, Capps, Church, Cox, Decker, Eddins, Edwards, Goodwin, Hackney, Howard, McComas, McCombs, Morris, Rayfield, Starnes, Tucker, Wright. Staff including Cindy Avrette, Richard Bostic, Mary Shuping, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Allen called the meeting to order to consider the following bills:

Rep. Earle was recognized to explain HB 286, A BILL TO BE ENTITLED AN ACT TO AMEND THE ADOPTION LAWS PERTAINING TO ACCESS TO ADOPTION RECORDS AND TO ESTABLISH AN ADOPTION REGISTRY. The Chair recognized Faye Joseph who stated she supported the bill. The Chair recognized Brenda Kinney who stated she opposed the bill. Rep. Eddins sent forward an amendment and moved for its adoption. Rep. Luebke stated that he would like to offer a substitute amendment for Eddins' amendment and sent the Luebke amendment forward. Cindy Avrette explained the adoption registry. The Eddins amendment was adopted. Rep. Luebke sent forward his amendment again. Cindy Avrette explained the amendment. Rep. Decker questioned Cindy Avrette and Rep. Luebke about the amendment. Rep. Starnes questioned Cindy Avrette and Rep. Earle about the amendment. Rep. Starnes and Rep. Rayfield stated they are opposed to the amendment. Rep. Braswell stated he supported the amendment. Rep. Rayfield questioned Cindy Avrette regarding the registry. Rep. Starnes questioned Cindy Avrette regarding estate rights. Rep. Luebke's amendment failed to be adopted with a vote of 12 ayes, 12 nays. Rep. McComas questioned Rep. Miller, Rep. Hackney, and staff regarding egg donations. Rep. Cox sent forward an amendment. Cindy Avrette explained the amendmet. Rep. Earle stated she opposed the amendment. Rep. Starnes stated he supported the amendment. Rep. Howard questioned Cindy regarding registry addresses. Rep. Brown stated he supported the amendment. . Rep. Braswell stated he opposed the amendment. Rep. Howard and Decker commented. Rep. Cox moved for the adoption of his amendment. The amendment was adopted. Rep. Luebke moved to roll the amendments into a new Proposed Committee Substitute, and then give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. Rep. Miller stated he is opposed to the motion. Rep.Capps stated he is opposed to the motion. Rep. Starnes stated he is opposed to the motion. Rep. Earle comments. Rep. Bridgeman stated he supported the motion and bill. Rep. Rayfield requested a roll call vote be taken. 11 ayes, 14 nayes to give the Proposed Committee Substitute a favorable report. The motion failed. Rep. Miller moved to give HB 286 an unfavorable report. The motion passed with a vote of 14 ayes, 11 nayes to give HB 286 an unfavorable report. The bill, amendments, roll call vote sheets, and public handouts are included in these minutes.

There being no further business, the Chair adjourned the meeting at 10:00 a.m.

Respectfully submitted:

Representative Gordon Allen
Chair

Kristen L. Crosson
Assistant to the Committee

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 286 A BILL TO BE ENTITLED AN ACT TO AMEND THE ADOPTION LAWS PERTAINING TO ACCESS TO ADOPTION RECORDS AND TO ESTABLISH AN ADOPTION REGISTRY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☒ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 286

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H286-ARB-6/15

Date June 15 ,1999

Comm. Sub. [YES]
Amends Title []
H286-PCSSC-001

Representative Luebke

moves to amend the bill on page 2, lines 9 and 10, by inserting a new subdivision between those lines to read:

"(4) 'Match' means when an adoptee and a biological relative have both filed consent forms with the registry designating the other as a person to whom identifying information may be disclosed.";

and on page 3, lines 2 and 3, by inserting between the lines a new subdivision to read:

"(8) If submitted by a biological father or a biological sibling, a copy of the biological mother's consent form or a copy of the biological mother's death certificate.";

and on page 3, lines 30 through 33, by rewriting the lines to read; "relative. The Department shall not disclose any identifying information about an adoptee until the Department determines there is a match. No identifying information about an adoptee may be disclosed unless the biological mother has submitted a consent form and the consent form has not been revoked under G.S. 48-11-104(c). If the biological mother is deceased, the identifying information may be disclosed to another biological relative if proof of the biological mother's death is provided in the form a death certificate. No identifying information about an adoptee";

and on page 3, lines 37 through 39, by rewriting the lines to read: " (b) If the Department determines there is a match and that the identifying information may be released, then the Department".

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 286

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H286-ARB-6/15

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 286

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H286-ASC-002.1 Page 1 of __

Date June 15 ,1999

Comm. Sub. [YES]
Amends Title []
H286-PCSSC-001

Representative _____ :

moves to amend the bill on page 3, line 36,
by adding the following sentence at the end of that line:

"No identifying information about an adoptee may be disclosed unless the biological mother has submitted a consent form and the consent form has not been revoked under G.S. 48-11-104(c).".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 286

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H286-ASC-004.2 Page 1 of __

Date June 15 ,1999

Comm. Sub. [YES]
Amends Title []
H286-PCSSC-001

Representative Cox :

moves to amend the bill on page 3, between lines 2 and 3, by inserting the following:

" (8) If submitted by an adoptee, the name and address of one or both of the adoptive parents. Information provided pursuant to this subdivision shall only be used as required by G.S. 48-11-106(b). In no event shall the registry release any information provided pursuant to this subdivision.";

and on page 3, lines 10 through 13, by rewriting the lines to read:

" (d) Except as provided in subdivision (a)(8) of this section, the registry shall obtain only information necessary for identifying registrants. In no event shall the registry obtain or release additional information pertaining to the adoptive parents or information of any kind pertaining to the adoptive siblings of the adoptee.";

and on page 3, line 43, by adding the following sentence after the word "court.":

"The agency must first notify the adoptive parent(s) named on the consent form that a match has been made and that the agency will be disclosing the identifying information to the adoptee.".

SIGNED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 286

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H286-ASC-004.2 Page 2 of __

Amendment Sponsor ~~ASLIE~~ LESLIE COX

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 286

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H286-ASC-004.2

Date June 3, 1999

Comm. Sub. [YES]
Amends Title []
H286-PCSSC-001

Representative Cox :

moves to amend the bill on page 3, between lines 2 and 3,
by inserting the following:

" (8) If submitted by an adoptee, the name and address of one or both of the adoptive parents. Information provided pursuant to this subdivision shall only be used as required by G.S. 48-11-106(b). In no event shall the registry release any information provided pursuant to this subdivision.";

and on page 3, lines 10 through 13,
by rewriting the lines to read:

" (d) Except as provided in subdivision (a)(8) of this section, the registry shall obtain only information necessary for identifying registrants. In no event shall the registry obtain or release additional information pertaining to the adoptive parents or information of any kind pertaining to the adoptive siblings of the adoptee.";

and on page 3, line 43,
by adding the following sentence after the word "court.":

"The agency must first notify the adoptive parent(s) named on the consent form that a match has been made and that the agency will be disclosing the identifying information to the adoptee.".

SIGNED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 286

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H286-ASC-004.2

Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 286
Committee Substitute Favorable 4/19/99

Short Title: Adoption Records and Registry. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE ADOPTION LAWS PERTAINING TO ACCESS TO ADOPTION RECORDS AND TO ESTABLISH AN ADOPTION REGISTRY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 48 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 11.

"Adoption Registry.

"§ 48-11-101. Definitions.

In this Article, the following definitions apply:

(1) `Biological father' means any of the following:

a. A person presumed by law to be the biological father of the adoptee.

b. A person who has established paternity by affidavit under G.S. 130A-101(f) or judicially.

c. A person who has legitimated the adoptee under G.S. 49-10 or under a similar law of another state, or by marriage to the biological mother of the adoptee.

(2) `Biological relative' means the adoptee's biological mother, biological father, or biological sibling.

(3) `Biological sibling' includes a half-sibling related to the adoptee through the biological mother or through the biological father only as defined in subdivision (1) of this section.

"§ 48-11-102. Department to establish and maintain mutual consent, voluntary adoption registry.

The Department shall establish and maintain a statewide, confidential, mutual consent, voluntary adoption registry for receiving, filing, and retaining documents that request, authorize, or deny authorization of the release of identifying information. The purpose of the registry is to facilitate voluntary contact between adoptees and their biological relatives when both the adoptee and the biological relative consent to that contact.

"§ 48-11-103. Authorized users of the registry.

(a) Use of the registry is limited to adoptees and their

biological relatives.

(b) No adoptee or biological relative shall be permitted to file a consent form with the registry until that person has reached the age of 18 years.

"§ 48-11-104. Information to be collected in the registry.

(a) A person eligible to use the registry may consent to the disclosure of identifying information about the person or request the disclosure of identifying information about an adoptee or a biological relative by filing with the Department a consent form that sets forth all of the following information to the extent known by the person submitting the form:

(1) The current name, address, and telephone number of the person submitting the form.

(2) Any prior names used by that person.

(3) The original and adopted name of the adoptee.

(4) The place of birth, date of birth, and sex of the adoptee.

(5) The name and address of the agency that placed the adoptee or prepared the report to the court.

(6) The persons to whom identifying information about the person submitting the consent form may be disclosed.

(7) If submitted by a biological relative, the relationship of that relative to the adoptee.

(b) The person submitting the consent form shall notify the registry of any change in that person's name, address, or telephone number that occurs after the person files the consent form.

(c) Consent may be revoked at any time by a person who submitted the consent form by submitting a revocation form to the registry.

(d) The registry shall obtain only information necessary for identifying registrants. In no event shall the registry obtain or release information of any kind pertaining to the adoptive parents of or adoptive siblings to the adoptee.

"§ 48-11-105. Requirements for forms submitted to the registry.

(a) Each of the following requirements applies to any consent or revocation form filed with the registry:

(1) It shall be notarized.

(2) It is effective as of the time it is filed with the registry.

(3) It may be revoked at any time by the person who submitted it.

(b) No consent or revocation form shall be accepted by the registry until the person submitting it presents satisfactory proof of the person's identity in accordance with rules adopted by the Social Services Commission.

"§ 48-11-106. Disclosure of information contained in the registry.

(a) The Department shall process each consent form filed with the registry in an attempt to match the adoptee with a biological relative. There is a match when an adoptee and a biological relative have both filed consent forms with the registry designating the other as a person to whom identifying information may be disclosed. No identifying information about an adoptee may be disclosed to a biological relative unless that relative has been designated to receive identifying information by the adoptee on the adoptee's consent form.

(b) No identifying information shall be disclosed under

this section until the Department determines there is a match. If the Department determines there is a match, then the Department shall, within one month of the filing of the latter of the corresponding consent forms, send a copy of the corresponding consent forms to the agency that placed the adoptee or prepared the report to the court. The agency shall then notify the persons who submitted the consent forms of the match and disclose to them the identifying information contained in the consent forms.

(c) If the agency that placed the adoptee or prepared the report to the court is no longer in existence at the time the Department determines there is a match, then any notification or disclosure required by this section shall be made by an employee or agent of the Department.

(d) All communications with adoptees and biological relatives required by this section shall be made by a social worker who has expertise in post-adoption services. These communications are confidential.

(e) If the Department has information that the person about whom identifying information is requested is deceased, the fact of the person's death shall be disclosed to the requesting person. No identifying information about the deceased person shall be disclosed, except pursuant to G.S. 48-9-104, unless the registry has on file an unrevoked consent form filed by the deceased person authorizing the disclosure of identifying information to the requesting person.

"§ 48-11-107. Recommendation of counseling.

The Department shall recommend to a person submitting any form to the registry that the person obtain counseling, voluntarily, at that person's own expense, from a licensed counselor.

"§ 48-11-108. Fees for using the registry.

The Department shall charge a fee of fifty dollars ($50.00) for filing a consent form with the registry at the time of filing. The fee shall be applied to the maintenance of the registry. Any fee authorized by this section may be waived for any person who provides an affidavit of financial inability to pay the fee.

"§ 48-11-109. Adoption of rules for the registry.

The Social Services Commission shall adopt rules for use of and access to the registry in accordance with the requirements of this Article.

"§ 48-11-110. Department to publicize the registry.

The Department shall announce and publicize to the general public the existence of the registry and the procedure for the consensual release of identifying information.

"§ 48-11-111. Department to provide necessary forms and cooperate with registries in other states.

The Department shall develop and furnish any forms necessary to carry out the provisions of this Article. The Department shall cooperate with registries in other states to facilitate the matching of documents filed pursuant to this Article by individuals in different states.

"§ 48-11-112. Violation and penalty.

It is unlawful for a person having custody of or access to documents filed under this Article to disseminate or permit dissemination of information contained in them except as authorized by this Article. Any person who willfully violates the provisions of this section is guilty of a Class I felony."

Section 2. G.S. 48-10-105 reads as rewritten:

"§ 48-10-105. Unauthorized disclosure of information.

(a) Except as authorized in G.S. 48-3-205 or in Article 9

or Article 11 of this Chapter, no identifying or nonidentifying information contained in a report or records described therein may be disclosed by present or former employees or officials of the court, an agency, the State, a county, an attorney or other provider of professional services, or any person or entity who wrongfully obtains such a report or records.

(b) ~~A~~ Except as provided in G.S. 48-11-112, a person who knowingly makes an unauthorized disclosure of identifying information is guilty of a Class 1 misdemeanor.

(c) The district court may enjoin from further violations any person who makes an unauthorized disclosure.

(d) Notwithstanding the penalties provided in subsection (b) of this section, an individual who is the subject of any of this information may bring a civil action for equitable or monetary relief or both against any person or entity who makes an unauthorized disclosure of the information."

Section 3. There is appropriated from the General Fund to the Department of Health and Human Services the sum of one hundred sixty-seven thousand dollars ($167,000) for the 1999-2000 fiscal year and the sum of one hundred sixty thousand dollars ($160,000) for the 2000-2001 fiscal year to establish and maintain the registry created in Article 11 of Chapter 48 of the General Statutes as enacted in Section 1 of this act.

Section 4. Section 3 of this act becomes effective July 1, 1999. The remainder of this act becomes effective January 1, 2000. G.S. 48-11-112 as enacted in Section 1 of this act becomes effective January 1, 2000, and applies to offenses committed on or after that date.

In Favor

ROLL CALL VOTE

11 YES 14 NO = _____(TOTAL)

HB# 286
SB# ____

HOUSE STANDING COMMITTEE ON FINANCE to give Fav Rept to CS w/ amendments

House Subcommittee on ~~_____~~

YES	NO	MEMBER (last name)
✓		Earle
	✓	MILLER, GEORGE
✓		LUEBKE, PAUL
✓		ALLEN, GORDON
✓		JARRELL, MARY
	✓	WOOD, STEVE
✓		BRASWELL, JERRY
✓		BRIDGEMAN, JOHN
	✓	BROWN, JOHN
	✓	BUCHANAN, MONROE
	✓	CAPPS, RUSSELL
✓		CHURCH, WALT
✓		COX, LESLIE
	✓	CREECH, BILLY
	✓	DECKER, MIKE
	✓	DEDMON, ANDY
✓		EDDINS, RICK
✓		EDWARDS, ZENO
		FITCH, TOBY
✓		GOBSON, PRYOR
✓		GOODWIN, WAYNE
	✓	GRAY, LYONS
	✓	HACKNEY, JOE
	✓	HILL, DEWEY
	✓	HOWARD, JULIA

YES	NO	MEMBER (last name)
		~~McALLISTER, MARY~~ removed
	✓	McCOMAS, DANNY
	✓	McCOMBS, GENE
	✓	MINER, DAVID
	✓	MORRIS, MIA
		MOSLEY, JANE
		~~NEELY, CHUCK~~ Pope, Art
		~~RAMSEY, LISTON~~ excused
	✓	RAYFIELD, JOHN
	✓	STARNES, EDGAR
		TALLENT, TIM
✓		TUCKER, RUSSELL
		WILSON, CONNIE
		WOMBLE, LARRY
✓		WRIGHT, TOM

Ex officio Members

CUNNINGHAM
Majority Leader BADDOUR
Majority Whip EARLE

Not in Favor

ROLL CALL VOTE

14 YES 11 NO = _____(TOTAL)

HB# 286
SB# ____

HOUSE STANDING COMMITTEE ON FINANCE to give Unfav Rept

House Subcommittee on ~~_____~~

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
✓		MILLER, GEORGE			~~McALLISTER, MARY~~ removed
	✓	LUEBKE, PAUL	✓		McCOMAS, DANNY
	✓	ALLEN, GORDON	✓		McCOMBS, GENE
	✓	JARRELL, MARY			MINER, DAVID
✓		WOOD, STEVE	✓		MORRIS, MIA
	✓	BRASWELL, JERRY			MOSLEY, JANE
	✓	BRIDGEMAN, JOHN			~~NEELY, CHUCK~~ Pope, Art
✓		BROWN, JOHN			~~RAMSEY, LISTON~~ excused
✓		BUCHANAN, MONROE	✓		RAYFIELD, JOHN
✓		CAPPS, RUSSELL	✓		STARNES, EDGAR
		CHURCH, WALT			TALLENT, TIM
	✓	COX, LESLIE		✓	TUCKER, RUSSELL
		CREECH, BILLY			WILSON, CONNIE
✓		DECKER, MIKE			WOMBLE, LARRY
		DEDMON, ANDY		✓	WRIGHT, TOM
✓		EDDINS, RICK			
	✓	EDWARDS, ZENO			
		FITCH, TOBY			
		GOBSON, PRYOR			
	✓	GOODWIN, WAYNE			
✓		GRAY, LYONS	Ex officio Members		
✓		HACKNEY, JOE			CUNNINGHAM
✓		HILL, DEWEY			Majority Leader BADDOUR
✓		HOWARD, JULIA			Majority Whip EARLE

ROLL CALL VOTE

12 YES 12 NO = 24 (TOTAL)

HB# 286
SB# ____

HOUSE STANDING COMMITTEE ON
FINANCE

House Subcommittee on Finance [redacted]

Fails

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
	✓				
___	___	MILLER, GEORGE	___	___	~~McALLISTER, MARY~~ removed
✓	___	LUEBKE, PAUL	___	✓	McCOMAS, DANNY
✓	___	ALLEN, GORDON	___	✓	McCOMBS, GENE
✓	___	JARRELL, MARY	___	___	MINER, DAVID
___	___	WOOD, STEVE	___	___	MORRIS, MIA
✓	___	BRASWELL, JERRY	___	___	MOSLEY, JANE
✓	___	BRIDGEMAN, JOHN	___	___	~~NEELY, CHUCK~~ Pope, Art
___	✓	BROWN, JOHN	___	___	~~RAMSEY, LISTON~~ excused
___	✓	BUCHANAN, MONROE	___	✓	RAYFIELD, JOHN
___	✓	CAPPS, RUSSELL	___	✓	STARNES, EDGAR
✓	___	CHURCH, WALT	___	___	TALLENT, TIM
___	✓	COX, LESLIE	✓	___	TUCKER, RUSSELL
___	___	CREECH, BILLY	___	___	WILSON, CONNIE
___	✓	DECKER, MIKE	___	___	WOMBLE, LARRY
___	___	DEDMON, ANDY	✓	___	WRIGHT, TOM
___	✓	EDDINS, RICK	___	___	
✓	___	EDWARDS, ZENO	___	___	
___	___	FITCH, TOBY	___	___	
___	___	GOBSON, PRYOR	___	___	
✓	___	GOODWIN, WAYNE	___	___	
___	___	GRAY, LYONS	Ex officio Members		
✓	___	HACKNEY, JOE	___	___	CUNNINGHAM
___	___	HILL, DEWEY	___	___	Majority Leader BADDOUR
___	✓	HOWARD, JULIA	___	___	Majority Whip EARLE

aye - Earle (sponsor)

Jan Reist (Public)

QUESTIONS MOST FREQENTLY ASKED ABOUT ADOPTION REGISTRY LEGISLATION

What is the major objection to adoption registry legislation?

It contradicts the existing North Carolina adoption laws, which emphatically emphasize the totality of adoption. This is stated in the introductory Legislative Intent:

"...and to protect them (adoptees) from interference long after they have become properly adjusted in their adoptive home by biological parents...,"

in case after case which use language such as:

"...complete substitution of families"

"...(an adoptee) becomes a complete stranger to the bloodline of his natural parents"

"The right of a natural mother after she has permitted the child's adoption by others is no greater than a stranger to a child,"

A child cannot feel completely secure in one family if legislation and the attendant publicity say there is another one "waiting in the wings". A birth mother cannot put it behind her for the same reason. Adoptive parents are faced with uncertainties, and in a sense become glorified foster parents. A parent needs to be able to say unequivocally, "You are ours just as much as any child could be and the State of North Carolina says so. Period!"

How can it hurt a child when it doesn't apply until the child is grown?

It harms the integrity of adoption long before the child is grown. And if the child, through comments, the media, and the general climate is reminded there is another family out there that someday may want to make contact, quite a different climate is created than if he/she is told unequivocally, "This is your family just as much as any birth child."

When the child is grown and doesn't want contact, there is psychological pressure wondering if there is someone who has registered and is "waiting" - media stories can make this tragically compelling.

Isn't a child told he/she is adopted?

Of course, without making an issue of it, just as with a birth child, he/she is told of his/her adoption, how it came about and all the joyous events surrounding it.

How many of those (adoptees, birth mothers) directly involved actually "want to know"?

The National Council for Adoption in Washington, DC who monitor this figure periodically based on reports from states with various open records legislation, say that at most it is 5% of all adoptees and birth mothers, and in some cases it is substantially less. That is to say, more than 95% of all adoptees and birth mothers want complete confidentiality.

Why don't we hear more from the other 95%?

For the very reason they aren't interested or are against it. As a happy, secure member of their family they don't feel they have to defend their position. They are not looking over their shoulders, they may not even know about such pending legislation, or don't want to be involved and make themselves different.

But what about the need for medical records?

There already is a provision for a court order for these if they are necessary. And, unfortunately, medical records for the father are usually not available.

Why are some of the adoption agencies backing this legislation when formerly they were against it?

The director of one such agency put it this way:

"Those pushing for such legislation are becoming so aggressive we feel we have to give them something…and we have to have something to protect ourselves with if information does get out."

Why is it felt necessary to have social workers accountable and open for prosecution if confidentially is violated?

Because of the many possibilities for indiscretions and abuse.

How is an adoption registry implemented - where do the funds come from?

This varies and is not altogether clear. There is generally a fee charged people who register their names and can afford it, but this fee will not cover all costs of such a registry and advertising, so additional money must be supplied by the state for operation of the registry. It is estimated that this cost could run from $100,000 to $200,000 per year or more.

At present are there ways for those "wanting to know" to find their birth relations?

Yes. There are search groups, private detectives, and most recently, a number of active Internet search methods available.

What are the findings of the states that already have legislation?

Rather than being a solution to a problem, such legislation has created many more problems. It has been used as the "foot in the door" by search groups who each year have aggressively pushed for more access legislation, registries have been mismanaged in many cases, and it appears that adoptions are down and abortions up.

Compiled by Jan Reist
June 15, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 315 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT A MOTOR VEHICLE'S PROPERTY TAX VALUE MAY NOT EXCEED ITS TRADE-IN VALUE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(# _____)~~, ☒ which changes the title, unfavorable as to ~~(~~original bill~~)~~ ~~(Committee Substitute Bill # _____)~~, ~~(and recommendation that the committee substitute bill # _____ be re-referred to the Committee on _____.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 315
Proposed Committee Substitute H315-CSLC-5/25
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Motor Vehicle Tax Value. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A MOTOR VEHICLE'S PROPERTY TAX VALUE IS DETERMINED AS OF JANUARY 1 PRECEDING THE DUE DATE OF THE TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-330.2 reads as rewritten:

"**§ 105-330.2. Appraisal, ownership, and situs.**

(a) Date Determined. -- The value of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) (registered vehicles) shall be determined as of January 1 of the year the taxes are due. If ~~follows:~~

~~(1) For a vehicle registered under the staggered system, the value shall be determined annually as of January 1 preceding the date a new registration is applied for or the current registration expires.~~

~~(2) For a vehicle newly registered under the annual system, the value shall be determined as of January 1 of the year the new registration is obtained. For a vehicle whose registration is renewed under the annual system, the value shall be determined as of January 1 following the date the registration expires.~~

~~If~~ the value of a new motor vehicle cannot be determined as of ~~the date specified above,~~ that date, the value of that vehicle shall be determined for that year as of the date that model vehicle is first offered for sale at retail in this State.

The ownership, situs, and taxability of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) (registered vehicles) shall be determined annually as of the day on which a new registration is applied for or the day on which the current vehicle registration is renewed, regardless of whether the registration is renewed after it has expired.

The value of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(2) (unregistered vehicles) shall be determined as of January 1 of the year in which the motor vehicle is required to be listed pursuant to G.S. 105-330.3(a)(2). The ownership, situs, and taxability of a classified motor vehicle listed or discovered pursuant to G.S. 105-330.3(a)(2) (unregistered vehicles) shall be determined as of January 1 of the year in which the motor vehicle is required to be listed.

(b) Value; Appeal. -- A classified motor vehicle shall be appraised by the assessor at its true value in money as prescribed by G.S. 105-283. The owner of a classified motor vehicle may appeal the appraised value of the vehicle in the manner provided by G.S. 105-312(d) for appeals in the case of discovered property and may appeal the situs or taxability of the vehicle in the manner provided by G.S. 105-381. The owner of a classified motor vehicle must file an appeal of appraised value with the assessor within 30 days after the date of the tax notice prepared pursuant to G.S. 105-330.5. Notwithstanding G.S. 105-312(d), an owner who appeals the appraised value of a classified motor vehicle shall pay the tax on the vehicle when due, subject to a full or partial refund if the appeal is decided in the owner's favor.

(c) Administration. -- The Department of Revenue, acting through the Property Tax Division, and the Department of Transportation, acting through the Division of Motor Vehicles, shall enter into a memorandum of understanding concerning the vehicle identification information, name and address of the owner, and other information that will be required on the motor vehicle registration forms to implement the tax listing and collection provisions of this Article."

Section 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2000.

HOUSE BILL 315:
Motor Vehicle Tax Value

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Connie Wilson
Date:	June 15, 1999	**Summary by:**	Cindy Avrette
Version:	PCS for 1st Edition H315-CSLC-5/25		Committee Counsel

SUMMARY: The proposed committee substitute for House Bill 315 provides that the value of a classified motor vehicle for property tax purposes would be determined as of January 1 preceding the due date of the tax. The bill is effective for taxes imposed for taxable years beginning on or after July 1, 2000. House Bill 315 was referred to a subcommittee in April. Representatives Braswell, McComas, and Wilson discussed the proposed committee substitute and recommend its adoption by the full committee.

CURRENT LAW: The General Assembly classified motor vehicles registered with the Division of Motor Vehicles as a special class of property in 1991. Classified vehicles are taxed on a revolving, year-round schedule. Every month, DMV provides each county a list of the motor vehicles in the county for which registration was renewed or obtained two months earlier. The county lists and appraises the vehicles and send the vehicle owners a bill for the county, city, and special district taxes due. If the owner does not pay the taxes due on a classified, registered vehicle, DMV will refuse to renew the vehicle registration the following year unless the owner obtains a receipt showing that the taxes have been paid.

For classified motor vehicles, the ownership, situs, and taxability of the vehicle is determined annually as of the day on which a new registration is applied for or the day on which the current vehicle registration is renewed. However, the value of the vehicle is determined annually as of Janaury 1 preceding the date the new registration is applied for or the current registration expires. Therefore, property tax bills that a taxpayer receives in January through April of each year are based on the value of the vehicle as of the preceding Janaury.

The value of a vehicle, like all other tangible personal property, is based upon it true value in money as prescribed by G.S. 105-283. The words "true value in money" mean the price at which the property would change hands between a willing and financially able buyer and a willing seller. To determine "true value", counties use a pricing guide. Most counties use a pricing guide developed by Tax Equity Consultants. The pricing guides used by counties reflect the average retail prices paid for motor vehicles. In determining retail prices, all costs that are necessary to acquire and operate a motor vehicle are considered. A taxpayer who disagrees with the appraised value of a vehicle has 30 days after the date the tax notice was prepared to appeal the value. Counties will adjust an appraised value for reasons such as the vehicle's condition or excessive mileage.

BILL ANALYSIS: The proposed committee substitute for HB 315 provides that a classified motor vehicle's property tax value would be determined on January 1 of the year the taxes are due.

BACKGROUND: The General Assembly enacted the classification to improve the collection rate for property taxes on motor vehicles. Millions of dollars in property tax revenue was being lost each year because of noncompliance with the requirement to list motor vehicles for property taxes. By tying the listing of most motor vehicles to the registration of the vehicles, the 1991 act eliminated most of the opportunity for noncompliance.

H315-SMRB-001

FISCAL ANALYSIS MEMORANDUM

DATE: June 15, 1999

TO: House Finance

FROM: Linda Struyk Millsaps
Fiscal Research Division

RE: HB 315 – Committee Substitute

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

(Millions)

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
General Fund			* No General Fund Impact *		
Local Governments	($25.8)	($27.6)	($29.5)	($31.6)	($33.8)

PRINCIPAL DEPARTMENT (S) & PROGRAM (S) AFFECTED: County and City Governments.

EFFECTIVE DATE: Unknown.

BILL SUMMARY: Currently all vehicles are valued at their assessed value as of the January proceeding registration. This changes the date to reflect them value on the most recent January.

ASSUMPTIONS AND METHODOLOGY: Under the current system, vehicles can now be valued for property tax purposes on the January proceeding registration. This means that the property tax assessment can reflect values as old as 16 months. The bill effectively changes the valuation date for the last four months of the year to reflect the most recent January.

The total statewide value of all vehicles, as reported to the Department of Revenue, for fiscal years 1995-96 through 1998-99 is as follows:

	1995-96	1996-97	1997-98	1998-99*
Vehicle Value	33,430,604,088	37,563,953,946	45,081,633,555	45,456,523,592

** Indicates this is preliminary data, with only 95 of 100 counties reporting.*

While growth in this sector has been very strong, it is expected to level off in the next few years. As such, this note assumes a 7% growth rate.

The 1997-98 weighted average property tax rate for all governmental jurisdictions in the state (cities and counties) was $0.968 per $100.00 of assessed value. The rate has varied from in the past ten years from a low of $0.938 per $100.00 (1988-89) to a high of $0.994 per $100.00 (1993-94 and 1994-95). Because of increasing pressures to build schools and provide other services, this note assumes a rate of $1.00 per $100.00 of assessed value for the five year period of the note.

Assuming 7% annual growth in the motor vehicle tax base, and a flat weighted average tax rate of $1.00 per $100.00 of assessed value, the expected property tax revenue from motor vehicles is as follows:

	1999-00	**2000-01**	**2001-02**	**2002-03**	**2003-04**
Vehicle Value	$51,613,962,257	$55,226,939,615	$59,092,825,388	$63,229,323,165	$67,655,375,787
Property Tax	$516,139,623	$552,269,396	$590,928,254	$632,293,232	$676,553,758

A statewide survey of county assessors indicates that most responding assessors expect to loose between 5% and 6% of the motor vehicle property tax base as a result of this proposal.

	1999-00	2000-01	2001-02	2002-03	2003-04
Change	($25,806,981.15)	($27,613,469.80)	($29,546,412.70)	($31,614,661.60)	($33,827,687.90)

TECHNICAL CONSIDERATIONS:

(4)

Registered Motor Vehicle Billing Process

Fiscal Year 1998-99

Valuation date	Registration Due		Taxes Due
January 1, 1998	March	1998	July 1, 1998
January 1, 1998	April	1998	August 1, 1998
January 1, 1998	May	1998	September 1, 1998
January 1, 1998	June	1998	October 1, 1998
January 1, 1998	July	1998	November 1, 1998
January 1, 1998	August	1998	December 1, 1998
January 1, 1998	September	1998	**January 1, 1999**
January 1, 1998	October	1998	**February 1, 1999**
January 1, 1998	November	1998	**March 1, 1999**
January 1, 1998	December	1998	**April 1, 1999**
January 1, 1999	January	1999	**May 1, 1999**
January 1, 1999	February	1999	**June 1, 1999**

Reduction 10% of Sept ⇒ Dec.

Value as of Jan 1, in the year in which the bill becomes due

Rep. Connie Wilson

From: Rep. Connie Wilson
Sent: Wednesday, June 02, 1999 8:24 AM
To: Rep. Paul Luebke
Subject: HB 315 Moto Vehicle Tax Value Subcommittee Request

I have reached a compromise with the County Commission Association and would like a subcommittee to be appointed or to bring it directly back to committee since there is no oppposition to the bill.

If a subcommittee were appointed I would appreciate it is the members were:

1. Dewey Hill
2. Mike Decker
3. Jerry Braswell
4. Connie Wilson

Thank you for your assistance.

Connie

North Carolina General Assembly
Legislative Services Office

George R. Hall, Legislative Services Officer
(919) 733-7044

e W. Robinson, Director
ministrative Division
Room 5, Legislative Building
16 W. Jones Street
Raleigh, NC 27603-5925
(919) 733-7500

Gerry F. Cohen, Director
Bill Drafting Division
Suite 401, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6660

Thomas L. Covington, Director
Fiscal Research Division
Suite 619, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-4910

Donald W. Fulford, Director
Information Systems Division
Suite 400, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6834

Terrence D. Sullivan, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

Memorandum

Date: June 1, 1999

To: Rep. Connie Wilson

From: Martha H. Harris, Staff Attorney, Bill Drafting Division

Fax: (919) 715-5459; Marthah@ms.ncga.state.nc.us

Subject: Vehicle Value Date is January 1 before Taxes Due

As you requested, I drafted this proposed committee substitute to provide that the property tax value for registered vehicles is determined as of January 1 before the taxes become due. The taxes become due about four months after the vehicle registration is obtained or renewed and about two months after the tax bill is sent. The Department of Revenue developed this proposal. They consulted with assessors in various counties and determined that it is workable as long as the effective date is delayed to give counties time to reprogram, after they finish their Y2K reprogramming. The July 1, 1999, effective date will accomplish this.

Please let me know if you have any questions or suggestions for changes.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

DRAFTING

DRAFT
FOR REVIEW ONLY

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 315
Proposed Committee Substitute H315-CSLC-5/25
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Motor Vehicle Tax Value. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A MOTOR VEHICLE'S PROPERTY TAX VALUE IS DETERMINED AS OF JANUARY 1 PRECEDING THE DUE DATE OF THE TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-330.2 reads as rewritten:

"**§ 105-330.2. Appraisal, ownership, and situs.**

(a) Date Determined. -- The value of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) (registered vehicles) shall be determined as of January 1 of the year the taxes are due. If ~~follows:~~

~~(1) For a vehicle registered under the staggered system, the value shall be determined annually as of January 1 preceding the date a new registration is applied for or the current registration expires.~~

~~(2) For a vehicle newly registered under the annual system, the value shall be determined as of January 1 of the year the new registration is obtained. For a vehicle whose registration is renewed under the annual system, the value shall be determined as of January 1 following the date the registration expires.~~

~~If~~ the value of a new motor vehicle cannot be determined as of ~~the date specified above,~~ that date, the value of that vehicle shall be determined for that year as of the date that model vehicle is first offered for sale at retail in this State.

The ownership, situs, and taxability of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) (registered vehicles) shall be determined annually as of the day on which a new registration is applied for or the day on which the current vehicle registration is renewed, regardless of whether the registration is renewed after it has expired.

The value of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(2) (unregistered vehicles) shall be determined as of January 1 of the year in which the motor vehicle is required to be listed pursuant to G.S. 105-330.3(a)(2). The ownership, situs, and taxability of a classified motor vehicle listed or discovered pursuant to G.S. 105-330.3(a)(2) (unregistered vehicles) shall be determined as of January 1 of the year in which the motor vehicle is required to be listed.

(b) Value; Appeal. -- A classified motor vehicle shall be appraised by the assessor at its true value in money as prescribed by G.S. 105-283. The owner of a classified motor vehicle may appeal the appraised value of the vehicle in the manner provided by G.S. 105-312(d) for appeals in the case of discovered property and may appeal the situs or taxability of the vehicle in the manner provided by G.S. 105-381. The owner of a classified motor vehicle must file an appeal of appraised value with the assessor within 30 days after the date of the tax notice prepared pursuant to G.S. 105-330.5. Notwithstanding G.S. 105-312(d), an owner who appeals the appraised value of a classified motor vehicle shall pay the tax on the vehicle when due, subject to a full or partial refund if the appeal is decided in the owner's favor.

(c) Administration. -- The Department of Revenue, acting through the Property Tax Division, and the Department of Transportation, acting through the Division of Motor Vehicles, shall enter into a memorandum of understanding concerning the vehicle identification information, name and address of the owner, and other information that will be required on the motor vehicle registration forms to implement the tax listing and collection provisions of this Article."

Section 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2000.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 723 A BILL TO BE ENTITLED AN ACT TO REDUCE THE AFTER-FACTORY WINDOW TINTING INSPECTION FEE FOR PERSONS WITH DOCUMENTED MEDICAL CONDITIONS THAT REQUIRE WINDOW TINTING.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 723
Committee Substitute Favorable 4/22/99

Short Title: Dark Window Inspection Fee. (Public)

Sponsors:

Referred to:

March 30, 1999

A BILL TO BE ENTITLED

AN ACT TO REDUCE THE AFTER-FACTORY WINDOW TINTING INSPECTION FEE FOR PERSONS WITH DOCUMENTED MEDICAL CONDITIONS THAT REQUIRE WINDOW TINTING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-183.7(a) reads as rewritten:

"(a) Fee Amount. -- When a fee applies to an inspection of a vehicle or the issuance of an inspection sticker, the fee must be collected. The following fees apply to an inspection of a vehicle and the issuance of an inspection sticker:

Type	Inspection	Sticker
Safety Only, Without After-Factory Tinted Window	$ 8.25	$ 1.00
Safety Only, With After-Factory Tinted Window	18.25	1.00
Emissions and Safety Without After-Factory Tinted Window	17.00	2.40
Emissions and Safety With After-Factory Tinted Window	27.00	2.40.

The fee for performing an inspection of a vehicle applies when an inspection is performed, regardless of whether the vehicle passes the inspection. The fee for an inspection sticker applies when an inspection sticker is put on a vehicle. The fee for performing an inspection of a vehicle with a tinted window applies only to an

inspection performed with a light meter after a safety inspection mechanic determined that the window had after-factory tint.

A vehicle that is inspected at an inspection station and fails the inspection is entitled to be reinspected at the same station at any time within 30 days of the failed inspection without paying another inspection fee.

The fee for after-factory tinting inspection shall be reduced by five dollars ($5.00) for any vehicle owner with a documented medical condition that requires after-factory tinted windows."

Section 2. This act is effective when it becomes law.

HOUSE BILL 723:
Dark Window Inspection Fee

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Insko
Date:	June 15, 1999	**Summary by:**	Cindy Avrette
Version:	2nd Edition		Committee Counsel

SUMMARY: ***House Bill 723 would reduce the after-factory window tinting inspection fee for a motor vehicle by $5.00 if the vehicle owner has a documented medical condition that requires tinted windows. The bill does not allow a person to have a greater degree of tinted window than the law currently allows. The bill becomes effective when it becomes law.***

CURRENT LAW: The windshield of a vehicle operated in this State may be tinted only along the top of the windshield and the tinting may not extend more than five inches below the top of the windshield. There is no exception to this requirement. The windows of a vehicle operated in this State must have a total light transmission of at least 35% and a light reflectance of 20% or less.

The statute allows several exceptions to these window-tinting restrictions. The exceptions include limousines, motor homes, multipurpose vehicles, minivans, and pickup trucks. There is not a medical exception exemption and this bill does not create one. A person who drives a vehicle on a highway that has a window that does not meet these window-tinting restrictions is guilty of a Class 2 misdemeanor.

Vehicles must have an annual safety inspection, and in the counties where it is applicable, an emissions inspection. If a safety inspection mechanic determines that a window has after-factory tint, the inspection must include an inspection of the window tinting with a light meter. The fee for an inspection of the tinted windows is an additional $10.

BILL ANALYSIS: House Bill 723 provides that the $10 additional fee imposed to inspect after-factory tinted windows with a light meter would be reduced to $5 if the vehicle owner has a documented medical condition that requires tinted windows. The most common medical condition for which a medical exemption permit would probably be sought is systemic lupus erythematosus. Lupus is a chronic, autoimmune disease that causes inflammation of the joints, skin, blood, kidneys, and other organ systems. Forty to sixty percent of the systemic lupus patients are photosensitive.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 723 (Second Edition)

SHORT TITLE: Dark Window Inspection Fee

SPONSOR(S): Representative Insko

FISCAL IMPACT

Yes ( ) **No (X)** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Highway Fund	No Fiscal Impact				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation – Division of Motor Vehicles (DMV)

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: The bill reduces the after-factory window tinting inspection fee by $5 for persons with documented medical conditions that require window tinting.

ASSUMPTIONS AND METHODOLOGY: This bill has no state impact because the inspection fee is paid to the station inspecting the vehicle. DMV does not track the numbers of inspections of after-factory tinted windows. It does keep track of how many fail each year. If the inspection stations need to reprogram their software due to this special deduction, they pay for the change.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY:

DATE:

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 782 A BILL TO BE ENTITLED AN ACT RELATING TO WILKES COUNTY

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#)~~, ☒ which changes the title, unfavorable as to ~~(~~original bill~~)~~ ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 782
Proposed Committee Substitute H782-PCSX4266-LB

Short Title: Wilkes Fire Districts. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO RESOLVE AN APPARENT OVERLAP IN FIRE DISTRICT BOUNDARIES IN WILKES COUNTY, AND TO VALIDATE PAST LEVY AND COLLECTION OF TAXES FOR THOSE DISTRICTS.

Whereas, Wilkes County has previously identified an overlap between the Ronda and Roaring River Fire Tax Districts in the area from the intersection of Poplar Springs Road and North Ridge Road south to Old U.S. Highway 421, that area being in Edwards and New Castle Township in Wilkes County; and

Whereas, a question exists as to the procedure which was used in approving extensions to the Ronda and Roaring River Fire Tax Districts in 1985, and accordingly a question exists as to which of these Fire Tax Districts the overlap properly belongs; and

Whereas, the Boards of Directors of the Ronda and Roaring River Volunteer Fire Departments wish to resolve the question of this overlap and have mutually agreed to a new boundary line which will represent the line between the Fire Tax Districts in the above described area; and

Whereas, the Presidents of both Volunteer Fire Departments, acting with the knowledge and authority of their respective Boards of Directors, have met with the County Attorney and the County Fire Marshal to discuss the agreement for the new boundary line and the best method of lawfully implementing the same, and all parties have agreed that the best method would be to request a local act in the General Assembly for the purpose of establishing the newly agreed boundary line between the Fire Tax Districts by law; and

Whereas, the parties have further agreed to request that the local act provide that, subject to the new boundary line as herein agreed, the 1985 extensions of the Ronda and Roaring River Fire Tax Districts are deemed valid and lawful; and

Whereas, the parties have further agreed to request that the local act also provide that all collections of fire tax revenues by the County since 1985 in the areas subject to the extensions are deemed valid and lawful, without regard to which Fire Tax District (and corresponding fire tax rate) the revenues were collected from, and without regard to which Volunteer Fire Department the revenues were allocated to; and

Whereas, the parties to this Resolution have approved and signed the same for the purpose of signifying their unanimous consent in this matter and requesting that a local act be introduced for the purposes as set forth herein; and

Whereas, the Board of Commissioners of Wilkes County has agreed to this by resolution; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1.(a) The newly agreed boundary line for the Roaring River Fire Tax District in Wilkes County in the area from the intersection of Poplar Springs Road and North Ridge Road south to Old U.S. Highway 421 shall be as follows:

BEGINNING at the intersection of S.R. 1924 (Poplar Springs Road) and S.R. 2015 (North Ridge Road), thence in a southeasterly direction with S.R. 2015 to the intersection of S.R. 2015 and N.C. Highway 268, including all property with primary access from S.R. 2015 between this and the preceding point; thence in a southerly direction in a straight line to a point on S.R. 2321 (Old 60) .2 miles west of Gray's Creek Bridge; thence in a southerly direction in a straight line to the intersection of S.R. 2318 (Mathis Mill Road), S.R. 2319 (South Plum Ridge Road), and S.R. 2320 (North Plum Ridge Road); thence in a southerly direction with S.R. 2319 to the intersection of S.R. 2319 and U.S. Highway 421, including all property adjacent to or accessed from S.R. 2319 between this and the preceding point; thence in an easterly direction following the centerline of U.S. Highway 421 to the intersection of U.S. 421 and S.R. 2346 (Old U.S. Highway 421); thence in a westerly direction with S.R. 2346 to a point 1.1 miles west of that intersection, including all property on both sides of S.R. 2346 adjacent to or accessed from S.R. 2346. The foregoing description for that boundary line shall not be affected or altered in any way by the widening, relocation, or four-laning of U.S. Highway 421.

Section 1.(b) The newly agreed boundary line for the Ronda Fire Tax District in Wilkes County in the area from the intersection of Poplar Springs Road and North Ridge Road south to Old U.S. Highway 421 shall be as follows:

BEGINNING at the intersection of S.R. 1924 (Poplar Springs Road) and S.R. 2015 (North Ridge Road), thence in a southeasterly direction with S.R. 2015 to the intersection of S.R. 2015 and N.C. Highway 268, excluding all property with primary access from S.R. 2015 between this and the preceding point; thence in a southerly direction in a straight line to a point on S.R. 2321 (Old 60) .2 miles west of Gray's Creek Bridge; thence in a southerly direction in a straight line to the intersection of S.R. 2318 (Mathis Mill Road), S.R. 2319 (South Plum Ridge Road), and S.R. 2320

(North Plum Ridge Road); thence in a southerly direction with S.R. 2319 to the intersection of S.R. 2319 and U.S. Highway 421, excluding all property adjacent to or accessed from S.R. 2319 between this and the preceding point; thence in an easterly direction following the centerline of U.S. Highway 421 to the intersection of U.S. Highway 421 and S.R. 2346 (Old U.S. Highway 421); thence in a westerly direction with S.R. 2346 to a point 1.1 miles west of that intersection, excluding all property on both sides of S.R. 2346 adjacent to or accessed from S.R. 2346. The foregoing description for that boundary line shall not be affected or altered in any way by the widening, relocation, or four-laning of U.S. Highway 421.

Section 2. Subject to the new boundary lines provided in Section 1 of this act, the 1985 extensions of the Ronda and Roaring River Fire Tax Districts are deemed valid and lawful; all levy and collection of fire tax revenues by Wilkes County since 1985 in the areas subject to the extensions are deemed valid and lawful, without regard to which Fire Tax District (and corresponding fire tax rate) those revenues were collected from, and without regard to which Volunteer Fire Department those revenues were allocated to.

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1433
PROPOSED COMMITTEE SUBSTITUTE
H1433-CSRBX-6/14

Short Title: Use Tax Payment/Other Changes. (Public)

Sponsors:

Referred to: Finance.

April 29, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR INDIVIDUALS TO PAY THEIR ANNUAL USE TAX WITH THEIR INCOME TAX FORMS, TO PROMOTE ELECTRONIC FILING, AND TO IMPROVE TAX COLLECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.16(d) reads as rewritten:

"(d) Use Tax on Out-of-State Purchases. -- ~~Notwithstanding subsection (b),~~ Use tax payable by an individual who purchases tangible personal property outside the State for a nonbusiness purpose ~~shall file a use tax return~~ is due on an annual basis. ~~The~~ For an individual who is not required to file an individual income tax return under Part 2 of Article 4 of this Chapter, the annual reporting period ends on the last day of the calendar ~~year. The return is due by the due date, including any approved extensions, for filing the individual's income tax return.~~ year and a use tax return is due by the following April 15. For an individual who is required to file an individual income tax return, the annual reporting period ends on the last day of the individual's income tax year and the use tax must be paid on the income tax return as provided in G.S. 105-269.14."

Section 2. Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-269.14. Payment of use tax with individual income tax.

(a) Requirement. -- An individual who owes use tax that is payable on an annual basis pursuant to G.S. 105-164.16(d) and who is required to file an individual income tax return under Part 2 of Article 4 of this Chapter must pay the use tax with the individual income tax return for the taxable year. The Secretary must provide appropriate space and information on the individual income tax form and instructions. The information must include the following:

(1) Instructions that certain sales taxes paid on a purchase are a credit against the use tax.

(2) A table setting out averages for various income ranges of the estimated amount of use tax as defined in subsection (b) of this section, rounded to the nearest one dollar ($1.00) of tax.

(3) Notification that if the taxpayer fails to indicate on the income tax form an amount of use tax payable, the Department of Revenue may add the estimated amount provided in subsection (b) of this section, and that the taxpayer is liable for this estimated amount unless the taxpayer can establish that the taxpayer owes a different amount of use tax under this Chapter or that no use tax is due.

(b) Estimated Amount. -- If the taxpayer does not know the amount of use tax due on all purchases for a calendar year, the taxpayer may pay the amount actually due on any purchases of items that cost one thousand dollars ($1,000) or more per item plus an estimated amount due on purchases of items that cost less than one thousand dollars ($1,000) per item. The estimated amount of use tax due on these items is six one-hundredths percent (0.06%) of the individual's North Carolina taxable income, or the equivalent amount provided in a table calculated by the Secretary of Revenue.

(c) Failure to Designate. -- If an individual does not designate on the income tax return an amount of use tax due or that no use tax is due, the Department of Revenue may designate the estimated amount provided in subsection (b) of this section as the amount due. The taxpayer is liable for this estimated amount unless the taxpayer can establish that the taxpayer owes a different amount of use tax under this Chapter or that no use tax is due.

(d) Distribution. -- The Secretary must distribute one-third of the net use tax proceeds collected under this section to counties and cities in proportion to their total distributions under

Articles 39, 40, and 42 of this Chapter and Chapter 1096 of the 1967 Session Laws for the most recent period for which data are available. The provisions of G.S. 105-472, 105-486, and 105-501 do not apply to tax proceeds distributed under this section."

Section 3. To pay for the costs of programming, form revision, and resources for taxpayer assistance to implement Sections 1 and 2 of this act, the Secretary of Revenue may draw up to one hundred fifty thousand dollars ($150,000) for the 1999-2000 fiscal year from net collections that would otherwise be credited to the General Fund under G.S. 105-269.14, enacted by Section 2 of this act.

Section 4. During the 1999-2000 fiscal year, the Secretary of Revenue shall implement a program to allow those taxpayers required under G.S. 105-164.16 to report and pay sales and use taxes on a semimonthly basis to file the semimonthly return electronically. To pay for this program, the Secretary may draw up to five hundred thousand dollars ($500,000) for the 1999-2000 fiscal year from net collections that would otherwise be credited to the General Fund under G.S. 105-269.14, enacted by Section 2 of this act.

Section 5.(a) The Secretary of Revenue shall contract during the 1999-2001 fiscal biennium for the collection of delinquent tax debts owed by nonresidents and foreign entities. To implement this section, the Secretary may draw funds for the 1999-2000 fiscal year from net collections that would otherwise be credited to the General Fund under G.S. 105-269.14, enacted by Section 2 of this act. The Secretary of Revenue shall report annually to the Revenue Laws Study Committee on its collections pursuant to this contract during the biennium.

Section 5.(b) The following definitions apply in this section:

(1) Delinquent tax debt. -- The amount of tax due as stated in a final notice of assessment issued to the taxpayer by the Secretary of Revenue when the taxpayer no longer has a right to contest the debt.

(2) Foreign entity. -- A foreign corporation as defined in G.S. 55-1-40, a foreign limited liability company as defined in G.S. 57C-1-03, a foreign limited partnership as defined in G.S. 59-102, or a general partnership formed under the laws of a jurisdiction other than this State.

Section 6. The Department of Revenue shall conduct a study to identify and evaluate proposals for more efficient collection of taxes, including using electronic commerce and

other technology to increase efficiency. The study shall include an analysis of the most efficient tax collection methods used in other states. The State Controller shall cooperate with the Department of Revenue in this study. The Department shall report the results of its study, including findings, recommendations, and estimated revenue gains of each recommendation, to the Revenue Laws Study Committee by May 1, 2000. To implement this section, the Secretary of Revenue may draw up to fifty thousand dollars ($50,000) for the 1999-2000 fiscal year from net collections that would otherwise be credited to the General Fund under G.S. 105-269.14, enacted by Section 2 of this act.

Section 7. Article 3 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-59.1. Contracts with certain foreign vendors.**

The Secretary of Administration and other entities to which this Article applies shall not contract for goods or services with a vendor if the vendor or an affiliate of the vendor meets one or more of the conditions of G.S. 105-164.8(b) but refuses to collect the use tax levied under Article 5 of Chapter 105 of the General Statutes on its sales delivered to North Carolina. The Secretary of Revenue shall provide the Secretary of Administration periodically with a list of vendors to which this section applies. For the purpose of this section, the term 'affiliate' has the meaning provided in G.S. 105-163.010."

Section 8. G.S. 105-259(b) is amended by adding a new subdivision to read:

"(22) To provide the Secretary of Administration pursuant to G.S. 143-59.1 a list of vendors and their affiliates who meet one or more of the conditions of G.S. 105-164.8(b) but refuse to collect the use tax levied under Article 5 of this Chapter on their sales delivered to North Carolina.

(23) To provide public access to a database containing the names and account numbers of taxpayers who are not required to pay sales and use taxes under Article 5 of this Chapter to a retailer because of an exemption or because they are authorized to pay the tax directly to the Department of Revenue."

Section 9. Sections 1 and 2 of this act are effective for taxable years beginning on or after January 1, 1999. The remainder of this act becomes effective July 1, 1999.

HOUSE BILL 1433:
Use Tax Payment/Other Changes

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Miller
Date:	June 15, 1999	**Summary by:**	Cindy Avrette
Version:	PCS for 1st Edition		Committee Counsel
	H1433-CSRBX-6/14		

SUMMARY: ***House Bill 1433 simplifies use tax collection and seeks to improve tax collections in several ways:***

- ***It provides that an individual who owes use tax to the State can pay the tax with the individual's income tax. If an individual knows that use tax is owed, but does not know how much, the individual may estimate the amount owed by multiplying North Carolina taxable income by .0006.***
- ***It promotes the electronic filing of semimonthly sales tax reports.***
- ***It directs the Secretary of Revenue to contract for the collection of delinquent tax debts owed by nonresidents and foreign entities.***
- ***It directs the Department of Revenue and the State Controller to study the feasibility of a central collection operation.***
- ***It prohibits the State agencies from contracting with a vendor who is required under G.S. 105-164.8(b) to collect State sales and use tax but refuses to do so.***

The first part of the bill becomes effective for taxable years beginning on or after January 1, 1999. The remainder of the bill becomes effective July 1, 1999.

CURRENT LAW: North Carolina has a 6% sales and use tax. The sales tax is paid on purchases made in this State. The tax is collected by the retailer and remitted to the State. The use tax complements the sales tax by taxing transactions that are not subject to the sales tax because of movement in interstate commerce. Like the sales tax, the use tax is imposed on the purchaser. Unlike the sales tax, the responsibility for remitting the tax to the Department of Revenue is also on the purchaser.

Last biennium, the General Assembly sought to make the remittance of use tax by the taxpayer to the State less burdensome by providing that use tax on goods purchased out-of-state for a non-business purpose may be filed on an annual basis. The return and the tax are due at the same time as the personal income tax return.

BILL ANALYSIS: Sections 1 and 2 of House Bill 1433 provide that the use tax will be paid on the taxpayers' income tax returns. The bill provides that a taxpayer who owes use tax and who must remit a State tax return must pay the use tax owed with the tax return. The tax return will have space on it to indicate the amount of use tax owed. If the taxpayer does not owe any use tax, the taxpayer should put a zero in the space. If the taxpayer owes use tax but doesn't know how much, the taxpayer may estimate

the amount owed for purchases that do not exceed $1,000 per item. The bill provides that the estimated amount owed is 0.06% of the taxpayer's North Carolina taxable income. If the taxpayer leaves the space empty, the Department may designate an amount owed equal to the estimated amount. For purchases that cost $1,000 or more per item, the taxpayer must pay the actual amount of use tax due on the purchase.

Seven states provide a line on the individual income tax return for the collection of use tax. Another 7 states provide a use tax return with the individual income tax return and provide that the use tax return is due at the same time as the income tax return. Of the seven states that provide a line on the return for the collection of use tax, only Maine provides for an estimated amount of tax due. The proposed committee substitute provides that the Department may collect the use tax due by subtracting the amount of use tax due from any applicable income tax refund amount or by assessing the taxpayer. The original bill required the Department to collect or assess the tax due.

The bill allows the Department to use some of the additional use tax revenue collected under this bill to promote tax collections:

- The Department may use $150,000 to pay for the costs of programming, form revision, and resources for taxpayer assistance in connection with the new use tax collection method.
- The Department may use $500,000 to implement a program to allow semimonthly sales and use taxpayers to file their returns electronically.
- The Department may use some of the revenue to contract for the collection of delinquent tax debts owed by nonresidents and foreign entities. A delinquent tax debt is the amount of tax due as stated in a final notice of assessment issued to the taxpayer when the taxpayer no longer has a right to contest the debt. The Department must report on its collections pursuant to this contract to the Revenue Laws Study Committee.
- The Department may use up to $50,000 to conduct a study, in cooperation with the State Controller, to identify and evaluate proposals for more efficient collection of taxes. The Department must report its findings, recommendations, and estimated revenue gains to the Revenue Laws Study Committee by May 1, 2000.

The bill prohibits the State from contracting with a vendor for goods or services if the vendor is required by G.S. 105-164.8(b) to collect use tax for the State but refuses to do so. G.S. 105-164.8 requires a retailer who is engaged in business in this State to collect use tax on a mail order sale. G.S. 105-164.8(b) provides that a retailer who makes a mail order sale is engaged in business in this State if the retailer meets one or more of the following conditions:

- Is a corporation engaged in business under the laws of this State.
- Maintains offices in this State.
- Has representatives in this State who solicit business or transact business on behalf of the retailer.
- Is purposefully or systematically exploiting the market in this State by any media-assisted, media-facilitated, or media-solicited means, including direct mail advertising, distribution of catalogs, computer-assisted shopping, etc.
- Resides in a jurisdiction that has a compact or reciprocity with North Carolina to support North Carolina's taxing power.
- Consents to the imposition of the collection of the tax.

Lastly, the bill amends the tax secrecy provisions to allow the Secretary of Revenue to do two things:

- Provide the Secretary of Administration with a list of vendors who refuse to collect the State's use tax even though they are required to do so under G.S. 105-164.8.
- Provide public access to a database containing the names and account numbers of taxpayers who are not required to pay sales and use tax because of an exemption or because they are authorized to pay the tax directly to the Department.

BACKGROUND: In the 1980s, states around the country became increasing aware of the revenue loss associated with taxpayer avoidance of the use tax. The potential increase in State and local revenue for North Carolina, if full taxpayer compliance were achieved, would exceed $100 million.

The most cost-effective manner to collect the tax, from a state's point-of-view, is to require the out-of-state retailers to collect and remit the use tax. However, in 1967, the U.S. Supreme Court ruled in Bellas Hess that a state could not require an out-of-state retailer to collect its use tax unless the retailer has enough contacts with the state to subject it to the state's taxing jurisdiction. The Supreme Court reaffirmed this decision in 1992 in Quill Company v. North Dakota.

States have negotiated with direct marketers on at least two occasions to craft a voluntary collection agreement where marketers would collect the tax and states would simplify their reporting requirements. Both of these efforts were unsuccessful.

There are three efforts currently under way to address the issue of out-of-state purchases:

- The National Tax Association Communications and Electronic project is focusing on simplification issues and some policy principles to apply to remote commerce.
- The Advisory Commission on Electronic Commerce was established by the Internet Tax Freedom Act. It has 18 months to study electronic commerce issues and to make a report to Congress.
- The Multistate Tax Commission Tax Simplification Project is comprised of representatives of business and state and local governments who are focusing on ways to simplify the sales and use tax in the areas of uniformity and reporting. Sections 4 and 8 of this bill are two of the recommendations of the group working in North Carolina.

FRD DRAFT
INTERNAL USE ONLY

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: H.B. 1433

SHORT TITLE: Use Tax Payment/Other Changes

SPONSOR(S): Rep. Miller

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	$ Millions				
	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
State					
Revenue Gain	3.33	3.50	3.68	3.86	4.05
Less Expend.	(0.70)	-	-	-	-
Net Change	2.63	3.50	3.68	3.86	4.05
Local					
Net Change	1.67	1.75	1.84	1.93	2.03

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue, Department of Administration, all other state agencies have purchasing authority.

EFFECTIVE DATE: Sections 1 and 2 of this act are effective for taxable years beginning on or after January 1, 1999. The remainder of this act becomes effective July 1, 1999.

BILL SUMMARY: The bill makes several changes to the state use tax, income tax, and purchasing procedures and policies. **Sections 1 and 2** require individuals who file an income tax return to include with that return a use tax payment for purchases made by retailers that do not charge sales tax. The tax shall be calculated at a standard rate of 6%. If the taxpayer does not know the amount due, the taxpayer may pay the tax actually due on purchases of $1000 or more, and an estimated amount on purchases of less than $1000. The estimated amount due for the small purchases is either 0.06% of the individual's North Carolina taxable income or the equivalent amount provided in a table calculated by the Secretary of Revenue. If an individual does not designate on the return the amount of use tax due, the Department of Revenue will designate the estimated amount, based on the individual's taxable income. The taxpayer will be liable for the estimated amount unless they can establish a different use tax liability. Individuals who do not file an income tax return are still required to submit a use tax report. These sections

also direct the Department of Revenue to provide appropriate space and information on the use tax requirements on the state's income tax materials. This information must include notification that if the taxpayer does not include a use tax amount the Department is authorized to add their estimated liability to the tax form. Section 2 also directs to the Secretary of Revenue to distribute one-third of the net use tax proceeds to the cities and counties.

Section 3 allows the Secretary of Revenue to draw up to $150,000 in FY 1999-00 to provide taxpayer assistance related to the use tax. **Section 4** requires that the Department of Revenue implement a program to allow businesses that are required to file sales and use taxes twice a month to file their sales tax returns electronically. It allows the Secretary to draw up to $500,000 in FY 1999-00 from net sales tax collections to pay for the program. **Section 5** directs the Department to contract for collection of delinquent taxes owed by nonresidents and foreign entities. The contract must be drawn during the 1999-01 fiscal biennium. Funding for the contract shall be drawn from use tax proceeds. The results must be reported annually to Revenue Laws. **Section 6** directs the Department of Revenue to conduct a study, identify and evaluate proposals for more efficient collection of taxes, including the use of electronic commerce and other technologies. The State Controller is directed to assist with the study. This section also authorizes the Secretary to draw up to $50,000 for the 1999-00 fiscal year to fund the study. A report with recommendations must be made to Revenue Laws by May 1, 2000. **Section 7** bars the Secretary of Administration and all other state purchasing entities from contracting with vendors if that vendor (or its affiliate) refuses to collect the use tax on sales delivered to North Carolina. Fifth, it directs the Department of Revenue to supply the Secretary of Administration with a list of such vendors. **Section 8** directs the Secretary of Revenue to provide public access to a database containing the names and account numbers of taxpayers who are not required to pay sales and use taxes because they are either exempt or are authorized to pay the Department directly.

ASSUMPTIONS AND METHODOLOGY: The bill makes several changes to tax collection and government purchasing procedures.

Sections 1& 2: These sections of the bill direct the Department of Revenue to alter their procedures for assessing and collecting individual use tax payments. The bill directs the Department to include specific space on the individual income tax return to report use tax payments, and to assume an individual's use tax liability if no amount is entered in the income tax form.

Currently the Department of Revenue includes a form for individual use tax payments in the income tax instructions. However, the Department believes placing a special line for use tax payments on the individual income tax form will be much more effective and result in higher use tax payments. Based on a recent Department conducted survey, the Department of Revenue believes that at least seven other states now have a line item on their individual income tax form for use tax payments. Two of the states with a line on the form are Maine and Connecticut. Maine indicated to the North Carolina Department of Revenue that they collected $1.7 million in use taxes on individual income tax returns filed for 1997. Of the 576,000 returns filed, Maine reports that approximately 95,000 paid some use taxes. The North Carolina Department of Revenue receives approximately 3,000,000 returns annually. Based on this information and the data from Maine, the Sales Tax Division of Revenue estimates that North Carolina will see a revenue increase of approximately $5,000,000. This amount is increase by 5% each year to

reflect future growth. Because this revenue would be divided between the state and local governments, the actual fiscal impact is as follows:

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
State	3,333,333	3,500,000	3,675,000	3,858,750	4,051,688
Local	1,666,667	1,750,000	1,837,500	1,929,375	2,025,844
Total	5,000,000	5,250,000	5,512,500	5,788,125	6,077,531

Section 3: This section allows the Secretary of Revenue to deduct up to $150,000 from use tax proceeds to fund taxpayer assistance. This is amount is shown in the chart as a loss to the potential revenue stream created by the bill.

Section 4: This section authorizes the Secretary of Revenue to deduct up to $500,000 from use tax proceeds to fund electronic filing of semi-monthly sales tax returns. Under the bill businesses are not required to file electronically, they are merely given the option. This may increase revenues, as the Department may be able to draw more interest on the "float". However, because the electronic filling language is permissive, allowing retailers to decide if they will file electronically, no reliable estimate of the potential revenue change is possible. The note does assume that the Secretary will draw the $500,000. This amount is shown as a loss to the potential revenue stream.

Section 5: This section directs the Department to contract out to collect out of state delinquent taxes. Because no contract has been negotiated to date, no accurate cost estimate is possible. Also, contracting out should increase collections. However, no estimate is available on the potential gains. As a result, no estimate is possible on the net potential revenue gain.

Section 6: This section directs the Department and the State Controller to study more efficient ways to collect taxes, and report their findings and recommendations to Revenue Laws. The note assumes the Secretary will draw the full $50,000 allowed for the study. No other fiscal impact is expected.

Section 7: This section of the bill bars the Department of Administration and other state purchasing entities from contracting with an out of state vendor that refuses to collect use tax on purchases delivered to North Carolina. Fiscal Research appropriations staff members do not believe this will have a fiscal impact on the Department of Administration or other organizations. There will be cost associated with Revenue compiling the list of barred vendors. However, the Department believes they can administer this portion of the bill without additional appropriations.

Section 8: This section directs the Department to create a public access database of those not required to pay sales taxes to vendors. While there may be some cost associated with this section of the bill, the Department should be able to fund this change through existing resources and those committed elsewhere in the bill.

Total Impact: Given the revenue increase created in Sections 1 and 2, and the expenses in the remainder of the bill, the net revenue gain as a result of the legislation is as follows:

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
State					
Revenue Gain	3,333,333	3,500,000	3,675,000	3,858,750	4,051,688
Less Expend.	(700,000)	-	-	-	-
Net Change	2,633,333	3,500,000	3,675,000	3,858,750	4,051,688
Local					
Net Change	1,666,667	1,750,000	1,837,500	1,929,375	2,025,844

TECHNICAL CONSIDERATIONS: The bill requires a fairly significant change in the state purchasing process. As a result, the Departments of Revenue and Administration may require some time to transition their systems and inform all appropriate entities. Therefore, Fiscal Research suggests the effective date be delayed at least three months to allow for a smooth transition.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY:

DATE:

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 1473 A BILL TO BE ENTITLED AN ACT TO MODIFY THE INCOME TAX CREDIT FOR MANUFACTURERS OF CERTAIN RENEWABLE ENERGY EQUIPMENT.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#)~~, ☒ which changes the title, unfavorable as to ~~/~~original bill~~/~~ ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1473
Proposed Committee Substitute H1473-PCSX1282-RB

Short Title: Renewable Energy Mfr Credit. (Public)

Sponsors:

Referred to:

May 13, 1999

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE INCOME TAX CREDIT FOR MANUFACTURERS OF CERTAIN RENEWABLE ENERGY EQUIPMENT AND TO SUNSET THE CREDIT FOR COSTS INCURRED DURING TAXABLE YEARS BEGINNING ON OR AFTER JANUARY 1, 2002.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-130.28 reads as rewritten:

"**§ 105-130.28. Credit against corporate income tax for construction of a ~~photovoltaic~~ renewable energy equipment facility.**

(a) ~~Any~~ Credit. -- A corporation that constructs in North Carolina a facility for the ~~production of photovoltaic~~ manufacture of renewable energy equipment is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the installation and equipment costs of construction paid during the taxable year. The entire credit may not be taken for the taxable year in which the costs are paid but must be taken in five equal installments beginning with the taxable year in which the costs are paid.

No credit is allowed, however, to the extent that any of the costs of the equipment were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the facility at the time of construction. ~~The credit allowed by this section may not exceed the amount of the tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except payments of tax made by or on behalf of the taxpayer.~~

(b) ~~As used in this section, "photovoltaic equipment" means those products designed, manufactured, and produced to convert sunlight directly into electricity.~~ Definitions. -- The following definitions apply in this section:

(1) Biomass equipment. -- Products designed to use renewable biomass resources for biofuel production of ethanol, methanol, and biodiesel; anaerobic biogas production of methane utilizing agricultural and animal waste or garbage; or commercial thermal or electrical generation from renewable energy crops or wood waste materials. The term also includes related devices for converting, conditioning, and storing the liquid fuels, gas, and electricity produced with biomass equipment.

(2) Renewable biomass resources. -- Organic matter produced by terrestrial and aquatic plants and animals, such as standing vegetation, aquatic crops, forestry and agricultural residues, landfill wastes, and animal wastes.

(3) Renewable energy equipment. -- Biomass equipment, solar electric or thermal equipment, and wind energy equipment.

(4) Solar electric or thermal equipment. -- Products designed to convert sunlight into electricity or heat.

(5) Wind energy equipment. -- Products designed to capture and convert wind energy into electricity or mechanical power.

(c) Carryforward. -- The credit allowed by this section may not exceed the amount of the tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except payments of tax made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward for the succeeding 10 years. ~~The amount of credit allowed under this section may be carried over for the next succeeding five years.~~

(d) No Double Credit. -- A taxpayer that claims any other credit allowed under this Chapter with respect to construction of a facility for the manufacture of renewable energy equipment may not take the credit allowed in this section with respect to the same facility."

Section 2. G.S. 105-130.28, as amended by this act, is repealed effective for costs incurred during taxable years beginning on or after January 1, 2002.

Section 3. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under the statute repealed by this act before the effective date of its repeal, nor does it affect the right to any refund or credit of a tax that accrued under the repealed statute before the effective date of its repeal.

Section 4. This act is effective for taxable years beginning on or after January 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1473

Short Title: Renewable Energy Mfr Credit. (Public)

Sponsors: Representatives Hackney and Luebke (Primary Sponsors).

Referred to: Finance.

May 13, 1999

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE INCOME TAX CREDIT FOR MANUFACTURERS OF CERTAIN RENEWABLE ENERGY EQUIPMENT.

Whereas, renewable energy is North Carolina's only indigenous energy source; and

Whereas, currently, thirty cents of every dollar spent on electricity in North Carolina goes out-of-state for fuel costs and every dollar spent on renewable energy circulates through our economy, helping to create over three dollars in local benefits; and

Whereas, many of North Carolina's large metropolitan areas, because of air pollution, are currently, or will soon be, facing development growth restrictions imposed by the United States Environmental Protection Agency for "nonattainment" of minimal air quality standards; and

Whereas, North Carolina currently ranks twelfth in the United States in carbon dioxide emissions, releasing 126.5 million tons into the atmosphere each year; and

Whereas, coal burning is creating increasingly negative health and environmental impacts through the release of sulfur dioxides, nitrous oxides, particulates, ozone, mercury, and lead; and

Whereas, renewable energy creates more jobs per unit of energy than fossil fuels or nuclear power; and

Whereas, a 1998 poll conducted by the University of North Carolina School of Journalism indicates that, by three-to-one, North Carolinians want electricity providers to implement solar energy options, even if they cost more; and

Whereas, renewable energy is, in the long term, the only energy option that can ensure sustainable development; and

Whereas, tax incentives can help stimulate the demand for environmentally sound, renewable energy options, help grow the solar industry in our State, produce a stronger local economy, and allow North Carolina to continue to grow, but in a sustainable manner; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-130.28 reads as rewritten:

"**§ 105-130.28. Credit against corporate income tax for construction of a ~~photovoltaic~~ renewable energy equipment facility.**

(a) ~~Any~~ Credit. -- A corporation that constructs in North Carolina a facility for the ~~production of photovoltaic~~ manufacture of renewable energy equipment is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the installation and equipment costs of construction paid during the taxable year. The entire credit may not be taken for the taxable year in which the costs are paid but must be taken in five equal installments beginning with the taxable year in which the costs are paid.

No credit is allowed, however, to the extent that any of the costs of the equipment were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the facility at the time of construction. ~~The credit allowed by this section may not exceed the amount of the tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except payments of tax made by or on behalf of the taxpayer.~~

(b) ~~As used in this section, "photovoltaic equipment" means those products designed, manufactured, and produced to convert sunlight directly into electricity.~~ Definitions. -- The following definitions apply in this section:

(1) Biomass equipment. -- Products designed to use renewable biomass resources for biofuel production of ethanol, methanol, and biodiesel; anaerobic biogas production of methane utilizing agricultural and animal waste or garbage; or commercial thermal or electrical generation from renewable energy crops or wood waste materials. The term also includes related devices for converting, conditioning, and storing the liquid fuels, gas, and electricity produced with biomass equipment.

(2) Renewable biomass resources. -- Organic matter produced by terrestrial and aquatic plants and animals, such as standing vegetation, aquatic crops, forestry and agricultural residues, landfill wastes, and animal wastes.

(3) Renewable energy equipment. -- Biomass equipment, solar electric or thermal equipment, and wind energy equipment.

(4) Solar electric or thermal equipment. -- Products designed to convert sunlight into electricity or heat.

(5) Wind energy equipment. -- Products designed to capture and convert wind energy into electricity or mechanical power.

(c) Carryforward. -- The credit allowed by this section may not exceed the amount of the tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except payments of tax made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward for the succeeding 10 years. ~~The amount of credit allowed under this section may be carried over for the next succeeding five years.~~

(d) No Double Credit. -- A taxpayer that claims any other credit allowed under this Chapter with respect to construction of a facility for the manufacture of renewable energy equipment may not take the credit allowed in this section with respect to the same facility."

Section 2. This act is effective for taxable years beginning on or after January 1, 2000.

HOUSE BILL 1473:
Renewable Energy Manufacturers Credit

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Hackney
Date:	June 8, 1999	**Summary by:**	Cindy Avrette
Version:	PCS for 1st Edition H1473-PCSX1282		Committee Counsel

SUMMARY: ***House Bill 1473 expands the current corporate tax credit for the construction of a photvoltaic equipment to include the construction of other types of renewable energy equipment. The bill provides that the credit must be taken in five equal installments and extends the carry forward from 5 years to 10 years. The proposed committee substitute removes the whereas clauses and sunsets the credit for costs incurred during taxable years beginning on or after January 1, 2002. The bill becomes effective for taxable years beginning on or after January 1, 2000.***

CURRENT LAW: A corporation that constructs a facility for the production of photovoltaic equipment is allowed a credit equal to 25% of the installation and equipment costs of construction paid during the taxable year. The amount of the credit may not exceed the amount of tax owed; any unused credit may be carried forward for five years. Photovoltaic equipment means products designed, manufactured, and produced to convert sunlight directly into electricity. The credit is not allowed to the extent that federal, State, or local grants provide any of the costs of the equipment. To secure the credit, the taxpayer must own or control the facility at the time of construction.

BILL ANALYSIS: House Bill 1473 would allow a corporation that constructed a facility in North Carolina for the manufacture of renewable energy equipment to receive a corporate income tax credit equal to 25% of the installation and equipment costs of construction paid during the taxable year. Renewable energy equipment is defined by the bill as biomass equipment, solar electric or thermal equipment, and wind energy equipment. This broad definition encompasses the current definition of photovoltaic equipment. The credit allowed under this bill differs from the current credit in the following ways:

- The credit could not be taken for the taxable year in which the costs are paid, but would be taken in five equal installments beginning with the taxable year in which the costs are paid.
- Any unused portion of the credit may be carried forward for 10 years instead of 5 years.
- A taxpayer that claims any other credit with respect to the construction of a facility to manufacture renewable energy equipment may not take this credit with respect to the same facility.

PROPOSED COMMITTEE SUBSTITUTE: The proposed committee substitute sunsets the credit for costs incurred during taxable years beginning on or after January 1, 2002. The energy tax credit, as proposed in House Bill 1472, sunsets January 1, 2002. The Committee gave the proposed committee

substitute for House Bill 1472 a favorable report at the meeting on June 8, 1999. This sunset language will keep the energy tax credits consistent.

NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1473 (First Edition)

SHORT TITLE: Renewable Energy Manufacturer Credit

SPONSOR(S): Representatives Hackney and Luebke

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES GENERAL FUND	See **ASSUMPTIONS AND METHODOLOGY**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: This act is effective for taxable years beginning on or after January 1, 2000.

BILL SUMMARY:
HB 1473 replaces the corporate tax credit for constructing a photovoltaic (PV) equipment facility with a corporate tax credit for constructing a renewable energy equipment facility. The tax credit is taken in five equal installments over five years. Unused tax credits have a 10 year carryforward. No taxpayer may receive more than one tax credit for this type of facility.

ASSUMPTIONS AND METHODOLOGY:
The current corporate income tax credit for constructing photovoltaic manufacturing facilities has not been used since it was created in 1981. The Department of Revenue reported no usage of the credit from 1981 to 1987. After 1987, no separate accounting was done for each energy credit. Officials with the North Carolina Solar Center and the North Carolina Solar Energy Association do not recall this credit ever being used. These solar energy advocates believe the existing law's 5-year carry forward period is too short for new companies to show a profit and benefit from the tax incentive. The credit in HB 1473 lengthens the carry forward period from 5 to 10 years and expands credit eligibility to include biomass and wind energy equipment.

This fiscal note cannot predict the number of firms that will apply for this revised corporate tax credit nor the amount of credit to be requested. However, if only one firm applies for the credit, there will be a General Fund revenue loss due to the absence of applicants for the current tax credit program. The Chief of the Renewable Energy Branch of the U.S. Department of Energy (DOE) believes North Carolina is a good candidate for a small photovoltaic (PV) company using specialized technology and for a biomass equipment company working with the wood products

industry. An example of a small PV company is Atlantis Energy, which built a $1.5 million plant in Cape Charles Virginia in 1995 to produce custom designed PV modules. A biomass equipment plant might be attracted to the North Carolina wood products industry that produced 1,730 million kilowatt hours of energy from wood and wood waste in 1995. (DOE/Energy Information Administration)

The Chief of the DOE Renewable Energy Branch believes that manufacturers of photovoltaic (PV) and biomass equipment will expand production capacity over the next five years. The Million Solar Roofs Initiative that DOE began in 1997 aims to install a million solar energy systems on one million U.S. buildings by the year 2010. Since 64% of the shipments from the nation's 24 manufacturers of PV cells and modules (DOE 1995 estimate) are exported, an increase in domestic demand should prompt an expansion of PV plant capacity.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY: Tom Covington

DATE: Monday, June 07, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1476 A BILL TO BE ENTITLED AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DEFINING AND DETERMINING CERTAIN STATE TAX PROVISIONS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#)~~, ☒ which changes the title, unfavorable as to original bill ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1476

PROPOSED COMMITTEE SUBSTITUTE: H1476-PCSSC-002

ATTENTION - LINE NUMBERS MAY CHANGE AFTER ADOPTION.

Short Title: Update IRC Ref./Conform Criminal Deadline. (Public)

Sponsors:

Referred to:

May 13, 1999

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DEFINING AND DETERMINING CERTAIN STATE TAX PROVISIONS, AND TO CONFORM TO THE FEDERAL STATUTE OF LIMITATIONS FOR WILLFUL FAILURE TO COMPLY WITH STATE TAX LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-228.90(b)(1a) reads as rewritten:

"(b) Definitions. -- The following definitions apply in this Article:

. . .

(1a) Code. -- The Internal Revenue Code as enacted as of ~~September 1, 1998,~~ June 1, 1999, including any provisions enacted as of that date which become effective either before or after that date."

Section 2. G.S. 105-236(8) reads as rewritten:

"(8) Willful Failure to Collect, Withhold, or Pay Over Tax. -- Any person required to collect, withhold, account for, and pay over any tax who willfully fails to collect or truthfully account for and pay over the tax shall, in addition to other penalties

provided by law, be guilty of a Class 1 misdemeanor. Notwithstanding any other provision of law, no prosecution for a violation brought under this subdivision shall be barred before the expiration of ~~three~~ six years after the date of the violation."

Section 3. G.S. 105-236(9) reads as rewritten:

"(9) Willful Failure to File Return, Supply Information, or Pay Tax. -- Any person required to pay any tax, to make a return, to keep any records, or to supply any information, who willfully fails to pay the tax, make the return, keep the records, or supply the information, at the time or times required by law, or rules issued pursuant thereto, shall, in addition to other penalties provided by law, be guilty of a Class 1 misdemeanor. Notwithstanding any other provision of law, no prosecution for a violation brought under this subdivision shall be barred before the expiration of ~~three~~ six years after the date of the violation."

Section 4. Sections 2 and 3 of this act are effective December 1, 1999, and apply to prosecutions brought on or after that date. The remainder of this act is effective when it becomes law.

HOUSE BILL 1476:
Update IRC Reference

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Miller
Date:	June 15, 1999	**Summary by:**	Cindy Avrette
Version:	PCS for 1st Edition H1476-PCSSC-002		Committee Counsel

SUMMARY: ***House Bill 1476 rewrites the definition of the Internal Revenue Code used in State tax statutes to change the reference date from September 1, 1998 to June 1, 1999. Updating the Internal Revenue Code reference makes recent amendments to the Code applicable to the State to the extent that State tax law previously tracked federal law. The proposed committee substitute incorporates House Bill 1197, introduced by Rep. Miller. House Bill 1197 conforms the State statute of limitations, with respect to the willful failure to comply with the State's tax laws, to the federal statute of limitations.***

BILL ANALYSIS: Since the General Assembly updated the State's reference to the Internal Revenue Code to September 1, 1998, Congress has enacted two bills that affect the Internal Revenue Code. On October 21, 1998, the President signed into law Public Law 105-277, which includes the Tax and Trade Relief Extension Act of 1998. On April 19, 1999, the President signed into law Public Law 106-21, which extends the tax benefits available with respect to services performed in a combat zone to services performed in the Kosovo area.

Public Law 105-277: This act extended the research and development credit, created or extended tax breaks aimed particularly at individuals, small businesses, and farmers, narrowed some tax exemptions, and made many technical changes. The following is a summary of the some of the more significant provisions:

- It extends the research and development credit through June 30, 1999. North Carolina's credit for research and development is based upon this federal credit.
- It accelerates the deduction for health insurance costs of self-employed individuals. Self-employed individuals are entitled to deduct a portion of the amount paid for health insurance for the self-employed individual and the individual's spouse and dependents. Under prior law, the amount that could be deducted was increasing from 45% in 1998 to 100% in 2007. The legislation passed last year accelerated the amount that could be deducted to 60% for tax years beginning in 1999 through 2001, to 70% for tax years beginning in 2002, and to 100% for tax years beginning in 2003 and thereafter. An employee may exclude from income 100% of employer-provided health insurance.
- It provides a five-year net operating loss carryback for farmers, effective for NOLs arising in taxable years beginning after December 31, 1997. A NOL is the amount by which business deductions exceed business gross income. Generally, a NOL may be carried back two years and forward 20 years to offset taxable income in such years. The act created an exception for farming losses. A farming loss is defined as the amount of any net operating loss attributable to the income and deductions of a farming business.

- It permanently extends the income averaging provision for farmers. An individual engaged in a farming business may elect to compute current year tax liability by averaging, over the prior three year period, all or a portion of the taxable income that is attributable to the farming business. Prior to this act, this provision would have expired for taxable years beginning on or after January 1, 2001.
- It allows a taxpayer that wins a contest, lottery, jackpot, etc. and elects to take the payment as an annuity to claim the prize winnings as income at the time they are received. Prior to the enactment of this act, a person who had the option of receiving either a lump-sum distribution or an annuity was required to include the value of the award in gross income in the year in which the prize was won, even if the annuity option was exercised.
- It permanently extends the charitable market-value deduction for contributions of qualified appreciated stock to private foundations.
- It limits specified liability losses to product liability losses and amounts allowable as a deduction that are in satisfaction of a liability under a federal or state law requiring the reclamation of land, decommissioning of a nuclear power plant, dismantlement of a drilling platform, remediation of environmental contamination, or a payment under any workers compensation act. A specified liability loss may be carried back 10 years rather than being limited to the general two-year carryback period. Prior to the enactment of this act, a specified liability loss included other liabilities that arose under federal or state law or out of any tort of the taxpayer.
- It requires certain deductible liquidating distributions of a regulated investment company or real estate investment trust to an 80% corporate owner to be included in the corporation's income.

Public Law 106-21: This act extends the tax benefits available under the Internal Revenue Code for services performed in a combat zone to members of the armed forces for services performed in the Federal Republic of Yugoslavia, Albania, the Adriatic Sea, and the northern Ionian Sea.

Under the Code, all or most of military personnel's combat pay is exempt from income tax. Since North Carolina begins its calculation of taxable income with federal taxable income, the pay is also exempt from State income tax.

The Code also extends the time military personnel and those serving in support of the military personnel have to file and pay their taxes. The extension applies to those individuals within the "qualified hazardous duty area" and to those individuals supporting Operation Allied Force who are away from their permanent duty stations but are not within the designated combat zone. The extension lasts until 180 days after taxpayers leave the combat zone or their supporting operation, plus the number of days they were there during the tax filing season after the air strikes began on March 24, 1999. The tax relief provisions also apply during any period of hospitalization resulting from injuries or illness incurred while serving in the combat zone. During the extension, affected taxpayers will not accrue any interest or penalty charges and the IRS will not pursue any tax enforcement action. Likewise, G.S. 105-249.2 prohibits the Secretary of Revenue from assessing interest or a penalty against a taxpayer for any period that is disregarded for federal income tax purposes.

Conform Criminal Deadline to Federal: The proposed committee substitute incorporates House Bill 1197. It is a Class 1 misdemeanor to willfully fail to collect, withhold, or pay over taxes or to willfully fail to file a return or pay the tax due. Under North Carolina law, the State has 3 years from the date of the violation to prosecute the taxpayer that violated the tax law. Under federal law, the IRS has 6 years

from the date of the prosecution to pursue the violation. Sections 2 and 3 conform the State statute of limitations to the federal statute of limitations by extending the time the State has to pursue a violation of the tax laws from 3 years to 6 years.

BACKGROUND: Since the State corporate income tax was changed to a percentage of federal taxable income in 1967, the reference date to the Internal Revenue Code has been updated periodically. In discussing bills to update the Code reference, the question frequently arises as to why the statutes refer to the Code on a particular date instead of referring to the Code and any future amendments to it, thereby eliminating the necessity of bills like this one. The answer to the question lies in both a policy decision and a potential legal restraint.

First, the policy reason for specifying a particular date is that, in light of the many changes made in federal tax law from year to year, the State may not want to adopt automatically federal changes, particularly when these changes result in large revenue losses. By pinning references to the Code to a certain date, the State ensures that it can examine any federal changes before making the changes effective for the State.

Secondly, and more importantly, however, the North Carolina Constitution imposes an obstacle to a statute that automatically adopts any changes in federal tax law. Article V, Section 2(1) of the Constitution provides in pertinent part that the "power of taxation ... shall never be surrendered, suspended, or contracted away." Relying on this provision, the North Carolina court decisions on delegation of legislative power to administrative agencies, and an analysis of the few federal cases on this issue, the Attorney General's Office concluded in a memorandum issued in 1977 to the Director of the Tax Research Division of the Department of Revenue that a "statute which adopts by reference future amendments to the Internal Revenue Code would ... be invalidated as an unconstitutional delegation of legislative power.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

DRAFT/FRD

BILL NUMBER: HB 1476 (First Edition)

SHORT TITLE: Update I.R.C. Reference

SPONSOR(S): Representatives Miller, Luebke, and Allen

FISCAL IMPACT

Yes (x) **No ( )** **No Estimate Available ( )**

($ Million)

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
GENERAL FUND	11.8	3.2	1.4	.9	.1

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: The act is effective when it becomes law.

BILL SUMMARY: The bill changes the reference to the Internal Revenue Code used in defining and determining certain state income tax provisions from September 1, 1998 to June 1, 1999.

ASSUMPTIONS AND METHODOLOGY:
Since the General Assembly last updated its reference to the Internal Revenue Code, Congress passed the Tax and Trade Relief Extension Act of 1998 (P.L. 105-277) and a proposal relating to tax relief for personnel in the Kosovo conflict (P.L. 106-21). The chart on the next page lists the major items that impact the North Carolina income tax code. National tax estimates were made by the Congressional Joint Committee on Taxation. North Carolina's share of the revenue loss was determined by dividing N. C. actual tax collections by national tax collections.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY:

DATE: June 14, 1999

HB 1476 Updat[illegible] Reference
STATE BUDGET/REVENUE ESTIMATES
FY 1999-2007
($ Millions)

Provision	Effective	1999	2000	2001	2002	2003	2004	2005	2006	2007
A. Extend the Research Tax Credit [through 6-30-99] [1]	7/1/98	Revenue loss already included in tax forecast								
B. Extend Contributions of Appreciated Stock to Private Foundations [permanent]; Public Inspection of Private Foundation Annual Returns	7-1-98 [2]	-0.17	-0.40	-0.51	-0.60	-0.66	-0.69	-0.72	-0.75	-0.79
C. Extend Tax Information Reporting for Income Contingent Student Loan Program [through 9-30-03]	10/1/98	Negligible Budget Effect								
D. Provide Special Rule for Cash Options for Receipt of Qualified Prizes by Individuals	[3]	NA	NA	NA	NA	NA	NA	NA	NA	NA
E. Restrict Special Net Operating Loss Carry-back Rules for Specified Liability Losses	NOLgi tyea DOE	0.08	0.11	0.16	0.21	0.23	0.22	0.22	0.22	0.23
F. Extend the Net Operating Loss Carryback Period for Farmer Losses	NOLgi tyba 12/31/97	-0.53	-0.48	-0.43	-0.40	-0.36	-0.33	-0.30	-0.28	-0.26
G. Accelerate the Self-Employed Health Insurance Deduction – 60% in 1999 through 2001, 70% in 2002, and 100% in 2003 and thereafter [4]	tyba 12-31-98	-0.76	-2.09	-1.70	-1.81	-2.78	-4.61	-4.92	-4.35	-1.86
H.Change the Treatment of Certain Deductible Liquidating Distributions of RICs and REITs	dma 5-21-98	13.14	6.01	3.92	3.47	3.64	3.82	4.02	4.22	4.43
TOTAL		11.76	3.15	1.43	.87	.07	-1.59	-1.71	-.94	1.75

Legend for "Effective" Column:
DOE = date of enactment
NOLgi = net operating losses generated in
dma = distributions made after
tyba - taxable years beginning after
tyea = taxable years ending after

NOTES:

North Carolina estimates are based on a percentage of the federal estimate calculated by the Congressional Joint Committee on Taxation. The percentage used is N.C. actual tax collections divided by national tax collections. (Individual = .723% Corporate = .542%)

[1] Based on previous federal extensions of this tax credit, the General Fund revenue forecast assumes the renewal of this credit.

2] Effective for requests made after the later of the date which is 60 days after the date on which the Treasury Department published regulations or 12/31/98.

3] The provision applies with respect to any qualified prize to which a person first becomes entitled after the date of enactment. In addition, the provision also applies to any qualified prize to which a person became entitled on or before the date of enactment if the person has an option to receive a lump-sum payment only during some portion of the 18 month period beginning on 7/1/99. The national data is not useful in estimating North Carolina impact due to the lack of a state lottery or other games that provide large prizes.

[4] Under present law, the self-employed health insurance deduction rates are 45% in 1998 and 1999, 50% in 2000 and 2001, 60% in, 80% in 2003 through 2005, 90% in 2006, and 100% in 2007 and thereafter,

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 56 A BILL TO BE ENTITLED AN ACT TO INCLUDE SERVICES IN THE DEFINITION OF ENERGY CONSERVATION MEASURES, TO EXTEND THE MAXIMUM DURATION OF A GUARANTEED ENERGY SAVINGS CONTRACT, AND TO REPEAL THE SUNSET REGARDING THE AUTHORITY OF A LOCAL GOVERNMENTAL UNIT TO ENTER INTO A GUARANTEED ENERGY SAVINGS CONTRACT FOR A LOCAL PUBLIC FACILITY.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-235
SENATE BILL 56

AN ACT TO INCLUDE SERVICES IN THE DEFINITION OF ENERGY CONSERVATION MEASURES, TO EXTEND THE MAXIMUM DURATION OF A GUARANTEED ENERGY SAVINGS CONTRACT, AND TO REPEAL THE SUNSET REGARDING THE AUTHORITY OF A LOCAL GOVERNMENTAL UNIT TO ENTER INTO A GUARANTEED ENERGY SAVINGS CONTRACT FOR A LOCAL PUBLIC FACILITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-64.17(1) reads as rewritten:

"(1) `Energy conservation measure' means a facility ~~alteration or training~~ alteration, training, or services related to the operation of the ~~facility~~ facility, ~~that reduces energy consumption or operating costs and includes:~~ when the alteration, training, or services provide anticipated energy savings. Energy conservation measure includes any of the following:

a. Insulation of the building structure and systems within the ~~building;~~ building.

b. Storm windows or doors, caulking, weatherstripping, multiglazed windows or doors, heat-absorbing or heat-reflective glazed or coated window or door systems, additional glazing, reductions in glass area, or other window or door system modifications that reduce energy ~~consumption;~~ consumption.

c. Automatic energy control ~~systems;~~ systems.

d. Heating, ventilating, or air-conditioning system modifications or ~~replacements;~~ replacements.

e. Replacement or modification of lighting fixtures to increase the energy efficiency of a lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable State or local building code or is required by the light system after the proposed modifications are ~~made;~~ made.

f. Energy recovery ~~systems;~~ systems.

g. Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of ~~buildings; or~~ buildings.

h. Other energy conservation ~~measures that provide long-term operating cost reductions or significantly reduce energy consumed~~ measures."

Section 2. G.S. 143-64.17(2) reads as rewritten:

"(2) `Energy savings' means a measured reduction in ~~fuel,~~ fuel costs,

~~energy,~~ energy costs, or operating costs created from the implementation of one or more energy conservation measures when compared with an established baseline of previous ~~fuel,~~ fuel costs, ~~energy,~~ energy costs, or operating costs developed by the local governmental unit."

Section 3. G.S. 143-64.17B(a) reads as rewritten:

"(a) A local governmental unit may enter into a guaranteed energy savings contract with a qualified provider if all of the following apply:

(1) The term of the contract does not exceed ~~eight~~ 12 years from the date of the installation and acceptance by the local governmental unit of the energy conservation measures provided for under the contract.

(2) The local governmental unit finds that the energy savings resulting from the performance of the contract will equal or exceed the total cost of the contract.

(3) The energy conservation measures to be installed under the contract are for an existing building."

Section 4. Section 10 of Chapter 775 of the 1993 Session Laws, as amended by Section 3 of Chapter 295 of the 1995 Session Laws, reads as rewritten:

"~~Sec. 10. A local governmental unit may not enter into a guaranteed energy savings contract under Part 2 of Article 3B of Chapter 143 of the General Statutes, as enacted by this act, on or after July 1, 1999.~~"

Section 5. This act becomes effective July 1, 1999, and applies to contracts entered into on or after July 1, 1999.

In the General Assembly read three times and ratified this the 30th day of June, 1999.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 3:55 p.m. this 30th day of June, 1999

SENATE BILL 56:
Sunset/Term of Energy Savings Contracts

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Lee
Date:	June 10, 1999	**Summary by:**	Cindy Avrette
Version:	3rd Edition		Committee Counsel

SUMMARY: Senate Bill 56 extends the maximum term of a guaranteed energy savings contract from 8 years to 12 years. The bill also repeals the sunset date of July 1, 1999, so that local government units may enter into these contracts, and finance them through installment purchase and lease-purchase agreements, after July 1, 1999. The bill becomes effective July 1, 1999.

CURRENT LAW: In 1991, the General Assembly enacted legislation to allow local units of government, including community colleges and school boards, to enter into a guaranteed energy savings contract. A guaranteed energy savings contract is a contract for the evaluation, recommendation, or implementation of energy conservation measures in which the energy savings from the measures are guaranteed to exceed their costs. The term "energy savings measures" means a facility alteration or training related to the operation of the facility that reduces energy consumption or operating costs. Examples of energy savings measures include insulation, storm windows and doors, automatic energy control systems, heating and air conditioning modifications, etc.

A local governmental unit may enter into a guaranteed energy savings contract if all of the following conditions are met:

- The term of the contract does not exceed eight years from the date of installation and acceptance of the energy conservation measures provided for in the contract.
- The energy savings will equal or exceed the total cost of the contract.
- The energy conservation measures are for an existing building.

A local government unit may finance the acquisition, installation, or maintenance of energy conservation measures by installment or lease-purchase contracts. Once a contract is awarded, the contract and its terms must be reported to the Local Government Commission. The Local Government Commission compiles this information and reports it to the Joint Legislative Commission on Governmental Operations. In 1995, the General Assembly extended a local government's authority to enter into guaranteed energy savings contracts for an additional two years until July 1, 1999.

BILL ANALYSIS: Senate Bill 56 increases the maximum term of a guaranteed energy savings contract from 8 years to 12 years. It also repeals the sunset so that local governments may enter into guaranteed energy savings contracts, and finance them through installment purchase agreements, after July 1 of this year. The bill also makes clarifying and stylistic changes to the law.

VISITOR REGISTRATION SHEET

FINANCE — 6/15/99

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Brenda Kenney	
Jane Benet	
Pantel Hunt	205 Churchill Ln. Chapel Hill
AL DEITCH	DOA/YAID
Melody Kaye	
Jack McMillan	NFIS
Kim Church	1117 Marshall St., Raleigh
John Rust	NCFPC
Faye Joseph	Private - 211 Glasgow Rd. CARY
HARLEY H. CARDOW	TRANS Comfort - 8 Perry Park Ln. Kinston NC
Edith Vatta	Children's Home Society of NC P.O. Box 14608, Zip 27415
PAT WHEELER	SENATE CO-CHAIR LRC ADOPTION REGISTRY
Doris Hanson	710 Westminster Lane, Kinston, NC
Joyce Carraway	8 Perry Park Lane Kinston NC
Sara Beggs	
Roberta MacDonald	228 Monticello Ave Durham NC adoptee
S Ramsey	DSS
E Fitch	DSS
Gwen Horton	Children's Services
Dayton Westfall	DOA GA
Steve Ammerman	RJR

VISITOR REGISTRATION SHEET

House Finance — June 15, 1999
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bob Phoa	Jordan Price Wall
Nancy Pomerance	DOR
Tom Dixon	DOR
Patti Seawell	"
Billy Daniel	DOR
Andy Segal	DOR
Sabra Faires	Dept of Revenue
Chuck Collins	" " "
David Clegg	ESC
[illegible]	[illegible]
Herb Crenshaw	NCEITA
Dale Bonard	NCCBD
Jim Blackburn	County Commrs
Cam Cram	BPOE
Amy Hunt	NCHMA
Susan Markham	ECHS
John Cyrus	N.C. State Grange
Andy Romanet	N.C.L.M.
Shirwin Stroud	Energy Division
Alice Garland	Electricities
[illegible]	NCAFI
Hal Miller	NCACCT
Joni Hart	Sanford
Frank Dare	NCRMA
Dave [illegible]	SABAMA
Paul Stock	NC Bankers Assn
Carl Goodwin	OSBA
Cindy Ellen	NCRMA

VISITOR REGISTRATION SHEET

Name of Committee , 1999
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Alicia Gregory	Poyner & Spruill
John Rainey	" "
Donald Clark	Johnson Controls Inc.
Scott Bradley	Mediation Network
Jim Conn	Kilpatrick Stockton
Lynne Hamlet	Sch. Lee

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Wednesday June 16, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 275 - Zero ESC Tax/Training Contribution - Rep. Redwine
HB 672 - Various Local Occupancy Taxes - Rep. Gibson

ADJOURNMENT OF MEETING

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

AFTER SESSION MEETING

Wednesday June 16, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 240 - UNC Nonappropriated Capital Projects - Rep. Insko
HB 1479 - Newsprint Tax Credit Change - Rep. Miller
SB 484 - RMV Tax Budgeting - Sen. Clodfelter

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Wednesday, June 16, 1999

The House Committee on Finance met on Wednesday, June 16, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke, Miller; Vice Chairs Jarrell; Representatives Bridgeman, Brown, Buchanan, Capps, Church, Cox, Creech, Decker, Dedmon, Eddins, Edwards, Gibson, Hackney, Hill, McComas, McCombs, Morris, Pope, Rayfield, Starnes, Tucker, Wilson, and Womble. Staff including Cindy Avrette, Richard Bostic, Mary Shuping, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Luebke called the meeting to order to consider the following bills:

Rep. Gibson was recognized to explain HB 672, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE VARIOUS COUNTIES AND TOWNS TO LEVY ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAXES. Rep. Buchanan moved to adopted to Proposed Committee Substitute for discussion only. The Chair recognized Mr. Bruce Radford, Town Manager of Selma who stated he supported the bill. The Chair recognized Ms. Donna Bailey Taylor, Executive Director of Johnson County Visitors Bureau who stated she opposed the bill. The Chair recognized Mr. Hank Daniels, Chairman of the Johnson County Tourism Authority who stated he opposed the bill. The Chair recognized Mr. Jim Hobbs of the N.C. Hotel/Motel Association who stated he supported the bill. Rep. Edwards stated he cannot support the bill. Rep. Wilson stated she cannot support the bill. Rep. Rayfield stated he cannot support the bill. Rep. Capps questioned Cindy Avrette about the tax rate. Rep. Hackney made a motion to make a new Proposed Committee Substitute that exluded the town of Selma, included the town of Carrboro, and giving the new Proposed Committee Substitute a favorable report, and an unfavorable report to the original bill. Cind Avrette stated Carrboro meets necessary requirements. Rep. Wilson stated she was favorable to Rep. Hackney's motion. Rep. Gibson commented that Selma has made efforts to conform to Johnson County, and he will have to support the motion. The motion passed. Rep. Edwards did not vote. The Proposed Committee Substitute, the Bill Summary, and handouts are included in these minutes.

Rep. Redwine was recognized to explain HB 275, A BILL TO BE ENTITLED AN ACT TO IMPLEMENT A ZERO UNEMPLOYMENT INSURANCE TAX RATE FOR MORE EMPLOYERS WITH POSITIVE EXPERIENCE RATINGS, AND TO TEMPORARILY REDUCE THE UNEMPLOYMENT INSURANCE TAX BY TWENTY PERCENT FOR MOST EMPLOYERS AND SUBSTITUTE AN EQUIVALENT CONTRIBUTION TO FUND ENHANCED EMPLOYMENT SERVICES AND WORKER TRAINING PROGRAMS. The Chair recognized Mr. Herb Crenshaw of the N.C. Electronic and Technology Association who supported the bill. The Chair recognized Mr. Phil Kirk of N.C.C.B.I. who supported the bill. The Chair recognized Mr. Bob Tanner, the Director of Workforce Development of the N.C. Department of Commerce who supported the bill. The Chair recognized Mr. Ed Regan of the County Commissioners Association who supported the bill. Rep. Wilson asked the Chair to recognize Mr.

David Clay of the Employment Security Commission. Rep. Wilson questioned Mr. Clay and then explained her handout. Rep. Brown stated he supported the bill. Rep. Miller questioned Mr. Kirk. Rep. Miller questioned Mr. Parker Chesson of the Employment Security Commission, who stated the Department of Labor supported the bill. Rep. Pope suggests that the committee vote to not concur. Reps. Rayfield and Buchanan questioned Rep. Redwine. Rep. Hackney moved to recommend that the House does not concur. The motion passed. The bill, the Bill Summary, Fiscal Note and Rep. Wilson's handout are included in these minutes

There being no further business, the Chair adjourned the meeting at 10:00 a.m.

Respectfully submitted:

Representative Paul Luebke
Chair

Kristen L. Crosson

Kristen L. Crosson
Assistant to the Committee

MINUTES
HOUSE COMMITTEE ON FINANCE

Wednesday, June 16, 1999
AFTER SESSION MEETING

The House Committee on Finance met on Wednesday, June 16, 1999 in Room 544 of the Legislative Office Building AFTER SESSION. The following members were present: Chairs Allen, Luebke, Miller; Vice Chairs Jarrell; Representatives Bridgeman, Brown, Buchanan, Capps, Church, Cox, Decker, Eddins, Edwards, Fitch, Goodwin, Gray, Hackney, McCombs, Morris, Rayfield, and Tucker. Staff including Cindy Avrette, Richard Bostic, Mary Shuping, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Luebke called the meeting to order to consider the following bills:

Rep. Insko was recognized to explain HB 240, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA. Richard Bostic explains the fiscal note in reply to a question from Rep. Capps. The Chair recognizes Mr. Jeff Davis of the UNC Univerity System. Rep. Capps questioned Mr. Davis. The Chair recognized Mr. Metcalf of the UNC University System. Rep. Capps questioned Mr. Metcalf. Rep. Brown moved to give HB 240 a favorable report. The motion passed. The bill and handout are included in these minutes.

Rep. Miller was recognized to explain HB 1479, A BILL TO BE ENTITLED AN ACT TO AMEND THE NEWSPRINT RECYCLING TAX. Cindy Avrette explained the bill. The Chair recognized Mr. Scott Mao of the Department of Environment and Natural Resources who supported the bill. Rep. McComas asked fiscal staff to get information on newspapers using non-soy ink. Rep. Hackney sent forward an amendment and moved for its adoption. The amendment passed. Rep. Miller moved to roll the amendment and bill into a Proposed Committee Substitute and then give the Proposed Committee Substitute a favorable report and unfavorable to the original bill. The motion passed. The bill, amendment, Bill Summary, and Fiscal Note are included in these minutes.

Sen. Clodfelter was recognized to explain SB 484, A BILL TO BE ENTITLED AN ACT CHANGING THE METHOD OF CALCULATING THE RATIO OF PROPERTY TAX COLLECTIONS TO THE TOTAL LEVY FOR LOCAL GOVERNMENT BUDGETING PURPOSES RELATING TO THE REGISTERED MOTOR VEHICLE TAX. Linda Millsaps explained the fiscal note. Rep. Brown moved to give SB 484 a favorable report. The motion passed. The bill, Bill Summary, and Fiscal Note are included in these minutes.

There being no further business, the Chair adjourned the meeting at 10:00 a.m.

Respectfully submitted:

Representative Paul Luebke
Chair

Kristen L. Crosson

Kristen L. Crosson
Assistant to the Committee

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 240 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 240
Committee Substitute Reported Without Prejudice 4/29/99

Short Title: UNC Nonappropriated Capital Projects. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. The purpose of this act is (i) to authorize the construction or acquisition by certain constituent institutions of The University of North Carolina, of the capital improvements projects listed in the act for the respective institutions, and (ii) to authorize the financing of these projects with funds available to the institutions from gifts, grants, receipts, self-liquidating indebtedness, or other funds, or any combination of these funds, but not including funds appropriated from the General Fund of the State.

Section 2. The capital improvements projects, and their respective costs, authorized by this act to be constructed and financed as provided in Section 1 of this act, are as follows:

1. **Appalachian State University**

Athletic Facilities	$6,241,500
Improvements to Student Residence Facilities	9,417,000
Central Campus Parking Deck	9,169,400
Plemmons Student Union Interior/Exterior Renovations	4,046,700
Bookstore Renovations	2,250,000

2. East Carolina University	
Materials Warehouse	2,900,300
Jones Hall Renovations and College Hill Central Chiller Plant	18,544,200
Strength and Conditioning Center	8,587,000
3. Elizabeth City State University	
Renovation of Residence Halls	2,050,000
4. North Carolina A&T State University	
Williams Cafeteria Renovation and Expansion	8,579,100
5. North Carolina State University	
Central Stores Surplus Warehouse Expansion	4,185,400
Academic and Practice Facility	22,071,100
East Campus Dining Facility	3,134,800
6. The University of North Carolina at Asheville	
New Residence Hall	5,699,700
North Carolina Center for Creative Retirement	3,471,600
7. The University of North Carolina at Chapel Hill	
Teaching Research Building - School of Public Health	25,598,300
Addition to Carrington Hall - School of Nursing	7,904,000
Residence Halls for 1,000 Students	42,067,500
Medical School Office Building	33,677,000
Acquisition of Chapel Hill North Office Building	6,200,000
Airport Drive Office Building	7,005,200
8. The University of North Carolina at Charlotte	
Bookstore	4,099,200
Cone Center Renovations	4,473,400
Parking Deck 'F'	8,223,400
9. The University of North Carolina at Greensboro	
High-Rise Residence Hall Roof Replacements	737,500
Residence Hall Data Wiring and Electrical Renovations	4,525,000
Elliott University Center Renewal and Bookstore/Food Court Addition	22,000,000

10. **The University of North Carolina at Wilmington**	
Housing for 200 Students	8,043,900
University Union Addition and Renovation	7,615,000
11. **Western Carolina University**	
Hinds University Center Addition	4,904,200
New Student Housing (300 Beds)	14,480,600
Housing for Students with Families (20 units)	1,476,300.

Section 3. At the request of the Board of Governors of The University of North Carolina and upon determining that it is in the best interest of the State to do so, the Director of the Budget may authorize an increase or decrease in the cost of, or a change in the method of funding the projects authorized by this act. In determining whether to authorize a change in cost or funding, the Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations.

Section 4. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 240 (Second Edition)

SHORT TITLE: UNC Non-Appropriated Capital Projects

SPONSOR(S):

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
EXPENDITURES					
General Fund Operating Costs	$408,000	$3,427,800	$3,651,949	$3,999,452	$4,129,100
POSITIONS:		Not Available			

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: The University of North Carolina – General Administration

EFFECTIVE DATE: The act is effective when it becomes law.

BILL SUMMARY: The bill authorizes the construction and financing, without appropriations from the General Fund, of capital improvements projects of the constituent institutions of the University of North Carolina.

ASSUMPTIONS AND METHODOLOGY: The 32 projects listed in this bill are being constructed with funds other than the state General Fund (see attached chart). However, there are six projects that will require a General Fund appropriation for operating expenses. Operating expenses includes both salary and benefits for new personnel and non-personnel items such as utilities. The data provided by the UNC-General Administration includes a 3% increase per year for salaries and benefits and a 5% increase per years for non-personnel items and utilities.

House Bill 240: UNC Non-Appropriated Capital Project Authorizations

Campus	Project	Amount	Source of Funds	Effect of Debt on Students	Increase in Annual Operating Costs	Source of Operating Costs	Effect of Operations on Students
Appalachian State	Athletic Facilities – indoor pools and athletic fields	$6,241,500	student fees	$25 fee increase for debt service	$126,000		
Appalachian State	Improvement to 8 Student Residence Facilities	$9,417,000	residence hall receipts	$55 increase in room charges	$25,000		
Appalachian State	Central Campus Parking Deck	$9,169,400	parking fees	$50 increase in annual parking registration fees	$54,000		
Appalachian State	Plemmons Student Union Interior/Exterior Renovations	$4,046,700	student fees	$15 fee increase for debt service	$83,600		
Appalachian State	Bookstore Renovations	$2,250,000	bookstore receipts		none		
East Carolina	Materials Warehouse	$2,900,300	overhead receipts and departmental charges		$72,900		
Elizabeth City State	Renovation of 6 Residence Halls	$2,050,000	residence hall receipts		none		
N C A & T	Williams Cafeteria Renovation and Expansion	$8,579,100	food service receipts		$142,300		

Campus	Project	Amount	Source of Funds	Effect of Debt on Students	Increase in Annual Operating Costs	Source of Operating Costs	Effect of Operations on Students
N C State	Central Stores Surplus Warehouse Expansion	$4,185,400	storage rental income		$172,000		
N C State	Academic and Practice Facility	$22,071,100	athletic department gifts		$654,000		
N C State	East Campus Dining Facility	$3,134,800	food service receipts		$53,000		
UNC – Asheville	New Residence Hall	$5,699,700	residence hall receipts		$84,200		
UNC – Asheville	North Carolina Center for Creative Retirement	$3,471,600	grants and gifts		$118,865	General Fund	
UNC – Chapel Hill	Teaching Research Building - School of Public Health	$25,598,300	overhead receipts and departmental funds		$1,047,000	General Fund	
UNC – Chapel Hill	Residence Halls for 1,000 Students	$42,067,500	residence hall receipts		$1,947,000		
UNC – Chapel Hill	Medical School Office Building	$33,677,000	overhead receipts and departmental funds		$1,043,000	General Fund	
UNC – Chapel Hill	Airport Drive Office Building	$7,005,200	charges to building occupants		$446,000	General Fund	

Campus	Project	Amount	Source of Funds	Effect of Debt on Students	Increase in Annual Operating Costs	Source of Operating Costs	Effect of Operations on Students
UNC – Charlotte	Bookstore	$4,099,200	bookstore receipts and funding in book store accounts		$119,000		
UNC – Charlotte	Cone Center Renovations	$4,473,400	balances available in institutional accounts and fee increase	$10 fee increase for debt service	none		
UNC – Charlotte	Parking Deck F	$8,223,400	parking fees and balances in parking system accounts	$5 increase in parking fee in 2000 and in 2001	none		
UNC – Greensboro	Residence Hall Data Wiring and Electrical Renovations	$4,525,000	housing and dining system revenues		none		
UNC – Greensboro	Elliot University Center Renewal and Bookstore/ Food Court addition	$22,000,000	bookstore revenue, dining revenue and student fees	$120 increase in student fees	$234,000		
UNC – Wilmington	Housing for 200 Students	$8,043,900	residence hall receipts		$280,000		
Western Carolina	Hinds University Center Addition	$4,904,200	student fees	$65 fee increase for debt service	$106,000		
Western Carolina	New Student Housing (300 beds)	$14,480,600	residence hall receipts	$145 per semester increase in room rates	$578,000		

Campus	Project	Amount	Source of Funds	Effect of Debt on Students	Increase in Annual Operating Costs	Source of Operating Costs	Effect of Operations on Students
Western Carolina	Housing for Students with Families (20 units)	$1,476,300	housing unit rent		$34,800		
Total		$313,378,300			$3,522,865 (General Fund) $5,257,600 (Other Funds)		

Notes: The chart list the first year operating costs of each project.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY:

DATE:

PROPOSED
SELF-LIQUIDATING CAPITAL IMPROVEMENTS PROJECTS

The University of North Carolina

1999

May 24, 1999

THE UNIVERSITY OF NORTH CAROLINA
CAPITAL PROJECTS TO BE FUNDED
FROM NON-APPROPRIATED SOURCES

The proposed legislation provides for thirty-two self-liquidating capital improvements projects at eleven constituent institutions of The University of North Carolina. A description of each project follows:

Appalachian State University

Athletic Facilities, $6,241,500
The project would provide for the construction of a 20,000 square-foot indoor swimming complex with a 25-meter pool. As a part of the project, the University's existing swimming pool would be renovated; however, the existing pool is over 30 years old and is not large enough to meet current instructional and recreational demands. The project further provides for the construction of four new outdoor athletic fields to provide facilities for intramural athletics. The project would be financed through the sale of revenue bonds to be repaid from a new debt service fee of $25 annually.

Improvements to Student Residence Facilities, $9,417,000
The project provides for a variety of improvements in eight student residence halls constructed prior to 1980. The University proposes to systematically replace roofs, windows, doors, security systems, floor coverings, and fixed equipment in all of the residence halls. The University further plans to upgrade plumbing, electrical and data systems in several of the residence halls. The project also provides for upgrades to the emergency controls and power sources for residence hall elevators. The University proposes to finance the project through the sale of revenue bonds to be repaid from residence hall receipts. It is estimated that room charges will increase by $55 per semester to finance the debt repayment.

Appalachian State University (continued)

Central Campus Parking Deck, $9,169,400
A parking study conducted in 1995 identified the loss of more than 700 parking spaces as a result of the construction of new facilities on the ASU campus. This loss, combined with an already existing shortage of parking facilities, requires that the University construct additional parking. The project provides for the construction of a 5-level structure located near the new Convocation Center. The structure would serve the parking needs of the campus population and would also provide parking facilities for participants attending events at the Center. The parking deck would contain 1200 square feet of office space for the traffic and parking operations department. The University proposes to finance the project through the sale of revenue bonds to be repaid from parking receipts. It is estimated that parking registration fees would increase by $50 to finance the repayment of the bonds. In addition, participants in events at the Convocation Center would pay for parking.

Plemmons Student Union Interior/Exterior Renovations, $4,046,700
The project provides for the addition of 20,000 square feet of space to the Plemmons Student Union as well as the renovation of approximately 10,000 square feet of space in the student union building. The added space would provide student areas and an informal eating area. The University proposes to finance the project through the sale of revenue bonds to be repaid from a new debt service fee of $15 annually.

Bookstore Renovations, $2,250,000
The University has previously received authorization to construct an addition to the campus bookstore and now seeks authority for the renovation of the existing 22,528 square-foot bookstore when the addition is completed. The University proposes to finance the project through the sale of revenue bonds to be repaid from bookstore receipts.

East Carolina University

Materials Warehouse, $2,900,300
The project would provide for the relocation of the University's warehouse facility to a location remote from the main academic campus, freeing space on campus for instructional activities. The new warehouse would contain approximately 35,000 square feet of space and would be constructed on University property located between the main campus and the School of Medicine. The University proposes to finance the project through the sale of revenue bonds to be repaid from overhead receipts and departmental charges.

East Carolina University (continued)

Jones Hall Renovations and College Hill Central Chiller Plant, $18,544,200

These projects represent the next phase of a long-term plan to upgrade and expand the quality of student services in the College Hill area of the campus. Jones Hall, a residence hall constructed in 1958, would be renovated to meet current life safety and accessibility standards. The renovations would include the replacement of the facility's mechanical systems to achieve improved environmental control as well as aesthetic renovations to both the interior and the exterior of the facility. The former cafeteria in Jones Hall would be renovated and expanded to provide an attractive alcohol-free late night entertainment alternative for students. The facility would include a juice and dessert bar and fitness center. The chiller to be installed to support this project would be located in a new facility that would provide the start of a centralized loop system for this area of campus. The University proposes to finance the project through the sale of revenue bonds to be repaid from a combination of residence hall receipts and food service receipts.

Strength and Conditioning Center, $8,587,000

In 1998, the General Assembly provided $2,000,000 for planning a Strength and Conditioning Center at ECU. The total project is estimated to cost $10,587,000 and the University requests authority to complete the financing for the facility from non-appropriated funds. The facility would be located between the stadium and the coliseum. It would serve as an athletic training and tutoring facility and would include a banquet hall capable of accommodating 500 people. Funds for this project would be privately raised by the East Carolina University Educational Foundation, Inc. Short-term bank financing may be required.

Elizabeth City State University

Renovation of Residence Halls, $2,050,000

The project provides for the first phase of renovations to six campus residence halls. Renovations would include upgrades to electrical and plumbing systems, the installation of new HVAC systems, and improvements to meet life safety requirements. The University proposes to finance the project through the issuance of revenue bonds to be repaid from residence hall receipts.

North Carolina A&T State University

Williams Cafeteria Renovation and Expansion, $8,579,100
The project would provide for the renovation and expansion of Williams Cafeteria, constructed in 1974. The project includes replacement of the HVAC, electrical, and plumbing systems; window replacement; and roof replacement. The 25,000 square foot expansion would provide for more diverse dining alternatives and would increase seating capacity by 750 seats. The University proposes to finance the project through the sale of revenue bonds to be repaid from food service receipts.

North Carolina State University

Central Stores Surplus Warehouse Expansion, $4,185,400
The project would provide for the construction of a 60,000 square-foot addition to the existing 39,000 square-foot University warehouse. Increasing remote storage capacity would allow for better utilization of core academic space. The University proposes to finance the project through indebtedness to be repaid from storage rental income.

Academic and Practice Facility, $22,071,100
The project would provide for a new 187,000 square-foot facility with training and academic areas for student athletes. Included in the facility would be study areas, tutoring spaces, computer labs, classrooms, reception areas, practice and training courts, team areas and coaches offices. Existing facilities are inadequate and do not meet the Athletics' Department needs for study, practice and training areas. The University proposes to finance the facility through gifts to the athletics department.

East Campus Dining Facility, $3,134,800
Currently, the main dining facility on the NCSU campus is located on the western end of the campus and serves several nearby residence halls. The University now proposes to construct a dining facility to serve the east end on the campus. The project would provide for the conversion of the recently vacated student infirmary into a student dining facility with a 225-seat dining capacity. The project would include upgrades to the building systems. The University proposes to finance the project through the sale of revenue bonds to be repaid from food service receipts.

The University of North Carolina at Asheville

New Residence Hall, $5,699,700
The project would provide for the construction of a new residence hall as the University begins to replace several existing residence halls that were built in the 1960s. It is more cost effective to replace these facilities than to attempt to renovate them to meet current standards. The residence hall would contain approximately 100 beds. The University proposes to finance the project through the sale of revenue bonds to be repaid from housing receipts.

North Carolina Center for Creative Retirement, $3,471,600
The Center for Creative Retirement has received grants, gifts and other receipts to finance the construction of a new 16,000 square-foot building to house the Center's activities. The facility would include classrooms, meeting rooms and administrative offices to create a learning environment for lifelong learning for retired individuals.

The University of North Carolina at Chapel Hill

Teaching Research Building – School of Public Health, $25,598,300
The project would provide for the construction of a 90,000 square-foot building with instructional facilities, research laboratories, offices, and support spaces for the School of Public Health. The building would be located south of the School's existing facilities in Rosenau Hall. The new building is needed for the School to continue the research that has led it to national prominence. The University proposes to finance the project through the sale of revenue bonds to be repaid from overhead receipts and other non-appropriated departmental funds.

Addition to Carrington Hall – School of Nursing, $7,904,000
This project provides for a 39,000 square-foot addition to Carrington Hall to meet the teaching and research needs of the School of Nursing. The six-floor addition would include an auditorium, computer laboratories, and teaching laboratories. Course offerings in Nursing have tripled since the original facility was constructed in 1969. A commensurate increase in the number of students served along with new technologies has necessitated the need to expand and modernize. The University proposes to finance the project through the sale of revenue bonds to be repaid from overhead receipts and other non-appropriated departmental funds.

The University of North Carolina at Chapel Hill (continued)

Residence Halls for 1,000 Students, $42,067,500
The last residence hall constructed on the UNC-CH campus was completed in 1986. The University is now anticipating increased enrollment, more of the students want to live on campus, and the need exists to diversify the types of residence halls on campus. The project would provide for the construction of several low-rise residence halls housing 250 to 400 students each. The buildings would be located on the south end of campus proximate to the existing high-rise residence halls. The University proposes to finance the project through the sale of revenue bonds to be repaid from residence hall receipts.

Medical School Office Building, $33,677,000
The project provides for the construction of a 150,000 square-foot facility to house clinical faculty and staff, freeing up needed wet laboratory research space elsewhere on the health affairs campus. The six-story building would be located on the south side of Mason Farm Road. Two structures currently on the site would be demolished to accommodate this new structure. The building would include a 125-seat auditorium and a snack bar. Offices and conference rooms would be constructed using open architecture. The University proposes to finance the project from a combination of balances available in accounts of the University and the UNC Health Care System as well as borrowing to be repaid from overhead receipts and other non-appropriated departmental receipts.

Acquisition of Chapel Hill North Office Building, $6,200,000
The University is currently leasing this facility from the Endowment Fund of the University of North Carolina at Chapel Hill and proposes to now acquire this 50,400 square-foot facility. The building is currently fully occupied by activities that were formerly leasing commercial space throughout the towns of Chapel Hill and Carrboro. The project would be financed through the sale of revenue bonds to be repaid from charges to building occupants.

Airport Drive Office Building, $7,005,200
The University plans to lease land on Airport Road to The University of North Carolina at Chapel Hill Foundation, Inc., for the period required for the Foundation to construct a 60,000 square-foot, three-story office building. When the facility is completed, the lease would expire and the University would acquire the facility from the Foundation. The University proposes to finance the acquisition through indebtedness to be repaid from charges to building occupants.

The University of North Carolina at Charlotte

Bookstore, $4,099,200
The project would provide for the construction of a 25,000 square-foot bookstore to serve the UNC-Charlotte campus. The present bookstore was constructed in 1980 and does not adequately meet the needs of the current campus population. The new facility would be located close to parking facilities. The University proposes to finance the project from a combination of funds available in bookstore accounts and borrowing to be repaid from bookstore receipts.

Cone Center Renovations, $4,473,400
The N.C. Department of Insurance has determined that no further renovations are to be undertaken at the Cone Center until building code deficiencies are addressed in this building, a portion of which was constructed in 1962. The project would provide for the correction of the identified deficiencies as well as improvements to student government offices, student lounges, and the food court/cafeteria. The project would also provide for exterior renovation of the older section of the building to include larger windows, greater insulation and aesthetic improvements. The University proposes to finance the project from a combination of balances available in institutional accounts and borrowing to be repaid from a new debt service fee of $10 annually.

Parking Deck 'F', $8,223,400
The project would provide for the construction of an 800-space parking deck to meet the current demand for on-campus parking. The University's master plan identifies the need for multi-level parking structures located close to facilities and buffered by landscaping. The project would be financed by a combination of balances available in parking system accounts and borrowing to be paid from parking fees. A $5 increase in parking fees was approved in March of 1999. Similar increases are planned for the next two years.

The University of North Carolina at Greensboro

High-Rise Residence Hall Roof Replacements, $737,500
The project provides for the replacement of 126,200 square-feet of membrane type roofs on four high-rise residence halls. The project includes the installation of new insulation and roof drains, and restoration of parapet walls and top coping. The University proposes to finance the project through borrowing to be repaid from residence hall receipts.

The University of North Carolina at Greensboro (continued)

Residence Hall Data Wiring and Electrical Renovations, $4,525,000
The project provides for the University's share of funds needed to install data and telephone wiring in each room in fourteen of the University's residence halls. Six of the residence halls would also receive dropped ceilings and softer lighting in the hallways. The project also provides for the complete electrical renovation of two residence halls, Weil and Winfield, including replacement of electrical service, panels, outlets, wiring, lighting and fire alarm systems. The University proposes to finance the project from borrowing to be repaid from housing and dining system revenues.

Elliott University Center Renewal and Bookstore/Food Court Addition, $22,000,000
The project provides for a 51,100 square-foot addition to the Elliott University Center to include a bookstore, dining facilities, and an auditorium. The project also provides for renovation of the existing 118,600 square-foot facility to provide flexible high quality space capable of supporting social, cultural and recreational needs of the students. Building systems would be upgraded to support a higher intensity of use. The University proposes to finance the project through the sale of revenue bonds to be repaid from bookstore revenues, dining revenues, and a new student fee of $120 annually.

The University of North Carolina at Wilmington

Housing for 200 Students, $8,043,900
The project provides for the construction of 51,500 square-feet of housing for on-campus students. Currently, the demand for on-campus housing exceeds capacity by more than 100% and continued undergraduate enrollment growth at this campus will exacerbate this situation. The University proposes to finance the project from a combination of balances available in housing reserves and through the sale of revenue bonds to be repaid from housing receipts.

University Union Addition and Renovation, $7,615,000
The project provides for the addition of 41,200 square feet and the renovation of 54,300 square feet to the University Union to provide adequate space for student activities, dining, and bookstore sales. The University proposes to finance the project from a combination of balances available in institutional accounts and borrowing to be repaid from existing student fees along with dining and bookstore receipts.

Western Carolina University

Hinds University Center Addition, $4,904,200
Because WCU is located in a rural community, it lacks the off-campus amenities to which college-age students are attracted. The project provides for an addition to the Hinds University Center to accommodate increased student activities. The two-story, 31,400 square-foot addition would contain meeting spaces, lounge areas, a movie theater, post office, retail space and computer stations. The University proposes to finance the project through the sale of revenue bonds to be repaid from a new debt service fee of $65 annually.

New Student Housing (300 Beds), $14,480,600
The project provides for construction of a new residence hall with 75 residential suites serving four students each with shared living and bathroom facilities. The facility would contain 96,300 square feet of space and would include a lobby, laundry areas, housekeeping areas, offices, vending areas, and an apartment for a manager. The University proposes to finance the project through the sale of revenue bonds to be repaid from housing receipts. It is anticipated that room rates would increase by $145 per semester.

Housing for Students with Families (20 Units), $1,476,300
The project would provide for the construction of an apartment complex to accommodate the ever-growing number of students who have children and wish to live in campus housing. The complex would consist of five, four-plex, two bedroom apartment buildings. The University proposes to finance the project from borrowing to be repaid from rents charged to occupants of the housing units.

April 14, 1999

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 3

HOUSE BILL 275
Committee Substitute Favorable 4/1/99
Senate Finance Committee Substitute Adopted 5/26/99

Short Title: Zero ESC Tax/Training Contribution. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT A ZERO UNEMPLOYMENT INSURANCE TAX RATE FOR MORE EMPLOYERS WITH POSITIVE EXPERIENCE RATINGS, AND TO TEMPORARILY REDUCE THE UNEMPLOYMENT INSURANCE TAX BY TWENTY PERCENT FOR MOST EMPLOYERS AND SUBSTITUTE AN EQUIVALENT CONTRIBUTION TO FUND ENHANCED EMPLOYMENT SERVICES AND WORKER TRAINING PROGRAMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-9(b)(3)d3. reads as rewritten:

"d3. The standard contribution rate set by subdivision (b)(1) of this section applies to an employer unless the employer's account has a credit balance. Beginning January 1, ~~1995,~~ 1999, the contribution rate of an employer whose account has a credit balance is determined in accordance with the rate set in the following Experience Rating Formula table for the applicable rate schedule. The contribution rate of an employer whose contribution rate is determined by this Experience Rating Formula table shall be reduced by fifty percent (50%) for any year in which the balance in the Unemployment Insurance Fund equals or exceeds eight hundred million dollars ($800,000,000) on the computation date and the fund ratio determined on that date is less than

five percent (5%) and shall be reduced by sixty percent (60%) for any year in which the balance in the Unemployment Insurance Fund equals or exceeds eight hundred million dollars ($800,000,000) on the computation date, and the fund ratio determined on that date is five percent (5%) or more.

EXPERIENCE RATING FORMULA

When The Credit Ratio Is:

As Much As	But Less Than	Rate Schedules (%)								
		A	B	C	D	E	F	G	H	I
0.0%	0.2%	2.70%	2.70%	2.70%	2.70%	2.50%	2.30%	2.10%	1.90%	1.70%
0.2%	0.4%	2.70%	2.70%	2.70%	2.50%	2.30%	2.10%	1.90%	1.70%	1.50%
0.4%	0.6%	2.70%	2.70%	2.50%	2.30%	2.10%	1.90%	1.70%	1.50%	1.30%
0.6%	0.8%	2.70%	2.50%	2.30%	2.10%	1.90%	1.70%	1.50%	1.30%	1.10%
0.8%	1.0%	2.50%	2.30%	2.10%	1.90%	1.70%	1.50%	1.30%	1.10%	0.90%
1.0%	1.2%	2.30%	2.10%	1.90%	1.70%	1.50%	1.30%	1.10%	0.90%	0.80%
1.2%	1.4%	2.10%	1.90%	1.70%	1.50%	1.30%	1.10%	0.90%	0.80%	0.70%
1.4%	1.6%	1.90%	1.70%	1.50%	1.30%	1.10%	0.90%	0.80%	0.70%	0.60%
1.6%	1.8%	1.70%	1.50%	1.30%	1.10%	0.90%	0.80%	0.70%	0.60%	0.50%
1.8%	2.0%	1.50%	1.30%	1.10%	0.90%	0.80%	0.70%	0.60%	0.50%	0.40%
2.0%	2.2%	1.30%	1.10%	0.90%	0.80%	0.70%	0.60%	0.50%	0.40%	0.30%
2.2%	2.4%	1.10%	0.90%	0.80%	0.70%	0.60%	0.50%	0.40%	0.30%	0.20%
2.4%	2.6%	0.90%	0.80%	0.70%	0.60%	0.50%	0.40%	0.30%	0.20%	0.15%
2.6%	2.8%	0.80%	0.70%	0.60%	0.50%	0.40%	0.30%	0.20%	0.15%	0.10%
2.8%	3.0%	0.70%	0.60%	0.50%	0.40%	0.30%	0.20%	0.15%	0.10%	0.09%
3.0%	3.2%	0.60%	0.50%	0.40%	0.30%	0.20%	0.15%	0.10%	0.09%	0.08%
3.2%	3.4%	0.50%	0.40%	0.30%	0.20%	0.15%	0.10%	0.09%	0.08%	0.07%
3.4%	3.6%	0.40%	0.30%	0.20%	0.15%	0.10%	0.09%	0.08%	0.07%	0.06%
3.6%	3.8%	0.30%	0.20%	0.15%	0.10%	0.09%	0.08%	0.07%	0.06%	0.05%
3.8%	4.0%	0.20%	0.15%	0.10%	0.09%	0.08%	0.07%	0.06%	0.05%	0.04%
~~4.0%~~	~~4.2%~~	~~0.15%~~	~~0.10%~~	~~0.09%~~	~~0.08%~~	~~0.07%~~	~~0.06%~~	~~0.05%~~	~~0.04%~~	~~0.03%~~
~~4.2%~~	~~4.4%~~	~~0.10%~~	~~0.09%~~	~~0.08%~~	~~0.07%~~	~~0.06%~~	~~0.05%~~	~~0.04%~~	~~0.03%~~	~~0.02%~~
~~4.4%~~	~~4.6%~~	~~0.09%~~	~~0.08%~~	~~0.07%~~	~~0.06%~~	~~0.05%~~	~~0.04%~~	~~0.03%~~	~~0.02%~~	~~0.01%~~
~~4.6%~~	~~4.8%~~	~~0.08%~~	~~0.07%~~	~~0.06%~~	~~0.05%~~	~~0.04%~~	~~0.03%~~	~~0.02%~~	~~0.01%~~	~~0.01%~~
~~4.8%~~	~~5.0%~~	~~0.07%~~	~~0.06%~~	~~0.05%~~	~~0.04%~~	~~0.03%~~	~~0.02%~~	~~0.01%~~	~~0.01%~~	~~0.01%~~
~~5.0%~~										
4.0% & OVER		0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%

"

Section 2. Article 2 of Chapter 96 of the General Statutes is amended by adding a new section to read:

"§ 96-6.1. Training and reemployment contribution.

(a) Contribution. -- A mandatory training and reemployment contribution is levied upon employers at the rate of twenty percent (20%) of the amount of unemployment insurance contributions due under G.S. 96-9. The purpose of the training and reemployment contribution is to provide funds for Department of Community College training programs, Employment Security Commission reemployment services, administration and collection of the new contribution, and other needs of the State. The training and reemployment contribution is due and payable at the time and in the same manner as the unemployment insurance contributions under G.S. 96-9. The training and reemployment contribution does not apply in a calendar year if, as of August 1 of the preceding year, the amount in the Unemployment Insurance Fund equals or is less than eight hundred million dollars ($800,000,000). The collection of the training and reemployment contribution, the assessment of interest and penalties on unpaid contributions under this section, the filing of judgment liens, and the enforcement of the liens for unpaid contributions under this section are governed by the provisions of G.S. 96-10 where applicable.

Training and reemployment contributions collected under this section shall be credited to the Employment Security Commission Training and Employment Account created in this section, and refunds of these contributions shall be paid from the same account. Any interest or penalties collected on unpaid contributions under this section shall be credited to the Special Employment Security Administration Fund, and any interest or penalties refunded on contributions imposed by this section shall be paid from the same Fund.

(b) Training and Employment Account. -- There is created in the State treasury a special account separate and apart from all other public moneys or funds of this State, to be known as the Employment Security Commission Training and Employment Account. The State Treasurer is ex officio the treasurer and custodian of the Account and shall invest its funds in accordance with law. Any interest or other income derived from the Account shall be credited to the Account. Funds in the Account may be spent only pursuant to appropriation by the General Assembly and in accordance with the line item budget enacted by the General Assembly. The Account is subject to the provisions of the Executive Budget Act, except that no unexpended surplus of the Account shall revert to the General Fund. Funds appropriated from the Account that are unexpended and unencumbered at the end of the fiscal year for which they were appropriated shall revert to the credit of the Account in the State treasury in accordance with G.S. 143-18.

It is the intent of the General Assembly that eighty percent (80%) of the funds in the Account shall be appropriated annually to the Department of Community Colleges to be used for nonrecurring expenditures to provide worker training through improved continuing education, acquisition of modern training equipment, operation of specialized training centers, enhancement of small business center training, expansion of training for new and expanding industries, incentive grants for

incumbent worker training programs funded by the Worker Training Trust Fund, and other programs of the Department of Community Colleges. It is the intent of the General Assembly that twenty percent (20%) of the funds in the Account shall be appropriated annually to the Employment Security Commission for administration and collection of the training and reemployment contribution and for nonrecurring expenditures for reemployment services."

Section 3. G.S. 96-9(c)(4)b. reads as rewritten:

"b. Notwithstanding any other provisions of this section, if the successor employer was an employer subject to this Chapter prior to the date of acquisition of the business, ~~his~~ the successor's rate of contribution for the period from ~~such~~ that date to the end of the then current contribution year shall be the same as ~~his~~ the successor's rate in effect on the date of ~~such~~ the acquisition. If the successor was not an employer prior to the date of the acquisition of the ~~business he~~ business, the successor shall be assigned a standard rate of contribution set forth in G.S. 96-9(b)(1) for the remainder of the year in which ~~he~~ the successor acquired the business of the predecessor; however, if ~~such~~ the successor makes application for the transfer of the account within 60 days after notification by the Commission of ~~his~~ the right to do so and the account is transferred, or meets the requirements for mandatory transfer, ~~he~~ the successor shall be assigned for the remainder of ~~such~~ the year the rate applicable to the predecessor employer or employers on the date of acquisition of the business, ~~provided~~ if there was only one predecessor or if more than one and the predecessors had identical rates. In the event the rates of the predecessor were not identical, the rate of the successor shall be the highest rate applicable to any of the predecessor employers on the date of acquisition of the business.

Irrespective of any other provisions of this Chapter, when an account is transferred in its entirety by an employer to a successor, ~~the transferring employer shall thereafter pay the standard rate of contributions of two and seven-tenths percent (2.7%) and shall continue to pay at such rate until he qualifies for a reduction, reacquires the account he transferred or acquires the experience rating account of another employer, or is subject to an increase in rate under the conditions prescribed in G.S. 96-9(b)(2) and (3). However, when an account is transferred in its entirety by an employer to a successor on or after January 1, 1987,~~ the transferring employer shall thereafter pay the standard beginning rate of contributions ~~of two and twenty-five~~

~~hundredths percent (2.25%)~~ provided in G.S. 96-9(b)(1) and shall continue to pay at ~~such~~ that rate until ~~he~~ the employer qualifies for a reduction, reacquires the account ~~he transferred or~~ transferred, acquires the experience rating account of another employer, or is subject to an increase in rate under the conditions prescribed in G.S. 96-9(b)(2) and (3)."

Section 4. G.S. 96-9(b)(1) reads as rewritten:

"(b) Rate of Contributions. --

(1) Beginning Rate. -- The standard beginning rate of contributions for an employer is a percentage of wages paid by the employer during a calendar year for employment occurring during that year. The rate is determined in accordance with the following table:

Percentage	Date After Which Employment Occurs
2.25%	December 31, 1986
1.8	December 31, 1993
1.2	December 31, 1995
1.0	December 31, 1999"

Section 5. G.S. 96-9(b)(3) is amended by adding a new sub-subdivision to read:

"d5. The standard contribution rate set by subdivision (b)(1) of this section applies to an employer unless the employer's account has a credit balance. Beginning January 1, 1999, the contribution rate of an employer whose account has a credit balance is determined in accordance with the rate set in the following Experience Rating Formula table for the applicable rate schedule. The contribution rate of an employer whose contribution rate is determined by this Experience Rating Formula table shall be reduced by fifty percent (50%) for any year in which the balance in the Unemployment Insurance Fund equals or exceeds eight hundred million dollars ($800,000,000) on the computation date and the fund ratio determined on that date is less than five percent (5%) and shall be reduced by sixty percent (60%) for any year in which the balance in the Unemployment Insurance Fund equals or exceeds eight hundred million dollars ($800,000,000) on the computation date, and the fund ratio determined on that date is five percent (5%) or more.

EXPERIENCE RATING FORMULA

When The Credit Ratio Is:

As Much As	But Less Than	Rate Schedules (%)								
		A	B	C	D	E	F	G	H	I
0.0%	0.2%	2.16%	2.16%	2.16%	2.16%	2.00%	1.84%	1.68%	1.52%	1.36%
0.2%	0.4%	2.16%	2.16%	2.16%	2.00%	1.84%	1.68%	1.52%	1.36%	1.20%
0.4%	0.6%	2.16%	2.16%	2.00%	1.84%	1.68%	1.52%	1.36%	1.20%	1.04%
0.6%	0.8%	2.16%	2.00%	1.84%	1.68%	1.52%	1.36%	1.20%	1.04%	0.88%
0.8%	1.0%	2.00%	1.84%	1.68%	1.52%	1.36%	1.20%	1.04%	0.88%	0.72%
1.0%	1.2%	1.84%	1.68%	1.52%	1.36%	1.20%	1.04%	0.88%	0.72%	0.64%
1.2%	1.4%	1.68%	1.52%	1.36%	1.20%	1.04%	0.88%	0.72%	0.64%	0.56%
1.4%	1.6%	1.52%	1.36%	1.20%	1.04%	0.88%	0.72%	0.64%	0.56%	0.48%
1.6%	1.8%	1.36%	1.20%	1.04%	0.88%	0.72%	0.64%	0.56%	0.48%	0.40%
1.8%	2.0%	1.20%	1.04%	0.88%	0.72%	0.64%	0.56%	0.48%	0.40%	0.32%
2.0%	2.2%	1.04%	0.88%	0.72%	0.64%	0.56%	0.48%	0.40%	0.32%	0.24%
2.2%	2.4%	0.88%	0.72%	0.64%	0.56%	0.48%	0.40%	0.32%	0.24%	0.16%
2.4%	2.6%	0.72%	0.64%	0.56%	0.48%	0.40%	0.32%	0.24%	0.16%	0.12%
2.6%	2.8%	0.64%	0.56%	0.48%	0.40%	0.32%	0.24%	0.16%	0.12%	0.08%
2.8%	3.0%	0.56%	0.48%	0.40%	0.32%	0.24%	0.16%	0.12%	0.08%	0.07%
3.0%	3.2%	0.48%	0.40%	0.32%	0.24%	0.16%	0.12%	0.08%	0.07%	0.06%
3.2%	3.4%	0.40%	0.32%	0.24%	0.16%	0.12%	0.08%	0.07%	0.06%	0.06%
3.4%	3.6%	0.32%	0.24%	0.16%	0.12%	0.08%	0.07%	0.06%	0.06%	0.05%
3.6%	3.8%	0.24%	0.15%	0.12%	0.08%	0.07%	0.06%	0.06%	0.05%	0.04%
3.8%	4.0%	0.16%	0.12%	0.08%	0.07%	0.06%	0.06%	0.05%	0.04%	0.03%
4.0% & OVER		0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%

"

Section 6. G.S. 96-9(b)(3)e. reads as rewritten:

"e. Each employer whose account as of any computation date occurring after August 1, 1964, shows a debit balance shall be assigned the rate of contributions appearing on the line opposite his debit ratio as set forth in the following Rate Schedule for Overdrawn Accounts:

RATE SCHEDULE FOR OVERDRAWN ACCOUNTS
BEGINNING WITH THE CALENDAR YEAR 1978

When the Debit Ratio Is:		
As Much As	But Less Than	Assigned Rate
0.0%	0.3%	~~2.9%~~ 2.3%
0.3	0.6	~~3.1~~ 2.5
0.6	0.9	~~3.3~~ 2.6
0.9	1.2	~~3.5~~ 2.8
1.2	1.5	~~3.7~~ 3.0

1.5	1.8	~~3.9~~ 3.1
1.8	2.1	~~4.1~~ 3.3
2.1	2.4	~~4.3~~ 3.4
2.4	2.7	~~4.5~~ 3.6
2.7	3.0	~~4.7~~ 3.8
3.0	3.3	~~4.9~~ 3.9
3.3	3.6	~~5.1~~ 4.1
3.6	3.9	~~5.3~~ 4.2
3.9	4.2	~~5.5~~ 4.4
4.2 ~~and over~~	4.5	~~5.7~~ 4.6
4.5	4.8	4.8
4.8	5.1	5.0
5.1	5.4	5.2
5.4 and over		5.4

The Rate Schedule for Overdrawn Accounts Beginning with the Calendar Year 1966 in force in any particular calendar year shall apply to all accounts for that calendar year subsequent replacement enactments notwithstanding."

Section 7. Section 1 of this act is effective with respect to calendar quarters beginning on or after April 1, 1999. The remainder of this act is effective with respect to calendar quarters beginning on or after January 1, 2000, and is repealed effective with respect to calendar quarters beginning on or after January 1, 2002.

NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 275 (Third Edition) Zero ESC Tax/Training Contribution

SHORT TITLE: Zero ESC Tax/Training Contribution

FISCAL IMPACT ($Mill.)

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Unemployment Insurance Trust Fund:					
Zero ESC Tax	(-.9)	($1.2)	($1.3)	($1.4)	($1.5)
20% UI Tax Cut	(-28.1)	(-72.0)	(-44.9)		
Training & Emp. Account:					
20% Contribution	27.5	70.6	44.0		
80% Earmarking	22.0	56.5	35.2		
20% Earmarking	5.5	14.1	8.8		

PRINCIPAL DEPARTMENTAFFECTED: Employment Security Commission (ESC)

EFFECTIVE DATE: The zero tax rate for certain employers is effective with respect to calendar quarters beginning on or after April 1, 1999. The UI tax cut is effective for calendar quarters beginning January 1, 2000 and ending January 1, 2002.

BILL SUMMARY: (1) Grants a **zero unemployment insurance tax rate** to employers with a credit ratio of 4% or greater. Currently, those employers with a 5% or greater credit ratio pay the zero tax rate. (2) Temporarily **reduces Unemployment Insurance Taxes** for most employers **by 20% and levies a 20% "contribution"** to be used by the Department of Community Colleges for worker training programs (80% of proceeds) and enhanced reemployment services administered by Employment Security Commission (20% of proceeds).

(Over)

ASSUMPTIONS AND METHODOLOGY:

(1) **Zero ESC Tax.** As of April 30 1999, the balance in the Unemployment Insurance Trust Fund stood at $1.22 billion. In addition, a reserve fund contains an additional $200 million, due to the Fund's solvency and North Carolina's low unemployment rate, the Employment Security Commission (ESC) recommends a zero tax rate for an additional group of employers with a credit ratio. A credit ratio means that an employer has paid in more money to the Unemployment Insurance Trust Fund than has been deducted from its account for UI benefits paid to employees. ESC estimates that this bill will reduce unemployment insurance taxes for 10,000 employers with a 4% credit ratio in 1999. With an additional 6,400 employers reaching the 4% credit ratio each year, ESC estimates that 38,000 employers will benefit from this zero tax rate by 2004.

(2) **UI tax cut.** ESC provided estimates of the impact for the 2000 and 2001 calendar years. Based on technical discussions between ESC and FRD, an estimate of $68.7 million for 2000 and $73.4 million for 2001 was used. This estimate is about 10% lower than the original ESC projections and does not include interest earnings. A 6.9% growth rate was used to convert 2000 to 2001 liability.

The calendar year estimates were converted to a fiscal year basis by taking into account the one-quarter tax collection lag (taxes accrued on January-March earnings are collected in April) and the fact that historically about 40% of annual taxes are collected for the first quarter liability.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic, Dave Crotts

APPROVED BY: Tom Covington

DATE: Thursday, May 27, 1999

HOUSE BILL 275:
Zero ESC Tax/Training Contribution

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Redwine
Date:	June 11, 1999	**Summary by:**	Martha H. Harris
Version:	Third Edition on Concurrence		Bill Drafting

SUMMARY: This bill, which is back in the House for concurrence, would make the following two changes relating to unemployment insurance taxes. The first item has passed the House. The second item was added by the Senate Finance committee substitute.

1. *Based on the current Experience Rating Formula table, employers who have a credit ratio of 5% and over have a 0% unemployment insurance tax rate schedule. Section 1 of House Bill 275 would change the minimum credit ratio of employers who are granted a zero tax rate from 5% to 4%, effective April 1, 1999.*
2. *The remainder of House Bill 275 temporarily reduces Unemployment Insurance taxes for most employers by 20% and levies a corresponding 20% contribution to be used for enhanced reemployment services and worker training programs, effective January 1, 2000. These changes would sunset in two years.*

Section 1: Under current law, employers having a 5% or greater credit ratio pay the zero unemployment insurance tax rate. Section 1 of House Bill 275 would amend G.S. 96-9(b)d3 to grant a zero unemployment insurance tax rate to employers with a credit ratio of 4% or greater rather than the credit ratio of 5% or greater required by current law. The credit ratio is the ratio of an employer's credit balance in the Unemployment Insurance (UI) Fund relative to the employer's payroll. The UI Fund is maintained by the U.S. Treasury and funded by the State unemployment insurance tax. Section 1 of House Bill 275 is effective with respect to calendar quarters beginning on or after April 1, 1999.

According to information provided by the ESC, this change is recommended due to the solvency of North Carolina's UI Fund and the increasing stability of labor markets. ESC estimates this change would affect over 10,000 employers, with a tax savings to employers of over $1,000,000 in the first year.

Sections 2 through 6: Sections 2 through 6 of House Bill 275 would reduce the unemployment insurance taxes employers pay to the Employment Security Commission. The reduction would be 20% for most employers, slightly less for new employers, and less for 3,400 or so employers with a high debit ratio. Those employers who pay at a zero tax rate would not be affected. These sections of the bill would also levy a new tax equal to 20% of each employer's unemployment insurance tax. The tax is called a "training and reemployment contribution." When the UI tax reduction and the new contribution are netted, most employers will pay the same or slightly less under these sections of the bill. For the 3,400 high debit ratio employers, there will be a net

increase, ranging from about $13 to $106 per employee per year. Employers who pay unemployment insurance taxes at a zero tax rate would not be affected.

Sections 2 through 6 of House Bill 275 would become effective January 1, 2000, and sunset January 1, 2002. The new contribution would also automatically sunset if a reduction in the balance in the federal Unemployment Trust Fund triggers a doubling of the unemployment insurance tax rates.

The new contribution would be credited to a non-reverting account subject to appropriation by the General Assembly. The account is called the "Employment Security Commission Training and Employment Account." The bill states the intent of the General Assembly that 4/5 of the proceeds would be appropriated annually from the account to the Department of Community Colleges for nonrecurring expenditures for various worker training programs. The bill states the intent of the General Assembly that the remaining 1/5 of the proceeds would be appropriated annually from the account to the Employment Security Commission for the costs of collecting and administering the new contribution, and for nonrecurring expenditures for enhanced reemployment services.

Unemployment insurance taxes are paid by employers on a quarterly basis and deposited into the State Unemployment Insurance Trust Fund. After deducting any refunds payable from the Fund pursuant to G.S. 96-10(f), the money is deposited with the secretary of the treasury of the United States to the credit of this State's account in the Unemployment Trust Fund. Funds in the State's account earn interest that is also credited to the account. As money in the State's account is needed to pay benefits, it is transferred to the State and credited to the benefits account of the State's Unemployment Insurance Fund to be used to pay benefits to people who lose their job through no fault of their own. Federal law prohibits transfer of or payment of refunds from money in the Trust Fund.

The General Assembly reduced unemployment insurance tax rates in recent years because the balance in the federal trust fund was higher than needed to pay benefits. The tax rates will automatically double when the trust fund balance falls below $800 million. By reducing the unemployment insurance tax rates by 20% for two years, Sections 2 through 6 of this bill could cause the balance in the trust fund to fall faster, triggering an automatic tax increase earlier than might otherwise occur. On the other hand, it is hoped that the enhanced reemployment services funded by the new contribution would shorten the average period before a worker is reemployed, thereby reducing benefit payments for the trust fund. The new contribution would sunset automatically if an unemployment insurance tax increase were triggered by a drop in the trust fund balance.

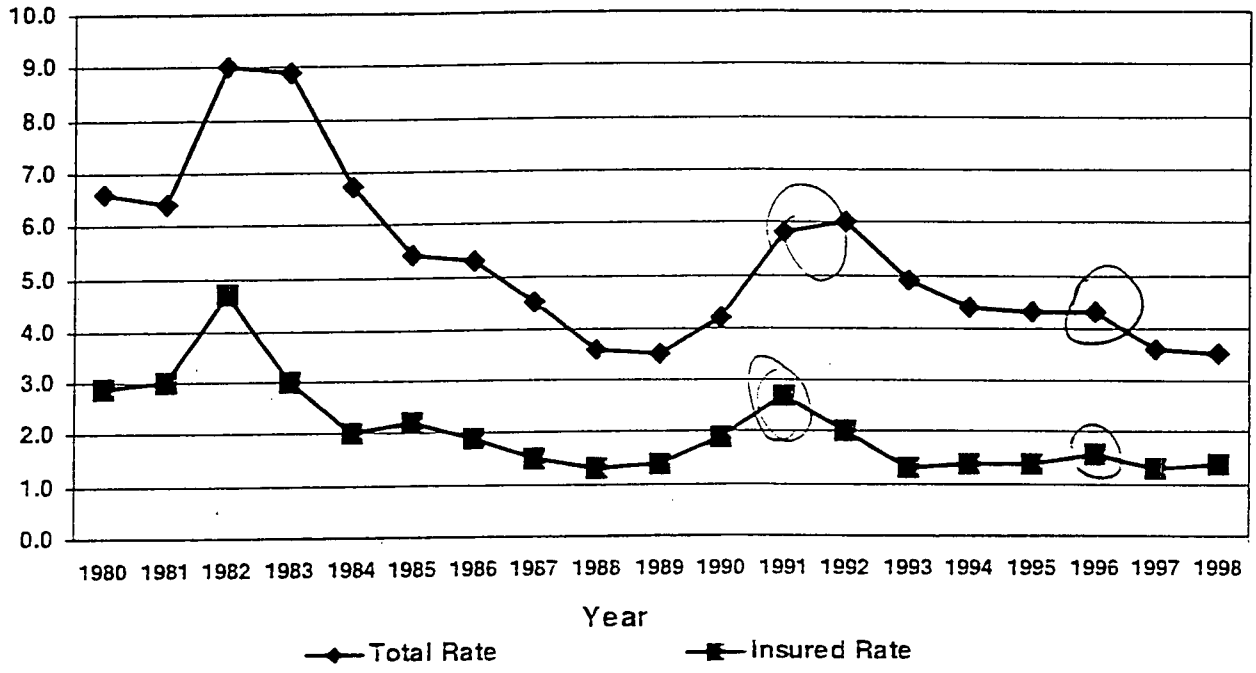
Legislative History: Since 1992, the General Assembly has enacted the following legislation to reduce the amount of money in the Unemployment Insurance Fund:

- **1992** - suspended the 20% surcharge on unemployment taxes.
- **1993** - cut unemployment taxes for positive rated employers by an average of 30% for any calendar year in which the balance in the Fund equals or exceeds $800,000,000.

- **1994** - cut the unemployment taxes for positive rated employers by an average of 38.7% and cut the unemployment taxes for new employers by 20%.
- **1995** - cut the unemployment taxes for positive rated employers by an average of 23%, set a zero rate for employers with credit ratios of 5.0 or over, and reduced from 60% to 50% the percentage of annual average wages used to calculate the taxable wage base.
- **1996** - reduced unemployment taxes in three ways by (1) assigning a one-year zero unemployment insurance tax rate for all positive rated employers, (2) giving overdrawn employers additional time to make contributions to their accounts so that they may qualify for the zero tax rate in 1996, and (3) permanently reducing the tax rate for new employers from 1.8% to 1.2%.

Jeff Hudson, Staff Atty, and Mary Shuping, Research Assistant, Research Division, and Martha Walston, Staff Atty., Fiscal Research Division, contributed to this summary.

Total Unemployment Rate and Insured Unemployment Rate in North Carolina, 1980 - 1998



Year	Total Rate **	Insured Rate **
1980	6.6	2.9
1981	6.4	3.0
1982	9.0	4.7
1983	8.9	3.0
1984	6.7	2.0
1985	5.4	2.2
1986	5.3	1.9
1987	4.5	1.5
1988	3.6	1.3
1989	3.5	1.4
1990	4.2	1.9
1991	5.8	2.7
1992	6.0	2.0
1993	4.9	1.3
1994	4.4	1.4
1995	4.3	1.4
1996	4.3	1.6
1997	3.6	1.3
1998	3.5	1.4

Note: The total rate and insured rate for 1998 are preliminary estimates.

Projected Unemployment Insurance Trust Fund Balance Under Alternative Scenarios

20% rate cut for all accounts in 2000, 2001 and 1.6 IUR in 2000

Year	Trust Fund Balance 12/31 (000's)	Contributions (000's)	Interest (000's)	Benefits Paid (000's)	Reserve Fund (000's)	Schedule
1997	$1,279,276					
1998	$1,272,033	$311,023	$87,416	$405,682	$200,000	C
1999	$1,231,454	$341,951	$83,197	$465,728	$200,000	C
2000	$1,066,375	$306,359	$76,363	$547,802	$200,000	B
2001	$939,291	$335,452	$66,654	$529,189	$200,000	B
2002	$870,885	$435,529	$60,157	$564,092	$200,000	A
2003	$830,829	$504,690	$56,552	$601,298	$200,000	A

Description of Scenario

This scenario assumes that the average contribution rate for all accounts (positive, overdrawn, and new) is reduced by 20 percent from the current law in 2000 and 2001. It also assumes that the IUR is 1.6 percent in 2000. All other features of current law and all economic assumptions are the same as in the baseline forecast.

Assumptions for Scenario

Year	Insured Unemp. Rate	Covered Emp. Growth Rate	Taxable Wage Growth Rate	Avg Weekly Benefit Growth Rate	Interest Rate
1999	1.45%	2.25%	6.75%	4.25%	6.875%
2000	1.60%	2.25%	6.75%	4.25%	6.875%
2001	1.45%	2.25%	6.75%	4.25%	6.875%
2002	1.45%	2.25%	6.75%	4.25%	6.875%
2003	1.45%	2.25%	6.75%	4.25%	6.875%

Note 1: The 50 percent contribution rate reduction for positively rated employers does not apply if the Trust Fund Balance falls below $800,000,000 on the computation date.

Note 2: A 20 percent tax on contributions due for all employers takes effect if the State Reserve Fund falls below $163,349,000 on the computation date.

Note 3: The Schedule goes into effect the following year.

Labor Market Information Division Employment Security Commission

June 10,1999

ESC/LEGAL DEPT Fax:9197157194 Jun 11 '99 15:31 P.03

(3)

Quarterly Trust Fund Projection with 20% Average Contribution Rate
Reduction in 2000 and 2001 and 1.6% IUR in 2000

1999	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Begin Balance	$1,272,033	$1,189,294	$1,238,504	$1,247,386
Contributions	$40,098	$135,374	$96,493	$69,986
Interest	$20,851	$20,736	$20,412	$21,198
Benefits	$143,687	$106,900	$108,024	$107,116
End Balance	$1,189,294	$1,238,504	$1,247,386	$1,231,453

2000	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Begin Balance	$1,231,454	$1,107,735	$1,116,984	$1,100,949
Contributions	$35,924	$121,284	$86,450	$62,701
Interest	$19,138	$19,033	$18,736	$19,457
Benefits	$178,781	$131,068	$121,220	$116,733
End Balance	$1,107,735	$1,116,984	$1,100,949	$1,066,374

2001	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Begin Balance	$1,066,375	$959,149	$987,096	$975,366
Contributions	$39,336	$132,801	$94,659	$68,656
Interest	$16,705	$16,613	$16,354	$16,983
Benefits	$163,267	$121,467	$122,744	$121,712
End Balance	$959,149	$987,096	$975,366	$939,292

2002	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Begin Balance	$939,291	$831,403	$889,339	$896,159
Contributions	$51,071	$172,420	$122,900	$89,138
Interest	$15,076	$14,994	$14,759	$15,327
Benefits	$174,035	$129,478	$130,839	$129,740
End Balance	$831,403	$889,339	$896,159	$870,885

2003	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Begin Balance	$870,885	$758,725	$834,602	$851,424
Contributions	$59,181	$199,800	$142,416	$103,293
Interest	$14,173	$14,095	$13,875	$14,409
Benefits	$185,514	$138,018	$139,469	$138,297
End Balance	$758,725	$834,602	$851,424	$830,829

NOTES

1. Quarterly Projections are based on 1998 quarterly shares of the major trust fund components. except for the year 2000, which uses 1996 quarterly benefit shares to simulate the quarterly benefits that would be paid if economic conditions (1.6% IUR) were similar to 1996.
2. All economic parameters for this scenario are the same as the baseline forecast except for the 1.6% IUR in 2000.

Prepared by: Labor Market Information Division
Employment Security Commission
June 10,1999

ESC/LEGAL DEPT Fax:9197157194 Jun 11 '99 15:31 P.04

Projected Unemployment Insurance Trust Fund Balance Under Alternative Scenarios

20% rate cut for all accounts in 2000, 2001 and 1.88 IUR in 2000

Year	Trust Fund Balance 12/31 (000's)	Contributions (000's)	Interest (000's)	Benefits Paid (000's)	Reserve Fund (000's)	Schedule
1997	$1,279,276					
1998	$1,272,033	$311,023	$87,416	$405,682	$200,000	C
1999	$1,231,454	$341,951	$83,197	$465,728	$200,000	C
2000	$970,880	$309,903	$73,189	$643,667	$200,000	B
2001	$837,231	$335,452	$60,088	$529,189	$200,000	A
2002	$789,421	$462,225	$54,058	$564,092	$200,000	A
2003	$747,954	$508,739	$51,091	$601,298	$200,000	A

Description of Scenario

This scenario assumes that the average contribution rate for all accounts (positive, overdrawn, and new) is reduced by 20 percent from the current law in 2000 and 2001. It also assumes that the IUR is 1.88 percent in 2000. All other features of current law and all economic assumptions are the same as in the baseline forecast.

Assumptions for Scenario

Year	Insured Unemp. Rate	Covered Emp. Growth Rate	Taxable Wage Growth Rate	Avg Weekly Benefit Growth Rate	Interest Rate
1999	1.45%	2.25%	6.75%	4.25%	6.875%
2000	1.88%	2.25%	6.75%	4.25%	6.875%
2001	1.45%	2.25%	6.75%	4.25%	6.875%
2002	1.45%	2.25%	6.75%	4.25%	6.875%
2003	1.45%	2.25%	6.75%	4.25%	6.875%

Note 1: The 50 percent contribution rate reduction for positively rated employers does not apply if the Trust Fund Balance falls below $800,000,000 on the computation date.

Note 2: A 20 percent tax on contributions due for all employers takes effect if the State Reserve Fund falls below $163,349,000 on the computation date.

Note 3: The Schedule goes into effect the following year.

Labor Market Information Division Employment Security Commission

June 10,1999

ESC/LEGAL DEPT Fax:9197157194 Jun 11 '99 15:32 P.05

5

Quarterly Trust Fund Projection with 20% Average Contribution Rate Reduction in 2000 and 2001 and 1.88% IUR in 2000

1999	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Begin Balance	$1,272,033	$1,189,294	$1,238,504	$1,247,386
Contributions	$40,098	$135,374	$96,493	$69,986
Interest	$20,851	$20,736	$20,412	$21,198
Benefits	$143,687	$106,900	$108,024	$107,116
End Balance	$1,189,294	$1,238,504	$1,247,386	$1,231,453

2000	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Begin Balance	$1,231,454	$1,121,955	$1,128,474	$1,087,887
Contributions	$36,340	$122,687	$87,450	$63,427
Interest	$18,342	$18,242	$17,957	$18,648
Benefits	$164,181	$134,409	$145,994	$199,083
End Balance	$1,121,955	$1,128,474	$1,087,887	$970,879

2001	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Begin Balance	$970,880	$862,008	$888,319	$874,978
Contributions	$39,336	$132,801	$94,659	$68,656
Interest	$15,059	$14,977	$14,743	$15,310
Benefits	$163,267	$121,467	$122,744	$121,712
End Balance	$862,008	$888,319	$874,978	$837,231

2002	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Begin Balance	$837,231	$730,945	$797,930	$810,786
Contributions	$54,201	$182,989	$130,433	$94,602
Interest	$13,548	$13,474	$13,263	$13,773
Benefits	$174,035	$129,478	$130,839	$129,740
End Balance	$730,945	$797,930	$810,786	$789,422

2003	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Begin Balance	$789,421	$676,367	$752,486	$769,111
Contributions	$59,655	$201,403	$143,558	$104,122
Interest	$12,804	$12,734	$12,535	$13,017
Benefits	$185,514	$138,018	$139,469	$138,297
End Balance	$676,367	$752,486	$769,111	$747,953

NOTES

1. Quarterly Projections are based on 1998 quarterly shares of the major trust fund components. except for the year 2000, which uses 1990 quarterly benefit shares to simulate the quarterly benefits that would be paid if economic conditions (1.88% IUR) were similar to 1990.
2. All economic parameters for this scenario are the same as the baseline forecast except for the 1.88% IUR in 2000.

Prepared by: Labor Market Information Division
Employment Security Commission
June 10,1999

ESC/LEGAL DEPT Fax:9197157194 Jun 11 '99 15:32 P.06

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 672 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE VARIOUS COUNTIES AND TOWNS TO LEVY ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAXES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to original bill ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 672
PROPOSED COMMITTEE SUBSTITUTE
H672-PCSRBX-1
DO NOT USE FOR FLOOR AMENDMENTS, LINE NUMBERS MAY CHANGE

Short Title: Various Local Occupancy Taxes. (Local)

Sponsors: Representative Gibson.

Referred to: Finance.

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE VARIOUS COUNTIES AND TOWNS TO LEVY ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAXES.

The General Assembly of North Carolina enacts:

PART I. TOWN OF NORWOOD

Section 1. Occupancy tax. (a) Authorization and scope. The Board of Commissioners of the Town of Norwood may levy a room occupancy tax of up to five percent (5%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 1.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 1.(c) Distribution and use of tax revenue. The town shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Norwood Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Norwood and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 2. Tourism Development Authority. (a) Appointment and membership. When the Norwood Board of Commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The Norwood Board of Commissioners shall designate one member of the Authority

chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Norwood shall be the ex officio finance officer of the Authority.

Section 2.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 1 of this Part. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

Section 2.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Norwood Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 3. Town administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy, Shelby, and Statesville, to the ~~Town of~~ Towns of Norwood and St. ~~Pauls~~ Pauls, and to the municipalities in Brunswick County."

PART II. ANSON COUNTY

Section 4. Occupancy tax. (a) Authorization and scope. The Anson County Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 4.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

Section 4.(c) Distribution and use of tax revenue. Anson County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Anson Tourism Development Authority.

The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Anson County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.

Section 5. Tourism Development Authority. (a) Appointment and membership. When the board of commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the city and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the city. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Anson County shall be the ex officio finance officer of the Authority.

Section 5.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 4 of this Part. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

Section 5.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 6. County Administrative Provisions. Section 3(b) of S.L. 1997-102, as amended by Section 2 of S.L. 1997-255, Section 2 of S.L. 1997-342, Section 3 of S.L. 1997-364, Section 6 of S.L. 1997-410, and Section 2 of S.L. 1998-14, reads as rewritten:

"(b) This section applies only to Anson, Avery, Brunswick, Davie, Madison, Nash, Person, Randolph, and Scotland Counties."

PART III. TOWN OF WADESBORO

Section 7. Occupancy tax. (a) Authorization and scope. The Board of Commissioners of the Town of Wadesboro may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 7.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 7.(c) Distribution and use of tax revenue. The town shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Wadesboro Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Wadesboro and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 8. Tourism Development Authority. (a) Appointment and membership. When the Wadesboro Board of Commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The Wadesboro Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Wadesboro shall be the ex officio financ officer of the Authority.

Section 8.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 7 of this Part. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

Section 8.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Wadesboro Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 9. Town administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy, Shelby, and Statesville, to the ~~Town of~~ Towns of St. Pauls and Wadesboro, and to the municipalities in Brunswick County."

PART IV. MONTGOMERY COUNTY

Section 10. Occupancy tax. (a) Authorization and scope. The Montgomery County Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 10.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

Section 10.(c) Distribution and use of tax revenue. Montgomery County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Montgomery Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Montgomery County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.

Section 11. Tourism Development Authority. (a) Appointment and membership. When the board of commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the city and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the city. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Montgomery County shall be the ex officio finance officer of the Authority.

Section 11.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes

provided in Section 10 of this Part. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

Section 11.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 12. County Administrative Provisions. Section 3(b) of S.L. 1997-102, as amended by Section 2 of S.L. 1997-255, Section 2 of S.L. 1997-342, Section 3 of S.L. 1997-364, Section 6 of S.L. 1997-410, and Section 2 of S.L. 1998-14, reads as rewritten:

"(b) This section applies only to Avery, Brunswick, Davie, Madison, Montgomery, Nash, Person, Randolph, and Scotland Counties."

PART V. TOWN OF BISCOE

Section 13. Occupancy tax. (a) Authorization and scope. The Board of Commissioners of the Town of Biscoe may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 13.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 13.(c) Distribution and use of tax revenue. The town shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Biscoe Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Biscoe and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred

thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 14. Tourism Development Authority. (a) Appointment and membership. When the Biscoe Board of Commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The Biscoe Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Biscoe shall be the ex officio finance officer of the Authority.

Section 14.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 13 of this Part. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

Section 14.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Biscoe Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 15. Town administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy, Shelby, and Statesville, to the ~~Town of~~ Towns of Biscoe and St. ~~Pauls~~ Pauls, and to the municipalities in Brunswick County."

PART VI. TOWN OF TROY

Section 16. Occupancy tax. (a) Authorization and scope. The Board of Commissioners of the Town of Troy may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 16.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 16.(c) Distribution and use of tax revenue. The town shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Troy Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Troy and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 17. Tourism Development Authority. (a) Appointment and membership. When the Troy Board of Commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The Troy Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Troy shall be the ex officio finance officer of the Authority.

Section 17.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 16 of this Part. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

Section 17.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Troy Board of Commissioners on its receipts and expenditures for the

preceding quarter and for the year in such detail as the board may require.

Section 18. Town administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy, Shelby, and Statesville, to the ~~Town of~~ Towns of St. Pauls and Troy, and to the municipalities in Brunswick County."

PART VII. TOWN OF SELMA

Section 19. Occupancy tax. (a) Authorization and scope. The Town Council of the Town of Selma may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 19.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 19.(c) Distribution and use of tax revenue. The town shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Selma Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Selma and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market

research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 20. Tourism Development Authority. (a) Appointment and membership. When the Selma Town Council adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The Selma Town Council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Selma shall be the ex officio finance officer of the Authority.

Section 20.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 19 of this Part. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

Section 20.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Selma Town Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 21. Town administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy, Shelby, and Statesville, to the ~~Town of~~ Towns of Selma and St. ~~Pauls~~ Pauls, and to the municipalities in Brunswick County."";

PART VIII. CITY OF KINGS MOUNTAIN

Section 22. Occupancy tax. (a) Authorization and scope. The City Council of the City of Kings Mountain may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 22.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 22.(c) Distribution and use of tax revenue. The city shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Kings Mountain Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Kings Mountain and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a city or to attract tourists or business travelers to the city. The term includes tourism-related capital expenditures.

Section 23. Tourism Development Authority. (a) Appointment and membership. When the Kings Mountain City Council adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a city Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the city and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the city. The Kings Mountain City Council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Kings Mountain shall be the ex officio finance officer of the Authority.

Section 23.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 19 of this Part. The Authority shall promote travel, tourism, and conventions in the city, sponsor tourist-related events and activities in the city, and finance tourist-related capital projects in the city.

Section 23.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Kings Mountain City Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the council may require.

Section 24. City administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Kings Mountain, Lumberton, Mount Airy,

Shelby, and Statesville, to the Town of St. Pauls and to the municipalities in Brunswick County."

PART IX. EFFECTIVE DATES

Section 25. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 672
Proposed Committee Substitute H672-PCSX3445-RB

Short Title: Various Local Occupancy Taxes. (Local)

Sponsors:

Referred to:

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE VARIOUS COUNTIES AND TOWNS TO LEVY ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAXES.

The General Assembly of North Carolina enacts:

PART I. TOWN OF NORWOOD

Section 1. Occupancy tax. (a) Authorization and scope. The Board of Commissioners of the Town of Norwood may levy a room occupancy tax of up to five percent (5%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 1.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 1.(c) Distribution and use of tax revenue. The town shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Norwood Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Norwood and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 2. Tourism Development Authority. (a) Appointment and membership. When the Norwood Board of Commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The Norwood Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Norwood shall be the ex officio finance officer of the Authority.

Section 2.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 1 of this Part. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

Section 2.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Norwood Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 3. Town administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy, Shelby, and Statesville, to the ~~Town of~~ Towns of Norwood and St. ~~Pauls~~ Pauls, and to the municipalities in Brunswick County."

PART II. ANSON COUNTY

Section 4. Occupancy tax. (a) Authorization and scope. The Anson County Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 4.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

Section 4.(c) Distribution and use of tax revenue. Anson County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Anson Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Anson County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.

Section 5. Tourism Development Authority. (a) Appointment and membership. When the board of commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the

membership of the Authority including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the city, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the city. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Anson County shall be the ex officio finance officer of the Authority.

Section 5.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 4 of this Part. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

Section 5.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 6. County Administrative Provisions. Section 3(b) of S.L. 1997-102, as amended by Section 2 of S.L. 1997-255, Section 2 of S.L. 1997-342, Section 3 of S.L. 1997-364, Section 6 of S.L. 1997-410, and Section 2 of S.L. 1998-14, reads as rewritten:

"(b) This section applies only to Anson, Avery, Brunswick, Davie, Madison, Nash, Person, Randolph, and Scotland Counties."

PART III. TOWN OF WADESBORO

Section 7. Occupancy tax. (a) Authorization and scope. The Board of Commissioners of the Town of Wadesboro may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 7.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 7.(c) Distribution and use of tax revenue. The town shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Wadesboro Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Wadesboro and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance

officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 8. Tourism Development Authority. (a) Appointment and membership. When the Wadesboro Board of Commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The Wadesboro Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Wadesboro shall be the ex officio finance officer of the Authority.

Section 8.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 7 of this Part. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

Section 8.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Wadesboro Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 9. Town administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton,

Mount Airy, Shelby, and Statesville, to the ~~Town of~~ Towns of St. Pauls and Wadesboro, and to the municipalities in Brunswick County."

PART IV. MONTGOMERY COUNTY

Section 10. Occupancy tax. (a) Authorization and scope. The Montgomery County Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 10.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

Section 10.(c) Distribution and use of tax revenue. Montgomery County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Montgomery Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Montgomery County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.

Section 11. Tourism Development Authority. (a) Appointment and membership. When the board of commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be

individuals who are affiliated with businesses that collect the tax in the city, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the city. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Montgomery County shall be the ex officio finance officer of the Authority.

Section 11.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 10 of this Part. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

Section 11.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 12. County Administrative Provisions. Section 3(b) of S.L. 1997-102, as amended by Section 2 of S.L. 1997-255, Section 2 of S.L. 1997-342, Section 3 of S.L. 1997-364, Section 6 of S.L. 1997-410, and Section 2 of S.L. 1998-14, reads as rewritten:

"(b) This section applies only to Avery, Brunswick, Davie, Madison, Montgomery, Nash, Person, Randolph, and Scotland Counties."

PART V. TOWN OF BISCOE

Section 13. Occupancy tax. (a) Authorization and scope. The Board of Commissioners of the Town of Biscoe may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 13.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 13.(c) Distribution and use of tax revenue. The town shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Biscoe Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Biscoe and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year

and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 14. Tourism Development Authority. (a) Appointment and membership. When the Biscoe Board of Commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The Biscoe Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Biscoe shall be the ex officio finance officer of the Authority.

Section 14.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 13 of this Part. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

Section 14.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Biscoe Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 15. Town administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy, Shelby, and Statesville, to the ~~Town of~~ Towns of Biscoe and St. ~~Pauls~~ Pauls, and to the municipalities in Brunswick County."

PART VI. TOWN OF TROY

Section 16. Occupancy tax. (a) Authorization and scope. The Board of Commissioners of the Town of Troy may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 16.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 16.(c) Distribution and use of tax revenue. The town shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Troy Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Troy and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 17. Tourism Development Authority. (a) Appointment and membership. When the Troy Board of Commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town, and at least three-fourths of the members must be individuals who are currently active in the

promotion of travel and tourism in the town. The Troy Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Troy shall be the ex officio finance officer of the Authority.

Section 17.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 16 of this Part. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

Section 17.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Troy Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 18. Town administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy, Shelby, and Statesville, to the ~~Town of~~ Towns of St. Pauls and Troy, and to the municipalities in Brunswick County."

PART VII. TOWN OF CARRBORO

Section 19. Occupancy tax. (a) Authorization and scope. The governing body of the Town of Carrboro may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 19.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 19.(c) Distribution and use of tax revenue. The town shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Carrboro Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Carrboro and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year

and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the governing body of the town, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 20. Tourism Development Authority. (a) Appointment and membership. When the governing body of the Town of Carrboro adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The governing body of the Town of Carrboro shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Carrboro shall be the ex officio finance officer of the Authority.

Section 20.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 20 of this Part. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

Section 20.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the governing body of the Town of Carrboro on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Section 21. Town administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton,

Mount Airy, Shelby, and Statesville, to the ~~Town of St. Pauls~~ Towns of Carrboro and St. Pauls, and to the municipalities in Brunswick County."

PART VIII. CITY OF KINGS MOUNTAIN

Section 22. Occupancy tax. (a) Authorization and scope. The City Council of the City of Kings Mountain may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

Section 22.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

Section 22.(c) Distribution and use of tax revenue. The city shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Kings Mountain Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Kings Mountain and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a city or to attract tourists or business travelers to the city. The term includes tourism-related capital expenditures.

Section 23. Tourism Development Authority. (a) Appointment and membership. When the Kings Mountain City Council adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a city Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be

individuals who are affiliated with businesses that collect the tax in the city, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the city. The Kings Mountain City Council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Kings Mountain shall be the ex officio finance officer of the Authority.

Section 23.(b) Duties. The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 19 of this Part. The Authority shall promote travel, tourism, and conventions in the city, sponsor tourist-related events and activities in the city, and finance tourist-related capital projects in the city.

Section 23.(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Kings Mountain City Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the council may require.

Section 24. City administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Kings Mountain, Lumberton, Mount Airy, Shelby, and Statesville, to the Town of St. Pauls and to the municipalities in Brunswick County."

PART IX. EFFECTIVE DATES

Section 25. This act is effective when it becomes law.

HOUSE BILL 672:
Various Local Occupancy Taxes

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Representative Gibson
Date:	June 3, 1999	**Summary by:**	Mary Shuping
Version:	PCS for 1st edition H672-PCSRBX-1		Research Assistant

SUMMARY: ***House Bill 672 authorizes occupancy taxes for several localities. This proposed committee substitute has been reviewed and approved by the House Finance Committee Subcommittee on Occupancy Taxes chaired by Representative Jarrell.***

BILL ANALYSIS: House Bill 672 authorizes the following occupancy taxes:

Part I. Town of Norwood Up to 5%	**Part IV. Montgomery County** Up to 3%	**Part VII. Town of Selma** Up to 3%
Part II. Anson County Up to 3%	**Part V. Town of Biscoe** Up to 3%	**Part VIII. City of Kings Mt.** Up to 3%
Part III. Town of Wadesboro Up to 3%	**Part VI. Town of Troy** Up to 3%	

The occupancy tax provisions in the proposed committee substitute comply with the standard occupancy tax provisions. Specifically:

Use	• 2/3 of the funds must be used to "promote travel and tourism" • 1/3 of the funds must be used for "tourism related expenditures"
Tourism Development Authority (TDA)	• 1/3 of the members must be individuals who are affiliated with businesses that collect the tax • 3 /4 of the members must be individuals who are currently active in the promotion of travel and tourism.
Definitions	*"Promote travel and tourism"* – To advertise or market an area of activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities. *"Tourism-related expenditures"* – Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county, city, or town. The term includes tourism-related capital expenditures.
Administration	Occupancy taxes levied, administered, collected, and repealed in accordance with uniform statutory provisions. Uniform statutory penalties also apply to these occupancy taxes.

EFFECTIVE DATE: House Bill 672 is effective when it becomes law.

Occupancy Tax Breakup by County, City, County & City

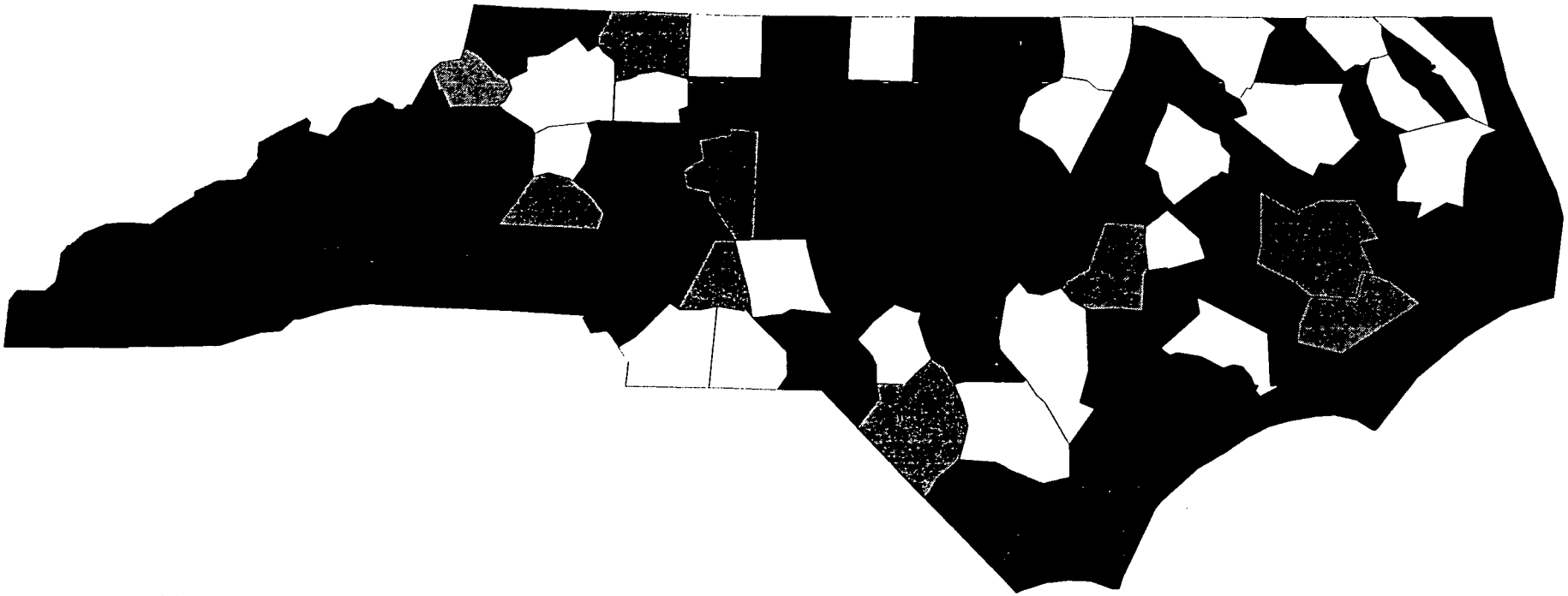
COUNTIES	County Only	City Only	County & City
Alamance	Alamance		
Alexander			
Alleghany	Alleghany		
Anson			
Ashe	Ashe		
Avery			Banner Elk
Beaufort		Washington	
Bertie			
Bladen			
Brunswick			Bald Head Island, Caswell Beach, Holden Beach, Long Beach, Ocean Isle Beach, Shallotte, Southport, Sunset Beach, Yaupon Beach
Buncombe	Buncombe		
Burke	Burke		
Cabarrus	Cabarrus		
Caldwell	Caldwell		
Camden			
Carteret	Carteret		
Caswell			
Catawba		Claremont, Conover, Hickory	
Chatham	Chatham		
Cherokee	Cherokee		
Chowan	Chowan		
Clay	Clay		
Cleveland			Shelby
Columbus	Columbus		
Craven	Craven		
Cumberland	Cumberland		
Currituck	Currituck		
Dare	Dare		
Davidson		Lexington, Thomasville	
Davie	Davie		
Duplin	Duplin		
Durham	Durham		
Edgecombe			
Forsyth	Forsyth		
Franklin			

Gaston	Gaston		
Gates			
Graham	Graham		
Granville	Granville		
Greene			
Guilford			Greensboro, High Point
Halifax	Halifax		
Harnett			Aversboro Township
Haywood	Haywood		
Henderson			Hendersonville
Hertford	Hertford		
Hoke			
Hyde	Hyde		
Iredell			Mooresville, Statesville
Jackson	Jackson		
Johnston	Johnston		
Jones			
Lee	Lee		
Lenoir			Kinston
Lincoln	Lincoln		
Macon	Macon		
Madison	Madison		
Martin	Martin		
McDowell	McDowell		
Mecklenburg	Mecklenburg		
Mitchell	Mitchell		
Montgomery			
Moore	Moore		
Nash	Nash		
New Hanover	New Hanover		
Northampton			
Onslow	Onslow		
Orange			Chapel Hill
Pamlico		Oriental	
Pasquotank			Elizabeth City
Pender			Surf City, Topsail Beach
Perquimans			
Person	Person		
Pitt	Pitt		
Polk			Columbus
Randolph	Randolph		
Richmond	Richmond		
Robeson		Lumberton, Rowland, St. Pauls	
Rockingham	Rockingham		

Rowan	Rowan		
Rutherford	Rutherford		
Sampson			
Scotland	Scotland		
Stanly		Albemarle	
Stokes			
Surry		Mount Airy	
Swain	Swain		
Transylvania	Transylvania		
Tyrrell			
Union			
Vance	Vance		
Wake			Cary, Garner, Raleigh, Wake Forest
Warren			
Washington	Washington		
Watauga		Beech Mountain, Blowing Rock, Boone	
Wayne		Goldsboro	
Wilkes			
Wilson	Wilson		
Yadkin			
Yancey	Yancey		

Kristen Crosson
House Finance Committee Assistant
April 19, 1999

Occupancy Tax in NC Counties



White: No Occupancy Tax

Light Gray: Only Certain Cities have Occupancy Tax

Dark Gray: Only County has Occupancy Tax

Black: Both County and Certain Cities have Occupancy Tax

Kristen Crosson

House Finance Committee Assistant

April 16, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 1479 A BILL TO BE ENTITLED AN ACT TO AMEND THE NEWSPRINT RECYCLING TAX.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to original bill ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1479 DATE June 16, 1999

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) Sen.) Hackney

1 moves to amend the bill on page 2, line ~~28-29~~ 29-30

2 ( ) WHICH CHANGES THE TITLE

3 by rewriting the lines to read:

4

5 "During 1999 ~~and 2000~~, through 2004, thirty-five

6 percent (35%).

7 After ~~2000~~, 2004, , forty percent (40%)."

8

9

10

11

12

13

14

15

16

17

18

19

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

HOUSE BILL 1479

Short Title: Newsprint Tax Credit Change. (Public)

Sponsors: Representative Miller.

Referred to: Finance.

May 13, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NEWSPRINT RECYCLING TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-102.6 reads as rewritten:

"**§ 105-102.6. (Effective July 1, 1999) Publishers of newsprint publications.**

(a) Purpose. -- The purpose of this section is to provide incentives for the recycling of newsprint and magazines and for the use of newsprint that contains recycled content.

(b) Definitions. -- The following definitions apply in this section:

(1) Gross tonnage of newsprint consumed. -- The weight in metric tons of all newsprint consumed by a publisher.

(2) Newsprint. -- Uncoated paper, whether supercalendered or machine finished, made primarily from mechanical wood pulp combined with some chemical wood pulp, weighing between 24.5 and 35 pounds for 500 sheets of paper two feet by three feet in size, and having a brightness of less than 60.

(2a) Nonvirgin newsprint. -- Newsprint that contains recycled postconsumer recovered paper.

(3) Postconsumer recovered paper. -- Paper products, generated by a business or consumer, that have served their intended end uses and have been separated or diverted from solid waste.

(4) Publisher. -- A person engaged in the business of producing publications printed on newsprint who acquires and uses newsprint for this business.

(5) Recycled content percentage. -- The percentage by weight of the total gross tonnage of newsprint consumed by the publisher that is recycled postconsumer recovered paper. For example, if a publisher consumes 10 tons of virgin newsprint, 10 tons of nonvirgin newsprint that contains fifty percent (50%) recycled postconsumer recovered paper, and 10 tons of nonvirgin newsprint that contains ten percent (10%) recycled postconsumer recovered paper, the publisher's recycled content percentage is 6/30 or twenty percent (20%).

(6) Recycled content tonnage. -- The weight in metric tons of the total gross tonnage of newsprint consumed by the publisher that is recycled postconsumer recovered paper.

(7) Recycling. -- Any process by which solid waste, or materials that would otherwise become solid waste, are collected, separated, or processed, and reused or returned to use in the form of raw materials or products.

(8) Recycling tonnage. -- The weight in metric tons of newsprint and magazines ~~that is~~ recycled or diverted to recycling by a publisher.

(9) Virgin newsprint. -- Newsprint that does not contain recycled postconsumer recovered paper.

(c) Minimum Recycled Content Percentage. -- The recycled content percentage of newsprint consumed by a publisher shall equal or exceed the following minimum recycled content percentages:

During 1991 and 1992, twelve percent (12%).
During 1993, fifteen percent (15%).
During 1994, twenty percent (20%).
During 1995 and 1996, twenty-five percent (25%).
During 1997 and 1998, thirty percent (30%).
~~During 1999 and 2000,~~ After 1998, thirty-five percent (35%).
~~After 2000, forty percent (40%).~~

A publisher who has developed and operates or contracts for the operation of a newspaper or magazine recycling program shall receive partial credit toward the recycled content percentage goals established in this subsection on the basis of ~~one-half ton~~ one ton of credit toward its total recycled content tonnage for each ton of recycling tonnage.

(d) Tax. -- Every publisher shall apply for and obtain from the Secretary a newsprint publisher tax reporting number and shall file an annual report with the Secretary by January 31 of each year. The report shall include the following information for the preceding calendar year:

(1) Tonnage of virgin newsprint consumed.
(2) Tonnage of nonvirgin newsprint consumed.
(3) Gross tonnage of newsprint consumed.
(4) Itemized percentages of recycled postconsumer recovered paper contained in tonnage of nonvirgin newsprint consumed.

(5) Recycled content tonnage.
(6) Recycled content percentage.
(7) Recycling tonnage.

In addition, each publisher whose recycled content percentage for a calendar year is less than the applicable minimum recycled content percentage provided in subsection (c) shall pay a tax of fifteen dollars ($15.00) on each ton by which the publisher's recycled content tonnage falls short of the tonnage of recycled postconsumer recovered paper needed to achieve the applicable minimum recycled content percentage provided in subsection (c). This tax is due when the report is filed. No county or city may impose a license tax on the business taxed under this section.

(e) Exemption. -- The tax levied in this section does not apply to an amount calculated pursuant to subsection (d) to the extent the amount is attributable solely to the publisher's inability to obtain sufficient recycled content newsprint because (i) recycled content newsprint was not available at a price comparable to the price of virgin newsprint; (ii) recycled content newsprint of a quality comparable to virgin newsprint was not available; or (iii) recycled content newsprint was not available within a reasonable period of time during the reporting period. In order to claim the exemption provided in this subsection, a publisher must certify to the Secretary:

(1) The amount of virgin newsprint consumed by the publisher during the reporting period solely for one of the reasons listed above.
(2) That the publisher attempted to obtain recycled content newsprint from every manufacturer of recycled content newsprint that offered to sell recycled content newsprint to the publisher within the preceding calendar year.
(3) The name, address, and telephone number of each recycled content newsprint manufacturer contacted, including the company name and the name of the company's individual representative or employee.

(f) Use of Proceeds. -- The Secretary shall, on or before April 15 of each year, credit the net proceeds of the tax imposed by this section to the Solid Waste Management Trust Fund created in G.S. 130A-309.12."

Section 2. This act becomes effective July 1, 1999.

HOUSE BILL 1479:
Newsprint Tax Credit Change

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Miller
Date:	June 3, 1999	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: House Bill 1479 expands the newsprint recycling tax credit to include magazine recycling programs, increases the credit that may be received from one-half ton to one ton, and establishes the minimum recycled content percentage required to avoid the tax at 35%.

CURRENT LAW: A publisher must pay a privilege license tax of $15 for each ton of newsprint that does not have a recycled content of 35% or more. The General Assembly enacted this excise tax on newsprint in 1991. The purpose of the tax is to encourage the use of recycled newsprint by imposing a privilege license tax on those who produce publications printed on newsprint and do not use a minimum amount of recycled paper. The minimum amount of recycled paper required has increased since 1991 from 12% to 35%. The minimum amount of recycled paper that will be required after the year 2000 is 40%.

The tax rate is $15.00 for each ton of newsprint that is consumed during an annual reporting period and has an average recycled content percentage that is less than the required minimum recycled content percentage. The proceeds of the tax are earmarked for the Solid Waste Management Trust Fund. The tax does not apply if the producer can not meet the recycled content goal because of an inability to obtain newsprint made from recycled paper at a price or quality comparable to other newsprint, to acquire an amount needed for a publication, or to acquire the amount needed in a reasonable amount of time.

There is a credit that can be used towards the recycled content percentage goals for publishers who develop and operate, or contract for the operation of, a newspaper recycling program. A publisher may receive one-half ton credit toward its total recycled content tonnage for each ton of newsprint it recycles.

BILL ANALYSIS: House Bill 1479 changes the newsprint excise tax in three ways:

- It allows a publisher a credit for developing and operating a magazine recycling program as well as a newspaper recycling program.
- It allows a credit towards the recycled content percentage goals on the basis of **one ton** of credit for each ton of newsprint or magazines it recycles. The current law only allows one-half ton of credit for each ton of newsprint it recycles.
- It repeals the 40% recycled content goal that would have become effective after the year 2000. It permanently establishes the 35% recycled content goal currently in effect.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1479 (First Edition)

SHORT TITLE: Newsprint Tax Credit Change

SPONSOR(S): Representative Miller

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Solid Waste Management Trust Fund	Less than $1,000 loss per year				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: The act is effective July 1, 1999.

BILL SUMMARY:
The bill extends the publisher tax credit to magazine recycling programs as well as newspaper recycling programs.

BACKGROUND:
A newspaper publisher pays a privilege tax of $15 for each ton of paper that does not have a recycled content of 35%. The publisher currently receives a half ton credit against the tax for each ton of newsprint it recycles. Publishers pay the tax when they file their annual report with the Secretary of Revenue by January 31 each year.

ASSUMPTIONS AND METHODOLOGY:
The Department of Revenue collected only $1,180.95 from 86 publishers in 1998. Adding magazines to the formula to determine the tax credit will reduce the amount of tax paid. However, the reduction cannot be calculated due to lack of data. The N.C. Recycling Association could not provide data on the amount of magazines that might be recycled each year.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY: Tom Covington

DATE: Monday, May 24, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 484 A BILL TO BE ENTITLED AN ACT CHANGING THE METHOD OF CALCULATING THE RATIO OF PROPERTY TAX COLLECTIONS TO THE TOTAL LEVY FOR LOCAL GOVERNMENT BUDGETING PURPOSES RELATING TO THE REGISTERED MOTOR VEHICLE TAX.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

2

SENATE BILL 484
Finance Committee Substitute Adopted 4/20/99

Short Title: RMV Tax Budgeting. (Public)

Sponsors:

Referred to:

March 24, 1999

A BILL TO BE ENTITLED

AN ACT CHANGING THE METHOD OF CALCULATING THE RATIO OF PROPERTY TAX COLLECTIONS TO THE TOTAL LEVY FOR LOCAL GOVERNMENT BUDGETING PURPOSES RELATING TO THE REGISTERED MOTOR VEHICLE TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159-13(b)(6) reads as rewritten:

"(b) The following directions and limitations shall bind the governing board in adopting the budget ordinance:

. . .

(6) The estimated percentage of collection of property taxes shall not be greater than the percentage of the levy actually realized in cash as of June 30 during the preceding fiscal year. For purposes of the calculation under this subdivision only, the levy for the registered motor vehicle tax under Article 22C of Chapter 105 of the General Statutes shall be based on the nine-month period ending March 31 of the preceding fiscal year, and the collections realized in cash with respect to this levy shall be based on the twelve-month period ending June 30 of the preceding fiscal year."

Section 2. This act is effective when it becomes law and applies to budget ordinances adopted after July 1, 1999.

SENATE BILL 484:
RMV Tax Budgeting

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Clodfelter
Date:	June 16, 1999	**Summary by:**	Cindy Avrette
Version:	2nd Edition		Committee Counsel

SUMMARY: Senate Bill 484 changes the method for calculating the ratio of property tax collections to the total levy for local government budgeting purposes by taking into consideration the time frame necessary to collect on a registered motor vehicle (RMV) tax bill. The proposed change should result in a more accurate estimate of the property tax collection ratio for budgeting purposes. The act would apply to budget ordinances adopted after July 1, 1999.

CURRENT LAW: Each year local governments submit a budget for raising and spending money during a fiscal year. The governing board then adopts a budget ordinance not later than July 1. The ordinance sets out the appropriation of revenues and the levying of taxes for the budget year. In adopting the budget ordinance, the governing board must not estimate the percentage of property tax collection to be greater than the percentage actually realized in cash as of June 30 during the preceding fiscal year. When calculating this percentage, the local government is better able to estimate the collection of tax on non-motor vehicle property than on motor vehicles. This is because of the difference between the dates on which the property tax is due. For example, most motor vehicle taxes are due and collected on a staggered term, i.e. the date of registration. This means that taxes become due on vehicles each month. A significant number of these bills are paid over a three-month period. All other property taxes are due on September 1, and are considered delinquent after January 6. Therefore the local government has a good idea of their actual collection rate for property taxes on property other than motor vehicles because they have from January 6 until July 1 to collect these delinquent taxes.

BILL ANALYSIS: Senate Bill 484 modifies the calculation for the estimated percentage of collection of property taxes by allowing the levy for the motor vehicle tax to be based on a nine-month period ending March 31. This would give the local governments additional time to collect the motor vehicle tax before the collection rate becomes final on June 30.

Current Formula: 12 months of collection divided by 12 months of billing

Proposed Formula: 12 months of collection on the same 9 months of bills divided by 9 months of billing.

Martha Walston, counsel to the Senate Finance Committee, contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: S.B. 484 RMV Tax Budgeting

SHORT TITLE: RMV Tax Budgeting

SPONSOR(S): Sen. Clodfelter

FISCAL IMPACT

Yes ( ) **No (x)** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES	**No General Fund Impact See Assumptions and Methodology**				
EXPENDITURES	**No General Fund Impact See Assumptions and Methodology**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Local Governments.

EFFECTIVE DATE: July 1, 1999 and apply to budget ordinances for the fiscal year beginning on that date.

BILL SUMMARY: G.S. 159-13(b) provide local governments with binding directions and limitations for county annual budgets. G.S.159-13(b)(6) specifically requires that the estimated property tax collection rate used in the budget not exceed the previous fiscal year's collection rate. The previous fiscal year collection rate must be determined as of June 30. The bill allows the counties to use the proportion of motor vehicle taxes actually collected in the preceding nine months, as defined on March 31, as the proportion of motor vehicle taxes collected for budget purposes. The bill leaves the June 30 cutoff for all other property tax collection rates.

ASSUMPTIONS AND METHODOLOGY: Under current law taxes on all taxable property, except motor vehicles on the staggered system, are due on September 1. These taxes can be paid without penalty before January 6. After January 6th the taxes are considered delinquent. As such, there is a four-month lag between when non-motor vehicle taxes are due and when they become delinquent. The county is not required to set their collection rate until June 30. Thus, there is a

significant lag between when taxes are due and when the counties determine that actual collection rate for the fiscal year.
Most motor vehicle taxes are due and collected on a staggered term. These taxes are due on the date of registration, and not the fiscal or calendar year, under current law. As such, taxes become due on vehicles each and every month.

By modifying the June 30 collection rate to reflect only the taxes due before March 31, the bill allows the county additional time to pursue some of the remedies they would use on other property tax delinquencies before their collection rates become final.

This bill, in and of itself, makes no changes to the tax imposed, the date the taxes are due, or the remedies local governments can use to pursue delinquencies. It would also have no direct impact on how much revenue the county might generate. It only impacts at what point in time the county takes a "snapshot" of their motor vehicle tax collections, for purposes of setting their upcoming year revenue availability. No change in actual collections is expected as a result of the bill.

Because the bill deals exclusively with property taxes, there is no fiscal impact to the state. The bill should not have an impact on revenues at the local level, as it makes no change to the tax law itself. It only alters the day on which the county may take a "snapshot" of its fiscal year revenue for budgeting purposes. As a result of this shift in the snapshot date, and the extra time it allows for collection of delinquent bills before the rate is set, the bill may allow counties to use a higher property tax collection rate when determining their budget for the coming fiscal year. For example, a county may have a 90% collection rate for motor vehicles on March 31. Many of the unpaid amounts are likely to be only one or two month delinquent. By allowing the county additional time before the snapshot is taken, the county may be able to employ more of their usual collection tactics before the snapshot. This could raise their vehicle collection rate to 95%. The counties would normally employ these collection methods even after the March deadline. However, this would allow the counties to count the additional revenue collected towards their collection ratio. In the example above, the county's budget could now legally reflect a 95% collection rate on vehicles, instead of the 90% rate. This allows them more availability for budgeting purposes. It does not, however, actually increase overall revenues.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY: Tom Covington

DATE: Tuesday, April 06, 1999

VISITOR REGISTRATION SHEET

FINANCE — Name of Committee

6/16 , 1999 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
ANAND MAHESHWARI	REGENCY INN HWY I 95 Exit 97 SELMA NC 27576
AKSHAY DESAI	COMFORT INN, 1705 INDUSTRIAL PARK DR, SELMA N.C 27576
Marelli Jackson	AXAR Management 2406 Roberts Ave Lumberton NC 28306
Greg Piner	OSBM
Kevin MacNaughton	UNC
Jay Davies	UNC
Eddie Caldwell	NCH+MA
Lennie Collins	NC DOR
Andy Sosol	NC DOR
CHARLES COLLINS	"
Sabra Faires	Dept of Revenue
NANCY POMERANZ	NCDOR
Patti Seawell	"
Amy Hobbs	NCHMA
Jim Hobbs	NCHMA
David Clegg	NCESC
Launa DeVivo	DENR
Charles Reid	103 E Anderson St Selma NC 27576
DONNA REID	COUNTRY SAMPLER, SELMA.
ALLEN SHEPPARD	TIMELESS TREASURES
Chris Reid	Triple B
Von Reid	Triple B.
Jennifer Gaskins	110 S. Massey St. Selma
JONATHAN GASKINS	110 S. Massey St Selma
Don Wildman	North Carolina Community College Faculty Association
Sherry Pounds	Holiday Inn Express-Selma
Becky Brannon	Royal Inn Selma
Barry Brannon	Royal Inn Selma
Alan Mills	Banks & Dixon LLP

VISITOR REGISTRATION SHEET

4/12

THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON HUMAN RESOURCES

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

	NAME	FIRM OR AGENCY
1.	Hugh Stevens	NC Newsprint Recycling Coalition
2.	Mike Garland	ElectriCities
3.	Polly Roth	Alice's
4.	Bob Gillam	Public Staff - NCUC
5.	Dan Hubbard	BC
6.	Bruce Ashworth	BCBSNC
7.	Kelli Lindsay	DuPont
8.		
9.		
10.		
11.		
22.		
23.		
24.		
25.		
26.		
27.		
28.		
29.		
30.		
31.		

VISITOR REGISTRATION SHEET

4/16.

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Robert A. MATULA	N.C. Utilities Commission
Robert Bennink	"
Bruce Radford	TOWN OF Selma
Bob Price	Jordan Price Wall
SANDRA RYALS	E.D. CHADWICK & CO SELMA
Rebecca Ryals	E.D CHADWICK & CO SELMA
Vowell Ryals	E.D. Chadwick Co Selma
Rose Wagaman	KR St. Antiques Selma
GARY JACKSON	Town of Selma
ALBERT KENAK	SELMA
Joe Moore	Mayor Selma NC
Al Williams	American Music Jubilee - Selma
Spook Jeffreys	amer. mus. Jubilee - SELMA
Bob Tanner	N.C. Dept. of Commerce
Barry Russell	NCCCS
Herb Crenshaw	NCEITA
[illegible]	NCCCS
[illegible]	NCCS
Scott Mouw	DAPPA / DENR
Phil Krete	DENR / DWM
Paul Gupton	OSBM
David Boliek	DOR
Mary Carmichael	Mecklenburg County
Tom Whitaker	ESC
Parker Chessman	ESC
Chris Heagarty	Electric Co-op
Catherine Davis	Electricities
Hal Miller	NCACCT
Phil Kirk	NCCBI

VISITOR REGISTRATION SHEET

FINANCE — JUNE 16, 1999

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
LENNIE COLLINS	NC DOR
Jeff Davis	UNC
KEVIN MACNAUGHTON	UNC
Clifton B. Medford	WRC GA
BILL LITTLE	Duke Univ LTC Program
Jeanie M. Williams	Duke LTC, STNL, SLC, AHRP
Glenn Harmon	EGHS
Scott Mouw	DPPEA / DENR
Chris Hoagland	Electric Cooperatives
Kathy Sawyer	Commerce
Starla McKinney	DOI
Dael Pappes	DOI
Andy Romanet	NCLM
David Salter	DOR
Leslie Bevacqua	NCCBI
Bob Prow	Jordan Price Wall
Bob Gillam	Public Staff - NCUC
Robert A. Wootan	N.C. Utilities Commission
Robert Bennink	"
Bernard Allen	SOS
Suzanne Williams	NCCCS
Ed Regan	N.C. A.C.C.
Mary Caffrey	Mecklenburg County
Earl Taylor	Delta Dental Plan of NC
Mike Conyette	NCHBA
LW Hodges	LW Hodges - Son

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Thursday, June 17, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 623 - Pleasant Garden Changes - Rep. Brubaker
HB 794 - Farmville Annexation - Rep. Warren
HB 867 - Wilson Annexations - Rep. Fitch
HB 1082 - Licensing Selling of Cars - Rep. Saunders
HB 1190 - Desert Storm Plates - Rep. Sexton
SB 235 - "Kids First" Registration Plates - Sen. Hagan

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Thursday, June 17, 1999

The House Committee on Finance met on Thursday, June 17, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke; Vice Chairs Jarrell and Wood; Representatives Braswell, Bridgeman, Brown, Buchanan, Capps, Church, Cox, Creech, Cunningham, Decker, Dedmon, Eddins, Edwards, Fitch, Gibson, Goodwin, Hackney, Hill, McCombs, Pope, Rayfield, Starnes, Tucker, Wilson, and Womble. Staff including Cindy Avrette, Richard Bostic, Mary Shuping, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Allen called the meeting to order to consider the following bills:

Sen. Hagan was recognized to explain SB 235, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE "KIDS FIRST" SPECIAL REGISTRATION PLATES". Rep. Church moved to give the Proposed Committee Substitute a favorable report and unfavorable to the original bill. The motion passed. The bill, Proposed Committee Substitute, the Bill Summary, and Fiscal Note are included in these minutes.

Rep. Brubaker was recognized to explain HB 623, A BILL TO BE ENTITLED AN ACT TO AMEND THE LAWS PERTAINING TO THE 38TH HOUSE DISTRICT. Rep. Rayfield moved to give the Proposed Committee Substitute a favorable report and unfavorable to the original bill. The motion passed. The Proposed Committee Substitute is included in these minutes.

Rep. Sexton was recognized to explain HB 1190, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE "DESERT STORM VETERAN" SPECIAL REGISTRATION PLATES. Rep. Brown moved for a favorable report. The motion passed. The bill, Bill Summary, and Fiscal Note are included in these minutes.

Rep. Warren was recognized to explain HB 794, A BILL TO BE ENTITLED AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF FARMVILLE. Rep. Cunningham moved for a favorable report. The motion passed.

Rep. Saunders was recognized to explain HB 1082, A BILL TO BE ENTITLED AN ACT TO ESTABLISH PENALTIES FOR SELLING CARS IN VIOLATION OF THE MOTOR VEHICLE DEALERS AND MANUFACTURERS LICENSING LAW, TO ESTABLISH EDUCATIONAL REQUIREMENTS REQUIRED FOR ISSUANCE AND RENEWAL OF LICENSURE FOR USED MOTOR VEHICLE DEALERS, AND TO INCREASE FEES. Rep. Hill sends forward an amendment and moved for its adoption. The amendment was adopted. Rep. Buchanan moved to roll the amendment into a Proposed Committee Substitute and vote favorable

to the Proposed Committee Substitute, and unfavorable to the original bill. Rep. Womble questioned Richard Bostic. Reps. Capps, Womble, and Hill questioned Rep. Saunders. The Chair recognized Mr. Roger Bowen of the N.C. Independent Automobile Association who answered Rep. Rayfield's questions. The Chair recognized Captain Payford of the Department of Motor Vehicles who answered Rep. Cunningham's questions. Richard Bostic commented on fiscal impact. Rep. Cunningham sent forward an amendment. Reps. Hackney, Eddins, Braswell, and Womble question Rep. Saunders. Rep. Hackney questioned Mr. Bowen. Rep. Cunningham moved for the adoption of his amendment. The amendment was adopted with a vote of 13 ayes, 6 nays. Rep. Capps questioned Rep. Saunders. Rep. Hackney comments on possible amendment. Rep. Saunders is opposed to possible amendment. Rep. Hackney removed amendment. Rep. Buchanan's motion passed. The bill, amendments, Bill Summary, and Fiscal Note are included in these minutes.

Rep. Fitch was recognized to explain HB 867, A BILL TO BE ENTITLED AN ACT EXEMPTING THE CITY OF WILSON FROM CERTAIN SATELLITE ANNEXATION REQUIREMENTS. The Chair recognized Mr. Andy Romany of the League of Municipalities who answered Rep. Hackney's question. Rep. Womble questioned Rep. Fitch about a possible sunset. Rep. Womble sent forward an amendment placing the sunset at 15 years. Rep. Capps questioned Cindy Avrette about necessary requirements. Rep. Goodwin sent forward a perfecting amendment for Rep. Wombles amendmet. Rep. Goodwin's perfecting amendment changed the sunset to 5 years. Rep. Luebke questioned Mr. Romany. Cindy Avrette also commented. Rep. Eddins and Hackney questioned Rep. Fitch. Rep. Luebke moved for the adoption of the amendment. The amendment was adopted. Rep. Womble moved to roll the amendment into a Proposed Committee Substitute and vote favorable to the Proposed Committee Substitute, and unfavorable to the original bill. The motion passed.

There being no further business, the Chair adjourned the meeting at 9:50 a.m.

Respectfully submitted:

Representative Gordon Allen
Chair

Kristen L. Crosson
Assistant to the Committee

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 623 A BILL TO BE ENTITLED AN ACT TO AMEND THE LAWS PERTAINING TO THE 38TH HOUSE DISTRICT.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#)~~, ☒ which changes the title, unfavorable as to original bill~~)~~ ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 623
Proposed Committee Substitute H623-PCS7248-RW

Short Title: Pleasant Garden Changes. (Local)

Sponsors:

Referred to:

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE TOWN OF PLEASANT GARDEN.

The General Assembly of North Carolina enacts:

Section 1. Section 2-1 of the Charter of the Town of Pleasant Garden, being Section 1 of S.L. 1998-205, reads as rewritten:

"Sec. 2-1. **Town Boundaries.** Until modified in accordance with the law, the boundaries of the Town of Pleasant Garden are as follows:

~~BEGINNING at a point in the southern right-of-way line of Ritters Lake Road (S.R. 3325) at its intersection with the western line of Fentress Township with Sumner Township, and running; thence, along the southern right-of-way line of said Ritters Lake Road, eastwardly approximately 8440 feet to a point;~~

~~thence, along the western line of tax parcel ACL-3-152-540-9, southeastwardly approximately 500 feet to a point;~~

~~thence, along the western line of tax parcels ACL-3-152-540-46 and 47, southwardly approximately 1750 feet to a point;~~

BEGINNING at a point in the southern right-of-way line of Ritters Lake Road (S.R. 3325) at its intersection with the western line of Fentress Township with Sumner Township, and running; then, along the southern right-of-way line of said Ritters Lake Road, eastwardly approximately 7,840 feet to a point;

thence, along the western line of tax parcel ACL-3-152-540-E-7, southeastwardly approximately 2,000 feet to a point;

thence, along the southern line of tax parcel ACL-3-152-557-E-7, eastwardly approximately 175 feet to a point;
thence, along the western line of tax parcel ACL-3-152-540-47, southwardly approximately 100 feet to a point;
thence, along the southern line of tax parcels ACL-3-152-540-47, 8, and 7, northeastwardly approximately 2140 feet to a point;
thence, along the eastern line of tax parcel ACL-3-152-540-7, northeastwardly approximately 150 feet to a point;
thence, along the southern line of tax parcels ACL-3-152-540-41, 42, and 43, eastwardly approximately 2275 feet to a point;
thence, along the western right-of-way line of Alliance Church Road (N.C. Highway 22), northwardly approximately 500 feet to a point;
thence, crossing said Alliance Church Road, northeastwardly approximately 200 feet to a point in the northern right-of-way line of a proposed new road connecting Alliance Church Road with U. S. Highway 421;
thence, along the northern right-of-way line of said connector road, northeastwardly approximately 1350 feet to a point;
thence, along the southwestern right-of-way line of U. S. Highway 421, southeastwardly approximately 14,400 feet to a point in the western right-of-way line of Hagan-Stone Park Road (S.R. 3411);
thence, along the western right-of-way line of Hagan-Stone Park Road (S.R. 3411), southwardly approximately 2,500 feet to a point;
thence, along the southern line of tax parcel ACL-9-579-411-39, westwardly approximately 350 feet to a point;
thence, along a line of the Pleasant Garden Fire District and across tax parcel ACL-9-579-411-19, southwardly approximately 175 feet to a point in the northern line of tax parcel ACL-9-579-411-43;
thence, along the northern line of said tax parcel ACL-9-579-411-43, eastwardly approximately 300 feet to a point in the western right-of-way line of Hagan-Stone Park Road (S.R. 3411);
thence, along the western right-of-way line of said Hagan-Stone Park Road (S.R. 3411), southwestwardly and westwardly approximately 3,600 feet to a point;
thence, along the eastern line of tax parcel ACL-9-579-422-32, southwardly approximately 1,750 feet to a point;
thence, along the southern line of said tax parcel ACL-9-579-422-32, westwardly approximately 1,900 feet to a point;
thence, along a western line of said tax parcel ACL-9-579-422-32, northwardly approximately 230 feet to a point;
thence, along a northern line of said tax parcel ACL-9-579-422-32 with Hagan-Stone Park, eastwardly approximately 600 feet to a point;
thence, along a western line of said tax parcel ACL-9-579-422-32 with Hagan-Stone Park, northwardly approximately 1,200 feet to a point in the southern right-of-way line of Hagan-Stone Park Road (S.R. 3411);

thence, along the southern right-of-way line of said Hagan-Stone Park Road (S.R. 3411) northeastwardly approximately 800 feet to a point;
thence, along the western line of tax parcels ACL-9-579-422-35 and 23, with Hagan-Stone Park, northwardly approximately 1,530 feet to a point in the southern line of tax parcel ACL-9-579-422-12;
thence, along the southern line of said tax parcel ACL-9-579-422-12 with Hagan-Stone Park, westwardly approximately 480 feet to a point;
thence, along the western line of said tax parcel ACL-9-579-422-12 with Hagan-Stone Park, northwardly approximately 1,350 feet to a point in the southern right-of-way line of Tabernacle Church Road (S.R. 3412);
thence, along the southern right-of-way line of said Tabernacle Church Road (S.R. 3412) westwardly approximately 150 feet to a point;
thence, along the eastern line of tax parcel ACL-9-579-422-11 with Hagan-Stone Park southwardly approximately 1,300 feet to a point;
thence, along the southern line of tax parcels ACL-9-579-422-11 and 7 and ACL-9-579-477-11, 15, 33, 35, and 26, with Hagan-Stone Park, westwardly approximately 2,100 feet to a point;
thence, along the eastern line of tax parcel ACL-9-579-477-25 with Hagan-Stone Park southwardly approximately 280 feet to a point;
thence, along the southern line of tax parcels ACL-9-579-477-25, 24, and 41 with Hagan-Stone Park southwestwardly approximately 1,370 feet to a point;
thence, along the western line of tax parcel ACL-9-579-477-41 with Hagan-Stone Park, northeastwardly approximately a 700 feet to a point, the southeast corner of tax parcel ACL-9-579-477-40;
thence, along the southern line of tax parcels ACL-9-579-477-40 and 43 with Hagan-Stone Park, westwardly approximately 1,350 feet to a point;
thence, along the eastern line of tax parcels ACL-9-579-477-43, ACL-3-156-482-2 and 5, ACL-3-156-487-1 and 6 and ACL-9-579-478-8, southwardly approximately 3,800 feet to a point in the southern right-of-way line of Hagan-Stone Park Road (S.R. 3411);
thence, along the southern right-of-way line of said Hagan-Stone Park Road (S.R. 3411) eastwardly approximately 2,800 feet to a point;
thence, along the eastern line of tax parcel ACL-9-579-478-3 with Hagan-Stone Park, southwardly approximately 125 feet to a point;
thence, along the northern line of tax parcel ACL-9-579-478-3 with Hagan-Stone Park, eastwardly approximately 1,200 feet to a point;
thence, along the eastern side of tax parcel ACL-9-579-478-3 the following 5 courses:
(1) Southwardly approximately 500 feet to a point
(2) Eastwardly approximately 100 feet to a point
(3) Southwardly approximately 975 feet to a point
(4) Westwardly approximately 190 feet to a point
(5) Southwardly approximately 1,300 feet to a point in the southern right-of-way line of Fieldview Road (S.R. 3407);

thence, along the southern right-of-way line of said Fieldview Road (S.R. 3407) southeastwardly and eastwardly approximately 1,700 feet to a point;
thence, along the eastern line of tax parcel ACL-9-577-420-19, southwardly approximately 620 feet to a point;
thence, along the southern line of tax parcel ACL-9-577-420-19, westwardly approximately 300 feet to a point;
thence, along the eastern line of tax parcel ACL-9-577-420-21, southwardly approximately 400 feet to a point;
thence, along the southern line of tax parcels ACL-9-577--420-21, 22, and 23, north westwardly approximately 800 feet to a point;
thence, along the southern line of tax parcels ACL-9-577-420-9 and 26, southwestwardly approximately 1450 feet to a point in the eastern line of tax parcel ACL-9-579-479N-4; thence, along the eastern side of tax parcel ACL-9-579-479N-4, the following 3 courses:
(1) Southwardly approximately 200 feet to a point
(2) Eastwardly approximately 50 feet to a point
(3) Southwardly approximately 1,350 feet to a point, the southeast corner of said tax parcel ACL-9-579-479N-4;
thence, along the southern line of tax parcel ACL-9-579-479N-4, westwardly approximately 1,800 feet to a point;
thence, along the southern line of tax parcel ACL-3-158-479S-15, southwestwardly approximately 280 feet to a point;
thence, along the eastern line of tax parcel ACL-3-158-479S-4, southwardly approximately 200 feet to a point;
thence, along the southern line of said tax parcel ACL-3-158-479S-4, southwestwardly approximately 380 feet to a point in the western right-of-way line of N.C. Highway 22;
thence, along the western right-of-way line of said N.C. Highway 22, southeastwardly approximately 600 feet to a point;
thence, along the southern line of tax parcels ACL-3-158-479S-3, 13, 12, and 17, ACL-3-158-485-11, ACL-3-158-486S-15, 13, and 12, southwestwardly approximately 3,000 feet to a point, the northeastern corner of tax parcel ACL-3-158-485-6;
thence, along the eastern line of said tax parcel ACL-3-158-485-6, southwardly approximately 1,900 feet to a point;
thence, along the southern line of tax parcels ACL-3-158-485-6 and 9, westwardly approximately 1,430 feet to a point in the western right-of-way line of Kearney Road (S.R. 3404);
thence, along the western right-of-way line of said Kearney Road (S.R. 3404), northwardly approximately 300 feet to a point;
thence, along the southern line of tax parcels ACL-3-158-485-6 and ACL-3-158-546-2, westwardly approximately 2,200 feet to a point;
thence, along a western line of tax parcel ACL-3-158-546-2, northwardly approximately 960 feet to a point;

thence, along the southern line of tax parcel ACL-3-158-546-2, westwardly approximately 1,300 feet to a point;
thence, along the eastern line of tax parcels ACL-3-158-546-12, 13, 14, 21, 15, 16, 17, 18, 19, and 20, southwardly approximately 1,600 feet to a point;
thence, along the southern line of tax parcel ACL-3-158-546-20, westwardly approximately 300 feet to a point in the western right-of-way line of Hunt Road (S.R. 3402);
thence, along the western right-of-way line of said Hunt Road (S.R. 3402), southward approximately 650 feet to a point;
thence, along the southern line of tax parcel ACL-3-158-546-3, westwardly approximately 1,000 feet to a point;
thence, along the southern line of tax parcel ACL-3-158-546-7, North westwardly approximately 630 feet to a point;
thence, along the western line of tax parcels ACL-3-158-546-7, and 30, northeastwardly approximately 1,020 feet to a point;
thence, along the southern line of tax parcel ACL-91-6784-551-25 and the southern line of Pleasant Grove Subdivision which is designated at B-Sub of block 551, tax map ACL-91-6784, westwardly approximately 650 feet to a point, the northeast corner of tax parcel ACL-91-6784-551-12;
thence, along the eastern line of said tax parcel ACL-91-6784-551-12, southwardly approximately 500 feet to a point;
thence, along the southern line of said tax parcel ACL-91-6784-551-12, westwardly approximately 520 feet to a point, the northeast corner of Center Subdivision;
thence, along eastern lines of said Center Subdivision, which is designated as A-Sub of block 551,tax map ACL-91-6784, the following 5 courses;
(1) Southwestwardly approximately 500 feet to a point;
(2) Southeastwardly approximately 200 feet to a point;
(3) Southwestwardly approximately 600 feet to a point;
(4) North westwardly approximately 200 feet to a point;
(5) Southwestwardly approximately 300 feet to a point;
thence, along the southern line of said Center Subdivision, westwardly approximately 460 feet to a point in the eastern right-of-way line of Branson Mill Road (S.R. 3437);
thence, along the eastern right-of-way line of said Branson Mill Road (S.R. 3437), northeastwardly approximately 100 feet to a point;
thence, along the southern line of tax parcel ACL-91-6784-550N-22, westwardly approximately, 550 feet to a point in the eastern line of tax parcel ACL-91-6784-550N-1;
thence, along the eastern line of said tax parcel ACL-91-6784-550N-1, southwardly approximately 75 feet to a point;
thence, along the southern line of tax parcels ACL-91-6794-550N-1 and 15, westwardly approximately 350 feet to a point;
thence, along the eastern line of tax parcel ACL-91-6784-550N-14, southwardly approximately 700 feet to a point;

thence, along the southern line of said tax parcel ACL-91-6784-550N-14, westwardly approximately 950 feet to a point;
thence, along the western line of tax parcels ACL-91-6784-550N-14, 11, and 21 and ACL-91-6784-551-2 and crossing Hodgin Valley Road (S.R. 3440), northwardly approximately 2,000 feet to a point;
thence, along the northern line of tax parcels ACL-91-6784-551-2, 17, 5, and 14 and the northern line of Center Subdivision, which is designated as A-Sub of block 551, ACL-91-6784, westwardly approximately 2,170 feet to a point in the eastern right-of-way line of Branson Mill Road (S.R. 3437);
thence, along the eastern right-of-way line of said Branson Mill Road (S.R. 3437), northeastwardly approximately 1,100 feet to a point;
thence, along the southern line of tax parcel ACL-91-6784-551-18, northwestwardly approximately 400 feet to a point;
thence, along the western line of tax parcels ACL-91-6784-551-18 and 8, northwestwardly approximately 1,300 feet to a point;
thence, along the southern line of tax parcels ACL-91-6784-551-8, 24, and 22, westward approximately 950 feet to a point;
thence, along the western line of tax parcels ACL-91-6784-551-22 and 23, northwestwardly approximately 1,050 feet to a point;
thence, along the northern line of tax parcel ACL-91-6784-551-23, northeastwardly approximately 350 feet to a point, the southwest corner of tax parcel ACL-91-6784-552S-6;
thence, along the western line of said tax parcel ACL-91-6784-552S-6, northwardly approximately 750 feet to a point;
thence, along the southern line of tax parcels ACL-91-6784-552S-6 and 5, southwestwardly approximately 1,800 feet to a point in the eastern line of tax parcel ACL-91-6784-611S-3;
thence, along the southeastern line of said tax parcel ACL-91-6784-611S-3 as it meanders southwestwardly approximately 840 feet to a point;
thence, along the southern line of said tax parcel ACL-91-6784-611S-3, southwestwardly approximately 620 feet to a point;
thence, along the southwestern line of said tax parcel ACL-91-6784-611S-3, as it meanders northwestwardly approximately 875 feet to a point in the southern right-of-way line of Robolo Road (S.R. 3439);
thence, along the southern right-of-way line of said Robolo Road (S.R. 3439) southwestwardly; approximately 900 feet to its intersection with the western line of Davis Mill Road;
thence, along the western line of Davis Mill Road, northwardly approximately 7820 feet to a point in the northern line of tax parcel ACL-9-635-609-19;
thence, along the northern line of tax parcel ACL-9-635-609-19, southeastwardly approximately 470 feet to a point in the western line of Davis Mill Road (S.R. 3433);
thence, along the western line of said Davis Mill Road (S.R. 3433), northeastwardly approximately 3,050 feet to a point;

thence, along the southern line of Nocho Park Subdivision which is designated as B-Sub of block 609, ACL-9-635, westwardly approximately 1,350 feet to a point;
thence, along the western line of said Nocho Park Subdivision, northwardly approximately 1,350 feet to a point in the northern right-of-way line of Sheraton Park (S.R. 3426);
thence, along the northern right-of-way line of said Sheraton Park Road (S.R. 3426) westwardly approximately 1440 feet to its intersection with the western line of Fentress Township with Sumner Township;
thence, along the western line of Fentress Township with Sumner Township, northwardly approximately 8180 feet to the point of BEGINNING."

Section 2. This act is effective when it becomes law.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 794 A BILL TO BE ENTITLED AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF FARMVILLE.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 794

Short Title: Farmville Annexation. (Local)

Sponsors: Representative Warren.

Referred to: Finance.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF FARMVILLE.

The General Assembly of North Carolina enacts:

Section 1. The following described property is added to the corporate limits of the Town of Farmville:

BEGINNING at an iron pipe at the intersection of the south line of the CSX Railroad right of way with the east line of the Monk-Austin International, Inc., tract as recorded in deed book 323 page 655, Pitt County Deed Registry, said iron being located *S 86-06-08 W 3033.035 feet from a concrete monument marking North Carolina Geodetic Survey station "PARKER" having North Carolina Coordinate System coordinates of x = 2,417,773.238 feet and y = 673,990.171 feet, North American Datum of 1983, and running thence with the south line of the CSX Railroad right of way and a new corporate limit line for the Town of Farmville N 86-14-38 E 866.705 feet to an iron pipe in the west line of the Southern States Cooperative, Inc. lot, a point in the existing corporate limits of the Town of Farmville; thence with the existing corporate limits of the Town of Farmville the remaining courses and distances in this description as follows: along the west line of the Southern States Cooperative, Inc. lot S 06-04-22 W 353.468 feet to an iron pipe; thence with the south line of the Southern States Cooperative lot N 88-54-33 E 902.408 feet to an iron pipe; thence with the south line of the Southern States lot S 81-39-10 E 354.539 feet to an iron in the west line of Fields Street; thence crossing Fields Street S 81-39-10 E 71.655 feet to a point in the east line of Fields Street; thence with the east line of Fields Street S 39-59-54 W 596.383 feet to an iron pipe at

the intersection of the north line of Perry Street with the east line of Fields Street; thence with the east line of Fields Street S 39-59-54 W 50.000 feet to an iron pipe in the south line of Perry Street; thence along the south line of Perry Street along a curve whose chord bears S 63-57-50 E 132.705 feet to an iron pipe; thence along the south line of Perry Street S 77-55-33 E 442.050 feet to an iron pipe at the northwest corner of Williams Acres, Section 3; thence along the west line of Williams Acres, Section 3, S 12-40-45 W 564.915 feet to an iron pipe; thence with the south line of lot 6, Williams Acres, Section 3, S 77-19-15 E 130.000 feet to an iron pipe in the west line of Wright Drive; thence with the west line of Wright Drive S 12-40-45 W 277.522 feet to an iron pipe; thence with the south line of Wright Drive S 77-19-15 E 40.000 feet to an iron pipe in the east line of Wright Drive; thence with the south line of Williams Acres, Section 2, N 89-52-45 E 48.400 feet to an iron pipe in a ditch; thence continuing with the south line of Williams Acres, Section 2, and said ditch S 81-10-15 E 483.861 feet to a point in the west line of the old East Carolina Railway right of way; thence with said right of way along a curve whose chord bears S 03-29-01 E 562.009 feet to a point in the Farmville Housing Authority tract; thence with the north line of said tract N 74-03-31 W 41.544 feet to an iron pipe; thence with the west line of the Farmville Housing Authority tract S 09-50-43 W 433.299 feet to an iron pipe in the north line of Darden Street extended; thence S 70-41-16 E 144.102 feet with the north line of Darden Street extended to an iron pipe in the west line of Williams Street extended; thence with the west line of Williams Street extended S 19-21-11 W 30.000 feet to an iron pipe; thence with the south line of Darden Street extended N 70-41-13 W 139.078 feet to an iron pipe; thence with the west line of the Farmville Housing Authority tract S 09-50-43 W 325.724 feet to an iron pipe at the northwest corner of the Carl W. Tugwell lot; thence with the west line of the Tugwell lot S 30-10-04 W 402.849 feet to an iron pipe in the north line of Marlboro Road (US 264A); thence with the north line of Marlboro Road N 62-08-42 W 1396.163 feet to a point in a ditch, a corner with the Farmville Tractor and Implement Company lot; thence with the east line of said lot and a ditch N 19-37-41 E 747.348 feet and N 04-22-08 E 145.640 feet to a point; thence along the north line of said lot S 84-22-20 W 723.087 feet to a point in a ditch, a corner with W. A. Allen; thence with the Allen line N 13-04-35 W 115.496 feet and N 11-34-46 W 374.815 feet to a point in the South line of Fields Street; thence the same course continued crossing Fields Street N 11-34-46 W 64.918 feet to a point in the north line of Fields Street; thence with the north line of Fields Street S 55-53-01 W 631.102 feet to an iron pipe at the northeast corner of the Monk-Austin Sales and Administration, Inc. tract; thence along the north line of said tract N 34-06-46 W 369.849 feet to an iron pipe and N 67-03-35 W 380.306 feet to an iron pipe in the west line of the Monk-Austin Processing, Inc. tract; thence along said line N 15-57-40 E 1580.938 feet to an iron pipe in the south line of the CSX Railroad right of way, the point of beginning, containing 140.83 acres more or less.

Section 2. The annexation of the property described in Section 1 is subject to the following conditions:

(1) The property is annexed as agricultural, horticultural, or forestland that is being taxed at present-use land value pursuant to G.S. 105-277.4, and the Pitt County Tax Assessor certifies to the Town that the land meets this requirement. Upon request for certification or upon any change in the certification, the assessor shall determine within 30 days whether the land meets the requirements and report the results to the Town.

(2) The annexation shall become effective September 1, 1999, and the property shall be considered a part of the Town only for purposes of establishing Town boundaries for additional annexations pursuant to Article 4A of the General Statutes and for the exercise of the Town's extraterritorial jurisdiction under Article 19 of Chapter 160A of the General Statutes. For all other purposes, the annexation shall not become effective until the last day of the month in which the tract or part thereof becomes ineligible for present-use value classification pursuant to G.S. 105-227.4 or no longer meets the requirements specified above.

(3) Until annexation becomes effective, the property shall not be entitled to services from the Town and shall not be subject to Town taxes. After annexation becomes effective, no back tax payments shall be required as a result of a change from present-use value.

Section 3. This act is effective when it becomes law.

HOUSE BILL 794:
Farmville Annexation

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Warren
Date:	June 17, 1999	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: House Bil 794 would allow Farmville to annex property subject to present use value classification to the town limits effective September 1, 1999. However, the property would be considered part of the Town's limits only for the purposes of establishng Town boundaries for additional annexations and for the exercise of the Town's extraterritorial jurisdiction. For purposes of paying Town taxes and receiving Town services, the annexation would not become effective until the property becomes ineligible for present use value classification. The act becomes effective when it becomes law.

CURRENT LAW: The law provides that a municipality may annex by ordinance any area contiguous to its boundaries upon presentation to the governing board of a petition signed by the owners of all the real property located in the area. The annexation must become effective within six months from the date of the passage of the ordinance. From and after the effective date of the ordinance, the property becomes subject to municipal taxes and the municipality must offer the area the same privileges and benefits as other parts of the municipality receive.

A municipality may annex property that is not contiguous with its primary corporate limits if five different standards are met. Two of the five standards concern the proximity of the property proposed to be annexed to the primary corporate limits of the annexing city. One of the five standards provides that the area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, does not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

A municipality may annex property involuntarily if several different requirements are met. One of the requirements concerns the location of the property in relationship to the municipality's existing corporate boundaries: the area proposed to be annexed must be adjacent or contiguous to the municipality's boundaries and at least 1/8 of the aggregate external boundaries of the area must coincide with the municipal boundary.

Article 19 of the Chapter 160A of the General Statutes allows a municipality to enact zoning restrictions within its corporate limits. In addition, any municipality may exercise these same powers within a defined area extending not more than one mile beyond its limits. This is commonly known as the municipality's extraterritorial jurisdiction (ETJ). With the approval of the board of county commissioners, a municipality with a population greater than 10,000 but less than 25,000 may expand its

ETJ to two miles beyond its corporate limits; a municipality with a population of 25,000 or more may expand its ETJ to three miles beyond its corporate limits.

Article V, Section 2 of the North Carolina Constitution authorizes the General Assembly to classify property for taxation, so long as the classification is uniform throughout the State. In 1973, the General Assembly classified agricultural land, forestland, and horticultural land as a special class of property. To come within the classification, the property must meet certain ownership, usage, and income requirements. If the property comes within the classification, it is taxed on its present-use value as opposed to its true value. Present-use value is the value of the land in its current use as farmland.

BILL ANALYSIS: House Bill 794 would change the current law concerning the effective date of an annexation by the Town of Farmville. Under the bill, the annexed property would not be subject to municipal taxes nor would it be entitled to municipal service until the property no longer qualifies for present use value classification. However, the property would be considered part of the municipality's primary corporate limits as of September 1, 1999 for purposes of establishing the Town's boundaries for additional annexations and its ETJ.

To come within the exception created by this local act, the property must be one of two types of property:

1. It must be currently classified as farmland and taxed at its present-use value.
2. It must be land that, on the date of the filing of the annexation petition, is being used for farm purposes and is eligible for the present-use value taxation except that it has not been in use for actual production for the required statutory time. The county tax assessor must certify that the land meets this requirement.

Annexation of the present-use value property described above becomes effective on the last day of the month in which the property no longer meets the above descriptions. Prior to the effective date of annexation, the boundaries of this property would be considered in establishing the primary corporate limits of Huntersville for the purposes of additional annexations and the Town's ETJ limits.

If the property in the annexation ordinance was determined to be part of the Town's corporate limits for all purposes on the date the ordinance was adopted, then the bill would probably be considered unconstitutional because it is a local classification of property for purposes of taxation. Such local, non-uniform, classifications of property are prohibited by Article V, Section 2 of the North Carolina Constitution. The classification that would be created by the local act is the exemption from municipal property taxes in the Town of Huntersville of present-use value property. However, if the bill was seen as creating a condition precedent to annexation, then the bill would probably withstand constitutional challenge. The condition precedent to annexation established in the bill is the taxable status of certain land – when the property currently classified as farmland no longer meets that property tax classification.

This summary was contributed to by Martha Walston.

S270-SMRB-1

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 867 A BILL TO BE ENTITLED AN ACT EXEMPTING THE CITY OF WILSON FROM CERTAIN SATELLITE ANNEXATION REQUIREMENTS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill (# 2), ~~☐ which changes the title~~, unfavorable as to ~~(original bill)~~ (Committee Substitute Bill # 1), ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 867 2nd E

DATE 6/17/99

S. B. No. _____

Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) _____
Sen.)

moves to amend the bill on page 1, line 5

( ) WHICH CHANGES THE TITLE

by deleting "G.S. 160A-58.1(b)" and substituting "G.S. 160A-58.1(b)(5)"

and on page 1, line 6, by rewriting the line to read:

"Section 2. This act is effective when it becomes law and expires on January 1, 2005.".

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 867
Committee Substitute Favorable 4/26/99

Short Title: Wilson Annexations. (Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT EXEMPTING THE CITY OF WILSON FROM CERTAIN SATELLITE ANNEXATION REQUIREMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-58.1(b) shall not apply to the City of Wilson.

Section 2. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1082

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1082-ASC-001

Page 1 of __

Date June 17, 1999

Comm. Sub. []
Amends Title []
Second Edition

Representative Hill :

moves to amend the bill on page 2, line 28, by inserting between the words "dealer," and "manufacturer," the following:

"motor vehicle sales representative,".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1082

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1082-ASC-001 Page 1 of __

Date_____,1999

Comm. Sub. [ ]
Amends Title [ ]
Second Edition

Representative _____:

moves to amend the bill on page 2, line 28, by inserting between the words "dealer," and "manufacturer," the following:

"motor vehicle sales representative,".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1082

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1082-ASC-001 Page 1 of __

Date_____,1999

Comm. Sub. []
Amends Title []
Second Edition

Representative _____:

moves to amend the bill on page 2, line 28, by inserting between the words "dealer," and "manufacturer," the following:

"motor vehicle sales representative,".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1082, 2nd Ed. DATE June 17, 1999

S. B. No. _____ Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) _____
Sen.)

moves to amend the bill on page 4, lines 14-26

( ) WHICH CHANGES THE TITLE

by rewriting the lines to read:

"Section 3. This Act becomes effective June 30, 2001.";

and on page 1, line 4, by inserting the word "AND" before the word "TO";

and on page 1, line 6, by rewriting the line to read:

"MOTOR VEHICLE DEALERS."

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

reported out on 6-22-99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 1082
Committee Substitute Favorable 5/13/99

Short Title: Licensing Selling of Cars. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH PENALTIES FOR SELLING CARS IN VIOLATION OF THE MOTOR VEHICLE DEALERS AND MANUFACTURERS LICENSING LAW, TO ESTABLISH EDUCATIONAL REQUIREMENTS REQUIRED FOR ISSUANCE AND RENEWAL OF LICENSURE FOR USED MOTOR VEHICLE DEALERS, AND TO INCREASE FEES.

Whereas, not only the setting of standards to protect purchasers of motor vehicles but also the enforcement of substantial penalties applicable when those standards are not met is one of the most effective means to obtain this protection; and

Whereas, more complex laws governing regulation of the sale and distribution of motor vehicles such as the titling of a vehicle, warranties, collection of consumer debt pursuant to Federal Trade Commission regulations, and applicable tax provisions impose a greater number of duties upon independent automobile dealers; and

Whereas, the most effective and consistent means of informing both applicants for licensure and experienced, licensed motor vehicle dealers of major changes and increasing complexities in the law is to develop a program insuring the development and requirement of appropriate continuing education; and

Whereas, to better effect these policies, it is necessary to increase to more appropriate levels the fees for those persons regulated by the Motor Vehicle Dealers and Manufacturers Licensing Law; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-287 reads as rewritten:

"§ 20-287. Licenses ~~required.~~ required; penalties.

(a) It shall be unlawful for any new motor vehicle dealer, used motor vehicle dealer, motor vehicle sales representative, manufacturer, factory branch, factory representative, distributor, distributor branch, distributor representative, or wholesaler to engage in business in this State without first obtaining a license as provided in this Article. If any motor vehicle dealer acts as a motor vehicle sales representative, the dealer shall obtain a motor vehicle sales representative's license in addition to a motor vehicle dealer's license. A sales representative may have only one license. The license shall show the name of each dealer or wholesaler employing the sales representative. The following license holders may operate as a motor vehicle dealer without obtaining a motor vehicle dealer's license or paying an additional fee: a manufacturer, a factory branch, a distributor, and a distributor branch. Any of these license holders who operates as a motor vehicle dealer may sell motor vehicles at retail only at an established salesroom.

(b) Any person who violates any provision of this section shall be guilty of a Class 2 misdemeanor.

(c) In addition to any other punishment or remedy under the law for any violation of this section, the Division may levy and collect a civil penalty, in an amount not to exceed one thousand dollars ($1,000) for each violation, against any person who has obtained a license pursuant to this section, if it finds that the licensee has violated any provisions of this section or of any rules adopted by the Division relating to the sale of vehicles, vehicle titling, or vehicle registration. The Division may levy and collect a civil penalty, in an amount not to exceed five thousand dollars ($5,000) for each violation of any provision of this section, against any person who has not obtained a license as prescribed by this section."

Section 2. G.S. 20-288 reads as rewritten:

"§ 20-288. Application for license; license requirements; expiration of license; bond.

(a) A ~~person~~ new motor vehicle dealer, manufacturer, factory branch, factory representative, distributor, distributor branch, distributor representative, or wholesaler may obtain a license by filing an application with the Division. An application must be on a form provided by the Division and contain the information required by the Division. An application for a license must be accompanied by the required fee and by an application for a dealer license plate.

(a1) A used motor vehicle dealer may obtain a license by filing an application, as prescribed in subsection (a) of this section, and providing the following:

(1) The required fee.

(2) Proof that the applicant, within the last 12 months has completed a 12-hour licensing course approved by the Division if the applicant is seeking an initial license and a six-hour course approved by the Division if the applicant is seeking a renewal license. The requirements of G.S. 20-288(a1)(2) do not apply to a used motor vehicle dealer the primary business of which is the sale of salvage vehicles on behalf of insurers.

(3) If the applicant is an individual, proof that the applicant is at least 18 years of age, and proof that all salespersons employed by the dealer are at least 18 years of age.

(4) The application for a dealer license plate.

(b) The Division shall require in such application, or otherwise, information relating to matters set forth in G.S. 20-294 as grounds for the refusing of licenses, and to other pertinent matters commensurate with the safeguarding of the public interest, all of which shall be considered by the Division in determining the fitness of the applicant to engage in the business for which he seeks a license.

(c) All licenses that are granted shall expire unless sooner revoked or suspended, on June 30 of the year following date of issue.

(d) To obtain a license as a wholesaler, an applicant who intends to sell or distribute self-propelled vehicles must have an established office in this State, and an applicant who intends to sell or distribute only trailers or semitrailers of less than 2500 pounds unloaded weight must have a place of business in this State where the records required under this Article are kept.

To obtain a license as a motor vehicle dealer, an applicant who intends to deal in self-propelled vehicles must have an established salesroom in this State, and an applicant who intends to deal in only trailers or semitrailers of less than 2500 pounds unloaded weight must have a place of business in this State where the records required under this Article are kept.

An applicant for a license as a manufacturer, a factory branch, a distributor, a distributor branch, a wholesaler, or a motor vehicle dealer must have a separate license for each established office, established salesroom, or other place of business in this State. An application for any of these licenses shall include a list of the applicant's places of business in this State.

(e) Each applicant approved by the Division for license as a motor vehicle dealer, manufacturer, factory branch, distributor, distributor branch, or wholesaler shall furnish a corporate surety bond or cash bond or fixed value equivalent of the bond. The amount of the bond for an applicant for a motor vehicle dealer's license is twenty-five thousand dollars ($25,000) for one established salesroom of the applicant and ten thousand dollars ($10,000) for each of the applicant's additional established salesrooms. The amount of the bond for other applicants required to furnish a bond is twenty-five thousand dollars ($25,000) for one place of business of the applicant and ten thousand dollars ($10,000) for each of the applicant's additional places of business.

A corporate surety bond shall be approved by the Commissioner as to form and shall be conditioned that the obligor will faithfully conform to and abide by the provisions of this Article and Article 15. A cash bond or fixed value equivalent thereof shall be approved by the Commissioner as to form and terms of deposits as will secure the ultimate beneficiaries of the bond; and such bond shall not be available for delivery to any person contrary to the rules of the Commissioner. Any purchaser of a motor vehicle who shall have suffered any loss or damage by any act of a license holder subject to this subsection that constitutes a violation of this Article

or Article 15 shall have the right to institute an action to recover against the license holder and the surety. Every license holder against whom an action is instituted shall notify the Commissioner of the action within 10 days after served with process. A corporate surety bond shall remain in force and effect and may not be canceled by the surety unless the bonded person stops engaging in business or the person's license is denied, suspended, or revoked under G.S. 20-294. Such cancellation may be had only upon 30 days' written notice to the Commissioner and shall not affect any liability incurred or accrued prior to the termination of such 30-day period. This subsection does not apply to a license holder who deals only in trailers having an empty weight of 4,000 pounds or less. This subsection does not apply to manufacturers of, or dealers in, mobile or manufactured homes who furnish a corporate surety bond, cash bond, or fixed value equivalent thereof, pursuant to G.S. 143-143.12."

Section 3. G.S. 20-289(a) reads as rewritten:

"(a) The license fee for each fiscal year, or part thereof, shall be as follows:

(1) For motor vehicle dealers, distributors, distributor branches, and wholesalers, ~~fifty dollars ($50.00)~~ one hundred dollars ($100.00) for each place of business.

(2) For manufacturers, one hundred dollars ($100.00), and for each factory branch in this State, seventy dollars ($70.00).

(3) For motor vehicle sales representatives, ~~ten dollars ($10.00).~~ twenty-five dollars ($25.00).

(4) For factory representatives, or distributor representatives, ten dollars ($10.00).

(5) Repealed."

Section 4. This act becomes effective June 30, 2001.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1082 (Second Edition)

SHORT TITLE: Licensing Selling of Cars

SPONSOR(S): Representative Saunders

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Highway Fund	-	-	$1,354,500	$1,354,500	$1,354,500
School Fund	-	-	$94,000	$94,000	$94,000
EXPENDITURES					
Highway Fund	No Fiscal Impact				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation – Division of Motor Vehicles (DMV)

EFFECTIVE DATE: The act becomes effective June 30, 2001

BILL SUMMARY: The bill establishes penalties for selling cars in violation of the Motor Vehicle Dealers and Manufacturers Licensing Law, establishes educational requirements for used motor vehicle dealers and increases fees on motor vehicle dealers and motor vehicle sales representatives.

ASSUMPTIONS AND METHODOLOGY:

Penalties

Section 1 of the bill creates a class 2 misdemeanor and a civil penalty for violators of the motor vehicle dealer laws. The class 2 misdemeanor carries a maximum sentence of 60 days, but this will not require any state prison beds. DMV estimates that the $1,000 penalty authorized in this section may be applied 94 times a year. This is based on an average of 94 revocations, suspensions and probation imposed on motor vehicle dealers each year. If the maximum $1,000 penalty is assessed dealers, then revenue of $94,000 will be collected each year and deposited into the County School Fund of the violator's home county. DMV has no estimate for the $5,000 civil penalty for violations by persons without a license.

Educational Requirements

Section 2 requires used motor vehicle dealers to complete a 12-hour licensing course for an initial license and a 6-hour course for license renewal. DMV has to approve the courses, but does not have to provide them. There is no fiscal impact on DMV and the Highway Fund for this section.

License Fees

Effective in FY 2001-02, the license fee for motor vehicle dealers, distributor branches, and wholesalers will increase from $50 to $100 each year. The annual fee for a motor vehicle representative will increase from $10 to $25.

Licenses Issued	No. Issued	Current Fee	Current Rev.	Proposed Fee	Proposed Rev.
Dealers	12,074	$50	$603,700	$100	$1,207,400
Distributors	50	$50	$2,500	$100	$5,000
Wholesalers	191	$50	$9,550	$100	$19,100
Sales Reps.	49,250	$10	$492,500	$25	$1,231,250
Total			$1,108,250		$2,462,750

Net Revenue Increase = $1,354,500

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY:

DATE:

HOUSE BILL 1082:
Licensing Selling of Cars

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Representative Saunders
Date:	June 17, 1999	**Summary by:**	Mary Shuping
Version:	2nd Edition		Research Assistant

SUMMARY: ***House Bill 1082 makes it a Class 2 misdemeanor to violate the licensing requirements of the Motor Vehicle Dealers and Manufacturers Licensing Law. The bill also allows civil penalties to be assessed against persons who violate the licensing requirements. House Bill 1082 establishes additional educational requirements for used motor vehicle dealers and increases several licensing fees.***

CURRENT LAW & BILL ANALYSIS:

Section 1. Licenses and Penalties. Under current G.S. 20-287, the following persons must obtain a license under the Motor Vehicle Dealers and Manufacturers Licensing Law:

- New motor vehicle dealers
- Used motor vehicle dealers
- Motor vehicle sales representatives
- Manufacturers
- Factory branches
- Factory representatives
- Distributors
- Distributor branches
- Distributor representatives
- Wholesalers

- Motor vehicle dealers who act as sales representatives must have a sales representative's license in addition to a dealers license.
- Sales representatives may have only one license which shows the name of the employer.
- Manufacturers, factory branches, distributors, and distributor branches may operate as motor vehicle dealers without a dealer's license if they sell motor vehicles at retail in an established showroom.

House Bill 1082 makes it a **Class 2 misdemeanor** for any violations of the licensing requirements in G.S. 20-287.

House Bill 1082 would also allow the Division of Motor Vehicles to assess the following civil penalties:

- **Up to $1,000** against anyone who has obtained a license but violates any of the licensing provisions or any rules adopted by DMV relating to the sale of vehicles, vehicle titling, or vehicle registration.
- **Up to $5,000** against anyone who is operating without the proper license.

Section 2. Additional requirements for used motor vehicle dealers. In addition to filing a licensure application, and paying the fee, used motor vehicle dealers will be required to provide the following:

- Proof of completion of a 12-hour licensing course within the last 12 months if the applicant is seeking an initial license, and a 6-hour course if the applicant is seeking a renewal license. These requirements do not apply to used motor vehicle dealers who primarily sell salvage vehicles on behalf of insurers.
- Proof that the applicant is at least 18 years old and that all persons employed by the applicant are at least 18 years old.

Section 3. Fees. House Bill 1082 makes the following fee changes:

Type of License	Current Fee	Proposed Fee Under HB 1082
• Motor Vehicle Dealers • Distributors • Distributor Branches • Wholesalers	$50.00 for each place of business	$100.00 for each place of business
• Manufacturers	$100.00	NO CHANGE
• Factory Branch	$70.00 each	NO CHANGE
• Motor Vehicle Sales Representatives	$10.00	$25.00
• Factory Representatives • Distributor Representatives	$10.00	NO CHANGE

EFFECTIVE DATE: House Bill 1082 becomes effective June 30, 2001.

Esther Manheimer, Counsel, House Judiciary IV Committee, contributed to this summary.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 1190 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE "DESERT STORM VETERAN" SPECIAL REGISTRATION PLATES.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1190

Short Title: Desert Storm Plates. (Public)

Sponsors: Representative Sexton.

Referred to: Finance.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE "DESERT STORM VETERAN" SPECIAL REGISTRATION PLATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-79.4(b) reads as rewritten:

"(b) Types. -- The Division shall issue the following types of special registration plates:

. . .

(11a) Desert Storm Veteran. -- Issuable to a veteran of the armed forces who served in the Defense of Saudi Arabia from August 2, 1991, to January 16, 1991, or who served in the Liberation and Defense of Kuwait from January 17, 1991, to April 11, 1991, and is either still in service or who separated from the armed services under honorable conditions. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate."

Section 2. This act is effective when it becomes law.

HOUSE BILL 1190:
Desert Storm Plates

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Sexton
Date:	June 16, 1999	**Summary by:**	Cindy Avrette
Version:	1st Editin		Committee Counsel

SUMMARY: ***House Bill 1190 authorizes the Division of Motor Vehicles to issue a special registration plate to a veteran of the armed forces who served in the Defense of Saudi Arabia or in the Liberation and Defense of Kuwait. The Division must receive at least 300 applications for this plate before it can issue the plate. The cost of the plate is the regular registration fee plus an additional $10. The bill is effective when it becomes law.***

CURRENT LAW: Upon request, the Division of Motor Vehicles may issue special registration plates. There are currently more than 54 special registration plates. These special plates include the following military plates: Bronze Star Recipient, Combat Veteran, Disabled Veteran, Distinguished Flying Cross, 82nd Airborne Division Association Member, Legion of Valor, Military Reservist, National Guard Member, Partially Disabled Veteran, Pearl Harbor Survivor, Prisoner of War, Purple Heart Recipient, Silver Star Recipient, Veterans of Foreign Wars, and Vietnam Veteran.

The cost of a special registration plate is the regular registration fee plus an additional fee of at least $10. The first $10 of every additional fee amount is credited to the Special Registration Plate Account. The remainder of the additional fee, if any, is transferred quarterly to the appropriate organization named in the statute. After deducting the costs of the plates from the Special Registration Plate Account, the money in the Account is distributed as follows:

AMOUNT	PURPOSE
$525,000 distributed annually	Operating assistance for certain Visitor Centers
33% distributed quarterly	Department of Commerce for advertising the promotion of travel and industrial development in the State
50% distributed quarterly	Department of Transportation for beautification of highways
17% distributed quarterly	Department of Health and Human Services to promote travel accessibility for disabled persons.

This uniform system of fees has been in place since 1991 when a study commission recommended that the special registration plate system be simplified through a uniform fee schedule. The only exceptions to the general rule are for plates issued to a recipient of the Congressional Medal of Honor, a 100% disabled veterans, an ex-prisoner of war, an active member of the National Guard, and a recipient of the Purple Heart award.

BILL ANALYSIS: House Bill 1190 authorizes the Division of Motor Vehicles to issue a special plate to a veteran of the armed forces who meets both of the following conditions:

- Served in the Defense of Saudi Arabia from August 2, 1991, to January 16, 1991, or who served in the Liberation and Defense of Kuwait from January 17, 1991, to April 11, 1991.
- Is still in service or who separated from the armed services under honorable conditions.

The Division may not issue the plate unless it receives at least 300 applications for the plate. The cost of the plate is the regular registration fee plus $10. The bill is effective when it becomes law.

TECHNICAL CONSIDERATION: The bill does not indicate what phrase or logo the special plate must bear. The interest group and the Division of Motor Vehicles can determine this without statutory language.

DRAFT/FRD

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1190

SHORT TITLE: Desert Storm Plates

SPONSOR(S): Rep. Sexton

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Highway Fund Special Reg. Plate Account	$3,000	$3,000	$3,000	$3,000	$3,000
EXPENDITURES					
Special Reg. Plate Account	($856)				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation, Division of Motor Vehicles.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The legislation authorizes the Division of Motor Vehicles to issue Desert Storm Veteran special registration plates. The plate must be issued to a veteran of the armed forces who served in the Defense of Saudi Arabia from August 2, 1991 to January 16, 1991 or who served in the Liberation and Defense of Kuwait from January 17, 1991 to April 11, 1991. To qualify the veteran must still be in the service or have an honorable discharge. It instructs the Department to develop the plate only after 300 or more applications for the plate are received. Because it is a special plate a fee of $10.00 (in addition to the regular motor vehicle registration fee) will be charged. This amount goes to the Special Registration Plate Account.

ASSUMPTIONS AND METHODOLOGY: In addition to the normal $20.00 registration fee every owner of a private passenger vehicle pays, there is a $10.00 fee for each specialized plate. Because there is no way to determine how many of the plates will be requested, this fiscal note assumes the issuance of the minimum 300 license plates in FY 1999-00. As a result, the bill raises a total of $3,000 ($10 X 300 plates).

According to the Division of Motor Vehicles and the Department of Corrections, there is a one-time cost of $100 to design the new plate. There is also a production cost of $2.52 per plate (This assumes a basic one color design. If the design is more complex, or requires more color, the per plate cost increases). The total production cost for 300 basic plates is $856.00.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: **Linda** Struyk Millsaps

APPROVED BY:

DATE:

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 235 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE "KIDS FIRST" SPECIAL REGISTRATION PLATES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to HOUSE committee substitute bill (~~#_____~~), ☐ ~~which changes the title~~, unfavorable as to original bill, ~~(Committee Substitute Bill #_____), (and recommendation that the committee substitute bill #_____ be re-referred to the Committee on _____.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 235
Proposed House Committee Substitute S235-PCSX1757-RB

Short Title: "Kids First" Registration Plates. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE "KIDS FIRST" SPECIAL REGISTRATION PLATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-79.4(b) is amended by adding a new subdivision to read:

"(b) Types. -- The Division shall issue the following types of special registration plates:

...

(20a) Kids First. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear the phrase "Kids First" and a logo of children's hands."

Section 2. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. -- Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Historical Attraction	$30.00
State Attraction	$30.00
Collegiate Insignia	$25.00
Kids First	$25.00

Olympic Games	$25.00
Special Olympics	$25.00
March of Dimes	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
Soil and Water Conservation	$20.00
Wildlife Resources	$20.00
Personalized	$20.00
Active Member of the National Guard	None
Purple Heart Recipient	None
All Other Special Plates	$10.00."

Section 3. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. -- The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

Special Plate	SRPA	CCAPA	NHTF
Historical Attraction	$10	$20	0
In-State Collegiate Insignia	$10	$15	0
Kids First	$10	$15	0
Out-of-state Collegiate Insignia	$10	0	$15
Personalized	$10	0	$10
Special Olympics	$10	$15	0
Olympic Games	$10	$15	0
State Attraction	$10	$20	0
March of Dimes	$10	$10	0
Scenic Rivers	$10	$10	0
School Technology	$10	$10	0
Soil and Water Conservation	$10	$10	0
Wildlife Resources	$10	$10	0
All other Special Plates	$10	0	0".

Section 4. G.S. 20-81.12 is amended by adding a new subsection to read:

"(b9) Kids First Plates. -- The Division must receive 300 or more applications for a Kids First plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Kids First plates to the North Carolina Children's Trust Fund established in G.S. 7B-1302."

Section 5. G.S. 7B-1302 reads as rewritten:

"**§ 7B-1302. Children's Trust Fund.**

There is established a fund to be known as the "Children's Trust Fund," in the Department of State Treasurer, which shall be funded ~~pursuant to G.S. 161-11.1, and~~

~~which~~ by a portion of the marriage license fee under G.S. 161-11.1 and a portion of the special license plate fee under G.S. 20-81.12. The money in the Fund shall be used by the State Board of Education to fund abuse and neglect prevention programs so authorized by this Article."

Section 6. This act becomes effective July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 235
PROPOSED HOUSE COMMITTEE SUBSTITUTE
S235-CSRBX-6/15

Short Title: "Kids First" Registration Plates. (Public)

Sponsors:

Referred to: Finance.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE "KIDS FIRST" SPECIAL REGISTRATION PLATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-79.4(b) is amended by adding a new subdivision to read:

"(b) Types. -- The Division shall issue the following types of special registration plates:

...

(20a) Kids First. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear the phrase "Kids First" and a logo of children's hands."

Section 2. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. -- Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Historical Attraction	$30.00

State Attraction	$30.00
Collegiate Insignia	$25.00
Olympic Games	$25.00
Special Olympics	$25.00
Kids First	$25.00
March of Dimes	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
Soil and Water Conservation	$20.00
Wildlife Resources	$20.00
Personalized	$20.00
Active Member of the National Guard	None
Purple Heart Recipient	None
All Other Special Plates	$10.00."

Section 3. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. -- The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

Special Plate	SRPA	CCAPA	NHTF
Historical Attraction	$10	$20	0
In-State Collegiate Insignia	$10	$15	0
Out-of-state Collegiate Insignia	$10	0	$15
Personalized	$10	0	$10
Special Olympics	$10	$15	0
Kids First	$10	$15	0
Olympic Games	$10	$15	0
State Attraction	$10	$20	0
March of Dimes	$10	$10	0
Scenic Rivers	$10	$10	0
School Technology	$10	$10	0
Soil and Water Conservation	$10	$10	0
Wildlife Resources	$10	$10	0
All other Special Plates	$10	0	0".

Section 4. G.S. 20-81.12 is amended by adding a new subsection to read:

"(b9) Kids First Plates. -- The Division must receive 300 or more applications for a Kids First plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from

the sale of Kids First plates to the North Carolina Children's Trust Fund established in G.S. 7B-1302."

Section 5. G.S. 7B-1302 reads as rewritten:

"**§ 7B-1302. Children's Trust Fund.**

There is established a fund to be known as the "Children's Trust Fund," in the Department of State Treasurer, which shall be funded ~~pursuant to G.S. 161-11.1, and which~~ by a portion of the marriage license fee under G.S. 161-11.1 and a portion of the special license plate fee under G.S. 20-81.12. The money in the Fund shall be used by the State Board of Education to fund abuse and neglect prevention programs so authorized by this Article."

Section 6. This act becomes effective July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 235

Short Title: "Kids First" Registration Plates. (Public)

Sponsors: Senators Hagan; Carter, Cooper, Dalton, Dannelly, Garrou, Gulley, Harris, Hartsell, Kinnaird, Lucas, Martin of Guilford, Metcalf, Miller, Moore, Perdue, Phillips, Robinson, Shaw of Cumberland, Shaw of Guilford, and Wellons.

Referred to: Finance.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE "KIDS FIRST" SPECIAL REGISTRATION PLATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-79.4(b) reads as rewritten:

"(b) Types. -- The Division shall issue the following types of special registration plates:

(1) Administrative Officer of the Courts. -- Issuable to the Director of the Administrative Office of the Courts. The plate shall bear the phrase "J-20".

(2) Amateur Radio Operator. -- Issuable to an amateur radio operator who holds an unexpired and unrevoked amateur radio license issued by the Federal Communications Commission and who asserts to the Division that a portable transceiver is carried in the vehicle. The plate shall bear the phrase "Amateur Radio". The plate shall bear the operator's official amateur radio call letters, or call letters with numerical or letter suffixes so that an owner of more than one vehicle may have the call letters on each.

(3) American Legion. -- Issuable to a member of the American Legion. The plate shall bear the words "American Legion" and the emblem of the American Legion. The Division may not issue the

plate authorized by this subdivision unless it receives at least 300 applications for the plate.

(3a) Bronze Star Recipient. -- Issuable to a recipient of the Bronze Star. The plate shall bear the emblem of the Bronze Star and the words "Bronze Star".

(4) Civil Air Patrol Member. -- Issuable to an active member of the North Carolina Wing of the Civil Air Patrol. The plate shall bear the phrase "Civil Air Patrol". A plate issued to an officer member shall begin with the number "201" and the number shall reflect the seniority of the member; a plate issued to an enlisted member, a senior member, or a cadet member shall begin with the number "501".

(5) Civic Club. -- Issuable to a member of a nationally recognized civic organization whose member clubs in the State are exempt from State corporate income tax under G.S. 105-130.11(a)(5). Examples of these clubs include Jaycees, Kiwanis, Optimist, Rotary, Ruritan, and Shrine. The plate shall bear a word or phrase identifying the civic club and the emblem of the civic club. The Division may not issue a civic club plate authorized by this subdivision unless it receives at least 300 applications for that civic club plate.

(6) Class D Citizen's Radio Station Operator. -- Issuable to a Class D citizen's radio station operator. For an operator who has been issued Class D citizen's radio station call letters by the Federal Communications Commission, the plate shall bear the operator's official Class D citizen's radio station call letters. For an operator who has not been issued Class D citizen's radio station call letters by the Federal Communications Commission, the plate shall bear the phrase "Citizen's Band Radio".

(7) Clerk of Superior Court. -- Issuable to a current or retired clerk of superior court. A plate issued to a current clerk shall bear the phrase "Clerk Superior Court" and the letter "C" followed by a number that indicates the county the clerk serves. A plate issued to a retired clerk shall bear the phrase "Clerk Superior Court, Retired", the letter "C" followed by a number that indicates the county the clerk served, and the letter "X" indicating the clerk's retired status.

(8) Coast Guard Auxiliary Member. -- Issuable to an active member of the United States Coast Guard Auxiliary. The plate shall bear the phrase "Coast Guard Auxiliary".

(9) Collegiate Insignia Plate. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase or an insignia representing a public or private college or university.

(10) Combat Veteran. -- Issuable to a veteran of the armed forces who served in a combat zone, or in waters adjacent to a combat zone, during a period of war and who was separated from the armed forces under honorable conditions. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate. A "period of war" is any of the following:

a. World War I, which began April 16, 1917, and ended November 11, 1918.
b. World War II, which began December 7, 1941, and ended December 31, 1946.
c. The Korean Conflict, which began June 27, 1950, and ended January 31, 1955.
d. The Vietnam Era, which began August 5, 1964, and ended May 7, 1975.
e. The Persian Gulf War.
f. Any other campaign, expedition, or engagement for which the United States Department of Defense authorizes a campaign badge or medal.

(11) County Commissioner. -- Issuable to a county commissioner of a county in this State. The plate shall bear the words "County Commissioner" followed first by a number representing the commissioner's county and then by a letter or number that distinguishes plates issued to county commissioners of the same county. The number of a county shall be the order of the county in an alphabetical list of counties that assigns number one to the first county in the list and a letter or number to distinguish different cars owned by the county commissioners in that county. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

(12) Disabled Veteran. -- Issuable to a veteran of the armed forces of the United States who suffered a 100% service-connected disability.

(12a) Distinguished Flying Cross. -- Issuable to a recipient of the Distinguished Flying Cross. The plate shall bear the emblem of the Distinguished Flying Cross and the words "Distinguished Flying Cross".

(13) District Attorney. -- Issuable to a North Carolina or United States District Attorney. The plate issuable to a North Carolina district attorney shall bear the letters "DA" followed by a number that represents the prosecutorial district the district attorney serves. The plate for a United States attorney shall bear the phrase "U.S. Attorney" followed by a number that represents the district the

attorney serves, with 1 being the Eastern District, 2 being the Middle District, and 3 being the Western District.

(13a) Eagle Scout. -- Issuable to a young man who has been certified as an Eagle Scout by the Boy Scouts of America, or to his parents or guardians. The plate shall bear the insignia of the Boy Scouts of America and shall bear the words "Eagle Scout". The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

(14) 82nd Airborne Division Association Member. -- Issuable to a member of the 82nd Airborne Division Association, Inc. The plate shall bear the insignia of the 82nd Airborne Division Association, Inc. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

(15) Fire Department or Rescue Squad Member. -- Issuable to an active regular member or volunteer member of a fire department, rescue squad, or both a fire department and rescue squad. The plate shall bear the words "Firefighter", "Rescue Squad", or "Firefighter-Rescue Squad".

(16) Future Farmers of America. -- Issuable to a member or a supporter of the National Future Farmers of America Organization. The plate shall bear the emblem of the organization and the letters "FFA". The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

(16a) Girl Scout Gold Award recipient. -- Issuable to a young woman who has been certified as a Girl Scout Gold Award recipient by the Girl Scouts of the U.S.A., or to her parents or guardians. The plate shall bear the insignia of the Girl Scouts of the U.S.A. and shall bear the words "Girl Scout Gold Award". The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

(17) Historic Vehicle Owner. -- Issuable for a motor vehicle that is at least 35 years old measured from the date of manufacture. The plate for an historic vehicle shall bear the word "Antique" unless the vehicle is a model year 1943 or older. The plate for a vehicle that is a model year 1943 or older shall bear the word "Antique" or the words "Horseless Carriage", at the option of the vehicle owner.

(18) Historical Attraction Plate. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase or an insignia representing a publicly owned or nonprofit historical attraction located in North Carolina.

(19) Honorary Plate. -- Issuable to a member of the Honorary Consular Corps, who has been certified by the U. S. State Department, the

plate shall bear the words "Honorary Consular Corps" and a distinguishing number based on the order of issuance.

(20) Judge or Justice. -- Issuable to a sitting or retired judge or justice in accordance with G.S. 20-79.6.

(20a) Kids First. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear the phrase "Kids First" and a logo of children's hands.

(21) Legion of Valor. -- Issuable to a recipient of one of the following military decorations: the Congressional Medal of Honor, the Distinguished Service Cross, the Navy Cross, or the Air Force Cross. The plate shall bear the emblem and name of the recipient's decoration.

(22) Legislator. -- Issuable to a member of the North Carolina General Assembly. The plate shall bear "The Great Seal of the State of North Carolina" and, as appropriate, the word "Senate" or "House" followed by the Senator's or Representative's assigned seat number.

(23) Magistrate. -- Issuable to a North Carolina magistrate. The plate shall bear the letters "MJ" followed by a number indicating the district court district the magistrate serves, then by a hyphen, and then by a number indicating the seniority of the magistrate. The Division shall use the number "9" to designate District Court Districts 9 and 9B.

(24) March of Dimes. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase or an insignia representing the March of Dimes Foundation.

(25) Marshal. -- Issuable to a United States Marshal. The plate shall bear the phrase "U.S. Marshal" followed by a number that represents the district the Marshal serves, with 1 being the Eastern District, 2 being the Middle District, and 3 being the Western District.

(26) Military Reservist. -- Issuable to a member of a reserve component of the armed forces of the United States. The plate shall bear the name and insignia of the appropriate reserve component. Plates shall be numbered sequentially for members of a component with the numbers 1 through 5000 reserved for officers, without regard to rank.

(27) Military Retiree. -- Issuable to an individual who has retired from the armed forces of the United States. The plate shall bear the word "Retired" and the name and insignia of the branch of service from which the individual retired. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

(28) National Guard Member. -- Issuable to an active or a retired member of the North Carolina National Guard. The plate shall bear the phrase "National Guard". A plate issued to an active member shall bear a number that reflects the seniority of the member; a plate issued to a commissioned officer shall begin with the number "1"; a plate issued to a noncommissioned officer with a rank of E7, E8, or E9 shall begin with the number "1601"; a plate issued to an enlisted member with a rank of E6 or below shall begin with the number "3001". The plate issued to a retired or separated member shall indicate the member's retired status.

(28a) Native American. -- Issuable to the registered owner of a motor vehicle. The plate may bear a phrase or an insignia representing Native Americans. The Division must receive 300 or more applications for the plate before it may be developed.

(29) Olympic Games. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase or insignia representing the Olympic Games.

(30) Partially Disabled Veteran. -- Issuable to a veteran of the armed forces of the United States who suffered a service connected disability of less than 100%.

(31) Pearl Harbor Survivor. -- Issuable to a veteran of the armed forces of the United States who was present at and survived the attack on Pearl Harbor on December 7, 1941. The plate will bear the phrase "Pearl Harbor Survivor" and the insignia of the Pearl Harbor Survivors' Association.

(32) Personalized. -- Issuable to the registered owner of a motor vehicle. The plate will bear the letters or letters and numbers requested by the owner. The Division may refuse to issue a plate with a letter combination that is offensive to good taste and decency. The Division may not issue a plate that duplicates another plate.

(33) Prisoner of War. -- Issuable to the following:

a. A member or veteran member of the armed forces of the United States who has been captured and held prisoner by forces hostile to the United States while serving in the armed forces.

b. The surviving spouse of a person who had a prisoner of war plate at the time of death so long as the surviving spouse continues to renew the plate and does not remarry.

(34) Professional Sports Fan. -- Issuable to the registered owner of a motor vehicle. The plate shall bear the logo of a professional sports team located in North Carolina. The Division shall receive 300 or more applications for a professional sports fan plate before a plate may be issued. The Division shall not develop a professional sports

fan plate unless the professional sports team licenses, without charge, the State to use the official team logo on the plate.

(35) Purple Heart Recipient. -- Issuable to a recipient of the Purple Heart award. The plate shall bear the phrase "Purple Heart Veteran, Combat Wounded" and the letters "PH".

(36) Register of Deeds. -- Issuable to a register of deeds. The plate shall bear the words "Register of Deeds" and the letter "R" followed by a number representing the county of the register of deeds. The number of a county shall be the order of the county in an alphabetical list of counties that assigns number one to the first county in the list.

(37) Scenic Rivers. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the words "Scenic Rivers" and a picture representing the unique beauty of the scenic rivers of North Carolina.

(38) School Technology. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase or an insignia representing the public school system in North Carolina.

(39) Sheriff. -- Issuable to a current sheriff or to a retired sheriff who served as sheriff for at least 10 years before retiring. A plate issued to a current sheriff shall bear the word "Sheriff" and the letter "S" followed by a number that indicates the county the sheriff serves. A plate issued to a retired sheriff shall bear the phrase "Sheriff, Retired", the letter "S" followed by a number that indicates the county the sheriff served, and the letter "X" indicating the sheriff's retired status.

(39a) Silver Star Recipient. -- Issuable to a recipient of the Silver Star. The plate shall bear the emblem of the Silver Star and the words "Silver Star".

(40) Soil and Water Conservation. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase and picture appropriate to the subject of water quality and environmental protection in North Carolina.

(41) Special Olympics. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase or an insignia representing the North Carolina Special Olympics.

(42) Square Dance Clubs. -- Issuable to a member of a recognized square dance organization exempt from corporate income tax under G.S. 105-130.11(a)(5). The plate shall bear a word or phrase identifying the club and the emblem of the club. The Division shall not issue a dance club plate authorized by this subdivision unless it receives at least 300 applications for that dance club plate.

(43) State Government Official. -- Issuable to elected and appointed members of State government in accordance with G.S. 20-79.5.

(44) State Attraction. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase or an insignia representing a publicly owned or nonprofit State or federal attraction located in North Carolina.

(45) Street Rod Owner. -- Issuable to the registered owner of a modernized private passenger motor vehicle manufactured prior to the year 1949 or designed to resemble a vehicle manufactured prior to the year 1949. The plate shall bear the phrase "Street Rod". The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

(46) Transportation Personnel. -- Issuable to various members of the Divisions of the Department of Transportation. The plate shall bear the letters "DOT" followed by a number from 1 to 85, as designated by the Governor.

(47) U.S. Representative. -- Issuable to a United States Representative for North Carolina. The plate shall bear the phrase "U.S. House" and shall be issued on the basis of Congressional district numbers.

(48) U.S. Senator. -- Issuable to a United States Senator for North Carolina. The plates shall bear the phrase "U.S. Senate" and shall be issued on the basis of seniority represented by the numbers 1 and 2.

(49) Veterans of Foreign Wars. -- Issuable to a member or a supporter of the Veterans of Foreign Wars. The plate shall bear the words "Veterans of Foreign Wars" or "VFW" and the emblem of the VFW. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

(50) Vietnam Veteran. -- Issuable to a veteran of the armed forces of the United States who served in Vietnam. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

(51) Wildlife Resources. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear a picture representing a native wildlife species occurring in North Carolina."

Section 2. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. -- Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Historical Attraction	$30.00

State Attraction	$30.00
Collegiate Insignia	$25.00
Olympic Games	$25.00
Special Olympics	$25.00
Kids First	$25.00
March of Dimes	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
Soil and Water Conservation	$20.00
Wildlife Resources	$20.00
Personalized	$20.00
Active Member of the National Guard	None
Purple Heart Recipient	None
All Other Special Plates	$10.00."

Section 3. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. -- The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

Special Plate	SRPA	CCAPA	NHTF
Historical Attraction	$10	$20	0
In-State Collegiate Insignia	$10	$15	0
Out-of-state Collegiate Insignia	$10	0	$15
Personalized	$10	0	$10
Special Olympics	$10	$15	0
Kids First	$10	$15	0
Olympic Games	$10	$15	0
State Attraction	$10	$20	0
March of Dimes	$10	$10	0
Scenic Rivers	$10	$10	0
School Technology	$10	$10	0
Soil and Water Conservation	$10	$10	0
Wildlife Resources	$10	$10	0
All other Special Plates	$10	0	0".

Section 4. G.S. 20-81.12 is amended by adding a new subsection to read:

"(a1) Kids First Plates. -- The Division must receive 300 or more applications for a Kids First plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Kids First plates to the North Carolina Children's Trust Fund created pursuant to G.S. 110-150."

Section 5. This act is effective when it becomes law.

HOUSE BILL 235:
"Kids First" Registration Plate

BILL ANALYSIS

Committee: House Finance
Date: June 16, 1999
Version: PCS for 1st Edition S235-CSRBX-6/15

Introduced by: Sen. Hagan
Summary by: Cindy Avrette, Committee Counsel

SUMMARY: ***SB 235 authorizes the Division of Motor Vehicles to issue "Kids First" special license plates for an additional $25 fee. $15 of the additional fee will go to the North Carolina Children's Trust Fund to help fund child abuse and neglect prevention programs. The proposed committee substitute makes a conforming change to the statute that creates the Children's Trust Fund.***

CURRENT LAW: Upon request, the Division of Motor Vehicles may issue special registration plates. There are currently more than 54 special registration plates. The cost of a special registration plate is the regular registration fee plus an additional fee of at least $10. The first $10 of every additional fee amount is credited to the Special Registration Plate Account. The remainder of the additional fee, if any, is transferred quarterly to the appropriate organization named in the statute. After deducting the costs of the plates from the Special Registration Plate Account, the money in the Account is distributed as follows:

AMOUNT	PURPOSE
$525,000 distributed annually	Operating assistance for certain Visitor Centers
33% distributed quarterly	Department of Commerce for advertising the promotion of travel and industrial development in the State
50% distributed quarterly	Department of Transportation for beautification of highways
17% distributed quarterly	Department of Health and Human Services to promote travel accessibility for disabled persons.

This uniform system of fees has been in place since 1991 when a study commission recommended that the special registration plate system be simplified through a uniform fee schedule. The only exceptions to the general rule are for plates issued to a recipient of the Congressional Medal of Honor, a 100% disabled veterans, an ex-prisoner of war, an active member of the National Guard, and a recipient of the Purple Heart award.

BILL ANALYSIS: Senate Bill 235 authorizes DMV to develop a special license plate bearing the phrase "Kids First" and a logo of children's hands. DMV must receive at least 300 applications for this special plate before it can be issued. The cost of the plate is the regular registration fee plus an additional $25. The first $10 of the additional fee would be credited to the Special Registration Plate Fund. The

remaining $15 of the additional fee would go to the Collegiate and Cultural Attraction Plate Account and transferred quarterly to the N.C. Children's Trust Fund. This Fund is established in the State Treasurer's Office and is funded with $5 from each $40 marriage license fee collected by a register of deeds. The Fund is used by the State Board of Education to fund child abuse and neglect prevention programs authorized under the Prevention of Child Abuse and Neglect Article in the N.C. General Statutes.

PROPOSED COMMITTEE SUBSTITUTE: The proposed committee substitute makes a conforming change to the statute that creates the Children's Trust Fund, corrects a statutory cite, and changes the effective date to July 1, 1999.

Martha Walston, counsel to the Senate Finance Committee, contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 235

SHORT TITLE: "Kids First" Registration Plates

SPONSOR(S): Senator Hagan

FISCAL IMPACT

Yes (x) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Highway Fund					
Special Reg. Plate Account	$3,000	$3,000	$3,000	$3,000	$3,000
NC Children's Trust Fund	$4,500	$4,500	$4,500	$4,500	$4,500
EXPENDITURES					
Special Reg. Plate Account	($856)				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation, Division of Motor Vehicles, and North Carolina Children's Trust Fund.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The legislation authorizes the Division of Motor Vehicles to issue "Kids First" special registration plates. It instructs the Department to develop the plate only after 300 or more applications for the plate are received. A special fee of $25.00 (in addition to the regular motor vehicle registration fee) is also authorized. Ten dollars of this amount goes to the Special Registration Plate Account, and fifteen dollars will be deposited in the Collegiate and Cultural Attractions Plate Account (CCAPA). The proceeds from the plate deposited in the CCAPA are transferred quarterly to the North Carolina Children's Trust Fund.

ASSUMPTIONS AND METHODOLOGY: In addition to the normal $20.00 registration fee every owner of a private passenger vehicle pays, there is a $25.00 fee for each specialized "Kids First" plate. Because there is no way to determine how many of the "Kids First" plates will be requested, this fiscal note assumes the issuance of the minimum 300 license plates in FY 1999-00. As a result, the bill raises a total of $7,500 ($25 X 300 plates). Three thousand dollars ($3000.00) of this amount goes to the SRPA. Four thousand five hundred dollars ($4,500.00) is

deposited in the CCAPA. However, at the end of each quarter the funds deposited in the CCAPA are transferred to the North Carolina Children's Trust Fund. Therefore, the North Carolina Children's Trust Fund actually gains $4,500.00. The note also assumes that those plates will be renewed in the following years.

According to the Division of Motor Vehicles and the Department of Corrections, there is a one-time cost of $100 to design the new plate. There is also a production cost of $2.52 per plate (This assumes a basic one color design. If the design is more complex, or requires more color, the per plate cost increases). The total production cost for 300 basic plates is $856.00.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY: Tom Covington

DATE: Monday, April 26, 1999

VISITOR REGISTRATION SHEET

House Finance — 6/17 , 1999
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Thomas Vance Bennett	N.C. Child Fatality TASK FORCE
LENNIE COLLINS	NC DOR
NANCY POMERANZ	NC DOR
ANDY SABOL	NC DOR
CHARLES COLLINS	" "
Patti Seawell	"
Sabra Faires	Dept of Revenue
Paul Lupin	OSBM
Esther Davis	Electricities
Philip Rhete	DENR / DWM
John Bailey	D.O.R.
David Bain	DOR
Carl J. Pickard	DMV Enforcement
Dr Hubert	BIC
John Rainey	Poyner & Spruill
Mac Mundelette	Parker & Poe
Andy Ellen	NCRMA
Ann Rae	NCRMA
Otis Carter	Carter & Associates
Kathy Sawyer	Commerce
Hubert Lotamount	
Eugene Bone	Bone & Assoc.
V O McBride	NCAR

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Tuesday, June 22, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 375 - Oak Ridge Annexation - Rep. Decker
HB 1082 - Licensing Selling of Cars - Rep. Saunders
HB 1433 - Use Tax Payment/Other Changes - Rep. Miller
SB 222 - Government Accept Electronic Payment - Sen. Reeves
SB 323 - Waterfowl License Changes - Sen. Kerr

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Tuesday, June 22, 1999

The House Committee on Finance met on Tuesday, June 22, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke, Miller; Vice Chairs Jarrell; Representatives Braswell, Bridgeman, Brown, Buchanan, Capps, Church, Cunningham, Decker, Dedmon, Eddins, Edwards, Gibson, Goodwin, Gray, Hackney, Hill, McCombs, Morris, Pope, Rayfield, Starnes, Tucker, Wilson, and Womble. Staff including Cindy Avrette, Richard Bostic, Mary Shuping, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Allen called the meeting to order, and then Chair Luekbe took over. The following bills were considered:

Rep. Miller was recognized to explain HB 1433, A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR INDIVIDUALS TO PAY THEIR ANNUAL USE TAX WITHTHEIR INOCME TAX FORMS, TO PROMOTE ELECTRONIC FILING, AND TO IMPROVE TAX COLLECTION. Cindy Avrette explained the bill. Rep. Miller moved for a favorable report to the Proposed Committee Substitute and unfavorable to the original bill. The motion passed. The bill, Proposed Committee Substitute, the Bill Summary, and Fiscal Note are included in these minutes.

Rep. Cunningham moved to have HB 1082 before the committee again. The motion passed. Rep. Cunningham sent forward an amendment and moved for its adoption. The amendment was adopted. Rep. Cunningham moved to give the Proposed Committee Substitute a favorable report, and unfavorable to the original bill. The motion passed. The Proposed Committee Substitute and amendment are included in these minutes.

Sen. Reeves was recognized to explain SB 222, A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR STATE AND LOCAL GOVERNMENTS TO ACCEPT CREDIT CARDS, CHARGE CARDS, DEBIT CARDS, AND ELECTRONIC FUNDS TRANSFERS FOR PAYMENT OF GOVERNMENT FEES, COSTS, AND DEBTS, AND TO ALLOW LOCAL GOVERNMENTS TO ACCEPT CREDIT CARDS, CHARGE CARDS, DEBIT CARDS, AND ELECTRONIC FUNDS TRANSFERS FOR PAYMENT OF PROPERTY TAXES. Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion only. Reps. Womble and Pope questioned Sen. Reeves. Rep. Gray commented this is a good bill. Rep. Womble moved to give the Proposed Committee Substitute a favorable report, and unfavorable to the original bill. The motion passed. The bill, Proposed Committee Substitute, the Bill Summary, and Fiscal Note are included in these minutes.

Sen. Kerr was recognized to explain SB 323, A BILL TO BE ENTITLED AN ACT TO EXTEND WATERFOWL HUNTING PRIVILEGES TO HOLDERS OF COMPREHENSIVE

HUNGINT LICENSES, TO INCREASE THE FEE CHARGED FOR MIGRATORY WATERFOWL LICENSES, AND TO INCREASE THE APPLICATION FEE FOR MANAGED HUNTS FOR MIGRATORY WATERFOWL AND REQUIRE APPLICANTS TO FURNISH SATISFACTORY PROOF OF POSSESSION OF THE NECESSARY HUNTING LICENSE. Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion only. Rep. Buchanan moved to give the Proposed Committee Substitute a favorable report, and unfavorable to the original bill. The motion passed. The bill, Proposed Committee Substitute, the Bill Summary, and Fiscal Note are included in these minutes.

Rep. Decker was recognized to explain HB 375, A BILL TO BE ENTITLED AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF OAK RIDGE. Reps. Jarrell and Gray questioned Rep. Decker. The Chair recognized Mr. John Wolf, the Town Counsel for Kernersville who stated he was opposed to the bill and asked the members to give the bill an unfavorable report. The Chair recognized Mr. Bill Parrish, the Mayor of Oak Ridge who stated he supported the bill. Rep. Luebke questioned Mr. Wolf. Rep. Jarrell questioned Mr. Parrish. Rep. Hackney questioned Mr. Wolf. Rep. Bridgeman questioned Rep. Decker. Rep. Starnes questioned Cindy Avrette. Reps. Gray and Rayfield questioned Rep. Decker. Rep. Decker moved to give HB 375 a favorable report. Rep. Hackney questioned Mr. Wolf. Rep. Wilson questioned Mr. Parrish. Rep. Decker stated he felt he has not mishandled the bill. Rep. Decker's motion to give the bill a favorable report failed with a vote of 10 ayes, 15 nays. The bill, roll call vote sheet, and Rep. Decker's handout are included in these minutes.

Rep. Luebke was recognized to explain HB 1289, A BILL TO BE ENTITLED AN ACT TO REMOVE THE SPECIAL TAX TREATMENT FOR EQUIPMENT AND FACILITIES FOR RECYCLING, WASTE REDUCTION, OR RESOURCE RECOVERY WHEN ACQUIRED MORE THAN TWO YEARS PRIOR TO THE DATE OF APPLICATION FOR CERTIFICATION BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND TO LIMIT TO THREE YEARS THE CERTIFICATION FOR SPECIAL TAX TREATMENT FOR REAL PROPERTY USED FOR RECYCLING, WASTE REDUCTION, OR RESOURCE RECOVERY. This bill was the 1999 Fee Bill. Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion. Cindy explained the bill. Rep. Capps questioned Rep. Luebke. Rep. Luebke moved to give the Proposed Committee Substitute a favorable report, and unfavorable to the original bill. Rep. Miller stated he would like to hear from the agencies involved in the bill. The Chair recognized Mr. Bob Bermick of the N.C. Utilities Commission. Rep. Miller questioned Mr. Bermick.
The Chair said HB 1289 would be placed on for July 1, 1999 as the meeting time was over.

There being no further business, the Chair adjourned the meeting at 9:50 a.m.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 375

Short Title: Oak Ridge Annexation. (Local)

Sponsors: Representative Decker.

Referred to: Finance.

March 9, 1999

A BILL TO BE ENTITLED

AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF OAK RIDGE.

The General Assembly of North Carolina enacts:

Section 1. The following described property is added to the corporate limits of the Town of Oak Ridge:

At a point beginning on Haw River Road following the Stokesdale boundary West to the Guilford County line then South on the Guilford line to a point 300 feet South of Hwy. 150 then easterly maintaining the 300 feet to a point 300 feet West of Bridgehead Road maintaining 300 feet West proceed South to Kristi Lane then in a southerly direction to Beaver Creek then easterly to the East side of Beeson Road to the present boundaries of the Town of Oak Ridge; North along the present boundaries of the Town of Oak Ridge to the point of beginning.

Section 2. This act is effective when it becomes law.

raised hands

ROLL CALL VOTE

10 YES 15 NO = 25 (TOTAL)

HB# 375
SB# ____

HOUSE STANDING COMMITTEE ON FINANCE to give Fav Rept.

House Subcommittee on _____

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
___	___	MILLER, GEORGE	___	___	~~McALLISTER, MARY~~ removed
___	___	LUEBKE, PAUL	___	___	McCOMAS, DANNY
___	___	ALLEN, GORDON	___	___	McCOMBS, GENE
___	___	JARRELL, MARY	___	___	MINER, DAVID
___	___	WOOD, STEVE	___	___	MORRIS, MIA
___	___	BRASWELL, JERRY	___	___	MOSLEY, JANE
___	___	BRIDGEMAN, JOHN	___	___	~~NEELY, CHUCK~~ Pope, Art
___	___	BROWN, JOHN	___	___	~~RAMSEY, LISTON~~ excused
___	___	BUCHANAN, MONROE	___	___	RAYFIELD, JOHN
___	___	CAPPS, RUSSELL	___	___	STARNES, EDGAR
___	___	CHURCH, WALT	___	___	TALLENT, TIM
___	___	COX, LESLIE	___	___	TUCKER, RUSSELL
___	___	CREECH, BILLY	___	___	WILSON, CONNIE
___	___	DECKER, MIKE	___	___	WOMBLE, LARRY
___	___	DEDMON, ANDY	___	___	WRIGHT, TOM
___	___	EDDINS, RICK	___	___	
___	___	EDWARDS, ZENO	___	___	
___	___	FITCH, TOBY	___	___	
___	___	GOBSON, PRYOR	___	___	
___	___	GOODWIN, WAYNE	___	___	
___	___	GRAY, LYONS	Ex officio Members		
___	___	HACKNEY, JOE	___	___	CUNNINGHAM
___	___	HILL, DEWEY	___	___	Majority Leader BADDOUR
___	___	HOWARD, JULIA	___	___	Majority Whip EARLE

Town of Oak Ridge
P.O. Box 374
Oak Ridge, NC 27310

William "Bill" Parrish, Mayor
Gary Blackburn, Mayor Pro Tem
Gregory Bissett, Councilman
Roger Howerton, Councilman
Mack Peoples, Councilman

To the Guilford County Legislative Delegation

March 31, 1999

RE: Info. On **HB 375**

The original bill authorizing the incorporation had the proposed annexation area included when it passed the House last year on a unanimous vote. This area on our west flank has been a part of the Oak Ridge community since the community was settled in the early 1700s. At least 90% of the people in this area want to remain a part of Oak Ridge.

We are requesting passage of **HB 375** because we were forced to accept the bill as revised in the Senate—or get nothing. Kernersville is to the southwest of Oak Ridge and this area to the county line will in no way have an effect on the future of Kernersville. We have no desire whatever to go into Forsyth County in the future. Kernersville has room to grow to the north to Highway 158, approximately five (5) miles.

My best information out of Kernersville is that some of the power brokers in the town are looking at the undeveloped areas in Guilford for future industrial parks. We cannot permit this to happen. It would have a devastating effect on ground water as well as Greensboro and High Point's water supply. The headwaters for Reedy Fork Creek and Deep River are in this area—Greensboro's and High Point's water shed. I know of no elected official in Guilford County who wants Kernersville in this area.

This battle with Kernersville began over a proposed landfill expansion into Guilford County by Waste Management. This would have covered about 430 acres in the northern portion of the white area of the map. We won the battle over this expansion and since Kernersville is the host city for Waste Management, there have been hard feelings between the two communities ever since. The Town Attorney, John Wolfe, also represents Waste Management—or did at least until after they lost the battle to move into Guilford County.

We are working as fast as possible to set up a town government and get sound programs in place to protect our ground water and build a town we can all be proud of. We need your help in the passage of **HB 375.** If you look at the map, you can see we will be closed in on all sides after we reset the boundary at the county line. This will give us about ten (10) square miles to build a town which we can enjoy and an area in which all of Guilford County can be proud of.

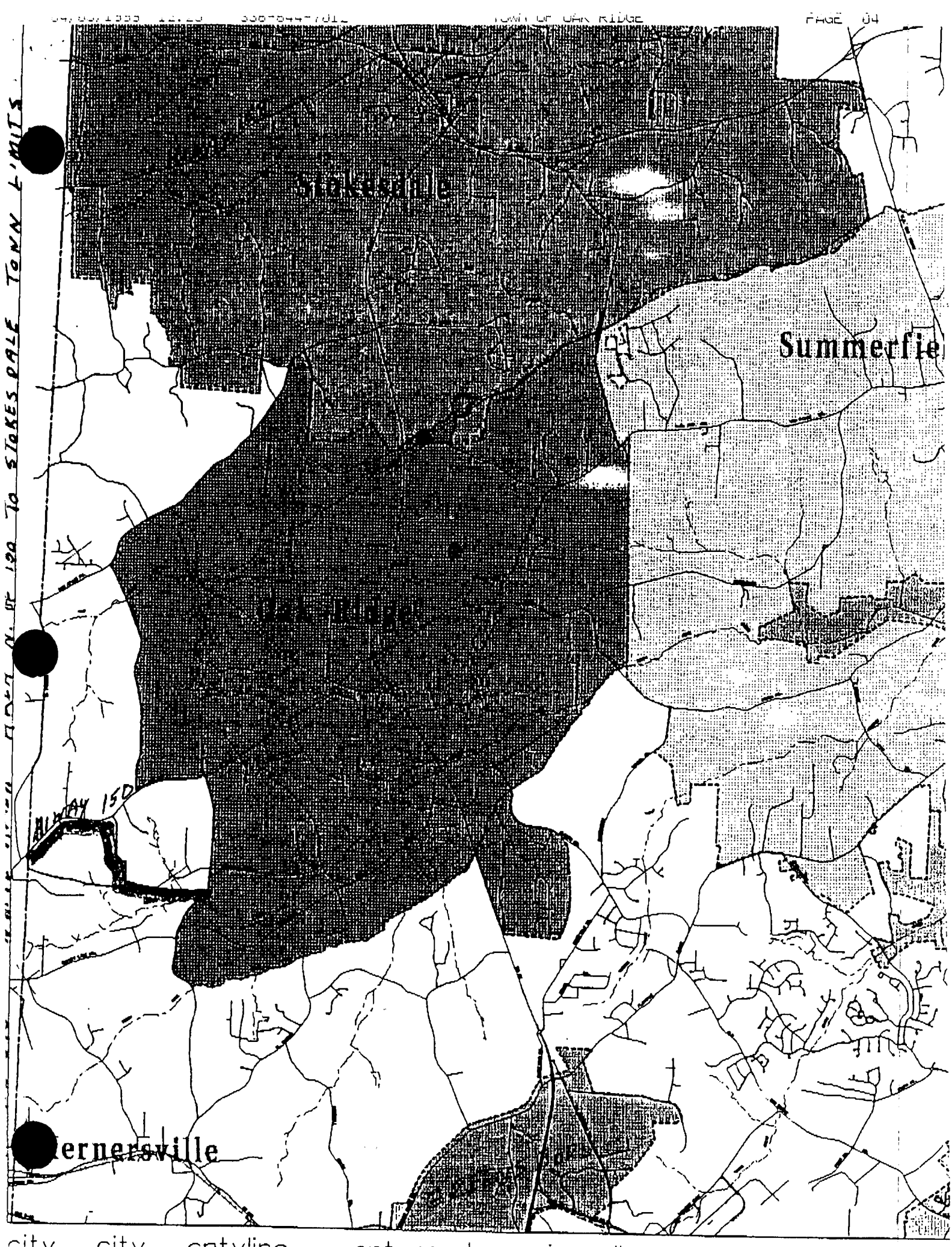
We sincerely request your full support in the passage of **HB 375.**

Sincerely,

Bill Parrish

Bill Parrish, Mayor
Town of Oak Ridge

Phone: 336-644-7009
Fax: 336-644-7012


Stokesdale
Summerfie
Oak Ridge
HIGHWAY 150
ernersville
city city cntyline cntyroads riverall

Town Of Stokesdale

8416 US HIGHWAY 158
P. O. Box 465
STOKESDALE, NORTH CAROLINA 27357

Mayor Randle L. Jones
Powell M. Shelton
James Attaway
Mary S. Hardin
Jesse B. Joyce

April 22, 1999

Representative Michael P. Decker
Room #1021 State Legislative Building
Raleigh, North Carolina 27601-1096

Re: House Bill 375 - Oak Ridge Annexation

Dear Representative Decker,

The Town of Stokesdale continues to support the Town of Oak Ridge in their efforts to annex properties extending to the northwest to the Guilford County - Forsyth County line.

The Town of Stokesdale has no opposition to their annexation of the proposed area.

Sincerely,

Randle L. Jones
Mayor

cc:

R. Shaw	D. East	M. Jarrell
W. Martin	A. Adams	M. Jeffus
K. Hagan	S. Wood	M. Decker
F. Boyd-McIntyre	V. Foxx	J. Bowie

Phone: 336-643-4011

Fax: 336-643-4011

GUILFORD COUNTY
Board of County Commissioners
P. O. Box 3427
Greensboro, North Carolina 27402

March 29, 1999

The Honorable Mike Decker
Legislative Office Bldg.
Raleigh, NC 27601-1096

Dear Representative Decker:

The Guilford County Board of Commissioners would like to go on record in support of OakRidge's Annexation of property to the Forsyth County line as spelled out in HB375.

Please feel to contact me if you have further questions.

Sincerely,

J. Robert Landreth, Jr.

J. Robert Landreth, Jr.
Chairman
Guilford County Commissioners

Joanne Walters (Rep. Decker)

From: Oak Ridge Fire & Rescue Co., Inc. [orfrc@nr.infi.net]
Sent: Tuesday, March 30, 1999 10:56 AM
To: Rep. Michael Decker
Subject: incorporation addition

Dear Mike,

We at the Fire Department at Oak Ridge wanted to make you aware that we do support this bill (H375) for the expansion of our town. This would only reflect the land that already lies in our fire district that we have served for over 40 years. The potential impact should something change that protection area could be devastating to those citzens for fire or medical attention. We are located within a mile to mile and one-half from these people and the next nearest station would be over three miles away. All the 911 lines in this area go to Guilford emergency center since it is all in Guilford, you can see the potential problem associated with a change.

Sincerely Yours
Bill Newman, Chief

Town of Pleasant Garden

P.O. Box 307
Pleasant Garden, North Carolina, 27313

Fax: (336) 674-0923 Phone: (336) 674-3002 Email: PG@ncdial.net

April 5, 1999

FAX MESSAGE (1 page including cover)

ATTENTION:

Rep. Mike Decker
Fax: 919-733-2599

From: Bill Wright, Mayor

RE: House Bill #375

Representative Decker,

The Town of Pleasant Garden strongly supports the request by the Town of Oak Ridge to extend their corporate boundaries as provided for in House Bill #375.

Bill Wright
Mayor
Town of Pleasant Garden

PLEASE CALL IF THIS FAX IS DELIVERED TO THE WRONG PARTY

TOWN OF SEDALIA
PO BOX C
SEDALIA, NC 27342

March 29, 1999

Mr. Michael Decker
Legislative Office
Raleigh, NC 27611

Mr. Decker,

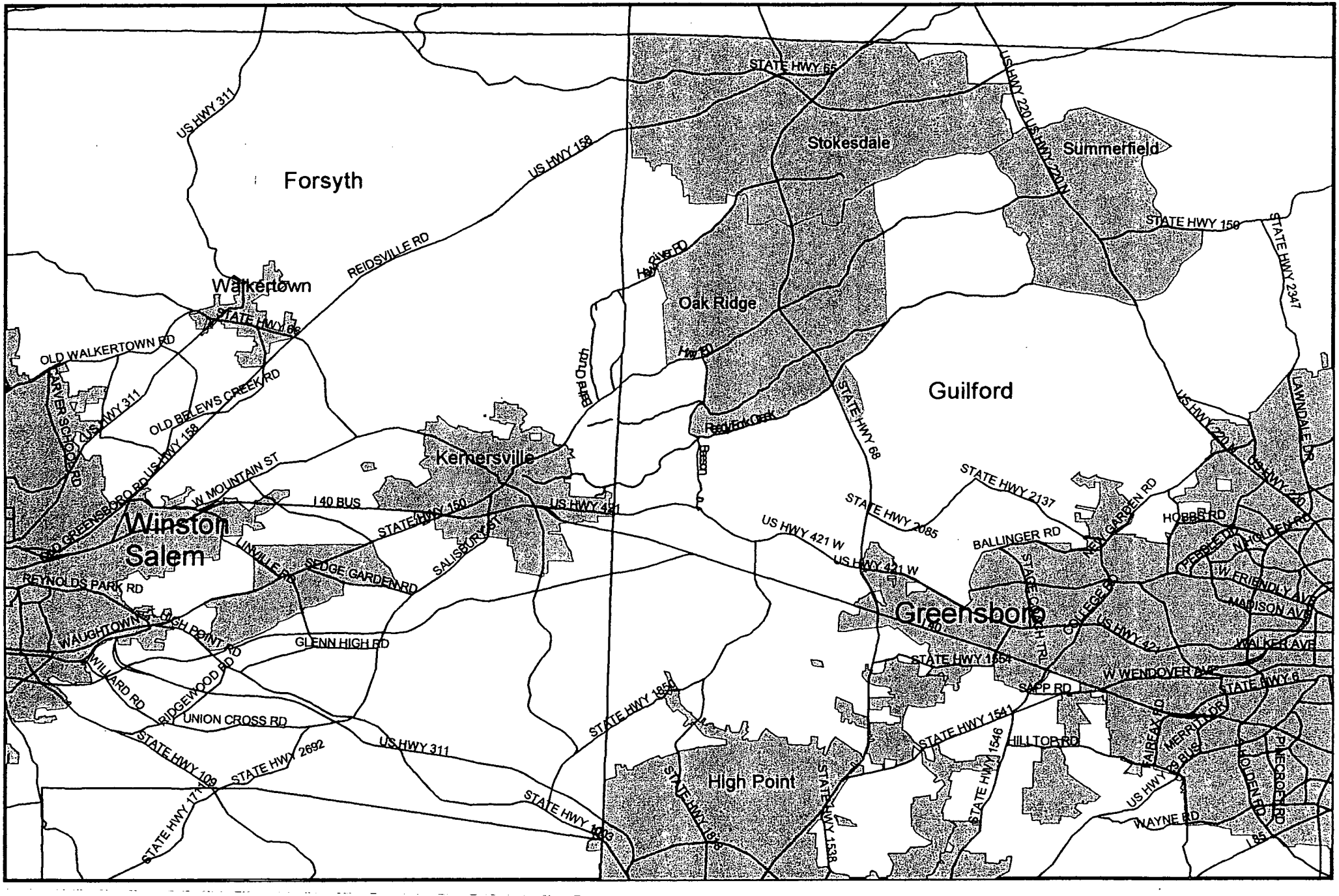
Please enter my vote as yes in support of House Bill #375.

Thank you,

Ruth E. Smith
Mayor

PHONE: 336-449-1132
FAX: 336-449-1141

03/29/99 12:56 FAX 1 336 449 1141 Town of Sedalia 002


Forsyth
Stokesdale
Summerfield
Walkertown
Oak Ridge
Guilford
Kernersville
Winston
Salem
Greensboro
High Point
US HWY 311
US HWY 158
REIDSVILLE RD
STATE HWY 65
US HWY 220 N
STATE HWY 150
STATE HWY 2347
STATE HWY 66
OLD WALKERTOWN RD
OLD BRLEWS CREEK RD
PARKER SCHOOL RD
US HWY 311
US HWY 158
Muddy Creek
Reedy Fork Creek
Bason
STATE HWY 68
W MOUNTAIN ST
140 BUS
US HWY 421
STATE HWY 150
SALISBURY ST
LINVILLE RD
SEDGE GARDEN RD
OLD GREENSBORO RD
REYNOLDS PARK RD
WAUGHTOWN
HIGH POINT RD
GLENN HIGH RD
WILLIARD RD
RIDGEWOOD RD
UNION CROSS RD
STATE HWY 109
STATE HWY 2692
US HWY 311
STATE HWY 1003
STATE HWY 17
STATE HWY 1858
STATE HWY 1538
STATE HWY 1546
STATE HWY 1541
STATE HWY 1850
STATE HWY 2137
STATE HWY 2085
US HWY 421 W
BALLINGER RD
NEW GARDEN RD
HOBBS RD
LAWNDALE DR
US HWY 220
PERRY LN
W FRIENDLY AVE
MADISON AVE
COLLEGE RD
US HWY 421
WALKER AVE
W WENDOVER AVE
STATE HWY 6
SAPP RD
FAIRFAX RD
MERRITT DR
BUS
HILLTOP RD
US HWY 29
GOLDEN RD
PINECREST RD
WAYNE RD
I 85

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 1082 A BILL TO BE ENTITLED AN ACT TO ESTABLISH PENALTIES FOR SELLING CARS IN VIOLATION OF THE MOTOR VEHICLE DEALERS AND MANUFACTURERS LICENSING LAW, TO ESTABLISH EDUCATIONAL REQUIREMENTS REQUIRED FOR ISSUANCE AND RENEWAL OF LICENSURE FOR USED MOTOR VEHICLE DEALERS, AND TO INCREASE FEES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill (# 2), ☐ ~~which changes the title;~~ unfavorable as to ~~(original bill)~~ (Committee Substitute Bill #), ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

File

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1082
Committee Substitute Favorable 5/13/99
Proposed Committee Substitute H1082-PCSA151-SC

Short Title: Licensing Selling of Cars. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH PENALTIES FOR SELLING CARS IN VIOLATION OF THE MOTOR VEHICLE DEALERS AND MANUFACTURERS LICENSING LAW, TO ESTABLISH EDUCATIONAL REQUIREMENTS REQUIRED FOR ISSUANCE AND RENEWAL OF LICENSURE FOR USED MOTOR VEHICLE DEALERS, AND TO INCREASE FEES.

Whereas, not only the setting of standards to protect purchasers of motor vehicles but also the enforcement of substantial penalties applicable when those standards are not met is one of the most effective means to obtain this protection; and

Whereas, more complex laws governing regulation of the sale and distribution of motor vehicles such as the titling of a vehicle, warranties, collection of consumer debt pursuant to Federal Trade Commission regulations, and applicable tax provisions impose a greater number of duties upon independent automobile dealers; and

Whereas, the most effective and consistent means of informing both applicants for licensure and experienced, licensed motor vehicle dealers of major changes and increasing complexities in the law is to develop a program insuring the development and requirement of appropriate continuing education; and

Whereas, to better effect these policies, it is necessary to increase to more appropriate levels the fees for those persons regulated by the Motor Vehicle Dealers and Manufacturers Licensing Law; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-287 reads as rewritten:

"**§ 20-287. Licenses ~~required.~~ required; penalties.**

(a) It shall be unlawful for any new motor vehicle dealer, used motor vehicle dealer, motor vehicle sales representative, manufacturer, factory branch, factory representative, distributor, distributor branch, distributor representative, or wholesaler to engage in business in this State without first obtaining a license as provided in this Article. If any motor vehicle dealer acts as a motor vehicle sales representative, the dealer shall obtain a motor vehicle sales representative's license in addition to a motor vehicle dealer's license. A sales representative may have only one license. The license shall show the name of each dealer or wholesaler employing the sales representative. The following license holders may operate as a motor vehicle dealer without obtaining a motor vehicle dealer's license or paying an additional fee: a manufacturer, a factory branch, a distributor, and a distributor branch. Any of these license holders who operates as a motor vehicle dealer may sell motor vehicles at retail only at an established salesroom.

(b) Any person who violates any provision of this section shall be guilty of a Class 2 misdemeanor.

(c) In addition to any other punishment or remedy under the law for any violation of this section, the Division may levy and collect a civil penalty, in an amount not to exceed one thousand dollars ($1,000) for each violation, against any person who has obtained a license pursuant to this section, if it finds that the licensee has violated any provisions of this section or of any rules adopted by the Division relating to the sale of vehicles, vehicle titling, or vehicle registration. The Division may levy and collect a civil penalty, in an amount not to exceed five thousand dollars ($5,000) for each violation of any provision of this section, against any person who has not obtained a license as prescribed by this section."

Section 2. G.S. 20-288 reads as rewritten:

"**§ 20-288. Application for license; license requirements; expiration of license; bond.**

(a) A ~~person~~ new motor vehicle dealer, motor vehicle sales representative, manufacturer, factory branch, factory representative, distributor, distributor branch, distributor representative, or wholesaler may obtain a license by filing an application with the Division. An application must be on a form provided by the Division and contain the information required by the Division. An application for a license must be accompanied by the required fee and by an application for a dealer license plate.

(a1) A used motor vehicle dealer may obtain a license by filing an application, as prescribed in subsection (a) of this section, and providing the following:

(1) The required fee.

(2) Proof that the applicant, within the last 12 months has completed a 12-hour licensing course approved by the Division if the applicant is seeking an initial license and a six-hour course approved by the Division if the applicant is seeking a renewal license. The requirements of G.S. 20-288(a1)(2) do not apply to a used motor vehicle dealer the primary business of which is the sale of salvage vehicles on behalf of insurers.

(3) If the applicant is an individual, proof that the applicant is at least 18 years of age, and proof that all salespersons employed by the dealer are at least 18 years of age.

(4) The application for a dealer license plate.

(b) The Division shall require in such application, or otherwise, information relating to matters set forth in G.S. 20-294 as grounds for the refusing of licenses, and to other pertinent matters commensurate with the safeguarding of the public interest, all of which shall be considered by the Division in determining the fitness of the applicant to engage in the business for which he seeks a license.

(c) All licenses that are granted shall expire unless sooner revoked or suspended, on June 30 of the year following date of issue.

(d) To obtain a license as a wholesaler, an applicant who intends to sell or distribute self-propelled vehicles must have an established office in this State, and an applicant who intends to sell or distribute only trailers or semitrailers of less than 2500 pounds unloaded weight must have a place of business in this State where the records required under this Article are kept.

To obtain a license as a motor vehicle dealer, an applicant who intends to deal in self-propelled vehicles must have an established salesroom in this State, and an applicant who intends to deal in only trailers or semitrailers of less than 2500 pounds unloaded weight must have a place of business in this State where the records required under this Article are kept.

An applicant for a license as a manufacturer, a factory branch, a distributor, a distributor branch, a wholesaler, or a motor vehicle dealer must have a separate license for each established office, established salesroom, or other place of business in this State. An application for any of these licenses shall include a list of the applicant's places of business in this State.

(e) Each applicant approved by the Division for license as a motor vehicle dealer, manufacturer, factory branch, distributor, distributor branch, or wholesaler shall furnish a corporate surety bond or cash bond or fixed value equivalent of the bond. The amount of the bond for an applicant for a motor vehicle dealer's license is twenty-five thousand dollars ($25,000) for one established salesroom of the applicant and ten thousand dollars ($10,000) for each of the applicant's additional established salesrooms. The amount of the bond for other applicants required to furnish a bond is twenty-five thousand dollars ($25,000) for one place of business of the applicant and ten thousand dollars ($10,000) for each of the applicant's additional places of business.

A corporate surety bond shall be approved by the Commissioner as to form and shall be conditioned that the obligor will faithfully conform to and abide by the provisions of this Article and Article 15. A cash bond or fixed value equivalent thereof shall be approved by the Commissioner as to form and terms of deposits as will secure the ultimate beneficiaries of the bond; and such bond shall not be available for delivery to any person contrary to the rules of the Commissioner. Any purchaser of a motor vehicle who shall have suffered any loss or damage by any act of a license holder subject to this subsection that constitutes a violation of this Article

or Article 15 shall have the right to institute an action to recover against the license holder and the surety. Every license holder against whom an action is instituted shall notify the Commissioner of the action within 10 days after served with process. A corporate surety bond shall remain in force and effect and may not be canceled by the surety unless the bonded person stops engaging in business or the person's license is denied, suspended, or revoked under G.S. 20-294. Such cancellation may be had only upon 30 days' written notice to the Commissioner and shall not affect any liability incurred or accrued prior to the termination of such 30-day period. This subsection does not apply to a license holder who deals only in trailers having an empty weight of 4,000 pounds or less. This subsection does not apply to manufacturers of, or dealers in, mobile or manufactured homes who furnish a corporate surety bond, cash bond, or fixed value equivalent thereof, pursuant to G.S. 143-143.12."

Section 3. G.S. 20-289(a) reads as rewritten:

"(a) The license fee for each fiscal year, or part thereof, shall be as follows:

(1) For motor vehicle dealers, distributors, distributor branches, and wholesalers, fifty dollars ($50.00) for each place of business.

(2) For manufacturers, one hundred dollars ($100.00), and for each factory branch in this State, seventy dollars ($70.00).

(3) For motor vehicle sales representatives, ~~ten dollars ($10.00).~~ fifteen dollars ($15.00).

(4) For factory representatives, or distributor representatives, ten dollars ($10.00).

(5) Repealed."

Section 4. This act becomes effective June 30, 2001.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 1082
Committee Substitute Favorable 5/13/99

Short Title: Licensing Selling of Cars. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH PENALTIES FOR SELLING CARS IN VIOLATION OF THE MOTOR VEHICLE DEALERS AND MANUFACTURERS LICENSING LAW, TO ESTABLISH EDUCATIONAL REQUIREMENTS REQUIRED FOR ISSUANCE AND RENEWAL OF LICENSURE FOR USED MOTOR VEHICLE DEALERS, AND TO INCREASE FEES.

Whereas, not only the setting of standards to protect purchasers of motor vehicles but also the enforcement of substantial penalties applicable when those standards are not met is one of the most effective means to obtain this protection; and

Whereas, more complex laws governing regulation of the sale and distribution of motor vehicles such as the titling of a vehicle, warranties, collection of consumer debt pursuant to Federal Trade Commission regulations, and applicable tax provisions impose a greater number of duties upon independent automobile dealers; and

Whereas, the most effective and consistent means of informing both applicants for licensure and experienced, licensed motor vehicle dealers of major changes and increasing complexities in the law is to develop a program insuring the development and requirement of appropriate continuing education; and

Whereas, to better effect these policies, it is necessary to increase to more appropriate levels the fees for those persons regulated by the Motor Vehicle Dealers and Manufacturers Licensing Law; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-287 reads as rewritten:

"§ 20-287. Licenses ~~required.~~ required; penalties.

(a) It shall be unlawful for any new motor vehicle dealer, used motor vehicle dealer, motor vehicle sales representative, manufacturer, factory branch, factory representative, distributor, distributor branch, distributor representative, or wholesaler to engage in business in this State without first obtaining a license as provided in this Article. If any motor vehicle dealer acts as a motor vehicle sales representative, the dealer shall obtain a motor vehicle sales representative's license in addition to a motor vehicle dealer's license. A sales representative may have only one license. The license shall show the name of each dealer or wholesaler employing the sales representative. The following license holders may operate as a motor vehicle dealer without obtaining a motor vehicle dealer's license or paying an additional fee: a manufacturer, a factory branch, a distributor, and a distributor branch. Any of these license holders who operates as a motor vehicle dealer may sell motor vehicles at retail only at an established salesroom.

(b) Any person who violates any provision of this section shall be guilty of a Class 2 misdemeanor.

(c) In addition to any other punishment or remedy under the law for any violation of this section, the Division may levy and collect a civil penalty, in an amount not to exceed one thousand dollars ($1,000) for each violation, against any person who has obtained a license pursuant to this section, if it finds that the licensee has violated any provisions of this section or of any rules adopted by the Division relating to the sale of vehicles, vehicle titling, or vehicle registration. The Division may levy and collect a civil penalty, in an amount not to exceed five thousand dollars ($5,000) for each violation of any provision of this section, against any person who has not obtained a license as prescribed by this section."

Section 2. G.S. 20-288 reads as rewritten:

"**§ 20-288. Application for license; license requirements; expiration of license; bond.**

(a) A ~~person~~ new motor vehicle dealer, manufacturer, factory branch, factory representative, distributor, distributor branch, distributor representative, or wholesaler may obtain a license by filing an application with the Division. An application must be on a form provided by the Division and contain the information required by the Division. An application for a license must be accompanied by the required fee and by an application for a dealer license plate.

(a1) A used motor vehicle dealer may obtain a license by filing an application, as prescribed in subsection (a) of this section, and providing the following:

(1) The required fee.

(2) Proof that the applicant, within the last 12 months has completed a 12-hour licensing course approved by the Division if the applicant is seeking an initial license and a six-hour course approved by the Division if the applicant is seeking a renewal license. The requirements of G.S. 20-288(a1)(2) do not apply to a used motor vehicle dealer the primary business of which is the sale of salvage vehicles on behalf of insurers.

(3) If the applicant is an individual, proof that the applicant is at least 18 years of age, and proof that all salespersons employed by the dealer are at least 18 years of age.

(4) The application for a dealer license plate.

(b) The Division shall require in such application, or otherwise, information relating to matters set forth in G.S. 20-294 as grounds for the refusing of licenses, and to other pertinent matters commensurate with the safeguarding of the public interest, all of which shall be considered by the Division in determining the fitness of the applicant to engage in the business for which he seeks a license.

(c) All licenses that are granted shall expire unless sooner revoked or suspended, on June 30 of the year following date of issue.

(d) To obtain a license as a wholesaler, an applicant who intends to sell or distribute self-propelled vehicles must have an established office in this State, and an applicant who intends to sell or distribute only trailers or semitrailers of less than 2500 pounds unloaded weight must have a place of business in this State where the records required under this Article are kept.

To obtain a license as a motor vehicle dealer, an applicant who intends to deal in self-propelled vehicles must have an established salesroom in this State, and an applicant who intends to deal in only trailers or semitrailers of less than 2500 pounds unloaded weight must have a place of business in this State where the records required under this Article are kept.

An applicant for a license as a manufacturer, a factory branch, a distributor, a distributor branch, a wholesaler, or a motor vehicle dealer must have a separate license for each established office, established salesroom, or other place of business in this State. An application for any of these licenses shall include a list of the applicant's places of business in this State.

(e) Each applicant approved by the Division for license as a motor vehicle dealer, manufacturer, factory branch, distributor, distributor branch, or wholesaler shall furnish a corporate surety bond or cash bond or fixed value equivalent of the bond. The amount of the bond for an applicant for a motor vehicle dealer's license is twenty-five thousand dollars ($25,000) for one established salesroom of the applicant and ten thousand dollars ($10,000) for each of the applicant's additional established salesrooms. The amount of the bond for other applicants required to furnish a bond is twenty-five thousand dollars ($25,000) for one place of business of the applicant and ten thousand dollars ($10,000) for each of the applicant's additional places of business.

A corporate surety bond shall be approved by the Commissioner as to form and shall be conditioned that the obligor will faithfully conform to and abide by the provisions of this Article and Article 15. A cash bond or fixed value equivalent thereof shall be approved by the Commissioner as to form and terms of deposits as will secure the ultimate beneficiaries of the bond; and such bond shall not be available for delivery to any person contrary to the rules of the Commissioner. Any purchaser of a motor vehicle who shall have suffered any loss or damage by any act of a license holder subject to this subsection that constitutes a violation of this Article

or Article 15 shall have the right to institute an action to recover against the license holder and the surety. Every license holder against whom an action is instituted shall notify the Commissioner of the action within 10 days after served with process. A corporate surety bond shall remain in force and effect and may not be canceled by the surety unless the bonded person stops engaging in business or the person's license is denied, suspended, or revoked under G.S. 20-294. Such cancellation may be had only upon 30 days' written notice to the Commissioner and shall not affect any liability incurred or accrued prior to the termination of such 30-day period. This subsection does not apply to a license holder who deals only in trailers having an empty weight of 4,000 pounds or less. This subsection does not apply to manufacturers of, or dealers in, mobile or manufactured homes who furnish a corporate surety bond, cash bond, or fixed value equivalent thereof, pursuant to G.S. 143-143.12."

Section 3. G.S. 20-289(a) reads as rewritten:

"(a) The license fee for each fiscal year, or part thereof, shall be as follows:

(1) For motor vehicle dealers, distributors, distributor branches, and wholesalers, ~~fifty dollars ($50.00)~~ one hundred dollars ($100.00) for each place of business.

(2) For manufacturers, one hundred dollars ($100.00), and for each factory branch in this State, seventy dollars ($70.00).

(3) For motor vehicle sales representatives, ~~ten dollars ($10.00).~~ twenty-five dollars ($25.00).

(4) For factory representatives, or distributor representatives, ten dollars ($10.00).

(5) Repealed."

Section 4. This act becomes effective June 30, 2001.

SHIELDS BUSINESS FORMS, RALEIGH, NC 27605

PLEASE PRESS HARD - 5 COPIES

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1082 DATE June 22, 1999

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Pete Cunningham
~~Sen.~~)

1 moves to amend the bill on page 4, line 21
2 ( ) WHICH CHANGES THE TITLE
3 by deleting after "representative," ten dollars ($10.00).
4 and replacing with "fifteen dollars ($15.00).
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 1433 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR INDIVIDUALS TO PAY THEIR ANNUAL USE TAX WITH THEIR INCOME TAX FORMS, TO PROMOTE ELECTRONIC FILING, AND TO IMPROVE TAX COLLECTION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to ~~(~~original bill~~)~~ ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1433
PROPOSED COMMITTEE SUBSTITUTE
H1433-CSRBX-6/15

Short Title: Use Tax Payment/Other Changes. (Public)

Sponsors:

Referred to: Finance.

April 29, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR INDIVIDUALS TO PAY THEIR ANNUAL USE TAX WITH THEIR INCOME TAX FORMS, TO PROMOTE ELECTRONIC FILING, AND TO IMPROVE TAX COLLECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.16(d) reads as rewritten:

"(d) Use Tax on Out-of-State Purchases. -- ~~Notwithstanding subsection (b),~~ Use tax payable by an individual who purchases tangible personal property outside the State for a nonbusiness purpose ~~shall file a use tax return~~ is due on an annual basis. ~~The~~ For an individual who is not required to file an individual income tax return under Part 2 of Article 4 of this Chapter, the annual reporting period ends on the last day of the calendar ~~year. The return is due by the due date, including any approved extensions, for filing the individual's income tax return.~~ year and a use tax return is due by the following April 15. For an individual who is required to file an individual income tax return, the annual reporting period ends on the last day of the individual's income tax year and the use tax must be paid on the income tax return as provided in G.S. 105-269.14."

Section 2. Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-269.14. Payment of use tax with individual income tax.

(a) Requirement. -- An individual who owes use tax that is payable on an annual basis pursuant to G.S. 105-164.16(d) and who is required to file an individual income tax return under Part 2 of Article 4 of this Chapter must pay the use tax with the individual income tax return for the taxable year. The Secretary must provide appropriate space and information on the individual income tax form and instructions. The information must include the following:

(1) An explanation of an individual's obligation to pay use tax on items purchased from mail order, internet, or other sellers that do not collect State and local sales and use taxes on the items.

(2) A method to help an individual determine the amount of use tax the individual owes. The method must list categories of items, such as personal computers and clothing, that are commonly sold by mail order or internet and must include a table that gives the average amounts of use tax payable by taxpayers in various income ranges.

(b) Distribution. -- The Secretary must distribute one-third of the net use tax proceeds collected under this section to counties and cities in proportion to their total distributions under Articles 39, 40, and 42 of this Chapter and Chapter 1096 of the 1967 Session Laws for the most recent period for which data is available. The provisions of G.S. 105-472, 105-486, and 105-501 do not apply to tax proceeds distributed under this section."

Section 3. To pay for the costs of programming, form revision, and resources for taxpayer assistance to implement Sections 1 and 2 of this act, the Secretary of Revenue may draw up to one hundred fifty thousand dollars ($150,000) for the 1999-2000 fiscal year from net collections that would otherwise be credited to the General Fund under G.S. 105-269.14, enacted by Section 2 of this act.

Section 4. During the 1999-2000 fiscal year, the Secretary of Revenue shall implement a program to allow those taxpayers required under G.S. 105-164.16 to report and pay sales and use taxes on a semimonthly basis to file the semimonthly return electronically. To pay for this program, the Secretary may draw up to five hundred thousand dollars ($500,000) for the 1999-2000 fiscal year from net collections that would otherwise be credited to the General Fund under G.S. 105-269.14, enacted by Section 2 of this act.

Section 5.(a) The Secretary of Revenue shall contract during the 1999-2001 fiscal biennium for the collection of delinquent tax debts owed by nonresidents and foreign entities. To implement this section, the Secretary may draw funds for the 1999-2000 fiscal year from net collections that would otherwise be credited to the General Fund under G.S. 105-269.14, enacted by Section 2 of this act. The Secretary of Revenue shall report annually to the Revenue Laws Study Committee on its collections pursuant to this contract during the biennium.

Section 5.(b) The following definitions apply in this section:

(1) Delinquent tax debt. -- The amount of tax due as stated in a final notice of assessment issued to the taxpayer by the Secretary of Revenue when the taxpayer no longer has a right to contest the debt.

(2) Foreign entity. -- A foreign corporation as defined in G.S. 55-1-40, a foreign limited liability company as defined in G.S. 57C-1-03, a foreign limited partnership as defined in G.S. 59-102, or a general partnership formed under the laws of a jurisdiction other than this State.

Section 6. The Department of Revenue shall conduct a study to identify and evaluate proposals for more efficient collection of taxes, including using electronic commerce and other technology to increase efficiency. The study shall include an analysis of the most efficient tax collection methods used in other states. The State Controller shall cooperate with the Department of Revenue in this study. The Department shall report the results of its study, including findings, recommendations, and estimated revenue gains of each recommendation, to the Revenue Laws Study Committee by May 1, 2000. To implement this section, the Secretary of Revenue may draw up to fifty thousand dollars ($50,000) for the 1999-2000 fiscal year from net collections that would otherwise be credited to the General Fund under G.S. 105-269.14, enacted by Section 2 of this act.

Section 7. Article 3 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-59.1. Contracts with certain foreign vendors.**

The Secretary of Administration and other entities to which this Article applies shall not contract for goods or services with a vendor if the vendor or an affiliate of the vendor meets one or more of the conditions of G.S. 105-164.8(b) but refuses to collect the use tax levied under Article 5 of Chapter 105 of the General Statutes on its sales delivered to North Carolina. The

Secretary of Revenue shall provide the Secretary of Administration periodically with a list of vendors to which this section applies. For the purpose of this section, the term 'affiliate' has the meaning provided in G.S. 105-163.010."

Section 8. G.S. 105-259(b) is amended by adding a new subdivision to read:

"(22) To provide the Secretary of Administration pursuant to G.S. 143-59.1 a list of vendors and their affiliates who meet one or more of the conditions of G.S. 105-164.8(b) but refuse to collect the use tax levied under Article 5 of this Chapter on their sales delivered to North Carolina.

(23) To provide public access to a database containing the names and account numbers of taxpayers who are not required to pay sales and use taxes under Article 5 of this Chapter to a retailer because of an exemption or because they are authorized to pay the tax directly to the Department of Revenue."

Section 9. Sections 1 and 2 of this act are effective for taxable years beginning on or after January 1, 1999. The remainder of this act becomes effective July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1433

Short Title: Use Tax Payment/Other Changes. (Public)

Sponsors: Representatives Miller and Allen.

Referred to: Finance.

April 29, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR INDIVIDUALS TO PAY THEIR ANNUAL USE TAX WITH THEIR INCOME TAX FORMS, TO PROMOTE ELECTRONIC FILING, AND TO IMPROVE TAX COLLECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.16(d) reads as rewritten:

"(d) Use Tax on Out-of-State Purchases. -- Notwithstanding subsection ~~(b),~~ (b) of this section, an individual who purchases tangible personal property outside the State for a nonbusiness purpose shall file a use tax return on an annual basis. ~~The~~ For individuals who are not required to file an individual income tax return under Part 2 of Article 4 of this Chapter, the annual reporting period ends on the last day of the calendar ~~year.~~ year, and the return is due by the following April 15. For individuals who are required to file an individual income tax return, the annual reporting period ends on the last day of the individual's income tax year, and the ~~The~~ return is due by the due date, including any approved extensions, for filing the individual's income tax return.

Individuals who are required to file an individual income tax return under Part 2 of Article 4 of this Chapter for the taxable year must pay the use tax with the individual income tax return as provided in G.S. 105-269.14. If the individual does not know the amount of use tax due on purchases of items with a cost of less than one thousand dollars ($1,000) per item, the individual may pay an estimated use tax on those items in an amount equal to six one-hundredths percent (0.06%) of the individual's North Carolina taxable income as provided in G.S. 105-269.14. This

payment is in addition to payment of the amount of use tax due on items with a cost of one thousand dollars ($1,000) or more."

Section 2. Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-269.14. Payment of use tax with individual income tax.**

(a) Requirement. -- An individual who owes use tax that is payable on an annual basis pursuant to G.S. 105-164.16(d) and who is required to file an individual income tax return under Part 2 of Article 4 of this Chapter, must pay the use tax with the individual income tax return for the taxable year. The Secretary must provide appropriate space and information on the individual income tax form and instructions. The information must include the following:

(1) Instructions that certain sales taxes paid on a purchase are a credit against the use tax.

(2) A table setting out averages for various income ranges of the estimated amount of use tax as defined in subsection (b) of this section, rounded to the nearest one dollar ($1.00) of tax.

(3) Notification that if the taxpayer fails to indicate on the income tax form an amount of use tax payable, the Department of Revenue will add the estimated amount provided in subsection (b) of this section, and that the taxpayer is liable for this estimated amount unless the taxpayer can establish that the taxpayer owes a different amount of use tax under this Chapter.

(b) Estimated Amount. -- If the taxpayer does not know the amount of use tax due on all purchases for a calendar year, the taxpayer may pay the amount actually due on any purchases of items that cost one thousand dollars ($1,000) or more per item plus an estimated amount due on purchases of items that cost less than one thousand dollars ($1,000) per item. The estimated amount of use tax due on these items is six one-hundredths percent (0.06%) of the individual's North Carolina taxable income, or the equivalent amount provided in a table calculated by the Secretary of Revenue.

(c) Failure to Designate. -- If an individual does not designate on the income tax return an amount of use tax due or that no use tax is due, the Department of Revenue must designate the estimated amount provided in subsection (b) of this section as the amount due. The taxpayer is liable for this estimated amount unless the taxpayer can establish that the taxpayer owes a different amount of use tax under this Chapter.

(d) Distribution. -- The Secretary shall distribute one-third of the net use tax proceeds collected under this section to counties and cities in proportion to their total distributions under Articles 39, 40, and 42 of this Chapter and Chapter 1096 of the 1967 Session Laws for the most recent period for which data are available. The provisions of G.S. 105-472, 105-486, and 105-501 do not apply to tax proceeds distributed under this section."

Section 3. To pay for the costs of programming, form revision, and resources for taxpayer assistance to implement Sections 1 and 2 of this act, the Secretary of Revenue may draw up to one hundred fifty thousand dollars ($150,000)

for the 1999-2000 fiscal year from net collections that would otherwise be credited to the General Fund under G.S. 105-269.14, enacted by Section 2 of this act.

Section 4. During the 1999-2000 fiscal year, the Secretary of Revenue shall implement a program to allow those taxpayers required under G.S. 105-164.16 to report and pay sales and use taxes on a semimonthly basis to file the semimonthly return electronically. To pay for this program, the Secretary may draw up to five hundred thousand dollars ($500,000) for the 1999-2000 fiscal year from net collections that would otherwise be credited to the General Fund under G.S. 105-269.14, enacted by Section 2 of this act.

Section 5.(a) The Secretary of Revenue shall contract during the 1999-2001 fiscal biennium for the collection of delinquent tax debts owed by nonresidents and foreign entities. To implement this section, the Secretary may draw funds for the 1999-2000 fiscal year from net collections that would otherwise be credited to the General Fund under G.S. 105-269.14, enacted by Section 2 of this act. The Secretary of Revenue shall report annually to the Revenue Laws Study Committee on its collections pursuant to this contract during the biennium.

Section 5.(b) The following definitions apply in this section:

(1) Delinquent tax debt. -- The amount of tax due as stated in a final notice of assessment issued to the taxpayer by the Secretary of Revenue when the taxpayer no longer has a right to contest the debt.

(2) Foreign entity. -- A foreign corporation as defined in G.S. 55-1-40, a foreign limited liability company as defined in G.S. 57C-1-03, a foreign limited partnership as defined in G.S. 59-102, or a general partnership formed under the laws of a jurisdiction other than this State.

Section 6. The Department of Revenue shall conduct a study to identify and evaluate proposals for more efficient collection of taxes, including using electronic commerce and other technology to increase efficiency. The study shall include an analysis of the most efficient tax collection methods used in other states. The State Controller shall cooperate with the Department of Revenue in this study. The Department shall report the results of its study, including findings, recommendations, and estimated revenue gains of each recommendation, to the Revenue Laws Study Committee by May 1, 2000. To implement this section, the Secretary of Revenue may draw up to fifty thousand dollars ($50,000) for the 1999-2000 fiscal year from net collections that would otherwise be credited to the General Fund under G.S. 105-269.14, enacted by Section 2 of this act.

Section 7. Article 3 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-59.1. Contracts with certain foreign vendors.**

The Secretary of Administration and other entities to which this Article applies shall not contract for goods or services with a vendor if the vendor or an affiliate of the vendor meets one or more of the conditions of G.S. 105-164.8(b) but refuses to collect the use tax levied under Article 5 of Chapter 105 of the General Statutes on

its sales delivered to North Carolina. The Secretary of Revenue shall provide the Secretary of Administration periodically with a list of vendors to which this section applies. For the purpose of this section, the term 'affiliate' has the meaning provided in G.S. 105-163.010."

Section 8. G.S. 105-259(b) is amended by adding a new subdivision to read:

"(22) To provide the Secretary of Administration pursuant to G.S. 143-59.1 a list of vendors and their affiliates who meet one or more of the conditions of G.S. 105-164.8(b) but refuse to collect the use tax levied under Article 5 of this Chapter on their sales delivered to North Carolina.

(23) To provide public access to a database containing the names and account numbers of taxpayers who are not required to pay sales and use taxes under Article 5 of this Chapter to a retailer because of an exemption or because they are authorized to pay the tax directly to the Department of Revenue."

Section 9. Sections 1 and 2 of this act are effective for taxable years beginning on or after January 1, 1999. The remainder of this act becomes effective July 1, 1999.

BILL ANALYSIS

HOUSE BILL 1433:
Use Tax Payment/Other Changes

Committee:	House Finance	**Introduced by:**	Rep. Miller
Date:	June 15, 1999	**Summary by:**	Cindy Avrette
Version:	PCS for 1st Edition H1433-CSRBX-6/15		Committee Counsel

SUMMARY: House Bill 1433 simplifies use tax collection and seeks to improve tax collections in several ways:

- *It provides that an individual who owes use tax to the State can pay the tax with the individual's income tax. The new proposed committee substitute does not authorize the Department to designate an amount of tax owed if the space for the amount owed is left blank by the taxpayer.*
- *It promotes the electronic filing of semimonthly sales tax reports.*
- *It directs the Secretary of Revenue to contract for the collection of delinquent tax debts owed by nonresidents and foreign entities.*
- *It directs the Department of Revenue and the State Controller to study the feasibility of a central collection operation.*
- *It prohibits the State agencies from contracting with a vendor who is required under G.S. 105-164.8(b) to collect State sales and use tax but refuses to do so.*

The first part of the bill becomes effective for taxable years beginning on or after January 1, 1999. The remainder of the bill becomes effective July 1, 1999.

CURRENT LAW: North Carolina has a 6% sales and use tax. The sales tax is paid on purchases made in this State. The tax is collected by the retailer and remitted to the State. The use tax complements the sales tax by taxing transactions that are not subject to the sales tax because of movement in interstate commerce. Like the sales tax, the use tax is imposed on the purchaser. Unlike the sales tax, the responsibility for remitting the tax to the Department of Revenue is also on the purchaser.

Last biennium, the General Assembly sought to make the remittance of use tax by the taxpayer to the State less burdensome by providing that use tax on goods purchased out-of-state for a non-business purpose may be filed on an annual basis. The return and the tax are due at the same time as the personal income tax return.

BILL ANALYSIS: Sections 1 and 2 of House Bill 1433 provide that the use tax will be paid on the taxpayers' income tax returns. The bill provides that a taxpayer who owes use tax and who must remit a State tax return must pay the use tax owed with the tax return. The tax return will have space on it to indicate the amount of use tax owed. By placing the use tax on the individual income tax return, as opposed to a separate return sent to the taxpayer with the tax return, it is hoped that taxpayers' awareness

of their responsibility to pay the tax will increase since taxpayers must affirm that the information on the return is true and complete by signing the return.

Seven states provide a line on the individual income tax return for the collection of use tax. Another 7 states provide a use tax return with the individual income tax return and provide that the use tax return is due at the same time as the income tax return. Of the seven states that provide a line on the return for the collection of use tax, only Maine provides for an estimated amount of tax due.

The bill allows the Department to use some of the additional use tax revenue collected under this bill to promote tax collections:

- The Department may use $150,000 to pay for the costs of programming, form revision, and resources for taxpayer assistance in connection with the new use tax collection method.
- The Department may use $500,000 to implement a program to allow semimonthly sales and use taxpayers to file their returns electronically.
- The Department may use some of the revenue to contract for the collection of delinquent tax debts owed by nonresidents and foreign entities. A delinquent tax debt is the amount of tax due as stated in a final notice of assessment issued to the taxpayer when the taxpayer no longer has a right to contest the debt. The Department must report on its collections pursuant to this contract to the Revenue Laws Study Committee.
- The Department may use up to $50,000 to conduct a study, in cooperation with the State Controller, to identify and evaluate proposals for more efficient collection of taxes. The Department must report its findings, recommendations, and estimated revenue gains to the Revenue Laws Study Committee by May 1, 2000.

The bill prohibits the State from contracting with a vendor for goods or services if the vendor is required by G.S. 105-164.8(b) to collect use tax for the State but refuses to do so. G.S. 105-164.8 requires a retailer who is engaged in business in this State to collect use tax on a mail order sale. G.S. 105-164.8(b) provides that a retailer who makes a mail order sale is engaged in business in this State if the retailer meets one or more of the following conditions:

- Is a corporation engaged in business under the laws of this State.
- Maintains offices in this State.
- Has representatives in this State who solicit business or transact business on behalf of the retailer.
- Is purposefully or systematically exploiting the market in this State by any media-assisted, media-facilitated, or media-solicited means, including direct mail advertising, distribution of catalogs, computer-assisted shopping, etc.
- Resides in a jurisdiction that has a compact or reciprocity with North Carolina to support North Carolina's taxing power.
- Consents to the imposition of the collection of the tax.

Lastly, the bill amends the tax secrecy provisions to allow the Secretary of Revenue to do two things:

- Provide the Secretary of Administration with a list of vendors who refuse to collect the State's use tax even though they are required to do so under G.S. 105-164.8.

- Provide public access to a database containing the names and account numbers of taxpayers who are not required to pay sales and use tax because of an exemption or because they are authorized to pay the tax directly to the Department.

BACKGROUND: In the 1980s, states around the country became increasing aware of the revenue loss associated with taxpayer avoidance of the use tax. The potential increase in State and local revenue for North Carolina, if full taxpayer compliance were achieved, would exceed $100 million.

The most cost-effective manner to collect the tax, from a state's point-of-view, is to require the out-of-state retailers to collect and remit the use tax. However, in 1967, the U.S. Supreme Court ruled in Bellas Hess that a state could not require an out-of-state retailer to collect its use tax unless the retailer has enough contacts with the state to subject it to the state's taxing jurisdiction. The Supreme Court reaffirmed this decision in 1992 in Quill Company v. North Dakota.

States have negotiated with direct marketers on at least two occasions to craft a voluntary collection agreement where marketers would collect the tax and states would simplify their reporting requirements. Both of these efforts were unsuccessful.

There are three efforts currently under way to address the issue of out-of-state purchases:

- The National Tax Association Communications and Electronic project is focusing on simplification issues and some policy principles to apply to remote commerce.
- The Advisory Commission on Electronic Commerce was established by the Internet Tax Freedom Act. It has 18 months to study electronic commerce issues and to make a report to Congress.
- The Multistate Tax Commission Tax Simplification Project is comprised of representatives of business and state and local governments who are focusing on ways to simplify the sales and use tax in the areas of uniformity and reporting. Sections 4 and 8 of this bill are two of the recommendations of the group working in North Carolina.

DRAFT/FRD

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: H.B. 1433 PCS

SHORT TITLE: Use Tax Payment/Other Changes

SPONSOR(S): Rep. Miller

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	$ Millions				
	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
State					
Revenue Gain	3.33	3.50	3.68	3.86	4.05
Less Expend.	(0.70)	-	-	-	-
Net Change	2.63	3.50	3.68	3.86	4.05
Local					
Net Change	1.67	1.75	1.84	1.93	2.03

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue, Department of Administration, all other state agencies have purchasing authority.

EFFECTIVE DATE: Sections 1 and 2 of this act are effective for taxable years beginning on or after January 1, 1999. The remainder of this act becomes effective July 1, 1999.

BILL SUMMARY: The bill makes several changes to the policies and procedures surrounding North Carolina's use tax, income tax, and state purchasing. **Sections 1 and 2** require individuals who file an income tax return to include with that return a use tax payment for purchases made by retailers that do not charge sales tax. The tax shall be calculated at a standard rate of 6%. If the taxpayer does not know the amount due, the taxpayer may pay the tax actually due on purchases of $1000 or more, and an estimated amount on purchases of less than $1000. The estimated amount due for the small purchases is either 0.06% of the individual's North Carolina taxable income or the equivalent amount provided in a table calculated by the Secretary of Revenue. Individuals who do not file an income tax return are still required to submit a use tax report. These sections also direct the Department of Revenue to provide appropriate space and information on the use tax requirements on the state's income tax materials. Section 2 also

directs to the Secretary of Revenue to distribute one-third of the net use tax proceeds to the cities and counties.

Section 3 allows the Secretary of Revenue to draw up to $150,000 in FY 1999-00 to provide taxpayer assistance related to the use tax. **Section 4** requires that the Department of Revenue implement a program to allow businesses that are required to file sales and use taxes twice a month to file their sales tax returns electronically. It allows the Secretary to draw up to $500,000 in FY 1999-00 from net sales tax collections to pay for the program. **Section 5** directs the Department to contract for collection of delinquent taxes owed by nonresidents and foreign entities. Funding for the contract shall be drawn from use tax proceeds. The results must be reported annually to Revenue Laws. **Section 6** directs the Department of Revenue to conduct a study, and identify and evaluate proposals for more efficient collection of taxes, including the use of electronic commerce and other technologies. The State Controller is directed to assist with the study. This section also authorizes the Secretary to draw up to $50,000 for the 1999-00 fiscal year to fund the study. A report with recommendations must be made to Revenue Laws by May 1, 2000. **Section 7** bars the Secretary of Administration and all other state purchasing entities from contracting with vendors if that vendor (or its affiliate) refuses to collect the use tax on sales delivered to North Carolina. It directs the Department of Revenue to supply the Secretary of Administration with a list of such vendors. **Section 8** directs the Secretary of Revenue to provide public access to a database containing the names and account numbers of taxpayers who are not required to pay sales and use taxes because they are either exempt or are authorized to pay the Department directly.

ASSUMPTIONS AND METHODOLOGY: The bill makes several changes to tax collection and government purchasing procedures.

Sections 1& 2: These sections of the bill direct the Department of Revenue to alter their procedures for assessing and collecting individual use tax payments. The bill directs the Department to include specific space on the individual income tax return to report use tax payments, and provide a table to assist taxpayers in calculating their potential use tax liability.

Currently the Department of Revenue includes a form for individual use tax payments in the income tax instructions. However, the Department believes placing a special line for use tax payments on the individual income tax form will be much more effective and result in higher use tax payments. Based on a recent Department conducted survey, the Department of Revenue believes that at least seven other states now have a line item on their individual income tax form for use tax payments. Two of the states with a line on the form are Maine and Connecticut. Maine indicated to the North Carolina Department of Revenue that they collected $1.7 million in use taxes on individual income tax returns filed for 1997. Of the 576,000 returns filed, Maine reports that approximately 95,000 paid some use taxes. The North Carolina Department of Revenue receives approximately 3,000,000 returns annually. Based on this information and the data from Maine, the Sales Tax Division estimates that North Carolina will see a revenue increase of approximately $5,000,000. This amount is increase by 5% each year to reflect future growth. Because this revenue would be divided between the state and local governments, the actual fiscal impact is as follows:

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
State	3,333,333	3,500,000	3,675,000	3,858,750	4,051,688
Local	1,666,667	1,750,000	1,837,500	1,929,375	2,025,844
Total	5,000,000	5,250,000	5,512,500	5,788,125	6,077,531

Section 3: This section allows the Secretary of Revenue to deduct up to $150,000 from use tax proceeds to fund taxpayer assistance. This is amount is shown in the chart as a loss to the potential revenue stream created by the bill.

Section 4: This section authorizes the Secretary of Revenue to deduct up to $500,000 from use tax proceeds to fund electronic filing of semi-monthly sales tax returns. Under the bill businesses are not required to file electronically, they are merely given the option. This may increase revenues, as the Department may be able to draw more interest on the "float". However, because the electronic filing language is permissive, allowing retailers to decide if they will file electronically, no reliable estimate of the potential revenue change is possible. The note does assume that the Secretary will draw the $500,000. This amount is shown as a loss to the potential revenue stream.

Section 5: This section directs the Department to contract out the collection of out of state delinquent taxes. Because no contract has been negotiated, no accurate cost estimate is possible. It handled appropriately, contracting out should increase collections. However, no estimate is available on the potential gains. Since this information is not available no estimate is possible on the net potential revenue gain from this section of the Bill.

Section 6: This section directs the Department and the State Controller to study more efficient ways to collect taxes, and report their findings and recommendations to Revenue Laws. The note assumes the Secretary will draw the full $50,000 allowed for the study. No other fiscal impact is expected.

Section 7: This section of the bill bars the Department of Administration and other state purchasing entities from contracting with an out of state vendor that refuses to collect use tax on purchases delivered to North Carolina. Fiscal Research appropriations staff members do not believe this will have a fiscal impact on the Department of Administration or other organizations. There will be cost associated with Revenue compiling the list of barred vendors. However, the Department believes they can administer this portion of the bill without additional appropriations.

Section 8: This section directs the Department to create a public access database of those not required to pay sales taxes to vendors. While there may be some cost associated with this section of the bill, the Department should be able to fund this change through existing resources and those committed elsewhere in the bill.

Total Impact: Given the revenue increase created in Sections 1 and 2, and the expenses in the remainder of the bill, the net revenue gain as a result of the legislation is as follows:

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
State					
Revenue Gain	3,333,333	3,500,000	3,675,000	3,858,750	4,051,688
Less Expend.	(700,000)	-	-	-	-
Net Change	2,633,333	3,500,000	3,675,000	3,858,750	4,051,688
Local					
Net Change	1,666,667	1,750,000	1,837,500	1,929,375	2,025,844

TECHNICAL CONSIDERATIONS: The bill requires a fairly significant change in the state purchasing process. As a result, the Departments of Revenue and Administration may require some time to transition their systems and inform all appropriate entities. Therefore, Fiscal Research suggests the effective date be delayed at least three months to allow for a smooth transition.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY:

DATE:

rept. out => 6/28
voted on f com => 6/22

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Senate Committee Substitute for
S.B. 222 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR STATE AND LOCAL GOVERNMENTS TO ACCEPT CREDIT CARDS, CHARGE CARDS, DEBIT CARDS, AND ELECTRONIC FUNDS TRANSFERS FOR PAYMENT OF GOVERNMENT FEES, COSTS, AND DEBTS, AND TO ALLOW LOCAL GOVERNMENTS TO ACCEPT CREDIT CARDS, CHARGE CARDS, DEBIT CARDS, AND ELECTRONIC FUNDS TRANSFERS FOR PAYMENT OF PROPERTY TAXES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill ~~(#), ☐ which changes the title,~~ unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

rept. out

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 222
Finance Committee Substitute Adopted 5/20/99
Proposed House Committee Substitute S222-PCS4708-RB

Short Title: Government Accept Electronic Payment. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR STATE AND LOCAL GOVERNMENTS TO ACCEPT CREDIT CARDS, CHARGE CARDS, DEBIT CARDS, AND ELECTRONIC FUNDS TRANSFERS FOR PAYMENT OF GOVERNMENT FEES, COSTS, AND DEBTS, AND TO ALLOW LOCAL GOVERNMENTS TO ACCEPT CREDIT CARDS, CHARGE CARDS, DEBIT CARDS, AND ELECTRONIC FUNDS TRANSFERS FOR PAYMENT OF PROPERTY TAXES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-86.20 is amended by adding a new subdivision to read:

"(2a) Electronic payment. -- Payment by charge card, credit card, debit card, or by electronic funds transfer as defined in this subsection."

Section 2. G.S. 147-86.10 reads as rewritten:

"**§ 147-86.10. Statement of policy.**

It is the policy of the State of North Carolina that all agencies, institutions, departments, bureaus, boards, ~~commissions~~ commissions, and officers of the State, whether or not subject to the Executive Budget Act, Chapter 143, Article 1 of the General Statutes, shall devise techniques and procedures for the receipt, deposit, and disbursement of moneys coming into their control and custody which are designed to maximize interest-bearing investment of cash, and to minimize idle and nonproductive cash balances. This policy shall apply to the General Court of Justice as defined in Article IV of the North Carolina Constitution, the public school

administrative units, and the community colleges with respect to the receipt, deposit, and disbursement of moneys required by law to be deposited with the State Treasurer and with respect to moneys made available to them for expenditure by warrants drawn on the State Treasurer. This policy shall include the acceptance of electronic payments in accordance with G.S. 147-86.22 to the maximum extent possible consistent with sound business practices."

Section 3. G.S. 147-86.22(b) reads as rewritten:

"(b) ~~Credit Card~~ Electronic Payment. -- Notwithstanding the provisions of G.S. 147-86.20 and G.S. 147-86.21, this subsection applies to debts owed a community college, a local school administrative unit, an area mental health, developmental disabilities, and substance abuse authority, and the Administrative Office of the Courts, and to debts payable to or through the office of a clerk of superior court or a magistrate, as well as to debts owed to other State agencies as defined in G.S. 147-86.20. ~~The~~

The State Controller ~~may~~ shall establish policies that allow accounts receivable to be payable under certain ~~conditions, with the concurrence of the State Treasurer, by credit card.~~ conditions by electronic payment. These policies shall be established with the concurrence of the State Treasurer. In addition, any policies that apply to debts payable to or through the office of a clerk of superior court or a magistrate shall be established with the concurrence of the Administrative Officer of the Courts. The Administrative Officer of the Courts may also establish policies otherwise authorized by law that apply to these debts as long as those policies are not inconsistent with the Controller's policies.

A condition of payment by ~~credit card~~ electronic payment is receipt by the appropriate State agency of the full amount of the account receivable owed to the State agency. A debtor who pays by ~~credit card~~ electronic payment ~~shall~~ may be required to ~~include an amount equal to any fee charged by a depository financial institution for processing the credit card payment.~~ pay any fee or charge associated with the use of electronic payment. Fees associated with processing electronic payments may be paid out of the General Fund and Highway Fund if the payment of the fee by the State is economically beneficial to the State and the payment of the fee by the State has been approved by the State Controller and State Treasurer.

The State Controller and State Treasurer shall consult with the Joint Legislative Commission on Governmental Operations before establishing policies that allow accounts receivable to be payable by electronic payment and before authorizing fees associated with electronic payment to be paid out of the General Fund and Highway Fund. A State agency must also consult with the Joint Legislative Commission on Governmental Operations before implementing any program to accept payment under the policies established pursuant to this subsection.

A payment of an account receivable that is made by ~~credit card~~ electronic payment and is not honored by the issuer of the ~~credit~~ card or the financial institution offering electronic funds transfer does not relieve the debtor of the obligation to pay the account receivable."

Section 4. G.S. 147-86.11 reads as rewritten:

"§ 147-86.11. Cash management for the State.

(a) Uniform Plan. -- The State Controller, with the advice and assistance of the State Treasurer, the State Budget Officer, and the State Auditor, shall develop, implement and amend as necessary a uniform statewide plan to carry out the cash management policy for all State agencies. The State Auditor shall report annually to the Advisory Budget Commission and the General Assembly on the implementation of the plan as shown in the audits completed during the prior fiscal year. The State Treasurer shall recommend periodically to the General Assembly any implementing legislation necessary or desirable in the furtherance of the State policy. When used in this section, 'State agency' means any agency, institution, bureau, board, commission or officer of the State; however, except as provided in G.S. 147-86.12, 147-86.13, ~~and~~ 147-86.14, and 147-86.22, this Article ~~shall~~ does not apply to the agencies, institutions, bureaus, boards, commissions and officers of the General Court of Justice as defined in Article IV of the North Carolina Constitution or to the local school administrative units and community colleges and their officers and employees.

(b) Duties of Auditor. -- The State Auditor pursuant to ~~his~~ authority under G.S. 147-64.6 shall monitor agency compliance with this Article, and make any comments, suggestions, and recommendations ~~he~~ the Auditor deems advisable to the agencies.

(c) Treasurer's Report. -- The State Treasurer shall publish a quarterly report on all funds in the control or custody of the State Treasurer showing cash balances on hand, investments of cash balances and a comparative analysis of earnings and investment performances.

(d) Earnings on Trust Funds. -- The statewide cash management plan shall provide that any net earnings on invested funds, whose beneficial owner is not the State or a local governmental unit, shall be paid to the beneficial owners of the funds. 'Net earnings' are the amounts remaining after allowance for the cost of administration, management, and operation of the invested funds.

(e) Elements of Plan. -- For moneys received or to be received, the statewide cash management plan shall provide at a minimum that:

(1) Except as otherwise provided by law, moneys received by employees of State agencies in the normal course of their employment shall be deposited as follows:
   a. Moneys received in trust for specific beneficiaries for which the employee-custodian has a duty to invest shall be deposited with the State Treasurer under the provisions of G.S. 147-69.3.
   b. All other moneys received shall be deposited with the State Treasurer pursuant to G.S. 147-77 and G.S. 147-69.1.

(2) Moneys received shall be deposited daily in the form and amounts received, except as otherwise provided by ~~statute;~~ statute.

(3) Moneys due to a State agency by another governmental agency or by private persons shall be promptly billed, collected and ~~deposited;~~ deposited.

the person to whom the tax receipt was issued to return it to the tax collector. After correcting the records to show the fact of nonpayment, the tax collector shall proceed to collect the taxes by the use of any remedies allowed for the collection of taxes or by bringing a civil action on the check or ~~credit card.~~ electronic payment.

A financial institution with which a taxing unit has contracted for receipt of payment of taxes may accept a check in payment of taxes. If the check is honored, the financial institution shall so notify the tax collector, who shall, upon request of the taxpayer, issue a receipt for payment of the taxes. If the check is returned unpaid, the financial institution shall so notify the tax collector, who shall proceed to collect the taxes by use of any remedy allowed for collection of taxes or by bringing a civil action on the check.

(1) Effect on Tax Lien. -- If the tax collector accepts a check or ~~credit card~~ electronic payment in payment of taxes on real property and issues the receipt, and the check is later returned unpaid or the ~~credit card~~ electronic payment invoice is not honored by the issuer, the taxing unit's lien for taxes on the real property shall be inferior to the rights of purchasers for value and of persons acquiring liens of record for value if the purchasers or lienholders acquire their rights in good faith and without actual knowledge that the check has not been collected or the ~~credit card~~ electronic payment invoice has not been honored, after examination of the copy of the tax receipt in the tax collector's office during the time that record showed the taxes as paid or after examination of the official receipt issued to the taxpayer prior to the date on which the tax collector notified the taxpayer to return the receipt.

(2) Penalty. -- In addition to interest for nonpayment of taxes provided by G.S. 105-360 and in addition to any criminal penalties provided by law for the giving of worthless checks, the penalty for giving in payment of taxes a check that is returned because of insufficient funds or nonexistence of an account of the drawer is ten percent (10%) of the amount of the check, subject to a minimum of one dollar ($1.00) and a maximum of one thousand dollars ($1,000). This penalty does not apply if the tax collector finds that, when the check was presented for payment, the drawer of the check had sufficient funds in an account at a financial institution in this State to pay the check and, by inadvertance, the drawer of the check failed to draw the check on the account that had sufficient funds. This penalty shall be added to and collected in the same manner as the taxes for which the check was given."

Section 7. G.S. 132-1.2 reads as rewritten:

"**§ 132-1.2. Confidential information.**

Nothing in this ~~Article~~ Chapter shall be construed to require or authorize a public agency or its subdivision to disclose any information ~~which:~~ that:

(1) Meets all of the following conditions:

~~(1)~~ a. Constitutes a "trade secret" as defined in ~~G.S. 66-152(3);~~ G.S. 66-152(3).

~~(2)~~ b. Is the property of a private "person" as defined in ~~G.S. 66-152(2);~~ G.S. 66-152(2).

~~(3)~~ c. Is disclosed or furnished to the public agency in connection with the owner's performance of a public contract or in connection with a bid, application, proposal, industrial development project, or in compliance with laws, regulations, rules, or ordinances of the United States, the State, or political subdivisions of the ~~State; and~~ State.

~~(4)~~ d. Is designated or indicated as "confidential" or as a "trade secret" at the time of its initial disclosure to the public agency.

(2) Reveals an account number for electronic payment, as defined in G.S. 147-86.20, and obtained pursuant to Articles 6A or 6B of Chapter 147 of the General Statutes or G.S. 159-32.1."

Section 8. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 222
Finance Committee Substitute Adopted 5/20/99

Short Title: Government Accept Electronic Payment. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR STATE AND LOCAL GOVERNMENTS TO ACCEPT CREDIT CARDS, CHARGE CARDS, DEBIT CARDS, AND ELECTRONIC FUNDS TRANSFERS FOR PAYMENT OF GOVERNMENT FEES, COSTS, AND DEBTS, AND TO ALLOW LOCAL GOVERNMENTS TO ACCEPT CREDIT CARDS, CHARGE CARDS, DEBIT CARDS, AND ELECTRONIC FUNDS TRANSFERS FOR PAYMENT OF PROPERTY TAXES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-228.90(b) is amended by adding a new subdivision to read:

"(3a) Electronic payment. -- Payment by charge card, credit card, debit card, or by electronic funds transfer as defined in this subsection."

Section 2. G.S. 147-86.10 reads as rewritten:

"§ 147-86.10. Statement of policy.

It is the policy of the State of North Carolina that all agencies, institutions, departments, bureaus, boards, ~~commissions~~ commissions, and officers of the State, whether or not subject to the Executive Budget Act, Chapter 143, Article 1 of the General Statutes, shall devise techniques and procedures for the receipt, deposit, and disbursement of moneys coming into their control and custody which are designed to maximize interest-bearing investment of cash, and to minimize idle and nonproductive cash balances. This policy shall apply to the General Court of Justice as defined in Article IV of the North Carolina Constitution, the public school administrative units, and the community colleges with respect to the receipt, deposit,

and disbursement of moneys required by law to be deposited with the State Treasurer and with respect to moneys made available to them for expenditure by warrants drawn on the State Treasurer. This policy shall include the acceptance of electronic payments in accordance with G.S. 147-86.22 to the maximum extent possible consistent with sound business practices."

Section 3. G.S. 147-86.22(b) reads as rewritten:

"(b) ~~Credit Card~~ Electronic Payment. -- Notwithstanding the provisions of G.S. 147-86.20 and G.S. 147-86.21, this subsection applies to debts owed a community college, a local school administrative unit, an area mental health, developmental disabilities, and substance abuse authority, and the Administrative Office of the Courts, and to debts payable to or through the office of a clerk of superior court or a magistrate, as well as to debts owed to other State agencies as defined in G.S. 147-86.20. The State Controller ~~may~~ shall establish policies that allow accounts receivable to be payable under certain ~~conditions, with the concurrence of the State Treasurer, by credit card.~~ conditions by electronic payment as defined in G.S. 105-228.90(b).

These policies shall be established with the concurrence of the State Treasurer. In addition, any policies that apply to debts payable to or through the office of a clerk of superior court or a magistrate shall be established with the concurrence of the Administrative Officer of the Courts. The Administrative Officer of the Courts may also establish policies otherwise authorized by law that apply to these debts as long as those policies are not inconsistent with the Controller's policies.

A condition of payment by ~~credit card~~ electronic payment is receipt by the appropriate State agency of the full amount of the account receivable owed to the State agency. A debtor who pays by ~~credit card~~ electronic payment ~~shall~~ may be required to ~~include an amount equal to any fee charged by a depository financial institution for processing the credit card payment.~~ pay any fee or charge associated with the use of electronic payment.

Subject to approval by the State Controller and State Treasurer, fees associated with processing electronic payments shall be paid out of the General Fund and Highway Fund when the process is economically beneficial to the State. The State may impose a fee for the use of electronic payment when applicable.

The State Controller and State Treasurer shall consult with the Joint Legislative Commission on Governmental Operations before establishing policies that allow accounts receivable to be payable by electronic payment in accordance with this subsection and before authorizing fees associated with electronic payment to be paid out of the General Fund and Highway Fund in accordance with this subsection. A State agency must also consult with the Joint Legislative Commission on Governmental Operations before implementing any program to accept payment under this subsection.

A payment of an account receivable that is made by ~~credit card~~ electronic payment and is not honored by the issuer of the ~~credit~~ card or the financial institution offering electronic funds transfer does not relieve the debtor of the obligation to pay the account receivable."

Section 4. G.S. 147-86.11 reads as rewritten:

"**§ 147-86.11. Cash management for the State.**

(a) Uniform Plan. -- The State Controller, with the advice and assistance of the State Treasurer, the State Budget Officer, and the State Auditor, shall develop, implement and amend as necessary a uniform statewide plan to carry out the cash management policy for all State agencies. The State Auditor shall report annually to the Advisory Budget Commission and the General Assembly on the implementation of the plan as shown in the audits completed during the prior fiscal year. The State Treasurer shall recommend periodically to the General Assembly any implementing legislation necessary or desirable in the furtherance of the State policy. When used in this section, 'State agency' means any agency, institution, bureau, board, commission or officer of the State; however, except as provided in G.S. 147-86.12, 147-86.13, ~~and 147-86.14,~~ 147-86.14, and 147-86.22, this Article ~~shall~~ does not apply to the agencies, institutions, bureaus, boards, commissions and officers of the General Court of Justice as defined in Article IV of the North Carolina Constitution or to the local school administrative units and community colleges and their officers and employees.

(b) Duties of Auditor. -- The State Auditor pursuant to ~~his~~ authority under G.S. 147-64.6 shall monitor agency compliance with this Article, and make any comments, suggestions, and recommendations ~~he~~ the Auditor deems advisable to the agencies.

(c) Treasurer's Report. -- The State Treasurer shall publish a quarterly report on all funds in the control or custody of the State Treasurer showing cash balances on hand, investments of cash balances and a comparative analysis of earnings and investment performances.

(d) Earnings on Trust Funds. -- The statewide cash management plan shall provide that any net earnings on invested funds, whose beneficial owner is not the State or a local governmental unit, shall be paid to the beneficial owners of the funds. 'Net earnings' are the amounts remaining after allowance for the cost of administration, management, and operation of the invested funds.

(e) Elements of Plan. -- For moneys received or to be received, the statewide cash management plan shall provide at a minimum that:

(1) Except as otherwise provided by law, moneys received by employees of State agencies in the normal course of their employment shall be deposited as follows:

a. Moneys received in trust for specific beneficiaries for which the employee-custodian has a duty to invest shall be deposited with the State Treasurer under the provisions of G.S. 147-69.3.

b. All other moneys received shall be deposited with the State Treasurer pursuant to G.S. 147-77 and G.S. 147-69.1.

(2) Moneys received shall be deposited daily in the form and amounts received, except as otherwise provided by ~~statute;~~ statute.

(3) Moneys due to a State agency by another governmental agency or by private persons shall be promptly billed, collected and ~~deposited;~~ deposited.

(4) Unpaid billings due to a State agency shall be turned over to the Attorney General for collection no more than 90 days after the due date of the billing, except that a State agency need not turn over to the Attorney General unpaid billings of less than five hundred dollars ($500.00), or (for institutions where applicable) amounts owed by all patients which are less than the federally established deductible applicable to Part A of the Medicare program, and instead may handle these unpaid bills pursuant to agency debt collection ~~procedures; and~~ procedures.

(5) Moneys received in the form of warrants drawn on the State Treasurer shall be deposited by the State agency directly with the State Treasurer and not through the banking system, unless otherwise approved by the State Treasurer.

(6) State agencies shall accept payment by electronic payment in accordance with G.S. 147-86.22 to the maximum extent possible consistent with sound business practices.

(f) Disbursement Requirements. -- For the disbursement of money, the statewide cash management plan shall provide at a minimum that:

(1) Moneys deposited with the State Treasurer remain on deposit with the State Treasurer until final disbursement to the ultimate ~~payee;~~ payee.

(2) The order in which appropriations and other available resources are expended shall be subject to the provisions of G.S. 143-27 regardless of whether the State agency disbursing or expending the moneys is subject to the Executive Budget ~~Act;~~ Act.

(3) Federal and other reimbursements of expenditures paid from State funds shall be paid immediately to the source of the State ~~funds;~~ funds.

(4) Billings to the State for goods received or services rendered shall be paid neither early nor late but on the discount date or the due date to the extent ~~practicable; and~~ practicable.

(5) Disbursement cycles for each agency shall be established to the extent practicable so that the overall efficiency of the warrant disbursement system is maximized while maintaining prompt payment of bills due.

(g) Interest Maximized. -- The interest earnings of the General Fund and Highway Fund shall be maximized to the extent practicable. To this end:

(1) Interest earnings shall not be allocated to an account by the State Treasurer unless all of the moneys in the account are expressly eligible by law for receiving interest ~~allocations;~~ allocations.

(2) State officers and employees who received moneys in trust or for investment shall be solely responsible for properly segregating such funds for investment in the manner prescribed by law. The officer or employee charged with the responsibility for these moneys shall be under a duty to segregate the funds in a timely manner. No investment income shall be allocated by the State Treasurer to trust or other investment accounts until properly segregated into investment accounts as provided by law and the rules of the State Treasurer.

(h) New Technologies. -- The statewide cash management plan shall consider new technologies and procedures whenever the technologies and procedures are economically beneficial to the State as a whole. Where the new technologies and procedures may be implemented without additional legislation, the technologies and procedures shall be implemented in the plan.

(i) Penalty. -- A willful or continued failure of an employee paid from State funds or employed by a State agency to follow the statewide cash management plan is sufficient cause for immediate dismissal of the employee."

Section 5. Article 3 of Chapter 159 of the General Statutes is amended by adding a new section to read:

"**§ 159-32.1. Electronic payment.**

A unit of local government or public authority may, in lieu of payment by cash or check, accept payment by electronic payment as defined in G.S. 105-228.90(b) for any tax, assessment, rate, fee, charge, rent, interest, penalty, or other receivable owed to it. A unit of local government or public authority may pay any negotiated discount, processing fee, transaction fee, or other charge imposed by a credit card, charge card, or debit card company, or by a third-party merchant bank, as a condition of contracting for the unit's or the authority's acceptance of electronic payment. A unit or authority may impose the fee or charge as a surcharge on the amount paid by the person using electronic payment."

Section 6. G.S. 105-357(b) reads as rewritten:

"(b) Acceptance of ~~Checks and Credit Cards.~~ Checks and Electronic Payment. -- The tax collector may accept ~~checks, credit cards,~~ checks and electronic payments, as defined in G.S. 105-228.90(b), ~~or both~~ in payment of ~~taxes.~~ taxes, as authorized by G.S. 159-32.1. Acceptance of a check or ~~credit card~~ electronic payment is at the tax collector's own risk. A tax collector who accepts ~~credit cards in payment~~ electronic payment of taxes may add a fee to each ~~credit card~~ electronic payment transaction to offset the service charge the taxing unit pays for ~~credit card~~ electronic payment service. A tax collector who accepts ~~a credit card~~ electronic payment or check in payment of taxes may issue the tax receipt immediately or withhold the receipt until the check has been collected or the ~~credit card~~ electronic payment invoice has been honored by the issuer.

If a tax collector accepts a check or ~~a credit card~~ an electronic payment and issues a tax receipt and the check is returned unpaid (without negligence on the part of the tax collector in presenting the check for payment) or the ~~credit card~~ electronic

payment invoice is not honored by the issuer, the taxes for which the check or ~~credit card~~ electronic payment was given shall be deemed unpaid; the tax collector shall immediately correct the copy of the tax receipt and other appropriate records to show the fact of nonpayment, and shall give written notice by certified or registered mail to the person to whom the tax receipt was issued to return it to the tax collector. After correcting the records to show the fact of nonpayment, the tax collector shall proceed to collect the taxes by the use of any remedies allowed for the collection of taxes or by bringing a civil action on the check or ~~credit card.~~ electronic payment.

A financial institution with which a taxing unit has contracted for receipt of payment of taxes may accept a check in payment of taxes. If the check is honored, the financial institution shall so notify the tax collector, who shall, upon request of the taxpayer, issue a receipt for payment of the taxes. If the check is returned unpaid, the financial institution shall so notify the tax collector, who shall proceed to collect the taxes by use of any remedy allowed for collection of taxes or by bringing a civil action on the check.

(1) Effect on Tax Lien. -- If the tax collector accepts a check or ~~credit card~~ electronic payment in payment of taxes on real property and issues the receipt, and the check is later returned unpaid or the ~~credit card~~ electronic payment invoice is not honored by the issuer, the taxing unit's lien for taxes on the real property shall be inferior to the rights of purchasers for value and of persons acquiring liens of record for value if the purchasers or lienholders acquire their rights in good faith and without actual knowledge that the check has not been collected or the ~~credit card~~ electronic payment invoice has not been honored, after examination of the copy of the tax receipt in the tax collector's office during the time that record showed the taxes as paid or after examination of the official receipt issued to the taxpayer prior to the date on which the tax collector notified the taxpayer to return the receipt.

(2) Penalty. -- In addition to interest for nonpayment of taxes provided by G.S. 105-360 and in addition to any criminal penalties provided by law for the giving of worthless checks, the penalty for giving in payment of taxes a check that is returned because of insufficient funds or nonexistence of an account of the drawer is ten percent (10%) of the amount of the check, subject to a minimum of one dollar ($1.00) and a maximum of one thousand dollars ($1,000). This penalty does not apply if the tax collector finds that, when the check was presented for payment, the drawer of the check had sufficient funds in an account at a financial institution in this State to pay the check and, by inadvertance, the drawer of the check failed to draw the check on the account that had sufficient funds. This penalty shall be added

to and collected in the same manner as the taxes for which the check was given."

Section 7. G.S. 132-1.2 reads as rewritten:

"**§ 132-1.2. Confidential information.**

(a) Nothing in this ~~Article~~ Chapter shall be construed to require or authorize a public agency or its subdivision to disclose any information ~~which:~~ that:

(1) Meets all of the following conditions:

~~(1)~~ a. Constitutes a "trade secret" as defined in ~~G.S. 66-152(3);~~ G.S. 66-152(3).

~~(2)~~ b. Is the property of a private "person" as defined in ~~G.S. 66-152(2);~~ G.S. 66-152(2).

~~(3)~~ c. Is disclosed or furnished to the public agency in connection with the owner's performance of a public contract or in connection with a bid, application, proposal, industrial development project, or in compliance with laws, regulations, rules, or ordinances of the United States, the State, or political subdivisions of the ~~State; and~~ State.

~~(4)~~ d. Is designated or indicated as "confidential" or as a "trade secret" at the time of its initial disclosure to the public agency.

(2) Reveals an account number for electronic payment as defined in G.S. 105-228.90(b) and obtained pursuant to Articles 6A or 6B of Chapter 147 of the General Statutes or G.S. 159-32.1."

Section 8. This act is effective when it becomes law.

SENATE BILL 222:
Government Accept Electronic Payment

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Reeves
Date:	June 22, 1999	**Summary by:**	Cindy Avrette
Version:	2nd Edition		Committee Counsel

SUMMARY: Senate Bill 222 directs the State Controller to establish policies that allow accounts receivable of State agencies to be payable by electronic payment. "Electronic payment" is defined as payment by charge card, credit card, debit card, or electronic funds transfer. The fees associated with processing electronic payments to State agencies may be paid out of the General Fund and Highway Fund or may be paid by the debtor. Senate Bill 222 also authorizes a unit of local government or public authority to accept payment by electronic payment for any tax, assessment, rate, fee, charge, rent, interest, penalty, or other receivable owed to it. The debtor or local government unit may be required to pay the processing fee. The account number for electronic payment is confidential information and may not be disclosed under the Public Records Act.

CURRENT LAW: G.S. 147-86.22 authorizes the State Controller, with the concurrence of the State Treasurer, to establish policies to allow accounts receivable of a State agency to be paid by credit card. The payment must include the full amount owed to the State agency, i.e. the debtor must pay any processing fee. State agency is defined as "any department, institution, board, commission, committee, division, bureau, officer, official or any other entity for which the State has oversight responsibility, including but not limited to, any university, mental or specialty hospital, community college, or clerk of court. The term does not include, however, a community college, a local school administrative unit, an area mental health, developmental disabilities, and substance abuse authority, or the General Court of Justice.

State agencies are currently not accepting credit cards because they are prohibited by operating rules of both MasterCard and Visa from charging any of their cardholders a surcharge for making payments by credit card.

BILL ANALYSIS: **Section 1** of the bill creates a definition for electronic payment in G.S.105-228.90(b). Electronic payment is defined as payment by charge card, credit card, debit card, or by electronic funds transfer as defined in subsection (b). Electronic Funds Transfer is defined as a transfer of funds initiated by using an electronic terminal, a telephone, a computer, or magnetic tape to instruct or authorize a financial institution or its agent to credit or debit an account.

Section 2. clarifies that the cash management policy of the State includes the acceptance of electronic payments. The current policy of the State is that all State agencies, institutions, departments, bureaus, boards, commissions, and officers of the State, shall devise techniques and procedures for the receipt, deposit, and disbursement of moneys coming into their control and custody which are designed to maximize interest-bearing investment of cash, and to minimize idle and nonproductive cash balances.

Section 3 makes changes to the Statewide Accounts Receivable Program. Current law states that State Controller may establish policies that allow accounts receivable to be payable under certain conditions, with the concurrence of the State Treasurer, by credit card. The debtor who pays by credit card is required to pay the processing fee. Senate Bill 222 mandates that the State Controller, with the concurrence of the State Treasurer, establish policies that allow accounts receivable to be paid by electronic payment. The debtor may (now shall) be required to pay a processing fee. This new electronic payment language applies to the following:

- Debts owed a community college, a local school administrative unit, an area mental health, developmental disabilities, and substance abuse authority, and the Administrative Office of the Courts
- Debts payable to or through the office of a clerk of superior court or a magistrate
- Debts owed to other State agencies (any department, institution, board, commission, committee, division, bureau, officer, official or other entity for which the State has oversight responsibility, including but not limited to, any university, mental or specialty hospital, community college, or clerk of court.

Any policies for electronic payment that apply to debts to the office of a clerk of superior court or magistrate must be established with the concurrence of the Administrative Officer of the Courts. The Administrative Officer of the Courts may also establish policies for these debts if the policies are not inconsistent with the Controller's policies.

Payment of processing fees. Subject to approval by the State Controller and State Treasurer, processing fees will be paid out of the General Fund and Highway Fund when the process is economically beneficial to the State.

Governmental Operations oversight. –The State Controller and State Treasurer must consult with Governmental Operations before establishing policies for electronic payment and before authorizing payment of processing fees from the General Fund and Highway Fund. A State agency must also consult with Governmental Operations before implementing an electronic payment program.

Section 4 adds as an element to the Statewide cash management plan that State agencies shall accept electronic payment to the maximum extent possible consistent with sound business practices.

Section 5 adds a new section to the Local Government Budget and Fiscal Control Act. This section authorizes a unit of local government or a public authority to accept payment by electronic payment for any tax, assessment, rate, fee, charge, rent, interest, penalty, or other receivable owed it. The local government may pay the processing fee, as a condition of contracting for acceptance of the electronic payment, or the local government may impose a surcharge on the amount paid by the person using electronic payment.

Section 6 amends G.S. 105-367 to clarify that a tax collector may accept electronic payment of property taxes. Current law authorizes the tax collector to accept a check or credit card in payment of property taxes.

Section 7 amends Chapter 132 (Public Records) to add an account number for electronic payment to the list of confidential information that a public agency or its subdivision is prohibited from disclosing.

Section 8 makes the act effective when it becomes law.

Martha Walston, Counsel to the Senate Finance Committee, contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 222 (Senate Finance Committee Substitute)

SHORT TITLE: Government Accept Electronic Payment

SPONSOR(S): Senator Reeves

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES	See Assumptions and Methodology				
EXPENDITURES	See Assumptions and Methodology				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Office of the State Controller; Department of State Treasurer; state agencies; local governments

EFFECTIVE DATE: The act is effective when it becomes law.

BILL SUMMARY: The bill provides for state and local governments to accept credit cards, charge cards, debit cards and electronic fund transfers for payment of government fees, costs, and debts. The bill mandates the State Controller establish a policy to allow accounts receivable to be paid by electronic payment.

ASSUMPTIONS AND METHODOLOGY: No estimate is available on the fiscal impact on state and local governments due to the uncertainty about participation by both governmental units and consumers. SB 222 adds electronic payment as another method to maximize investment of tax dollars and minimize idle, nonproductive cash. However, governmental units will only use electronic payment if it is consistent with sound business practices. It is not known which state agencies and local governments have examined their cash management policies and determined that electronic payment is needed.

Some state agencies have decided to pursue electronic payment as a means to help consumers. The Division of Motor Vehicles (DMV) in the Department of Transportation requested HB 280 in the 1999 General Assembly to allow the agency "to accept electronic applications for the issuance of registration plates, registration certificates, and certificates of title, and to electronically collect fees and penalties". SB 222 is needed to enable DMV to collect a fee by

electronic payment. The Virginia DMV currently accepts credit cards and check cards for all transactions.

The Federation of Tax Administrators - a national association -found in a 1997 survey that 12 state tax agencies accept credit cards for at least some types of tax payment. Eleven additional states have authority to accept credit cards but have no program in place.

The State Controller's staff has attempted to quantify the impact of SB 222 at the state level. They estimate that a transaction ranging from $20 to $200 has a handling and processing cost of approximately $5 per transaction using current payment methods. They estimate the cost per transaction using electronic payment will be reduced $3 to $4, depending upon the fee charged by credit or debit card companies. The State Controller estimates that the first year impact will be revenue neutral with only 100,000 transactions using electronic payment. In the following years, it is estimated that each transaction by electronic payment will save $3 and the volume of transactions will grow as shown in the chart below:

2nd Year	1,100,000 transactions	$3.3 million savings
3rd Year	2,200,000 transactions	$6.6 million savings
4th Year	3,400,000 transactions	$10.2 million savings
5th Year	4,800,000 transactions	$14.4 million savings

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY: Tom Covington

DATE: Wednesday, May 19, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Senate Committee Substitute for
S.B. 323 A BILL TO BE ENTITLED AN ACT TO EXTEND WATERFOWL HUNTING PRIVILEGES TO HOLDERS OF COMPREHENSIVE HUNTING LICENSES, TO INCREASE THE FEE CHARGED FOR MIGRATORY WATERFOWL LICENSES, AND TO INCREASE THE APPLICATION FEE FOR MANAGED HUNTS FOR MIGRATORY WATERFOWL AND REQUIRE APPLICANTS TO FURNISH SATISFACTORY PROOF OF POSSESSION OF THE NECESSARY HUNTING LICENSE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill ~~(#), ☒ which changes the title~~, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 323
Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/21/99
Proposed House Committee Substitute S323-PCS3837-RB

Short Title: Waterfowl License Changes/AB. (Public)

Sponsors:

Referred to:

March 11, 1999

A BILL TO BE ENTITLED

AN ACT TO EXTEND WATERFOWL HUNTING PRIVILEGES TO HOLDERS OF COMPREHENSIVE HUNTING LICENSES, TO INCREASE THE FEE CHARGED FOR MIGRATORY WATERFOWL LICENSES, AND TO INCREASE THE APPLICATION FEE FOR MANAGED HUNTS FOR MIGRATORY WATERFOWL AND REQUIRE APPLICANTS TO FURNISH SATISFACTORY PROOF OF POSSESSION OF THE NECESSARY HUNTING LICENSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-129 is amended by adding a new subdivision to read:

"(11c) Migratory Waterfowl; Waterfowl. -- Those migratory birds for which open seasons are prescribed by the United States Department of the Interior and belonging to the Family Anatidae (wild ducks, geese, brant, and swans)."

Section 2. G.S. 113-129(11c) reads as rewritten:

"~~(11c)~~ (11d) Nongame Animals. -- All wild animals except game and fur-bearing animals."

Section 3. G.S. 113-129(11d) reads as rewritten:

"~~(11d)~~ (11e) Nongame Birds. -- All wild birds except game birds."

Section 4. G.S. 113-270.1D(a) reads as rewritten:

"(a) Annual Sportsman License -- $40.00. This license shall be issued only to an individual resident of the State and entitles the holder to take all wild animals and

wild birds, ~~other than~~ including waterfowl, by all lawful methods in all open seasons, including the use of game lands, and to fish with hook and line for all fish in all inland and joint fishing waters, including public mountain trout waters."

Section 5. G.S. 113-270.2(a) reads as rewritten:

"(a) The hunting licenses set forth in subdivisions (1), (3), and (6) of subsection (c) of this section entitle the holder to take, except on game lands, wild birds and wild animals, other than big game and waterfowl, by all lawful methods and in all open seasons. The comprehensive hunting licenses of subdivisions (2) and (5) of subsection (c) of this section further entitle the holder to take big game and waterfowl and to use game lands."

Section 6. G.S. 113-270.3(b)(5) reads as rewritten:

"(5) Migratory Waterfowl Hunting License -- ~~$5.00.~~ $10.00. This license shall be issued to an individual resident or nonresident of the State and entitles the holder to take migratory waterfowl in accordance with applicable laws and regulations. The Wildlife Resources Commission may implement this license requirement through the sale of an official waterfowl stamp which may be a facsimile, in an appropriate size, of the waterfowl conservation print authorized by G.S. 113-270.2B. An amount not less than one-half of the annual proceeds from the sale of this license shall be used by the Commission for cooperative waterfowl habitat improvement projects through contracts with local waterfowl interests, with the remainder of the proceeds to be used by the Commission in its statewide programs for the conservation of waterfowl."

Section 7. G.S. 113-291.2(a) reads as rewritten:

"(a) In accordance with the supply of wildlife and other factors it determines to be of public importance, the Wildlife Resources Commission may fix seasons and bag limits upon the wild animals and wild birds authorized to be taken that it deems necessary or desirable in the interests of the conservation of wildlife resources. The authority to fix seasons includes the closing of seasons completely when necessary and fixing the hours of hunting. The authority to fix bag limits includes the setting of season and possession limits. Different seasons and bag limits may be set in differing areas; early or extended seasons and different or unlimited bag limits may be authorized on controlled shooting preserves, game lands, and public hunting grounds; and special or extended seasons may be fixed for those engaging in falconry, using primitive weapons, or taking wildlife under other special conditions. ~~Unless modified~~ Unless modified by rules of the Wildlife Resources Commission, the seasons, shooting hours, bag limits, and possession limits fixed by the United States Department of Interior or any successor agency for migratory game birds in North Carolina must be followed, and a violation of the applicable federal rules is hereby made unlawful. When the applicable federal rules require that the State limit participation in seasons and/or bag limits for migratory game birds, the Wildlife Resources Commission may schedule managed hunts for migratory game birds.

Participants in such hunts shall be selected at random by computer from properly licensed ~~applicants.~~ applicants, and each applicant shall provide proof satisfactory to the Wildlife Resources Commission that the applicant is the lawful holder of a North Carolina hunting license that has the applicable migratory game bird hunting privilege. A nonrefundable fee of ~~five dollars ($5.00)~~ ten dollars ($10.00) shall be required of each applicant to defray the cost of processing the applications.

Where there is a muzzle-loading firearm season for deer, with a bag limit of five or more, one antlerless deer may be taken. Dogs may not be used for hunting deer during such season."

Section 8. This act becomes effective July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 323
Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/21/99

Short Title: Waterfowl License Changes/AB. (Public)

Sponsors:

Referred to:

March 11, 1999

A BILL TO BE ENTITLED

AN ACT TO EXTEND WATERFOWL HUNTING PRIVILEGES TO HOLDERS OF COMPREHENSIVE HUNTING LICENSES, TO INCREASE THE FEE CHARGED FOR MIGRATORY WATERFOWL LICENSES, AND TO INCREASE THE APPLICATION FEE FOR MANAGED HUNTS FOR MIGRATORY WATERFOWL AND REQUIRE APPLICANTS TO FURNISH SATISFACTORY PROOF OF POSSESSION OF THE NECESSARY HUNTING LICENSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-129 is amended by adding a new subdivision to read:

"(11c) Migratory Waterfowl; Waterfowl. -- Those migratory birds for which open seasons are prescribed by the United States Department of the Interior and belonging to the Family Anatidae (wild ducks, geese, brant, and swans)."

Section 2. G.S. 113-129(11c) reads as rewritten:

"~~(11c)~~ (11d) Nongame Animals. -- All wild animals except game and fur-bearing animals."

Section 3. G.S. 113-129(11d) reads as rewritten:

"~~(11d)~~ (11e) Nongame Birds. -- All wild birds except game birds."

Section 4. G.S. 113-270.1D(a) reads as rewritten:

"(a) Annual Sportsman License -- $40.00. This license shall be issued only to an individual resident of the State and entitles the holder to take all wild animals and wild birds, ~~other than~~ including waterfowl, by all lawful methods in all open seasons,

including the use of game lands, and to fish with hook and line for all fish in all inland and joint fishing waters, including public mountain trout waters."

Section 5. G.S. 113-270.2(a) reads as rewritten:

"(a) The hunting licenses set forth in subdivisions (1), (3), and (6) of subsection (c) of this section entitle the holder to take, except on game lands, wild birds and wild animals, other than big game and waterfowl, by all lawful methods and in all open seasons. The comprehensive hunting licenses of subdivisions (2) and (5) of subsection (c) of this section further entitle the holder to take big game and waterfowl and to use game lands."

Section 6. G.S. 113-270.3(b)(5) reads as rewritten:

"(5) Migratory Waterfowl Hunting License -- ~~$5.00.~~ $10.00. This license shall be issued to an individual resident or nonresident of the State and entitles the holder to take migratory waterfowl in accordance with applicable laws and regulations. The Wildlife Resources Commission may implement this license requirement through the sale of an official waterfowl stamp which may be a facsimile, in an appropriate size, of the waterfowl conservation print authorized by G.S. 113-270.2B. An amount not less than one-half of the annual proceeds from the sale of this license shall be used by the Commission for cooperative waterfowl habitat improvement projects through contracts with local waterfowl interests, with the remainder of the proceeds to be used by the Commission in its statewide programs for the conservation of waterfowl."

Section 7. G.S. 113-291.2(a) reads as rewritten:

"(a) In accordance with the supply of wildlife and other factors it determines to be of public importance, the Wildlife Resources Commission may fix seasons and bag limits upon the wild animals and wild birds authorized to be taken that it deems necessary or desirable in the interests of the conservation of wildlife resources. The authority to fix seasons includes the closing of seasons completely when necessary and fixing the hours of hunting. The authority to fix bag limits includes the setting of season and possession limits. Different seasons and bag limits may be set in differing areas; early or extended seasons and different or unlimited bag limits may be authorized on controlled shooting preserves, game lands, and public hunting grounds; and special or extended seasons may be fixed for those engaging in falconry, using primitive weapons, or taking wildlife under other special conditions. Unless modified by rules of the Wildlife Resources Commission, the seasons, shooting hours, bag limits, and possession limits fixed by the United States Department of Interior or any successor agency for migratory game birds in North Carolina must be followed, and a violation of the applicable federal rules is hereby made unlawful. When the applicable federal rules require that the State limit participation in seasons and/or bag limits for migratory game birds, the Wildlife Resources Commission may schedule managed hunts for migratory game birds. Participants in such hunts shall be selected at random by computer from properly licensed applicants. A nonrefundable fee of

~~five dollars ($5.00)~~ ten dollars ($10.00) shall be required of each applicant to defray the cost of processing the applications. Each applicant shall provide proof satisfactory to the Wildlife Resources Commission that the applicant is the lawful holder of a North Carolina hunting license that includes waterfowl privileges.

Where there is a muzzle-loading firearm season for deer, with a bag limit of five or more, one antlerless deer may be taken. Dogs may not be used for hunting deer during such season."

Section 8. This act becomes effective July 1, 1999.

SENATE BILL 323:
Waterfowl License Changes/AB

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Kerr
Date:	June 22, 1999	**Summary by:**	Mary Shuping
Version:	2nd Edition		Research Assistant

SUMMARY: ***Senate Bill 323 adds a definition for "migratory waterfowl; waterfowl" to the wildlife resources law. The bill also extends waterfowl hunting privileges to the holder of comprehensive hunting licenses, and increases the fee for a special migratory fowl hunting license from $5.00 to $10.00. Finally, SB 323 increases the application fee for managed hunts of migratory game birds from $5.00 to $10.00 and requires the applicant to prove that he or she holds a NC hunting license that includes waterfowl privileges.***

Senate Bill 323 was requested by the Wildlife Resources Commission.

CURRENT LAW & BILL ANALYSIS:

Section 1 -- Definition of "Migratory Waterfowl". Under current law, there is a definition of "migratory game birds" which contains several types of game birds, including waterfowl; however, there is no separate definition of "migratory waterfowl".

Senate Bill 323 adds a definition of "migratory waterfowl; waterfowl" to include those migratory birds (wild ducks, geese, brant, and swans) for which open seasons are prescribed by federal regulation.

Sections 2 and 3 make technical changes.

Sections 4 and 5 – Waterfowl Hunting Privileges. Under current law, persons who hold Annual Sportsman Licenses, Lifetime Resident Comprehensive Hunting Licenses, and Resident Annual Comprehensive Hunting Licenses are prohibited from taking waterfowl. In order to lawfully hunt waterfowl, a person must obtain a Migratory Waterfowl Hunting License for an additional fee of $5.00.

Senate Bill 323 extends the waterfowl hunting privilege to these comprehensive licenses. There is no increase in the fee for these licenses. Holders of most other hunting licenses would continue to be required to obtain a Migratory Waterfowl Hunting License.

According to the Wildlife Resources Commission, the omission of the waterfowl privilege in these comprehensive licenses has caused some licensees to mistakenly believe that they have obtained all the necessary licenses to hunt waterfowl. The Commission believes SB 323 would alleviate any confusion, and the loss of revenue would be minimal.

Section 6 – Increase the Fee for Migratory Waterfowl Hunting License. Under current law, the hunting of waterfowl is considered a specially regulated activity for which a person must obtain a separate license. Under SB 323, those persons who do not hold licenses which permit the taking of waterfowl would continue to be required to obtain a Migratory Waterfowl Hunting License. In addition, SB 323 would raise the current fee from $5.00 to $10.00. This fee has not been increased since the license was established in 1987. One-half of the annual proceeds from the sale of this license is used for waterfowl habitat improvement projects.

Section 7 – Application Fee for Managed Hunts of Migratory Game Birds. Under current law, the Wildlife Resource Commission may schedule managed hunts for migratory game birds when federal rules require the State to limit participation in seasons and/or bag limits for these birds. "Migratory Game Birds" include the following: wild ducks, geese, brants, swans, wild doves, pigeons, little brown cranes, rails, coots, gallinules, woodcocks, and snipe. Participants in these managed hunts are selected at random by computer from licensed applicants.

Senate Bill 323 would raise the nonrefundable application fee for a managed hunt of migratory game birds from $5.00 to $10.00. According to the Commission, this fee is used to pay the cost of administering the special drawing and hunting requirements.

SB 323 would also require that each applicant provide proof that he or she holds a NC hunting license that includes waterfowl privileges.

EFFECTIVE DATE: SB 323 becomes effective July 1, 1999.

Martha Walston, Counsel, Senate Finance Committee, contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 323 (Second Edition)

SHORT TITLE: Waterfowl License Changes/AB

SPONSOR(S): Senator Kerr

FISCAL IMPACT

Yes (X) No ( ) No Estimate Available ( )

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Wildlife Receipts					
Waterfowl License	$135,000	$135,000	$135,000	$135,000	$135,000
Swan Application	$27,500	$27,500	$27,500	$27,500	$27,500
	$162,500	$162,500	$162,500	$162,500	$162,500

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: **North Carolina Wildlife Resources Commission**

EFFECTIVE DATE: This act becomes effective July 1, 1999.

BILL SUMMARY: The bill extends waterfowl hunting privileges to holders of comprehensive hunting licenses, increases the fee for migratory waterfowl licenses from $5 to $10, increases the application fee for a special swan hunting permit from $5 to $10, and requires applicants for swan hunting permits to show proof of possessing a hunting license.

ASSUMPTIONS AND METHODOLOGY: There are two fee increases in SB 323. First, in Section 6, the migratory waterfowl hunting license is increased from $5 to $10. This fee has been unchanged since it was enacted in 1987 (Chapter 452, Section 2 of 1987 Session Laws). The Wildlife Resources Commission sells 27,000 waterfowl hunting licenses annually. A $5 increase in this fee will generate $135,000 in additional revenue. Section 7 of the bill contains an increase from $5 to $10 in the application fee for swan hunting permits. Since the Wildlife Resources Commission receives 5,500 applications each year, this increase will produce $27,500 in additional revenue.

An insignificant revenue impact may be created by language in sections 4 and 7. Section 4 adds waterfowl hunting privileges to the Annual Sportsman License. The Wildlife Resources Commission considers this a technical provision and does not expect a major loss of waterfowl licenses. Section 7 requires the purchase of a $15 hunting license to be eligible for a swan hunting permit. A small number of hunting licenses may be purchased due to this provision.

FISCAL RESEARCH DIVISION 733-4910

PREPARED BY: Richard Bostic

APPROVED BY: Tom Covington

DATE: Tuesday, May 04, 1999

VISITOR REGISTRATION SHEET

House Finance — June 22, 1999
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
E Rankin	DSC
Chuck Cannady	DSC
Archer Young	OSS
[illegible]	[illegible] Manager
[illegible]	[illegible] Commissioner
Roger Houterton	[illegible] Commissioner
Bob Pace	Jordan Price Wall
[illegible]	
AB Swindell	BFT
[illegible]	Morr. & Van Allen
Richard Carlton	American Express
Sam Taylor	Delta Dental
Joyce Peters	JP Assoc. MAMSI
Jay Davis	Kernersville - Mamsi Prov. Team
Robert A. Mabry	N.C. Utilities Commission
Robert Bennink	"
Bob Gillam	Public Staff - NCUC
Sabra Faires	Dept. of Revenue
Charles Collins	" "
Andy Sabol	" "
Alan Miles	Bantz & Dixon LLP
Nancy Pomeranz	NC DOR
Patti Seawell	" "
Sheila McCoy	NC DOI
Jim Wardell	Town of Kernersville
John Wolfe	" "
Mark Gibson	Capitol Group
Tom Andrews	ADC

2

VISITOR REGISTRATION SHEET

Name of Committee

6/22/ , 1999
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jeanne Bonds	AOC
[illegible]	505
Charlene P Durham	505
David Bakie	DOR
Ben Kuhn	Kilpatrick Stockton
Barb Cole	NCMEC
Richard Hamilton	NCMEC
JEREMIAH JACKSON	NCCCS
Jeffrey Hoover	UNC
Sharon Miller	CUCA
Jimmy Robinette	CUCA

This meeting has been CANCELLED.

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, June 22, 1999**

TIME: **AFTER SESSION**

LOCATION: **544 LOB**

The following bills will be considered (Bill # & Short Title):

AFTER SESSION
HB 600 – Tyrrell Land Transfer Tax – Rep. Culpepper
HB 857 – Chatham, Orange Revenue Options

Respectfully,

Representatives Miller, Luebke, Allen
Co-Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at 12 noon on **June 22, 1999**.

___Principal Clerk
___Reading Clerk - House Chamber

Kristen Crosson (Committee Clerk)

minutes

Respectfully submitted:

Representative Paul Luebke
Chair

Kristen L. Crosson

Kristen L. Crosson
Assistant to the Committee

MINUTES
HOUSE COMMITTEE ON FINANCE

Wednesday, June 23, 1999
AFTER SESSION MEETING

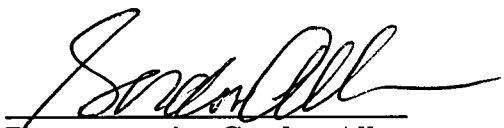
The House Committee on Finance met on Wednesday, June 23, 1999 in Room 544 of the Legislative Office Building AFTER SESSION. The following members were present: Chairs Allen, Luebke, Miller; Vice Chairs Jarrell and Wood; Representatives Bridgeman, Brown, Buchanan, Church, Cox, Creech, Cunningham, Decker, Dedmon, Eddins, Edwards, Gibson, Goodwin, Gray, Hill, McCombs, Pope, Starnes, Tallent, Wilson, and Womble. Staff including Cindy Avrette, Richard Bostic, Martha Harris, Mary Shuping, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Allen called the meeting to order to consider the following bills:

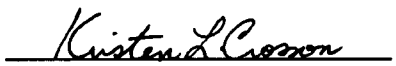
Sen. Kerr was recognized resume the explanation of SB 1115, A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR WIDELY SHARED PROSPERITY BY AMENDING THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT, BY PROVIDING ADDITIONAL TAX INCENTIVES FOR VARIOUS BUSINESSES, AND BY MAKING RELATED CHANGES. Rep. Luebke moved the adoption of his amendment. Rep. Gray questioned Sec. Carlisle on the Luebke amendment. Rep. Luebke questioned Rep. Gray. The amendment failed to be adopted with a vote of 4 ayes, 14 nays. Rep. Luebke sent forward a second amendment. Rep. Owens urged members to defeat the amendment. Rep. Brown stated he was opposed to Luebke's amendment. Rep. Bridgeman questioned Rep. Luebke. Rep. Cunningham stated he opposed the amendment. Rep. Dedmon stated he opposed the amendment. Rep. Luebke questioned Rep. Dedmon. Rep. Luebke moved for adoption of his amendment. The amendment failed to be adopted. Rep. Cunningham moved to give the Proposed Committee Substitute a favoravble report and an unfavorable report to the original bill. Rep. Goodwin commented that he supported the bill. Rep. Edwards commented on tier designations. Rep. Owens responded. Rep. Luebke commented. The Chair recognized Sec. Carlisle who commented on the bill. Rep. Owens commented on the bill. Rep. Cunningham's motion passed. The bill, Proposed Committee Substitute, Amendments, Bill Summary, Fiscal Note, other fiscal handouts, and the public speakers' handouts are included in these minutes.

The Chair adjourned the meeting at 5:20 p.m.

Respectfully submitted:



Representative Gordon Allen
Chair



Kristen L. Crosson
Assistant to the Committee

MINUTES
HOUSE COMMITTEE ON FINANCE

Wednesday, June 23, 1999

The House Committee on Finance met on Wednesday, June 23, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke; Vice Chairs Jarrell; Representatives Baddour, Bridgeman, Brown, Buchanan, Church, Cox, Cunningham, Decker, Dedmon, Earle, Eddins, Edwards, Gibson, Gray, Hill, McComas, McCombs, Morris, Pope, Rayfield, Starnes, Tucker, Wilson, Womble and Wright. Staff including Cindy Avrette, Richard Bostic, David Crotts, George Givens, Martha Harris, Mary Shuping, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Allen called the meeting to order to consider the following bills:

Rep. Clary was not present to be recognized to explain HB 1246, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SPECIAL REGISTRATION PLATES TO ANIMAL LOVERS TO PROMOTE SPAYING AND NEUTERING OF DOGS AND CATS. Rep. Brown moved to give the Proposed Committee Substitute a favorable report and unfavorable to the original bill. The motion passed. The bill, Proposed Committee Substitute, the Bill Summary, and Fiscal Note are included in these minutes.

Sen. Kerr was recognized to explain SB 1115, A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR WIDELY SHARED PROSPERITY BY AMENDING THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT, BY PROVIDING ADDITIONAL TAX INCENTIVES FOR VARIOUS BUSINESSES, AND BY MAKING RELATED CHANGES. Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion only. Rep. Owens explained the bill. The Chair recognized Secretary of Commerce Rick Carlisle who commented and supported the bill. The Chair recognized Ms. Perry Morgan of the National Federation of Independent Business who stated she could not say whether his organization supported/opposed the bill, but the members of her organization would like to see focus on programs for small businesses and her organization supported the sunset provision. Rep. Owens commented. The Chair recognized Mr. Roy Fogle of the Jones County Board of Commissioners who opposed the bill. The Chair recognized Ms. Gloria Whitenhurst of the Forsyth County Board of Commissioners who opposed the bill. The Chair recognized Mr. Herb Crenshaw, a former president of the N.C. Economic Development Board who supported the bill. The Chair recognized Ms. Rhonda Rainey, President of the N.C. Association of Community Development Corporations who supported the bill. The Chair recognized Mr. Bob Cucab of the N.C. Housing Finance Agency who supported the bill. The Chair recognized Ms. Opie Jordan, Vice President of Edgecomble County Economic Development who stated she supported the amendments that would be offered.

Rep. McComas sent forward an amendment. Rep. Cunningham questioned Sec.Carlisle. Richard Bostic and George Givens of staff commented on the fiscal impact of the McComas amendment. Sen. Kerr questioned Martha Harris of staff about the amendment. Rep. Owens questioned Rep. McComas about the amendment. The Chair recognized Mr. Ed Regan of the

County Commissioners Association who commented. Rep. Cunningham moved to adopted the McComas amendment. The amendment was adopted.

Rep. Luebke sent forward an amendment. Martha Harris explained the amendment. Rep. Luebke moved for adoption of his amendment. Rep. Owens and Kerr commented on the amendment. Rep. Pope stated he supported the amendment. Rep. Gibson stated he would like members to vote down the amendment.

Chair Allen stated the debate would be carried over to the AFTER SESSION meeting today. The Chair adjourned the meeting at 9:45 a.m.

Respectfully submitted:

Representative Gordon Allen
Chair

Kristen L. Crosson
Assistant to the Committee

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1246 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SPECIAL REGISTRATION PLATES TO ANIMAL LOVERS TO PROMOTE SPAYING AND NEUTERING OF DOGS AND CATS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#), ☐ which changes the title,~~ unfavorable as to original bill ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

File

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1246
Proposed Committee Substitute H1246-PCSX3444-RB

Short Title: Animal Lovers Special Plate. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SPECIAL REGISTRATION PLATES TO ANIMAL LOVERS TO PROMOTE SPAYING AND NEUTERING OF DOGS AND CATS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-79.4(b) is amended by adding a new subdivision in the correct alphabetical order to read:

"(b) Types. -- The Division shall issue the following types of special registration plates:

. . .

(3a) Animal Lovers. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a picture of a dog and cat and the phrase 'I Care.'"

Section 2. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. -- Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Historical Attraction	$30.00
State Attraction	$30.00
Collegiate Insignia	$25.00

Olympic Games	$25.00
Special Olympics	$25.00
Animal Lovers	$20.00
March of Dimes	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
Soil and Water Conservation	$20.00
Wildlife Resources	$20.00
Personalized	$20.00
Active Member of the National Guard	None
Purple Heart Recipient	None
All Other Special Plates	$10.00."

Section 3. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. -- The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

Special Plate	SRPA	CCAPA	NHTF
Animal Lovers	$10	$10	0
Historical Attraction	$10	$20	0
In-State Collegiate Insignia	$10	$15	0
Out-of-state Collegiate Insignia	$10	0	$15
Personalized	$10	0	$10
Special Olympics	$10	$15	0
Olympic Games	$10	$15	0
State Attraction	$10	$20	0
March of Dimes	$10	$10	0
Scenic Rivers	$10	$10	0
School Technology	$10	$10	0
Soil and Water Conservation	$10	$10	0
Wildlife Resources	$10	$10	0
All other Special Plates	$10	0	0."

Section 4. G.S. 20-81.12 is amended by adding a new subsection to read:

"(b9) Animal Lovers Plates. -- The Division must receive 300 or more applications before an animal lovers plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the animal lovers plate to the Department of Health and Human Services to create a statewide program to promote spaying and neutering of dogs and cats."

Section 5. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1246
PROPOSED COMMITTEE SUBSTITUTE
H1246-CSRBX-6/15

Short Title: Animal Lovers Special Plate. (Public)

Sponsors:

Referred to: Finance.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SPECIAL REGISTRATION PLATES TO ANIMAL LOVERS TO PROMOTE SPAYING AND NEUTERING OF DOGS AND CATS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-79.4(b) is amended by adding a new subdivision in the correct alphabetical order to read:

"(b) Types. -- The Division shall issue the following types of special registration plates:

. . .

(3a) Animal Lovers. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a picture of a dog and cat and the phrase "I Care.""

Section 2. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. -- Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount

Historical Attraction	$30.00
State Attraction	$30.00
Collegiate Insignia	$25.00
Olympic Games	$25.00
Special Olympics	$25.00
Animal Lovers	$20.00
March of Dimes	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
Soil and Water Conservation	$20.00
Wildlife Resources	$20.00
Personalized	$20.00
Active Member of the National Guard	None
Purple Heart Recipient	None
All Other Special Plates	$10.00."

Section 3. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. -- The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

Special Plate	SRPA	CCAPA	NHTF
Animal Lovers	$10	$10	0
Historical Attraction	$10	$20	0
In-State Collegiate Insignia	$10	$15	0
Out-of-state Collegiate Insignia	$10	0	$15
Personalized	$10	0	$10
Special Olympics	$10	$15	0
Olympic Games	$10	$15	0
State Attraction	$10	$20	0
March of Dimes	$10	$10	0
Scenic Rivers	$10	$10	0
School Technology	$10	$10	0
Soil and Water Conservation	$10	$10	0
Wildlife Resources	$10	$10	0
All other Special Plates	$10	0	0."

Section 4. G.S. 20-81.12 is amended by adding a new subsection to read:

"(b9) Animal Lovers Plates. -- The Division must receive 300 or more applications before an animal lovers plate may be developed. The Division shall transfer quarterly the money in

the Collegiate and Cultural Attraction Plate Account derived from the sale of the animal lovers plate to the Department of Health and Human Services to create a statewide program to promote spaying and neutering of dogs and cats."

Section 5. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1246

Short Title: Animal Lovers Special Plate. (Public)

Sponsors: Representatives Clary; Cansler, Dedmon, Gardner, Horn, Justus, and Russell.

Referred to: Finance.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SPECIAL REGISTRATION PLATES TO ANIMAL LOVERS TO PROMOTE SPAYING AND NEUTERING OF DOGS AND CATS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-79.4(b) is amended by adding a new subdivision to read:

"(b) Types. -- The Division shall issue the following types of special registration plates:

. . .

(2a) Animal Lovers. -- Issuable to the registered owner of a motor vehicle. The plate may bear a picture of a dog and cat and the phrase "I Care." The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate."

Section 2. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. -- Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Historical Attraction	$30.00

State Attraction	$30.00
Collegiate Insignia	$25.00
Olympic Games	$25.00
Special Olympics	$25.00
Animal Lovers	$20.00
March of Dimes	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
Soil and Water Conservation	$20.00
Wildlife Resources	$20.00
Personalized	$20.00
Active Member of the National Guard	None
Purple Heart Recipient	None
All Other Special Plates	$10.00."

Section 3. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. -- The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

Special Plate	SRPA	CCAPA	NHTF
Historical Attraction	$10	$20	0
In-State Collegiate Insignia	$10	$15	0
Out-of-state Collegiate Insignia	$10	0	$15
Personalized	$10	0	$10
Special Olympics	$10	$15	0
Olympic Games	$10	$15	0
State Attraction	$10	$20	0
March of Dimes	$10	$10	0
Scenic Rivers	$10	$10	0
School Technology	$10	$10	0
Soil and Water Conservation	$10	$10	0
Wildlife Resources	$10	$10	0
Animal Lovers	$10	$10	0
All other Special Plates	$10	0	0."

Section 4. G.S. 20-81.12 is amended by adding a new subsection to read:

"(b9) Animal Lovers Plates. -- The Division must receive 300 or more applications before an animal lovers plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the animal lovers plate to the Department of Health and Human Services to create a statewide program to promote spaying and neutering of dogs and cats."

Section 5. This act is effective when it becomes law.

HOUSE BILL 1246:
Animal Lovers Special Plate

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Clary
Date:	June 16, 1999	**Summary by:**	Cindy Avrette
Version:	PCS for 1st Edition H1246-CSRBX-6/15		Committee Counsel

SUMMARY: ***House Bill 1246 authorizes the Division of Motor Vehicles to issue a special license plates depicting a picture of a dog and cat and the phrase "I Care" for an additional $20 fee. Ten dollars ($10.00) of the additional fee will go to the Department of Health and Human Services to be used to create a statewide program to promote spaying and neutering of dogs and cats. The proposed committee substitute makes technical changes to the bill.***

CURRENT LAW: Upon request, the Division of Motor Vehicles may issue special registration plates. There are currently more than 54 special registration plates. The cost of a special registration plate is the regular registration fee plus an additional fee of at least $10. The first $10 of every additional fee amount is credited to the Special Registration Plate Account. The remainder of the additional fee, if any, is transferred quarterly to the appropriate organization named in the statute. After deducting the costs of the plates from the Special Registration Plate Account, the money in the Account is distributed as follows:

AMOUNT	PURPOSE
$525,000 distributed annually	Operating assistance for certain Visitor Centers
33% distributed quarterly	Department of Commerce for advertising the promotion of travel and industrial development in the State
50% distributed quarterly	Department of Transportation for beautification of highways
17% distributed quarterly	Department of Health and Human Services to promote travel accessibility for disabled persons.

This uniform system of fees has been in place since 1991 when a study commission recommended that the special registration plate system be simplified through a uniform fee schedule. The only exceptions to the general rule are for plates issued to a recipient of the Congressional Medal of Honor, a 100% disabled veterans, an ex-prisoner of war, an active member of the National Guard, and a recipient of the Purple Heart award.

BILL ANALYSIS: House Bill 1246 authorizes the Division to develop a special license plate bearing the phrase "I Care" and a picture of a dog and cat. The Division must receive at least 300 applications for this special plate before it can be issued. The cost of the plate is the regular registration fee plus an

additional $20. The first $10 of the additional fee would be credited to the Special Registration Plate Fund. The remaining $10 of the additional fee would go to the Collegiate and Cultural Attraction Plate Account and be transferred quarterly to the Department of Heath and Human Services. The Department would use the money it receives from the special license plate to create a statewide program to promote spaying and neutering of dogs and cats.

PROPOSED COMMITTEE SUBSTITUTE: The proposed committee substitute makes technical changes to the bill: it puts the special plate in the correct alphabetical order and it deletes redundant language.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1246 Animal Lovers Special Plates

SHORT TITLE: Animal Lovers Special Plates

SPONSOR(S): Rep. Clary, Cansler, Dedmon, Gardner, Horn, Justus, and Russell.

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Highway Fund					
Special Reg. Plate Account	$3,000	$3,000	$3,000	$3,000	$3,000
Health & Human Services	$3,000	$3,000	$3,000	$3,000	$3,000
EXPENDITURES					
Special Reg. Plate Account	($856)				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation, Division of Motor Vehicles, and Department of Health and Human Services.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The legislation authorizes the Division of Motor Vehicles to issue animal lovers special registration plates. It instructs the Department to develop the plate only after 300 or more applications for the plate are received. A special fee of $20.00 (in addition to the regular motor vehicle registration fee) is also authorized. Ten dollars of this amount goes to the Special Registration Plate Account, and ten dollars will be deposited in the Collegiate and Cultural Attractions Plate Account (CCAPA). The proceeds from the plate deposited in the CCAPA are transferred quarterly to the Department of Health and Human Services to create a statewide program to promote spaying and neutering of dogs and cats.

ASSUMPTIONS AND METHODOLOGY: In addition to the normal $20.00 registration fee every owner of a private passenger vehicle pays, there is a $20.00 fee for each specialized animal lover plate. Because there is no way to determine how many of the plates will be requested, this

fiscal note assumes the issuance of the minimum 300 license plates in FY 1999-00. As a result, the bill raises a total of $6,000 ($20 X 300 plates). Three thousand dollars ($3,000.00) of this amount goes to the SRPA. Three thousand dollars ($3,000.00) is deposited in the CCAPA. However, at the end of each quarter the funds deposited in the CCAPA are transferred to the Department of Health and Human Services. Therefore, the Department of Health and Human Services actually gains $3,000.00. The note also assumes that those plates will be renewed in the following years.

According to the Division of Motor Vehicles and the Department of Corrections, there is a one-time cost of $100 to design the new plate. There is also a production cost of $2.52 per plate (This assumes a basic one color design. If the design is more complex, or requires more color, the per plate cost increases). The total production cost for 300 basic plates is $856.00.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY: Tom Covington

DATE: Tuesday, June 15, 1999

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1303

Short Title: Amend Bill Lee Act/Incentives. (Public)

Sponsors: Representatives Owens, Wright, Gray; and Goodwin.

Referred to: Finance.

April 20, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR WIDELY SHARED PROSPERITY BY AMENDING THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT, BY PROVIDING ADDITIONAL TAX INCENTIVES FOR VARIOUS BUSINESSES, AND BY MAKING RELATED CHANGES.

The General Assembly of North Carolina enacts:

TABLE OF CONTENTS

I. BILL LEE ACT CHANGES
II. SALES TAX CHANGES
III. AFFORDABLE HOUSING TAX CREDIT
IV. INDUSTRIAL DEVELOPMENT FUND CHANGES
V. EFFECTIVE DATES

PART I. BILL LEE ACT CHANGES

Section 1. Section 10.2(3) of Chapter 13 of the 1996 Second Extra Session reads as rewritten:

"(3) Quality jobs and business expansion tax credits. -- Sections 3.5, 3.6, and 3.8 through 3.10 of Part III of this act become effective August 1, 1996. G.S. 105-129.11, as enacted by Part III of this act, becomes effective for taxable years beginning on or after January 1, 1997, and applies to training expenditures made on or after July 1, 1997. The remainder of Part III of this act is effective for taxable years beginning on or after January 1, 1996, and applies to jobs created on or after August 1, 1996, and property placed in service on or after August 1, 1996. Article 3A of Chapter 105 of the

General Statutes is repealed effective for applications for credits filed under G.S. 105-129.6 on or after January 1, ~~2002.~~ 2005. Article 3B of Chapter 105 of the General Statutes is repealed effective for business property placed in service on or after January 1, 2002."

Section 2. Article 3A of Chapter 105 of the General Statutes read as rewritten:

"ARTICLE 3A.

"Tax Incentives for New and Expanding Businesses.

"**§ 105-129.2. Definitions.**

The following definitions apply in this Article:

(1) Air courier services. -- A person is engaged in the air courier services business if the person's primary business is furnishing air delivery of individually addressed letters and packages for compensation, except by the United States Postal Service.

(2) Central administrative office. -- ~~Defined~~ Either of the following:

a. A corporate, subsidiary, or regional managing office, as defined by NAICS. ~~in the North American Industry Classification System adopted by the United States Office of Management and Budget.~~

b. An auxiliary division engaged primarily in centralized training for an interstate passenger air carrier at its hub. For the purpose of this subdivision, the terms 'interstate passenger air carrier' and 'hub' have the meanings provided in G.S. 105-164.3.

(3) Cost. -- In the case of property owned by the taxpayer, cost is determined pursuant to regulations adopted under section 1012 of the Code. In the case of property the taxpayer leases from another, cost is value as determined pursuant to G.S. 105-130.4(j)(2).

(3a) Customer service center. -- An auxiliary subdivision of a telecommunications or financial services company, as defined by NAICS, that is primarily engaged in providing support services to the company's customers by telephone to support products or services of the company. For the purpose of this definition, a subdivision is primarily engaged in providing support services by telephone if at least sixty percent (60%) of its calls are incoming.

(4) Data processing. -- Any of the following industries, as defined by NAICS: ~~Defined in the North American Industry Classification System adopted by the United States Office of Management and Budget.~~

a. Computer systems design and related services.

b. Software publishers.

c. Software reproducing.

d. Data processing services.
e. On-line information services.

(5) Development zone. -- An area designated as a development zone pursuant to G.S. 105-129.3A.

(6) Enterprise tier. -- The classification assigned to an area pursuant to G.S. 105-129.3.

(7) Full-time job. -- A position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year. A full-time employee is an employee who holds a full-time job.

(8) Reserved.

(9) Large investment. -- Defined in G.S. 105-129.4(b1).

(10) Machinery and equipment. -- Engines, machinery, tools, and implements used or designed to be used in the business for which the credit is claimed. The term does not include real property as defined in G.S. 105-273 or rolling stock as defined in G.S. 105-333.

(11) Manufacturing. -- ~~Defined~~ Industries in manufacturing sectors 31 through 33, as defined by NAICS, ~~in the North American Industry Classification System adopted by the United States Office of Management and Budget.~~ but not including quick printing or retail or commercial bakeries.

(11a) NAICS. -- The North American Industry Classification System adopted by the United States Office of Management and Budget.

(12) Purchase. -- Defined in section 179 of the Code.

(13) ~~Warehousing and wholesale trade. -- Defined~~ Warehousing. -- Industries in warehousing and storage subsector 493 as defined by NAICS. ~~in the North American Industry Classification System adopted by the United States Office of Management and Budget.~~

(14) Wholesale trade. -- Industries in wholesale trade sector 42 as defined by NAICS.

"§ 105-129.3. Enterprise tier designation.

(a) Tiers Defined. -- An enterprise tier one area is a county whose enterprise factor is one of the 10 highest in the State. An enterprise tier two area is a county whose enterprise factor is one of the next 15 highest in the State. An enterprise tier three area is a county whose enterprise factor is one of the next 25 highest in the State. An enterprise tier four area is a county whose enterprise factor is one of the next 25 highest in the State. An enterprise tier five area is any area that is not in a lower-numbered enterprise tier.

(b) Annual Designation. -- Each year, on or before December 31, the Secretary of Commerce shall assign to each county in the State an enterprise factor that is the sum of the following:

(1) The county's rank in a ranking of counties by average rate of unemployment from lowest to highest, for the preceding three years.

(2) The county's rank in a ranking of counties by average per capita income from highest to lowest, for the preceding three years.

(3) The county's rank in a ranking of counties by percentage growth in population from highest to lowest.

The Secretary of Commerce shall then rank all the counties within the State according to their enterprise factor from highest to lowest, identify all the areas of the State by enterprise tier, and provide this information to the Secretary of Revenue. An enterprise tier designation is effective only for the calendar year following the designation.

In measuring rates of unemployment and per capita income, the Secretary shall use the latest available data published by a State or federal agency generally recognized as having expertise concerning the data. In measuring population growth, the Secretary shall use the most recent estimates of population certified by the State Planning Officer.

(c) Exception for Enterprise Tier One Areas. -- Notwithstanding the provisions of this section, an enterprise tier one area may not be redesignated as a higher-numbered enterprise tier area until it has been an enterprise tier one area for at least two consecutive years.

(d) Exception for Two-County Industrial Park. -- For the purpose of this Article, an eligible two-county industrial park that meets all of the following conditions has the lower enterprise tier designation of the designations of the two counties in which it is located:

(1) It is located in two contiguous counties, one of which has a lower enterprise tier designation than the other.

(2) At least one-third of the park is located in the county with the lower tier designation.

(3) It is owned by the two counties or a joint agency of the counties.

(4) The county with the lower tier designation contributed at least one-half of the cost of developing the park.

(e) Exception for Certain Small Counties. -- A county that meets both of the conditions set out below has an enterprise tier designation one level below the designation it would otherwise have under subsection (a) of this section:

(1) Its population is less than 35,000 according to the most recent estimates of population certified by the State Planning Officer.

(2) More than eighteen percent (18%) of its population is below the federal poverty level according to the most recent federal decennial census.

"**§ 105-129.3A. Development zone designation.**

(a) Development Zone Defined. -- A development zone is an area comprised of one or more contiguous census tracts, census block groups, or both in the most recent federal decennial census that meets all of the following conditions:

(1) ~~It~~ Every census tract and census block group in the zone is located in whole or in part in a city with a population of more than 5,000 according to the most recent annual population estimates certified by the State Planning Officer.

(2) It has a population of 1,000 or more according to the most recent annual population estimates certified by the State Planning Officer.

(3) More than twenty percent (20%) of its population is below the poverty level according to the most recent federal decennial census.

(4) Every census tract and census block group in the zone meets at least one of the following conditions:

a. More than ten percent (10%) of its population is below the poverty level according to the most recent federal decennial census.

b. It is immediately adjacent to another census tract or census block group that is in the same zone and has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.

(5) None of the census tracts or census block groups in the zone is located in another development zone designated by the Secretary of Commerce.

(b) Designation. -- Upon request of a taxpayer or a local government, the Secretary of Commerce shall designate whether an area is a development zone that meets the conditions of subsection (a) of this section. If the applicant is a taxpayer, it must notify each municipality in which part of the zone is located. The Secretary of Commerce shall make the zone designations annually effective January 1 of each year. To qualify for designation, the application must be filed by the preceding September 1. A development zone designation is effective for ~~48~~ 24 months following the designation.

(c) Relationship With Enterprise Tiers. -- For the purpose of the wage standard requirement of G.S. 105-129.3(b), the credit for investing in machinery and equipment allowed in G.S. 105-129.9, and the credit for worker training allowed in G.S. 105-129.11, a development zone is considered an enterprise tier one area. For all other purposes, a development zone has the same enterprise tier designation as the county in which it is located.

"**§ 105-129.4. Eligibility; forfeiture.**

(a) Type of Business. -- A taxpayer is eligible for a credit allowed by G.S. 105-129.12 if the real property for which the credit is claimed is used for a central administrative office that creates at least 40 new jobs. A taxpayer is eligible for the other credits allowed by this Article if the taxpayer engages in one of the following types of businesses and the jobs with respect to which a credit is claimed are created in that business, the machinery and equipment with respect to which a credit is

claimed are used in that business, and the research and development for which a credit is claimed are carried out as part of that business:

(1) Air courier services.
(2) Central administrative office that creates at least 40 new jobs.
(3) Data processing.
(4) Manufacturing.
(5) Warehousing or wholesale trade.
(6) Customer service center located in an enterprise tier one or two area.

(a1) Central Administrative Office. -- A central administrative office creates at least 40 new jobs if the taxpayer hires at least 40 additional full-time employees to fill new positions at the office either in the year the taxpayer first uses the property as a central administrative office or in the preceding 24 months while using temporary space for the central administrative office functions during completion of the administrative office property. Jobs transferred from one area in the State to another area in the State are not considered new jobs for purposes of this subsection.

(b) Wage Standard. -- A taxpayer is eligible for the credit for creating jobs or the credit for worker training if the jobs for which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. A taxpayer is eligible for the credit for investing in machinery and equipment, the credit for research and development, or the credit for investing in real property for a central administrative office if the jobs at the location with respect to which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. Jobs meet the wage standard if they pay an average weekly wage that is at least equal to the applicable percentage times the applicable average weekly wage for the county in which the jobs will be located, as computed by the Secretary of Commerce from data compiled by the Employment Security Commission for the most recent period for which data are available. The applicable percentage for jobs located in an enterprise tier one area is one hundred percent (100%). The applicable percentage for all other jobs is one hundred ten percent (110%). The applicable average weekly wage is the lowest of the following: (i) the average wage for all insured private employers in the county, (ii) the average wage for all insured private employers in the State, and (iii) the average wage for all insured private employers in the county multiplied by the county income/wage adjustment factor. The county income/wage adjustment factor is the county income/wage ratio divided by the State income/wage ratio. The county income/wage ratio is average per capita income in the county divided by the annualized average wage for all insured private employers in the county. The State income/wage ratio is the average per capita income in the State divided by the annualized average wage for all insured private employers in the State.

(b1) Large Investment. -- A taxpayer who is otherwise eligible for a tax credit under this Article becomes eligible for the large investment enhancements provided for credits under this Article if the Secretary of Commerce certifies that the taxpayer will purchase or lease, and place in service in connection with the eligible business within a two-year period, at least one hundred fifty million dollars ($150,000,000)

worth of one or more of the following: real property, machinery and equipment, or central administrative office property. If the taxpayer fails to make the level of investment certified within this two-year period, the taxpayer forfeits the large investment enhancements as provided in subsection (d) of this section.

(b2) Health Insurance. -- A taxpayer is eligible for a credit for creating jobs or for worker training under this Article if the taxpayer provides health insurance for the positions for which the credit is claimed at the time the taxpayer applies for the credit. A taxpayer is eligible for the other credits under this Article if the taxpayer provides health insurance for all of the full-time positions at the location with respect to which the credit is claimed at the time the taxpayer applies for the credit. For the purposes of this subsection, a taxpayer provides health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

Each year that a taxpayer claims an installment or carryforward of a credit allowed under this Article, the taxpayer must provide with the tax return the taxpayer's certification that the taxpayer continues to provide health insurance for the jobs for which the credit was claimed or the full-time jobs at the location with respect to which the credit was claimed. If the taxpayer ceases to provide health insurance for the jobs during a taxable year, the credit expires and the taxpayer may not take any remaining installment or carryforward of the credit.

(b3) Environmental Impact. -- A taxpayer is eligible for a credit allowed under this Article only if the taxpayer has obtained a certification from the Department of Environment and Natural Resources that the business location with respect to which the credit is claimed has not had and will not have a materially adverse effect on the environment.

(b4) Safety and Health Programs. -- A taxpayer is eligible for a credit allowed under this Article only if the taxpayer has obtained a certification from the Department of Labor that, at the business location with respect to which the credit is claimed, the taxpayer has established and implemented a safety and health program in compliance with the requirements of G.S. 95-251.

(c) Repealed by Session Laws 1998-55, s. 1.

(d) Forfeiture. -- A taxpayer forfeits a credit allowed under this Article if the taxpayer was not eligible for the credit at the time the taxpayer applied for the credit. In addition, a taxpayer forfeits a large investment enhancement of a tax credit if the taxpayer fails to make the level of investment certified by the Secretary of Commerce under subsection (b1) of this section within the required two-year period. A taxpayer that forfeits a credit under this Article is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236. If a taxpayer forfeits the credit for creating jobs or the credit for investing in machinery and equipment, the taxpayer also forfeits any credit

for worker training claimed for the jobs for which the credit for creating jobs was claimed or the jobs at the location with respect to which the credit for investing in machinery and equipment was claimed.

(e) Change in Ownership of Business. -- The sale, merger, acquisition, or bankruptcy of a business, or any transaction by which an existing business reformulates itself as another business, does not create new eligibility in a succeeding business with respect to credits for which the predecessor was not eligible under this Article. A successor business may, however, take any installment of or carried-over portion of a credit that its predecessor could have taken if it had a tax liability. The acquisition of a business is a new investment that creates new eligibility in the acquiring taxpayer under this Article if any of the following conditions are met:

(1) The business closed before it was acquired.

(2) The business was required to file a notice of plant closing or mass layoff under the federal Worker Adjustment and Retraining Notification Act, 29 U.S.C. § 2102, before it was acquired.

(3) The business was acquired by its employees through an employee stock option transaction or another similar mechanism.

(f) Development Zone Project Credit. -- Subsections (a) through (b4) of this section to not apply to the credit for development zone projects.

"§ 105-129.5. Tax election; cap.

(a) Tax Election. -- The credits provided in this Article are allowed against the franchise tax levied in Article 3 of this ~~Chapter and~~ Chapter, the income taxes levied in Article 4 of this ~~Chapter. The credit for investing in central administrative office property provided in G.S. 105-129.12 is also allowed against~~ Chapter, and the gross premiums tax levied in Article 8B of this Chapter. The taxpayer shall elect the tax against which a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. Any carryforwards of the credit must be claimed against the same tax.

(b) Cap. -- The credits allowed under this Article may not exceed fifty percent (50%) of the tax against which they are claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article against each tax for the taxable year. Any unused portion of a credit with respect to a large investment may be carried forward for the succeeding 20 years. Any unused portion of any other credit may be carried forward for the succeeding five years.

"§ 105-129.6. Application; reports.

(a) Application. -- To claim the credits allowed by this Article, the taxpayer must provide with the tax return the certification of the Secretary of Commerce that the taxpayer meets all of the eligibility requirements of G.S. 105-129.4 or G.S. 105-129.13, as applicable, with respect to each credit. A taxpayer shall apply to the Secretary of Commerce for certification of eligibility. The application must be on a form provided by the Secretary of Commerce and must contain any information necessary for the Secretary of Commerce to determine whether the taxpayer meets the eligibility

requirements. In addition, the application must state the number of jobs to be created that are located within a development zone, the number of jobs to be created that will be filled by employees residing within the development zone, and the number of jobs to be created that will be filled by employees residing within a census tract or census block group that has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.

If the Secretary of Commerce determines that the taxpayer meets all of the eligibility requirements of G.S. 105-129.4 or G.S. 105-129.13, as applicable, with respect to a credit, the Secretary shall issue a certificate describing the location with respect to which the credit is claimed, outlining the eligibility requirements for the credit, and stating that the taxpayer meets the eligibility requirements. If the Secretary of Commerce determines that the taxpayer does not meet all of the eligibility requirements of G.S. 105-129.4 or G.S. 105-129.13, as applicable, with respect to a credit, the Secretary must advise the taxpayer in writing of the eligibility requirements the taxpayer fails to meet. The Secretary of Commerce may adopt rules in accordance with Chapter 150B of the General Statutes that are needed to carry out the Secretary of Commerce's responsibilities under this section.

(a1) Fee. -- When filing an application for certification under this section, the taxpayer must pay the Department of Commerce a fee ~~of seventy-five dollars ($75.00). Fees collected under this subsection are receipts of the Department of Commerce.~~ of five hundred dollars ($500.00) for each credit the taxpayer intends to claim with respect to a location that is in an enterprise tier three, four, or five area, subject to a maximum fee of one thousand five hundred dollars ($1,500) per taxpayer per taxable year. If the taxpayer applies for certification for a credit that relates to locations in more than one enterprise tier area, the fee is based on the highest-numbered enterprise tier area.

The Secretary of Commerce shall retain one-fourth of the proceeds of the fee imposed in this section for the costs of administering this section. The Secretary of Commerce shall credit the remaining proceeds of the fee imposed in this section to the Department of Revenue for the costs of administering and auditing the credits allowed in this Article. The proceeds of the fee are receipts of the Department to which they are credited.

(b) Reports. -- The Department of Commerce shall report to the Department of Revenue and to the Fiscal Research Division of the General Assembly by May 1 of each year the following information for the 12-month period ending the preceding April 1:

(1) The number of applications for each credit allowed in this Article.

(2) The number and enterprise tier area of new jobs with respect to which credits were applied for.

(3) The cost of machinery and equipment with respect to which credits were applied for.

(4) The number of new jobs created within development zones, and the percentage of those jobs that were filled by residents of the zones.

"§ 105-129.7. Substantiation.

To claim a credit allowed by this Article, the taxpayer must provide any information required by the Secretary of Revenue. Every taxpayer claiming a credit under this Article shall maintain and make available for inspection by the Secretary of Revenue any records the Secretary considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for the credit and the amount of the credit shall rest upon the taxpayer, and no credit shall be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection.

"§ 105-129.8. Credit for creating jobs.

(a) Credit. -- A taxpayer that meets the eligibility requirements set out in G.S. 105-129.4, has five or more employees for at least 40 weeks during the taxable year, and hires an additional full-time employee during that year to fill a position located in this State is allowed a credit for creating a new full-time job. The amount of the credit for each new full-time job created is set out in the table below and is based on the enterprise tier of the area in which the position is located. In addition, if the position is located in a development zone, the amount of the credit is increased by four thousand dollars ($4,000) per job.

Area Enterprise Tier	Amount of Credit
Tier One	$12,500
Tier Two	4,000
Tier Three	3,000
Tier Four	1,000
Tier Five	500

A position is located in an area if more than fifty percent (50%) of the employee's duties are performed in the area. The credit may not be taken in the taxable year in which the additional employee is hired. Instead, the credit shall be taken in equal installments over the four years following the taxable year in which the additional employee was hired and shall be conditioned on the continued employment by the taxpayer of the number of full-time employees the taxpayer had upon hiring the employee that caused the taxpayer to qualify for the credit.

If, in one of the four years in which the installment of a credit accrues, the number of the taxpayer's full-time employees falls below the number of full-time employees the taxpayer had in the year in which the taxpayer qualified for the credit, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

Jobs transferred from one area in the State to another area in the State shall not be considered new jobs for purposes of this section. If, in one of the four years in which the installment of a credit accrues, the position filled by the employee is moved to an area in a higher- or lower-numbered enterprise tier, or is moved from a development

zone to an area that is not a development zone, the remaining installments of the credit shall be calculated as if the position had been created initially in the area to which it was moved.

(b) Repealed by Session Laws 1989, c. 111, s. 1.

(b1), (c) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3.

(d) Planned Expansion. -- A taxpayer that signs a letter of commitment with the Department of Commerce to create at least twenty new full-time jobs in a specific area within two years of the date the letter is signed qualifies for the credit in the amount allowed by this section based on the area's enterprise tier and development zone designation for that year even though the employees are not hired that year. The credit shall be available in the taxable year after at least twenty employees have been hired if the hirings are within the two-year commitment period. The conditions outlined in subsection (a) apply to a credit taken under this subsection except that if the area is redesignated to a higher-numbered enterprise tier or loses its development zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and development zone designation for the year the letter was signed. If the taxpayer does not hire the employees within the two-year period, the taxpayer does not qualify for the credit. However, if the taxpayer qualifies for a credit under subsection (a) in the year any new employees are hired, the taxpayer may take the credit under that subsection.

(e), (f) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3 for taxable years beginning on or after January 1, 1996.

"§ 105-129.9. Credit for investing in machinery and equipment.

(a) Credit. -- If a taxpayer that has purchased or leased eligible machinery and equipment places it in service in this State during the taxable year, the taxpayer is allowed a credit equal to seven percent (7%) of the excess of the eligible investment amount over the applicable threshold. Machinery and equipment is eligible if it is capitalized by the taxpayer for tax purposes under the Code and is not leased to another party. In addition, in the case of a large investment, machinery and equipment that is not capitalized by the taxpayer is eligible if the taxpayer leases it from another party. The credit may not be taken for the taxable year in which the equipment is placed in service but shall be taken in equal installments over the seven years following the taxable year in which the equipment is placed in service.

(b) Eligible Investment Amount. -- The eligible investment amount is the lesser of (i) the cost of the eligible machinery and equipment and (ii) the amount by which the cost of all of the taxpayer's eligible machinery and equipment that is in service in this State on the last day of the taxable year exceeds the cost of all of the taxpayer's eligible machinery and equipment that was in service in this State on the last day of the base year. The base year is that year, of the three immediately preceding taxable years, in which the taxpayer had the most eligible machinery and equipment in service in this State.

(c) Threshold. -- The applicable threshold is the appropriate amount set out in the following table based on the enterprise tier of the area where the eligible machinery and equipment are placed in service during the taxable year. If the taxpayer places

eligible machinery and equipment in service in more than one area during the taxable year, the threshold applies separately to the eligible machinery and equipment placed in service in each area. If the taxpayer places eligible machinery and equipment in service in an area over the course of a two-year period, the applicable threshold for the second taxable year is reduced by the eligible investment amount for the previous taxable year.

Area Enterprise Tier	Threshold
Tier One	$ -0-
Tier Two	100,000
Tier Three	200,000
Tier Four	500,000
Tier Five	1,000,000

(d) Expiration. -- If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are disposed of, taken out of service, or moved out of State, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are moved to an area in a higher-numbered enterprise tier, or are moved from a development zone to an area that is not a development zone, the remaining installments of the credit are allowed only to the extent they would have been allowed if the machinery and equipment had been placed in service initially in the area to which they were moved.

(e) Planned Expansion. -- A taxpayer that signs a letter of commitment with the Department of Commerce to place specific eligible machinery and equipment in service in an area within two years after the date the letter is signed may, in the year the eligible machinery and equipment are placed in service in that area, calculate the credit for which the taxpayer qualifies based on the area's enterprise tier and development zone designation for the year the letter was signed. All other conditions apply to the credit, but if the area has been redesignated to a higher-numbered enterprise tier or has lost its development zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and development zone designation for the year the letter was signed. If the taxpayer does not place part or all of the specified eligible machinery and equipment in service within the two-year period, the taxpayer does not qualify for the benefit of this subsection with respect to the machinery and equipment not placed in service within the two-year period. However, if the taxpayer qualifies for a credit in the year the eligible machinery and equipment are placed in service, the taxpayer may take the credit for that year as if no letter of commitment had been signed pursuant to this subsection.

"**§ 105-129.10. Credit for research and development.**

(a) General Credit. -- A taxpayer that claims for the taxable year a federal income tax credit under section 41(a) of the Code for increasing research activities is allowed

a credit equal to five percent (5%) of the State's apportioned share of the taxpayer's expenditures for increasing research activities. The State's apportioned share of a taxpayer's expenditures for increasing research activities is the excess of the taxpayer's qualified research expenses for the taxable year over the base amount, as determined under section 41 of the Code, multiplied by a percentage equal to the ratio of the taxpayer's qualified research expenses in this State for the taxable year to the taxpayer's total qualified research expenses for the taxable year.

(b) Alternative Credit. -- A taxpayer that claims the alternative incremental credit under section 41(c)(4) of the Code for increasing research activities is allowed a credit equal to twenty-five percent (25%) of the State's apportioned share of the federal credit claimed. The State's apportioned share of the federal credit claimed is the amount of the alternative incremental credit the taxpayer claimed under section 41(c)(4) of the Code for the taxable year multiplied by a percentage equal to the ratio of the taxpayer's qualified research expenses in this State for the taxable year to the taxpayer's total qualified research expenses for the taxable year. For the purpose of this subsection, the amount of the alternative incremental credit claimed by a taxpayer is determined without regard to any reduction elected under section 280C(c) of the Code.

(c) Definitions. -- As used in this section, the terms "qualified research expenses" and "base amount" have the meaning provided in section 41 of the Code. Notwithstanding G.S. 105-228.90(b), as used in this section, the term "Code" means the Internal Revenue Code as enacted as of January 1, 1999.

"§ 105-129.11. Credit for worker training.

(a) Credit. -- A taxpayer that provides worker training for five or more of its eligible employees during the taxable year is allowed a credit equal to the wages paid to the eligible employees during the training. Wages paid to an employee performing his or her job while being trained are not eligible for the credit. For positions located in an enterprise tier one area, the credit may not exceed one thousand dollars ($1,000) per employee trained during the taxable year. For other positions, the credit may not exceed five hundred dollars ($500.00) per employee trained during the taxable year. A position is located in an area if more than fifty percent (50%) of the employee's duties are performed in the area.

(b) Eligibility. -- An employee is eligible if the employee is in a full-time position not classified as exempt under the Fair Labor Standards Act, 29 U.S.C. § 213(a)(1) and meets one or more of the following conditions:

(1) The employee occupies a job for which the taxpayer is eligible to claim an installment of the credit for creating jobs.

(2) The employee is being trained to operate machinery and equipment for which the taxpayer is eligible to claim an installment of the credit for investing in machinery and equipment.

"§ 105-129.12. Credit for investing in central administrative office property.

(a) Credit. -- If a taxpayer that has purchased or leased real property in this State begins to use the property as a central administrative office during the taxable year, the taxpayer is allowed a credit equal to seven percent (7%) of the eligible

investment amount. The eligible investment amount is the lesser of (i) the cost of the property and (ii) the amount by which the cost of all of the property the taxpayer is using in this State as central administrative offices on the last day of the taxable year exceeds the cost of all of the property the taxpayer was using in this State as central administrative offices on the last day of the base year. The base year is that year, of the three immediately preceding taxable years, in which the taxpayer was using the most property in this State as central administrative offices. In the case of property that is leased, the cost of the property is not determined as provided in G.S. 105-129.2 but is considered to be the taxpayer's lease payments over a seven-year period, plus any expenditures made by the taxpayer to improve the property before it is used as the taxpayer's central administrative office if the expenditures are not reimbursed or credited by the lessor. The maximum credit allowed a taxpayer under this section for property used as a central administrative office is five hundred thousand dollars ($500,000). The entire credit may not be taken for the taxable year in which the property is first used as a central administrative office but shall be taken in equal installments over the seven years following the taxable year in which the property is first used as a central administrative office. The basis in any real property for which a credit is allowed under this section shall be reduced by the amount of credit allowable.

(b) Mixed Use Property. -- If the taxpayer uses only part of the property as the taxpayer's central administrative office, the amount of the credit allowed under this section is reduced by multiplying it by a fraction the numerator of which is the square footage of the property used as the taxpayer's central administrative office and the denominator of which is the total square footage of the property.

(c) Expiration. -- If, in one of the seven years in which the installment of a credit accrues, the property with respect to which the credit was claimed is no longer used as a central administrative office, the credit expires and the taxpayer may not take any remaining installment of the credit. If, in one of the seven years in which the installment of a credit accrues, part of the property with respect to which the credit was claimed is no longer used as a central administrative office, the remaining installments of the credit shall be reduced by multiplying it by the fraction described in subsection (b) of this section. If, in one of the seven years in which the installment of a credit accrues, the total number of employees the taxpayer employs at all of its central administrative offices in this State drops by 40 or more, the credit expires and the taxpayer may not take any remaining installment of the credit.

In each of these cases, the taxpayer may nonetheless take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

"**§ 105-129.13. Credit for development zone projects.**

(a) Credit. -- A taxpayer who contributes cash or property to a development zone agency for an improvement project in a development zone is allowed a credit equal to twenty-five percent (25%) of the value of the contribution. A contribution is for an improvement project for the purposes of this section if the agency receiving the contribution contracts in writing to use the contribution for the project and agrees in

the contract to repay to the taxpayer, with interest, any part of the contribution not used for the project. The credit may not be taken for the year in which the contribution is made but must be taken for the taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in this section.

(b) Definitions. -- The following definitions apply in this section:

(1) Community development corporation. -- A nonprofit corporation that meets all of the following conditions:

a. It is chartered pursuant to Chapter 55A of the General Statutes and is tax-exempt pursuant to section 501(c)(3) of the Code.

b. Its primary mission is to develop and improve low-income communities and neighborhoods through economic and related development.

c. Its activities and decisions are initiated, managed, and controlled by the constituents of those local communities.

d. Its primary function is to act as deal maker and packager of projects and activities that will increase its constituency's opportunities to become owners, managers, and producers of small businesses, to obtain affordable housing, and to obtain jobs designed to produce positive cash flow and curb blight in the targeted community.

(2) Control. -- A person controls an entity if the person owns, directly or indirectly, more than ten percent (10%) of the voting securities of that entity. As used in this subdivision, the term 'voting security' means a security that (i) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (ii) is convertible into, or entitles the holder to receive upon its exercise, a security that confers such a right to vote. A general partnership interest is a voting security.

(3) Development zone agency. -- Any of the following agencies that the Department of Commerce certifies will undertake an improvement project in a development zone:

a. A community development corporation.

b. A community development financial institution certified by the United States Department of the Treasury under the Community Development Banking and Financial Institutions Act of 1994, 12 U.S.C. § 4701, et seq.

c. A local housing authority created under Article 1 of Chapter 157 of the General Statutes.

(4) Improvement project. -- A project to construct or improve residential, commercial, or public real property located in a development zone. The term includes services provided by a

development zone agency directly related to the construction or improvement, and project development fees charged by a developer for the construction or improvement.

(c) Certification. -- The Secretary of Commerce shall not certify a development zone agency under this section if the agency, any of the agency's officers or directors, or any partner of the agency has ever used any part of a contribution made under this section for any purpose other than an improvement project.

(d) Limitations. -- A taxpayer who claims a credit under this subsection must identify in the application the development zone agencies to which the taxpayer made contributions and the amount contributed to each. No credit is allowed for a contribution if the taxpayer is related to the development zone agency as defined in section 1313 of the Code or if the taxpayer controls, is controlled by, or is under common control with an affiliate of the development zone agency. No credit is allowed to the extent the taxpayer receives anything of value in exchange for the contribution.

(e) Application. -- To be eligible for the tax credit provided in this section, in addition to the application required under G.S. 105-129.6, the taxpayer must file an application for the credit with the Secretary of Revenue on or before April 15 of the year following the calendar year in which the contribution was made. The Secretary may grant extensions of this deadline, as the Secretary finds appropriate, upon the request of the taxpayer, except that the application may not be filed after September 15 of the year following the calendar year in which the contribution was made. An application is effective for the year in which it is timely filed. The application must be on a form prescribed by the Secretary and must include any supporting documentation that the Secretary may require. If a contribution for which a credit is applied for was of property rather than cash, the taxpayer must include with the application a certified appraisal of the value of the property contributed.

(f) Ceiling. -- The total amount of all tax credits allowed to taxpayers under this section for contributions made in a calendar year may not exceed four million dollars ($4,000,000). The Secretary of Revenue must calculate the total amount of tax credits claimed from the applications filed under this section. If the total amount of tax credits claimed for contributions made in a calendar year exceeds four million dollars ($4,000,000), the Secretary must allow a portion of the credits claimed by allocating a total of four million dollars ($4,000,000) in tax credits in proportion to the size of the credit claimed by each taxpayer. If a credit is reduced pursuant to this subsection, the Secretary must notify the taxpayer of the amount of the reduction of the credit on or before December 31 of the year the application was filed. The Secretary's allocations based on applications filed pursuant to this section are final and will not be adjusted to account for credits applied for but not claimed.

(g) Forfeiture. -- A taxpayer forfeits a credit allowed under this section to the extent the development zone agency uses the taxpayer's contribution for any purpose other than an improvement project. Each development zone agency certified by the Department of Commerce must file with the Department of Commerce annual financial statements audited in accordance with generally accepted accounting

principles and in accordance with Government Audit Standards developed by the Comptroller General of the United States. The annual statements are required each time the agency receives a contribution eligible for the credit allowed under this section until the entire contribution has been used for improvement projects. If the Department of Commerce determines that a development zone agency has used part or all of a contribution for any purpose other than an improvement project, the Department must notify the Secretary of Revenue of the forfeiture, the taxpayer who made the contribution, and the amount forfeited."

PART II. SALES TAX CHANGES

Section 3.(a) G.S. 105-164.4(a)(1d)a. through k. are recodified as G.S. 105-164.4A.

Section 3.(b) G.S. 105-164.4(a)(1d), as amended by this section, reads as rewritten:

"(1d) The rate of one percent (1%) applies to the sales price of the ~~following articles.~~ articles listed in G.S. 105-164.4A. The maximum tax is eighty dollars ($80.00) per article."

Section 3.(c) G.S. 105-164.4A, as recodified by this section, reads as rewritten:

"**§ 105-164.4A. Articles taxed at one percent (1%), eighty dollars ($80.00).**

The following articles are taxable under G.S. 105-164.4(a)(1d):

~~a.~~(1) Farm machinery. -- Sales to a farmer of machines and machinery, and parts and accessories for these machines and machinery, for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals. A "farmer" includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758. Items that are exempt from tax under G.S. 105-164.13(4c) are not subject to tax under ~~this section.~~ G.S. 105-164.4.

The term "machines and machinery" as used in this subdivision is defined as follows:

The term shall include all vehicular implements, designed and sold for any use defined in this subdivision, which are operated, drawn or propelled by motor or animal power, but shall not include vehicular implements which are operated wholly by hand, and shall not include any motor vehicles required to be registered under Chapter 20 of the General Statutes.

The term shall include all nonvehicular implements and mechanical devices designed and sold for any use defined in this subdivision, which have moving parts, or which require the use of any motor or animal power, fuel, or electricity in their operation but shall not include nonvehicular implements which have no moving parts and are operated wholly by hand.

The term shall also include metal flues sold for use in curing tobacco, whether such flues are attached to handfired furnaces or used in connection with mechanical burners.

~~b.~~(2) Manufacturing machinery. -- Sales of mill machinery or mill machinery parts and accessories to manufacturing industries and plants, and sales to contractors and subcontractors purchasing mill machinery or mill machinery parts and accessories for use by them in the performance of contracts with manufacturing industries and plants, and sales to subcontractors purchasing mill machinery or mill machinery parts and accessories for use by them in the performance of contracts with general contractors who have contracts with manufacturing industries and plants. As used in this paragraph, the term "manufacturing industries and plants" does not include delicatessens, cafes, cafeterias, restaurants, and other similar retailers that are principally engaged in the retail sale of foods prepared by them for consumption on or off their premises.

~~c.~~(3) Telephone company property. -- Sales of central office equipment and switchboard and private branch exchange equipment to telephone companies regularly engaged in providing telephone service to subscribers on a commercial basis, and sales to these companies of prewritten computer programs used in providing telephone service to their subscribers.

~~d.~~(4) Laundry machinery. -- Sales to commercial laundries or to pressing and dry cleaning establishments of machinery used in the direct performance of the laundering or the pressing and cleaning service and of parts and accessories thereto.

~~e.~~(5) Freezer plant machinery. -- Sales to freezer locker plants of machinery used in the direct operation of ~~said~~ the freezer locker plant and of parts and accessories thereto.

~~f.~~(6) Broadcasting machinery. -- Sales of broadcasting equipment and parts and accessories thereto and towers to commercial radio and television companies which are under the regulation and supervision of the Federal Communications Commission.

~~g.~~(7) Tobacco equipment. -- Sales to farmers of bulk tobacco barns and racks and all parts and accessories thereto and similar apparatus used for the curing and drying of any farm produce.

~~h.~~(8) Farm storage facilities. -- Sales to farmers of grain, feed or soybean storage facilities and accessories thereto, whether or not dryers are attached, and all similar apparatus and accessories thereto for the storage of grain, feed or soybeans.

~~i.~~(9) Farm containers. -- Sales of containers to farmers or producers for use in the planting, producing, harvesting, curing, marketing, packaging, sale, or transporting or delivery of their products when

such containers do not go with and become part of the sale of their products at wholesale or retail.

~~j.~~(10) Recycling facility equipment. -- Sales to a major recycling facility of the following tangible personal property for use in connection with the facility: cranes, structural steel crane support systems, foundations related to the cranes and support systems, port and dock facilities, rail equipment, and material handling equipment.

~~k.~~(11) (Effective January 1, 2001) Air courier equipment. -- Sales of the following items to an interstate air courier for use at its hub: materials handling equipment, racking systems, and related parts and accessories, for the storage or handling and movement of tangible personal property at an airport or in a warehouse or distribution facility."

Section 4. G.S. 105-164.4A, as recodified by this act, is amended by adding a new subdivision to read:

"(12) Distress tier equipment. -- Sales of machinery and equipment as defined in G.S. 105-129.2 to a person engaged in one of the businesses listed in G.S. 105-129.4(a) for use in an enterprise tier one area or an enterprise tier two area, as defined in G.S. 105-129.3."

Section 5. G.S. 105-164.14 is amended by adding a new subsection to read:

"(h) Nonprofit Insurance Companies. --

(1) Refunds. -- An eligible nonprofit insurance company is allowed an annual refund of sales and use taxes paid by it under this Article before January 1, 2005, on building materials, building supplies, fixtures, and equipment that become a part of its real property. Liability incurred indirectly by the company for sales and use taxes on these items is considered tax paid by the company. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the insurance company's fiscal year. Refunds applied for after the due date are barred.

(2) Eligibility. -- An insurance company is eligible for the refund provided in this subsection if it meets all of the following conditions:

a. It is a nonprofit corporation.

b. It is operated for the exclusive purpose of providing insurance and annuity contracts to or for the benefit of organizations exempt from federal income tax under section 501(c)(3) of the Code, and their employees.

c. The Secretary of Commerce has certified that the insurance company will invest at least ten million dollars ($10,000,000) in constructing a facility in this State for the conduct of its operations.

(3) Forfeiture. -- If an eligible insurance company does not make the required minimum investment within five years after its first refund under this subsection, it loses its eligibility and forfeits all refunds already received under this subsection. Upon forfeiture, the company is liable for tax under this Article equal to the amount of all past taxes refunded under this subsection, plus interest at the rate established in G.S. 105-241.1(i), computed from the date the taxes would have been due if the tax refunds had not been received. The tax and interest are due 30 days after the date of the forfeiture. A company that fails to pay the tax and interest is subject to the penalties provided in G.S. 105-236."

Section 6.(a) G.S. 105-164.3 is amended by adding a new subdivision to read:

"(6e) Interstate passenger air carrier. -- A person whose primary business is scheduled passenger air transportation, as defined in the North American Industry Classification System adopted by the United States Office of Management and Budget, in interstate commerce."

Section 6.(b) G.S. 105-164.3(6b), as enacted by S.L. 1998-55, becomes effective May 1, 1999.

Section 6.(c) G.S. 105-164.3(6b) reads as rewritten:

"(6b) Hub. -- ~~An interstate air courier's~~ Either of the following:

a. An interstate air courier's hub is the airport in this State that meets all of the following conditions:

~~a.~~ 1. The air courier has allocated to the airport under G.S. ~~105-388~~ 105-338 more than sixty percent (60%) of its aircraft value apportioned to this State.

~~b.~~ 2. The air courier's primary function at the airport is to sort and distribute letters and packages received from multiple consolidation locations.

~~c.~~ 3. The air courier's primary function at the airport is not to consolidate letters and packages and deliver them to another airport for sorting and distribution.

b. An interstate passenger air carrier's hub is the airport in this State that meets both of the following conditions:

1. The air carrier has allocated to the airport under G.S. 105-338 more than sixty percent (60%) of its aircraft value apportioned to this State.

2. The majority of the air carrier's passengers boarding at the airport are connecting from other airports rather than originating at that airport."

Section 7.(a) Section 9 of S.L. 1998-55 is repealed.

Section 7.(b) G.S. 105-164.13 is amended by adding a new subdivision to read:

"(45) Sales of the following items to an interstate passenger air carrier for use at its hub: aircraft lubricants, aircraft repair parts, and aircraft accessories."

Section 7(c). Effective January 1, 2001, G.S. 105-164.13(45), as enacted by this act, reads as rewritten:

"(45) Sales of the following items to an interstate passenger air carrier or an interstate air courier for use at its hub: aircraft lubricants, aircraft repair parts, and aircraft accessories."

Section 8. G.S. 105-164.4A, as recodified by this act, is amended by adding a new subdivision to read:

"(13) Pilot training equipment. -- Sales to an interstate passenger air carrier or an interstate air courier of aircraft simulators for pilot training for use at the air carrier or air courier's hub."

Section 9. G.S. 105-164.14(a) reads as rewritten:

"(a) Interstate Carriers. -- An interstate carrier is allowed a refund, in accordance with this section, of part of the sales and use taxes paid by it on fuel, lubricants, repair parts, and accessories purchased in this State for a motor vehicle, railroad car, locomotive, or airplane the carrier operates. An 'interstate carrier' is a person who is engaged in transporting persons or property in interstate commerce for compensation. The Secretary shall prescribe the periods of time, whether monthly, quarterly, semiannually, or otherwise, with respect to which refunds may be claimed, and shall prescribe the time within which, following these periods, an application for refund may be made.

An applicant for refund shall furnish the following information and any proof of the information required by the Secretary:

(1) A list identifying the lubricants, repair parts, and accessories purchased by the applicant inside or outside this State during the refund period.

(2) The purchase price of the items listed in subdivision (1) of this subsection.

(3) The sales and use taxes paid in this State on the listed items.

(4) The number of miles the applicant's motor vehicles, railroad cars, locomotives, and airplanes were operated both inside and outside this State during the refund period.

(5) Any other information required by the Secretary.

For each applicant, the Secretary shall compute the amount to be refunded as follows. First, the Secretary shall determine the ratio of the number of miles the applicant operated its motor vehicles, railroad cars, locomotives, and airplanes in this

State during the refund period to the number of miles it operated them both inside and outside this State during the refund period. Second, the Secretary shall determine the applicant's proportional liability for the refund period by multiplying this mileage ratio by the purchase price of the items identified in subdivision (1) of this subsection and then multiplying the resulting product by the tax rate that would have applied to the items if they had all been purchased in this State. Third, the Secretary shall refund to each applicant the excess of the amount of sales and use taxes the applicant paid in this State during the refund period on these items over the applicant's proportional liability for the refund period."

PART III. AFFORDABLE HOUSING TAX CREDIT

Section 10. The title of Article 3B of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 3B.

"Business Tax ~~Credit.~~ Credits."

Section 11. Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.16A. Credit for low-income housing.**

(a) Credit. -- A taxpayer that is allowed for the taxable year a federal income tax credit for low-income housing under section 42 of the Code with respect to a qualified North Carolina low-income building, is allowed a credit under this Article equal to twenty-five percent (25%) of the federal credit allowed with respect to that building. The credit must be taken in equal installments over the five years beginning in the first taxable year in which the federal credit is claimed for that building.

(b) Definitions. -- The definitions in section 42 of the Code apply in this section. In addition, as used in this section the term 'qualified North Carolina low-income building' means a qualified low-income building that meets either of the following conditions:

(1) It is located in a tier one or two enterprise area, as defined in G.S. 105-129.3, or in a development zone, as defined in G.S. 105-129.3A.

(2) It is located in a tier three, four, or five enterprise area and forty percent (40%) of its residential units are both rent-restricted and occupied by individuals whose income is thirty-five percent (35%) or less of area median gross income.

(c) Forfeiture. -- If the taxpayer is required under section 42(j) of the Code to recapture all or part of a federal credit under that section with respect to a qualified North Carolina low-income building, the taxpayer forfeits the corresponding part of the credit allowed under this section with respect to that qualified North Carolina low-income building. A taxpayer that forfeits a credit under this section is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the

date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236."

Section 12. Reserved.

Section 13. G.S. 105-129.17 reads as rewritten:

"**§ 105-129.17. Tax election; cap.**

(a) Tax Election. -- The ~~credit~~ credits allowed in this Article ~~is~~ are allowed against the franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of this Chapter. The taxpayer must elect the tax against which ~~the~~ a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. Any carryforwards of ~~the~~ a credit must be claimed against the same tax.

(b) Cap. -- The ~~credit~~ total credits allowed in this Article may not exceed fifty percent (50%) of the tax against which ~~it is~~ they are claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article against each tax for the taxable year. Any unused portion of the ~~credit~~ credits may be carried forward for the succeeding five years."

Section 14. G.S. 105-129.18 reads as rewritten:

"**§ 105-129.18. Substantiation.**

To claim the ~~credit~~ credits allowed by this Article, the taxpayer must provide any information required by the Secretary of Revenue. Every taxpayer claiming a credit under this Article must maintain and make available for inspection by the Secretary of Revenue any records the Secretary considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for the credit and the amount of the credit rests upon the taxpayer, and no credit may be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection."

Section 15. G.S. 105-129.19 reads as rewritten:

"**§ 105-129.19. Reports.**

The Department of Revenue shall report to the Legislative Research Commission and to the Fiscal Research Division of the General Assembly by May 1 of each year the following information for the 12-month period ending the preceding April 1:

(1) The number of taxpayers that claimed the ~~credit~~ credits allowed in this Article.

(2) The cost of business property with respect to which business property credits were claimed.

(2a) The location of each qualified North Carolina low-income building with respect to which a low-income housing credit was claimed.

(3) The total cost to the General Fund of the credits claimed."

Section 16. G.S. 105-241.1(e) reads as rewritten:

"(e) Statute of Limitations. -- There is no statute of limitations and the Secretary may propose an assessment of tax due from a taxpayer at any time if (i) the taxpayer did not file a proper application for a license or did not file a return, (ii) the taxpayer

filed a false or fraudulent application or return, or (iii) the taxpayer attempted in any manner to fraudulently evade or defeat the tax.

If a taxpayer files a return reflecting a federal determination as provided in G.S. 105-29, 105-130.20, 105-159, 105-160.8, 105-163.6A, or 105-197.1, the Secretary must propose an assessment of any tax due within one year after the return is filed or within three years of when the original return was filed or due to be filed, whichever is later. If there is a federal determination and the taxpayer does not file the required return, the Secretary must propose an assessment of any tax due within three years after the date the Secretary received the final report of the federal determination. ~~If~~

If a taxpayer forfeits a tax credit ~~pursuant to G.S. 105-163.014 or Article 3A of~~ or tax benefit pursuant to forfeiture provisions of this Chapter, the Secretary must assess any tax due as a result of the forfeiture within three years after the date of the forfeiture. If a taxpayer elects under section 1033(a)(2)(A) of the Code not to recognize gain from involuntary conversion of property into money, the Secretary must assess any tax due as a result of the conversion or election within the applicable period provided under section 1033(a)(2)(C) or section 1033(a)(2)(D) of the Code. If a taxpayer sells at a gain the taxpayer's principal residence, the Secretary must assess any tax due as a result of the sale within the period provided under section 1034(j) of the Code.

In all other cases, the Secretary must propose an assessment of any tax due from a taxpayer within three years after the date the taxpayer filed an application for a license or a return or the date the application or return was required by law to be filed, whichever is later.

If the Secretary proposes an assessment of tax within the time provided in this section, the final assessment of the tax is timely.

A taxpayer may make a written waiver of any of the limitations of time set out in this subsection, for either a definite or an indefinite time. If the Secretary accepts the taxpayer's waiver, the Secretary may propose an assessment at any time within the time extended by the waiver."

PART IV. INDUSTRIAL DEVELOPMENT FUND CHANGES

Section 17. G.S. 143B-437.01(a) reads as rewritten:

"(a) Creation and Purpose of Fund. -- There is created in the Department of Commerce the Industrial Development Fund to provide funds to assist the local government units of the most economically distressed counties in the State in creating jobs in certain industries. The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the following provisions, which shall apply to each grant from the fund:

(1) The funds shall be used for (i) installation of or purchases of equipment for eligible industries, (ii) structural repairs, improvements, or renovations of existing buildings to be used for expansion of eligible industries, or (iii) construction of or improvements to new or existing water, sewer, gas, or electrical utility distribution lines or equipment for existing or new or proposed industrial buildings to be used for eligible industries.

To be eligible for funding, the water, sewer, gas, or electrical utility lines or facilities shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the specific eligible industrial activity.

(1a) The funds shall be used for projects located in economically distressed counties except that the Secretary of Commerce may use up to one hundred thousand dollars ($100,000) to provide emergency economic development assistance in any county that is documented to be experiencing a major economic dislocation.

(2) The funds shall be used by the city and county governments for projects that will directly result in the creation of new jobs. The funds shall be expended at a maximum rate of five thousand dollars ($5,000) per new job created up to a maximum of five hundred thousand dollars ($500,000) per project.

(3) There shall be no local match requirement if the project is located in an enterprise tier one area as defined in G.S. 105-129.3.

(4) The Department may authorize a local government that receives funds under this section to use up to two percent (2%) of the funds, if necessary, to verify that the funds are used only in accordance with law and to otherwise administer the grant or loan.

(5) No project shall be funded unless the Secretary of Commerce finds that the proposed project will not have a materially adverse effect on the environment. The Secretary of Commerce shall not make this finding unless the Secretary has first received a certification from the Department of Environment and Natural Resources that the proposed project will not have a materially adverse effect on the environment."

PART V. EFFECTIVE DATES

Section 18. NAICS Code and Customer Service Center Changes. -- G.S. 105-129.2(2)b., as enacted by Section 2 of this act, is effective retroactively as of January 1, 1999. G.S. 105-129.2(3a), as enacted by Section 2 of this act, becomes effective for taxable years beginning on or after January 1, 2000. The remaining amendments to G.S. 105-129.2 made by Section 2 of this act are effective when this act becomes law. G.S. 105-129.4(a)(6), as enacted by Section 2 of this act, becomes effective for taxable years beginning on or after January 1, 2000.

Section 19. Small County Enhancements. -- G.S. 105-129.3(e), as enacted by Section 2 of this act, becomes effective for taxable years beginning on or after January 1, 2000.

Section 20. Development Zone Definitions. -- The amendments to G.S. 105-129.3A made by Section 2 of this act become effective July 1, 1999, and apply to applications filed on or after that date. Notwithstanding the provisions of G.S.

105-129.3A(b), a development zone designation made in 1998 or 1999 is effective until January 1, 2001.

Section 21. Quality Jobs Assurance. -- G.S. 105-129.4(b2), (b3), and (b4), as enacted by Section 2 of this act, become effective for taxable years beginning on or after January 1, 2000.

Section 22. All Credits Against Gross Premiums Tax. -- The amendment to G.S. 105-129.5(a) made by Section 2 of this act is effective for taxable years beginning on or after January 1, 1998.

Section 23. Application Fees and Information. -- The amendments to G.S. 105-129.6(a) and (a1) made by Section 2 of this act become effective July 1, 1999.

Section 24. Development Zone Projects Credit. -- G.S. 105-129.13, as enacted by Section 2 of this act, is effective for taxable years beginning on or after January 1, 2000.

Section 25. Sales Tax Technical Change. -- Section 3 of this act is effective when it becomes law.

Section 26. Sales Tax Preference for Tiers One and Two Equipment. -- G.S. 105-164.4A(12), as enacted by Section 4 of this act, becomes effective January 1, 2000, and applies to sales made on or after that date.

Section 27. Temporary Sales Tax Refund for Nonprofit Insurance Companies. -- Section 5 of this act becomes effective January 1, 2000, and applies to taxes paid on or after that date. Section 5 of this act expires January 1, 2005.

Section 28. Sales Tax Preferences for Interstate Air Carriers. -- Sections 6 through 8 of this act become effective May 1, 1999, and apply to sales made on or after that date.

Section 29. Affordable Housing Credit. -- Part III of this act is effective for taxable years beginning on or after January 1, 2000.

Section 30. Industrial Development Fund Changes. -- Part IV of this act becomes effective July 1, 1999.

Section 31. Remainder. -- The remainder of this act is effective when it becomes law.

FISCAL IMPACT OF PCS FOR HB 1303 (2-YEAR SUNSET)
STATE GENERAL FUND ($ MILLIONS)

Description	Effective Date	99-00	00-01	01-02	02-03	03-04	04-05	05-06
Change references to industry classification (technical)	Immed.	-	-	-	-	-	-	-
Subject companies applying for credits to provide for health insurance benefits and meet enviornmental and OSHA standards	1/1/00	-	-	-	-	-	-	-
Extend Bill Lee Act Sunset from 1/1/02 to 1/1/04	1/1/02				-13.1	-19.4	-12.2	
Extend general investment tax credit from 1/1/02 to 1/1/04	1/1/02	-	-	-	-8.4	-15.2		
Close loopholes in definition of State Development Zones	7/1/99	-	0.1	0.1	0.6	0.3	-	-
Establish investment tax credit of 25% of contribution or investment to nonprofit organization in Development Zone ($4 mil. limit)	1/1/00	-	-	-2.5	-4.0	-4.0	-4.0	-4.0
Reorganize application fees for Lee Act credits	7/1/99	NA	NA	NA	NA	NA	NA	NA
Allow tax credit for construction or rehab of low-income housing (25% of federal credit)	1/1/00	-	-	-1.5	-3.4	-5.3	-7.6	-10.1
Require environmental certificate to qualify for Industrial Development Fund	7/1/99	-	-	-	-	-	-	-
Tier 1 & 2 enhancements:								
Extend Lee Act to customer call centers	1/1/00	-	-	-0.6	-1.2	-1.8	-2.4	-2.4
Sales tax refund for machinery & equipment purchased by Bill Lee Act companies	1/1/00	-	-0.1	-0.2	-0.3	-0.6	-0.8	-1.0
Allow nonprofit insurance companies sales tax refund on construction materials	1/1/00	-	-0.5	-1.0	-0.5	-	-	-
Air Carrier Hubs Incentives:								
1%, $80 sales tax to training equipment	5/1/99	-0.4	-0.4	-0.4	-0.4	-0.4	-0.4	-0.4
Sales tax exemption on repair parts, lubricants, etc.	5/1/99	-1.2	-1.2	-1.2	-1.2	-1.2	-1.2	-1.2

Description	Effective Date	99-00	00-01	01-02	02-03	03-04	04-05	05-06
Modify tiers for small counties and high poverty rates	1/1/00	-	-	NA	NA	NA	NA	NA
Modify research and development credit expiration	1/1/99	-	-	-	-	-	-	-
Total State General Fund Impact		**-$1.6**	**-$2.1**	**-$7.3**	**-$31.9**	**-$47.6**	**-$28.6**	**-$19.1**

NA=Data not available at present time.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1411
Proposed Committee Substitute H1411-PCSXA152-LC

Short Title: Balance Wm. S. Lee Tax Incentives. (Public)

Sponsors:

Referred to:

April 29, 1999

A BILL TO BE ENTITLED

AN ACT TO REEVALUATE INEFFECTIVE TAX INCENTIVES SO THAT THE NET EFFECT OF THE WILLIAM S. LEE AMENDMENTS IS REVENUE-NEUTRAL FOR THE 1999-2000 BUDGET.

The General Assembly of North Carolina enacts:

LIMIT TIER FIVE INCENTIVES

Section 1. G.S. 105-129.4 is amended by adding a new subsection to read:

"(a2) Tier Five. -- No credit is allowed under this Article for creating jobs or for worker training if, at the time the taxpayer applies for the credit, the jobs are or will be located in a qualified tier five area. No credit is allowed under this Article for investing in machinery and equipment, for research and development, or for investing in real property for a central administrative office if, at the time the taxpayer applies for the credit, the location with respect to which the credit is claimed is in a qualified tier five area. A qualified tier five area is an area that is in an enterprise tier five area but is not in one or more of the following:

(1) A development zone.

(2) A county with a population of less than 20,000 according to the most recent population statistics certified by the State Planning Officer.

(3) A county with an unemployment rate above four percent (4%) according to the latest available data published by a State or

federal agency generally recognized as having expertise concerning the data."

REQUIRE SUNSET REVIEW

Section 2. Section 10.2(3) of Chapter 13 of the 1996 Second Extra Session reads as rewritten:

"(3) Quality jobs and business expansion tax credits. -- Sections 3.5, 3.6, and 3.8 through 3.10 of Part III of this act become effective August 1, 1996. G.S. 105-129.11, as enacted by Part III of this act, becomes effective for taxable years beginning on or after January 1, 1997, and applies to training expenditures made on or after July 1, 1997. The remainder of Part III of this act is effective for taxable years beginning on or after January 1, 1996, and applies to jobs created on or after August 1, 1996, and property placed in service on or after August 1, 1996. Article 3A of Chapter 105 of the General Statutes is repealed effective for applications for credits filed under G.S. 105-129.6 on or after January 1, ~~2002.~~ 2004. Article 3B of Chapter 105 of the General Statutes is repealed effective for business property placed in service on or after January 1, ~~2002.~~ 2004.

It is the intent of the General Assembly that extension of the sunset date of Article 3A of Chapter 105 of the General Statutes shall not be considered until the General Assembly has the results of a thorough evaluation that meets all of the following conditions:

a. It was supported by sufficient resources and given sufficient time to allow a meaningful review of the effectiveness, appropriateness, and efficiency of Article 3A.

b. It was conducted by a consultant that was equally responsive to all State agencies that have a stake in the study: the Department of Commerce, the Department of Revenue, and the General Assembly.

c. It provides a scientifically valid analysis of the extent to which the cost of Article 3A subsidizes private businesses for decisions they would have made anyway."

TAXPAYERS INCLUDE QUALIFYING INFORMATION WITH RETURN

Section 3. G.S. 105-129.7 reads as rewritten:

"**§ 105-129.7. Substantiation.**

(a) To claim a credit allowed by this Article, the taxpayer must provide any information required by the Secretary of Revenue. Every taxpayer claiming a credit under this Article shall maintain and make available for inspection by the Secretary of Revenue any records the Secretary considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for the credit and the amount of the credit shall rest upon the taxpayer, and no credit shall be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection.

(b) Each taxpayer must provide with the tax return qualifying information for each credit claimed under this Article for the first taxable year the credit is claimed and for every year in which a subsequent installment or a carryforward of that credit is claimed. The qualifying information must be in the form prescribed by the Secretary, must cover each taxable year beginning with the first taxable year the credit is claimed, and must be signed and affirmed by the individual who signs the taxpayer's tax return. The information required by this subsection is information demonstrating that the taxpayer has met the conditions for qualifying for an initial credit and any installments and carryforwards, and includes the following:

(1) The physical location of the jobs and investment with respect to which the credit is claimed, including the enterprise tier designation of the location and whether it is in a development zone. In addition, for each individual who fills a job at a location with respect to which a credit is claimed, the place where the individual resided before taking the job, including any enterprise tier or development zone designation of that place.

(2) The type of business with respect to which the credit is claimed, as required by G.S. 105-129.4(a), and wage information described in G.S. 105-129.4(b).

(3) If the credit is claimed with respect to a large investment certified under G.S. 105-129.4(b1), the amount of the investment requirement under that subsection that has been met to date.

(4) Qualifying information required for the credit for creating jobs allowed under G.S. 105-129.8, the credit for investing in machinery and equipment allowed under G.S. 105-129.9, the credit for worker training allowed under G.S. 105-129.11, and the credit for investing in central administrative office property allowed in G.S. 105-129.12."

Section 4. G.S. 105-259(b) is amended by adding a new subdivision to read:

"(b) Disclosure Prohibited. -- An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

. . .

(22) To furnish the Department of Commerce and the Employment Security Commission a copy of the qualifying information required in G.S. 105-129.7(b)."

UPDATE SALES TAX CAP

Section 5. The introductory language of G.S. 105-164.4(a)(1d) reads as rewritten:

"(1d) The rate of one percent (1%) applies to the sales price of the following articles. The maximum tax is ~~eighty dollars ($80.00)~~ three hundred twenty dollars ($320.00) per article."

COMMERCE TO INITIATE INCENTIVE REFORM

Section 6. The Department of Commerce shall initiate and negotiate with other states the development of an interstate compact to prohibit or reduce the use of tax and economic incentives for interstate competition in luring businesses from one state to another. The Department of Commerce shall actively support the enactment of federal legislation to prohibit or reduce states' use of tax and economic incentives for interstate competition in luring businesses from one state to another. The Department of Commerce shall report on its progress in these efforts to the Revenue Laws Study Committee by March 1, 2000, and March 1, 2001.

EFFECTIVE DATES

Section 7. Section 1 of this act becomes effective for applications for credits filed on or after January 1, 2000. Section 5 of this act becomes effective October 1, 1999, and applies to sales made on or after that date. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1411

Short Title: Balance Wm. S. Lee Tax Incentives. (Public)

Sponsors: Representatives Luebke; and Insko.

Referred to: Rules, Calendar and Operations of the House.

April 29, 1999

A BILL TO BE ENTITLED

AN ACT TO REEVALUATE INEFFECTIVE TAX INCENTIVES SO THAT THE NET EFFECT OF THE WILLIAM S. LEE AMENDMENTS IS REVENUE-NEUTRAL FOR THE 1999-2000 BUDGET.

The General Assembly of North Carolina enacts:

Section 1. This act is effective for taxable years beginning on or after January 1, 1999.

HOUSE BILL 1411:
Balance Wm. S. Lee Tax Incentives

BILL ANALYSIS

	Committee: House	**Sponsor:**	Rep. Luebke
Finance		**Analysis by:**	Martha H. Harris
Date:	June 22, 1999		Staff Attorney
Version:	PCS for First Edition		

SUMMARY: ***This bill would make five changes relating to tax incentives. First, it eliminates Bill Lee Act credits in certain tier five counties effective January 1, 2000. Second, it extends for two years the sunsets on the Bill Lee Act credits and the Business Property credit, and provides that the General Assembly will not consider extending the sunset on the Bill Lee Act credits further until a thorough evaluation has been conducted. Third, it requires taxpayers to include with their tax returns the information that they must generate under current law to establish eligibility for the credits. Fourth, it raises from $80 to $320 the sales tax cap that applies to certain purchases, effective October 1, 1999. Fifth, it requires the Department of Commerce to initiate and negotiate an interstate compact to prevent interstate competition through incentives, and to seek federal legislation to address the problem of interstate competition through incentives.***

Limit Tier Five Incentives. Section 1 of this bill would provide that Bill Lee Act credits are not allowed for jobs or investments located in certain tier five counties. The credits would still apply for locations in a development zone, in a county that has a population of less than 20,000, and in a county whose poverty rate is above 4%. Section 1 would become effective for new credits beginning with the 2000 tax year.

Under the Bill Lee Act, all counties are divided into five enterprise tiers, ranked by economic distress as measured by a formula that combines unemployment, per capita income, and population growth. Those counties in lower-numbered tiers receive more favorable incentives than those in higher tiers. Currently, the following counties are tier five counties: Buncombe, Cabarrus, Chatham, Currituck, Davie, Durham, Forsyth, Guilford, Henderson, Iredell, Johnston, Lee, Mecklenburg, Moore, New Hanover, Orange, Polk, Randolph, Stokes, Union, and Wake. Under this bill, Bill Lee Act incentives would be unavailable in all of those counties (except in development zones within the counties), with the exception of Currituck, Lee, Moore, New Hanover, and Polk.

In 1998, the General Assembly amended the Bill Lee Act to provide additional incentives for businesses that locate or expand in development zones, which are economically distressed areas located within cities. The statutory conditions for qualifying as a development zone were designed to target only relatively small, economically distressed areas. These conditions are (1) the area consists of one or more contiguous census tracts, block groups, or both, (2) the area has a population of 1,000 or more, at least 20% of whom are below the poverty level, and (3) the area is located at least partly in city with a population over 5,000. Section 1 of the bill does not restrict existing incentives for development zones, even those located in enterprise tier five areas.

Require Sunset Review. Section 2 of the bill would extend from 2002 until 2004 the sunsets on the Bill Lee Act credits and the Business Property credit, and amend the Bill Lee Act sunset to provide that the General Assembly shall not consider extending the sunset further until it has the results of a thorough study that (1) provides a meaningful review of the effectiveness, appropriateness, and efficiency of the credits; (2) was conducted by a consultant that was equally responsive to affected agencies (Commerce, Revenue, and the General Assembly); and (3) provides an analysis of the extent to which the cost of the credits subsidizes businesses for decisions they would have made anyway.

Taxpayers Include Qualifying Information with Return. Section 3 of this bill would require taxpayers to include with their tax returns the information they must generate under current law to determine whether they are eligible for Bill Lee Act credits. The Bill Lee Act incentives recommended by the Department of Commerce over the last four years have contained many conditions and standards a taxpayer must meet in order to be eligible for the incentives. The incentives also contain what are known as "clawback" provisions, which require a taxpayer to forfeit a targeted incentive if it turns out the taxpayer did not meet the conditions for qualifying for the incentive, and to lose future installments of a tax credit if the job or investment on which the credit was based does not remain in place. Section 3 requires taxpayers who claim Bill Lee Act credits to include with their tax returns information about whether the jobs and investments have remained in place and whether other conditions have been met. Section 4 would allow the Department of Revenue to share this information with the Employment Security Commission and the Department of Commerce; this sharing could enable the Department of Commerce to evaluate whether the incentives are accomplishing their purpose of creating high-quality jobs throughout the State.

Update Sales Tax Cap. Section 5 of this bill would raise from $80 to $320 the sales tax cap that applies to certain items that receive preferential sales tax treatment. Section 5 would become effective October 1, 1999. The $80 cap has not been increased in decades, and so does not reflect inflation. The increase to $320 would partly reflect inflation since the cap was last amended. Most items are subject to sales and use tax at the combined State and local rate of 6% (6.5% in Mecklenburg County). The following items are taxed at 1% with an $80 cap: farm equipment and containers, manufacturing machinery, telephone company equipment, commercial laundry equipment, freezer plant machinery, major recycling facility equipment, and air courier equipment.

Commerce to Initiate Incentive Reform. Section 6 of the bill would require the Department of Commerce to take active steps to end the interstate incentives war that causes states to offer increasingly larger incentives as they compete against one another to lure businesses. First, the Department would be required to initiate and negotiate an interstate compact to prohibit or reduce the use of incentives to lure businesses from one state to another. Second, the Department would be required to actively support federal legislation to the same end. Section 6 requires the Department of Commerce to report to the Revenue Laws Study Committee on the success of its efforts by March 2000 and 2001.

FISCAL IMPACT OF HOUSE PCS FOR HB 1411
STATE GENERAL FUND ($ MILLIONS)

Description	Effective Date	99-00	00-01	01-02	02-03	03-04	04-05	05-06
Raises from $80 to $320 the state sales tax limit applying to farm machinery, manufacturing machinery, and selected other items	10/01/99	2.0	3.2	3.4	3.6	3.8	4.0	4.3
Eliminates Bill Lee Act credits for certain Tier 5 counties	01/01/00	1.6	2.1	5.8	18.4	25.7	35.5	49.5
Extends sunset on Bill Lee Act credits from 1/1/02 to 1/1/04 (1)	01/01/02	-	-	-	-6.3	-10.1	-6.2	-
Extends sunset on general investment tax credit from 1/1/02 to 1/1/04	01/01/02	-	-	-	-3.8	-6.8	-	-
Added Bill Lee Act reporting to determine compliance ("clawbacks")	01/01/00	-	-	-	-	-	-	-
Require Department of Commerce to support efforts to reduce interstate competition to lure business investment between states		-	-	-	-	-	-	-
Require taxpayers receiving Bill Lee Act credits to provide additional information	1/1/00	-	-	-	-	-	-	-
Total-State General Fund Impact		**3.6**	**5.3**	**9.2**	**11.9**	**12.6**	**33.3**	**53.8**

(1) Normal calculated cost has been lowered due to elimination of Bill Lee Act credits for certain Tier 5 counties.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) for the Committee on .

☒ Senate Committee Substitute for
S.B 1115 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR WIDELY SHARED PROSPERITY BY AMENDING THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT, BY PROVIDING ADDITIONAL TAX INCENTIVES FOR VARIOUS BUSINESSES, AND BY MAKING RELATED CHANGES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill ~~(#), ☐ which changes the title,~~ unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1115

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S1115V3-ART-001.01

Date June 23 ,1999

Comm. Sub. [YES]
Amends Title [NO]
Third Edition
S1115-PCSX-6684-LC

Representative McComas

moves to amend the bill on page 29, between lines 18 and 19, by inserting:

"Section 17.1. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

'**§ 105-277.13. Brownfields property.**

(a) The definitions in G.S. 130A-310.31 apply in this section. In addition, for the purpose of this section, the term "recently remediated brownfields property" means brownfields property for which all remediation required under a brownfields agreement has been completed within the ten years immediately preceding the listing date for the property, as certified by the Secretary of Environment and Natural Resources.

(b) Recently remediated brownfields property is designated a special tax of property under Section 2(2) of Article V of the North Carolina Constitution and shall be assessed for taxation at the lower of its true value as of the valuation date and its true value as of January 1 preceding the beginning of its remediation under a brownfields agreement.'

Section 17.2. G.S. 130A-310.38 reads as rewritten:

'**§ 130A-310.38. Brownfields Property Reuse Act Implementation Account.**

The Brownfields Property Reuse Act Implementation Account is created as a nonreverting interest-bearing account in the Office of the State Treasurer. The Account shall consist of fees and interest collected under G.S. 130A-310.39, moneys appropriated to it by the General Assembly, moneys received from the federal government, moneys contributed by private organizations, and moneys received from any other source. Funds in the Account shall be used by the Department to defray ~~a portion of~~ the costs of implementing this Part. The Department may contract with a private entity for any services necessary to implement this Part.'

Section 17.3. G.S. 130A-310.39 reads as rewritten:
"**§ 130A-310.39. Fees.**
(a) The Department shall collect the following fees:
(1) A prospective developer who submits a proposed brownfields agreement for review by the Department shall pay ~~a~~ an initial fee of ~~one~~ two thousand dollars ~~($1,000).~~ ($2,000).
(2) A prospective developer who ~~submits a final report certifying completion of remediation under~~ enters into a brownfields agreement with the Department shall pay a fee ~~of five hundred dollars ($500.00).~~ in an amount equal to the full cost to the Department and the Department of Justice of all activities related to the brownfields agreement, including but not limited to negotiation of the brownfields agreement, public notice and community involvement, and monitoring the implementation of the brownfields agreement. The procedure by which the amount of this fee is determined shall be established by agreement between the prospective developer and the Department and shall be set our as a part of the brownfields agreement. The fee imposed by this subdivision shall be paid in two installments. The first installment shall be due at the time the prospective developer and the Department enter into the brownfields agreement and shall equal all costs that have been incurred by the Department and the Department of Justice at that time less the amount of the initial fee paid pursuant to subdivision (1) of this subsection. The Department shall not enter into the brownfields agreement unless the first installment is paid in full when due. The second installment shall be due at the time the prospective developer submits a final report certifying completion of remediation under the brownfields agreement and shall include any additional costs that have been incurred by the Department and the Department of Justice, including all costs of monitoring the implementation of the brownfields agreement.
(b) Fees and interest imposed under this section shall be credited to the Brownfields Property Reuse Act Implementation Account.
(c) If a prospective developer fails to pay the full amount of any fee due under this section, interest on the unpaid portion of the fee shall accrue from the time the fee is due until paid at the

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1115

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S1115V3-ART-001.01

rate established by the Secretary of Revenue pursuant to G.S. 105-241.1(i). A lien for the amount of the unpaid fee plus interest shall attach to the real and personal property of the prospective developer and to the brownfields property until the fee and interest is paid. The Department may collect unpaid fees and interest in any manner that a unit of local government may collect delinquent taxes.'" and

on page 32, between lines 35 and 36,
by inserting:

"Section 33.1. Brownfields Property Reuse Act Changes. -- Section 17.1 of this act is effective for taxes imposed for taxable years beginning on or after 1 July 2000. Sections 17.2 and 17.3 of this act are effective when this act becomes law. G.S. 130A-310.39, as amended by Section 17.3 of this act, applies to any proposed brownfields agreement that is submitted to the Department of Environment and Natural Resource for review on or after the date this act becomes law."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1115

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S1115-ALCX-6/21

Date June 23, 1999

Comm. Sub. [YES]
Amends Title []
Proposed House Comm Sub

Rep. Luebke

moves to amend the bill on page 2, lines 5 and 8, by deleting the phrase "2007" both times it appear and substituting the phrase "2004";

and on page 2, line 8, by deleting the quotation mark at the end of the line and adding the following between lines 8 and 9:

"It is the intent of the General Assembly that extension of the sunset date of Article 3A of Chapter 105 of the General Statutes shall not be considered until the General Assembly has the results of a thorough evaluation that meets all of the following conditions:

a. It was supported by sufficient resources and given sufficient time to allow a meaningful review of the effectiveness, appropriateness, and efficiency of Article 3A.

b. It was conducted by a consultant that was equally responsive to all State agencies that have a stake in the study: the Department of Commerce, the Department of Revenue, and the General Assembly.

c. It provides a scientifically valid analysis of the extent to which the cost of Article 3A subsidizes private businesses for decisions they would have made anyway."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

ROLL CALL VOTE

4 YES 14 NO = _____(TOTAL) -raised hands

HB# _____
SB# 1115

HOUSE STANDING COMMITTEE ON
FINANCE Rep. Luebke's Amendment S1115-ALCX-6/21

Fails

House Subcommittee on _____

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
___	___	MILLER, GEORGE	___	___	~~McALLISTER, MARY~~ removed
___	___	LUEBKE, PAUL	___	___	McCOMAS, DANNY
___	___	ALLEN, GORDON	___	___	McCOMBS, GENE
___	___	JARRELL, MARY	___	___	MINER, DAVID
___	___	WOOD, STEVE	___	___	MORRIS, MIA
___	___	BRASWELL, JERRY	___	___	MOSLEY, JANE
___	___	BRIDGEMAN, JOHN	___	___	~~NEELY, CHUCK~~ Pope, Art
___	___	BROWN, JOHN	___	___	~~RAMSEY, LISTON~~ excused
___	___	BUCHANAN, MONROE	___	___	RAYFIELD, JOHN
___	___	CAPPS, RUSSELL	___	___	STARNES, EDGAR
___	___	CHURCH, WALT	___	___	TALLENT, TIM
___	___	COX, LESLIE	___	___	TUCKER, RUSSELL
___	___	CREECH, BILLY	___	___	WILSON, CONNIE
___	___	DECKER, MIKE	___	___	WOMBLE, LARRY
___	___	DEDMON, ANDY	___	___	WRIGHT, TOM
___	___	EDDINS, RICK	___	___	
___	___	EDWARDS, ZENO	___	___	
___	___	FITCH, TOBY	___	___	
___	___	GOBSON, PRYOR	___	___	
___	___	GOODWIN, WAYNE	___	___	
___	___	GRAY, LYONS	Ex officio Members		
___	___	HACKNEY, JOE	___	___	CUNNINGHAM
___	___	HILL, DEWEY	___	___	Majority Leader BADDOUR
___	___	HOWARD, JULIA	___	___	Majority Whip EARLE

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1115

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S1115-ALC-6/23

Date June 23, 1999

Comm. Sub. [YES]
Amends Title []
Proposed House Comm Sub

Rep. Luebke

moves to amend the bill on page 29, lines 19 - 29, by rewriting Section 18 of the bill to read:

"Section 18. The Department of Commerce shall initiate and negotiate with other states the development of an interstate compact to prohibit or reduce the use of tax and economic incentives for interstate competition in luring businesses from one state to another. The Department of Commerce shall actively support the enactment of federal legislation to prohibit or reduce states' use of tax and economic incentives for interstate competition in luring businesses from one state to another. The Department of Commerce shall report on its progress in these efforts to the Revenue Laws Study Committee by March 1, 2000, and March 1, 2001."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1115

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S1115-ALC-6/22 Page 1 of __

Date June 23, 1999

Comm. Sub. [YES]
Amends Title []
Proposed House Comm Sub

Rep. Hill

moves to amend the bill on page 21, line 21,
by deleting the phrase "Machinery." and substituting the phrase
"Businesses.";

and on page 21, lines 23 - 27,
by rewriting the lines to read:
"(1) Refunds. -- An eligible business is allowed an annual refund of sales and use taxes paid by it under this Article at the general rate of tax on (i) eligible machinery and equipment it purchases for use in the business in an enterprise tier one area or an enterprise tier two area, as defined in G.S. 105-129.3, and on (ii) building materials, building supplies, fixtures, and equipment that become a part of the real property of the business located in an enterprise tier one area or an enterprise tier two area. Liability incurred indirectly by the";

and on page 22, line 2,
by deleting the quotation mark at the end of the line and adding the
following between lines 2 and 3:
"(4) Use of refund. -- Within three years after receiving a refund under this subsection for tax paid on building materials, building supplies, fixtures, and equipment that become a part of the real property of the business, a taxpayer must use the amount refunded for site development, infrastructure, or other real property improvements in an enterprise tier one area or an enterprise tier two area. If the taxpayer does not make the required investment within this period, it loses its eligibility and forfeits the amount of the refund received under this subsection on those items that was not invested as required. Upon forfeiture, the taxpayer is liable for tax under this Article equal to the amount of the forfeited refund plus interest at the rate established in G.S.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1115

AMENDMENT NO. _____
(to be filled in by Principal Clerk)

S1115-ALC-6/22 Page 2 of __

105-241.1(i), computed from the date the refund was issued. The tax and interest are due 30 days after the date of the forfeiture. A taxpayer that fails to pay the tax and interest is subject to the penalties provided in G.S. 105-236.

A taxpayer that receives a refund under this subsection for tax paid on building materials, building supplies, fixtures, and equipment that become a part of the real property of the business, must, each year until the investment requirement of this subdivision has been satisfied, file with the Department of Commerce an annual financial statement, audited in accordance with generally accepted accounting principles, demonstrating that the refund received has not been used for a purpose inconsistent with the requirements of this subdivision. If the Secretary of Commerce determines that the taxpayer has used any of the refund for a purpose that is inconsistent with the requirements of this subdivision, the Secretary of Commerce must certify the amount so used to the Secretary of Revenue.'"

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1115
Finance Committee Substitute Adopted 5/20/99
Third Edition Engrossed 5/27/99
Proposed House Committee Substitute S1115-PCSX1764-LC

Short Title: William S. Lee Act/1999. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR WIDELY SHARED PROSPERITY BY AMENDING THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT, BY PROVIDING ADDITIONAL TAX INCENTIVES FOR VARIOUS BUSINESSES, AND BY MAKING RELATED CHANGES.

The General Assembly of North Carolina enacts:

TABLE OF CONTENTS

I. BILL LEE ACT CHANGES
II. SALES TAX CHANGES
III. AFFORDABLE HOUSING TAX CREDIT
IV. MISCELLANEOUS CHANGES
V. EFFECTIVE DATES

PART I. BILL LEE ACT CHANGES

Section 1. Section 10.2(3) of Chapter 13 of the 1996 Second Extra Session reads as rewritten:

"(3) Quality jobs and business expansion tax credits. -- Sections 3.5, 3.6, and 3.8 through 3.10 of Part III of this act become effective August 1, 1996. G.S. 105-129.11, as enacted by Part III of this act, becomes effective for taxable years beginning on or after January 1, 1997, and applies to training expenditures made on or after July 1, 1997. The remainder of Part III of this act is effective for taxable

years beginning on or after January 1, 1996, and applies to jobs created on or after August 1, 1996, and property placed in service on or after August 1, 1996. Article 3A of Chapter 105 of the General Statutes is repealed effective for applications for credits filed under G.S. 105-129.6 on or after January 1, ~~2002.~~ 2007. Article 3B of Chapter 105 of the General Statutes is repealed effective for business property placed in service on or after January 1, ~~2002.~~ 2007."

Section 2. Article 3A of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 3A.

"Tax Incentives for New and Expanding Businesses.

"**§ 105-129.2. Definitions.**

The following definitions apply in this Article:

(1) Air courier services. -- A person is engaged in the air courier services business if the person's primary business is furnishing air delivery of individually addressed letters and packages for compensation, except by the United States Postal Service.

(2) Central administrative office. -- ~~Defined~~ Either of the following:

a. A corporate, subsidiary, or regional managing office, as defined by NAICS. ~~in the North American Industry Classification System adopted by the United States Office of Management and Budget.~~

b. An auxiliary subdivision of an interstate passenger air carrier engaged primarily in centralized training for the carrier at its hub. For the purpose of this definition, the terms 'interstate passenger air carrier' and 'hub' have the meanings provided in G.S. 105-164.3.

(3) Cost. -- In the case of property owned by the taxpayer, cost is determined pursuant to regulations adopted under section 1012 of the Code. In the case of property the taxpayer leases from another, cost is value as determined pursuant to G.S. 105-130.4(j)(2).

(3a) Customer service center. -- An auxiliary subdivision of a telecommunications or financial services company, as defined by NAICS, that is primarily engaged in providing support services to the company's customers by telephone to support products or services of the company. For the purpose of this definition, a subdivision is primarily engaged in providing support services by telephone if at least sixty percent (60%) of its calls are incoming.

(4) Data processing. -- Any of the following industries, as defined by NAICS: ~~Defined in the North American Industry Classification System adopted by the United States Office of Management and Budget.~~

a. Computer systems design and related services.
b. Software publishers.
c. Software reproducing.
d. Data processing services.
e. On-line information services.

(5) Development zone. -- An area designated as a development zone pursuant to G.S. 105-129.3A.

(5a) Electronic mail order house. -- An electronic shopping and mail order house, as defined by NAICS.

(6) Enterprise tier. -- The classification assigned to an area pursuant to G.S. 105-129.3.

(7) Full-time job. -- A position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year. A full-time employee is an employee who holds a full-time job.

(8) Reserved.

(9) Large investment. -- Defined in G.S. 105-129.4(b1).

(10) Machinery and equipment. -- Engines, machinery, equipment, tools, and implements used or designed to be used in the business for which the credit is claimed. The term does not include real property as defined in G.S. 105-273 or rolling stock as defined in G.S. 105-333.

(11) Manufacturing. -- ~~Defined~~ Industries in manufacturing sectors 31 through 33, as defined by NAICS, ~~in the North American Industry Classification System adopted by the United States Office of Management and Budget.~~ but not including quick printing or retail bakeries.

(11a) NAICS. -- The North American Industry Classification System adopted by the United States Office of Management and Budget.

(12) Purchase. -- Defined in section 179 of the Code.

(13) ~~Warehousing and wholesale trade. -- Defined~~ Warehousing. -- Industries in warehousing and storage subsector 493 as defined by NAICS. ~~in the North American Industry Classification System adopted by the United States Office of Management and Budget.~~

(14) Wholesale trade. -- Industries in wholesale trade sector 42 as defined by NAICS.

"**§ 105-129.3. Enterprise tier designation.**

(a) Tiers Defined. -- An enterprise tier one area is a county whose enterprise factor is one of the 10 highest in the State. An enterprise tier two area is a county whose enterprise factor is one of the next 15 highest in the State. An enterprise tier three area is a county whose enterprise factor is one of the next 25 highest in the State. An enterprise tier four area is a county whose enterprise factor is one of the next 25 highest in the State. An enterprise tier five area is any area that is not in a lower-numbered enterprise tier.

(b) Annual Designation. -- Each year, on or before December 31, the Secretary of Commerce shall assign to each county in the State an enterprise factor that is the sum of the following:

(1) The county's rank in a ranking of counties by average rate of unemployment from lowest to highest, for the preceding three years.

(2) The county's rank in a ranking of counties by average per capita income from highest to lowest, for the preceding three years.

(3) The county's rank in a ranking of counties by percentage growth in population from highest to lowest.

The Secretary of Commerce shall then rank all the counties within the State according to their enterprise factor from highest to lowest, identify all the areas of the State by enterprise tier, and provide this information to the Secretary of Revenue. An enterprise tier designation is effective only for the calendar year following the designation.

(b1) Data. -- In measuring rates of unemployment and per capita income, the Secretary shall use the latest available data published by a State or federal agency generally recognized as having expertise concerning the data. In measuring population and population growth, the Secretary shall use the most recent estimates of population certified by the State Planning Officer.

(c) Exception for Enterprise Tier One Areas. -- Notwithstanding the provisions of this section, an enterprise tier one area may not be redesignated as a higher-numbered enterprise tier area until it has been an enterprise tier one area for at least two consecutive years.

(d) Exception for Two-County Industrial Park. -- For the purpose of this Article, an eligible two-county industrial park that meets all of the following conditions has the lower enterprise tier designation of the designations of the two counties in which it is located:

(1) It is located in two contiguous counties, one of which has a lower enterprise tier designation than the other.

(2) At least one-third of the park is located in the county with the lower tier designation.

(3) It is owned by the two counties or a joint agency of the counties.

(4) The county with the lower tier designation contributed at least one-half of the cost of developing the park.

(e) Exception for Certain Small Counties. -- A county that meets both of the conditions set out below has an enterprise tier designation one level below the designation it would otherwise have under subsection (a) of this section:

(1) Its population is less than 50,000.

(2) More than eighteen percent (18%) of its population is below the federal poverty level according to the most recent federal decennial census.

(f) Exception for Small Counties. -- A county that has a population of less than 25,000 and that would otherwise be designated an enterprise four or five area under this section must be designated an enterprise tier three area.

"§ 105-129.3A. Development zone designation.

(a) Development Zone Defined. -- A development zone is an area comprised of one or more contiguous census tracts, census block groups, or both in the most recent federal decennial census that meets all of the following conditions:

(1) ~~It~~ Every census tract and census block group in the zone is located in whole or in part ~~in~~ within the primary corporate limits of a city with a population of more than 5,000 according to the most recent annual population estimates certified by the State Planning Officer.

(2) It has a population of 1,000 or more according to the most recent annual population estimates certified by the State Planning Officer.

(3) More than twenty percent (20%) of its population is below the poverty level according to the most recent federal decennial census.

(4) Every census tract and census block group in the zone meets at least one of the following conditions:

a. More than ten percent (10%) of its population is below the poverty level according to the most recent federal decennial census.

b. It is immediately adjacent to another census tract or census block group that is in the same zone and has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.

(5) None of the census tracts or census block groups in the zone is located in another development zone designated by the Secretary of Commerce.

(b) Designation. -- Upon request of a taxpayer or a local government, the Secretary of Commerce shall designate whether an area is a development zone that meets the conditions of subsection (a) of this section. If the applicant is a taxpayer, it must notify each city in which part of the zone is located. A development zone designation is effective for ~~48~~ 24 months following the designation.

(c) Relationship With Enterprise Tiers. -- For the purpose of the wage standard requirement of G.S. 105-129.3(b), the credit for investing in machinery and equipment allowed in G.S. 105-129.9, and the credit for worker training allowed in G.S. 105-129.11, a development zone is considered an enterprise tier one area. For all other purposes, a development zone has the same enterprise tier designation as the county in which it is located.

"§ 105-129.4. Eligibility; forfeiture.

(a) Type of Business. -- A taxpayer is eligible for a credit allowed by G.S. 105-129.12 if the real property for which the credit is claimed is used for a central

administrative office that creates at least 40 new jobs. A taxpayer is eligible for the other credits allowed by this Article if the taxpayer engages in one of the following types of businesses and the jobs with respect to which a credit is claimed are created in that business, the machinery and equipment with respect to which a credit is claimed are used in that business, and the research and development for which a credit is claimed are carried out as part of that business:

(1) Air courier services.
(2) Central administrative office that creates at least 40 new jobs.
(2a) Customer service center located in an enterprise tier one or two area.
(3) Data processing.
(3a) Electronic mail order house that creates at least 250 new jobs and is located in an enterprise tier one or two area.
(4) Manufacturing.
(5) ~~Warehousing or wholesale trade.~~ Warehousing.
(6) Wholesale trade.

(a1) ~~Central Administrative Office.~~ New Jobs Defined. -- A central administrative office creates at least 40 new jobs if the taxpayer hires at least 40 additional full-time employees to fill new positions at the office either in the year the taxpayer first uses the property as a central administrative office or in the preceding 24 months while using temporary space for the central administrative office functions during completion of the administrative office property. An electronic mail order house creates at least 250 new jobs if the taxpayer hires at least 250 additional full-time employees to fill new positions at the house in the two-year period ending on the last day of the taxable year the taxpayer first claims a credit under this Article. Jobs transferred from one area in the State to another area in the State are not considered new jobs for purposes of this subsection.

(b) Wage Standard. -- A taxpayer is eligible for the credit for creating jobs or the credit for worker training if the jobs for which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. A taxpayer is eligible for the credit for investing in machinery and equipment, the credit for research and development, or the credit for investing in real property for a central administrative office if the jobs at the location with respect to which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. Jobs meet the wage standard if they pay an average weekly wage that is at least equal to the applicable percentage times the applicable average weekly wage for the county in which the jobs will be located, as computed by the Secretary of Commerce from data compiled by the Employment Security Commission for the most recent period for which data are available. The applicable percentage for jobs located in an enterprise tier one area is one hundred percent (100%). The applicable percentage for all other jobs is one hundred ten percent (110%). The applicable average weekly wage is the lowest of the following: (i) the average wage for all insured private employers in the county, (ii) the average wage for all insured private employers in the State, and (iii) the average wage for all insured private employers in the county multiplied by the county

income/wage adjustment factor. The county income/wage adjustment factor is the county income/wage ratio divided by the State income/wage ratio. The county income/wage ratio is average per capita income in the county divided by the annualized average wage for all insured private employers in the county. The State income/wage ratio is the average per capita income in the State divided by the annualized average wage for all insured private employers in the State.

(b1) Large Investment. -- A taxpayer who is otherwise eligible for a tax credit under this Article becomes eligible for the large investment enhancements provided for credits under this Article if the Secretary of Commerce certifies that the taxpayer will purchase or lease, and place in service in connection with the eligible business within a two-year period, at least one hundred fifty million dollars ($150,000,000) worth of one or more of the following: real property, machinery and equipment, or central administrative office property. If the taxpayer fails to make the level of investment certified within this two-year period, the taxpayer forfeits the large investment enhancements as provided in subsection (d) of this section.

(b2) Health Insurance. -- A taxpayer is eligible for a credit for creating jobs or for worker training under this Article if the taxpayer provides health insurance for the positions for which the credit is claimed at the time the taxpayer applies for the credit. A taxpayer is eligible for the other credits under this Article if the taxpayer provides health insurance for all of the full-time positions at the location with respect to which the credit is claimed at the time the taxpayer applies for the credit. For the purposes of this subsection, a taxpayer provides health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

Each year that a taxpayer claims an installment or carryforward of a credit allowed under this Article, the taxpayer must provide with the tax return the taxpayer's certification that the taxpayer continues to provide health insurance for the jobs for which the credit was claimed or the full-time jobs at the location with respect to which the credit was claimed. If the taxpayer ceases to provide health insurance for the jobs during a taxable year, the credit expires and the taxpayer may not take any remaining installment or carryforward of the credit.

(b3) Environmental Impact. -- A taxpayer is eligible for a credit allowed under this Article only if the taxpayer certifies that, at the time the taxpayer applies for the credit, the taxpayer has no pending administrative, civil, or criminal enforcement action based on alleged significant violations of any program implemented by an agency of the Department of Environment and Natural Resources, and has had no final determination of responsibility for any significant administrative, civil, or criminal violation of any program implemented by an agency of the Department of Environment and Natural Resources within the last five years. A significant violation is a violation or alleged violation that does not satisfy any of the conditions of G.S. 143-215.6B(d). The Secretary of Commerce will provide the Department of Environment and Natural Resources a list of all taxpayers making this certification. The Department of Environment and Natural Resources may conduct random audit

checks to verify taxpayers' certifications. The Department of Environment and Natural Resources must notify the Department of Revenue of any taxpayer certifications it determines are not accurate.

(b4) Safety and Health Programs. -- A taxpayer is eligible for a credit allowed under this Article only if the taxpayer certifies that, as of the time the taxpayer applies for the credit, at the business location with respect to which the credit is claimed, the taxpayer has no outstanding citations under the Occupational Safety and Health Act and has had no serious violation as defined in G.S. 95-127 within the last three years. The Secretary of Commerce will provide the Department of Labor a list of all taxpayers making this certification. The Department of Labor may conduct random audit checks to verify taxpayers' certifications. The Department of Labor must notify the Department of Revenue of any taxpayer certifications it determines are not accurate.

(c) Repealed by Session Laws 1998-55, s. 1.

(d) Forfeiture. -- A taxpayer forfeits a credit allowed under this Article if the taxpayer was not eligible for the credit at the time the taxpayer applied for the credit. In addition, a taxpayer forfeits a large investment enhancement of a tax credit if the taxpayer fails to make the level of investment certified by the Secretary of Commerce under subsection (b1) of this section within the required two-year period. A taxpayer that forfeits a credit under this Article is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236. If a taxpayer forfeits the credit for creating jobs or the credit for investing in machinery and equipment, the taxpayer also forfeits any credit for worker training claimed for the jobs for which the credit for creating jobs was claimed or the jobs at the location with respect to which the credit for investing in machinery and equipment was claimed.

(e) Change in Ownership of Business. -- The sale, merger, acquisition, or bankruptcy of a business, or any transaction by which an existing business reformulates itself as another business, does not create new eligibility in a succeeding business with respect to credits for which the predecessor was not eligible under this Article. A successor business may, however, take any installment of or carried-over portion of a credit that its predecessor could have taken if it had a tax liability. The acquisition of a business is a new investment that creates new eligibility in the acquiring taxpayer under this Article if any of the following conditions are met:

(1) The business closed before it was acquired.

(2) The business was required to file a notice of plant closing or mass layoff under the federal Worker Adjustment and Retraining Notification Act, 29 U.S.C. § 2102, before it was acquired.

(3) The business was acquired by its employees through an employee stock option transaction or another similar mechanism.

(f) Development Zone Project Credit. -- Subsections (a) through (b4) of this section do not apply to the credit for development zone projects provided in G.S. 105-129.13.

"**§ 105-129.5. Tax election; cap.**

(a) Tax Election. -- The credits provided in this Article are allowed against the franchise tax levied in Article 3 of this ~~Chapter and~~ Chapter, the income taxes levied in Article 4 of this ~~Chapter. The credit for investing in central administrative office property provided in G.S. 105-129.12 is also allowed against~~ Chapter, and the gross premiums tax levied in Article 8B of this Chapter. The taxpayer shall elect the tax against which a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. Any carryforwards of the credit must be claimed against the same tax.

(b) Cap. -- The credits allowed under this Article may not exceed fifty percent (50%) of the tax against which they are claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article against each tax for the taxable year. Any unused portion of a credit with respect to a large investment may be carried forward for the succeeding 20 years. Any unused portion of any other credit may be carried forward for the succeeding five years.

"**§ 105-129.6. Application; reports.**

(a) Application. -- To claim the credits allowed by this Article, the taxpayer must provide with the tax return the certification of the Secretary of Commerce that the taxpayer meets all of the eligibility requirements of G.S. 105-129.4 or G.S. 105-129.13, as applicable, with respect to each credit. A taxpayer shall apply to the Secretary of Commerce for certification of eligibility. The application must be on a form provided by the Secretary of Commerce and must contain any information necessary for the Secretary of Commerce to determine whether the taxpayer meets the eligibility requirements. In addition, the application must state the number of full-time jobs to be created that are located within a development zone, the number of full-time jobs to be created that are expected to be filled by employees residing within the development zone, and the number of full-time jobs to be created that are expected to be filled by employees residing within a census tract or census block group that has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.

If the Secretary of Commerce determines that the taxpayer meets all of the eligibility requirements of G.S. 105-129.4 or G.S. 105-129.13, as applicable, with respect to a credit, the Secretary shall issue a certificate describing the location with respect to which the credit is claimed, outlining the eligibility requirements for the credit, and stating that the taxpayer meets the eligibility requirements. If the Secretary of Commerce determines that the taxpayer does not meet all of the eligibility requirements of G.S. 105-129.4 or G.S. 105-129.13, as applicable, with respect to a credit, the Secretary must advise the taxpayer in writing of the eligibility requirements the taxpayer fails to meet. The Secretary of Commerce may adopt rules

in accordance with Chapter 150B of the General Statutes that are needed to carry out the Secretary of Commerce's responsibilities under this section.

(a1) Fee. -- When filing an application for certification under this section, the taxpayer must pay the Department of Commerce a fee ~~of seventy-five dollars ($75.00). Fees collected under this subsection are receipts of the Department of Commerce.~~ of five hundred dollars ($500.00) for each credit the taxpayer intends to claim with respect to a location that is in an enterprise tier three, four, or five area, subject to a maximum fee of one thousand five hundred dollars ($1,500) per taxpayer per taxable year. If the taxpayer applies for certification for a credit that relates to locations in more than one enterprise tier area, the fee is based on the highest-numbered enterprise tier area.

The Secretary of Commerce shall retain one-fourth of the proceeds of the fee imposed in this section for the costs of administering this section. The Secretary of Commerce shall credit the remaining proceeds of the fee imposed in this section to the Department of Revenue for the costs of administering and auditing the credits allowed in this Article. The proceeds of the fee are receipts of the Department to which they are credited.

(b) Reports. -- The Department of Commerce shall report to the Department of Revenue and to the Fiscal Research Division of the General Assembly by May 1 of each year the following information for the 12-month period ending the preceding April 1:

(1) The number of applications for each credit allowed in this Article.

(2) The number and enterprise tier area of new jobs with respect to which credits were applied for.

(3) The cost of machinery and equipment with respect to which credits were applied for.

(4) The number of new jobs created within development zones, and the percentage of those jobs that were filled by residents of the zones.

"§ 105-129.7. Substantiation.

(a) To claim a credit allowed by this Article, the taxpayer must provide any information required by the Secretary of Revenue. Every taxpayer claiming a credit under this Article shall maintain and make available for inspection by the Secretary of Revenue any records the Secretary considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for the credit and the amount of the credit shall rest upon the taxpayer, and no credit shall be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection.

(b) Each taxpayer must provide with the tax return qualifying information for each credit claimed under this Article for the first taxable year the credit is claimed and for every year in which a subsequent installment or a carryforward of that credit is claimed. The qualifying information must be in the form prescribed by the Secretary, must cover each taxable year beginning with the first taxable year the credit is

claimed, and must be signed and affirmed by the individual who signs the taxpayer's tax return. The information required by this subsection is information demonstrating that the taxpayer has met the conditions for qualifying for an initial credit and any installments and carryforwards, and includes the following:

(1) The physical location of the jobs and investment with respect to which the credit is claimed, including the enterprise tier designation of the location and whether it is in a development zone. In addition, for each individual who fills a job at a location with respect to which a credit is claimed, the place where the individual resided before taking the job, including any enterprise tier or development zone designation of that place.

(2) The type of business with respect to which the credit is claimed, as required by G.S. 105-129.4(a), and wage information described in G.S. 105-129.4(b).

(3) If the credit is claimed with respect to a large investment certified under G.S. 105-129.4(b1), the amount of the investment requirement under that subsection that has been met to date.

(4) Qualifying information required for the credit for creating jobs allowed under G.S. 105-129.8, the credit for investing in machinery and equipment allowed under G.S. 105-129.9, the credit for worker training allowed under G.S. 105-129.11, the credit for investing in central administrative office property allowed in G.S. 105-129.12, and any other credits allowed under this Article.

"**§ 105-129.8. Credit for creating jobs.**

(a) Credit. -- A taxpayer that meets the eligibility requirements set out in G.S. 105-129.4, has five or more employees for at least 40 weeks during the taxable year, and hires an additional full-time employee during that year to fill a position located in this State is allowed a credit for creating a new full-time job. The amount of the credit for each new full-time job created is set out in the table below and is based on the enterprise tier of the area in which the position is located. In addition, if the position is located in a development zone, the amount of the credit is increased by four thousand dollars ($4,000) per job.

Area Enterprise Tier	Amount of Credit
Tier One	$12,500
Tier Two	4,000
Tier Three	3,000
Tier Four	1,000
Tier Five	500

A position is located in an area if more than fifty percent (50%) of the employee's duties are performed in the area. The credit may not be taken in the taxable year in which the additional employee is hired. Instead, the credit shall be taken in equal installments over the four years following the taxable year in which the additional employee was hired and shall be conditioned on the continued employment by the

taxpayer of the number of full-time employees the taxpayer had upon hiring the employee that caused the taxpayer to qualify for the credit.

If, in one of the four years in which the installment of a credit accrues, the number of the taxpayer's full-time employees falls below the number of full-time employees the taxpayer had in the year in which the taxpayer qualified for the credit, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

Jobs transferred from one area in the State to another area in the State shall not be considered new jobs for purposes of this section. If, in one of the four years in which the installment of a credit accrues, the position filled by the employee is moved to an area in a higher- or lower-numbered enterprise tier, or is moved from a development zone to an area that is not a development zone, the remaining installments of the credit shall be calculated as if the position had been created initially in the area to which it was moved.

(b) Repealed by Session Laws 1989, c. 111, s. 1.

(b1), (c) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3.

(d) Planned Expansion. -- A taxpayer that signs a letter of commitment with the Department of Commerce to create at least twenty new full-time jobs in a specific area within two years of the date the letter is signed qualifies for the credit in the amount allowed by this section based on the area's enterprise tier and development zone designation for that year even though the employees are not hired that year. The credit shall be available in the taxable year after at least twenty employees have been hired if the hirings are within the two-year commitment period. The conditions outlined in subsection (a) apply to a credit taken under this subsection except that if the area is redesignated to a higher-numbered enterprise tier or loses its development zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and development zone designation for the year the letter was signed. If the taxpayer does not hire the employees within the two-year period, the taxpayer does not qualify for the credit. However, if the taxpayer qualifies for a credit under subsection (a) in the year any new employees are hired, the taxpayer may take the credit under that subsection.

(e), (f) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3.

"**§ 105-129.9. Credit for investing in machinery and equipment.**

(a) Credit. -- If a taxpayer that has purchased or leased eligible machinery and equipment places ~~it~~ them in service in this State during the taxable year, the taxpayer is allowed a credit equal to seven percent (7%) of the excess of the eligible investment amount over the applicable threshold. Machinery and equipment ~~is~~ are eligible if ~~it is~~ they are capitalized by the taxpayer for tax purposes under the Code and ~~is~~ not leased to another party. In addition, in the case of a large investment, machinery and equipment that ~~is~~ are not capitalized by the taxpayer ~~is~~ are eligible if the taxpayer leases ~~it~~ them from another party. The credit may not be taken for the taxable year in which the ~~equipment is~~ machinery and equipment are placed in

service but shall be taken in equal installments over the seven years following the taxable year in which ~~the equipment is~~ they are placed in service.

(b) Eligible Investment Amount. -- The eligible investment amount is the lesser of (i) the cost of the eligible machinery and equipment and (ii) the amount by which the cost of all of the taxpayer's eligible machinery and equipment that ~~is~~ are in service in this State on the last day of the taxable year exceeds the cost of all of the taxpayer's eligible machinery and equipment that ~~was~~ were in service in this State on the last day of the base year. The base year is that year, of the three immediately preceding taxable years, in which the taxpayer had the most eligible machinery and equipment in service in this State.

(c) Threshold. -- The applicable threshold is the appropriate amount set out in the following table based on the enterprise tier of the area where the eligible machinery and equipment are placed in service during the taxable year. If the taxpayer places eligible machinery and equipment in service in more than one area during the taxable year, the threshold applies separately to the eligible machinery and equipment placed in service in each area. If the taxpayer places eligible machinery and equipment in service in an area over the course of a two-year period, the applicable threshold for the second taxable year is reduced by the eligible investment amount for the previous taxable year.

Area Enterprise Tier	Threshold
Tier One	$ -0-
Tier Two	100,000
Tier Three	200,000
Tier Four	500,000
Tier Five	1,000,000

(d) Expiration. -- If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are disposed of, taken out of service, or moved out of State, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are moved to an area in a higher-numbered enterprise tier, or are moved from a development zone to an area that is not a development zone, the remaining installments of the credit are allowed only to the extent they would have been allowed if the machinery and equipment had been placed in service initially in the area to which they were moved.

(e) Planned Expansion. -- A taxpayer that signs a letter of commitment with the Department of Commerce to place specific eligible machinery and equipment in service in an area within two years after the date the letter is signed may, in the year the eligible machinery and equipment are placed in service in that area, calculate the credit for which the taxpayer qualifies based on the area's enterprise tier and development zone designation for the year the letter was signed. All other conditions apply to the credit, but if the area has been redesignated to a higher-numbered

enterprise tier or has lost its development zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and development zone designation for the year the letter was signed. If the taxpayer does not place part or all of the specified eligible machinery and equipment in service within the two-year period, the taxpayer does not qualify for the benefit of this subsection with respect to the machinery and equipment not placed in service within the two-year period. However, if the taxpayer qualifies for a credit in the year the eligible machinery and equipment are placed in service, the taxpayer may take the credit for that year as if no letter of commitment had been signed pursuant to this subsection.

"**§ 105-129.10. Credit for research and development.**

(a) General Credit. -- A taxpayer that claims for the taxable year a federal income tax credit under section 41(a) of the Code for increasing research activities is allowed a credit equal to five percent (5%) of the State's apportioned share of the taxpayer's expenditures for increasing research activities. The State's apportioned share of a taxpayer's expenditures for increasing research activities is the excess of the taxpayer's qualified research expenses for the taxable year over the base amount, as determined under section 41 of the Code, multiplied by a percentage equal to the ratio of the taxpayer's qualified research expenses in this State for the taxable year to the taxpayer's total qualified research expenses for the taxable year.

(b) Alternative Credit. -- A taxpayer that claims the alternative incremental credit under section 41(c)(4) of the Code for increasing research activities is allowed a credit equal to twenty-five percent (25%) of the State's apportioned share of the federal credit claimed. The State's apportioned share of the federal credit claimed is the amount of the alternative incremental credit the taxpayer claimed under section 41(c)(4) of the Code for the taxable year multiplied by a percentage equal to the ratio of the taxpayer's qualified research expenses in this State for the taxable year to the taxpayer's total qualified research expenses for the taxable year. For the purpose of this subsection, the amount of the alternative incremental credit claimed by a taxpayer is determined without regard to any reduction elected under section 280C(c) of the Code.

(c) Definitions. -- As used in this section, the terms "qualified research expenses" and "base amount" have the meaning provided in section 41 of the Code. Notwithstanding G.S. 105-228.90(b), as used in this section, the term "Code" means the Internal Revenue Code as enacted as of January 1, 1999.

"**§ 105-129.11. Credit for worker training.**

(a) Credit. -- A taxpayer that provides worker training for five or more of its eligible employees during the taxable year is allowed a credit equal to the wages paid to the eligible employees during the training. Wages paid to an employee performing his or her job while being trained are not eligible for the credit. For positions located in an enterprise tier one area, the credit may not exceed one thousand dollars ($1,000) per employee trained during the taxable year. For other positions, the credit may not exceed five hundred dollars ($500.00) per employee trained during the

taxable year. A position is located in an area if more than fifty percent (50%) of the employee's duties are performed in the area.

(b) Eligibility. -- An employee is eligible if the employee is in a full-time position not classified as exempt under the Fair Labor Standards Act, 29 U.S.C. § 213(a)(1) and meets one or more of the following conditions:

(1) The employee occupies a job for which the taxpayer is eligible to claim an installment of the credit for creating jobs.

(2) The employee is being trained to operate machinery and equipment for which the taxpayer is eligible to claim an installment of the credit for investing in machinery and equipment.

"**§ 105-129.12. Credit for investing in central administrative office property.**

(a) Credit. -- If a taxpayer that has purchased or leased real property in this State begins to use the property as a central administrative office during the taxable year, the taxpayer is allowed a credit equal to seven percent (7%) of the eligible investment amount. The eligible investment amount is the lesser of (i) the cost of the property and (ii) the amount by which the cost of all of the property the taxpayer is using in this State as central administrative offices on the last day of the taxable year exceeds the cost of all of the property the taxpayer was using in this State as central administrative offices on the last day of the base year. The base year is that year, of the three immediately preceding taxable years, in which the taxpayer was using the most property in this State as central administrative offices. In the case of property that is leased, the cost of the property is not determined as provided in G.S. 105-129.2 but is considered to be the taxpayer's lease payments over a seven-year period, plus any expenditures made by the taxpayer to improve the property before it is used as the taxpayer's central administrative office if the expenditures are not reimbursed or credited by the lessor. The maximum credit allowed a taxpayer under this section for property used as a central administrative office is five hundred thousand dollars ($500,000). The entire credit may not be taken for the taxable year in which the property is first used as a central administrative office but shall be taken in equal installments over the seven years following the taxable year in which the property is first used as a central administrative office. The basis in any real property for which a credit is allowed under this section shall be reduced by the amount of credit allowable.

(b) Mixed Use Property. -- If the taxpayer uses only part of the property as the taxpayer's central administrative office, the amount of the credit allowed under this section is reduced by multiplying it by a fraction the numerator of which is the square footage of the property used as the taxpayer's central administrative office and the denominator of which is the total square footage of the property.

(c) Expiration. -- If, in one of the seven years in which the installment of a credit accrues, the property with respect to which the credit was claimed is no longer used as a central administrative office, the credit expires and the taxpayer may not take any remaining installment of the credit. If, in one of the seven years in which the installment of a credit accrues, part of the property with respect to which the credit was claimed is no longer used as a central administrative office, the remaining

installments of the credit shall be reduced by multiplying it by the fraction described in subsection (b) of this section. If, in one of the seven years in which the installment of a credit accrues, the total number of employees the taxpayer employs at all of its central administrative offices in this State drops by 40 or more, the credit expires and the taxpayer may not take any remaining installment of the credit.

In each of these cases, the taxpayer may nonetheless take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

"**§ 105-129.13. Credit for development zone projects.**

(a) Credit. -- A taxpayer who contributes cash or property to a development zone agency for an improvement project in a development zone is allowed a credit equal to twenty-five percent (25%) of the value of the contribution. A contribution is for an improvement project for the purposes of this section if the agency receiving the contribution contracts in writing to use the contribution for the project and agrees in the contract to repay to the taxpayer, with interest, any part of the contribution not used for the project. The credit may not be taken for the year in which the contribution is made but must be taken for the taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in this section.

(b) Definitions. -- The following definitions apply in this section:

(1) Community development corporation. -- A nonprofit corporation that meets all of the following conditions:

a. It is chartered pursuant to Chapter 55A of the General Statutes and is tax-exempt pursuant to section 501(c)(3) of the Code.

b. Its primary mission is to develop and improve low-income communities and neighborhoods through economic and related development.

c. Its activities and decisions are initiated, managed, and controlled by the constituents of those local communities.

d. Its primary function is to act as deal maker and packager of projects and activities that will increase its constituency's opportunities to become owners, managers, and producers of small businesses, to obtain affordable housing, and to obtain jobs designed to produce positive cash flow and curb blight in the targeted community.

(2) Community development purpose. -- A purpose for which a city is authorized to expend funds under G.S. 160A-456, 160A-457, and 160A-457.2.

(3) Control. -- A person controls an entity if the person owns, directly or indirectly, more than ten percent (10%) of the voting securities of that entity. As used in this subdivision, the term 'voting security' means a security that (i) confers upon the holder the right to vote for the election of members of the board of directors or

similar governing body of the business or (ii) is convertible into, or entitles the holder to receive upon its exercise, a security that confers such a right to vote. A general partnership interest is a voting security.

(4) Development zone agency. -- Any of the following agencies that the Department of Commerce certifies will undertake an improvement project in a development zone:

a. A community-based development organization qualified under 24 C.F.R. § 570.204 to receive community development block grant funds under the Housing and Community Development Act of 1974, as amended, 42 U.S.C. § 5301, et seq., to carry out a neighborhood revitalization project, a community economic development project, or an energy conservation project.

b. A community action agency that has been officially designated as such pursuant to section 210 of the Economic Opportunity Act of 1964, Public Law 88-452, 78 Stat. 508 and which has not lost its designation as a result of a failure to comply with the provisions of that act.

c. A community development corporation.

d. A community development financial institution certified by the United States Department of the Treasury under the Community Development Banking and Financial Institutions Act of 1994, 12 U.S.C. § 4701, et seq.

e. A community housing development organization qualified under the HOME Investment Partnerships Act, 42 U.S.C. §§ 12701, 12704, and 24 C.F.R. § 92.2.

f. A local housing authority created under Article 1 of Chapter 157 of the General Statutes.

(5) Improvement project. -- A project to construct or improve real property for community development purposes or to acquire real property and convert it for community development purposes. Construction or improvement includes services provided by a development zone agency directly related to the construction or improvement, and project development fees charged by a developer for the construction or improvement.

(c) Certification. -- Before certifying that a development zone agency will undertake an improvement project in a development zone, the Secretary must require the agency to provide sufficient documentation to establish the identity of the agency, the nature of the project, and that the project is for a community development purpose and is located in a development zone. The Secretary of Commerce shall not certify a development zone agency under this section if the agency, any of the agency's officers or directors, or any partner of the agency has ever used any part of a

contribution made under this section for any purpose other than an improvement project.

(d) Limitations. -- A taxpayer who claims a credit under this subsection must identify in the application the development zone agencies to which the taxpayer made contributions and the amount contributed to each. No credit is allowed for a contribution if the taxpayer is related to the development zone agency as defined in section 1313 of the Code or if the taxpayer controls, is controlled by, or is under common control with an affiliate of the development zone agency. No credit is allowed to the extent the taxpayer receives anything of value in exchange for the contribution.

(e) Application. -- To be eligible for the tax credit provided in this section, in addition to the application required under G.S. 105-129.6, the taxpayer must file an application for the credit with the Secretary of Revenue on or before April 15 of the year following the calendar year in which the contribution was made. The Secretary may grant extensions of this deadline, as the Secretary finds appropriate, upon the request of the taxpayer, except that the application may not be filed after September 15 of the year following the calendar year in which the contribution was made. An application is effective for the year in which it is timely filed. The application must be on a form prescribed by the Secretary and must include any supporting documentation that the Secretary may require. If a contribution for which a credit is applied for was of property rather than cash, the taxpayer must include with the application a certified appraisal of the value of the property contributed.

(f) Ceiling. -- The total amount of all tax credits allowed to taxpayers under this section for contributions made in a calendar year may not exceed four million dollars ($4,000,000). The Secretary of Revenue must calculate the total amount of tax credits claimed from the applications filed under this section. If the total amount of tax credits claimed for contributions made in a calendar year exceeds four million dollars ($4,000,000), the Secretary must allow a portion of the credits claimed by allocating a total of four million dollars ($4,000,000) in tax credits in proportion to the size of the credit claimed by each taxpayer. If a credit is reduced pursuant to this subsection, the Secretary must notify the taxpayer of the amount of the reduction of the credit on or before December 31 of the year the application was filed. The Secretary's allocations based on applications filed pursuant to this section are final and will not be adjusted to account for credits applied for but not claimed.

(g) Forfeiture. -- A taxpayer forfeits a credit allowed under this section to the extent the development zone agency uses the taxpayer's contribution for any purpose other than an improvement project. Each development zone agency certified by the Department of Commerce must file with the Department of Commerce annual financial statements audited in accordance with generally accepted accounting principles and in accordance with Government Audit Standards developed by the Comptroller General of the United States. The annual statements are required each time the agency receives a contribution eligible for the credit allowed under this section until the entire contribution has been used for improvement projects. If the Department of Commerce determines that a development zone agency has used part

or all of a contribution for any purpose other than an improvement project, the Department must notify the Secretary of Revenue of the forfeiture, the taxpayer who made the contribution, and the amount forfeited."

Section 2.1. G.S. 105-259(b) is amended by adding a new subdivision to read:

"(b) Disclosure Prohibited. -- An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

. . .

(22) To furnish the Department of Commerce and the Employment Security Commission a copy of the qualifying information required in G.S. 105-129.7(b)."

PART II. SALES TAX CHANGES

Section 3.(a) G.S. 105-164.4(a)(1d)a. through k. are recodified as G.S. 105-164.4A.

Section 3.(b) G.S. 105-164.4(a)(1d), as amended by this section, reads as rewritten:

"(1d) The rate of one percent (1%) applies to the sales price of the ~~following articles.~~ articles listed in G.S. 105-164.4A. The maximum tax is eighty dollars ($80.00) per article."

Section 3.(c) G.S. 105-164.4A, as recodified by this section, reads as rewritten:

"**§ 105-164.4A. Articles taxed at one percent (1%), eighty dollars ($80.00).**

The following articles are taxable under G.S. 105-164.4(a)(1d):

~~a.~~(1) Farm machinery. -- Sales to a farmer of machines and machinery, and parts and accessories for these machines and machinery, for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals. A "farmer" includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758. Items that are exempt from tax under G.S. 105-164.13(4c) are not subject to tax under ~~this section.~~ G.S. 105-164.4.

The term "machines and machinery" as used in this subdivision is defined as follows:

The term shall include all vehicular implements, designed and sold for any use defined in this subdivision, which are operated, drawn or propelled by motor or animal power, but shall not include vehicular implements which are operated wholly by hand, and shall not include any motor vehicles required to be registered under Chapter 20 of the General Statutes.

The term shall include all nonvehicular implements and mechanical devices designed and sold for any use defined in this

subdivision, which have moving parts, or which require the use of any motor or animal power, fuel, or electricity in their operation but shall not include nonvehicular implements which have no moving parts and are operated wholly by hand.

The term shall also include metal flues sold for use in curing tobacco, whether such flues are attached to handfired furnaces or used in connection with mechanical burners.

~~b.~~(2) Manufacturing machinery. -- Sales of mill machinery or mill machinery parts and accessories to manufacturing industries and plants, and sales to contractors and subcontractors purchasing mill machinery or mill machinery parts and accessories for use by them in the performance of contracts with manufacturing industries and plants, and sales to subcontractors purchasing mill machinery or mill machinery parts and accessories for use by them in the performance of contracts with general contractors who have contracts with manufacturing industries and plants. As used in this paragraph, the term "manufacturing industries and plants" does not include delicatessens, cafes, cafeterias, restaurants, and other similar retailers that are principally engaged in the retail sale of foods prepared by them for consumption on or off their premises.

~~c.~~(3) Telephone company property. -- Sales of central office equipment and switchboard and private branch exchange equipment to telephone companies regularly engaged in providing telephone service to subscribers on a commercial basis, and sales to these companies of prewritten computer programs used in providing telephone service to their subscribers.

~~d.~~(4) Laundry machinery. -- Sales to commercial laundries or to pressing and dry cleaning establishments of machinery used in the direct performance of the laundering or the pressing and cleaning service and of parts and accessories thereto.

~~e.~~(5) Freezer plant machinery. -- Sales to freezer locker plants of machinery used in the direct operation of ~~said~~ the freezer locker plant and of parts and accessories thereto.

~~f.~~(6) Broadcasting machinery. -- Sales of broadcasting equipment and parts and accessories thereto and towers to commercial radio and television companies which are under the regulation and supervision of the Federal Communications Commission.

~~g.~~(7) Tobacco equipment. -- Sales to farmers of bulk tobacco barns and racks and all parts and accessories thereto and similar apparatus used for the curing and drying of any farm produce.

~~h.~~(8) Farm storage facilities. -- Sales to farmers of grain, feed or soybean storage facilities and accessories thereto, whether or not

dryers are attached, and all similar apparatus and accessories thereto for the storage of grain, feed or soybeans.

~~i.~~(9) Farm containers. -- Sales of containers to farmers or producers for use in the planting, producing, harvesting, curing, marketing, packaging, sale, or transporting or delivery of their products when such containers do not go with and become part of the sale of their products at wholesale or retail.

~~j.~~(10) Recycling facility equipment. -- Sales to a major recycling facility of the following tangible personal property for use in connection with the facility: cranes, structural steel crane support systems, foundations related to the cranes and support systems, port and dock facilities, rail equipment, and material handling equipment.

~~k.~~(11) (Effective January 1, 2001) Air courier equipment. -- Sales of the following items to an interstate air courier for use at its hub: materials handling equipment, racking systems, and related parts and accessories, for the storage or handling and movement of tangible personal property at an airport or in a warehouse or distribution facility."

Section 4. G.S. 105-164.14 is amended by adding a new subsection to read:

"(h) Low Enterprise Tier Machinery. -- Eligible taxpayers are allowed an annual refund of sales and use taxes paid under this Article as provided in this subsection.

(1) Refunds. -- An eligible person is allowed an annual refund of sales and use taxes paid by it under this Article at the general rate of tax on eligible machinery and equipment it purchases for use in an enterprise tier one area or an enterprise tier two area, as defined in G.S. 105-129.3. Liability incurred indirectly by the taxpayer for sales and use taxes on these items is considered tax paid by the taxpayer. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred.

(2) Eligibility. -- A person is eligible for the refund provided in this subsection if it is engaged primarily in one of the businesses listed in G.S. 105-129.4(a) in an enterprise tier one area or an enterprise tier two area, as defined in G.S. 105-129.3.

(3) Machinery and equipment. -- For the purpose of this subsection, the term 'machinery and equipment' means engines, machinery, equipment, tools, and implements used or designed to be used in one of the businesses listed in G.S. 105-129.4(a). Machinery and equipment are eligible for the refund provided in this subsection if the taxpayer places them in service in an enterprise tier one area or an enterprise tier two area, as defined in G.S. 105-129.3,

capitalizes them for tax purposes under the Code, and does not lease them to another party."

Section 5.(a) G.S. 105-164.14 is amended by adding a new subsection to read:

"(i) Nonprofit Insurance Companies. -- Eligible nonprofit insurance companies are allowed an annual refund of sales and use taxes paid under this Article as provided in this subsection.

(1) Refunds. -- An eligible nonprofit insurance company is allowed an annual refund of sales and use taxes paid by it under this Article on building materials, building supplies, fixtures, and equipment that become a part of its real property, and on computer systems hardware and software it capitalizes for tax purposes under the Code. Liability incurred indirectly by the company for sales and use taxes on these items is considered tax paid by the company. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the insurance company's fiscal year. Refunds applied for after the due date are barred.

(2) Eligibility. -- An insurance company is eligible for the refund provided in this subsection if it meets all of the following conditions:

a. It is a nonprofit corporation.

b. It is operated for the exclusive purpose of providing insurance and annuity contracts to or for the benefit of organizations exempt from federal income tax under section 501(c)(3) of the Code, and their employees.

c. The Secretary of Commerce has certified that the insurance company will invest at least twenty million dollars ($20,000,000) in constructing a facility in this State for the conduct of its operations.

(3) Forfeiture. -- If an eligible insurance company does not make the required minimum investment within five years after its first refund under this subsection, it loses its eligibility and forfeits all refunds already received under this subsection. Upon forfeiture, the company is liable for tax under this Article equal to the amount of all past taxes refunded under this subsection, plus interest at the rate established in G.S. 105-241.1(i), computed from the date each refund was issued. The tax and interest are due 30 days after the date of the forfeiture. A company that fails to pay the tax and interest is subject to the penalties provided in G.S. 105-236."

Section 5.(b) Effective January 1, 2008, G.S. 105-164.14(i)(1), as enacted by this section, reads as rewritten:

"(i) Nonprofit Insurance Companies. -- Eligible nonprofit insurance companies are allowed an annual refund of sales and use taxes paid under this Article as provided in this subsection.

(1) Refunds. -- An eligible nonprofit insurance company is allowed an annual refund of sales and use taxes paid by it under this Article on ~~building materials, building supplies, fixtures, and equipment that become a part of its real property, and on~~ computer systems hardware and software it capitalizes for tax purposes under the Code. ~~Liability incurred indirectly by the company for sales and use taxes on these items is considered tax paid by the company.~~ A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the insurance company's fiscal year. Refunds applied for after the due date are barred."

Section 6.(a) G.S. 105-164.3 is amended by adding a new subdivision to read:

"(6e) Interstate passenger air carrier. -- A person whose primary business is scheduled passenger air transportation, as defined in the North American Industry Classification System adopted by the United States Office of Management and Budget, in interstate commerce."

Section 6.(b) G.S. 105-164.3(6b), as enacted by S.L. 1998-55, becomes effective May 1, 1999.

Section 6.(c) G.S. 105-164.3(6b) reads as rewritten:

"(6b) Hub. -- ~~An interstate air courier's~~ Either of the following:

a. An interstate air courier's hub is the airport in this State that meets all of the following conditions:

~~a.~~ 1. The air courier has allocated to the airport under G.S. ~~105-388~~ 105-338 more than sixty percent (60%) of its aircraft value apportioned to this State.

~~b.~~ 2. The air courier's primary function at the airport is to sort and distribute letters and packages received from multiple consolidation locations.

~~c.~~ 3. The air courier's primary function at the airport is not to consolidate letters and packages and deliver them to another airport for sorting and distribution.

b. An interstate passenger air carrier's hub is the airport in this State that meets both of the following conditions:

1. The air carrier has allocated to the airport under G.S. 105-338 more than sixty percent (60%) of its aircraft value apportioned to this State.

2. The majority of the air carrier's passengers boarding at the airport are connecting from other airports rather than originating at that airport."

Section 7.(a) Section 9 of S.L. 1998-55 is repealed.

Section 7.(b) G.S. 105-164.13 is amended by adding a new subdivision to read:

"(45) Sales of the following items to an interstate passenger air carrier for use at its hub: aircraft lubricants, aircraft repair parts, and aircraft accessories."

Section 7.(c) Effective January 1, 2001, G.S. 105-164.13(45), as enacted by this act, reads as rewritten:

"(45) Sales of the following items to an interstate passenger air carrier or an interstate air courier for use at its hub: aircraft lubricants, aircraft repair parts, and aircraft accessories."

Section 8. G.S. 105-164.4A, as recodified by this act, is amended by adding a new subdivision to read:

"(12) Flight crew training equipment. -- Sales to an interstate passenger air carrier or an interstate air courier of aircraft simulators for flight crew training for use at the air carrier or air courier's hub."

Section 9. G.S. 105-164.14(a) reads as rewritten:

"(a) Interstate Carriers. -- An interstate carrier is allowed a refund, in accordance with this section, of part of the sales and use taxes paid by it on fuel, lubricants, repair parts, and accessories purchased in this State for a motor vehicle, railroad car, locomotive, or airplane the carrier operates. An 'interstate carrier' is a person who is engaged in transporting persons or property in interstate commerce for compensation. The Secretary shall prescribe the periods of time, whether monthly, quarterly, semiannually, or otherwise, with respect to which refunds may be claimed, and shall prescribe the time within which, following these periods, an application for refund may be made.

An applicant for refund shall furnish the following information and any proof of the information required by the Secretary:

(1) A list identifying the fuel, lubricants, repair parts, and accessories purchased by the applicant inside or outside this State during the refund period.

(2) The purchase price of the items listed in subdivision (1) of this subsection.

(3) The sales and use taxes paid in this State on the listed items.

(4) The number of miles the applicant's motor vehicles, railroad cars, locomotives, and airplanes were operated both inside and outside this State during the refund period.

(5) Any other information required by the Secretary.

For each applicant, the Secretary shall compute the amount to be refunded as follows. First, the Secretary shall determine the ratio of the number of miles the

applicant operated its motor vehicles, railroad cars, locomotives, and airplanes in this State during the refund period to the number of miles it operated them both inside and outside this State during the refund period. Second, the Secretary shall determine the applicant's proportional liability for the refund period by multiplying this mileage ratio by the purchase price of the items identified in subdivision (1) of this subsection and then multiplying the resulting product by the tax rate that would have applied to the items if they had all been purchased in this State. Third, the Secretary shall refund to each applicant the excess of the amount of sales and use taxes the applicant paid in this State during the refund period on these items over the applicant's proportional liability for the refund period."

PART III. AFFORDABLE HOUSING TAX CREDIT

Section 10. The title of Article 3B of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 3B.

"Business Tax ~~Credit.~~ Credits."

Section 11. Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.16A. Credit for low-income housing.**

(a) Credit. -- A taxpayer that is allowed for the taxable year a federal income tax credit for low-income housing under section 42 of the Code with respect to a qualified North Carolina low-income building, is allowed a credit under this Article equal to a percentage of the total federal credit allowed with respect to that building. For the purposes of this section, the total federal credit allowed is the total allowed during the 10-year federal credit period plus the disallowed first-year credit allowed in the 11th year. For the purposes of this section, the total federal credit is calculated based on qualified basis as of the end of the first year of the credit period and is not recalculated to reflect subsequent increases in qualified basis. For buildings that meet condition (c)(1) of this section, the credit percentage is seventy-five percent (75%). For other buildings, the credit percentage is twenty-five percent (25%).

(b) Timing. -- The credit must be taken in equal installments over the five years beginning in the first taxable year in which the federal credit is claimed for that building. During the first taxable year in which the credit allowed under this section may be taken with respect to a building, the amount of the installment must be multiplied by the applicable fraction under section 42(f)(2)(A) of the Code. Any reduction in the amount of the first installment as a result of this multiplication is carried forward and may be taken in the first taxable year after the fifth installment is allowed under this section.

(c) Definitions. -- The definitions in section 42 of the Code apply in this section. In addition, as used in this section the term 'qualified North Carolina low-income building' means a qualified low-income building that was allocated a federal credit under section 42(h)(1) of the Code, was not allowed a federal credit under section 42(h)(4) of the Code, and meets any of the following conditions:

(1) It is located in an area that, at the time the federal credit is allocated to the building, is a tier one or two enterprise area, as defined in G.S. 105-129.3.

(2) It is located in an area that, at the time the federal credit is allocated to the building, is a tier three or four enterprise area, and forty percent (40%) of its residential units are both rent-restricted and occupied by individuals whose income is fifty percent (50%) or less of area median gross income as defined in the Code.

(3) It is located in an area that, at the time the federal credit is allocated to the building, is a tier five enterprise area, and forty percent (40%) of its residential units are both rent-restricted and occupied by individuals whose income is thirty-five percent (35%) or less of area median gross income as defined in the Code.

(d) Expiration. -- If, in one of the five years in which an installment of the credit under this section accrues, the taxpayer is no longer eligible for the corresponding federal credit with respect to the same qualified North Carolina low-income building, then the credit under this section expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17.

(e) Forfeiture. -- If the taxpayer is required under section 42(j) of the Code to recapture all or part of a federal credit under that section with respect to a qualified North Carolina low-income building, the taxpayer forfeits the corresponding part of the credit allowed under this section with respect to that qualified North Carolina low-income building. A taxpayer that forfeits a credit under this section is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236."

Section 12. Reserved.

Section 13. G.S. 105-129.17 reads as rewritten:

"**§ 105-129.17. Tax election; cap.**

(a) Tax Election. -- The ~~credit~~ credits allowed in this Article ~~is~~ are allowed against the franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of this Chapter. The taxpayer must elect the tax against which ~~the~~ a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. Any carryforwards of ~~the~~ a credit must be claimed against the same tax.

(b) Cap. -- The ~~credit~~ total credits allowed in this Article may not exceed fifty percent (50%) of the tax against which ~~it is~~ they are claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article

against each tax for the taxable year. Any unused portion of the ~~credit~~ credits may be carried forward for the succeeding five years."

Section 14. G.S. 105-129.18 reads as rewritten:

"**§ 105-129.18. Substantiation.**

To claim the ~~credit~~ credits allowed by this Article, the taxpayer must provide any information required by the Secretary of Revenue. Every taxpayer claiming a credit under this Article must maintain and make available for inspection by the Secretary of Revenue any records the Secretary considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for the credit and the amount of the credit rests upon the taxpayer, and no credit may be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection."

Section 15. G.S. 105-129.19 reads as rewritten:

"**§ 105-129.19. Reports.**

The Department of Revenue shall report to the Legislative Research Commission and to the Fiscal Research Division of the General Assembly by May 1 of each year the following information for the 12-month period ending the preceding April 1:

(1) The number of taxpayers that claimed the ~~credit~~ credits allowed in this Article.

(2) The cost of business property with respect to which business property credits were claimed.

(2a) The location of each qualified North Carolina low-income building with respect to which a low-income housing credit was claimed.

(3) The total cost to the General Fund of the credits claimed."

Section 16. G.S. 105-241.1(e) reads as rewritten:

"(e) Statute of Limitations. -- There is no statute of limitations and the Secretary may propose an assessment of tax due from a taxpayer at any time if (i) the taxpayer did not file a proper application for a license or did not file a return, (ii) the taxpayer filed a false or fraudulent application or return, or (iii) the taxpayer attempted in any manner to fraudulently evade or defeat the tax.

If a taxpayer files a return reflecting a federal determination as provided in G.S. 105-29, 105-130.20, 105-159, 105-160.8, 105-163.6A, or 105-197.1, the Secretary must propose an assessment of any tax due within one year after the return is filed or within three years of when the original return was filed or due to be filed, whichever is later. If there is a federal determination and the taxpayer does not file the required return, the Secretary must propose an assessment of any tax due within three years after the date the Secretary received the final report of the federal determination. ~~If~~

If a taxpayer forfeits a tax credit ~~pursuant to G.S. 105-163.014 or Article 3A of~~ or tax benefit pursuant to forfeiture provisions of this Chapter, the Secretary must assess any tax due as a result of the forfeiture within three years after the date of the forfeiture. If a taxpayer elects under section 1033(a)(2)(A) of the Code not to recognize gain from involuntary conversion of property into money, the Secretary must assess any tax due as a result of the conversion or election within the applicable period provided under section 1033(a)(2)(C) or section 1033(a)(2)(D) of the Code. If

a taxpayer sells at a gain the taxpayer's principal residence, the Secretary must assess any tax due as a result of the sale within the period provided under section 1034(j) of the Code.

In all other cases, the Secretary must propose an assessment of any tax due from a taxpayer within three years after the date the taxpayer filed an application for a license or a return or the date the application or return was required by law to be filed, whichever is later.

If the Secretary proposes an assessment of tax within the time provided in this section, the final assessment of the tax is timely.

A taxpayer may make a written waiver of any of the limitations of time set out in this subsection, for either a definite or an indefinite time. If the Secretary accepts the taxpayer's waiver, the Secretary may propose an assessment at any time within the time extended by the waiver."

PART IV. MISCELLANEOUS CHANGES

Section 17. G.S. 143B-437.01(a) reads as rewritten:

"(a) Creation and Purpose of Fund. -- There is created in the Department of Commerce the Industrial Development Fund to provide funds to assist the local government units of the most economically distressed counties in the State in creating jobs in certain industries. The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the following provisions, which shall apply to each grant from the fund:

(1) The funds shall be used for (i) installation of or purchases of equipment for eligible industries, (ii) structural repairs, improvements, or renovations of existing buildings to be used for expansion of eligible industries, or (iii) construction of or improvements to new or existing water, sewer, gas, or electrical utility distribution lines or equipment for existing or new or proposed industrial buildings to be used for eligible industries. To be eligible for funding, the water, sewer, gas, or electrical utility lines or facilities shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the specific eligible industrial activity.

(1a) The funds shall be used for projects located in economically distressed counties except that the Secretary of Commerce may use up to one hundred thousand dollars ($100,000) to provide emergency economic development assistance in any county that is documented to be experiencing a major economic dislocation.

(2) The funds shall be used by the city and county governments for projects that will directly result in the creation of new jobs. The funds shall be expended at a maximum rate of five thousand dollars ($5,000) per new job created up to a maximum of five hundred thousand dollars ($500,000) per project.

(3) There shall be no local match requirement if the project is located in an enterprise tier one area as defined in G.S. 105-129.3.

(4) The Department may authorize a local government that receives funds under this section to use up to two percent (2%) of the funds, if necessary, to verify that the funds are used only in accordance with law and to otherwise administer the grant or loan.

(5) No project subject to the Environmental Policy Act, Article 1 of Chapter 113A of the General Statutes, shall be funded unless the Secretary of Commerce finds that the proposed project will not have a significant adverse effect on the environment. The Secretary of Commerce shall not make this finding unless the Secretary has first received a certification from the Department of Environment and Natural Resources that concludes, after consideration of avoidance and mitigation measures, that the proposed project will not have a significant adverse effect on the environment."

Section 17.1. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-277.13. Brownfields property.**

(a) The definitions in G.S. 130A-310.31 apply in this section. In addition, for the purpose of this section, the term 'recently remediated brownfields property' means brownfields property for which all remediation required under a brownfields agreement has been completed within the 10 years immediately preceding the listing date for the property, as certified by the Secretary of Environment and Natural Resources.

(b) Recently remediated brownfields property is designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution and shall be assessed for taxation at the lower of its true value as of the valuation date or its true value as of January 1 preceding the beginning of its remediation under a brownfields agreement."

Section 17.2. G.S. 130A-310.38 reads as rewritten:

"**§ 130A-310.38. Brownfields Property Reuse Act Implementation Account.**

The Brownfields Property Reuse Act Implementation Account is created as a nonreverting interest-bearing account in the Office of the State Treasurer. The Account shall consist of fees and interest collected under G.S. 130A-310.39, moneys appropriated to it by the General Assembly, moneys received from the federal government, moneys contributed by private organizations, and moneys received from any other source. Funds in the Account shall be used by the Department to defray ~~a portion of~~ the costs of implementing this Part. The Department may contract with a private entity for any services necessary to implement this Part."

Section 17.3. G.S. 130A-310.39 reads as rewritten:

"**§ 130A-310.39. Fees.**

(a) The Department shall collect the following fees:

(1) A prospective developer who submits a proposed brownfields agreement for review by the Department shall pay ~~a~~ an initial fee of ~~one~~ two thousand dollars ~~($1,000).~~ ($2,000).

(2) A prospective developer who ~~submits a final report certifying completion of remediation under~~ enters into a brownfields agreement with the Department shall pay a fee ~~of five hundred dollars ($500.00).~~ in an amount equal to the full cost to the Department and the Department of Justice of all activities related to the brownfields agreement, including but not limited to negotiation of the brownfields agreement, public notice and community involvement, and monitoring the implementation of the brownfields agreement. The procedure by which the amount of this fee is determined shall be established by agreement between the prospective developer and the Department and shall be set out as a part of the brownfields agreement. The fee imposed by this subdivision shall be paid in two installments. The first installment shall be due at the time the prospective developer and the Department enter into the brownfields agreement and shall equal all costs that have been incurred by the Department and the Department of Justice at that time less the amount of the initial fee paid pursuant to subdivision (1) of this subsection. The Department shall not enter into the brownfields agreement unless the first installment is paid in full when due. The second installment shall be due at the time the prospective developer submits a final report certifying completion of remediation under the brownfields agreement and shall include any additional costs that have been incurred by the Department and the Department of Justice, including all costs of monitoring the implementation of the brownfields agreement.

(b) Fees and interest imposed under this section shall be credited to the Brownfields Property Reuse Act Implementation Account.

(c) If a prospective developer fails to pay the full amount of any fee due under this section, interest on the unpaid portion of the fee shall accrue from the time the fee is due until paid at the rate established by the Secretary of Revenue pursuant to G.S. 105-241.1(i). A lien for the amount of the unpaid fee plus interest shall attach to the real and personal property of the prospective developer and to the brownfields property until the fee and interest is paid. The Department may collect unpaid fees and interest in any manner that a unit of local government may collect delinquent taxes."

Section 18. To the extent feasible, the Department of Commerce shall encourage and support reasonable efforts to develop agreements to reduce the use of excessive tax and economic incentives for interstate competition in luring businesses

from one state to another. The Department of Commerce shall also support appropriate and reasonable federal legislation to prohibit or reduce states' use of tax and economic incentives for interstate competition in luring businesses from one state to another. This section does not require the Secretary of Commerce to support actions that will place the State at an economic disadvantage or that are contrary to the economic well-being of the citizens of the State. The Department of Commerce shall report on its progress in these efforts to the Revenue Laws Study Committee by March 1, 2000, and March 1, 2001.

Section 19. The General Assembly finds that tax credits are enacted from time to time to encourage or reward behavior that is beneficial to the State. These tax credits are tax expenditures that, like appropriations, spend public funds for the benefit of certain businesses, interest groups, and other taxpayers. Unlike appropriations, however, these tax credits may continue in perpetuity, costing the public millions of dollars each year without periodic review by the General Assembly. In order to allow the General Assembly the opportunity to consider each tax credit on its merits from time to time to determine whether it continues to serve a public purpose that justifies its cost to the public, each tax credit should be sunset at least every five years. After enactment of this act, those businesses, interest groups, and other taxpayers who benefit from these tax credits are encouraged to demonstrate the continued need for each tax credit. It is the intent of the General Assembly to review these tax credits and renew all that continue to serve a valid public purpose, subject to review at least every five years.

Section 20.(a) The following sections of Chapter 105 of the General Statutes are repealed effective for costs incurred and investments made during taxable years beginning on or after January 1, 2005:

§ 105-130.23.	Credit against corporate income tax for solar energy equipment in residential buildings.
§ 105-151.2.	Credit for solar energy equipment.
§ 105-130.25.	Credit against corporate income tax for construction of cogenerating power plants.
§ 105-130.26.	Credit for conversion of industrial boiler to wood fuel.
§ 105-151.5.	Credit for conversion of industrial boiler to wood fuel.
§ 105-130.27.	Credit against corporate income tax for construction of a fuel ethanol distillery.
§ 105-151.6.	Credit for construction of a fuel ethanol distillery.
§ 105-130.27A.	Credit for construction of a peat facility.
§ 105-130.28.	Credit for construction of a photovoltaic equipment facility.
§ 105-130.29.	Credit for construction of an olivine brick facility.
§ 105-130.30.	Credit for construction of a methane gas facility.
§ 105-151.10.	Credit for construction of a methane gas facility.
§ 105-130.31.	Credit for installation of a wind energy device.
§ 105-151.9.	Credit for installation of a wind energy device.
§ 105-130.32.	Credit for installation of solar energy equipment for the production of heat or electricity in certain processes.

§ 105-151.8. Credit for installation of solar energy equipment for the production of heat or electricity in certain processes.
§ 105-130.33. Credit against corporate income tax for installation of a hydroelectric generator.
§ 105-151.7. Credit for installation of a hydroelectric generator.
§ 105-130.36. Credit for conservation tillage equipment.
§ 105-151.13. Credit for conservation tillage equipment.
§ 105-130.42. Credit for rehabilitating an historic structure.
§ 105-151.23. Credit for rehabilitating an historic structure.
§ 105-130.44. Credit for construction of poultry composting facility.
§ 105-151.25. Credit for construction of a poultry composting facility.
§ 105-163.011. (Repealed effective for investments made on or after January 1, 2003) [Qualified Business Investment] Tax credits allowed.

Section 20.(b) The following sections of Chapter 105 of the General Statutes are repealed effective for dwelling units completed during taxable years beginning on or after January 1, 2005:

§ 105-130.22. Tax credit for construction of dwelling units for handicapped persons.
§ 105-151.1. Credit for construction of dwelling units for handicapped persons.

Section 20.(c) The following sections of Chapter 105 of the General Statutes are repealed effective for donations made during taxable years beginning on or after January 1, 2003:

§ 105-130.34. Credit for certain real property donations.
§ 105-151.12. Credit for certain real property donations.
§ 105-130.37. Credit for gleaned crop.
§ 105-151.14. Credit for gleaned crop.
§ 105-151.26. Credit for charitable contributions by nonitemizers.

Section 20.(d) The following sections of Chapter 105 of the General Statutes are repealed effective for taxable years beginning on or after January 1, 2003:

§ 105-130.39. Credit for certain telephone subscriber line charges.
§ 105-130.43. Credit for savings and loan supervisory fees.
§ 105-151.21. Credit for property taxes paid on farm machinery.
§ 105-151.27. Credit for child health insurance.
§ 105-151.28. Credit for premiums paid on long-term care insurance.

Section 20.(e) The following sections of Chapter 105 of the General Statutes are repealed effective for charges assessed during taxable years beginning on or after January 1, 2005:

§ 105-130.41. Credit for North Carolina State Ports Authority wharfage, handling, and throughput charges.
§ 105-151.22. Credit for North Carolina State Ports Authority wharfage, handling, and throughput charges.

§ 105-228.5A. Credit against gross premium tax for assessments paid to the Insurance Guaranty Association and the Life and Health Insurance Guaranty Association.

PART V. EFFECTIVE DATES

Section 21. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

Section 22. Customer Service Center and Electronic Mail Order House. G.S. 105-129.2(3a) and (5a) and G.S. 105-129.4(a)(2a) and (3a), as enacted by Section 2 of this act, and the amendments to G.S. 105-129.4(a1) enacted by Section 2 of this act become effective for taxable years beginning on or after January 1, 2000.

Section 23. NAICS Code and Customer Service Center Changes. -- G.S. 105-129.2(2)b., as enacted by Section 2 of this act, is effective retroactively as of January 1, 1999. Except as provided in Section 22 of this act, the remaining amendments to G.S. 105-129.2 made by Section 2 of this act are effective when this act becomes law.

Section 24. Small County Enhancements. -- G.S. 105-129.3(e) and (f), as enacted by Section 2 of this act, become effective for taxable years beginning on or after January 1, 2000.

Section 25. Development Zone Definitions. -- The amendments to G.S. 105-129.3A made by Section 2 of this act become effective August 1, 1999, and apply to applications filed on or after that date. Notwithstanding the provisions of G.S. 105-129.3A(b), a development zone designation made in 1998 or 1999 is effective until January 1, 2001.

Section 26. Quality Jobs Assurance. -- G.S. 105-129.4(b2), (b3), and (b4), as enacted by Section 2 of this act, become effective for taxable years beginning on or after January 1, 2000, and apply to credits for which applications are first filed on or after that date.

Section 27. All Credits Against Gross Premiums Tax. -- The amendment to G.S. 105-129.5(a) made by Section 2 of this act is effective for taxable years beginning on or after January 1, 1999.

Section 28. Application Fees and Information. -- The amendments to G.S. 105-129.6(a) and (a1) made by Section 2 of this act are effective 30 days after this act becomes law, and apply to applications filed on or after that date. Section 2.1 of this act and the amendments to G.S. 105-129.7 made by Section 2 of this act become effective January 1, 2000.

Section 29. Development Zone Projects Credit. -- G.S. 105-129.13, as enacted by Section 2 of this act, is effective for taxable years beginning on or after January 1, 2000.

Section 30. Sales Tax Refund for Tiers One and Two Equipment. -- Section 4 of this act becomes effective January 1, 2000, and applies to taxes paid on or after that date.

Section 31. Temporary Sales Tax Refund for Nonprofit Insurance Companies. -- Section 5(a) of this act becomes effective May 1, 1999, and applies to taxes paid on or after that date. Section 5(b) of this act becomes effective January 1, 2008, and applies to taxes paid on or after that date.

Section 32. Sales Tax Preferences for Interstate Air Carriers. -- Section 7(c) of this act becomes effective January 1, 2001, and applies to sales made on or after that date. The remainder of Sections 6 through 8 of this act is effective retroactively as of May 1, 1999, and applies to sales made on or after that date. Section 9 of this act becomes effective October 1, 1999.

Section 33. Affordable Housing Credit. -- Part III of this act is effective for taxable years beginning on or after January 1, 2000, and applies to buildings to which federal credits are allocated on or after January 1, 2000.

Section 33.1. Brownfields Property Reuse Act Changes. -- Section 17.1 of this act is effective for taxes imposed for taxable years beginning on or after 1 July 2000. Sections 17.2 and 17.3 of this act are effective when this act becomes law. G.S. 130A-310.39, as amended by Section 17.3 of this act, applies to any proposed brownfields agreement that is submitted to the Department of Environment and Natural Resources for review on or after the date this act becomes law.

Section 34. Miscellaneous Changes. -- Section 20 of this act becomes effective as provided in that section.

Section 35. Remainder. -- The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1115
Finance Committee Substitute Adopted 5/20/99
Third Edition Engrossed 5/27/99
Proposed House Committee Substitute S1115-PCSX6684-LC

Short Title: William S. Lee Act/1999. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR WIDELY SHARED PROSPERITY BY AMENDING THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT, BY PROVIDING ADDITIONAL TAX INCENTIVES FOR VARIOUS BUSINESSES, AND BY MAKING RELATED CHANGES.

The General Assembly of North Carolina enacts:

TABLE OF CONTENTS

I. BILL LEE ACT CHANGES
II. SALES TAX CHANGES
III. AFFORDABLE HOUSING TAX CREDIT
IV. MISCELLANEOUS CHANGES
V. EFFECTIVE DATES

PART I. BILL LEE ACT CHANGES

Section 1. Section 10.2(3) of Chapter 13 of the 1996 Second Extra Session reads as rewritten:

"(3) Quality jobs and business expansion tax credits. -- Sections 3.5, 3.6, and 3.8 through 3.10 of Part III of this act become effective August 1, 1996. G.S. 105-129.11, as enacted by Part III of this act, becomes effective for taxable years beginning on or after January 1, 1997, and applies to training expenditures made on or after July 1, 1997. The remainder of Part III of this act is effective for taxable

years beginning on or after January 1, 1996, and applies to jobs created on or after August 1, 1996, and property placed in service on or after August 1, 1996. Article 3A of Chapter 105 of the General Statutes is repealed effective for applications for credits filed under G.S. 105-129.6 on or after January 1, ~~2002.~~ 2007. Article 3B of Chapter 105 of the General Statutes is repealed effective for business property placed in service on or after January 1, ~~2002.~~ 2007."

Section 2. Article 3A of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 3A.

"Tax Incentives for New and Expanding Businesses.

"§ 105-129.2. Definitions.

The following definitions apply in this Article:

(1) Air courier services. -- A person is engaged in the air courier services business if the person's primary business is furnishing air delivery of individually addressed letters and packages for compensation, except by the United States Postal Service.

(2) Central administrative office. -- ~~Defined~~ Either of the following:

a. A corporate, subsidiary, or regional managing office, as defined by NAICS. ~~in the North American Industry Classification System adopted by the United States Office of Management and Budget.~~

b. An auxiliary subdivision of an interstate passenger air carrier engaged primarily in centralized training for the carrier at its hub. For the purpose of this definition, the terms 'interstate passenger air carrier' and 'hub' have the meanings provided in G.S. 105-164.3.

(3) Cost. -- In the case of property owned by the taxpayer, cost is determined pursuant to regulations adopted under section 1012 of the Code. In the case of property the taxpayer leases from another, cost is value as determined pursuant to G.S. 105-130.4(j)(2).

(3a) Customer service center. -- An auxiliary subdivision of a telecommunications or financial services company, as defined by NAICS, that is primarily engaged in providing support services to the company's customers by telephone to support products or services of the company. For the purpose of this definition, a subdivision is primarily engaged in providing support services by telephone if at least sixty percent (60%) of its calls are incoming.

(4) Data processing. -- Any of the following industries, as defined by NAICS: ~~Defined in the North American Industry Classification System adopted by the United States Office of Management and Budget.~~

a. Computer systems design and related services.
b. Software publishers.
c. Software reproducing.
d. Data processing services.
e. On-line information services.

(5) Development zone. -- An area designated as a development zone pursuant to G.S. 105-129.3A.

(5a) Electronic mail order house. -- An electronic shopping and mail order house, as defined by NAICS.

(6) Enterprise tier. -- The classification assigned to an area pursuant to G.S. 105-129.3.

(7) Full-time job. -- A position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year. A full-time employee is an employee who holds a full-time job.

(8) Reserved.

(9) Large investment. -- Defined in G.S. 105-129.4(b1).

(10) Machinery and equipment. -- Engines, machinery, equipment, tools, and implements used or designed to be used in the business for which the credit is claimed. The term does not include real property as defined in G.S. 105-273 or rolling stock as defined in G.S. 105-333.

(11) Manufacturing. -- ~~Defined~~ Industries in manufacturing sectors 31 through 33, as defined by NAICS, ~~in the North American Industry Classification System adopted by the United States Office of Management and Budget.~~ but not including quick printing or retail bakeries.

(11a) NAICS. -- The North American Industry Classification System adopted by the United States Office of Management and Budget.

(12) Purchase. -- Defined in section 179 of the Code.

(13) ~~Warehousing and wholesale trade. -- Defined~~ Warehousing. -- Industries in warehousing and storage subsector 493 as defined by NAICS, ~~in the North American Industry Classification System adopted by the United States Office of Management and Budget.~~

(14) Wholesale trade. -- Industries in wholesale trade sector 42 as defined by NAICS.

"§ 105-129.3. Enterprise tier designation.

(a) Tiers Defined. -- An enterprise tier one area is a county whose enterprise factor is one of the 10 highest in the State. An enterprise tier two area is a county whose enterprise factor is one of the next 15 highest in the State. An enterprise tier three area is a county whose enterprise factor is one of the next 25 highest in the State. An enterprise tier four area is a county whose enterprise factor is one of the next 25 highest in the State. An enterprise tier five area is any area that is not in a lower-numbered enterprise tier.

(b) Annual Designation. -- Each year, on or before December 31, the Secretary of Commerce shall assign to each county in the State an enterprise factor that is the sum of the following:

(1) The county's rank in a ranking of counties by average rate of unemployment from lowest to highest, for the preceding three years.

(2) The county's rank in a ranking of counties by average per capita income from highest to lowest, for the preceding three years.

(3) The county's rank in a ranking of counties by percentage growth in population from highest to lowest.

The Secretary of Commerce shall then rank all the counties within the State according to their enterprise factor from highest to lowest, identify all the areas of the State by enterprise tier, and provide this information to the Secretary of Revenue. An enterprise tier designation is effective only for the calendar year following the designation.

(b1) Data. -- In measuring rates of unemployment and per capita income, the Secretary shall use the latest available data published by a State or federal agency generally recognized as having expertise concerning the data. In measuring population and population growth, the Secretary shall use the most recent estimates of population certified by the State Planning Officer.

(c) Exception for Enterprise Tier One Areas. -- Notwithstanding the provisions of this section, an enterprise tier one area may not be redesignated as a higher-numbered enterprise tier area until it has been an enterprise tier one area for at least two consecutive years.

(d) Exception for Two-County Industrial Park. -- For the purpose of this Article, an eligible two-county industrial park that meets all of the following conditions has the lower enterprise tier designation of the designations of the two counties in which it is located:

(1) It is located in two contiguous counties, one of which has a lower enterprise tier designation than the other.

(2) At least one-third of the park is located in the county with the lower tier designation.

(3) It is owned by the two counties or a joint agency of the counties.

(4) The county with the lower tier designation contributed at least one-half of the cost of developing the park.

(e) Exception for Certain Small Counties. -- A county that meets both of the conditions set out below has an enterprise tier designation one level below the designation it would otherwise have under subsection (a) of this section:

(1) Its population is less than 50,000.

(2) More than eighteen percent (18%) of its population is below the federal poverty level according to the most recent federal decennial census.

(f) Exception for Small Counties. -- A county that has a population of less than 25,000 and that would otherwise be designated an enterprise four or five area under this section must be designated an enterprise tier three area.

"§ 105-129.3A. Development zone designation.

(a) Development Zone Defined. -- A development zone is an area comprised of one or more contiguous census tracts, census block groups, or both in the most recent federal decennial census that meets all of the following conditions:

(1) ~~It~~ Every census tract and census block group in the zone is located in whole or in part ~~in~~ within the primary corporate limits of a city with a population of more than 5,000 according to the most recent annual population estimates certified by the State Planning Officer.

(2) It has a population of 1,000 or more according to the most recent annual population estimates certified by the State Planning Officer.

(3) More than twenty percent (20%) of its population is below the poverty level according to the most recent federal decennial census.

(4) Every census tract and census block group in the zone meets at least one of the following conditions:

a. More than ten percent (10%) of its population is below the poverty level according to the most recent federal decennial census.

b. It is immediately adjacent to another census tract or census block group that is in the same zone and has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.

(5) None of the census tracts or census block groups in the zone is located in another development zone designated by the Secretary of Commerce.

(b) Designation. -- Upon request of a taxpayer or a local government, the Secretary of Commerce shall designate whether an area is a development zone that meets the conditions of subsection (a) of this section. If the applicant is a taxpayer, it must notify each city in which part of the zone is located. A development zone designation is effective for ~~48~~ 24 months following the designation.

(c) Relationship With Enterprise Tiers. -- For the purpose of the wage standard requirement of G.S. 105-129.3(b), the credit for investing in machinery and equipment allowed in G.S. 105-129.9, and the credit for worker training allowed in G.S. 105-129.11, a development zone is considered an enterprise tier one area. For all other purposes, a development zone has the same enterprise tier designation as the county in which it is located.

"§ 105-129.4. Eligibility; forfeiture.

(a) Type of Business. -- A taxpayer is eligible for a credit allowed by G.S. 105-129.12 if the real property for which the credit is claimed is used for a central

administrative office that creates at least 40 new jobs. A taxpayer is eligible for the other credits allowed by this Article if the taxpayer engages in one of the following types of businesses and the jobs with respect to which a credit is claimed are created in that business, the machinery and equipment with respect to which a credit is claimed are used in that business, and the research and development for which a credit is claimed are carried out as part of that business:

(1) Air courier services.
(2) Central administrative office that creates at least 40 new jobs.
(2a) Customer service center located in an enterprise tier one or two area.
(3) Data processing.
(3a) Electronic mail order house that creates at least 250 new jobs and is located in an enterprise tier one or two area.
(4) Manufacturing.
(5) ~~Warehousing or wholesale trade.~~ Warehousing.
(6) Wholesale trade.

(a1) ~~Central Administrative Office.~~ New Jobs Defined. -- A central administrative office creates at least 40 new jobs if the taxpayer hires at least 40 additional full-time employees to fill new positions at the office either in the year the taxpayer first uses the property as a central administrative office or in the preceding 24 months while using temporary space for the central administrative office functions during completion of the administrative office property. An electronic mail order house creates at least 250 new jobs if the taxpayer hires at least 250 additional full-time employees to fill new positions at the house in the two-year period ending on the last day of the taxable year the taxpayer first claims a credit under this Article. Jobs transferred from one area in the State to another area in the State are not considered new jobs for purposes of this subsection.

(b) Wage Standard. -- A taxpayer is eligible for the credit for creating jobs or the credit for worker training if the jobs for which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. A taxpayer is eligible for the credit for investing in machinery and equipment, the credit for research and development, or the credit for investing in real property for a central administrative office if the jobs at the location with respect to which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. Jobs meet the wage standard if they pay an average weekly wage that is at least equal to the applicable percentage times the applicable average weekly wage for the county in which the jobs will be located, as computed by the Secretary of Commerce from data compiled by the Employment Security Commission for the most recent period for which data are available. The applicable percentage for jobs located in an enterprise tier one area is one hundred percent (100%). The applicable percentage for all other jobs is one hundred ten percent (110%). The applicable average weekly wage is the lowest of the following: (i) the average wage for all insured private employers in the county, (ii) the average wage for all insured private employers in the State, and (iii) the average wage for all insured private employers in the county multiplied by the county

income/wage adjustment factor. The county income/wage adjustment factor is the county income/wage ratio divided by the State income/wage ratio. The county income/wage ratio is average per capita income in the county divided by the annualized average wage for all insured private employers in the county. The State income/wage ratio is the average per capita income in the State divided by the annualized average wage for all insured private employers in the State.

(b1) Large Investment. -- A taxpayer who is otherwise eligible for a tax credit under this Article becomes eligible for the large investment enhancements provided for credits under this Article if the Secretary of Commerce certifies that the taxpayer will purchase or lease, and place in service in connection with the eligible business within a two-year period, at least one hundred fifty million dollars ($150,000,000) worth of one or more of the following: real property, machinery and equipment, or central administrative office property. If the taxpayer fails to make the level of investment certified within this two-year period, the taxpayer forfeits the large investment enhancements as provided in subsection (d) of this section.

(b2) Health Insurance. -- A taxpayer is eligible for a credit for creating jobs or for worker training under this Article if the taxpayer provides health insurance for the positions for which the credit is claimed at the time the taxpayer applies for the credit. A taxpayer is eligible for the other credits under this Article if the taxpayer provides health insurance for all of the full-time positions at the location with respect to which the credit is claimed at the time the taxpayer applies for the credit. For the purposes of this subsection, a taxpayer provides health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

Each year that a taxpayer claims an installment or carryforward of a credit allowed under this Article, the taxpayer must provide with the tax return the taxpayer's certification that the taxpayer continues to provide health insurance for the jobs for which the credit was claimed or the full-time jobs at the location with respect to which the credit was claimed. If the taxpayer ceases to provide health insurance for the jobs during a taxable year, the credit expires and the taxpayer may not take any remaining installment or carryforward of the credit.

(b3) Environmental Impact. -- A taxpayer is eligible for a credit allowed under this Article only if the taxpayer certifies that, at the time the taxpayer applies for the credit, the taxpayer has no pending administrative, civil, or criminal enforcement action based on alleged significant violations of any program implemented by an agency of the Department of Environment and Natural Resources, and has had no final determination of responsibility for any significant administrative, civil, or criminal violation of any program implemented by an agency of the Department of Environment and Natural Resources within the last five years. A significant violation is a violation or alleged violation that does not satisfy any of the conditions of G.S. 143-215.6B(d). The Secretary of Commerce will provide the Department of Environment and Natural Resources a list of all taxpayers making this certification. The Department of Environment and Natural Resources may conduct random audit

checks to verify taxpayers' certifications. The Department of Environment and Natural Resources must notify the Department of Revenue of any taxpayer certifications it determines are not accurate.

(b4) Safety and Health Programs. -- A taxpayer is eligible for a credit allowed under this Article only if the taxpayer certifies that, as of the time the taxpayer applies for the credit, at the business location with respect to which the credit is claimed, the taxpayer has no outstanding citations under the Occupational Safety and Health Act and has had no serious violation as defined in G.S. 95-127 within the last three years. The Secretary of Commerce will provide the Department of Labor a list of all taxpayers making this certification. The Department of Labor may conduct random audit checks to verify taxpayers' certifications. The Department of Labor must notify the Department of Revenue of any taxpayer certifications it determines are not accurate.

(c) Repealed by Session Laws 1998-55, s. 1.

(d) Forfeiture. -- A taxpayer forfeits a credit allowed under this Article if the taxpayer was not eligible for the credit at the time the taxpayer applied for the credit. In addition, a taxpayer forfeits a large investment enhancement of a tax credit if the taxpayer fails to make the level of investment certified by the Secretary of Commerce under subsection (b1) of this section within the required two-year period. A taxpayer that forfeits a credit under this Article is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236. If a taxpayer forfeits the credit for creating jobs or the credit for investing in machinery and equipment, the taxpayer also forfeits any credit for worker training claimed for the jobs for which the credit for creating jobs was claimed or the jobs at the location with respect to which the credit for investing in machinery and equipment was claimed.

(e) Change in Ownership of Business. -- The sale, merger, acquisition, or bankruptcy of a business, or any transaction by which an existing business reformulates itself as another business, does not create new eligibility in a succeeding business with respect to credits for which the predecessor was not eligible under this Article. A successor business may, however, take any installment of or carried-over portion of a credit that its predecessor could have taken if it had a tax liability. The acquisition of a business is a new investment that creates new eligibility in the acquiring taxpayer under this Article if any of the following conditions are met:

(1) The business closed before it was acquired.

(2) The business was required to file a notice of plant closing or mass layoff under the federal Worker Adjustment and Retraining Notification Act, 29 U.S.C. § 2102, before it was acquired.

(3) The business was acquired by its employees through an employee stock option transaction or another similar mechanism.

(f) Development Zone Project Credit. -- Subsections (a) through (b4) of this section do not apply to the credit for development zone projects provided in G.S. 105-129.13.

"§ 105-129.5. Tax election; cap.

(a) Tax Election. -- The credits provided in this Article are allowed against the franchise tax levied in Article 3 of this ~~Chapter and~~ Chapter, the income taxes levied in Article 4 of this ~~Chapter. The credit for investing in central administrative office property provided in G.S. 105-129.12 is also allowed against~~ Chapter, and the gross premiums tax levied in Article 8B of this Chapter. The taxpayer shall elect the tax against which a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. Any carryforwards of the credit must be claimed against the same tax.

(b) Cap. -- The credits allowed under this Article may not exceed fifty percent (50%) of the tax against which they are claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article against each tax for the taxable year. Any unused portion of a credit with respect to a large investment may be carried forward for the succeeding 20 years. Any unused portion of any other credit may be carried forward for the succeeding five years.

"§ 105-129.6. Application; reports.

(a) Application. -- To claim the credits allowed by this Article, the taxpayer must provide with the tax return the certification of the Secretary of Commerce that the taxpayer meets all of the eligibility requirements of G.S. 105-129.4 or G.S. 105-129.13, as applicable, with respect to each credit. A taxpayer shall apply to the Secretary of Commerce for certification of eligibility. The application must be on a form provided by the Secretary of Commerce and must contain any information necessary for the Secretary of Commerce to determine whether the taxpayer meets the eligibility requirements. In addition, the application must state the number of full-time jobs to be created that are located within a development zone, the number of full-time jobs to be created that are expected to be filled by employees residing within the development zone, and the number of full-time jobs to be created that are expected to be filled by employees residing within a census tract or census block group that has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.

If the Secretary of Commerce determines that the taxpayer meets all of the eligibility requirements of G.S. 105-129.4 or G.S. 105-129.13, as applicable, with respect to a credit, the Secretary shall issue a certificate describing the location with respect to which the credit is claimed, outlining the eligibility requirements for the credit, and stating that the taxpayer meets the eligibility requirements. If the Secretary of Commerce determines that the taxpayer does not meet all of the eligibility requirements of G.S. 105-129.4 or G.S. 105-129.13, as applicable, with respect to a credit, the Secretary must advise the taxpayer in writing of the eligibility requirements the taxpayer fails to meet. The Secretary of Commerce may adopt rules

in accordance with Chapter 150B of the General Statutes that are needed to carry out the Secretary of Commerce's responsibilities under this section.

(a1) Fee. -- When filing an application for certification under this section, the taxpayer must pay the Department of Commerce a fee ~~of seventy-five dollars ($75.00). Fees collected under this subsection are receipts of the Department of Commerce.~~ of five hundred dollars ($500.00) for each credit the taxpayer intends to claim with respect to a location that is in an enterprise tier three, four, or five area, subject to a maximum fee of one thousand five hundred dollars ($1,500) per taxpayer per taxable year. If the taxpayer applies for certification for a credit that relates to locations in more than one enterprise tier area, the fee is based on the highest-numbered enterprise tier area.

The Secretary of Commerce shall retain one-fourth of the proceeds of the fee imposed in this section for the costs of administering this section. The Secretary of Commerce shall credit the remaining proceeds of the fee imposed in this section to the Department of Revenue for the costs of administering and auditing the credits allowed in this Article. The proceeds of the fee are receipts of the Department to which they are credited.

(b) Reports. -- The Department of Commerce shall report to the Department of Revenue and to the Fiscal Research Division of the General Assembly by May 1 of each year the following information for the 12-month period ending the preceding April 1:

(1) The number of applications for each credit allowed in this Article.

(2) The number and enterprise tier area of new jobs with respect to which credits were applied for.

(3) The cost of machinery and equipment with respect to which credits were applied for.

(4) The number of new jobs created within development zones, and the percentage of those jobs that were filled by residents of the zones.

"§ 105-129.7. Substantiation.

(a) To claim a credit allowed by this Article, the taxpayer must provide any information required by the Secretary of Revenue. Every taxpayer claiming a credit under this Article shall maintain and make available for inspection by the Secretary of Revenue any records the Secretary considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for the credit and the amount of the credit shall rest upon the taxpayer, and no credit shall be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection.

(b) Each taxpayer must provide with the tax return qualifying information for each credit claimed under this Article for the first taxable year the credit is claimed and for every year in which a subsequent installment or a carryforward of that credit is claimed. The qualifying information must be in the form prescribed by the Secretary, must cover each taxable year beginning with the first taxable year the credit is

claimed, and must be signed and affirmed by the individual who signs the taxpayer's tax return. The information required by this subsection is information demonstrating that the taxpayer has met the conditions for qualifying for an initial credit and any installments and carryforwards, and includes the following:

(1) The physical location of the jobs and investment with respect to which the credit is claimed, including the enterprise tier designation of the location and whether it is in a development zone. In addition, for each individual who fills a job at a location with respect to which a credit is claimed, the place where the individual resided before taking the job, including any enterprise tier or development zone designation of that place.

(2) The type of business with respect to which the credit is claimed, as required by G.S. 105-129.4(a), and wage information described in G.S. 105-129.4(b).

(3) If the credit is claimed with respect to a large investment certified under G.S. 105-129.4(b1), the amount of the investment requirement under that subsection that has been met to date.

(4) Qualifying information required for the credit for creating jobs allowed under G.S. 105-129.8, the credit for investing in machinery and equipment allowed under G.S. 105-129.9, the credit for worker training allowed under G.S. 105-129.11, the credit for investing in central administrative office property allowed in G.S. 105-129.12, and any other credits allowed under this Article.

"§ 105-129.8. Credit for creating jobs.

(a) Credit. -- A taxpayer that meets the eligibility requirements set out in G.S. 105-129.4, has five or more employees for at least 40 weeks during the taxable year, and hires an additional full-time employee during that year to fill a position located in this State is allowed a credit for creating a new full-time job. The amount of the credit for each new full-time job created is set out in the table below and is based on the enterprise tier of the area in which the position is located. In addition, if the position is located in a development zone, the amount of the credit is increased by four thousand dollars ($4,000) per job.

Area Enterprise Tier	Amount of Credit
Tier One	$12,500
Tier Two	4,000
Tier Three	3,000
Tier Four	1,000
Tier Five	500

A position is located in an area if more than fifty percent (50%) of the employee's duties are performed in the area. The credit may not be taken in the taxable year in which the additional employee is hired. Instead, the credit shall be taken in equal installments over the four years following the taxable year in which the additional employee was hired and shall be conditioned on the continued employment by the

taxpayer of the number of full-time employees the taxpayer had upon hiring the employee that caused the taxpayer to qualify for the credit.

If, in one of the four years in which the installment of a credit accrues, the number of the taxpayer's full-time employees falls below the number of full-time employees the taxpayer had in the year in which the taxpayer qualified for the credit, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

Jobs transferred from one area in the State to another area in the State shall not be considered new jobs for purposes of this section. If, in one of the four years in which the installment of a credit accrues, the position filled by the employee is moved to an area in a higher- or lower-numbered enterprise tier, or is moved from a development zone to an area that is not a development zone, the remaining installments of the credit shall be calculated as if the position had been created initially in the area to which it was moved.

(b) Repealed by Session Laws 1989, c. 111, s. 1.

(b1), (c) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3.

(d) Planned Expansion. -- A taxpayer that signs a letter of commitment with the Department of Commerce to create at least twenty new full-time jobs in a specific area within two years of the date the letter is signed qualifies for the credit in the amount allowed by this section based on the area's enterprise tier and development zone designation for that year even though the employees are not hired that year. The credit shall be available in the taxable year after at least twenty employees have been hired if the hirings are within the two-year commitment period. The conditions outlined in subsection (a) apply to a credit taken under this subsection except that if the area is redesignated to a higher-numbered enterprise tier or loses its development zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and development zone designation for the year the letter was signed. If the taxpayer does not hire the employees within the two-year period, the taxpayer does not qualify for the credit. However, if the taxpayer qualifies for a credit under subsection (a) in the year any new employees are hired, the taxpayer may take the credit under that subsection.

(e), (f) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3.

"§ 105-129.9. Credit for investing in machinery and equipment.

(a) Credit. -- If a taxpayer that has purchased or leased eligible machinery and equipment places ~~it~~ them in service in this State during the taxable year, the taxpayer is allowed a credit equal to seven percent (7%) of the excess of the eligible investment amount over the applicable threshold. Machinery and equipment ~~is~~ are eligible if ~~it is~~ they are capitalized by the taxpayer for tax purposes under the Code and ~~is~~ not leased to another party. In addition, in the case of a large investment, machinery and equipment that ~~is~~ are not capitalized by the taxpayer ~~is~~ are eligible if the taxpayer leases ~~it~~ them from another party. The credit may not be taken for the taxable year in which the ~~equipment is~~ machinery and equipment are placed in

service but shall be taken in equal installments over the seven years following the taxable year in which ~~the equipment is~~ they are placed in service.

(b) Eligible Investment Amount. -- The eligible investment amount is the lesser of (i) the cost of the eligible machinery and equipment and (ii) the amount by which the cost of all of the taxpayer's eligible machinery and equipment that ~~is~~ are in service in this State on the last day of the taxable year exceeds the cost of all of the taxpayer's eligible machinery and equipment that ~~was~~ were in service in this State on the last day of the base year. The base year is that year, of the three immediately preceding taxable years, in which the taxpayer had the most eligible machinery and equipment in service in this State.

(c) Threshold. -- The applicable threshold is the appropriate amount set out in the following table based on the enterprise tier of the area where the eligible machinery and equipment are placed in service during the taxable year. If the taxpayer places eligible machinery and equipment in service in more than one area during the taxable year, the threshold applies separately to the eligible machinery and equipment placed in service in each area. If the taxpayer places eligible machinery and equipment in service in an area over the course of a two-year period, the applicable threshold for the second taxable year is reduced by the eligible investment amount for the previous taxable year.

Area Enterprise Tier	Threshold
Tier One	$ -0-
Tier Two	100,000
Tier Three	200,000
Tier Four	500,000
Tier Five	1,000,000

(d) Expiration. -- If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are disposed of, taken out of service, or moved out of State, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are moved to an area in a higher-numbered enterprise tier, or are moved from a development zone to an area that is not a development zone, the remaining installments of the credit are allowed only to the extent they would have been allowed if the machinery and equipment had been placed in service initially in the area to which they were moved.

(e) Planned Expansion. -- A taxpayer that signs a letter of commitment with the Department of Commerce to place specific eligible machinery and equipment in service in an area within two years after the date the letter is signed may, in the year the eligible machinery and equipment are placed in service in that area, calculate the credit for which the taxpayer qualifies based on the area's enterprise tier and development zone designation for the year the letter was signed. All other conditions apply to the credit, but if the area has been redesignated to a higher-numbered

enterprise tier or has lost its development zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and development zone designation for the year the letter was signed. If the taxpayer does not place part or all of the specified eligible machinery and equipment in service within the two-year period, the taxpayer does not qualify for the benefit of this subsection with respect to the machinery and equipment not placed in service within the two-year period. However, if the taxpayer qualifies for a credit in the year the eligible machinery and equipment are placed in service, the taxpayer may take the credit for that year as if no letter of commitment had been signed pursuant to this subsection.

"§ 105-129.10. Credit for research and development.

(a) General Credit. -- A taxpayer that claims for the taxable year a federal income tax credit under section 41(a) of the Code for increasing research activities is allowed a credit equal to five percent (5%) of the State's apportioned share of the taxpayer's expenditures for increasing research activities. The State's apportioned share of a taxpayer's expenditures for increasing research activities is the excess of the taxpayer's qualified research expenses for the taxable year over the base amount, as determined under section 41 of the Code, multiplied by a percentage equal to the ratio of the taxpayer's qualified research expenses in this State for the taxable year to the taxpayer's total qualified research expenses for the taxable year.

(b) Alternative Credit. -- A taxpayer that claims the alternative incremental credit under section 41(c)(4) of the Code for increasing research activities is allowed a credit equal to twenty-five percent (25%) of the State's apportioned share of the federal credit claimed. The State's apportioned share of the federal credit claimed is the amount of the alternative incremental credit the taxpayer claimed under section 41(c)(4) of the Code for the taxable year multiplied by a percentage equal to the ratio of the taxpayer's qualified research expenses in this State for the taxable year to the taxpayer's total qualified research expenses for the taxable year. For the purpose of this subsection, the amount of the alternative incremental credit claimed by a taxpayer is determined without regard to any reduction elected under section 280C(c) of the Code.

(c) Definitions. -- As used in this section, the terms "qualified research expenses" and "base amount" have the meaning provided in section 41 of the Code. Notwithstanding G.S. 105-228.90(b), as used in this section, the term "Code" means the Internal Revenue Code as enacted as of January 1, 1999.

"§ 105-129.11. Credit for worker training.

(a) Credit. -- A taxpayer that provides worker training for five or more of its eligible employees during the taxable year is allowed a credit equal to the wages paid to the eligible employees during the training. Wages paid to an employee performing his or her job while being trained are not eligible for the credit. For positions located in an enterprise tier one area, the credit may not exceed one thousand dollars ($1,000) per employee trained during the taxable year. For other positions, the credit may not exceed five hundred dollars ($500.00) per employee trained during the

taxable year. A position is located in an area if more than fifty percent (50%) of the employee's duties are performed in the area.

(b) Eligibility. -- An employee is eligible if the employee is in a full-time position not classified as exempt under the Fair Labor Standards Act, 29 U.S.C. § 213(a)(1) and meets one or more of the following conditions:

(1) The employee occupies a job for which the taxpayer is eligible to claim an installment of the credit for creating jobs.

(2) The employee is being trained to operate machinery and equipment for which the taxpayer is eligible to claim an installment of the credit for investing in machinery and equipment.

"**§ 105-129.12. Credit for investing in central administrative office property.**

(a) Credit. -- If a taxpayer that has purchased or leased real property in this State begins to use the property as a central administrative office during the taxable year, the taxpayer is allowed a credit equal to seven percent (7%) of the eligible investment amount. The eligible investment amount is the lesser of (i) the cost of the property and (ii) the amount by which the cost of all of the property the taxpayer is using in this State as central administrative offices on the last day of the taxable year exceeds the cost of all of the property the taxpayer was using in this State as central administrative offices on the last day of the base year. The base year is that year, of the three immediately preceding taxable years, in which the taxpayer was using the most property in this State as central administrative offices. In the case of property that is leased, the cost of the property is not determined as provided in G.S. 105-129.2 but is considered to be the taxpayer's lease payments over a seven-year period, plus any expenditures made by the taxpayer to improve the property before it is used as the taxpayer's central administrative office if the expenditures are not reimbursed or credited by the lessor. The maximum credit allowed a taxpayer under this section for property used as a central administrative office is five hundred thousand dollars ($500,000). The entire credit may not be taken for the taxable year in which the property is first used as a central administrative office but shall be taken in equal installments over the seven years following the taxable year in which the property is first used as a central administrative office. The basis in any real property for which a credit is allowed under this section shall be reduced by the amount of credit allowable.

(b) Mixed Use Property. -- If the taxpayer uses only part of the property as the taxpayer's central administrative office, the amount of the credit allowed under this section is reduced by multiplying it by a fraction the numerator of which is the square footage of the property used as the taxpayer's central administrative office and the denominator of which is the total square footage of the property.

(c) Expiration. -- If, in one of the seven years in which the installment of a credit accrues, the property with respect to which the credit was claimed is no longer used as a central administrative office, the credit expires and the taxpayer may not take any remaining installment of the credit. If, in one of the seven years in which the installment of a credit accrues, part of the property with respect to which the credit was claimed is no longer used as a central administrative office, the remaining

installments of the credit shall be reduced by multiplying it by the fraction described in subsection (b) of this section. If, in one of the seven years in which the installment of a credit accrues, the total number of employees the taxpayer employs at all of its central administrative offices in this State drops by 40 or more, the credit expires and the taxpayer may not take any remaining installment of the credit.

In each of these cases, the taxpayer may nonetheless take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

"**§ 105-129.13. Credit for development zone projects.**

(a) Credit. -- A taxpayer who contributes cash or property to a development zone agency for an improvement project in a development zone is allowed a credit equal to twenty-five percent (25%) of the value of the contribution. A contribution is for an improvement project for the purposes of this section if the agency receiving the contribution contracts in writing to use the contribution for the project and agrees in the contract to repay to the taxpayer, with interest, any part of the contribution not used for the project. The credit may not be taken for the year in which the contribution is made but must be taken for the taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in this section.

(b) Definitions. -- The following definitions apply in this section:

(1) Community development corporation. -- A nonprofit corporation that meets all of the following conditions:

a. It is chartered pursuant to Chapter 55A of the General Statutes and is tax-exempt pursuant to section 501(c)(3) of the Code.

b. Its primary mission is to develop and improve low-income communities and neighborhoods through economic and related development.

c. Its activities and decisions are initiated, managed, and controlled by the constituents of those local communities.

d. Its primary function is to act as deal maker and packager of projects and activities that will increase its constituency's opportunities to become owners, managers, and producers of small businesses, to obtain affordable housing, and to obtain jobs designed to produce positive cash flow and curb blight in the targeted community.

(2) Community development purpose. -- A purpose for which a city is authorized to expend funds under G.S. 160A-456, 160A-457, and 160A-457.2.

(3) Control. -- A person controls an entity if the person owns, directly or indirectly, more than ten percent (10%) of the voting securities of that entity. As used in this subdivision, the term 'voting security' means a security that (i) confers upon the holder the right to vote for the election of members of the board of directors or

similar governing body of the business or (ii) is convertible into, or entitles the holder to receive upon its exercise, a security that confers such a right to vote. A general partnership interest is a voting security.

(4) Development zone agency. -- Any of the following agencies that the Department of Commerce certifies will undertake an improvement project in a development zone:

a. A community-based development organization qualified under 24 C.F.R. § 570.204 to receive community development block grant funds under the Housing and Community Development Act of 1974, as amended, 42 U.S.C. § 5301, et seq., to carry out a neighborhood revitalization project, a community economic development project, or an energy conservation project.

b. A community action agency that has been officially designated as such pursuant to section 210 of the Economic Opportunity Act of 1964, Public Law 88-452, 78 Stat. 508 and which has not lost its designation as a result of a failure to comply with the provisions of that act.

c. A community development corporation.

d. A community development financial institution certified by the United States Department of the Treasury under the Community Development Banking and Financial Institutions Act of 1994, 12 U.S.C. § 4701, et seq.

e. A community housing development organization qualified under the HOME Investment Partnerships Act, 42 U.S.C. §§ 12701, 12704, and 24 C.F.R. § 92.2.

f. A local housing authority created under Article 1 of Chapter 157 of the General Statutes.

(5) Improvement project. -- A project to construct or improve real property for community development purposes or to acquire real property and convert it for community development purposes. Construction or improvement includes services provided by a development zone agency directly related to the construction or improvement, and project development fees charged by a developer for the construction or improvement.

(c) Certification. -- Before certifying that a development zone agency will undertake an improvement project in a development zone, the Secretary must require the agency to provide sufficient documentation to establish the identity of the agency, the nature of the project, and that the project is for a community development purpose and is located in a development zone. The Secretary of Commerce shall not certify a development zone agency under this section if the agency, any of the agency's officers or directors, or any partner of the agency has ever used any part of a

contribution made under this section for any purpose other than an improvement project.

(d) Limitations. -- A taxpayer who claims a credit under this subsection must identify in the application the development zone agencies to which the taxpayer made contributions and the amount contributed to each. No credit is allowed for a contribution if the taxpayer is related to the development zone agency as defined in section 1313 of the Code or if the taxpayer controls, is controlled by, or is under common control with an affiliate of the development zone agency. No credit is allowed to the extent the taxpayer receives anything of value in exchange for the contribution.

(e) Application. -- To be eligible for the tax credit provided in this section, in addition to the application required under G.S. 105-129.6, the taxpayer must file an application for the credit with the Secretary of Revenue on or before April 15 of the year following the calendar year in which the contribution was made. The Secretary may grant extensions of this deadline, as the Secretary finds appropriate, upon the request of the taxpayer, except that the application may not be filed after September 15 of the year following the calendar year in which the contribution was made. An application is effective for the year in which it is timely filed. The application must be on a form prescribed by the Secretary and must include any supporting documentation that the Secretary may require. If a contribution for which a credit is applied for was of property rather than cash, the taxpayer must include with the application a certified appraisal of the value of the property contributed.

(f) Ceiling. -- The total amount of all tax credits allowed to taxpayers under this section for contributions made in a calendar year may not exceed four million dollars ($4,000,000). The Secretary of Revenue must calculate the total amount of tax credits claimed from the applications filed under this section. If the total amount of tax credits claimed for contributions made in a calendar year exceeds four million dollars ($4,000,000), the Secretary must allow a portion of the credits claimed by allocating a total of four million dollars ($4,000,000) in tax credits in proportion to the size of the credit claimed by each taxpayer. If a credit is reduced pursuant to this subsection, the Secretary must notify the taxpayer of the amount of the reduction of the credit on or before December 31 of the year the application was filed. The Secretary's allocations based on applications filed pursuant to this section are final and will not be adjusted to account for credits applied for but not claimed.

(g) Forfeiture. -- A taxpayer forfeits a credit allowed under this section to the extent the development zone agency uses the taxpayer's contribution for any purpose other than an improvement project. Each development zone agency certified by the Department of Commerce must file with the Department of Commerce annual financial statements audited in accordance with generally accepted accounting principles and in accordance with Government Audit Standards developed by the Comptroller General of the United States. The annual statements are required each time the agency receives a contribution eligible for the credit allowed under this section until the entire contribution has been used for improvement projects. If the Department of Commerce determines that a development zone agency has used part

or all of a contribution for any purpose other than an improvement project, the Department must notify the Secretary of Revenue of the forfeiture, the taxpayer who made the contribution, and the amount forfeited."

Section 2.1. G.S. 105-259(b) is amended by adding a new subdivision to read:

"(b) Disclosure Prohibited. -- An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

. . .

(22) To furnish the Department of Commerce and the Employment Security Commission a copy of the qualifying information required in G.S. 105-129.7(b)."

PART II. SALES TAX CHANGES

Section 3.(a) G.S. 105-164.4(a)(1d)a. through k. are recodified as G.S. 105-164.4A.

Section 3.(b) G.S. 105-164.4(a)(1d), as amended by this section, reads as rewritten:

"(1d) The rate of one percent (1%) applies to the sales price of the ~~following articles.~~ articles listed in G.S. 105-164.4A. The maximum tax is eighty dollars ($80.00) per article."

Section 3.(c) G.S. 105-164.4A, as recodified by this section, reads as rewritten:

"**§ 105-164.4A. Articles taxed at one percent (1%), eighty dollars ($80.00).**

The following articles are taxable under G.S. 105-164.4(a)(1d):

~~a.~~(1) Farm machinery. -- Sales to a farmer of machines and machinery, and parts and accessories for these machines and machinery, for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals. A "farmer" includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758. Items that are exempt from tax under G.S. 105-164.13(4c) are not subject to tax under ~~this section.~~ G.S. 105-164.4.

The term "machines and machinery" as used in this subdivision is defined as follows:

The term shall include all vehicular implements, designed and sold for any use defined in this subdivision, which are operated, drawn or propelled by motor or animal power, but shall not include vehicular implements which are operated wholly by hand, and shall not include any motor vehicles required to be registered under Chapter 20 of the General Statutes.

The term shall include all nonvehicular implements and mechanical devices designed and sold for any use defined in this

subdivision, which have moving parts, or which require the use of any motor or animal power, fuel, or electricity in their operation but shall not include nonvehicular implements which have no moving parts and are operated wholly by hand.

The term shall also include metal flues sold for use in curing tobacco, whether such flues are attached to handfired furnaces or used in connection with mechanical burners.

~~b.~~(2) Manufacturing machinery. -- Sales of mill machinery or mill machinery parts and accessories to manufacturing industries and plants, and sales to contractors and subcontractors purchasing mill machinery or mill machinery parts and accessories for use by them in the performance of contracts with manufacturing industries and plants, and sales to subcontractors purchasing mill machinery or mill machinery parts and accessories for use by them in the performance of contracts with general contractors who have contracts with manufacturing industries and plants. As used in this paragraph, the term "manufacturing industries and plants" does not include delicatessens, cafes, cafeterias, restaurants, and other similar retailers that are principally engaged in the retail sale of foods prepared by them for consumption on or off their premises.

~~c.~~(3) Telephone company property. -- Sales of central office equipment and switchboard and private branch exchange equipment to telephone companies regularly engaged in providing telephone service to subscribers on a commercial basis, and sales to these companies of prewritten computer programs used in providing telephone service to their subscribers.

~~d.~~(4) Laundry machinery. -- Sales to commercial laundries or to pressing and dry cleaning establishments of machinery used in the direct performance of the laundering or the pressing and cleaning service and of parts and accessories thereto.

~~e.~~(5) Freezer plant machinery. -- Sales to freezer locker plants of machinery used in the direct operation of ~~said~~ the freezer locker plant and of parts and accessories thereto.

~~f.~~(6) Broadcasting machinery. -- Sales of broadcasting equipment and parts and accessories thereto and towers to commercial radio and television companies which are under the regulation and supervision of the Federal Communications Commission.

~~g.~~(7) Tobacco equipment. -- Sales to farmers of bulk tobacco barns and racks and all parts and accessories thereto and similar apparatus used for the curing and drying of any farm produce.

~~h.~~(8) Farm storage facilities. -- Sales to farmers of grain, feed or soybean storage facilities and accessories thereto, whether or not

dryers are attached, and all similar apparatus and accessories thereto for the storage of grain, feed or soybeans.

~~i.~~(9) Farm containers. -- Sales of containers to farmers or producers for use in the planting, producing, harvesting, curing, marketing, packaging, sale, or transporting or delivery of their products when such containers do not go with and become part of the sale of their products at wholesale or retail.

~~j.~~(10) Recycling facility equipment. -- Sales to a major recycling facility of the following tangible personal property for use in connection with the facility: cranes, structural steel crane support systems, foundations related to the cranes and support systems, port and dock facilities, rail equipment, and material handling equipment.

~~k.~~(11) (Effective January 1, 2001) Air courier equipment. -- Sales of the following items to an interstate air courier for use at its hub: materials handling equipment, racking systems, and related parts and accessories, for the storage or handling and movement of tangible personal property at an airport or in a warehouse or distribution facility."

Section 4. G.S. 105-164.14 is amended by adding a new subsection to read:

"(h) Low Enterprise Tier Machinery. -- Eligible taxpayers are allowed an annual refund of sales and use taxes paid under this Article as provided in this subsection.

(1) Refunds. -- An eligible person is allowed an annual refund of sales and use taxes paid by it under this Article at the general rate of tax on eligible machinery and equipment it purchases for use in an enterprise tier one area or an enterprise tier two area, as defined in G.S. 105-129.3. Liability incurred indirectly by the taxpayer for sales and use taxes on these items is considered tax paid by the taxpayer. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred.

(2) Eligibility. -- A person is eligible for the refund provided in this subsection if it is engaged primarily in one of the businesses listed in G.S. 105-129.4(a) in an enterprise tier one area or an enterprise tier two area, as defined in G.S. 105-129.3.

(3) Machinery and equipment. -- For the purpose of this subsection, the term 'machinery and equipment' means engines, machinery, equipment, tools, and implements used or designed to be used in one of the businesses listed in G.S. 105-129.4(a). Machinery and equipment are eligible for the refund provided in this subsection if the taxpayer places them in service in an enterprise tier one area or an enterprise tier two area, as defined in G.S. 105-129.3,

capitalizes them for tax purposes under the Code, and does not lease them to another party."

Section 5.(a) G.S. 105-164.14 is amended by adding a new subsection to read:

"(i) Nonprofit Insurance Companies. -- Eligible nonprofit insurance companies are allowed an annual refund of sales and use taxes paid under this Article as provided in this subsection.

(1) Refunds. -- An eligible nonprofit insurance company is allowed an annual refund of sales and use taxes paid by it under this Article on building materials, building supplies, fixtures, and equipment that become a part of its real property, and on computer systems hardware and software it capitalizes for tax purposes under the Code. Liability incurred indirectly by the company for sales and use taxes on these items is considered tax paid by the company. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the insurance company's fiscal year. Refunds applied for after the due date are barred.

(2) Eligibility. -- An insurance company is eligible for the refund provided in this subsection if it meets all of the following conditions:

a. It is a nonprofit corporation.

b. It is operated for the exclusive purpose of providing insurance and annuity contracts to or for the benefit of organizations exempt from federal income tax under section 501(c)(3) of the Code, and their employees.

c. The Secretary of Commerce has certified that the insurance company will invest at least twenty million dollars ($20,000,000) in constructing a facility in this State for the conduct of its operations.

(3) Forfeiture. -- If an eligible insurance company does not make the required minimum investment within five years after its first refund under this subsection, it loses its eligibility and forfeits all refunds already received under this subsection. Upon forfeiture, the company is liable for tax under this Article equal to the amount of all past taxes refunded under this subsection, plus interest at the rate established in G.S. 105-241.1(i), computed from the date each refund was issued. The tax and interest are due 30 days after the date of the forfeiture. A company that fails to pay the tax and interest is subject to the penalties provided in G.S. 105-236."

Section 5.(b) Effective January 1, 2008, G.S. 105-164.14(i)(1), as enacted by this section, reads as rewritten:

"(i) Nonprofit Insurance Companies. -- Eligible nonprofit insurance companies are allowed an annual refund of sales and use taxes paid under this Article as provided in this subsection.

(1) Refunds. -- An eligible nonprofit insurance company is allowed an annual refund of sales and use taxes paid by it under this Article on ~~building materials, building supplies, fixtures, and equipment that become a part of its real property, and on~~ computer systems hardware and software it capitalizes for tax purposes under the Code. ~~Liability incurred indirectly by the company for sales and use taxes on these items is considered tax paid by the company.~~ A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the insurance company's fiscal year. Refunds applied for after the due date are barred."

Section 6.(a) G.S. 105-164.3 is amended by adding a new subdivision to read:

"(6e) Interstate passenger air carrier. -- A person whose primary business is scheduled passenger air transportation, as defined in the North American Industry Classification System adopted by the United States Office of Management and Budget, in interstate commerce."

Section 6.(b) G.S. 105-164.3(6b), as enacted by S.L. 1998-55, becomes effective May 1, 1999.

Section 6.(c) G.S. 105-164.3(6b) reads as rewritten:

"(6b) Hub. -- ~~An interstate air courier's~~ Either of the following:

a. An interstate air courier's hub is the airport in this State that meets all of the following conditions:

~~a.~~ 1. The air courier has allocated to the airport under G.S. ~~105-388~~ 105-338 more than sixty percent (60%) of its aircraft value apportioned to this State.

~~b.~~ 2. The air courier's primary function at the airport is to sort and distribute letters and packages received from multiple consolidation locations.

~~c.~~ 3. The air courier's primary function at the airport is not to consolidate letters and packages and deliver them to another airport for sorting and distribution.

b. An interstate passenger air carrier's hub is the airport in this State that meets both of the following conditions:

1. The air carrier has allocated to the airport under G.S. 105-338 more than sixty percent (60%) of its aircraft value apportioned to this State.

2. The majority of the air carrier's passengers boarding at the airport are connecting from other airports rather than originating at that airport."

Section 7.(a) Section 9 of S.L. 1998-55 is repealed.

Section 7.(b) G.S. 105-164.13 is amended by adding a new subdivision to read:

"(45) Sales of the following items to an interstate passenger air carrier for use at its hub: aircraft lubricants, aircraft repair parts, and aircraft accessories."

Section 7.(c) Effective January 1, 2001, G.S. 105-164.13(45), as enacted by this act, reads as rewritten:

"(45) Sales of the following items to an interstate passenger air carrier or an interstate air courier for use at its hub: aircraft lubricants, aircraft repair parts, and aircraft accessories."

Section 8. G.S. 105-164.4A, as recodified by this act, is amended by adding a new subdivision to read:

"(12) Flight crew training equipment. -- Sales to an interstate passenger air carrier or an interstate air courier of aircraft simulators for flight crew training for use at the air carrier or air courier's hub."

Section 9. G.S. 105-164.14(a) reads as rewritten:

"(a) Interstate Carriers. -- An interstate carrier is allowed a refund, in accordance with this section, of part of the sales and use taxes paid by it on fuel, lubricants, repair parts, and accessories purchased in this State for a motor vehicle, railroad car, locomotive, or airplane the carrier operates. An 'interstate carrier' is a person who is engaged in transporting persons or property in interstate commerce for compensation. The Secretary shall prescribe the periods of time, whether monthly, quarterly, semiannually, or otherwise, with respect to which refunds may be claimed, and shall prescribe the time within which, following these periods, an application for refund may be made.

An applicant for refund shall furnish the following information and any proof of the information required by the Secretary:

(1) A list identifying the fuel, lubricants, repair parts, and accessories purchased by the applicant inside or outside this State during the refund period.

(2) The purchase price of the items listed in subdivision (1) of this subsection.

(3) The sales and use taxes paid in this State on the listed items.

(4) The number of miles the applicant's motor vehicles, railroad cars, locomotives, and airplanes were operated both inside and outside this State during the refund period.

(5) Any other information required by the Secretary.

For each applicant, the Secretary shall compute the amount to be refunded as follows. First, the Secretary shall determine the ratio of the number of miles the

applicant operated its motor vehicles, railroad cars, locomotives, and airplanes in this State during the refund period to the number of miles it operated them both inside and outside this State during the refund period. Second, the Secretary shall determine the applicant's proportional liability for the refund period by multiplying this mileage ratio by the purchase price of the items identified in subdivision (1) of this subsection and then multiplying the resulting product by the tax rate that would have applied to the items if they had all been purchased in this State. Third, the Secretary shall refund to each applicant the excess of the amount of sales and use taxes the applicant paid in this State during the refund period on these items over the applicant's proportional liability for the refund period."

PART III. AFFORDABLE HOUSING TAX CREDIT

Section 10. The title of Article 3B of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 3B.

"Business Tax ~~Credit.~~ Credits."

Section 11. Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.16A. Credit for low-income housing.**

(a) Credit. -- A taxpayer that is allowed for the taxable year a federal income tax credit for low-income housing under section 42 of the Code with respect to a qualified North Carolina low-income building, is allowed a credit under this Article equal to a percentage of the total federal credit allowed with respect to that building. For the purposes of this section, the total federal credit allowed is the total allowed during the 10-year federal credit period plus the disallowed first-year credit allowed in the 11th year. For the purposes of this section, the total federal credit is calculated based on qualified basis as of the end of the first year of the credit period and is not recalculated to reflect subsequent increases in qualified basis. For buildings that meet condition (c)(1) of this section, the credit percentage is seventy-five percent (75%). For other buildings, the credit percentage is twenty-five percent (25%).

(b) Timing. -- The credit must be taken in equal installments over the five years beginning in the first taxable year in which the federal credit is claimed for that building. During the first taxable year in which the credit allowed under this section may be taken with respect to a building, the amount of the installment must be multiplied by the applicable fraction under section 42(f)(2)(A) of the Code. Any reduction in the amount of the first installment as a result of this multiplication is carried forward and may be taken in the first taxable year after the fifth installment is allowed under this section.

(c) Definitions. -- The definitions in section 42 of the Code apply in this section. In addition, as used in this section the term 'qualified North Carolina low-income building' means a qualified low-income building that was allocated a federal credit under section 42(h)(1) of the Code, was not allowed a federal credit under section 42(h)(4) of the Code, and meets any of the following conditions:

(1) It is located in an area that, at the time the federal credit is allocated to the building, is a tier one or two enterprise area, as defined in G.S. 105-129.3.

(2) It is located in an area that, at the time the federal credit is allocated to the building, is a tier three or four enterprise area, and forty percent (40%) of its residential units are both rent-restricted and occupied by individuals whose income is fifty percent (50%) or less of area median gross income as defined in the Code.

(3) It is located in an area that, at the time the federal credit is allocated to the building, is a tier five enterprise area, and forty percent (40%) of its residential units are both rent-restricted and occupied by individuals whose income is thirty-five percent (35%) or less of area median gross income as defined in the Code.

(d) Expiration. -- If, in one of the five years in which an installment of the credit under this section accrues, the taxpayer is no longer eligible for the corresponding federal credit with respect to the same qualified North Carolina low-income building, then the credit under this section expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17.

(e) Forfeiture. -- If the taxpayer is required under section 42(j) of the Code to recapture all or part of a federal credit under that section with respect to a qualified North Carolina low-income building, the taxpayer forfeits the corresponding part of the credit allowed under this section with respect to that qualified North Carolina low-income building. A taxpayer that forfeits a credit under this section is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236."

Section 12. Reserved.

Section 13. G.S. 105-129.17 reads as rewritten:

"§ 105-129.17. Tax election; cap.

(a) Tax Election. -- The ~~credit~~ credits allowed in this Article ~~is~~ are allowed against the franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of this Chapter. The taxpayer must elect the tax against which ~~the~~ a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. Any carryforwards of ~~the~~ a credit must be claimed against the same tax.

(b) Cap. -- The ~~credit~~ total credits allowed in this Article may not exceed fifty percent (50%) of the tax against which ~~it is~~ they are claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article

against each tax for the taxable year. Any unused portion of the ~~credit~~ credits may be carried forward for the succeeding five years."

Section 14. G.S. 105-129.18 reads as rewritten:

"**§ 105-129.18. Substantiation.**

To claim the ~~credit~~ credits allowed by this Article, the taxpayer must provide any information required by the Secretary of Revenue. Every taxpayer claiming a credit under this Article must maintain and make available for inspection by the Secretary of Revenue any records the Secretary considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for the credit and the amount of the credit rests upon the taxpayer, and no credit may be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection."

Section 15. G.S. 105-129.19 reads as rewritten:

"**§ 105-129.19. Reports.**

The Department of Revenue shall report to the Legislative Research Commission and to the Fiscal Research Division of the General Assembly by May 1 of each year the following information for the 12-month period ending the preceding April 1:

(1) The number of taxpayers that claimed the ~~credit~~ credits allowed in this Article.

(2) The cost of business property with respect to which business property credits were claimed.

(2a) The location of each qualified North Carolina low-income building with respect to which a low-income housing credit was claimed.

(3) The total cost to the General Fund of the credits claimed."

Section 16. G.S. 105-241.1(e) reads as rewritten:

"(e) Statute of Limitations. -- There is no statute of limitations and the Secretary may propose an assessment of tax due from a taxpayer at any time if (i) the taxpayer did not file a proper application for a license or did not file a return, (ii) the taxpayer filed a false or fraudulent application or return, or (iii) the taxpayer attempted in any manner to fraudulently evade or defeat the tax.

If a taxpayer files a return reflecting a federal determination as provided in G.S. 105-29, 105-130.20, 105-159, 105-160.8, 105-163.6A, or 105-197.1, the Secretary must propose an assessment of any tax due within one year after the return is filed or within three years of when the original return was filed or due to be filed, whichever is later. If there is a federal determination and the taxpayer does not file the required return, the Secretary must propose an assessment of any tax due within three years after the date the Secretary received the final report of the federal determination. ~~If~~

If a taxpayer forfeits a tax credit ~~pursuant to G.S. 105-163.014 or Article 3A of~~ or tax benefit pursuant to forfeiture provisions of this Chapter, the Secretary must assess any tax due as a result of the forfeiture within three years after the date of the forfeiture. If a taxpayer elects under section 1033(a)(2)(A) of the Code not to recognize gain from involuntary conversion of property into money, the Secretary must assess any tax due as a result of the conversion or election within the applicable period provided under section 1033(a)(2)(C) or section 1033(a)(2)(D) of the Code. If

a taxpayer sells at a gain the taxpayer's principal residence, the Secretary must assess any tax due as a result of the sale within the period provided under section 1034(j) of the Code.

In all other cases, the Secretary must propose an assessment of any tax due from a taxpayer within three years after the date the taxpayer filed an application for a license or a return or the date the application or return was required by law to be filed, whichever is later.

If the Secretary proposes an assessment of tax within the time provided in this section, the final assessment of the tax is timely.

A taxpayer may make a written waiver of any of the limitations of time set out in this subsection, for either a definite or an indefinite time. If the Secretary accepts the taxpayer's waiver, the Secretary may propose an assessment at any time within the time extended by the waiver."

PART IV. MISCELLANEOUS CHANGES

Section 17. G.S. 143B-437.01(a) reads as rewritten:

"(a) Creation and Purpose of Fund. -- There is created in the Department of Commerce the Industrial Development Fund to provide funds to assist the local government units of the most economically distressed counties in the State in creating jobs in certain industries. The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the following provisions, which shall apply to each grant from the fund:

(1) The funds shall be used for (i) installation of or purchases of equipment for eligible industries, (ii) structural repairs, improvements, or renovations of existing buildings to be used for expansion of eligible industries, or (iii) construction of or improvements to new or existing water, sewer, gas, or electrical utility distribution lines or equipment for existing or new or proposed industrial buildings to be used for eligible industries. To be eligible for funding, the water, sewer, gas, or electrical utility lines or facilities shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the specific eligible industrial activity.

(1a) The funds shall be used for projects located in economically distressed counties except that the Secretary of Commerce may use up to one hundred thousand dollars ($100,000) to provide emergency economic development assistance in any county that is documented to be experiencing a major economic dislocation.

(2) The funds shall be used by the city and county governments for projects that will directly result in the creation of new jobs. The funds shall be expended at a maximum rate of five thousand dollars ($5,000) per new job created up to a maximum of five hundred thousand dollars ($500,000) per project.

(3) There shall be no local match requirement if the project is located in an enterprise tier one area as defined in G.S. 105-129.3.

(4) The Department may authorize a local government that receives funds under this section to use up to two percent (2%) of the funds, if necessary, to verify that the funds are used only in accordance with law and to otherwise administer the grant or loan.

(5) No project subject to the Environmental Policy Act, Article 1 of Chapter 113A of the General Statutes, shall be funded unless the Secretary of Commerce finds that the proposed project will not have a significant adverse effect on the environment. The Secretary of Commerce shall not make this finding unless the Secretary has first received a certification from the Department of Environment and Natural Resources that concludes, after consideration of avoidance and mitigation measures, that the proposed project will not have a significant adverse effect on the environment."

Section 18. To the extent feasible, the Department of Commerce shall encourage and support reasonable efforts to develop agreements to reduce the use of excessive tax and economic incentives for interstate competition in luring businesses from one state to another. The Department of Commerce shall also support appropriate and reasonable federal legislation to prohibit or reduce states' use of tax and economic incentives for interstate competition in luring businesses from one state to another. This section does not require the Secretary of Commerce to support actions that will place the State at an economic disadvantage or that are contrary to the economic well-being of the citizens of the State. The Department of Commerce shall report on its progress in these efforts to the Revenue Laws Study Committee by March 1, 2000, and March 1, 2001.

Section 19. The General Assembly finds that tax credits are enacted from time to time to encourage or reward behavior that is beneficial to the State. These tax credits are tax expenditures that, like appropriations, spend public funds for the benefit of certain businesses, interest groups, and other taxpayers. Unlike appropriations, however, these tax credits may continue in perpetuity, costing the public millions of dollars each year without periodic review by the General Assembly. In order to allow the General Assembly the opportunity to consider each tax credit on its merits from time to time to determine whether it continues to serve a public purpose that justifies its cost to the public, each tax credit should be sunset at least every five years. After enactment of this act, those businesses, interest groups, and other taxpayers who benefit from these tax credits are encouraged to demonstrate the continued need for each tax credit. It is the intent of the General Assembly to review these tax credits and renew all that continue to serve a valid public purpose, subject to review at least every five years.

Section 20.(a) The following sections of Chapter 105 of the General Statutes are repealed effective for costs incurred and investments made during taxable years beginning on or after January 1, 2005:

§ 105-130.23.	Credit against corporate income tax for solar energy equipment in residential buildings.
§ 105-151.2.	Credit for solar energy equipment.
§ 105-130.25.	Credit against corporate income tax for construction of cogenerating power plants.
§ 105-130.26.	Credit for conversion of industrial boiler to wood fuel.
§ 105-151.5.	Credit for conversion of industrial boiler to wood fuel.
§ 105-130.27.	Credit against corporate income tax for construction of a fuel ethanol distillery.
§ 105-151.6.	Credit for construction of a fuel ethanol distillery.
§ 105-130.27A.	Credit for construction of a peat facility.
§ 105-130.28.	Credit for construction of a photovoltaic equipment facility.
§ 105-130.29.	Credit for construction of an olivine brick facility.
§ 105-130.30.	Credit for construction of a methane gas facility.
§ 105-151.10.	Credit for construction of a methane gas facility.
§ 105-130.31.	Credit for installation of a wind energy device.
§ 105-151.9.	Credit for installation of a wind energy device.
§ 105-130.32.	Credit for installation of solar energy equipment for the production of heat or electricity in certain processes.
§ 105-151.8.	Credit for installation of solar energy equipment for the production of heat or electricity in certain processes.
§ 105-130.33.	Credit against corporate income tax for installation of a hydroelectric generator.
§ 105-151.7.	Credit for installation of a hydroelectric generator.
§ 105-130.36.	Credit for conservation tillage equipment.
§ 105-151.13.	Credit for conservation tillage equipment.
§ 105-130.42.	Credit for rehabilitating an historic structure.
§ 105-151.23.	Credit for rehabilitating an historic structure.
§ 105-130.44.	Credit for construction of poultry composting facility.
§ 105-151.25.	Credit for construction of a poultry composting facility.
§ 105-163.011.	(Repealed effective for investments made on or after January 1, 2003) [Qualified Business Investment] Tax credits allowed.

Section 20.(b) The following sections of Chapter 105 of the General Statutes are repealed effective for dwelling units completed during taxable years beginning on or after January 1, 2005:

§ 105-130.22.	Tax credit for construction of dwelling units for handicapped persons.
§ 105-151.1.	Credit for construction of dwelling units for handicapped persons.

Section 20.(c) The following sections of Chapter 105 of the General Statutes are repealed effective for donations made during taxable years beginning on or after January 1, 2003:

§ 105-130.34. Credit for certain real property donations.
§ 105-151.12. Credit for certain real property donations.
§ 105-130.37. Credit for gleaned crop.
§ 105-151.14. Credit for gleaned crop.
§ 105-151.26. Credit for charitable contributions by nonitemizers.

Section 20.(d) The following sections of Chapter 105 of the General Statutes are repealed effective for taxable years beginning on or after January 1, 2003:

§ 105-130.39. Credit for certain telephone subscriber line charges.
§ 105-130.43. Credit for savings and loan supervisory fees.
§ 105-151.21. Credit for property taxes paid on farm machinery.
§ 105-151.27. Credit for child health insurance.
§ 105-151.28. Credit for premiums paid on long-term care insurance.

Section 20.(e) The following sections of Chapter 105 of the General Statutes are repealed effective for charges assessed during taxable years beginning on or after January 1, 2005:

§ 105-130.41. Credit for North Carolina State Ports Authority wharfage, handling, and throughput charges.
§ 105-151.22. Credit for North Carolina State Ports Authority wharfage, handling, and throughput charges.
§ 105-228.5A. Credit against gross premium tax for assessments paid to the Insurance Guaranty Association and the Life and Health Insurance Guaranty Association.

PART V. EFFECTIVE DATES

Section 21. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

Section 22. Customer Service Center and Electronic Mail Order House. G.S. 105-129.2(3a) and (5a) and G.S. 105-129.4(a)(2a) and (3a), as enacted by Section 2 of this act, and the amendments to G.S. 105-129.4(a1) enacted by Section 2 of this act become effective for taxable years beginning on or after January 1, 2000.

Section 23. NAICS Code and Customer Service Center Changes. -- G.S. 105-129.2(2)b., as enacted by Section 2 of this act, is effective retroactively as of January 1, 1999. Except as provided in Section 22 of this act, the remaining amendments to G.S. 105-129.2 made by Section 2 of this act are effective when this act becomes law.

Section 24. Small County Enhancements. -- G.S. 105-129.3(e) and (f), as enacted by Section 2 of this act, become effective for taxable years beginning on or after January 1, 2000.

Section 25. Development Zone Definitions. -- The amendments to G.S. 105-129.3A made by Section 2 of this act become effective August 1, 1999, and apply to applications filed on or after that date. Notwithstanding the provisions of G.S. 105-129.3A(b), a development zone designation made in 1998 or 1999 is effective until January 1, 2001.

Section 26. Quality Jobs Assurance. -- G.S. 105-129.4(b2), (b3), and (b4), as enacted by Section 2 of this act, become effective for taxable years beginning on or after January 1, 2000, and apply to credits for which applications are first filed on or after that date.

Section 27. All Credits Against Gross Premiums Tax. -- The amendment to G.S. 105-129.5(a) made by Section 2 of this act is effective for taxable years beginning on or after January 1, 1999.

Section 28. Application Fees and Information. -- The amendments to G.S. 105-129.6(a) and (a1) made by Section 2 of this act are effective 30 days after this act becomes law, and apply to applications filed on or after that date. Section 2.1 of this act and the amendments to G.S. 105-129.7 made by Section 2 of this act become effective January 1, 2000.

Section 29. Development Zone Projects Credit. -- G.S. 105-129.13, as enacted by Section 2 of this act, is effective for taxable years beginning on or after January 1, 2000.

Section 30. Sales Tax Refund for Tiers One and Two Equipment. -- Section 4 of this act becomes effective January 1, 2000, and applies to taxes paid on or after that date.

Section 31. Temporary Sales Tax Refund for Nonprofit Insurance Companies. -- Section 5(a) of this act becomes effective May 1, 1999, and applies to taxes paid on or after that date. Section 5(b) of this act becomes effective January 1, 2008, and applies to taxes paid on or after that date.

Section 32. Sales Tax Preferences for Interstate Air Carriers. -- Section 7(c) of this act becomes effective January 1, 2001, and applies to sales made on or after that date. The remainder of Sections 6 through 8 of this act is effective retroactively as of May 1, 1999, and applies to sales made on or after that date. Section 9 of this act becomes effective October 1, 1999.

Section 33. Affordable Housing Credit. -- Part III of this act is effective for taxable years beginning on or after January 1, 2000, and applies to buildings to which federal credits are allocated on or after January 1, 2000.

Section 34. Miscellaneous Changes. -- Section 20 of this act becomes effective as provided in that section.

Section 35. Remainder. -- The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

SENATE BILL 1115
Finance Committee Substitute Adopted 5/20/99
Third Edition Engrossed 5/27/99

Short Title: William S. Lee Act/1999. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR WIDELY SHARED PROSPERITY BY AMENDING THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT, BY PROVIDING ADDITIONAL TAX INCENTIVES FOR VARIOUS BUSINESSES, AND BY MAKING RELATED CHANGES.

The General Assembly of North Carolina enacts:

TABLE OF CONTENTS

I. BILL LEE ACT CHANGES
II. SALES TAX CHANGES
III. AFFORDABLE HOUSING TAX CREDIT
IV. INDUSTRIAL DEVELOPMENT FUND CHANGES
V. EFFECTIVE DATES

PART I. BILL LEE ACT CHANGES

Section 1. Section 10.2(3) of Chapter 13 of the 1996 Second Extra Session reads as rewritten:

"(3) Quality jobs and business expansion tax credits. -- Sections 3.5, 3.6, and 3.8 through 3.10 of Part III of this act become effective August 1, 1996. G.S. 105-129.11, as enacted by Part III of this act, becomes effective for taxable years beginning on or after January 1, 1997, and applies to training expenditures made on or after July 1, 1997. The remainder of Part III of this act is effective for taxable years beginning on or after January 1, 1996, and applies to jobs

created on or after August 1, 1996, and property placed in service on or after August 1, 1996. Article 3A of Chapter 105 of the General Statutes is repealed effective for applications for credits filed under G.S. 105-129.6 on or after January 1, ~~2002.~~ 2007. Article 3B of Chapter 105 of the General Statutes is repealed effective for business property placed in service on or after January 1, 2002."

Section 2. Article 3A of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 3A.

"Tax Incentives for New and Expanding Businesses.

"**§ 105-129.2. Definitions.**

The following definitions apply in this Article:

(1) Air courier services. -- A person is engaged in the air courier services business if the person's primary business is furnishing air delivery of individually addressed letters and packages for compensation, except by the United States Postal Service.

(2) Central administrative office. -- ~~Defined~~ Either of the following:

a. A corporate, subsidiary, or regional managing office, as defined by NAICS. ~~in the North American Industry Classification System adopted by the United States Office of Management and Budget.~~

b. An auxiliary subdivision of an interstate passenger air carrier engaged primarily in centralized training for the carrier at its hub. For the purpose of this definition, the terms 'interstate passenger air carrier' and 'hub' have the meanings provided in G.S. 105-164.3.

(3) Cost. -- In the case of property owned by the taxpayer, cost is determined pursuant to regulations adopted under section 1012 of the Code. In the case of property the taxpayer leases from another, cost is value as determined pursuant to G.S. 105-130.4(j)(2).

(3a) Customer service center. -- An auxiliary subdivision of a telecommunications or financial services company, as defined by NAICS, that is primarily engaged in providing support services to the company's customers by telephone to support products or services of the company. For the purpose of this definition, a subdivision is primarily engaged in providing support services by telephone if at least sixty percent (60%) of its calls are incoming.

(4) Data processing. -- Any of the following industries, as defined by NAICS: ~~Defined in the North American Industry Classification System adopted by the United States Office of Management and Budget.~~

a. Computer systems design and related services.

b. Software publishers.
c. Software reproducing.
d. Data processing services.
e. On-line information services.

(5) Development zone. -- An area designated as a development zone pursuant to G.S. 105-129.3A.

(6) Enterprise tier. -- The classification assigned to an area pursuant to G.S. 105-129.3.

(7) Full-time job. -- A position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year. A full-time employee is an employee who holds a full-time job.

(8) Reserved.

(9) Large investment. -- Defined in G.S. 105-129.4(b1).

(10) Machinery and equipment. -- Engines, machinery, equipment, tools, and implements used or designed to be used in the business for which the credit is claimed. The term does not include real property as defined in G.S. 105-273 or rolling stock as defined in G.S. 105-333.

(11) Manufacturing. -- ~~Defined~~ Industries in manufacturing sectors 31 through 33, as defined by NAICS, ~~in the North American Industry Classification System adopted by the United States Office of Management and Budget.~~ but not including quick printing or retail bakeries.

(11a) NAICS. -- The North American Industry Classification System adopted by the United States Office of Management and Budget.

(12) Purchase. -- Defined in section 179 of the Code.

(13) ~~Warehousing and wholesale trade. -- Defined~~ Warehousing. -- Industries in warehousing and storage subsector 493 as defined by NAICS. ~~in the North American Industry Classification System adopted by the United States Office of Management and Budget.~~

(14) Wholesale trade. -- Industries in wholesale trade sector 42 as defined by NAICS.

"**§ 105-129.3. Enterprise tier designation.**

(a) Tiers Defined. -- An enterprise tier one area is a county whose enterprise factor is one of the 10 highest in the State. An enterprise tier two area is a county whose enterprise factor is one of the next 15 highest in the State. An enterprise tier three area is a county whose enterprise factor is one of the next 25 highest in the State. An enterprise tier four area is a county whose enterprise factor is one of the next 25 highest in the State. An enterprise tier five area is any area that is not in a lower-numbered enterprise tier.

(b) Annual Designation. -- Each year, on or before December 31, the Secretary of Commerce shall assign to each county in the State an enterprise factor that is the sum of the following:

(1) The county's rank in a ranking of counties by average rate of unemployment from lowest to highest, for the preceding three years.
(2) The county's rank in a ranking of counties by average per capita income from highest to lowest, for the preceding three years.
(3) The county's rank in a ranking of counties by percentage growth in population from highest to lowest.

The Secretary of Commerce shall then rank all the counties within the State according to their enterprise factor from highest to lowest, identify all the areas of the State by enterprise tier, and provide this information to the Secretary of Revenue. An enterprise tier designation is effective only for the calendar year following the designation.

(b1) Data. -- In measuring rates of unemployment and per capita income, the Secretary shall use the latest available data published by a State or federal agency generally recognized as having expertise concerning the data. In measuring population and population growth, the Secretary shall use the most recent estimates of population certified by the State Planning Officer.

(c) Exception for Enterprise Tier One Areas. -- Notwithstanding the provisions of this section, an enterprise tier one area may not be redesignated as a higher-numbered enterprise tier area until it has been an enterprise tier one area for at least two consecutive years.

(d) Exception for Two-County Industrial Park. -- For the purpose of this Article, an eligible two-county industrial park that meets all of the following conditions has the lower enterprise tier designation of the designations of the two counties in which it is located:

(1) It is located in two contiguous counties, one of which has a lower enterprise tier designation than the other.
(2) At least one-third of the park is located in the county with the lower tier designation.
(3) It is owned by the two counties or a joint agency of the counties.
(4) The county with the lower tier designation contributed at least one-half of the cost of developing the park.

(e) Exception for Certain Small Counties. -- A county that meets both of the conditions set out below has an enterprise tier designation one level below the designation it would otherwise have under subsection (a) of this section:

(1) Its population is less than 50,000.
(2) More than eighteen percent (18%) of its population is below the federal poverty level according to the most recent federal decennial census.

(f) Exception for Small Counties. -- A county that has a population of less than 25,000 and that would otherwise be designated an enterprise four or five area under this section must be designated an enterprise tier three area.

"§ 105-129.3A. Development zone designation.

(a) Development Zone Defined. -- A development zone is an area comprised of one or more contiguous census tracts, census block groups, or both in the most recent federal decennial census that meets all of the following conditions:

(1) ~~It~~ Every census tract and census block group in the zone is located in whole or in part ~~in~~ within the primary corporate limits of a city with a population of more than 5,000 according to the most recent annual population estimates certified by the State Planning Officer.

(2) It has a population of 1,000 or more according to the most recent annual population estimates certified by the State Planning Officer.

(3) More than twenty percent (20%) of its population is below the poverty level according to the most recent federal decennial census.

(4) Every census tract and census block group in the zone meets at least one of the following conditions:

a. More than ten percent (10%) of its population is below the poverty level according to the most recent federal decennial census.

b. It is immediately adjacent to another census tract or census block group that is in the same zone and has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.

(5) None of the census tracts or census block groups in the zone is located in another development zone designated by the Secretary of Commerce.

(b) Designation. -- Upon request of a taxpayer or a local government, the Secretary of Commerce shall designate whether an area is a development zone that meets the conditions of subsection (a) of this section. If the applicant is a taxpayer, it must notify each city in which part of the zone is located. A development zone designation is effective for ~~48~~ 24 months following the designation.

(c) Relationship With Enterprise Tiers. -- For the purpose of the wage standard requirement of G.S. 105-129.3(b), the credit for investing in machinery and equipment allowed in G.S. 105-129.9, and the credit for worker training allowed in G.S. 105-129.11, a development zone is considered an enterprise tier one area. For all other purposes, a development zone has the same enterprise tier designation as the county in which it is located.

"**§ 105-129.4. Eligibility; forfeiture.**

(a) Type of Business. -- A taxpayer is eligible for a credit allowed by G.S. 105-129.12 if the real property for which the credit is claimed is used for a central administrative office that creates at least 40 new jobs. A taxpayer is eligible for the other credits allowed by this Article if the taxpayer engages in one of the following types of businesses and the jobs with respect to which a credit is claimed are created in that business, the machinery and equipment with respect to which a credit is

claimed are used in that business, and the research and development for which a credit is claimed are carried out as part of that business:

(1) Air courier services.
(2) Central administrative office that creates at least 40 new jobs.
(3) Data processing.
(4) Manufacturing.
(5) ~~Warehousing or wholesale trade.~~ Warehousing.
(6) Wholesale trade.
(7) Customer service center located in an enterprise tier one or two area.

(a1) Central Administrative Office. -- A central administrative office creates at least 40 new jobs if the taxpayer hires at least 40 additional full-time employees to fill new positions at the office either in the year the taxpayer first uses the property as a central administrative office or in the preceding 24 months while using temporary space for the central administrative office functions during completion of the administrative office property. Jobs transferred from one area in the State to another area in the State are not considered new jobs for purposes of this subsection.

(b) Wage Standard. -- A taxpayer is eligible for the credit for creating jobs or the credit for worker training if the jobs for which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. A taxpayer is eligible for the credit for investing in machinery and equipment, the credit for research and development, or the credit for investing in real property for a central administrative office if the jobs at the location with respect to which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. Jobs meet the wage standard if they pay an average weekly wage that is at least equal to the applicable percentage times the applicable average weekly wage for the county in which the jobs will be located, as computed by the Secretary of Commerce from data compiled by the Employment Security Commission for the most recent period for which data are available. The applicable percentage for jobs located in an enterprise tier one area is one hundred percent (100%). The applicable percentage for all other jobs is one hundred ten percent (110%). The applicable average weekly wage is the lowest of the following: (i) the average wage for all insured private employers in the county, (ii) the average wage for all insured private employers in the State, and (iii) the average wage for all insured private employers in the county multiplied by the county income/wage adjustment factor. The county income/wage adjustment factor is the county income/wage ratio divided by the State income/wage ratio. The county income/wage ratio is average per capita income in the county divided by the annualized average wage for all insured private employers in the county. The State income/wage ratio is the average per capita income in the State divided by the annualized average wage for all insured private employers in the State.

(b1) Large Investment. -- A taxpayer who is otherwise eligible for a tax credit under this Article becomes eligible for the large investment enhancements provided for credits under this Article if the Secretary of Commerce certifies that the taxpayer will purchase or lease, and place in service in connection with the eligible business

within a two-year period, at least one hundred fifty million dollars ($150,000,000) worth of one or more of the following: real property, machinery and equipment, or central administrative office property. If the taxpayer fails to make the level of investment certified within this two-year period, the taxpayer forfeits the large investment enhancements as provided in subsection (d) of this section.

(b2) Health Insurance. -- A taxpayer is eligible for a credit for creating jobs or for worker training under this Article if the taxpayer provides health insurance for the positions for which the credit is claimed at the time the taxpayer applies for the credit. A taxpayer is eligible for the other credits under this Article if the taxpayer provides health insurance for all of the full-time positions at the location with respect to which the credit is claimed at the time the taxpayer applies for the credit. For the purposes of this subsection, a taxpayer provides health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

Each year that a taxpayer claims an installment or carryforward of a credit allowed under this Article, the taxpayer must provide with the tax return the taxpayer's certification that the taxpayer continues to provide health insurance for the jobs for which the credit was claimed or the full-time jobs at the location with respect to which the credit was claimed. If the taxpayer ceases to provide health insurance for the jobs during a taxable year, the credit expires and the taxpayer may not take any remaining installment or carryforward of the credit.

(b3) Environmental Impact. -- A taxpayer is eligible for a credit allowed under this Article only if the taxpayer certifies that, at the time the taxpayer applies for the credit, the taxpayer has not had and does not reasonably expect to have a materially adverse effect on the environment at the business location with respect to which the credit is claimed. The Secretary of Commerce will provide the Department of Environment and Natural Resources a list of all taxpayers making this certification. The Department of Environment and Natural Resources may conduct random audit checks to verify taxpayers' certifications. The Department of Environment and Natural Resources must notify the Department of Revenue of any taxpayer certifications it determines are not accurate.

(b4) Safety and Health Programs. -- A taxpayer is eligible for a credit allowed under this Article only if the taxpayer certifies that, as of the time the taxpayer applies for the credit, at the business location with respect to which the credit is claimed, the taxpayer has no outstanding citations under the Occupational Safety and Health Act and has had no serious violation as defined in G.S. 95-127 within the last three years. The Secretary of Commerce will provide the Department of Labor a list of all taxpayers making this certification. The Department of Labor may conduct random audit checks to verify taxpayers' certifications. The Department of Labor must notify the Department of Revenue of any taxpayer certifications it determines are not accurate.

(c) Repealed by Session Laws 1998-55, s. 1.

(d) Forfeiture. -- A taxpayer forfeits a credit allowed under this Article if the taxpayer was not eligible for the credit at the time the taxpayer applied for the credit. In addition, a taxpayer forfeits a large investment enhancement of a tax credit if the taxpayer fails to make the level of investment certified by the Secretary of Commerce under subsection (b1) of this section within the required two-year period. A taxpayer that forfeits a credit under this Article is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236. If a taxpayer forfeits the credit for creating jobs or the credit for investing in machinery and equipment, the taxpayer also forfeits any credit for worker training claimed for the jobs for which the credit for creating jobs was claimed or the jobs at the location with respect to which the credit for investing in machinery and equipment was claimed.

(e) Change in Ownership of Business. -- The sale, merger, acquisition, or bankruptcy of a business, or any transaction by which an existing business reformulates itself as another business, does not create new eligibility in a succeeding business with respect to credits for which the predecessor was not eligible under this Article. A successor business may, however, take any installment of or carried-over portion of a credit that its predecessor could have taken if it had a tax liability. The acquisition of a business is a new investment that creates new eligibility in the acquiring taxpayer under this Article if any of the following conditions are met:

(1) The business closed before it was acquired.

(2) The business was required to file a notice of plant closing or mass layoff under the federal Worker Adjustment and Retraining Notification Act, 29 U.S.C. § 2102, before it was acquired.

(3) The business was acquired by its employees through an employee stock option transaction or another similar mechanism.

(f) Development Zone Project Credit. -- Subsections (a) through (b4) of this section do not apply to the credit for development zone projects provided in G.S. 105-129.13.

"§ 105-129.5. Tax election; cap.

(a) Tax Election. -- The credits provided in this Article are allowed against the franchise tax levied in Article 3 of this ~~Chapter and~~ Chapter, the income taxes levied in Article 4 of this ~~Chapter. The credit for investing in central administrative office property provided in G.S. 105-129.12 is also allowed against~~ Chapter, and the gross premiums tax levied in Article 8B of this Chapter. The taxpayer shall elect the tax against which a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. Any carryforwards of the credit must be claimed against the same tax.

(b) Cap. -- The credits allowed under this Article may not exceed fifty percent (50%) of the tax against which they are claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on

behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article against each tax for the taxable year. Any unused portion of a credit with respect to a large investment may be carried forward for the succeeding 20 years. Any unused portion of any other credit may be carried forward for the succeeding five years.

"**§ 105-129.6. Application; reports.**

(a) Application. -- To claim the credits allowed by this Article, the taxpayer must provide with the tax return the certification of the Secretary of Commerce that the taxpayer meets all of the eligibility requirements of G.S. 105-129.4 or G.S. 105-129.13, as applicable, with respect to each credit. A taxpayer shall apply to the Secretary of Commerce for certification of eligibility. The application must be on a form provided by the Secretary of Commerce and must contain any information necessary for the Secretary of Commerce to determine whether the taxpayer meets the eligibility requirements. In addition, the application must state the number of jobs to be created that are located within a development zone, the number of jobs to be created that are expected to be filled by employees residing within the development zone, and the number of jobs to be created that are expected to be filled by employees residing within a census tract or census block group that has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.

If the Secretary of Commerce determines that the taxpayer meets all of the eligibility requirements of G.S. 105-129.4 or G.S. 105-129.13, as applicable, with respect to a credit, the Secretary shall issue a certificate describing the location with respect to which the credit is claimed, outlining the eligibility requirements for the credit, and stating that the taxpayer meets the eligibility requirements. If the Secretary of Commerce determines that the taxpayer does not meet all of the eligibility requirements of G.S. 105-129.4 or G.S. 105-129.13, as applicable, with respect to a credit, the Secretary must advise the taxpayer in writing of the eligibility requirements the taxpayer fails to meet. The Secretary of Commerce may adopt rules in accordance with Chapter 150B of the General Statutes that are needed to carry out the Secretary of Commerce's responsibilities under this section.

(a1) Fee. -- When filing an application for certification under this section, the taxpayer must pay the Department of Commerce a fee ~~of seventy-five dollars ($75.00). Fees collected under this subsection are receipts of the Department of Commerce.~~ of five hundred dollars ($500.00) for each credit the taxpayer intends to claim with respect to a location that is in an enterprise tier three, four, or five area, subject to a maximum fee of one thousand five hundred dollars ($1,500) per taxpayer per taxable year. If the taxpayer applies for certification for a credit that relates to locations in more than one enterprise tier area, the fee is based on the highest-numbered enterprise tier area.

The Secretary of Commerce shall retain one-fourth of the proceeds of the fee imposed in this section for the costs of administering this section. The Secretary of Commerce shall credit the remaining proceeds of the fee imposed in this section to the Department of Revenue for the costs of administering and auditing the credits

allowed in this Article. The proceeds of the fee are receipts of the Department to which they are credited.

(b) Reports. -- The Department of Commerce shall report to the Department of Revenue and to the Fiscal Research Division of the General Assembly by May 1 of each year the following information for the 12-month period ending the preceding April 1:

(1) The number of applications for each credit allowed in this Article.

(2) The number and enterprise tier area of new jobs with respect to which credits were applied for.

(3) The cost of machinery and equipment with respect to which credits were applied for.

(4) The number of new jobs created within development zones, and the percentage of those jobs that were filled by residents of the zones.

"§ 105-129.7. Substantiation.

To claim a credit allowed by this Article, the taxpayer must provide any information required by the Secretary of Revenue. Every taxpayer claiming a credit under this Article shall maintain and make available for inspection by the Secretary of Revenue any records the Secretary considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for the credit and the amount of the credit shall rest upon the taxpayer, and no credit shall be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection.

"§ 105-129.8. Credit for creating jobs.

(a) Credit. -- A taxpayer that meets the eligibility requirements set out in G.S. 105-129.4, has five or more employees for at least 40 weeks during the taxable year, and hires an additional full-time employee during that year to fill a position located in this State is allowed a credit for creating a new full-time job. The amount of the credit for each new full-time job created is set out in the table below and is based on the enterprise tier of the area in which the position is located. In addition, if the position is located in a development zone, the amount of the credit is increased by four thousand dollars ($4,000) per job.

Area Enterprise Tier	Amount of Credit
Tier One	$12,500
Tier Two	4,000
Tier Three	3,000
Tier Four	1,000
Tier Five	500

A position is located in an area if more than fifty percent (50%) of the employee's duties are performed in the area. The credit may not be taken in the taxable year in which the additional employee is hired. Instead, the credit shall be taken in equal installments over the four years following the taxable year in which the additional employee was hired and shall be conditioned on the continued employment by the

taxpayer of the number of full-time employees the taxpayer had upon hiring the employee that caused the taxpayer to qualify for the credit.

If, in one of the four years in which the installment of a credit accrues, the number of the taxpayer's full-time employees falls below the number of full-time employees the taxpayer had in the year in which the taxpayer qualified for the credit, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

Jobs transferred from one area in the State to another area in the State shall not be considered new jobs for purposes of this section. If, in one of the four years in which the installment of a credit accrues, the position filled by the employee is moved to an area in a higher- or lower-numbered enterprise tier, or is moved from a development zone to an area that is not a development zone, the remaining installments of the credit shall be calculated as if the position had been created initially in the area to which it was moved.

(b) Repealed by Session Laws 1989, c. 111, s. 1.

(b1), (c) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3.

(d) Planned Expansion. -- A taxpayer that signs a letter of commitment with the Department of Commerce to create at least twenty new full-time jobs in a specific area within two years of the date the letter is signed qualifies for the credit in the amount allowed by this section based on the area's enterprise tier and development zone designation for that year even though the employees are not hired that year. The credit shall be available in the taxable year after at least twenty employees have been hired if the hirings are within the two-year commitment period. The conditions outlined in subsection (a) apply to a credit taken under this subsection except that if the area is redesignated to a higher-numbered enterprise tier or loses its development zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and development zone designation for the year the letter was signed. If the taxpayer does not hire the employees within the two-year period, the taxpayer does not qualify for the credit. However, if the taxpayer qualifies for a credit under subsection (a) in the year any new employees are hired, the taxpayer may take the credit under that subsection.

(e), (f) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3.

"**§ 105-129.9. Credit for investing in machinery and equipment.**

(a) Credit. -- If a taxpayer that has purchased or leased eligible machinery and equipment places it in service in this State during the taxable year, the taxpayer is allowed a credit equal to seven percent (7%) of the excess of the eligible investment amount over the applicable threshold. Machinery and equipment is eligible if it is capitalized by the taxpayer for tax purposes under the Code and is not leased to another party. In addition, in the case of a large investment, machinery and equipment that is not capitalized by the taxpayer is eligible if the taxpayer leases it from another party. The credit may not be taken for the taxable year in which the equipment is placed in service but shall be taken in equal installments over the seven years following the taxable year in which the equipment is placed in service.

(b) Eligible Investment Amount. -- The eligible investment amount is the lesser of (i) the cost of the eligible machinery and equipment and (ii) the amount by which the cost of all of the taxpayer's eligible machinery and equipment that is in service in this State on the last day of the taxable year exceeds the cost of all of the taxpayer's eligible machinery and equipment that was in service in this State on the last day of the base year. The base year is that year, of the three immediately preceding taxable years, in which the taxpayer had the most eligible machinery and equipment in service in this State.

(c) Threshold. -- The applicable threshold is the appropriate amount set out in the following table based on the enterprise tier of the area where the eligible machinery and equipment are placed in service during the taxable year. If the taxpayer places eligible machinery and equipment in service in more than one area during the taxable year, the threshold applies separately to the eligible machinery and equipment placed in service in each area. If the taxpayer places eligible machinery and equipment in service in an area over the course of a two-year period, the applicable threshold for the second taxable year is reduced by the eligible investment amount for the previous taxable year.

Area Enterprise Tier	Threshold
Tier One	$ -0-
Tier Two	100,000
Tier Three	200,000
Tier Four	500,000
Tier Five	1,000,000

(d) Expiration. -- If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are disposed of, taken out of service, or moved out of State, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are moved to an area in a higher-numbered enterprise tier, or are moved from a development zone to an area that is not a development zone, the remaining installments of the credit are allowed only to the extent they would have been allowed if the machinery and equipment had been placed in service initially in the area to which they were moved.

(e) Planned Expansion. -- A taxpayer that signs a letter of commitment with the Department of Commerce to place specific eligible machinery and equipment in service in an area within two years after the date the letter is signed may, in the year the eligible machinery and equipment are placed in service in that area, calculate the credit for which the taxpayer qualifies based on the area's enterprise tier and development zone designation for the year the letter was signed. All other conditions apply to the credit, but if the area has been redesignated to a higher-numbered enterprise tier or has lost its development zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and

development zone designation for the year the letter was signed. If the taxpayer does not place part or all of the specified eligible machinery and equipment in service within the two-year period, the taxpayer does not qualify for the benefit of this subsection with respect to the machinery and equipment not placed in service within the two-year period. However, if the taxpayer qualifies for a credit in the year the eligible machinery and equipment are placed in service, the taxpayer may take the credit for that year as if no letter of commitment had been signed pursuant to this subsection.

"**§ 105-129.10. Credit for research and development.**

(a) General Credit. -- A taxpayer that claims for the taxable year a federal income tax credit under section 41(a) of the Code for increasing research activities is allowed a credit equal to five percent (5%) of the State's apportioned share of the taxpayer's expenditures for increasing research activities. The State's apportioned share of a taxpayer's expenditures for increasing research activities is the excess of the taxpayer's qualified research expenses for the taxable year over the base amount, as determined under section 41 of the Code, multiplied by a percentage equal to the ratio of the taxpayer's qualified research expenses in this State for the taxable year to the taxpayer's total qualified research expenses for the taxable year.

(b) Alternative Credit. -- A taxpayer that claims the alternative incremental credit under section 41(c)(4) of the Code for increasing research activities is allowed a credit equal to twenty-five percent (25%) of the State's apportioned share of the federal credit claimed. The State's apportioned share of the federal credit claimed is the amount of the alternative incremental credit the taxpayer claimed under section 41(c)(4) of the Code for the taxable year multiplied by a percentage equal to the ratio of the taxpayer's qualified research expenses in this State for the taxable year to the taxpayer's total qualified research expenses for the taxable year. For the purpose of this subsection, the amount of the alternative incremental credit claimed by a taxpayer is determined without regard to any reduction elected under section 280C(c) of the Code.

(c) Definitions. -- As used in this section, the terms "qualified research expenses" and "base amount" have the meaning provided in section 41 of the Code. Notwithstanding G.S. 105-228.90(b), as used in this section, the term "Code" means the Internal Revenue Code as enacted as of January 1, 1999.

"**§ 105-129.11. Credit for worker training.**

(a) Credit. -- A taxpayer that provides worker training for five or more of its eligible employees during the taxable year is allowed a credit equal to the wages paid to the eligible employees during the training. Wages paid to an employee performing his or her job while being trained are not eligible for the credit. For positions located in an enterprise tier one area, the credit may not exceed one thousand dollars ($1,000) per employee trained during the taxable year. For other positions, the credit may not exceed five hundred dollars ($500.00) per employee trained during the taxable year. A position is located in an area if more than fifty percent (50%) of the employee's duties are performed in the area.

(b) Eligibility. -- An employee is eligible if the employee is in a full-time position not classified as exempt under the Fair Labor Standards Act, 29 U.S.C. § 213(a)(1) and meets one or more of the following conditions:

(1) The employee occupies a job for which the taxpayer is eligible to claim an installment of the credit for creating jobs.

(2) The employee is being trained to operate machinery and equipment for which the taxpayer is eligible to claim an installment of the credit for investing in machinery and equipment.

"**§ 105-129.12. Credit for investing in central administrative office property.**

(a) Credit. -- If a taxpayer that has purchased or leased real property in this State begins to use the property as a central administrative office during the taxable year, the taxpayer is allowed a credit equal to seven percent (7%) of the eligible investment amount. The eligible investment amount is the lesser of (i) the cost of the property and (ii) the amount by which the cost of all of the property the taxpayer is using in this State as central administrative offices on the last day of the taxable year exceeds the cost of all of the property the taxpayer was using in this State as central administrative offices on the last day of the base year. The base year is that year, of the three immediately preceding taxable years, in which the taxpayer was using the most property in this State as central administrative offices. In the case of property that is leased, the cost of the property is not determined as provided in G.S. 105-129.2 but is considered to be the taxpayer's lease payments over a seven-year period, plus any expenditures made by the taxpayer to improve the property before it is used as the taxpayer's central administrative office if the expenditures are not reimbursed or credited by the lessor. The maximum credit allowed a taxpayer under this section for property used as a central administrative office is five hundred thousand dollars ($500,000). The entire credit may not be taken for the taxable year in which the property is first used as a central administrative office but shall be taken in equal installments over the seven years following the taxable year in which the property is first used as a central administrative office. The basis in any real property for which a credit is allowed under this section shall be reduced by the amount of credit allowable.

(b) Mixed Use Property. -- If the taxpayer uses only part of the property as the taxpayer's central administrative office, the amount of the credit allowed under this section is reduced by multiplying it by a fraction the numerator of which is the square footage of the property used as the taxpayer's central administrative office and the denominator of which is the total square footage of the property.

(c) Expiration. -- If, in one of the seven years in which the installment of a credit accrues, the property with respect to which the credit was claimed is no longer used as a central administrative office, the credit expires and the taxpayer may not take any remaining installment of the credit. If, in one of the seven years in which the installment of a credit accrues, part of the property with respect to which the credit was claimed is no longer used as a central administrative office, the remaining installments of the credit shall be reduced by multiplying it by the fraction described in subsection (b) of this section. If, in one of the seven years in which the installment

of a credit accrues, the total number of employees the taxpayer employs at all of its central administrative offices in this State drops by 40 or more, the credit expires and the taxpayer may not take any remaining installment of the credit.

In each of these cases, the taxpayer may nonetheless take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

"**§ 105-129.13. Credit for development zone projects.**

(a) Credit. -- A taxpayer who contributes cash or property to a development zone agency for an improvement project in a development zone is allowed a credit equal to twenty-five percent (25%) of the value of the contribution. A contribution is for an improvement project for the purposes of this section if the agency receiving the contribution contracts in writing to use the contribution for the project and agrees in the contract to repay to the taxpayer, with interest, any part of the contribution not used for the project. The credit may not be taken for the year in which the contribution is made but must be taken for the taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in this section.

(b) Definitions. -- The following definitions apply in this section:

(1) Community development corporation. -- A nonprofit corporation that meets all of the following conditions:

a. It is chartered pursuant to Chapter 55A of the General Statutes and is tax-exempt pursuant to section 501(c)(3) of the Code.

b. Its primary mission is to develop and improve low-income communities and neighborhoods through economic and related development.

c. Its activities and decisions are initiated, managed, and controlled by the constituents of those local communities.

d. Its primary function is to act as deal maker and packager of projects and activities that will increase its constituency's opportunities to become owners, managers, and producers of small businesses, to obtain affordable housing, and to obtain jobs designed to produce positive cash flow and curb blight in the targeted community.

(2) Community development purpose. -- A purpose for which a city is authorized to expend funds under G.S. 160A-456, 160A-457, and 160A-457.2.

(3) Control. -- A person controls an entity if the person owns, directly or indirectly, more than ten percent (10%) of the voting securities of that entity. As used in this subdivision, the term 'voting security' means a security that (i) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (ii) is convertible into, or entitles the holder to receive upon its exercise, a security that

confers such a right to vote. A general partnership interest is a voting security.

(4) Development zone agency. -- Any of the following agencies that the Department of Commerce certifies will undertake an improvement project in a development zone:

a. A community-based development organization qualified under 24 C.F.R. § 570.204 to receive community development block grant funds under the Housing and Community Development Act of 1974, as amended, 42 U.S.C. § 5301, et seq., to carry out a neighborhood revitalization project, a community economic development project, or an energy conservation project.

b. A community action agency that has been officially designated as such pursuant to section 210 of the Economic Opportunity Act of 1964, Public Law 88-452, 78 Stat. 508 and which has not lost its designation as a result of a failure to comply with the provisions of that act.

c. A community development corporation.

d. A community development financial institution certified by the United States Department of the Treasury under the Community Development Banking and Financial Institutions Act of 1994, 12 U.S.C. § 4701, et seq.

e. A community housing development organization qualified under the HOME Investment Partnerships Act, 42 U.S.C. §§ 12701, 12704, and 24 C.F.R. § 92.2.

f. A local housing authority created under Article 1 of Chapter 157 of the General Statutes.

(5) Improvement project. -- A project to construct or improve real property for community development purposes or to acquire real property and convert it for community development purposes. Construction or improvement includes services provided by a development zone agency directly related to the construction or improvement, and project development fees charged by a developer for the construction or improvement.

(c) Certification. -- Before certifying that a development zone agency will undertake an improvement project in a development zone, the Secretary must require the agency to provide sufficient documentation to establish the identity of the agency, the nature of the project, and that the project is for a community development purpose and is located in a development zone. The Secretary of Commerce shall not certify a development zone agency under this section if the agency, any of the agency's officers or directors, or any partner of the agency has ever used any part of a contribution made under this section for any purpose other than an improvement project.

(d) Limitations. -- A taxpayer who claims a credit under this subsection must identify in the application the development zone agencies to which the taxpayer made contributions and the amount contributed to each. No credit is allowed for a contribution if the taxpayer is related to the development zone agency as defined in section 1313 of the Code or if the taxpayer controls, is controlled by, or is under common control with an affiliate of the development zone agency. No credit is allowed to the extent the taxpayer receives anything of value in exchange for the contribution.

(e) Application. -- To be eligible for the tax credit provided in this section, in addition to the application required under G.S. 105-129.6, the taxpayer must file an application for the credit with the Secretary of Revenue on or before April 15 of the year following the calendar year in which the contribution was made. The Secretary may grant extensions of this deadline, as the Secretary finds appropriate, upon the request of the taxpayer, except that the application may not be filed after September 15 of the year following the calendar year in which the contribution was made. An application is effective for the year in which it is timely filed. The application must be on a form prescribed by the Secretary and must include any supporting documentation that the Secretary may require. If a contribution for which a credit is applied for was of property rather than cash, the taxpayer must include with the application a certified appraisal of the value of the property contributed.

(f) Ceiling. -- The total amount of all tax credits allowed to taxpayers under this section for contributions made in a calendar year may not exceed four million dollars ($4,000,000). The Secretary of Revenue must calculate the total amount of tax credits claimed from the applications filed under this section. If the total amount of tax credits claimed for contributions made in a calendar year exceeds four million dollars ($4,000,000), the Secretary must allow a portion of the credits claimed by allocating a total of four million dollars ($4,000,000) in tax credits in proportion to the size of the credit claimed by each taxpayer. If a credit is reduced pursuant to this subsection, the Secretary must notify the taxpayer of the amount of the reduction of the credit on or before December 31 of the year the application was filed. The Secretary's allocations based on applications filed pursuant to this section are final and will not be adjusted to account for credits applied for but not claimed.

(g) Forfeiture. -- A taxpayer forfeits a credit allowed under this section to the extent the development zone agency uses the taxpayer's contribution for any purpose other than an improvement project. Each development zone agency certified by the Department of Commerce must file with the Department of Commerce annual financial statements audited in accordance with generally accepted accounting principles and in accordance with Government Audit Standards developed by the Comptroller General of the United States. The annual statements are required each time the agency receives a contribution eligible for the credit allowed under this section until the entire contribution has been used for improvement projects. If the Department of Commerce determines that a development zone agency has used part or all of a contribution for any purpose other than an improvement project, the

Department must notify the Secretary of Revenue of the forfeiture, the taxpayer who made the contribution, and the amount forfeited."

PART II. SALES TAX CHANGES

Section 3.(a) G.S. 105-164.4(a)(1d)a. through k. are recodified as G.S. 105-164.4A.

Section 3.(b) G.S. 105-164.4(a)(1d), as amended by this section, reads as rewritten:

"(1d) The rate of one percent (1%) applies to the sales price of the ~~following articles.~~ articles listed in G.S. 105-164.4A. The maximum tax is eighty dollars ($80.00) per article."

Section 3.(c) G.S. 105-164.4A, as recodified by this section, reads as rewritten:

"**§ 105-164.4A. Articles taxed at one percent (1%), eighty dollars ($80.00).**

The following articles are taxable under G.S. 105-164.4(a)(1d):

~~a.~~(1) Farm machinery. -- Sales to a farmer of machines and machinery, and parts and accessories for these machines and machinery, for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals. A "farmer" includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758. Items that are exempt from tax under G.S. 105-164.13(4c) are not subject to tax under ~~this section.~~ G.S. 105-164.4.

The term "machines and machinery" as used in this subdivision is defined as follows:

The term shall include all vehicular implements, designed and sold for any use defined in this subdivision, which are operated, drawn or propelled by motor or animal power, but shall not include vehicular implements which are operated wholly by hand, and shall not include any motor vehicles required to be registered under Chapter 20 of the General Statutes.

The term shall include all nonvehicular implements and mechanical devices designed and sold for any use defined in this subdivision, which have moving parts, or which require the use of any motor or animal power, fuel, or electricity in their operation but shall not include nonvehicular implements which have no moving parts and are operated wholly by hand.

The term shall also include metal flues sold for use in curing tobacco, whether such flues are attached to handfired furnaces or used in connection with mechanical burners.

~~b.~~(2) Manufacturing machinery. -- Sales of mill machinery or mill machinery parts and accessories to manufacturing industries and plants, and sales to contractors and subcontractors purchasing mill machinery or mill machinery parts and accessories for use by

them in the performance of contracts with manufacturing industries and plants, and sales to subcontractors purchasing mill machinery or mill machinery parts and accessories for use by them in the performance of contracts with general contractors who have contracts with manufacturing industries and plants. As used in this paragraph, the term "manufacturing industries and plants" does not include delicatessens, cafes, cafeterias, restaurants, and other similar retailers that are principally engaged in the retail sale of foods prepared by them for consumption on or off their premises.

~~e.~~(3) Telephone company property. -- Sales of central office equipment and switchboard and private branch exchange equipment to telephone companies regularly engaged in providing telephone service to subscribers on a commercial basis, and sales to these companies of prewritten computer programs used in providing telephone service to their subscribers.

~~d.~~(4) Laundry machinery. -- Sales to commercial laundries or to pressing and dry cleaning establishments of machinery used in the direct performance of the laundering or the pressing and cleaning service and of parts and accessories thereto.

~~e.~~(5) Freezer plant machinery. -- Sales to freezer locker plants of machinery used in the direct operation of ~~said~~ the freezer locker plant and of parts and accessories thereto.

~~f.~~(6) Broadcasting machinery. -- Sales of broadcasting equipment and parts and accessories thereto and towers to commercial radio and television companies which are under the regulation and supervision of the Federal Communications Commission.

~~g.~~(7) Tobacco equipment. -- Sales to farmers of bulk tobacco barns and racks and all parts and accessories thereto and similar apparatus used for the curing and drying of any farm produce.

~~h.~~(8) Farm storage facilities. -- Sales to farmers of grain, feed or soybean storage facilities and accessories thereto, whether or not dryers are attached, and all similar apparatus and accessories thereto for the storage of grain, feed or soybeans.

~~i.~~(9) Farm containers. -- Sales of containers to farmers or producers for use in the planting, producing, harvesting, curing, marketing, packaging, sale, or transporting or delivery of their products when such containers do not go with and become part of the sale of their products at wholesale or retail.

~~j.~~(10) Recycling facility equipment. -- Sales to a major recycling facility of the following tangible personal property for use in connection with the facility: cranes, structural steel crane support systems, foundations related to the cranes and support systems, port and dock facilities, rail equipment, and material handling equipment.

~~k.~~(11) (Effective January 1, 2001) Air courier equipment. -- Sales of the following items to an interstate air courier for use at its hub: materials handling equipment, racking systems, and related parts and accessories, for the storage or handling and movement of tangible personal property at an airport or in a warehouse or distribution facility."

Section 4. G.S. 105-164.14 is amended by adding a new subsection to read:

"(h) Low Enterprise Tier Businesses. --

(1) Refunds. -- An eligible person is allowed an annual refund of sales and use taxes paid by it under this Article at the general rate of tax on eligible machinery and equipment it purchases for use in an enterprise tier one area or an enterprise tier two area, as defined in G.S. 105-129.3. Liability incurred indirectly by the taxpayer for sales and use taxes on these items is considered tax paid by the taxpayer. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred.

(2) Eligibility. -- A person is eligible for the refund provided in this subsection if it is engaged primarily in one of the businesses listed in G.S. 105-129.4(a) in an enterprise tier one area or an enterprise tier two area, as defined in G.S. 105-129.3.

(3) Machinery and equipment. -- For the purpose of this subsection, the term 'machinery and equipment' means engines, machinery, equipment, tools, and implements used or designed to be used in one of the businesses listed in G.S. 105-129.4(a). Machinery and equipment are eligible for the refund provided in this subsection if the taxpayer places it in service in an enterprise tier one area or an enterprise tier two area, as defined in G.S. 105-129.3, capitalizes it for tax purposes under the Code, and does not lease it to another party."

Section 5. G.S. 105-164.14 is amended by adding a new subsection to read:

"(i) Nonprofit Insurance Companies. --

(1) Refunds. -- An eligible nonprofit insurance company is allowed an annual refund of sales and use taxes paid by it under this Article before January 1, 2008, on building materials, building supplies, fixtures, and equipment that become a part of its real property. Liability incurred indirectly by the company for sales and use taxes on these items is considered tax paid by the company. A request for a refund must be in writing and must include any information and documentation required by the

Secretary. A request for a refund is due within six months after the end of the insurance company's fiscal year. Refunds applied for after the due date are barred.

(2) Eligibility. -- An insurance company is eligible for the refund provided in this subsection if it meets all of the following conditions:

a. It is a nonprofit corporation.

b. It is operated for the exclusive purpose of providing insurance and annuity contracts to or for the benefit of organizations exempt from federal income tax under section 501(c)(3) of the Code, and their employees.

c. The Secretary of Commerce has certified that the insurance company will invest at least ten million dollars ($10,000,000) in constructing a facility in this State for the conduct of its operations.

(3) Forfeiture. -- If an eligible insurance company does not make the required minimum investment within five years after its first refund under this subsection, it loses its eligibility and forfeits all refunds already received under this subsection. Upon forfeiture, the company is liable for tax under this Article equal to the amount of all past taxes refunded under this subsection, plus interest at the rate established in G.S. 105-241.1(i), computed from the date the taxes would have been due if the tax refunds had not been received. The tax and interest are due 30 days after the date of the forfeiture. A company that fails to pay the tax and interest is subject to the penalties provided in G.S. 105-236."

Section 6.(a) G.S. 105-164.3 is amended by adding a new subdivision to read:

"(6e) Interstate passenger air carrier. -- A person whose primary business is scheduled passenger air transportation, as defined in the North American Industry Classification System adopted by the United States Office of Management and Budget, in interstate commerce."

Section 6.(b) G.S. 105-164.3(6b), as enacted by S.L. 1998-55, becomes effective May 1, 1999.

Section 6.(c) G.S. 105-164.3(6b) reads as rewritten:

"(6b) Hub. -- ~~An interstate air courier's~~ Either of the following:

a. An interstate air courier's hub is the airport in this State that meets all of the following conditions:

~~a.~~ 1. The air courier has allocated to the airport under G.S. ~~105-388~~ 105-338 more than sixty percent (60%) of its aircraft value apportioned to this State.

~~b.~~ 2. The air courier's primary function at the airport is to sort and distribute letters and packages received from multiple consolidation locations.

~~c.~~ 3. The air courier's primary function at the airport is not to consolidate letters and packages and deliver them to another airport for sorting and distribution.

b. An interstate passenger air carrier's hub is the airport in this State that meets both of the following conditions:

1. The air carrier has allocated to the airport under G.S. 105-338 more than sixty percent (60%) of its aircraft value apportioned to this State.

2. The majority of the air carrier's passengers boarding at the airport are connecting from other airports rather than originating at that airport."

Section 7.(a) Section 9 of S.L. 1998-55 is repealed.

Section 7.(b) G.S. 105-164.13 is amended by adding a new subdivision to read:

"(45) Sales of the following items to an interstate passenger air carrier for use at its hub: aircraft lubricants, aircraft repair parts, and aircraft accessories."

Section 7.(c) Effective January 1, 2001, G.S. 105-164.13(45), as enacted by this act, reads as rewritten:

"(45) Sales of the following items to an interstate passenger air carrier or an interstate air courier for use at its hub: aircraft lubricants, aircraft repair parts, and aircraft accessories."

Section 8. G.S. 105-164.4A, as recodified by this act, is amended by adding a new subdivision to read:

"(13) Flight crew training equipment. -- Sales to an interstate passenger air carrier or an interstate air courier of aircraft simulators for flight crew training for use at the air carrier or air courier's hub."

Section 9. G.S. 105-164.14(a) reads as rewritten:

"(a) Interstate Carriers. -- An interstate carrier is allowed a refund, in accordance with this section, of part of the sales and use taxes paid by it on fuel, lubricants, repair parts, and accessories purchased in this State for a motor vehicle, railroad car, locomotive, or airplane the carrier operates. An 'interstate carrier' is a person who is engaged in transporting persons or property in interstate commerce for compensation. The Secretary shall prescribe the periods of time, whether monthly, quarterly, semiannually, or otherwise, with respect to which refunds may be claimed, and shall prescribe the time within which, following these periods, an application for refund may be made.

An applicant for refund shall furnish the following information and any proof of the information required by the Secretary:

(1) A list identifying the fuel, lubricants, repair parts, and accessories purchased by the applicant inside or outside this State during the refund period.
(2) The purchase price of the items listed in subdivision (1) of this subsection.
(3) The sales and use taxes paid in this State on the listed items.
(4) The number of miles the applicant's motor vehicles, railroad cars, locomotives, and airplanes were operated both inside and outside this State during the refund period.
(5) Any other information required by the Secretary.

For each applicant, the Secretary shall compute the amount to be refunded as follows. First, the Secretary shall determine the ratio of the number of miles the applicant operated its motor vehicles, railroad cars, locomotives, and airplanes in this State during the refund period to the number of miles it operated them both inside and outside this State during the refund period. Second, the Secretary shall determine the applicant's proportional liability for the refund period by multiplying this mileage ratio by the purchase price of the items identified in subdivision (1) of this subsection and then multiplying the resulting product by the tax rate that would have applied to the items if they had all been purchased in this State. Third, the Secretary shall refund to each applicant the excess of the amount of sales and use taxes the applicant paid in this State during the refund period on these items over the applicant's proportional liability for the refund period."

PART III. AFFORDABLE HOUSING TAX CREDIT

Section 10. The title of Article 3B of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 3B.

"Business Tax ~~Credit.~~ Credits."

Section 11. Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.16A. Credit for low-income housing.**

(a) Credit. -- A taxpayer that is allowed for the taxable year a federal income tax credit for low-income housing under section 42 of the Code with respect to a qualified North Carolina low-income building, is allowed a credit under this Article equal to twenty-five percent (25%) of the total federal credit allowed during the 10-year federal credit period with respect to that building. The credit must be taken in equal installments over the five years beginning in the first taxable year in which the federal credit is claimed for that building.

(b) Definitions. -- The definitions in section 42 of the Code apply in this section. In addition, as used in this section the term 'qualified North Carolina low-income building' means a qualified low-income building that meets any of the following conditions:

(1) It is located in an area that, at the time the federal credit is allocated to the building, is a tier one or two enterprise area, as

defined in G.S. 105-129.3, or is a development zone, as defined in G.S. 105-129.3A.

(2) It is located in an area that, at the time the federal credit is allocated to the building, is a tier three or four enterprise area, and forty percent (40%) of its residential units are both rent-restricted and occupied by individuals whose income is fifty percent (50%) or less of area median gross income as defined in the Code.

(3) It is located in an area that, at the time the federal credit is allocated to the building, is a tier five enterprise area, and forty percent (40%) of its residential units are both rent-restricted and occupied by individuals whose income is thirty-five percent (35%) or less of area median gross income as defined in the Code.

(c) Expiration. -- If, in one of the five years in which an installment of the credit under this section accrues, the taxpayer is no longer eligible for the corresponding federal credit with respect to the same qualified North Carolina low-income building, then the credit under this section expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17.

(d) Forfeiture. -- If the taxpayer is required under section 42(j) of the Code to recapture all or part of a federal credit under that section with respect to a qualified North Carolina low-income building, the taxpayer forfeits the corresponding part of the credit allowed under this section with respect to that qualified North Carolina low-income building. A taxpayer that forfeits a credit under this section is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236."

Section 12. Reserved.

Section 13. G.S. 105-129.17 reads as rewritten:

"**§ 105-129.17. Tax election; cap.**

(a) Tax Election. -- The ~~credit~~ credits allowed in this Article ~~is~~ are allowed against the franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of this Chapter. The taxpayer must elect the tax against which ~~the~~ a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. Any carryforwards of ~~the~~ a credit must be claimed against the same tax.

(b) Cap. -- The ~~credit~~ total credits allowed in this Article may not exceed fifty percent (50%) of the tax against which ~~it is~~ they are claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article

against each tax for the taxable year. Any unused portion of the ~~credit~~ credits may be carried forward for the succeeding five years."

Section 14. G.S. 105-129.18 reads as rewritten:

"**§ 105-129.18. Substantiation.**

To claim the ~~credit~~ credits allowed by this Article, the taxpayer must provide any information required by the Secretary of Revenue. Every taxpayer claiming a credit under this Article must maintain and make available for inspection by the Secretary of Revenue any records the Secretary considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for the credit and the amount of the credit rests upon the taxpayer, and no credit may be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection."

Section 15. G.S. 105-129.19 reads as rewritten:

"**§ 105-129.19. Reports.**

The Department of Revenue shall report to the Legislative Research Commission and to the Fiscal Research Division of the General Assembly by May 1 of each year the following information for the 12-month period ending the preceding April 1:

(1) The number of taxpayers that claimed the ~~credit~~ credits allowed in this Article.

(2) The cost of business property with respect to which business property credits were claimed.

(2a) The location of each qualified North Carolina low-income building with respect to which a low-income housing credit was claimed.

(3) The total cost to the General Fund of the credits claimed."

Section 16. G.S. 105-241.1(e) reads as rewritten:

"(e) Statute of Limitations. -- There is no statute of limitations and the Secretary may propose an assessment of tax due from a taxpayer at any time if (i) the taxpayer did not file a proper application for a license or did not file a return, (ii) the taxpayer filed a false or fraudulent application or return, or (iii) the taxpayer attempted in any manner to fraudulently evade or defeat the tax.

If a taxpayer files a return reflecting a federal determination as provided in G.S. 105-29, 105-130.20, 105-159, 105-160.8, 105-163.6A, or 105-197.1, the Secretary must propose an assessment of any tax due within one year after the return is filed or within three years of when the original return was filed or due to be filed, whichever is later. If there is a federal determination and the taxpayer does not file the required return, the Secretary must propose an assessment of any tax due within three years after the date the Secretary received the final report of the federal determination. ~~If~~

If a taxpayer forfeits a tax credit ~~pursuant to G.S. 105-163.014 or Article 3A of~~ or tax benefit pursuant to forfeiture provisions of this Chapter, the Secretary must assess any tax due as a result of the forfeiture within three years after the date of the forfeiture. If a taxpayer elects under section 1033(a)(2)(A) of the Code not to recognize gain from involuntary conversion of property into money, the Secretary must assess any tax due as a result of the conversion or election within the applicable period provided under section 1033(a)(2)(C) or section 1033(a)(2)(D) of the Code. If

a taxpayer sells at a gain the taxpayer's principal residence, the Secretary must assess any tax due as a result of the sale within the period provided under section 1034(j) of the Code.

In all other cases, the Secretary must propose an assessment of any tax due from a taxpayer within three years after the date the taxpayer filed an application for a license or a return or the date the application or return was required by law to be filed, whichever is later.

If the Secretary proposes an assessment of tax within the time provided in this section, the final assessment of the tax is timely.

A taxpayer may make a written waiver of any of the limitations of time set out in this subsection, for either a definite or an indefinite time. If the Secretary accepts the taxpayer's waiver, the Secretary may propose an assessment at any time within the time extended by the waiver."

PART IV. INDUSTRIAL DEVELOPMENT FUND CHANGES

Section 17. G.S. 143B-437.01(a) reads as rewritten:

"(a) Creation and Purpose of Fund. -- There is created in the Department of Commerce the Industrial Development Fund to provide funds to assist the local government units of the most economically distressed counties in the State in creating jobs in certain industries. The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the following provisions, which shall apply to each grant from the fund:

(1) The funds shall be used for (i) installation of or purchases of equipment for eligible industries, (ii) structural repairs, improvements, or renovations of existing buildings to be used for expansion of eligible industries, or (iii) construction of or improvements to new or existing water, sewer, gas, or electrical utility distribution lines or equipment for existing or new or proposed industrial buildings to be used for eligible industries. To be eligible for funding, the water, sewer, gas, or electrical utility lines or facilities shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the specific eligible industrial activity.

(1a) The funds shall be used for projects located in economically distressed counties except that the Secretary of Commerce may use up to one hundred thousand dollars ($100,000) to provide emergency economic development assistance in any county that is documented to be experiencing a major economic dislocation.

(2) The funds shall be used by the city and county governments for projects that will directly result in the creation of new jobs. The funds shall be expended at a maximum rate of five thousand dollars ($5,000) per new job created up to a maximum of five hundred thousand dollars ($500,000) per project.

(3) There shall be no local match requirement if the project is located in an enterprise tier one area as defined in G.S. 105-129.3.

(4) The Department may authorize a local government that receives funds under this section to use up to two percent (2%) of the funds, if necessary, to verify that the funds are used only in accordance with law and to otherwise administer the grant or loan.

(5) No project shall be funded unless the Secretary of Commerce finds that the proposed project will not have a materially adverse effect on the environment. The Secretary of Commerce shall not make this finding unless the Secretary has first received a certification from the Department of Environment and Natural Resources that the proposed project will not have a materially adverse effect on the environment."

PART V. EFFECTIVE DATES

Section 18. NAICS Code and Customer Service Center Changes. -- G.S. 105-129.2(2)b., as enacted by Section 2 of this act, is effective retroactively as of January 1, 1999. G.S. 105-129.2(3a), as enacted by Section 2 of this act, becomes effective for taxable years beginning on or after January 1, 2000. The remaining amendments to G.S. 105-129.2 made by Section 2 of this act are effective when this act becomes law. G.S. 105-129.4(a)(6), as enacted by Section 2 of this act, becomes effective for taxable years beginning on or after January 1, 2000.

Section 19. Small County Enhancements. -- G.S. 105-129.3(e) and (f), as enacted by Section 2 of this act, become effective for taxable years beginning on or after January 1, 2000.

Section 20. Development Zone Definitions. -- The amendments to G.S. 105-129.3A made by Section 2 of this act become effective July 1, 1999, and apply to applications filed on or after that date. Notwithstanding the provisions of G.S. 105-129.3A(b), a development zone designation made in 1998 or 1999 is effective until January 1, 2001.

Section 21. Quality Jobs Assurance. -- G.S. 105-129.4(b2), (b3), and (b4), as enacted by Section 2 of this act, become effective for taxable years beginning on or after January 1, 2000, and apply to credits for which applications are filed on or after that date.

Section 22. All Credits Against Gross Premiums Tax. -- The amendment to G.S. 105-129.5(a) made by Section 2 of this act is effective for taxable years beginning on or after January 1, 1999.

Section 23. Application Fees and Information. -- The amendments to G.S. 105-129.6(a) and (a1) made by Section 2 of this act are effective 30 days after this act becomes law, and apply to applications filed on or after that date.

Section 24. Development Zone Projects Credit. -- G.S. 105-129.13, as enacted by Section 2 of this act, is effective for taxable years beginning on or after January 1, 2000.

Section 25. Sales Tax Technical Change. -- Section 3 of this act is effective when it becomes law.

Section 6. Sales Tax Refund for Tiers One and Two Equipment. -- Section 4 of this act becomes effective January 1, 2000, and applies to taxes paid on or after that date.

Section 27. Temporary Sales Tax Refund for Nonprofit Insurance Companies. -- Section 5 of this act becomes effective January 1, 2000, and applies to taxes paid on or after that date. Section 5 of this act expires January 1, 2008.

Section 28. Sales Tax Preferences for Interstate Air Carriers. -- Sections 6 through 8 of this act are effective retroactively as of May 1, 1999, and apply to sales made on or after that date.

Section 29. Affordable Housing Credit. -- Part III of this act is effective for taxable years beginning on or after January 1, 2000, and applies to buildings to which federal credits are allocated on or after January 1, 2000.

Section 30. Industrial Development Fund Changes. -- Part IV of this act becomes effective July 1, 1999.

Section 31. Remainder. -- The remainder of this act is effective when it becomes law.

SENATE BILL 1115:
William S. Lee Act 1999

BILL ANALYSIS

Committee:	House Finance Committee	**Sponsor:**	Sen. Kerr
Date:	June 22, 1999	**Summary by:**	Martha H. Harris
Version:	Proposed House Comm. Sub		Staff Attorney

SUMMARY: Senate Bill 1115 would amend the tax laws to expand existing tax incentives for businesses, add new tax incentives and tax reductions for specific businesses, and make related changes. The provisions of the bill are listed below, followed by a detailed summary of each provision. Those provisions added or changed by the proposed House Committee Substitute are double-underlined.

1. *Extend sunset on Bill Lee Act and Business Property Tax Credit from 2002 to 2007 (Section 1)*
2. *Add passenger air carrier training center to Bill Lee Act credits, effective 1/1/1999 (page 2)*
3. *Allow an interstate passenger air carrier a sales tax exemption for aircraft parts and accessories purchased for use at its hub in this State, effective 5/1/1999 (Section 7, page 24)*
4. *Reduce sales tax from 6% to 1% with an $80 cap for flight crew training aircraft simulators purchased by an interstate passenger air carrier for use at its hub in this State, effective 5/1/1999 (Section 8, page 24)*
5. *Allow certain nonprofit insurance companies an eight-year sales tax refund for taxes paid on building materials and a permanent sales tax refund for taxes paid on capitalized computer equipment, effective 5/1/1999 (Section 5, pages 22-23)*
6. *Extend Bill Lee Act credits to electronic mail order houses that create at least 250 jobs in tiers one and two, effective 1/1/2000 (pages 3, 6)*
7. *Extend Bill Lee Act credits to customer service centers in tiers one and two, effective 1/1/2000 (pages 2, 6)*
8. *Allow annual refund of 6% sales taxes paid on capitalized machinery and equipment sold to businesses eligible for Bill Lee Act credits and located in tier one or two, effective 1/1/2000 (Section 4, page 21)*
9. *Give a more favorable tier designation to small counties, effective 1/1/2000 (pages 4-5)*
10. *Close loopholes in definition of development zones, effective 8/1/1999 (page 5)*
11. *Allow a 25% credit for contributions to nonprofits for capital projects within development zones, effective 1/1/2000 (pages 16-19)*
12. *Allow a credit for rehabilitating or constructing affordable housing, effective for new projects beginning 1/1/2000 (Sections 10-16, pages 25-28)*
13. *Allow all Bill Lee Act credits to be taken against insurance premiums tax, effective 1/1/1999 (page 9)*

14. *Require businesses to provide health insurance and meet environmental, safety, and he[illegible] standards in order to qualify for Bill Lee Act credits, effective 1/1/2000 (pages 7-8)*

15. *Eliminate the $75 application fee for Bill Lee Act credits in tiers one and two and increase the fee to $500 per credit in other tiers, with a cap of $1,500 per applicant, effective 30 days after the bill becomes law (page 10)*

16. *Require applicants for Bill Lee Act credits to provide additional information to enable Commerce to evaluate the effectiveness of the credits in providing employment to residents of development zones, effective 30 days after the bill becomes law (page 9)*

17. *Require taxpayers to include with their tax returns the information that they must generate under current law to establish eligibility for the Bill Lee Act credits, effective January 1, 2000 (pages 10-11 and Section 2.1, page 19)*

18. *Clarify definitions of industries covered by Bill Lee Act, effective immediately (pages 2–3), and clarify sales tax refunds for sales of fuel to interstate air carriers, effective October 1, 1999 (Section 9, pages 24-25)*

19. *Provide that research and development credit will not expire when the corresponding federal credit expires, effective January 1, 1999 (page 14)*

20. *Require projects to obtain an environmental certification in order to qualify for funding from the Industrial Development Fund (Building Renovation Fund), effective when the bill becomes law (Section 17, pages 28-29)*

21. *Require the Department of Commerce to support reasonable efforts to reduce inter[illegible] competition in luring businesses from one state to another (Section 18, page 29)*

22. *Provide that tax credits should be sunset at least every five years (Sections 19-20, pages 29-31)*

Extend Sunsets on Bill Lee Act and Business Property Credit. The William S. Lee Quality Jobs and Business Expansion Act was enacted in 1996, effective beginning with the 1996 tax year, with a sunset effective in 2002. The Act required the Department of Commerce to report annually on the credits allowed by the Act. Before 1996, North Carolina had made little use of tax incentives to lure businesses to the State. Even without incentives, North Carolina was consistently one of the top states in attracting industry. The array of credits authorized by the William S. Lee Act was viewed as an experiment, to be evaluated in five years to determine whether the incentives were cost effective and actually affected behavior, or merely provided tax reductions to businesses that would have located or expanded in any case. Section 1 of this bill would extend the 2002 sunset for an additional five years, to 2007.

The 1996 legislation that enacted the William S. Lee Act also provided a tax credit for investing in tangible personal property that is used by the taxpayer in connection with a business or for the production of income and is capitalized by the taxpayer for tax purposes under the Code. The amount of the credit is 4.5% of the cost of the property placed in service, not to exceed $4,500 per taxpayer per year. The credit must be taken in five equal installments beginning in the year the property is placed in service. This business property credit is less restricted than the credit for investment in machinery and equipment in that there is no minimum wage requirement, no minimum amount of investment requirement, and no [illegible]

of business requirement. The business property tax credit is set to expire in 2002. Section 1 of this bill would extend the business property tax credit's 2002 sunset for an additional five years, to 2007.

Incentives for Interstate Passenger Air Carrier Hubs. This bill would provide three incentives for interstate passenger air carriers with hubs in this State. A hub is defined in Section 6 of the bill as the airport where the carrier has allocated at least 60% of its aircraft property tax value and at which the majority of its boarding passengers are connecting from other airports, not originating at that airport. The only carrier that meets this definition in North Carolina at this time is U.S. Airways, whose hub is in Charlotte. Midway Airlines, whose hub is at Raleigh-Durham, should qualify by the end of 1999.

The first incentive for passenger air carriers is to provide that the Bill Lee Act definition of central administrative offices includes centralized training offices at an air carrier's hub, effective beginning with the 1999 tax year. This change would allow the air carrier to qualify for the central administrative office credit, described below, as well as for the existing Bill Lee Act credit for creating jobs, credit for investing in machinery and equipment, credit for research and development, and credit for worker training. These credits could be taken with respect to the training center only.

The central administrative office credit is allowed to taxpayers that purchase or lease real property to be used as central administrative office property with 40 or more employees. The amount of the credit is equal to 7% of the eligible investment amount and may not exceed $500,000. The credit is taken in seven equal installments over the seven years following the taxable year in which the property is first used as a central administrative office.

The second incentive for passenger air carriers is a sales tax exemption for the carrier's purchases of aircraft lubricants, parts, and accessories for use at its hub, effective beginning May 1, 1999. These purchases would otherwise be subject to sales tax at 6%, but interstate air carriers are allowed a partial refund of the tax under G.S. 105-164.14(a). In 1998, the General Assembly enacted a similar exemption for air couriers (Federal Express), effective January 1, 2001.

The third incentive for passenger air carriers is a sales tax reduction from 6% to 1% with an $80 cap, for purchases of aircraft simulators for flight crew training for use at the hub, effective beginning May 1, 1999. The tax reduction would also apply to interstate air couriers. U.S. Airways plans to establish a flight crew training center at its Charlotte hub, where it would use aircraft simulators.

Incentive for Nonprofit Insurance Companies. Section 5 of this bill would provide a sales tax refund to certain nonprofit insurance companies for State and local taxes they pay on building materials, supplies, fixtures, and equipment that become a part of their real property and on capitalized computer systems hardware and software.. The refund would become effective beginning with taxes paid on May 1, 1999. The building materials refund expires for taxes pad on or after January 1, 2008. To qualify for this refund, the insurance company must be operated for the exclusive purpose of providing insurance products to nonprofit charitable organizations and their employees. In addition, the Secretary of Commerce must have certified that the insurance company will invest at least $20 million in this State. TIAA, which has announced plans to build an office in Mecklenburg County, fits this description.[1] If TIAA fails to make the $20 million investment within five years after it first receives a refund, it forfeits all refunds it received as a result of this incentive.

[1] There may be one or more other nonprofit insurance companies that could qualify, but only if they make a $20 million investment.

Incentives for Enterprise Tiers One and Two. The bill would provide three incentives for developm in enterprise tier one and two counties, which are the counties considered most in need of econo development based on high unemployment, low per capita income, and low population growth.[2] The first incentive extends all of the Bill Lee Act credits to electronic mail order houses that create at least 250 jobs located in an enterprise tier one or two county. The second incentive extends all of the Bill Lee Act credits to certain customer service centers located in an enterprise tier one or two county. An eligible customer service center is a subdivision of a telecommunications or financial services company that provides support services to the company's customers by telephone to support the company's products and services. To qualify, at least 60% of the center's calls must be incoming. This requirement will prevent telemarketing operations from qualifying. The credits allowed under the Bill Lee Act, which the bill would extend to these electronic mail order houses and customer service centers effective January 1, 2000, are the credit for creating jobs, the credit for investing in machinery and equipment, the credit for research and development, the credit for worker training, and the credit for investing in central administrative office property.

The third incentive allows an annual sales tax refund on taxes paid at 6% (6.5% in Mecklenburg County) on capitalized machinery and equipment sold to a taxpayer engaged in one of the businesses eligible for Bill Lee Act credits, for use in an enterprise tier one or two county. This provision would become effective for taxes paid on or after January 1, 2000. In addition to tier one and two customer service centers and electronic mail order houses discussed above, the following businesses are eligible for Bill Lee Act credits: air courier services, central administrative offices (with at least 40 new jobs), data processing, manufacturing, warehousing, and wholesale trade.

Incentives for Small Counties. This bill would allow certain counties to qualify for a lower enterp tier designation, effective January 1, 2000. Under the Bill Lee Act, all counties are divided into f enterprise tiers, ranked by economic distress as measured by a formula that combines unemployment, per capita income, and population growth. Those counties in lower-numbered tiers receive more favorable incentives than those in higher tiers. First, this bill changes the rules for assigning enterprise tier designations to provide that the tier number that would otherwise be assigned by the formula is reduced by one for counties that have a population of less than 50,000 and also have more than 18% of their residents below the federal poverty level. Under this provision, Alleghany, Ashe, Beaufort, Cherokee, Perquimans, Scotland, Vance, and Yancey Counties would move from tier two to tier one; Bladen, Hoke, Jones, Madison, Pamlico, and Pasquotank Counties would move from tier three to tier two; and Duplin, Greene, and Watauga Counties would move from tier four to tier three.

Second, the bill provides that a county that has a population of less than 25,000 cannot be designated higher than tier three. Under this provision, Polk and Currituck Counties would move from tier five to tier three.

Close Development Zone Loopholes. In 1998, the General Assembly amended the Bill Lee Act to provide additional incentives for businesses that locate or expand in development zones, which are economically distressed areas located within cities. The statutory conditions for qualifying as a development zone were designed to target only these relatively small, economically distressed areas. The

[2] The following 13 counties are in tier one: Bertie, Edgecombe, Graham, Halifax, Hertford, Hyde, Martin, Northampton, Richmond, Swain, Tyrrell, Warren, and Washington. The following 15 counties are in tier two: Alleghany, Anson, Ashe, Beaufort, Cherokee, Columbus, Mitchell, Montgomery, Onslow, Perquimans, Robeson, Rutherford, Scotland, Vance, and Yancey.

statutory conditions contained loopholes, however, that allowed large areas outside of cities to qualify, even if they were not economically distressed throughout. This bill would close those loopholes, effective for development zone designations made on or after January 1, 2000.

The 1998 legislation defined a development zone as an area that meets all of the following conditions: (1) consists of one or more contiguous census tracts, block groups, or both, (2) has a population of 1,000 or more, at least 20% of whom are below the poverty level, and (3) is located at least partly in a city with a population over 5,000. This bill closes the loopholes in this definition by requiring that:

- Every census tract and census block group in the zone must be located in whole or in part within the primary corporate limits of the city.
- Every census tract and census block group in the zone must have more than 10% of its population below the poverty level, or must be immediately adjacent to a tract or group that has more than 20% of its population below the poverty level.
- None of the census tracts or census block groups may be located in another development zone.

This bill would also shorten the period during which designation as a development zone is effective, from four years to two years, and require zone applicants to notify every city in which part of the proposed zone would be located.

The following enhanced incentives apply in development zones: If a business locates in a development zone, the wage standard it has to meet is the same as for tier one counties -- slightly lower than the standard for other counties. In addition, if a business locates in a development zone, its maximum worker training credit is $1,000 rather than $500, it receives an additional $4,000 per job on its jobs tax credit, and there is no threshold for the credit for investing in machinery and equipment.

Credit for Development Zone Projects. This bill would create a new tax credit for taxpayers that contribute cash or property to certain nonprofit agencies to be used for an improvement project in a development zone. An improvement project is a project to construct or improve real property for community development purposes or to acquire real property and convert it for community development purposes. The new credit would become effective beginning with the 2000 tax year.

The credit allowed is 25% of the amount contributed by the taxpayer. The total amount of credits that may be allowed in a taxable year is capped at $4 million. Taxpayers are required to apply to the Secretary of Revenue for these credits. If the total amount applied for in a year exceeds $4 million, the Secretary will reduce each applicant's credit proportionally.

The credit is allowed for contributions to a development zone agency, defined as a community action agency, a community-based development organization, a community development corporation, a community development financial institution, a community housing development organization, or a local housing authority. To qualify for the credit, all of the following conditions must be met:

- The agency must contract in writing to use the contribution for an improvement project in a development zone and to repay the taxpayer with interest if the contribution is not so used.

- The Department of Commerce must certify that the agency will undertake an improvement proje[redacted] a development zone.[3] To support this certification, the agency must provide the Depart[redacted] documentation establishing the identity of the agency, the nature of the project, and that the project is for a community development purpose in a development zone.
- The taxpayer must be unrelated to the agency and must not control, be controlled by, or be under common control with the agency.
- The taxpayer must not receive anything of value for the contribution.

A taxpayer forfeits the tax credit for a contribution to the extent the development zone agency uses the contribution for anything other than an improvement project in a zone. Development zone agencies are required to file with the Department of Commerce annual, audited financial statements. If the Department of Commerce finds that any part of a contribution was used for a purpose other than an improvement project, it must notify the Department of Revenue of the resulting forfeiture.

Affordable Housing Tax Credit. Section 11 of the bill would create a new tax credit for rehabilitating or constructing low-income housing, effective for buildings allocated federal credits on or after January 1, 2000. The credit is equal to a percentage of the amount of the taxpayer's federal credit for low-income housing with respect to eligible North Carolina low-income housing. The credit is 75% for buildings located in tier one or two and 25% for buildings located in other tiers. North Carolina low-income housing is eligible if it meets one of the following conditions:

- It is located in a tier one or two enterprise area.
- It is located in a tier three or four enterprise area and has at least 40% of its residential units tha[redacted] rent-restricted and are occupied by individuals whose income is 50% or less of area median gr[redacted] income.
- It is located in a tier five enterprise area and has at least 40% of its residential units that are rent-restricted and are occupied by individuals whose income is 35% or less of area median gross income.

The credit is not taken in one year but is spread out over five years beginning when the federal credit is first claimed for the building. The federal credit is first claimed either when the building is placed in service, or the next year, at the taxpayer's election. The federal credit is taken over eleven years.

The federal credit requires that either (1) at least 20% of the residential units are rent-restricted and occupied by individuals whose income is 50% or less of area median gross income or (2) at least 40% of the residential units are rent-restricted and occupied by individuals whose income is 60% or less of area gross income. By providing a higher credit for tier one and two projects and by limiting the State credit to projects that are either in tier one or two or serve lower-income residents, the bill is designed to steer investments toward these projects.

The federal credit requires that the low-income housing be used for that purpose for at least 30 years. If this requirement is not met, all or part of the taxpayer's credit is recaptured. Under the proposed State credit, if federal recapture is required, the taxpayer forfeits the North Carolina credit to the same extent. In addition, if the taxpayer no longer qualifies for the federal credit during one of the five years a State

[3] The Secretary of Commerce may not certify a development zone agency if it, any of its officers or directors, or any partne[redacted] the agency has ever used part of an improvement project contribution for any purpose other than the improvement project.

installment could otherwise be claimed, the taxpayer is no longer eligible for the State credit. This situation could occur if the taxpayer sold its interest in the low-income housing.

Under federal law, a limited amount of credit is allowed to each state each year, and these credits are allocated among applicants based on selection criteria designed to reward projects that will serve the lowest income tenants for the longest periods. At least 10% of the credits each year must be set aside for projects sponsored by nonprofits. The amount of federal credit allocated to North Carolina will be $9.2 million for the 2000 through 2002 tax years and is expected to increase to $13 million for the 2003 and 2004 tax years. By limiting the State credit to a percentage of the federal credit, the bill automatically caps the potential revenue loss to the State.

Extend Bill Lee Act Credits to Insurance Company Administrative Offices. This bill would allow all the Bill Lee Act credits to be taken against gross premiums tax, effective beginning in the 1999 tax year. Currently, only the real property credit for central administrative offices may be taken against gross premiums tax.

In 1997, the General Assembly (1) extended the Bill Lee Act credits to central administrative offices that created at least 40 new jobs and (2) created a new tax credit for taxpayers who purchase or lease real property to be used as central administrative office property. In 1998, the General Assembly allowed the real property credit for central administrative offices to be taken against the gross premiums tax as well as against the income tax and the corporate franchise tax. Insurance companies pay gross premiums tax in lieu of income tax. The 1998 legislation did not change the rule that the other Bill Lee Act credits could be taken against only income tax and corporate franchise tax. The 1998 change created a situation in which insurance companies and other businesses are treated differently with respect to central administrative offices. A business, other than an insurance company, that builds a central administrative office can take against income tax not only the real property credit for that office, but also the jobs credit, the investment tax credit, and the worker training credit. An insurance company can take against gross premiums tax only the real property credit, but not the jobs credit, the investment tax credit, or the worker training credit. By extending the other Bill Lee Act credits to gross premiums tax, this bill would provide uniform treatment for insurance companies and other businesses that build central administrative offices.

Quality Jobs Assurance. The purpose of the original William S. Lee Act was to provide incentives for "high quality jobs." Accordingly, under current law, only certain industries qualify for the Bill Lee Act credits and a taxpayer must meet a wage standard with respect to the jobs at the locations for which it claims a credit. This bill would add three additional standards to assure that credits are allowed only with respect to high quality jobs. First, the taxpayer would be required to pay at least 50% of basic health insurance coverage for the full-time positions for which it takes a credit. Second, the taxpayer would be required to certify that the business location with respect to which it claims a credit has not had a significant environmental violation in the last five years and has no pending enforcement actions for significant environmental violations. Third, the taxpayer would be required to certify that the business location with respect to which it claims a credit has no outstanding or unresolved OSHA citations and has had no serious violation within the last three years. The Department of Environment and Natural Resources and the Department of Labor would be authorized to audit the environmental and OSHA certifications, respectively, and report to the Department of Revenue if they determine that a certification was inaccurate.

Application, Fee, and Information Changes. A taxpayer that wishes to claim a Bill Lee Act credit must apply to the Department of Commerce for certification that it meets the eligibility requirements for the credit. The application must include information to enable the Department of Commerce to determine the

applicant's eligibility, and be accompanied by a $75 fee to defray part of the costs of administering the program. This bill would require applicants to include information necessary to enable the Department of Commerce to provide data required in its periodic reports to the General Assembly. This data will assist the General Assembly in evaluating the cost effectiveness of the Bill Lee Act credits.

The bill would also eliminate the $75 fee for credits claimed with respect to enterprise tier one and two counties. For other credits, the fee is increased to $500 per credit claimed, not to exceed $1,500 per taxpayer. The Department of Commerce would retain ¼ of the fee proceeds for the costs of administering the program, and remit the remaining proceeds to the Department of Revenue for its use in administering and auditing the Bill Lee Act credits. These changes become effective 30 days after the bill becomes law.

The Bill Lee Act incentives recommended by the Department of Commerce over the last four years have contained many conditions and standards a taxpayer must meet in order to be eligible for the incentives. The incentives also contain what are known as "clawback" provisions, which require a taxpayer to forfeit a targeted incentive if it turns out the taxpayer did not meet the conditions for qualifying for the incentive, and to lose future installments of a tax credit if the job or investment on which the credit was based does not remain in place. This bill would amend G.S. 105-129.7 to require taxpayers that claim Bill Lee Act credits to include with their tax returns information about whether the jobs and investments have remained in place and whether other conditions have been met. Section 2.1 of this bill would allow the Department of Revenue to share this information with the Employment Security Commission and the Department of Commerce; this sharing could enable the Department of Commerce to evaluate whether the incentives are accomplishing their purpose of creating high-quality jobs throughout the State.

Clarify Business Definitions and Refunds. This bill would clarify the statutory definitions of the types of businesses that are eligible for the Bill Lee Act credits. In 1998, the General Assembly changed statutory references from the Standard Industrial Classifications (SIC) to the North American Industrial Classification System (NAICS) to conform to the federal system adopted effective January 1, 1999. This system is used to classify most of the data available about industries or kinds of business in the economy. Upon review of the NAICS system, it was discovered that further terminology changes were needed to the Bill Lee Act definitions to assure that the credits would be available to the types of businesses covered by the prior law's definitions.

Section 9 of this bill would clarify that interstate air carriers are allowed a partial refund of sales taxes paid on fuel, effective October 1, 1999. This clarification will not change the way the law is currently administered.

Research and Development Credit. This bill would modify the research and development credit so that it would not automatically expire if the corresponding federal credit expires. The credit for research and development is allowed only to taxpayers that claim one of the federal research and development credits. In past years, the federal credit has expired and then been renewed retroactively, creating uncertainty for taxpayers. This bill amends the State credit so that it is based on the federal credit as of January 1, 1999. Expiration of the federal credit will not affect the State credit. If the federal credit is later modified, the General Assembly can consider whether to update its cross-reference to adopt the federal modifications.

Industrial Development Fund Environmental Certification. Section 17 of this bill would require, as a condition for funding from the Industrial Development Fund (Building Renovation Fund), that a project receive certification from the Department of Environment and Natural Resources that it will not have a significant adverse effect on the environment. This change would become effective when the bill becomes law.

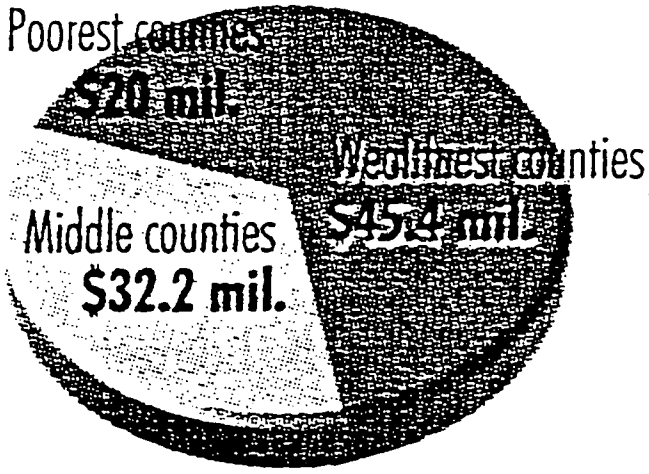
Commerce to Pursue Interstate Cooperative Efforts. Section 18 of this bill requires the Department of Commerce to encourage reasonable interstate agreements and federal legislation to control the use of excessive incentives in interstate competition in luring businesses from one state to another. The Department is to report on these efforts by March 1, 2000, and March 1, 2001.

Sunset Tax Credits Every Five Years. The corporate and individual income tax laws include numerous tax credits that have been enacted over the years in order to encourage behavior considered beneficial to the State. These tax credits are tax expenditures that, like appropriations, spend public funds for the benefit of certain businesses, interest groups, and other taxpayers. Unlike appropriations, however, these tax credits may continue in perpetuity, without periodic review by the General Assembly. In order to allow the General Assembly the opportunity to consider each tax credit on its merits from time to time to determine whether it continues to serve a public purpose that justifies its cost to the public, Section 19 of this bill states that the tax credits should be sunset at least every five years. The bill states that those businesses, interest groups, and other taxpayers who benefit from the tax credits are encouraged to come forward to demonstrate the continued need for each tax credit as the sunset date approaches. The bill states that it is the intent of the General Assembly to review the tax credits and renew all that continue to serve a valid public purpose. Section 20 of the bill provides for the first sunset date for most tax credits. The sunsets are provided in 2003 and 2005, so that the review can take place in the long session of the General Assembly. The sunset dates are staggered to avoid the need to review an excessive number of credits in one year. The only tax credits not addressed in Section 20 are (1) those that already have a sunset date, (2) the recently enacted investment incentives for recycling facilities, (3) the $60 per child credit for children, (4) the credit for the dependent care expenses, and (5) the credit for the disabled.

Follow the money

Researchers project that, from 2002 to 2006, companies locating in North Carolina's 21 wealthiest counties will cash in on most of the tax breaks the state uses to attract new jobs.

Total: $97.6 million



Sources: Fiscal research division, N.C. General Assembly

The News & Observer

Rep Paul Luebke

Gloria D. Whisenhunt
Member, Forsyth County Board of Commissioner

CVS bringing center, up to 600 new jobs to Warren County

THE ASSOCIATED PRESS

CVS Corp. announced yesterday that it will build a distribution center employing up to 600 in low-income Warren County and close its center seven miles away in Henderson.

Executives with CVS, the nation's largest drugstore chain, joined Gov. Jim Hunt in Warrenton to announce construction of the $60 million center in Manson. The 750,000-square-foot center for N.C. CVS stores will be in Manson and employ 250 workers initially, but the company said it plans to add 350 more workers by 2002.

The short trip from Henderson to Manson could mean up to $3.4 million in extra tax credits for CVS because it would create new jobs in a county identified among the state's poorest by legislators and the Commerce Department. CVS will close its Henderson distribution center when the Manson one opens. The nearly 200 employees at the Henderson center will be transferred to Manson.

CVS will pay employees an average of $26,400 a year, according to a news statement from Hunt's office. Warren County's median annual wage is $17,345. "This investment is a positive step for CVS and Warren County, and shows the promise of opportunity for rural North Carolina," Hunt said in the statement.

The center should be completed by late next year or early 2001. CVS plans to equip it with computerized sorting and conveyor systems. CVS said it would have been too expensive to retrofit and expand the Henderson center with the new equipment, said Linda Weiner, a Commerce Department spokeswoman.

"This is a much better move for us," said Todd Andrews, a spokesman for the company, based in Woonsocket, R.I.

North Carolina was one of several states competing for the high-tech center, Weiner said.

CVS is eligible for tax credits under the William S. Lee Quality Jobs and Expansion Act for every new job it creates. Under the law, the state's 100 counties are divided into five tiers based on population growth, unemployment and per-capita income.

Tier One counties, such as Warren County, receive the highest credits, $12,500 a job. CVS is moving from Vance County, a Tier Two county where companies can receive credits of $4,000 for each new job.

Should CVS increase its work force in Warren County from 200 to 600 by 2002, it would be rewarded with tax credits totaling $5 million. If the new jobs had been created in Vance County, the company would have received $1.6 million in credits, $3.4 million less.

Andrews and Weiner said that the higher tax credits in Warren County played a role in CVS choosing the state, but said that the company had not pitted Warren County against Vance County.

AP PHOTO

Gov. Hunt, at the county courthouse in Warrenton, speaks of the importance of bringing major industries into rural parts of the state.

THE DAILY NEWS, TUESDAY, DECEMBER 29, 1998

Onslow jobs plentiful as '99 begins

Low unemployment rate attributed to growth in several Onslow County economic areas

BY FRANCINE SAWYER
DAILY NEWS STAFF

New restaurants, telemarketing firms and a robust economy are contributing to a lower unemployment rate as Onslow County heads into the new year.

Unemployment figures for Jacksonville and Onslow County, which have held steady for more than a year, fell in November to 3.4 percent. The numbers, tabulated in November, reflect a trend statewide. Fifty-seven of 100 North Carolina counties reported lower unemployment numbers for the month.

Jacksonville's unemployment rate was 3.7 percent in October.

Ralph Leeds, N.C. Employment Security Commission Manager in Jacksonville said the rate has held steady for the past 18 months.

He contributed it to the military bases in Onslow County and the fact that tourism and seasonal work do not cause the figures to fluctuate so wildly as in coastal counties and towns such as Wilmington and Morehead City.

Jacksonville's labor force is 45,890 and employment was 44,340 while there were 1,500 unemployed.

ONSLOW COUNTY IS CLASSIFIED AS A TIER 2 COUNTY

JONES COUNTY IS A TIER 3 COUNTY, MEANING THAT JONES IS MORE ECONOMICALLY PROSPEROUS THAN ONSLOW.

Economic factor	Jones Co.	Onslow Co.
Population	9,519	150,000
Military Economic impact	-0-	$2,142,151,465
Per Capita income	**$19,645.**	$14,259.
Median Family Income	$24,137.	**$24,857**
Employed Labor Force	4,063	44,792
Manufacturing Employment	183	2,280
Gross Sales Tax Revenues	$1,021,000	$25,901,000
Property Value/Tax Rate (1996)	$341,126,171 (tax rate: .71)	$3,558,789,617 (tax rate: .644)
Gross Retail Sales	$26,738,000	$906,618,000
Commercial Bldg. Permits	1	322
Residential Permits	35	1,250

1999 TIER	COUNTY	POPULATION GROWTH 1990-1997		PER CAPITA INCOME 3 YR AVG. 1994-1996		UNEMP.-36 MTH AVG JULY '95-JUNE '98		DISTRESSED COUNTY SUM	POPULATION	POVERTY RATE
		% CHANGE	RANK	INCOME	RANK	RATE	RANK	1997-1998	1999	1990
XXX	NORTH CAROLINA	12.00%	XXX	$21,081	XXX	3.97%	XXX	XXX	7,660,519	13.0
1	TYRRELL COUNTY	-4.77%	99	$15,068	93	8.91%	93	285	3,590	25.0
1	GRAHAM COUNTY	4.29%	78	$14,109	97	11.22%	99	274	7,577	24.9
1	HALIFAX COUNTY	0.59%	91	$15,687	88	9.07%	95	274	55,091	25.6
1	EDGECOMBE COUNTY	-2.29%	95	$16,654	77	10.27%	98	270	54,696	20.9
1	RICHMOND COUNTY	2.56%	86	$15,812	86	9.39%	96	268	45,894	16.8
1	SWAIN COUNTY	6.44%	64	$13,672	99	16.41%	100	263	12,324	27.6
1	MARTIN COUNTY	2.19%	87	$16,349	79	8.92%	94	260	25,551	22.3
1	WARREN COUNTY	5.07%	73	$13,956	98	7.91%	89	260	18,290	28.2
1	BERTIE COUNTY	-0.68%	93	$15,448	90	6.07%	76	259	20,068	25.9
1	NORTHAMPTON COUNTY	0.01%	92	$16,167	81	7.35%	86	259	20,833	23.6
1	WASHINGTON COUNTY	-5.00%	100	$16,873	72	7.43%	87	259	12,948	20.4
1	HYDE COUNTY	-2.42%	96	$16,977	71	8.08%	90	257	5,268	24.0
1	HERTFORD COUNTY	-2.70%	97	$15,418	91	5.15%	61	249	21,594	25.0
2	MITCHELL COUNTY	2.05%	88	$16,637	78	6.35%	78	244	14,764	16.0
2	ROBESON COUNTY	7.16%	58	$15,295	92	8.47%	92	242	114,644	24.1
2	BEAUFORT COUNTY	2.65%	85	$17,374	62	7.91%	88	235	43,596	19.5
2	ASHE COUNTY	6.25%	66	$17,108	67	9.43%	97	230	24,041	18.4
2	SCOTLAND COUNTY	3.68%	81	$17,261	65	7.07%	84	230	35,330	18.6
2	ANSON COUNTY	1.62%	89	$17,590	57	7.06%	83	229	23,922	17.6
2	YANCEY COUNTY	6.03%	67	$14,994	94	5.54%	66	227	16,588	18.7
2	ONSLOW COUNTY	-1.66%	94	$14,757	95	3.73%	34	223	149,341	12.1
2	MONTGOMERY COUNTY	4.80%	74	$16,688	76	5.95%	72	222	24,820	14.4
2	PERQUIMANS COUNTY	4.34%	77	$15,540	89	4.57%	51	217	11,129	21.5
2	ALLEGHANY COUNTY	0.88%	90	$18,376	45	6.44%	80	215	9,714	20.1
2	COLUMBUS COUNTY	4.76%	75	$17,513	58	6.64%	81	214	52,510	24.0
2	VANCE COUNTY	5.37%	70	$17,493	59	7.30%	85	214	41,771	19.6
2	CHEROKEE COUNTY	11.14%	35	$14,439	96	6.68%	82	213	23,000	20.4
2	RUTHERFORD COUNTY	4.35%	76	$17,608	56	6.00%	74	206	59,888	12.3

THE SHADED COUNTIES ARE AFFECTED BY THE SMALL COUNTY PROVISIONS IN SB 1115

Over

1999 TIER	COUNTY	POPULATION GROWTH 1990-1997		PER CAPITA INCOME 3 YR AVG. 1994-1996		UNEMP.-36 MTH AVG JULY '95-JUNE '98		DISTRESSED COUNTY SUM	POPULATION	POVERTY RATE
		% CHANGE	RANK	INCOME	RANK	RATE	RANK	1997-1998	1999	1990
5	STOKES COUNTY	15.12%	20	$18,011	52	2.48%	5	77	44,431	9.8
5	BUNCOMBE COUNTY	9.35%	46	$21,723	14	3.00%	16	76	194,516	11.4
5	FORSYTH COUNTY	8.01%	56	$26,387	3	2.95%	14	73	294,026	10.5
5	LEE COUNTY	16.92%	17	$21,670	15	4.23%	41	73	50,396	14.7
5	CURRITUCK COUNTY	20.56%	8	$18,356	46	3.02%	18	72	17,326	10.1
5	RANDOLPH COUNTY	14.08%	25	$19,697	26	3.06%	19	70	126,665	8.3
5	DURHAM COUNTY	8.72%	50	$23,605	9	2.53%	7	66	202,426	11.9
5	GUILFORD COUNTY	10.29%	41	$25,412	4	3.14%	21	66	393,496	10.1
5	DAVIE COUNTY	11.97%	31	$23,791	8	3.32%	25	64	32,352	8.4
5	NEW HANOVER COUNTY	21.88%	7	$21,785	13	4.24%	42	62	153,326	14.0
5	IREDELL COUNTY	17.22%	16	$20,870	18	3.15%	22	56	113,751	9.4
5	MOORE COUNTY	17.80%	13	$24,707	6	4.14%	37	56	72,257	11.1
5	HENDERSON COUNTY	14.16%	24	$22,764	10	2.58%	10	44	81,856	10.5
5	UNION COUNTY	26.02%	6	$19,105	34	2.43%	4	44	113,113	18.4
5	CABARRUS COUNTY	17.76%	14	$22,182	12	3.01%	17	43	121,801	8.1
5	CHATHAM COUNTY	16.44%	18	$21,493	16	2.48%	6	40	46,996	9.7
5	JOHNSTON COUNTY	26.91%	4	$19,608	28	2.55%	8	40	109,865	14.3
5	POLK COUNTY	13.72%	26	$24,612	7	2.33%	3	36	16,920	9.6
5	ORANGE COUNTY	14.28%	23	$25,177	5	1.55%	1	29	110,581	13.9
5	MECKLENBURG COUNTY	19.04%	12	$28,715	1	2.76%	11	24	638,570	9.6
5	WAKE COUNTY	30.62%	1	$27,006	2	1.90%	2	5	593,937	8.4

THE SHADED COUNTIES ARE AFFECTED BY THE SMALL COUNTY PROVISIONS IN SB 1115

NOTES

1. Population growth was determined using years 1990 and 1997 as reported by State Data Center.
2. Per Capita Income is a three year average from 1994-1996 using U.S. Department of Commerce data.
3. The Unemployment Rate is the average rate from July 1995 to June 1998, not seasonally adjusted, provied by the Employment Security Commission.

FISCAL IMPACT OF HOUSE PCS FOR SB 1115
STATE GENERAL FUND ($ MILLION)

Description	Effective Date	99-00	00-01	01-02	02-03	03-04	04-05	05-06
Extend Bill Lee Act sunset from 1/1/02 to 1/1/07	1/1/02	-	-	-	-13.1	-19.4	-27.0	-38.1
Extend general investment tax credit from 1/1/02 to 1/1/07	1/1/02	-	-	-	-8.4	-15.2	-22.2	-32.2
Air carrier incentives:								
1%, $80 sales tax to training equipment	5/1/99	-0.4	-0.4	-0.4	-0.4	-0.4	-0.4	-0.4
Sales tax exemption on repair parts, lubricants, etc.	5/1/99	-1.2	-1.2	-1.2	-1.2	-1.2	-1.2	-1.2
Nonprofit insurance company incentives:								
Sales tax refund for building materials, fixtures, equipment	5/1/99	-	-0.6	-1.2	-0.6	-	-	-
Sales tax refund for capitalized computer equipment	5/1/99	-	-	-	-0.6	-0.1	-0.1	-0.1
Tier 1 & 2 enhancements:								
Extend Lee Act to customer call centers	1/1/00	-	-	-0.6	-1.2	-1.8	-2.4	-2.4
Sales tax refund for machinery & equipment purchased by Bill Lee Act companies	1/1/00	-	-0.1	-0.2	-0.3	-0.6	-0.8	-1.0
Extend Bill Lee Act credits to certain electronic mail order houses	1/1/00	-	-	-2.7	-3.8	-4.8	-5.8	-4.4
Modify tiers for small counties and high poverty rates	1/1/00	-	-	-	-	-	-	-
Close loopholes in definition of State Development Zones	8/1/99	-	0.1	0.1	0.6	0.3	-	-
Establish investment tax credit of 25% of contribution or investment to nonprofit organization in Development Zone ($4 mil. limit)	1/1/00	-	-	-2.5	-4.0	-4.0	-4.0	-4.0
Allow tax credit for construction or rehab of low-income housing	1/1/00	-	-	-1.5	-3.4	-5.3	-7.6	-10.1

over

Description	Effective Date	99-00	00-01	01-02	02-03	03-04	04-05	05-06
Extend Bill Lee Act credits to insurance company administrative offices	1/1/99	-	-	-	-	-	-	-
Subject companies applying for credits to provide for health insurance benefits and meet environmental and OSHA standards	1/1/00	-	-	-	-	-	-	-
Restructure application fees for Bill Lee Act credits	7/1/99	-	-	-	-	-	-	-
Require taxpayers receiving Bill Lee Act credits to provide additional information	1/1/00	-	-	-	-	-	-	-
Clarify business definitions and refunds	Immed.	-	-	-	-	-	-	-
Clarify sales tax revenue for interstate air carriers	10/1/99	-	-	-	-	-	-	-
Modify research and development credit expiration	1/1/99	-	-	-	-	-	-	-
Require environmental certificate to qualify for Industrial Development Fund	Ratified	-	-	-	-	-	-	-
Require Department of Commerce to support efforts to reduce interstate competition to lure business investment between states		-	-	-	-	-	-	-
Sunset certain state tax credits:								
Nonitemizer charitable contribution	1/1/03	-	-	-	-	13.2	13.3	13.4
Child health insurance	1/1/03	-	-	-	-	66.5	68.8	71.2
Long-term care insurance	1/1/03	-	-	-	-	12.1	-	-
Gleaned crops donation	1/1/03	-	-	-	-	5.5	5.5	5.5
Guaranty association assessments	1/1/05	-	-	-	-	5.0	4.5	4.1
Rehabilitation of historic structures	1/1/05	-	-	-	-	6.0	6.0	6.0
Poultry composting, ports authority usage	1/1/05	-	-	-	-	2.0	2.0	2.0
Total-State General Fund Impact		**-1.6**	**-2.2**	**-10.2**	**-36.4**	**57.8**	**28.6**	**8.3**

LOCAL GOVERNMENT REVENUES ($ MILLION)

Description	Effective Date	99-00	00-01	01-02	02-03	03-04	04-05	05-06
Air carrier incentives:								
1%, $80 sales tax to training equipment	5/1/99	-0.2	-0.2	-0.2	-0.2	-0.2	-0.2	-0.2
Sales tax exemption on repair parts, lubricants, etc.	5/1/99	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6
Nonprofit insurance company incentives:								
Sales tax refund for building materials, fixtures, equipment	5/1/99	-	-0.3	-0.6	-0.3	-	-	-
Sales tax refund for capitalized computer equipment	5/1/99	-	-	-	-0.3	-0.1	-0.1	-0.1
Tier 1 & 2 enhancements:								
Sales tax refund for machinery & equipment purchased by Bill Lee Act	1/1/00		-0.1	-0.1	-0.2	-0.3	-0.4	-0.5
Total-Local Government Revenue		**-0.8**	**-1.2**	**-1.5**	**-1.6**	**-1.2**	**-1.3**	**-1.4**

FISCAL ANALYSIS MEMORANDUM

DATE: June 23, 1999

TO: Rep. Wayne Goodwin

FROM: Dave Crotts
Fiscal Research Division

RE: Proposed Amendment to HCS for SB 1115

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
State General Fund		-1.8	-3.8	-4.0	-4.2
Local Government		- .8	-1.6	-1.7	-1.8

PRINCIPAL DEPARTMENS AFFECTED: Department of Revenue

EFFECTIVE DATE: Taxes paid on or after January 1, 2000.

AMENDMENT SUMMARY: If a business is eligible for the Bill Lee Act tax credits and located in a Tier 1 or 2 county, a state and local sales and use tax refund would be granted on the purchase of building materials, building supplies, fixtures, and equipment that become a part of real property. In addition, the purchaser must, within 3 years of receiving the refund, use the proceeds for site development, infrastructure, or other real property improvements in a Tier 1 or 2 county.

ASSUMPTIONS AND METHODOLOGY: The first step in the analysis was to estimate a hypothetical refund amount for the whole state. This was accomplished by reviewing a number of sources of potential data on plant and equipment investment and attempting to adjust the data to fit the definition of eligible items for refund. Some data reviewed includes 1998 annual business investment and job creation tabulation of the N.C. Department of Commerce, state sales tax data tabulated for lumber and building material merchants and electrical contractors, national

data on investment in industrial buildings (allocated by FRD to North Carolina), and the 1992 Census of Manufacturers for North Carolina (contained investment data). After reviewing this data, a statewide number was selected that represented a consensus of all of the sources.

The next step was to allocate the data to the Tier 1 and 2 counties. This was achieved by reviewing county specific data on business announcement of the Department of Commerce, personal property tax data, and sales tax data for lumber and building material dealers. A consensus of these allocation factors suggested that 5.5% of the purchases would be made by businesses in Tier 1 and 2 counties.

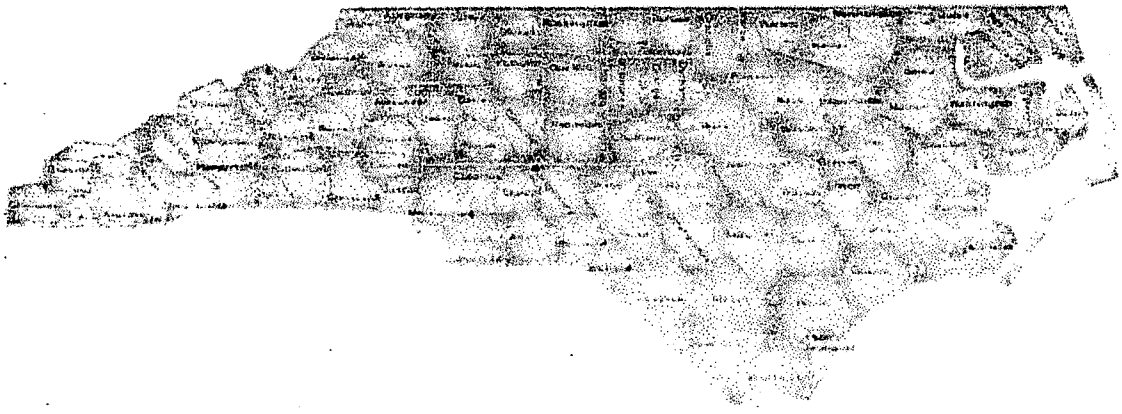
Finally, an adjustment was made for the fact that some of the equipment purchases by manufacturers may be taxed at 1%, $80 limit, versus the assumed 4% state and 2% local tax for other items. This adjustment reduces the state cost and means that the local cost is slightly less than 50% of the state cost because there is no local tax on items taxed at less than the full state rate.

TECHNICAL CONSIDERATIONS: The refunds are granted during the state fiscal year following the fiscal year of purchase. The estimate for the first full year was grown by 6.3%, which approximates the estimated statewide growth of personal income used in the budget forecast Due to the lack of state or national data that conforms exactly to the definition of items eligible for the tax refund, the estimates provided should be considered approximations.

AMENDING THE WILLIAM S. LEE ACT

TO

ESTABLISH FAIRNESS AND EQUITY



FOR THE

ASSIGNMENT OF TIER CLASSIFICATIONS

AND

ECONOMIC DEVELOPMENT ZONES

Prepared for the Jones County Board of Commissioners •June 1999
Masters & Associates • 904 Harding Avenue, Suite B • Kinston, NC 28504 • 252-520-0092

County of Jones

POST OFFICE BOX 266
TRENTON, NORTH CAROLINA 28585-0266
(252) 448-7571 FAX (252) 448-1072

LARRY P. MEADOWS, COUNTY MANAGER

June 21, 1999

To: Members of the House Finance Committee

The Jones County Commissioners employed Masters and Associates to evaluate the problem we have with the tier formula. He has prepared the attached report which is a comparative study of the State of North Carolina Enterprise Tier System and other provisions authorized by the William S. Lee Act.

Presently, the William S. Lee Act is under consideration for amendment that would provide for a slightly more equitable way of determining tier classification and development zone designation for all 100 counties in the State.

Unfortunately, although an improvement, the proposed amendment does not go far enough. This amendment proposes various "exceptions" to the methods used to classify tier classification when what is really needed is a modification to the formula used at this time.

The enclosed report is an analysis of the current method used to assign tier classifications and development zones. We have also included suggested legislative changes to the House Bill 1303 amendment. We hope that given the opportunity, this material will allow you to see the current deficiencies in the William S. Lee Act and its unfairness to small rural counties like Jones.

Respectfully,

Larry P. Meadows
County Manager

Enclosure

County of Jones
Economic Development Commission

POST OFFICE BOX 266
TRENTON, NORTH CAROLINA 28585
252-448-7571

FAX 252-448-1072

jones.edc@gtp.net

CHARLES JONES
CHAIRMAN

J. ROY FOGLE
ECONOMIC DEVELOPER

June 21, 1999

Senator John Kerr
526 Legislative Office Building
Raleigh, NC 27601

Dear Senator Kerr:

SUBJECT: Further Tier Level Analysis

Robert Masters and Pete Miller briefed me on their May 27 meeting with you regarding the tier comparison analysis with all Tier One counties using several different economic factor options. Mr. Masters reported that you would be interested to see the three options he was using in his comparison used on all 100 counties in order to see how much "movement" there would be by the counties from one tier to the other. We would also like to see this done. We prefer using the following economic factors to determine distress and how all 100 counties would fall out in the different tiers. These factors were used in our Option 2.

% Population Growth
Median Family Income
Average Three-Year Unemployment
Population Density (Square Mile)
Poverty Rate
% Manufacturing Jobs

All three of the different economic factor options are attached. We further recommend that the Commerce Department use 20 positions in each tier level using the three suggested options. We would like to see how the counties fall out in such a scenario in addition to the number of county positions in the current tiers. We are also curious as to how the number of county positions in each tier was determined. Tier 1 has 13 counties. Tier 2 has 14. Tier 3 has 26. Tier 4 has 25, and Tier 5 has 25 counties.

We wholeheartedly agree with you that these further comparisons need to be made, and we strongly recommend that you and other legislators require the Commerce Department to make these comparisons and report back to you and other legislators. We also want a copy. Please advise me whether or not you feel comfortable in asking Commerce to do this additional comparison.

One last thought—we believe that the population exceptions you made in SB 1115, and which are contained in HB 1303, are not the answer in determining true economic distress of the counties. These exceptions will probably lead to further exceptions and will leave the tier system in total disarray.

Respectfully,

Roy Fogle

Roy Fogle

ch

Enclosure

c: Pete Miller, Greene County Economic Development Commission
Woody Brinson, Duplin County Economic Development Commission

Enclosure

Fairness & Equity in the William S. Lee Act

Executive Summary

History of the Enterprise Tier System

In 1996, the North Carolina General Assembly enacted the William S. Lee Quality Jobs and Business Expansion Act to provide modest incentives for business and industrial growth in our State. This Act established several types of important tax credits for new jobs that may be created. The actual amount of credit received is directly related to an Enterprise Tier Classification. Five Tiers have been established. All 100 counties are assigned to a Tier based on a formula.

A county's tier classification is also very important when attempting to qualify as an applicant for various State sponsored grant programs. Generally speaking, the higher a county's tier classification, the less likely that county is to be rewarded financial assistance by the State of North Carolina. Many counties are unfamiliar with the methods used by the State to determine their "level of distress". For many counties, the method used has been de-facto standard and readily accepted without analysis.

Background

A *Comprehensive Report on the Assignment of County Tier Classifications* was prepared during November, 1997 for the County Commissioners in Jones County. This report was prepared because the elected officials in Jones County were concerned that the current method used by the State of North Carolina to determine "levels of distress" for all 100 counties was not fair and equitable in its application to small rural counties such as Jones.

That report evaluated the current method of determining Tier Classification. This was done by using other economic statistical data in addition to that data currently used, to compare the 13 counties in the North Carolina Global TransPark region. Appendix A is the current Tier Ranking for all 100 counties. Appendix B is the ranking of distress for the 13 Global TransPark counties using various economic factors. Essentially, that report indicated that **when other standard statistical data was evaluated in addition to the three limited factors currently used by the State, the ranking of**

MASTERS & ASSOCIATES • 904 HARDING AVENUE, SUITE B • KINSTON, NC 28504 • 252-520-0092

Fairness & Equity in the William S. Lee Act

Jones County compared to other counties was far more accurate and consistent.

1. The findings of this report indicated that a change in the current formula used to calculate distressed was needed.

2. The use of more economic data, rather than merely the three statistics currently used, provided a much more accurate level of distress for all 100 counties.

This Addendum Report is a further compilation of data that compares levels of distress for Jones, Duplin, and Greene County with those 13 counties currently ranked Tier 1 or most distressed by the State of North Carolina Commerce Department. **Once again, additional economic statistical data was used and the results were the same. The more factors considered in the formula, the more accurate the results and ranking of the counties. When more than the three factors currently used were included in the ranking, Jones, Duplin and Greene counties became more competitive with existing Tier 1 counties. This report examines the reasons for this disparity.**

Inconclusive Data

Currently, the North Carolina Department of Commerce uses only three (3) economic and demographic indicators to measure the level of economic distress for all 100 counties. Appendix D shows the current method used to determine Tier Classification and three other options that were considered but not used. The use of only three factors is a basic flaw in the current system. Whatever methodology is used, it must embrace a broader range of indicators that measure distress in vastly different counties throughout our state.

Fairness & Equity in the William S. Lee Act

Current Economic Factors Used

1. Ranking by three (3) year average unemployment rate
2. Ranking by three (3) year average per capita income
3. Ranking by percentage (%) growth in population

Flaws in Current System:

1. Only 3 Factors Used. Is not Comprehensive Enough
2. Uses Per Capita Income as a Measurement of Income Levels. Nearly All Other Government Programs Use Median Family Income.
3. Does not rank small, rural counties with low population densities.
4. Does not measure levels of poverty.
5. Does not measure economic activity from retail sales and resultant sales tax revenues for the counties.
6. Does not measure the development of manufacturing jobs which is a principal goal of economic development.

MASTERS & ASSOCIATES • 904 HARDING AVENUE, SUITE B • KINSTON, NC 28504 • 252-520-0092

Fairness & Equity in the William S. Lee Act

Why Not Per Capita Income?

1. Per Capita Income is based on an average statistical measurement. Any use of averages is unfair to counties with smaller populations. This is because a few higher income persons can greatly skew what appears to be the working person's disposable income.

2. Since the last 1990 Census, per capita income includes much more than personal family earnings such as:
   - Corporate Income
   - Farm Subsidies
   - Transfer Payments

3. Even the State Commerce Department admits that per capita income is not an accurate measure of wealth. The reason Commerce used per capita income instead of median family income was because only the former was available each year. **Right now, the State Data Center has median family income data for 1998.**

MASTERS & ASSOCIATES • 904 HARDING AVENUE, SUITE B • KINSTON, NC 28504 • 252-520-0092

Fairness & Equity in the William S. Lee Act

Results

The result of using such a limited scope for ranking distress is that smaller, rural, and poor counties find themselves ranked in the same Tier with other counties that are much more affluent.

The assignment of a proper and equitable tier classification is vitally important because benefits in the form of the Bill Lee Act Tax Incentives are distributed according to the assigned tier. Many grants offered by the State of North Carolina also use the tier classification system to assist in determining the need for a grant.

Small, rural counties need to be able to offer more of these incentives since they lack other financial resources to use for recruiting new industrial clients.

New Statistical Analysis

Appendix D - A matrix of statistical data ranking Jones, Duplin and Greene County against the current Tier 1 counties. Note how much the ranking of these counties changes by simply adding additional distress criteria.

Appendix E – A matrix of statistical data and various options for using additional distress criteria. Note the affect of using additional criteria on the ranking between counties.

MASTERS & ASSOCIATES • 904 HARDING AVENUE, SUITE B • KINSTON, NC 28504 • 252-520-0092

Fairness & Equity in the William S. Lee Act

Conclusions

1. The current methods used to calculate levels of distress are far too simplistic and incomplete. Other vital characteristics and economic factors must be included in the determination of distress.

2. "Exceptions" to tier classifications such as those presented in the current Senate Bill 1115 would not be necessary if the method used to calculate distress was more diversified and complete. Any blanket exceptions will be unfair to certain counties and over time, result in other exceptions being granted.

The North Carolina Department of Commerce published a document titled *Enterprise Tier Formula Report*, dated April 15, 1999. That report analyzed seven (7) economic indicators and proposed four (4) options for using those factors in a formula for determining distress for all 100 counties. Some of the economic indicators used were not "standard" or used extensively by professional economic developers or even the Federal government.

None of the options presented in their report used median family income as a statistical measurement. The Commerce report stated that "none of the options presented yielded significant different results.." **This is only true because more diversified and meaningful data was not used**.

This Report needs to be expanded to include the more standard indicators presented in this report for all 100 counties.

Fairness & Equity in the William S. Lee Act

Tier System Recommendations

1. Eliminate Per Capita Income and Substitute Median Family Income as a more accurate measurement of income levels consistent with other Federal and State Programs.
2. Add the Most Current Actual or Estimated Poverty Rate to the Calculation. Currently, the U. S. Census Bureau has published estimated poverty rates for 1995.
3. Add Population Density to the Calculation. Density is a More Accurate Method of Identifying rural counties. Rural Counties Have a Low Population Density and Comparatively Lower Total Populations. The County's Population and Density Aid in Identifying Those Counties with a Limited Tax Base and Financial Resources.
4. Add an Economic Indicator that Measures the Number of Manufacturing Jobs. One Primary Purpose of the Bill Lee Act is to Attract New Manufacturing Firms. Progress in this Regard should be Measured.
5. Add Gross Retail Sales to the Mix. This Statistic Measures Overall Economic Prosperity and it also Measures the County's Ability to Generate Sales Tax Revenue.
6. Redistribute the Tier Structure to Have 20 Counties In Each Tier Classification. This Would Result in More Counties in the Lower Tiers Than Are Present Today.

MASTERS & ASSOCIATES • 904 HARDING AVENUE, SUITE B • KINSTON, NC 28504 • 252-520-0092

Fairness & Equity in the William S. Lee Act

Recommended Changes in Development Zones

The current requirements for establishing an Economic Development Zone under the William S. Lee Act are also unfair to rural counties.

Provisions need to be made for counties with a total population of less than 25,000 that do not have a municipality greater than 5,000 people. An additional requirement should be that the county must have at least one census tract where poverty exceeds 20%. Under this change, the following counties would be eligible for the establishment of development zones.

We concur with this option presented in the recently completed study by the Department of Commerce but feel that any population requirement should be lifted since some counties such as Jones, have no cities with populations of at least 1,000 people.

See Next Page for Potential Development Zone Counties.

Fairness & Equity in the William S. Lee Act

County	1999 Tier
Alleghany	2
Anson	2
Ashe	2
Bertie	1
Caswell	3
Cherokee	2
Chowan	3
Clay	3
Graham	1
Greene	4
Hertford	1
Hyde	1
Jones	3
Madison	3
Mitchell	2
Northampton	1
Pamlico	3
Perquimans	2
Swain	1
Tyrell	1
Warren	1
Washington	1
Yancey	2

MASTERS & ASSOCIATES • 904 HARDING AVENUE, SUITE B • KINSTON, NC 28504 • 252-520-0092

Fairness & Equity in the William S. Lee Act

Action Needed

1. Suspend further action on HB 1303 until further analysis is conducted using additional statistical criteria. Although the provisions of the amendment offered by HB 1303 improve the current Tier Classification System, the changes involve "exceptions" to the results of a flawed formula.

2. Changes to the Lee Act should not be predicated on "exceptions". Make changes to the formula that take into consideration the "exceptions" for small counties as proposed in the proposed amendment.

3. Adopt the enterprise tier formula presented as Option #2 and changes to the Economic Development Zone criteria presented in this report as the most fair and equitable to all 100 counties in the State of North Carolina. **See Appendix E for the six economic indicators used in this proposed formula.**

Proposed Legislation is attached as Appendix F.

Legislative Note

If these proposed amendments presented to the General Assembly cannot be adopted during this session, then the Department of Commerce should be directed to perform a complete analysis of the Tier Classification System using the seven (7) statistical criteria presented in this report. This analysis should also include provisions for placing 20 counties in each of the five tier designations.

Appendix A

1999 Tier Classification for 100 Counties

1999 Rankings

NCDOC Finance Center
12/31/98

Tier One:	Tier Two:	Tier Three:	Tier Four:	Tier Five:
Bertie	Alleghany	Avery	Alamance	Buncombe
Edgecombe	Anson	Bladen	Alexander	Cabarrus
Graham	Ashe	Brunswick	Burke	Chatham
Halifax	Beaufort	Camden	Caldwell	Currituck
Hertford	Cherokee	Caswell	Carteret	Davie
Hyde	Columbus	Chowan	Catawba	Durham
Martin	Mitchell	Clay	Craven	Forsyth
Northampton	Montgomery	Cleveland	Dare	Guilford
Richmond	Onslow	Cumberland	Davidson	Henderson
Swain	Perquimans	Gaston	Duplin	Iredell
Tyrrell	Robeson	Gates	Franklin	Johnston
Warren	Rutherford	Haywood	Granville	Lee
Washington	Scotland	Hoke	Greene	Mecklenburg
	Vance	Jackson	Harnett	Moore
	Yancey	Jones	Lincoln	New Hanover
		Lenoir	Macon	Orange
		Madison	Nash	Polk
		McDowell	Pender	Randolph
		Pamlico	Pitt	Stokes
		Pasquotank	Rowan	Union
		Person	Sampson	Wake
		Rockingham	Surry	
		Stanly	Transylvania	
		Wayne	Watauga	
		Wilkes	Yadkin	
		Wilson		

Appendix B

Excerpt from Jones Co. Economic Distress Study

THE JONES COUNTY ECONOMIC DISTRESS STUDY

November, 1997

The Jones County Commissioners commissioned a study to look at, compare and analyze 16 different economic statistical factors that are indicators of economic distress and/or economic growth using the 13 Global TransPark Region counties as the study base. In 1997, Jones County is a Tier 3 county using the three factors that the Commerce Department relies on.

This Study ranked Jones County 13th (at the economic distress bottom) nine (9) times. Jones ranked number one in the Per Capita Income category, ahead of Greenville, (Pitt County); Goldsboro (Wayne county); New Bern, (Craven County); Kinston (Lenoir County); Jacksonville, (Onslow County); Wilson (Wilson County); and Rocky Mount (Nash – Edgecomb Counties).

Number of Factors	Rank
9	13th
2	11th
1	12th
1	9th
1	5th
1	2nd
1	1st

Economic Factor	Rank
1. Population	13th
2. Population density	13th
3. Median family income	13th
4. Food stamp recipients	13th
5. Food stamp rate	13th
6. Gross retail sales	13th
7. Manufacturing jobs	13th
8. Total tax revenue	13th
9. $.01 tax yield	13th
10. % Manufacturing jobs	12th
11. % Population change	11th
12. Poverty rate	11th
13. Per capita tax rate	9th
14. Unemployment	5th
15. Property tax rate	2nd
16. Per capita income	1st

Appendix C

Tier Formula Options Presented by Commerce Department Study

OPTIONS

After an extensive analysis of these various enterprise tier formula options the Department, with the aid of the W.S. Lee Act Study Taskforce, narrowed the number of options to those that seemed the most appropriate in light of the aforementioned considerations. The analysis of the options included a rank order correlation (*Note: Rank order correlation measures the closeness of the relationship between two sets of rankings.*) This analysis revealed that there is very little difference in the rankings of counties under most methods. With this in mind, the taskforce chose the current method and three others as described below (*See Appendix E* for specific formula component definitions) for more in-depth analysis.

ENTERPRISE TIER FORMULA COMPONENTS

Option 1

- Population Growth (1990-1997)
- Unemployment Rate (36 Month Average: July 1995-June 1998)
- Per Capita Income (3 Year Average: 1995-1998)

Note: This is the method currently used.

Option 2

- Unemployment Rate (36 Month Average: July 1995-June 1998)
- Net Earnings per Capita (1996)
- Food Stamp Recipiency Rate (1997)

Note: This substitutes two measures correlated with poverty rates for population growth and per capita income measures.

Option 3

- Unemployment Rate (36 Month Average: July 1995-June 1998)
- Average Annual Private Insured Wage (1996)
- Food Stamp Recipiency Rate (1997)

Note: This substitutes a poverty measure for population growth and a measure of wages for per capita income.

Option 4

- Unemployment Rate (36 Month Average: July 1995-June 1998)
- Net Earnings per Capita (1996)
- Food Stamp Recipiency Rate (1997)
- Property Valuation per Capita (1997)

Note: This adds a measure of tax base and substitutes two measures correlated with poverty rates for population growth and per capita income measures.

Appendix D

Data Matrix Measuring Economic Distress Using Additional Statistical Data

Current Method to Determine Levels of Distress Compared to 7 Diversified Criteria

Current Method Used to Compute Distress

	Study Counties						Current Tier 1 Counties												
Statistics	**Jones**	**Rank**	**Duplin**	**Rank**	**Greene**	**Rank**	**Bertie**	**Edgecombe**	**Graham**	**Halifax**	**Hertford**	**Hyde**	**Martin**	**Northhampton**	**Richmond**	**Swain**	**Tyrell**	**Warren**	**Washington**
Avg 3 Yr. Unemployment	4.15%	15	5.08%	14	3.67%	16	6.07%	10.27%	11.22%	9.07%	5.15%	8.08%	8.92%	7.35%	9.39%	16.41%	8.91%	7.91%	7.43%
Avg 3 Yr. Per Capita Inc.	19,801	15	20,644	16	17,369	14	15,448	16,654	14,109	15,687	15,418	16,977	16,349	16,167	15,812	13,672	15,068	13,956	16,873
% Population Growth (1990-97)	-4.53%	3	10.21%	15	14.74%	16	0.68%	-0.023%	4.29%	0.59%	-2.70%	-2.42%	2.19%	0.01%	2.56%	6.44%	-4.77%	5.07%	-5.00%
Average Ranking		11		15		15.33													

Note: Jones, Duplin and Greene Counties Become Much More Competitive in the Ranking With Tier 1 Counties Using the Factors Below

Comparing Levels of Dirstress Using 7 Diversified Economic Indicators

Statistics	**Jones**	**Rank**	**Duplin**	**Rank**	**Greene**	**Rank**	**Bertie**	**Edgecombe**	**Graham**	**Halifax**	**Hertford**	**Hyde**	**Martin**	**Northhampton**	**Richmond**	**Swain**	**Tyrell**	**Warren**	**Washington**
% Pop Growth (1990-98)	-6.7%	1	11.6%	15	17.5%	16	-1.4%	-3.2%	4.7%	-0.6%	-3.7%	-2.0%	8.92%	0.2%	2.9%	8.3%	-6.0%	5.2%	-6.6%
Pop Denisty (Sq Mile) 1998	19.93	3	48.89	8	57.86	12	29.17	112.22	24.68	76.49	63.63	8.84	54.27	38.98	94.08	21.44	9.84	40.28	40.45
Median Family Inc (1998)	32,100	12	31,500	11	35,000	15	27,000	35,381	26,690	29,400	28,500	25,100	33,000	29,300	33,800	27,500	23,400	26,500	34,000
Poverty Rate (1995 Est)	19.4%	14	19.6%	13	16.6%	16	24.4%	22.6%	19.3%	25.3%	24.6%	25.7%	19.7%	24.6%	18.2%	24.5%	25.5%	23.9%	20.7%
Avg 3 Yr. Unemployment	4.15%	15	5.08%	14	3.67%	16	6.07%	10.27%	11.22%	9.07%	5.15%	8.08%	8.92%	7.35%	9.39%	16.41%	8.91%	7.91%	7.43%
% Manufacturing Jobs (1998)	13.4%	4	36.0%	13	14.2%	5	49.4%	24.8%	32.0%	22.2%	21.2%	71.0%	36.7%	18.0%	31.4%	9.2%	5.5%	26.4%	9.0%
Gross Retail Sales (000) 97-98	31,061	1	330,493	12	59,018	5	70,787	463,539	37,055	514,217	248,460	40,529	203,990	60,876	384,310	68,447	19,284	69,236	89,600
Average Ranking		7.14		12.29		12.14													

Source: All statistical data obtained from the North Carolina State Data Center

Appendix E

Data Matrix For Using New Statistical Information for Measuring Distress

Options

Options For Determining Distress and Tier Classification

Option #1

	Study Counties						Current Tier 1 Counties											
Statistics	**Jones**	**Rank**	**Duplin**	**Rank**	**Greene**	**Rank**	**Bertie**	**Edgecombe**	**Graham**	**Halifax**	**Hertford**	**Hyde**	**Martin**	**Northhampton**	**Richmond**	**Swain**	**Tyrell**	**Warren**	**Washington**
% Pop Growth (1990-98)	-6.7%	1	11.6%	15	17.5%	16	-1.4%	-3.2%	4.7%	-0.6%	-3.7%	-2.0%	8.92%	0.2%	2.9%	8.3%	-6.0%	5.2%	-6.6%
Pop Denisty (Sq Mile) 1998	19.93	3	48.89	8	57.86	12	29.17	112.22	24.68	76.49	63.63	8.84	54.27	38.98	94.08	21.44	9.84	40.28	40.45
Median Family Inc (1998)	32,100	12	31,500	11	35,000	15	27,000	35,381	26,690	29,400	28,500	25,100	33,000	29,300	33,800	27,500	23,400	26,500	34,000
Poverty Rate (1995 Est)	19.4%	14	19.6%	13	16.6%	16	24.4%	22.6%	19.3%	25.3%	24.6%	25.7%	19.7%	24.6%	18.2%	24.5%	25.5%	23.9%	20.7%
Avg 3 Yr. Unemployment	4.15%	15	5.08%	14	3.67%	16	6.07%	10.27%	11.22%	9.07%	5.15%	8.08%	8.92%	7.35%	9.39%	16.41%	8.91%	7.91%	7.43%
% Manufacturing Jobs (1998)	13.4%	4	36.0%	13	14.2%	5	49.4%	24.8%	32.0%	22.2%	21.2%	71.0%	36.7%	18.0%	31.4%	9.2%	5.5%	26.4%	9.0%
Gross Retail Sales (000) 97-98	31,061	1	330,493	12	59,018	5	70,787	463,539	37,055	514,217	248,460	40,529	203,990	60,876	384,310	68,447	19,284	69,236	89,600
Overall Ranking		7.14		12.29		12.14													

Option #2

Statistics	**Jones**	**Rank**	**Duplin**	**Rank**	**Greene**	**Rank**	**Bertie**	**Edgecombe**	**Graham**	**Halifax**	**Hertford**	**Hyde**	**Martin**	**Northhampton**	**Richmond**	**Swain**	**Tyrell**	**Warren**	**Washington**
% Pop Growth (1990-98)	-6.7%	1	11.6%	15	17.5%	16	-1.4%	-3.2%	4.7%	-0.6%	-3.7%	-2.0%	8.92%	0.2%	2.9%	8.3%	-6.0%	5.2%	-6.6%
Median Family Inc (1998)	32,100	12	31,500	11	35,000	15	27,000	35,381	26,690	29,400	28,500	25,100	33,000	29,300	33,800	27,500	23,400	26,500	34,000
Avg 3 Yr. Unemployment	4.15%	15	5.08%	14	3.67%	16	6.07%	10.27%	11.22%	9.07%	5.15%	8.08%	8.92%	7.35%	9.39%	16.41%	8.91%	7.91%	7.43%
Pop Denisty (Sq Mile) 1998	19.93	3	48.89	8	57.86	12	29.17	112.22	24.68	76.49	63.63	8.84	54.27	38.98	94.08	21.44	9.84	40.28	40.45
Poverty Rate (1995 Est)	19.4%	14	19.6%	13	16.6%	16	24.4%	22.6%	19.3%	25.3%	24.6%	25.7%	19.7%	24.6%	18.2%	24.5%	25.5%	23.9%	20.7%
% Manufacturing Jobs (1998)	13.4%	4	36.0%	13	14.2%	5	49.4%	24.8%	32.0%	22.2%	21.2%	71.0%	36.7%	18.0%	31.4%	9.2%	5.5%	26.4%	9.0%
		8.17		12.33		13.33													

Option #3

Statistics	**Jones**	**Rank**	**Duplin**	**Rank**	**Greene**	**Rank**	**Bertie**	**Edgecombe**	**Graham**	**Halifax**	**Hertford**	**Hyde**	**Martin**	**Northhampton**	**Richmond**	**Swain**	**Tyrell**	**Warren**	**Washington**
% Pop Growth (1990-98)	-6.7%	1	11.6%	15	17.5%	16	-1.4%	-3.2%	4.7%	-0.6%	-3.7%	-2.0%	8.92%	0.2%	2.9%	8.3%	-6.0%	5.2%	-6.6%
Median Family Inc (1998)	32,100	12	31,500	11	35,000	15	27,000	35,381	26,690	29,400	28,500	25,100	33,000	29,300	33,800	27,500	23,400	26,500	34,000
Avg 3 Yr. Unemployment	4.15%	15	5.08%	14	3.67%	16	6.07%	10.27%	11.22%	9.07%	5.15%	8.08%	8.92%	7.35%	9.39%	16.41%	8.91%	7.91%	7.43%
Poverty Rate (1995 Est)	19.4%	14	19.6%	13	16.6%	16	24.4%	22.6%	19.3%	25.3%	24.6%	25.7%	19.7%	24.6%	18.2%	24.5%	25.5%	23.9%	20.7%
Pop Denisty (Sq Mile) 1998	19.93	3	48.89	8	57.86	12	29.17	112.22	24.68	76.49	63.63	8.84	54.27	38.98	94.08	21.44	9.84	40.28	40.45
		9		12		15													

Appendix F

Suggested Changes to HB 1303 Amendment

Proposed Legislative Amendments to House Bill 1303

"S 105-129.3. Enterprise tier designation.

~~(a) Tiers Defined. An enterprise tier one area is a county whose enterprise factor is one of the 10 highest in the State. An enterprise tier two area is a county whose enterprise factor is on the next 15 highest in the State. An enterprise tier three area is a county whose enterprise factor is one of the next 25 highest in the State. An enterprise Tier four area is a county whose enterprise factor is one of the next 25 highest in the State. An enterprise tier five area is any area that is not in a lower-numbered enterprise tier.~~

(a) Tiers Defined. – Each State will be assigned an enterprise tier designation. Five enterprise tier designations will be established with 20 counties being assigned to each tier group. Enterprise tier one counties will be designated as the 20 most economically distressed counties in the State. Tier five counties will be designated as the 20 least distressed counties in the State.

(b) Annual Designation. – Each year, on or before December 31, the Secretary of Commerce shall assign to each county in the State an enterprise factor that is the sum of the following:

(1) The county's rank in a ranking of counties by average rate of unemployment from lowest to highest, for the preceding three years

(2) The county's rank in a ranking of counties by ~~average per capita income~~ average median family income from highest to lowest, for the preceding three years.

(3) The county's rank in a ranking of counties by percentage growth in population from highest to lowest.

(4) The county's rank in population density from highest to lowest.

(5) The county's rank in poverty rate from lowest to highest

(6 The county's percentage (%) of manufacturing jobs to the total jobs in each county ranked from highest to lowest.

Note: All remaining of "S 105-129,3 remain the same.

"S 105-129.3A. Development zone designation.

(a) Development Zone Defined. – A development zone is an area comprised of one or more contiguous census tracts, census block groups, or both in the most recent federal decennial census that meets ~~all~~ one of the following conditions:

(1) ~~It Every census tract and census block group in the zone is located in whole or in part in a city with a population of more than 5,000 according to the most recent annual population estimates certified by the State Planning Officer~~. The proposed development zone must have at least one census tract with a poverty rate exceeding 20%.

(2) ~~It has a population of 1,000 or more according to the most recent annual population estimates certified by the State Planning Officer~~.

(3) ~~More than twenty percent (20%) of its population is below the poverty level according to the most recent federal decennial census~~.

Note: All remaining of "s 105-129.3A remain the same.

WILLIAM FULTON

The Endless Subsidy Cycle

GLORIA WHISENHUNT is mad. And while her anger is unlikely to alter the history of American government, it may well serve as a warning shot for politicians and economic development practitioners who are a little too quick with the cash.

Whisenhunt is a hairdresser from Forsyth County, North Carolina, where Winston-Salem is located. In 1996, after six years as a county school board member, she won election to the Forsyth County board of commissioners. The very first item on which she had to vote, she recalls, was a request from the local economic development organization that the county pay for the infrastructure serving a new industrial park. The county had to bear the cost, she and her fellow commissioners were told, because otherwise Forsyth County would be at a competitive disadvantage with other communities around the South that were paying such costs.

Reluctantly, she voted in favor of the payment, hoping that would be the end of it. But it wasn't. A short time later, the economic development specialists were back—this time asking the county to provide a cash subsidy to the first business seeking to move into the industrial park. She balked, and again the specialists insisted that if Forsyth did not take this step, the county would be placed in a competitive disadvantage. This time, she said no. As a small-business owner, she believed that giving subsidies to some businesses and not others wasn't fair. Also, she didn't see where or how the endless cycle of subsidies would stop. "I didn't feel like I was doing what I should be doing for existing taxpayers," says Whisenhunt.

And so Gloria Whisenhunt began a crusade to implement the economic development equivalent of a non-proliferation treaty. She drafted a model resolution that was passed by her colleagues on the Forsyth County board of commissioners. The resolution states the county's desire to eliminate cash subsidies to businesses for economic development purposes, and it commits the county to such a course of action—if most other local governments in the Southeast do so as well.

Whisenhunt soon began stumping the conventions of the county officials to encourage others to do the same. "Most communities publicly express their disapproval of incentives, yet many also admit to feeling addicted to the process," she would say in her stump speech. "Often, it is the smaller counties which have had some recent success with incentives that are the most reluctant to kick the habit." Her crusade got a lot of attention, not only in North Carolina but in economic development circles around the country.

The story of Gloria Whisenhunt would seem little more than a colorful yarn about a local commissioner tilting at windmills except for the fact that it came at a time when North Carolinians were debating the merits of economic incentives to lure prosperous businesses into specific locations around the state. Last year, after a vigorous debate, the legislature approved a law granting tax breaks to two businesses seeking to build new plants. Nucor Corp., a Charlotte-based steel company, received about $160 million in tax credits and tax exemptions for building a recycling plant in Hertford County, a rural area in northeastern North Carolina. And Federal Express received $115 million for building a sorting hub in Guilford County between Greensboro and Winston-Salem. The Nucor plant delivered 300 jobs, the FedEx hub 1,500.

The Nucor/FedEx deal was not the first piece of legislation in North Carolina permitting state and local tax breaks for economic development, but it was the most important. The resulting subsidies were sizable indeed. FedEx is one of America's most successful companies, yet the state was giving the company more than $76,000 per job. And the price tag for Nucor was more than a half-million dollars per job—a figure that exceeds even many of the sweetheart auto-plant deals of the 1980s and represents a big shift for a state that had resisted playing the smokestack-chasing game in recent years.

Politicians express a lot of concern about giving tax incentives to private business. But they vote for them anyway.

So, just as Gloria Whisenhunt suggested in her stump speech, a lot of North Carolina legislators played the issue both ways. They expressed concern about providing financial incentives to private companies—and then voted for the bill. Now that the bill has passed, North Carolina localities (especially rural ones) will have far more freedom to lure companies with tax breaks.

All of this means that Commissioner Whisenhunt is angrier than ever. So far, she's gotten very few takers on her non-proliferation idea. But the mere fact that she has been able to get so much publicity suggests that the spiraling trend toward economic development incentives has taken a toll on our state and local political system. And in that may lie the beginning of the end for ill-considered tax-incentive giveaways. G

William Fulton is editor of California Planning & Development Report *and a senior research fellow at Claremont Graduate University Research Institute. He is the author of* The Reluctant Metropolis: The Politics of Urban Growth in Los Angeles *(Solano Press Books).*

Eric Sander photograph

EDITOR'S
VIEWPOINT

Incentives resolution a good idea that won't fly

With her dignified manner and her soft southern accent, Gloria Whisenhunt does not come across as a revolutionary. Nor, I am certain, do her cohorts on the Forsyth County (N.C.) Board of Commissioners. But their resolution vowing to limit the use of incentives for economic development is the legislative equivalent of tossing tea in Boston Harbor. Unfortunately, it is destined to be much less successful.

Incentives, Whisenhunt believes, actually reverse Robin Hoodism taking money from the taxpayers and giving it to corporate America. The idea has always made her nervous. "I have a small business," she says, "and many of my friends have small businesses. All of us think it would have been a shot in the arm for us to have gotten a little help when we were starting out. But we didn't, and now we're being asked to spend our money to help the big guys?"

Forsyth County's resolution, which made the rounds at the July meeting of the National Association of Counties, elicits a number of responses. Some people get a wistful "If-Only" look in their eyes. Some just roll their eyes, and a few are downright hostile.

Many point out that, it's easy to be Forsyth County, home to Winston-Salem, and be opposed to incentives. Winston-Salem, they point out, has a median income of nearly $30,000, a Triple-A rating, an enviable quality of life, and a strong business community that is composed of both manufacturing and agriculture.

That is not true of, oh, say, Perry County, Ala. "This is a very depressed area," says Perry County Commissioner Johnny Flowers, whose area has benefitted from incentives that lured Mercedes-Benz to the state. "All people want is a job." Flowers, however, acknowledges the perception problem of offering taxpayer money to Mercedes-Benz at the same time every educational ranking that comes down the pike shows Alabama among the nation's bottom five states.

Additionally, not all businesses are thrilled with the idea of incentives. Long-time local companies, for example, are raising questions about the appropriateness of treating the new kid on the block better than the old stalwart.

Forsyth County officials know that theirs is an uphill climb. The resolution, in fact, points out that "it is difficult for one local government to unilaterally withdraw from the present ... environment without risking serious long-term consequences."

"People are reluctant to unilaterally disarm," says Forsyth County Commission Chairman Pete Brunstetter.

You've got to hand it to the Forsyth County commissioners though. It's not always easy being first, and that's a big windmill they're tilting at.

James Ward

American City & County (ISSN: 0149-337X) is published monthly except semimonthly in May by PRIMEDIA Intertec. Editorial and advertising offices at 6151 Powers Ferry Road, N.W., Atlanta, GA 30339-2941. Telephone (770) 955-2500. American City & County is a registered trademark of PRIMEDIA Intertec. © 1998. Periodicals postage paid at Atlanta, GA, and at additional mailing offices. SUBSCRIBER SERVICE: (847) 647-7124. Subscription rates: U.S.A., 1 year, $67; 2 years, $105. Outside U.S.A., (Surface Mail) 1 year, $87; 2 years, $145. (Airmail) 1 year, $127; 2 years, $225. Single copies, Municipal Index, $64.95 (Domestic) and $82.95 (Foreign). The opinions expressed by authors and contributors to American City & County are not necessarily those of the editors or publisher. Articles appearing in American City & County may not be reproduced in whole or in part without permission of the publisher. Microfilm copies of American City & County available from University Microfilms, 300 N. Zeeb Road, Ann Arbor, MI 48106. Authorization to photocopy items for internal or personal use or educational purposes is granted by Intertec Publishing, provided that the base fee of U.S. $2.25 per copy, plus U.S. $0.00 per page is paid directly to Copyright Clearance Center (CCC), 222 Rosewood Drive, Danvers, MA 01923. The fee code for users of this Transactional Reporting Service is 0149-337X/98 $2.25 plus $0.00. For those organizations that have been granted a photocopying license by CCC, a separate system of payment has been arranged. Prior to photocopying items for educational classroom use, please contact CCC at 508-750-8400. Organizations or individuals with large quantity photocopy or reprint requirements should contact Ed Laborwit, (770) 618-0481. POSTMASTER: Send address change to Circulation Dept., American City & County, P.O. Box 1147, Skokie, IL 60076-9736.

American City & County

GLEN DOUGHERTY
Publisher
E-mail: glen.dougherty@intertec.com

JANET WARD, Associate Publisher/Editor
E-mail: janet.ward@intertec.com
BETH WADE, Managing Editor
TOM BLACK, Senior Associate Editor
CHRISTINA COURET, Assistant Editor
STEPHEN BARR, Washington Bureau
MAURICE THOMPSON, Senior Art Director
KATJA ADAMS, Staff Artist
DAVID RAMARES, Staff Artist

EDITORIAL ADVISORY BOARD

ED ADAM
City Councilmember, Bridgeport, N.J.
YVONNE BRATHWAITE BURKE
Supervisor, Los Angeles County, Calif.
JOHN COLLINS
County Executive, Kenosha County, Wis.
JAMES GARNER
Mayor, Hempstead, N.Y.
RANDY FRANKE
Commissioner, Marion County, Ore.
GREG LASHUTKA
Mayor, Columbus, Ohio
VOLA LAWSON
City Manager, Alexandria, Va.
DIANE LAVETAN
CEO, DuPage County, Ill.
BILL MELTON
Treasurer, Dallas County, Texas
JODY PADEN
Director, Oklahoma Technology Transfer Center
ELIZABETH TREADWAY
Director of Environmental Services
Greensboro, N.C.
BARBARA WEIDY
Director, National Center for Small Communities

MARCIA JUNGLES, Eastern Regional
ED LABORWIT, Reprint Sales
JIM LESS, Circulation Manager
KAREN EDWARDS, Classified Sales
NANCY BOOROM, Production Manager
CATHERINE HORNING, Marketing Manager
JENNA HOOD, Promotions Assistant

GREGG HERRING
Group Publisher
Associate Publisher, Sanitation Equipment
American City & County
Fire Chief
Municipal Index
Sanitation
Water/Wastes
E-mail: gherring@primedia.com

JOHN W. SKEELS, President
Marketing & Professional Services Division

RAYMOND L. MALONEY, President and CEO

PRIMEDIA
Intertec

TAKING A STAND AGAINST THE USE OF INCENTIVES

by Gloria Whisenhunt

The use of incentives by state and local governments to attract new businesses has become a dangerous way of doing business. It has created a competition between communities that often results in neither the perceived winner nor the loser emerging victorious. It is little better than a blood-letting.

In North Carolina, the Forsyth County Board of Commissioners would like to see local and state governments voluntarily work together to restore common sense to the economic development process and business attraction. The board believes that the incentives race has gone too far.

Too often, companies are shopping all communities. This has the effect of distorting the proper role of government in the marketplace by pitting communities against each other in bidding contests that spiral out of control. What begins as a community's attempt to increase the number of jobs ends up more like extortion than economic development.

To put this in perspective, it is important to be clear about the role that governments should play in this process. Local governments should be about achieving: a good education system; adequate infrastructure; public safety; reasonable tax rates; and reasonable development regulations.

Local governments should not be about providing tax breaks and direct payments to industries, or public expenditures for anything other than traditional public purposes. These purposes may include: street and utility extensions; community college training programs; business recruitment and promotion; and site development where the local market is unable to provide the sites.

The time has come to stop the excessive tax breaks and the incentive gimmicks that are really direct cash payments to businesses. Voluntary restraint is the answer; otherwise Congress or the state legislatures may feel obliged to get involved in this and begin imposing their own regulations.

Taking Action

Forsyth County has already initiated a campaign to limit economic incentives and has received a mixed response. Most communities publicly express their disapproval of incentives, yet many also admit to feeling addicted to the process. They fear that they must remain on the incentives treadmill in order to grow and sustain their communities. Often, it is the smaller counties, which have had some recent success with incentives, that are the most reluctant to kick the habit.

Forsyth County, with a population of 280,000 people, has a healthy economy with a triple-A bond rating. The county has been very successful with competitive incentive packages and will continue with that game plan if it must.

However, it is the feeling of the county commissioners that what all local governments need is to give some thought to returning to their fundamental governmental responsibilities and allow the resulting quality of life that they are able to produce be what they offer in the economic development market place. To that end, on December 22, 1997, the Forsyth commissioners adopted the following model resolution encouraging local and state governments to limit the use of public funds for incentives for economic development:

"**Whereas**, the Forsyth County Board of Commissioners and most of the citizens of this community would prefer not to have to use public money to pay incentives to attract new businesses or to facilitate expansion of existing business; and,

Whereas, public expenditures for economic development should be limited to education, workforce development, the provision of roads, utilities and other infrastructure, recruitment and promotion; and development of business/industrial parks when adequate sites are not otherwise available; and,

Whereas, it is difficult for one local government to unilaterally withdraw from the present competitive economic development environment without risking serious long term economic consequences for the community and its citizens; and,

Whereas, state or federal legislation to regulate economic development strategies is not the most desirable way to correct the present situation of unhealthy competition using public funds.

Now, therefore, be it resolved by the Forsyth County Board of Commissioners that all local and state governments are encouraged to voluntarily adopt economic development policies which do not rely on incentives. tax adjustments or other use of public funds, except for traditional public purposes, and

Be it further resolved that Forsyth County will actively and energetically promote this concept among state and local governments; and,

Be it further resolved that Forsyth County will discontinue the use of incentives with public funds, on or about January 1, 1999, if a substantial number of other local governments in North Carolina and the Southeast have adopted a similar policy."

Gloria D. Whisenhunt is a Commissioner of Forsyth County, North Carolina

Statement Concerning HB 1411

Gloria D. Whisenhunt
Member, Forsyth County Board of Commissioners

Good morning/afternoon. I am Gloria Whisenhunt, a member of the Forsyth County Board of Commissioners. We appreciate the opportunity to comment on this legislation.

We are here to speak in particular about Section 4 of this bill. Section 4 would require the Department of Commerce "to develop an interstate compact to prohibit or reduce the use of tax and economic incentives for interstate competition".

For about two years now, Forsyth County has been waging a campaign to encourage local governments to voluntarily end the incentives race. We believe that public expenditures on behalf of economic development should be limited to traditional public purposes such as street and utility extensions and community college training – not for other kinds of incentives that are nothing less than a cash contribution to an industry's bottom line.

We have pursued our case with the North Carolina Association of County Commissioners and the National Association of Counties. Our campaign has been noted in City and State magazine and in Governing magazine.

We find other local governments are sympathetic – they would like to quit the incentives rat race – but they are afraid to. Among North Carolina counties the biggest concern is often the fear of losing an industry to a county in Virginia or South Carolina. Our counties are concerned about the incentive packages offered by other states.

That's why the kind of interstate compact proposed in this legislation is so important. We are not as comfortable about the idea of federal legislation to reduce interstate competition. We wish the incentives race could be ended by voluntary agreements. But we have talked to many people who believe action at the federal level may be necessary.

We support the idea of developing an interstate compact to end or reduce the use of tax and economic incentives for interstate competition.

Thank you.

RESOLUTION ENCOURAGING LOCAL AND STATE GOVERNMENTS TO LIMIT THE USE OF PUBLIC FUNDS FOR INCENTIVES FOR ECONOMIC DEVELOPMENT

WHEREAS, the Forsyth County Board of Commissioners and most of the citizens of this community would prefer not to have to use public money to pay "incentives" to attract new businesses or to facilitate expansion of existing businesses; and,

WHEREAS, public expenditures for economic development should be limited to education, workforce development; the provision of roads, utilities and other infrastructure; recruitment and promotion; and, development of business/industrial parks when adequate sites are not otherwise available; and,

WHEREAS, it is difficult for one local government to unilaterally withdraw from the present competitive economic development environment without risking serious long term economic consequences for the community and its citizens; and,

WHEREAS, State or Federal legislation to regulate economic development strategies is not the most desirable way to correct the present situation of unhealthy competition using public funds.

NOW, THEREFORE, BE IT RESOLVED by the Forsyth County Board of Commissioners that all local and state governments are encouraged to voluntarily adopt economic development policies which do not rely on incentives, tax adjustments or other use of public funds, except for traditional public purposes, and

BE IT FURTHER RESOLVED that Forsyth County will actively and energetically promote this concept among State and local governments; and,

BE IT FURTHER RESOLVED that Forsyth County will discontinue the use of incentives with public funds, on or about January 1, 1999, if a substantial number of other local governments in North Carolina and the Southeast have adopted a similar policy.

ADOPTED

DEC 2 2 1997

Forsyth County Board of Commissioners

THE DAILY NEWS, TUESDAY, DECEMBER 29, 1998

Onslow jobs plentiful as '99 begins

Low unemployment rate attributed to growth in several Onslow County economic areas

BY FRANCINE SAWYER
DAILY NEWS STAFF

New restaurants, telemarketing firms and a robust economy are contributing to a lower unemployment rate as Onslow County heads into the new year.

Unemployment figures for Jacksonville and Onslow County, which have held steady for more than a year, fell in November to 3.4 percent. The numbers, tabulated in November, reflect a trend statewide. Fifty-seven of 100 North Carolina counties reported lower unemployment numbers for the month.

Jacksonville's unemployment rate was 3.7 percent in October.

Ralph Leeds, N.C. Employment Security Commission Manager in Jacksonville said the rate has held steady for the past 18 months.

He contributed it to the military bases in Onslow County and the fact that tourism and seasonal work do not cause the figures to fluctuate so wildly as in coastal counties and towns such as Wilmington and Morehead City.

Jacksonville's labor force is 45,890 and employment was 44,340 while there were 1,500 unemployed.

ONSLOW COUNTY IS CLASSIFIED AS A TIER 2 COUNTY

JONES COUNTY IS A TIER 3 COUNTY, MEANING THAT JONES IS MORE ECONOMICALLY PROSPEROUS THAN ONSLOW.

Economic factor	Jones Co.	Onslow Co.
Population	9,519	150,000
Military Economic impact	-0-	$2,142,151,465
Per Capita income	**$19,645.**	$14,259.
Median Family Income	$24,137.	**$24,857**
Employed Labor Force	4,063	44,792
Manufacturing Employment	183	2,280
Gross Sales Tax Revenues	$1,021,000	$25,901,000
Property Value/Tax Rate (1996)	$341,126,171 (tax rate: .71)	$3,558,789,617 (tax rate: .644)
Gross Retail Sales	$26,738,000	$906,618,000
Commercial Bldg. Permits	1	322
Residential Permits	35	1,250

After Session

VISITOR REGISTRATION SHEET

House Finance — June 23, 1999
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ben Kirby	Kilpatrick Stockton
Sandy Sands	WCSR
[illegible]	WCSR
PERRI MORGAN	NFIB
Rick Carlisle	Commerce
Lisa Lyons	"
Kim Carlton	NCBTC
Patrick Byker	Durham Chamber of Commerce
Ted Conner	Durham Chamber of Commerce
Kelli Kukura	DuPont
Jean M Kellian	Moore & Van Allen
Bob Brown	Jordan Price Wall
[illegible] Rega	N.C.A.C.C
Ben Morgan	via Dept of Commerce
Kathy Sawyer	Commerce
Oppie Jordan	VP Edgecombe Economic Development
Sabra Faires	Dept. of Revenue
ANDY SMITH	" " "
Beth [illegible]	DOR
BOB KJCAB	NCHFA
CHARLES COLLINS	DOR
C. LeAnn Davis	Commerce
William Riddick	DOR
Sharla McKinney	DOI

VISITOR REGISTRATION SHEET

House Finance — June 23, 1999
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Patti Seawell	NC DOR
LENNIE COLLINS	NC DOR
NANCY POMERANZ	NC DOR
Andy Sabol	NC DOR
Sabra Faires	NC DOR
DAN GERLACH	WLBTC
Don Carrington	John Locke Foundation
Bill McNeil	NC DCA
Oppie Jordan	VP Economic Developer - Edgecombe County - Carolinas Gateway Partnership
Kathy Sawyer	Commerce
Marshall Willets	Commerce
[illegible]	NCRRDC
BOB KUCAB	NCHTA
Bill Rowe	NC Justice Center
SUSAN PERRY COLE	Commerce
Billy Davis	DOR
Sandy Sands	WCSR
[illegible]	Commerce
[illegible]	"
Jim Cain	Kilpatrick Stockton
Ben Kuhn	Kilpatrick Stockton
Sharon Nelson-Lucas	Forsyth Co Commissioner
DENNIS P. MCGOVERN	FORSYTH COUNTY
HYMAN COOPER	CSX CORP.
PERRI MORGAN	NEIB
Doug Lassiter	McClees Consulting
David Baker	DOR
Herb Crenshaw	NCEDA

VISITOR REGISTRATION SHEET

House Finance — June, 1999

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Leanne Killian	Moore & Van Allen
Mike Dixon	Kilpatrick Stockton
[illegible]	Nexsen Pruet Adams
Kelli Gardner	DuPont
Paul Zigler	OSBM
Jimmy Fulbright	Hunton & Williams
Travis Porter	Porter & Steel
Henry Hunter	Coca Cola
A B Swindell	BT
R.E. McNairy	Georgia-Pacific Corp
Alice Garland	Electricities
Joyce Peters	NPASCOC
Betsy Travis	ACS

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Thursday, June 24, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 74 - Tobacco Sett. Corp. Funding - Rep. Allen
HB 954 - Study Hospital Property Tax - Rep. Wilson
HB 1098 - Strengthen Sedimentation Act - Rep. Hackney
HB 1290 - Limit Recycling Tax Incentives - Rep. Luebke
SB 55 - Revenue Laws Technical Changes - Sen. Cochrane
SB 1112 - No Sales Tax Fee/Other Changes - Sen. Kerr

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Thursday, June 24, 1999

The House Committee on Finance met on Thursday, June 24, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke, Miller; Vice Chairs Jarrell and Wood; Representatives Braswell, Bridgeman, Brown, Buchanan, Capps, Creech, Decker, Dedmon, Eddins, Edwards, Gibson, Goodwin, Gray, Hackney, Hill, McCombs, Miner, Pope, Rayfield, Starnes, Tallent, Tucker, Wilson, and Womble. Staff including Cindy Avrette, Richard Bostic, Mary Shuping, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Miller called the meeting to order to consider the following bills:

Rep. Allen was recognized to explain HB 74, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE APPOINTMENT BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT PRO TEMPORE OF THE SENATE OF MEMBERS OF THE BOARD OF DIRECTORS OF THE CERTIFICATION ENTITY FOR THE PHASE II SETTLEMENT FUNDS, TO PROVIDE THE MEMBERS OF THE BOARD OF DIRECTORS LIMITED IMMUNITY FROM CIVIL LIABILITY, AND TO PROVIDE AN EXEMPTION FROM STATE INCOME TAX FOR INTEREST AND INVESTMENT EARNINGS OF QUALIFIED SETTLEMENT FUNDS. Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion purposes only. Rep. Brown moved to give a favorable report to the Proposed Committee Substitute and unfavorable to the original bill. Rep. Luebke questioned Cindy Avrette on state and federal laws concerning the bill. Rep. Brown's motion passed. The bill, Proposed Committee Substitute and Fiscal Note are included in these minutes.

Rep. Hackney was recognized to explain HB 1098, A BILL TO BE ENTITLED AN ACT TO STRENGTHEN THE SEDIMENTATION POLLUTION CONTROL ACT OF 1973 AND TO REQUIRE THAT THE EXAMINATION FOR A GENERAL CONTRACTOR'S LICENSE INCLUDE QUESTIONS THAT TEST AN APPLICANT'S KNOWLEDGE OF THE REQUIREMENTS OF THE SEDIMENTATION POLLUTION CONTROL ACT OF 1973. Rep. Gray questioned Rep. Hackney. Rep. Gray moved to give HB 1098 a favorable report. The motion passed. The bill and Fiscal Note are included in these minutes.

Sen. Cochrane was recognized to explain SB 55, A BILL TO BE ENTITLED AN ACT TO CONFORM THE TAX BASE OF THE REGIONAL TRANSIT AUTHORITY VEHICLE RENTAL TAX TO THE TAX BASE OF THE ALTERNATE HIGHWAY USE TAX ON SHORT-TERM VEHICLE RENTALS, AND TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE REVENUE LAWS AND RELATED STATUTES. Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion only. Rep. Capps questioned Sen. Cochrane. Cindy Avrette commented. Rep. Gibson commented to Sen. Cochrane. Rep. Braswell questioned Sen. Cochrane. Chair Allen stated this bill would be rescheduled for Tuesday, June 29, 1999.

Sen. Kerr was recognized to explain SB 1112, A BILL TO BE ENTITLED AN ACT TO PROMOTE ELECTRONIC COMMERCE BY REPEALING THE SALES TAX REGISTRATION FEE AND TO MAKE OTHER CHANGES TO THE TAX LAWS AND RELATED STATUTES. Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion purposes only. Sen. Kerr commented on the bill. Rep. Jarrell questioned Sen. Kerr. Linda Millsaps commented on the fiscal impact. The Chair recognized Ms. Fran Preston of the N.C. Retailers Association who agreed with Linda Millsaps comments. Rep. Pope questioned Sen. Kerr on trade-in items. Cindy Avrette also commented. Rep. Creech questioned Richard Bostic regarding fiscal impact. Rep. Gibson questioned Cindy Avrette on sales tax for insulin used by veterinarians. Rep. Gibson questioned Sen. Kerr. Rep. Gibson moved to give the Proposed Committee Substitute a favorable report and an unfavorable report to the original bill. Rep. Capps questioned staff. Rep. Pope questioned Cindy Avrette regarding sales tax on newspapers. Rep. Eddins questioned Cindy Avrette on trade-ins. Rep. Gibson's motion passed. The bill, Proposed Committee Substitute, Bill Summary, and Fiscal Note are included in these minutes.

Rep. Luebke was recognized to explain HB 1290, A BILL TO BE ENTITLED AN ACT TO REMOVE THE SPECIAL TAX TREATMENT FOR EQUIPMENT AND FACILITIES FOR RECYCLING, WASTE REDUCTION, OR RESOURCE RECOVERY WHEN ACQUIRED MORE THAN TWO YEARS PRIOR TO THE DATE OF APPLICATION FOR CERTIFICATION BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND TO LIMIT TO THREE YEARS THE CERTIFICATION FOR SPECIAL TAX TREATMENT FOR REAL PROPERTY USED FOR RECYCLING, WASTE REDUCTION, OR RESOURCE RECOVERY. The Chair recognized Mr. Ed Regan of the County Commissioners Association who supported the bill. Rep. Goodwin moved to give the Proposed Committee Substitute a favorable report and an unfavorable report to the original bill. The motion passed. The bill, Proposed Committee Substitute, Bill Summary, and Fiscal Note are included in these minutes.

Rep. Wilson was recognized to explain HB 954, A BILL TO BE ENTITLED AN ACT TO LIMIT THE HOSPITAL PROPERTY TAX EXEMPTION TO CERTAIN PROPERTY USED AND OWNED BY A HOSPITAL ORGANIZED FOR A CHARITABLE PURPOSE.
Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion purposes only. Rep. Wilson stated she wanted the bill moved to a study commission. Rep. Edwards stated the bill needed to be examined closely. Rep. Jarrell moved to give the Proposed Committee Substitute a favorable report and an unfavorable report to the original bill. The motion passed. The Proposed Committee Substitute is included in these minutes.

There being no further business, the Chair adjourned the meeting at 9:50 a.m.

Respectfully submitted:

Representative George Miller
Chair

Kristen L. Crosson
Assistant to the Committee

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Al;len** for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 74 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE APPOINTMENT BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT PRO TEMPORE OF THE SENATE OF MEMBERS OF THE BOARD OF DIRECTORS OF THE CERTIFICATION ENTITY FOR THE PHASE II SETTLEMENT FUNDS, TO PROVIDE THE MEMBERS OF THE BOARD OF DIRECTORS LIMITED IMMUNITY FROM CIVIL LIABILITY, AND TO PROVIDE AN EXEMPTION FROM STATE INCOME TAX FOR INTEREST AND INVESTMENT EARNINGS OF QUALIFIED SETTLEMENT FUNDS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill (# 2), ☒ which changes the title, unfavorable as to ~~(original bill)~~ (Committee Substitute Bill # 1), ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 74
Committee Substitute Favorable 6/22/99
Proposed Committee Substitute H74-PCSA154-RB

Short Title: Phase II Funds/Immunity/Tax-Exempt. (Public)

Sponsors:

Referred to:

February 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE APPOINTMENT BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT PRO TEMPORE OF THE SENATE OF MEMBERS OF THE BOARD OF DIRECTORS OF THE CERTIFICATION ENTITY FOR THE PHASE II SETTLEMENT FUNDS, TO PROVIDE THE MEMBERS OF THE BOARD OF DIRECTORS LIMITED IMMUNITY FROM CIVIL LIABILITY, AND TO PROVIDE AN EXEMPTION FROM STATE INCOME TAX FOR INTEREST, INVESTMENT EARNINGS, AND GAINS OF CERTAIN TRUST FUNDS.

The General Assembly of North Carolina enacts:

Section 1.(a) The General Assembly finds that:

(1) Philip Morris, Inc., Brown and Williamson Tobacco Corporation, Lorillard Tobacco Company, and R.J. Reynolds Tobacco Company (hereinafter, the "tobacco companies") have proposed to create a National Tobacco Grower Settlement Trust under which the tobacco companies will pay, during a 12-year period, a base amount of approximately five billion one hundred fifty million dollars ($5,150,000,000) into a trust to provide payments to tobacco growers and allotment holders in 14 grower states, including North Carolina, for the purposes of ameliorating potential adverse economic consequences of likely changes in the tobacco market on grower states.

(2) The tobacco companies desire that the money paid into trust be divided among tobacco producers and allotment holders in accordance with a plan designed and approved by a certification entity in each state.

(3) The tobacco companies desire that in larger grower states, including North Carolina, the certification entity be a nonprofit corporation governed by a board of directors consisting of the following public officials and persons appointed by public officials: the Governor, who shall serve as chair of the board of directors; the Commissioner of Agriculture, who shall serve as vice-chair; the Attorney General, who shall serve as secretary; a State Senator appointed by the President Pro Tempore of the Senate; a State Representative appointed by the Speaker of the House of Representatives; two members of the North Carolina congressional delegation; and four to seven citizens appointed by the Governor.

(4) It is in the public interest that these officials and citizens serve on the board of directors and determine the distribution of these private trust funds to tobacco producers and allotment holders in North Carolina.

Section 1.(b) The Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate are authorized to appoint members of the board of directors of the certification entity as provided in Section 1.(a)(3), and the public officials referred to in Section 1.(a)(3) are authorized to serve on that board.

Section 1.(c) No member of the certification entity for the National Tobacco Grower Trust Fund is subject to civil liability for any act or omission arising out of the performance of the member's duties as a member or officer of the certification entity. This section does not apply to liability arising from willful or wanton misconduct, intentional wrongdoing, or the operation of a motor vehicle.

Section 2. G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(b) The following deductions from federal taxable income shall be made in determining State net income:

. . .

(18) Interest, investment earnings, and gains of a qualified settlement fund, the settlors of which are two or more manufacturers that signed a settlement agreement with this State to settle existing and potential claims of the State against the manufacturers for damages attributable to a product of the manufacturers, if it meets all of the following conditions:

a. The purpose of the fund is to address potential adverse economic consequences resulting from a decline in demand of the manufactured product expected to occur because of

market restrictions and other provisions in the settlement agreement.

b. A court of this State approves and retains jurisdiction over the fund.

c. At least twenty-five percent (25%) of the distributions from the fund are made in accordance with certifications that meet the criteria in the settlement agreement and are made by a nonprofit entity, the governing board of which includes State officials."

Section 3. G.S. 105-134.6(b) is amended by adding a new subdivision to read:

"(b) Deductions. -- The following deductions from taxable income shall be made in calculating North Carolina taxable income, to the extent each item is included in taxable income:

. . .

(15) Interest, investment earnings, and gains of a trust, the settlors of which are two or more manufacturers that signed a settlement agreement with this State to settle existing and potential claims of the State against the manufacturers for damages attributable to a product of the manufacturers, if it meets all of the following conditions:

a. The purpose of the fund is to address potential adverse economic consequences resulting from a decline in demand of the manufactured product expected to occur because of market restrictions and other provisions in the settlement agreement.

b. A court of this State approves and retains jurisdiction over the trust.

c. At least twenty-five percent (25%) of the distributions from the trust are made in accordance with certifications that meet the criteria in the settlement agreement and are made by a nonprofit entity, the governing board of which includes State officials."

Section 4. Sections 2 and 3 of this act are effective for taxable years beginning on or after January 1, 1999. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 74
Committee Substitute Favorable 6/22/99
PROPOSED COMMITTEE SUBSTITUTE
H74-CSRB-6/23

Short Title: Phase II Funds/Immunity/Tax-Exempt. (Public)

Sponsors:

Referred to:

February 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE APPOINTMENT BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT PRO TEMPORE OF THE SENATE OF MEMBERS OF THE BOARD OF DIRECTORS OF THE CERTIFICATION ENTITY FOR THE PHASE II SETTLEMENT FUNDS, TO PROVIDE THE MEMBERS OF THE BOARD OF DIRECTORS LIMITED IMMUNITY FROM CIVIL LIABILITY, AND TO PROVIDE AN EXEMPTION FROM STATE INCOME TAX FOR INTEREST, INVESTMENT EARNINGS, AND GAINS OF CERTAIN TRUST FUNDS.

The General Assembly of North Carolina enacts:

Section 1.(a) The General Assembly finds that:

(1) Philip Morris, Inc., Brown and Williamson Tobacco Corporation, Lorillard Tobacco Company, and R.J. Reynolds Tobacco Company (hereinafter, the "tobacco companies") have proposed to create a National Tobacco Grower Settlement Trust under which the tobacco companies will pay, during a 12-year period, a base amount of approximately five billion one hundred fifty million ($5,150,000,000) dollars into a trust to provide payments to tobacco growers and allotment holders in 14 grower states,

including North Carolina, for the purposes of ameliorating potential adverse economic consequences of likely changes in the tobacco market on grower states.

(2) The tobacco companies desire that the money paid into trust be divided among tobacco producers and allotment holders in accordance with a plan designed and approved by a certification entity in each state.

(3) The tobacco companies desire that in larger grower states, including North Carolina, the certification entity be a nonprofit corporation governed by a board of directors consisting of the following public officials and persons appointed by public officials: the Governor, who shall serve as chair of the board of directors; the Commissioner of Agriculture, who shall serve as vice-chair; the Attorney General, who shall serve as secretary; a State Senator appointed by the President Pro Tempore of the Senate; a State Representative appointed by the Speaker of the House of Representatives; two members of the North Carolina congressional delegation; and four to seven citizens appointed by the Governor.

(4) It is in the public interest that these officials and citizens serve on the board of directors and determine the distribution of these private trust funds to tobacco producers and allotment holders in North Carolina.

Section 1.(b) The Governor, the Speaker of the House, and the President Pro Tempore of the Senate are authorized to appoint members of the board of directors of the certification entity as provided in Section 1.(a)(3), and the public officials referred to in Section 1.(a)(3) are authorized to serve on that board.

Section 1.(c) No member of the certification entity for the National Tobacco Grower Trust Fund is subject to civil liability for any act or omission arising out of the performance of the member's duties as a member or officer of the certification entity. This section does not apply to liability arising from willful or wanton misconduct, intentional wrongdoing, or the operation of a motor vehicle.

Section 2. G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(b) The following deductions from federal taxable income shall be made in determining State net income:

. . .

(18) Interest, investment earnings, and gains of a qualified settlement fund, the settlors of which are two or more manufacturers that signed a settlement agreement with this State to settle existing and potential claims of the State against the manufacturers for damages attributable to a product of the manufacturers, if it meets all of the following conditions:

a. The purpose of the fund is to address potential adverse economic consequences resulting from a decline in demand of the manufactured product expected to occur because of market restrictions and other provisions in the settlement agreement.

b. A court of this State approves and retains jurisdiction over the fund.

c. At least twenty-five percent (25%) of the distributions from the fund are made in accordance with certifications that meet the criteria in the settlement agreement and are made by a nonprofit entity, the governing board of which includes State officials."

Section 3. G.S. 105-134.6(b) is amended by adding a new subdivision to read:

"(b) Deductions. -- The following deductions from taxable income shall be made in calculating North Carolina taxable income, to the extent each item is included in taxable income:

....

(15) Interest, investment earnings, and gains of a trust, the settlors of which are two or more manufacturers that signed a settlement agreement with this State to settle existing and potential claims of the State against the manufacturers for damages attributable to a product of the manufacturers, if it meets all of the following conditions:

a. The purpose of the fund is to address potential adverse economic consequences resulting from a decline in demand of the manufactured product expected to occur because

of market restrictions and other provisions in the settlement agreement.

b. A court of this State approves and retains jurisdiction over the trust.

c. At least twenty-five percent (25%) of the distributions from the trust are made in accordance with certifications that meet the criteria in the settlement agreement and are made by a nonprofit entity, the governing board of which includes State officials."

Section 4. Sections 2 and 3 of this act are effective for taxable years beginning on or after January 1, 1999. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 74
Committee Substitute Favorable 6/22/99

Short Title: Phase II Funds/Immunity/Tax-Exempt. (Public)

Sponsors:

Referred to:

February 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE APPOINTMENT BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT PRO TEMPORE OF THE SENATE OF MEMBERS OF THE BOARD OF DIRECTORS OF THE CERTIFICATION ENTITY FOR THE PHASE II SETTLEMENT FUNDS, TO PROVIDE THE MEMBERS OF THE BOARD OF DIRECTORS LIMITED IMMUNITY FROM CIVIL LIABILITY, AND TO PROVIDE AN EXEMPTION FROM STATE INCOME TAX FOR INTEREST AND INVESTMENT EARNINGS OF QUALIFIED SETTLEMENT FUNDS.

The General Assembly of North Carolina enacts:

Section 1.(a) The General Assembly finds that:

(1) Philip Morris, Inc., Brown and Williamson Tobacco Corporation, Lorillard Tobacco Company, and R.J. Reynolds Tobacco Company (hereinafter, the "tobacco companies") have proposed to create a National Tobacco Grower Settlement Trust under which the tobacco companies will pay, during a 12-year period, a base amount of approximately five billion one hundred fifty million ($5,150,000,000) dollars into a trust to provide payments to tobacco growers and allotment holders in 14 grower states, including North Carolina, for the purposes of ameliorating potential adverse economic consequences of likely changes in the tobacco market on grower states.

(2) The tobacco companies desire that the money paid into trust be divided among tobacco producers and allotment holders in accordance with a plan designed and approved by a certification entity in each state.

(3) The tobacco companies desire that in larger grower states, including North Carolina, the certification entity be a nonprofit corporation governed by a board of directors consisting of the following public officials and persons appointed by public officials: the Governor, who shall serve as chair of the board of directors; the Commissioner of Agriculture, who shall serve as vice-chair; the Attorney General, who shall serve as secretary; a State Senator appointed by the President Pro Tempore of the Senate; a State Representative appointed by the Speaker of the House of Representatives; two members of the North Carolina congressional delegation; and four to seven citizens appointed by the Governor.

(4) It is in the public interest that these officials and citizens serve on the board of directors and determine the distribution of these private trust funds to tobacco producers and allotment holders in North Carolina.

Section 1.(b) The Governor, the Speaker of the House, and the President Pro Tempore of the Senate are authorized to appoint members of the board of directors of the certification entity as provided in Section 1.(a)(3), and the public officials referred to in Section 1.(a)(3) are authorized to serve on that board.

Section 1.(c) No member of the certification entity for the National Tobacco Grower Trust Fund is subject to civil liability for any act or omission arising out of the performance of the member's duties as a member or officer of the certification entity. This section does not apply to liability arising from willful or wanton misconduct, intentional wrongdoing, or the operation of a motor vehicle.

Section 2. G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(b) The following deductions from federal taxable income shall be made in determining State net income:

. . .

(18) Interest and investment earnings of a trust fund that meets all of the following conditions:

a. It is established by one or more manufacturers that signed a settlement agreement with this State to settle existing and potential claims of the states against the manufacturers for damages arising from a product of the manufacturers.

b. It is established to compensate those who suffer economic loss as a result of the decline in demand of the manufactured product that is expected to occur because of market restrictions and other provisions in the settlement agreement.

c. Revenue in the trust is distributed only to those who have suffered economic loss, as determined by a nonprofit corporation whose membership includes State officials."

Section 3. Section 1 of this act is effective when it becomes law. Section 2 of this act is effective for taxable years beginning on or after January 1, 1999.

HOUSE BILL 74:
Phase II Funds/Immunity/Tax-Exempt

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Baker
Date:	June 24, 1999	**Summary by:**	Cindy Avrette
Version:	PCS for 2nd Edition		Committee Counsel
	H74-CSRB-6/23		

SUMMARY: ***The finance portion of House Bill 74 is in sections 2 and 3 of the proposed committee substitute. These sections provide a corporate and trust income tax exemption for the interest, investment earnings, and gains of a trust that is established to compensate those who suffer economic loss as a result of a settlement agreement between North Carolina and one or more manufacturers to settle claims of the states against the manufacturers for damages arising from a product of the manufacturers.***

BACKGROUND: Several states and tobacco manufacturers are parties to a Master Settlement Agreement dated November 23, 1998, that settled existing and potential claims of the states against the manufacturers for damages arising from the tobacco products of the manufacturers. The settlement agreement contains provisions, such as market restrictions, that are expected to result in a decline in demand for the tobacco products. As part of the consideration for settling the claims, the MSA obligates the parties to the agreement to address these economic concerns of the tobacco growers and tobacco quota holders.

To meet this requirement, the parties have agreed to establish a trust called the National Tobacco Grower Settlement Trust. The manufacturers have agreed to pay up to $5.15 billion over the next 12 years into the trust. Proceeds from the trust will be allocated directly to tobacco growers and tobacco allotment holders based on a state plan developed by a state board. The funds will not be paid to the state for disbursement. The Superior Court of Wake County must approve the trust and the payments made under it. A banking entity will serve as the trustee.

The trust is designed to be a qualified settlement fund under the Internal Revenue Code. As such, it is taxable as a corporate taxpayer at the rate of a trust. The primary benefit of being a qualified settlement fund is that the manufacturers who contribute the principal to the fund may claim a tax deduction on the contributions when they are paid into the fund. If it is determined that the trust does not meet the requirements of a qualified settlement fund, its taxation does not change because contributions to a trust are not included in its gross income. However, the manufacturers would not be able to claim a deduction on their contributions until the money is distributed to the growers and quota holders.

For federal and state tax purposes, the contributions to the trust are tax exempt. To calculate North Carolina taxable income for both corporations and trusts, one begins with federal taxable income. Since the contributions are not included in income for federal tax purposes, they are not included in income for State tax purposes. However, the interest, investment earnings, and gains, of both a qualified settlement fund and a trust are taxable for federal and State purposes. Some states exempt qualified settlement funds from state income tax. To maximize the amount of funds distributed to those who suffer economic loss

because of the Master Settlement Agreement, it is desirable to locate the settlement fund in a state that does not tax it. Because of the State's role in producing the economic loss, and the desire to have the settlement fund be located in North Carolina, this bill exempts the interest, investment earnings, and gains of the settlement fund from State income tax.

BILL ANALYSIS: **Section 2** of the bill provides a corporate tax deduction from federal taxable income on the interest, investment earnings, and gains earned on funds in a qualified settlement fund that meets the following conditions:

1. The settlors of the fund are two or more manufacturers that signed a settlement agreement with North Carolina to settle existing and potential claims of the State against the manufacturers for damages attributable to a product of the manufacturers.
2. The purpose of the fund is to address potential adverse economic consequences resulting from a decline in demand of the manufactured product expected to occur because of market restrictions and other provisions in the settlement agreement.
3. A court of North Carolina approves and retains jurisdiction over the fund.
4. At least 25% of the distributions from the fund are made in accordance with certifications that meet the criteria in the settlement agreement and are made by a nonprofit entity, the governing board of which includes State officials.

Section 3 of the bill provides a similar tax deduction for trusts. The provision is put in both the corporate and trust tax laws in case it is determined that the trust does not meet the requirements of a qualified settlement fund.

- sponsor asked it be held in committee
- was not reptd. to House floor

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 954 A BILL TO BE ENTITLED AN ACT TO LIMIT THE HOSPITAL PROPERTY TAX EXEMPTION TO CERTAIN PROPERTY USED AND OWNED BY A HOSPITAL ORGANIZED FOR A CHARITABLE PURPOSE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#),~~ ☒ which changes the title, unfavorable as to original bill ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 954
Proposed Committee Substitute H954-CSLC-6/16
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Study Hospital Property Tax. (Public)

Sponsors:

Referred to:

April 8, 1999

A BILL TO BE ENTITLED

AN ACT AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE PROPERTY TAX EXEMPTION FOR CHARITABLE HOSPITAL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of ratified Senate Bill 325, 1999 General Assembly, 1999 S.L.-____, reads as rewritten:

"Section 3. The Legislative Research Commission shall conduct a comprehensive study of property tax exemptions for nonprofit institutions, including the history and evolution of such exemptions in North Carolina, the policy reasons for property tax exemptions, the effect of the exemptions on local governments and on other taxpayers, the extent to which other states provide property tax exemptions for nonprofit institutions, and any other issues it considers relevant. The study shall examine the extent to which the property tax exemption for charitable hospitals has been extended to medical practices, hotels, and apartments owned by charitable hospitals, and evaluate whether the exemption should be limited to property used for inpatient care, hospice care, and home care. The Legislative Research Commission shall make a final report of its findings and recommendations to the 2000 Regular Session of the 1999 General Assembly."

Section 2. This act is effective when it becomes law.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☒ Committee Substitute for
H.B. 1098 A BILL TO BE ENTITLED AN ACT TO STRENGTHEN THE SEDIMENTATION POLLUTION CONTROL ACT OF 1973 AND TO REQUIRE THAT THE EXAMINATION FOR A GENERAL CONTRACTOR'S LICENSE INCLUDE QUESTIONS THAT TEST AN APPLICANT'S KNOWLEDGE OF THE REQUIREMENTS OF THE SEDIMENTATION POLLUTION CONTROL ACT OF 1973.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 1098
Committee Substitute Favorable 6/14/99

Short Title: Strengthen Sedimentation Act. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN THE SEDIMENTATION POLLUTION CONTROL ACT OF 1973 AND TO REQUIRE THAT THE EXAMINATION FOR A GENERAL CONTRACTOR'S LICENSE INCLUDE QUESTIONS THAT TEST AN APPLICANT'S KNOWLEDGE OF THE REQUIREMENTS OF THE SEDIMENTATION POLLUTION CONTROL ACT OF 1973.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-54.1 reads as rewritten:

"**§ 113A-54.1. Approval of erosion control plans.**

(a) A draft erosion control plan must contain the applicant's address and, if the applicant is not a resident of North Carolina, designate a North Carolina agent for the purpose of receiving notice from the Commission or the Secretary of compliance or noncompliance with the plan, this Article, or any rules adopted pursuant to this Article. The Commission shall approve, approve with modifications, or disapprove a draft erosion control plan for those land-disturbing activities for which prior plan approval is required within 30 days of receipt. The Commission shall condition approval of a draft erosion control plan upon the applicant's compliance with federal and State water quality laws, regulations, and rules. Failure to approve, approve with modifications, or disapprove a completed draft erosion control plan within 30 days of receipt shall be deemed approval of the plan. If the Commission disapproves a draft erosion control plan or a revised erosion control plan, it must state in writing the specific reasons that the plan was disapproved. Failure to approve, approve with modifications, or disapprove a revised erosion control plan within 15 days of receipt

shall be deemed approval of the plan. The Commission may establish an expiration date for erosion control plans approved under this Article.

(b) If, following commencement of a land-disturbing activity pursuant to an approved erosion control plan, the Commission determines that the plan is inadequate to meet the requirements of this Article, the Commission may require any revision of the plan that is necessary to comply with this Article. Failure to approve, approve with modifications, or disapprove a revised erosion control plan within 15 days of receipt shall be deemed approval of the plan.

(c) The ~~Director of the Division of Land Resources~~ Commission shall disapprove an erosion control plan if ~~the plan, when implemented,~~ implementation of the plan would result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters. The Director of the Division of Land Resources may disapprove an erosion control plan upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:

(1) Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Commission or a local government pursuant to this Article and has not complied with the notice within the time specified in the notice;

(2) Has failed to pay a civil penalty assessed pursuant to this Article or a local ordinance adopted pursuant to this Article by the time the payment is due;

(3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to this Article; or

(4) Has failed to substantially comply with State rules or local ordinances and regulations adopted pursuant to this Article.

(d) In the event that an erosion control plan is disapproved by the Director pursuant to subsection (c) of this section, the Director shall state in writing the specific reasons that the plan was disapproved. The applicant may appeal the Director's disapproval of the plan to the Commission. For purposes of this subsection and subsection (c) of this section, an applicant's record may be considered for only the two years prior to the application date."

Section 2. G.S. 113A-57(4) reads as rewritten:

"(4) No person shall initiate any land-disturbing activity on a tract if more than one acre is to be uncovered unless, 30 or more days prior to initiating the activity, an erosion and sedimentation control plan for such activity is filed with the agency having jurisdiction. The agency having jurisdiction shall forward to the Director of the Division of Water Quality a copy of each erosion and sedimentation control plan for a land-disturbing activity that involves the utilization of ditches for the purpose of de-watering or lowering the water table of the tract."

Section 3. G.S. 113A-61(b1) reads as rewritten:

"(b1) A local government shall condition approval of a draft erosion control plan upon the applicant's compliance with federal and State water quality laws, regulations, and rules. A local government shall disapprove an erosion control plan if ~~the plan, when implemented,~~ implementation of the plan would result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters. A local government may disapprove an erosion control plan upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:

(1) Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Commission or a local government pursuant to this Article and has not complied with the notice within the time specified in the notice;

(2) Has failed to pay a civil penalty assessed pursuant to this Article or a local ordinance adopted pursuant to this Article by the time the payment is due;

(3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to this Article; or

(4) Has failed to substantially comply with State rules or local ordinances and regulations adopted pursuant to this Article."

Section 4. G.S. 113A-64(a) reads as rewritten:

"(a) Civil Penalties. --

(1) Any person who violates any of the provisions of this Article or any ordinance, rule, or order adopted or issued pursuant to this Article by the Commission or by a local government, or who initiates or continues a land-disturbing activity for which an erosion control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, is subject to a civil penalty. The maximum civil penalty for a ~~violation, other than a violation of a stop-work order issued under G.S. 113A-65.1, is five hundred dollars ($500.00). The maximum civil penalty for a violation of a stop-work order~~ violation is five thousand dollars ($5,000). ~~No penalty shall be assessed until the person alleged to be in violation has been notified of the violation as provided in G.S. 113A-61.1(b).~~ A civil penalty may be assessed from the date ~~the notice of violation is served.~~ of the violation. Each day of a continuing violation shall constitute a separate violation.

(2) The Secretary or a local government that administers an erosion and sediment control program approved under G.S. 113A-60 shall determine the amount of the civil penalty and shall notify the person who is assessed the civil penalty of the amount of the penalty and the reason for assessing the penalty. The notice of assessment shall be served by any means authorized under G.S.

1A-1, Rule 4, and shall direct the violator to either pay the assessment or contest the assessment within 30 days by filing a petition for a contested case under Article 3 of Chapter 150B of the General Statutes. If a violator does not pay a civil penalty assessed by the Secretary within 30 days after it is due, the Department shall request the Attorney General to institute a civil action to recover the amount of the assessment. If a violator does not pay a civil penalty assessed by a local government within 30 days after it is due, the local government may institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the violation occurred or the violator's residence or principal place of business is located. A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.

(3) In determining the amount of the penalty, the Secretary shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator saved by noncompliance, whether the violation was committed willfully and the prior record of the violator in complying or failing to comply with this Article.

(4) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 776, s. 11.

(5) The clear proceeds of civil penalties collected by the Department or other State agency under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Civil penalties collected by a local government under this subsection shall be credited to the general fund of the local government as nontax revenue."

Section 5. G.S. 113A-54.2(a) reads as rewritten:

"(a) The Commission may establish a fee schedule for the review and approval of erosion control plans under this Article. In establishing the fee schedule, the Commission shall consider the administrative and personnel costs incurred by the Department for reviewing the plans and for related compliance activities. ~~The total amount of fees collected under this section in any fiscal year may not exceed one-third of the total administrative and personnel costs incurred by the Department for reviewing the plans and for related compliance activities in the prior fiscal year.~~ An application fee may not exceed fifty dollars ($50.00) per acre of disturbed land shown on an erosion control plan or of land actually disturbed during the life of the project."

Section 6. G.S. 113A-61.1(c) reads as rewritten:

"(c) If the Secretary, a local government that administers an erosion and sediment control program approved under G.S. 113A-60, or other approving authority

determines that the person engaged in the land-disturbing activity has failed to comply with this Article, the Secretary, local government, or other approving authority shall immediately serve a notice of violation upon that person. The notice may be served by any means authorized under G.S. 1A-1, Rule 4. A notice of violation shall specify a date by which the person must comply with this Article and inform the person of the actions that need to be taken to comply with this Article. Any person who fails to comply within the time specified is subject to ~~the~~ additional civil and criminal penalties for a continuing violation as provided in G.S. 113A-64."

Section 7. G.S. 87-10(b), as amended by Section 1 of S.L. 1999-123, reads as rewritten:

"(b) The Board shall conduct an examination, either oral or written, of all applicants for license to ~~ascertain~~ ascertain, for the classification of license for which the applicant has applied: (i) the ability of the applicant to make a practical application of ~~his~~ the applicant's knowledge of the profession of ~~contracting;~~ contracting; ~~under the classification contained in the application, and to ascertain~~ (ii) the qualifications of the applicant in reading plans and specifications, knowledge of estimating costs, construction, ~~ethics~~ ethics, and other similar matters pertaining to the contracting ~~business~~ business; (iii) the knowledge of the applicant as to the responsibilities of a contractor to the public and of the requirements of the laws of the State of North Carolina relating to contractors, ~~construction and liens.~~ construction, and liens; and (iv) the applicant's knowledge of requirements of the Sedimentation Pollution Control Act of 1973, Article 4 of Chapter 113A of the General Statutes, and the rules adopted pursuant to that Article. If the results of the examination of the applicant shall be satisfactory to the Board, then the Board shall issue to the applicant a certificate to engage as a general contractor in the State of North Carolina, as provided in said certificate, which may be limited into five classifications as ~~the common use of the terms are known -- that is,~~ follows:

(1) Building contractor, which shall include private, public, commercial, industrial and residential buildings of all ~~types;~~ types.

(1a) Residential contractor, which shall include any general contractor constructing only residences which are required to conform to the residential building code adopted by the Building Code Council pursuant to G.S. ~~143-138;~~ 143-138.

(2) Highway ~~contractor;~~ contractor.

(3) Public utilities contractors, which shall include those whose operations are the performance of construction work on the following subclassifications of facilities:

a. Water and sewer ~~mains and~~ mains, water service ~~lines~~ lines, and house and building sewer lines as defined in the North Carolina State Building Code, and water storage tanks, lift stations, pumping stations, and appurtenances to water storage tanks, lift ~~stations~~ stations, and pumping ~~stations;~~ stations.

b. Water and wastewater treatment facilities and appurtenances ~~thereto;~~ thereto.

c. Electrical power transmission facilities, and primary and secondary distribution facilities ahead of the point of delivery of electric service to the ~~customer;~~ customer.

d. Public communication distribution ~~facilities; and~~ facilities.

e. Natural gas and other petroleum products distribution facilities; provided the General Contractors Licensing Board may issue license to a public utilities contractor limited to any of the above subclassifications for which the general contractor ~~qualifies, and~~ qualifies.

(4) Specialty contractor, which shall include those whose operations as such are the performance of construction work requiring special skill and involving the use of specialized building trades or crafts, but which shall not include any operations now or hereafter under the jurisdiction, for the issuance of license, by any board or commission pursuant to the laws of the State of North Carolina.

(b1) Public utilities contractors constructing water service lines and house and building sewer lines as provided in ~~(3)a above~~ sub-subdivision a. of subdivision (3) of subsection (b) of this section shall terminate said lines at a valve, box, meter, or manhole or cleanout at which the facilities from the building may be connected. Public utilities contractors constructing fire service mains for connection to fire sprinkler systems shall terminate those lines at a flange, cap, plug, or valve inside the building one foot above the finished floor. All fire service mains shall comply with the NFPA standards for fire service mains as incorporated into and made applicable by Volume V of the North Carolina Building Code."

Section 8. This act becomes effective 1 October 1999 and applies to land-disturbing activity that occurs on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: H.B. 1098 DRAFT NOTE

SHORT TITLE: Sedimentation Control Act Amendments

SPONSOR(S): Rep. Hackney

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
DENR Special Acct.	*** Minimum Revenue Increase of $869,000 ***				
	*** See Assumptions and Methodology ***				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: The Department of Environment and Natural Resources, Land Resource Division and the North Carolina General Contractors Licensing Board.

EFFECTIVE DATE: October 1, 1999 and applies to land-disturbing activity that occurs on or after that date.

BILL SUMMARY: The bill makes several changes to the existing Sedimentation Control Act of 1973. The Sedimentation Control Act requires that a person conducting a land disturbing activity involving the uncovering of more than one acre to file an erosion control plan at least 30 days in advance. It also outlines several erosion and sedimentation limitation practices and devises that must be used during construction and after the project is completed. The bill raises the maximum civil penalty for a violation of the act to $5,000. It also clarifies that the penalty can be assessed from the date of the original violation and that additional penalties can apply for continued violations. The bill also removes the cap on the total amount of fees collected under this program. The bill also clarifies that a plan approval is conditional on the applicant's compliance with federal and state laws, regulations and rules. The legislation also states that certain types of erosion control plans must be forwarded to the Division of Water Quality. Finally, the bill mandates that questions on the Sedimentation Control Act be included on the general contractors licensing exam.

ASSUMPTIONS AND METHODOLOGY: There are three potential fiscal impacts to the bill. First, the bill increases the maximum civil penalty for a violation of the Sedimentation Control Act to $5,000. The current maximum charge is $500. The Division of Land Resources estimates that in FY 1996-97 forty (40) cases were referred to enforcement. In FY 1997-98 that number increased to seventy-four (74). The Division reports that very few violators were

actually charged the maximum per day penalty of $500. In FY 1996-97 there were three cases where civil penalties of $500 per day were charged. In FY 1997-98 there were four such cases. The Division can not effectively estimate the how often they would charge the new maximum per day penalty of $5,000. Therefore, while there could be a small revenue increase as a result of this portion of the bill, an accurate fiscal estimate is not possible.

The second potential fiscal impact relates to removing the fee cap. Currently the Department can not charge more than $50 per acre. Also, the total amount collected can not excess 1/3 of the administrative and personnel costs associated with the program in the previous fiscal year. The Division of Land Resources reports that 1/3 cap is the true constraint. The current per acre fee is now approximately $20. If the 1/3 expenditure cap was removed, the Division could increase their fee to as much as $50. In FY 1996-97 the Division collected $515,031 in per acre fees. In 1997-98 that amount increased to $580,565. These numbers suggest that fees were charged on approximately 29,000 acres in FY 1997-98. Assuming the Division increased the fee to $50, and the number of acres included remained at approximately 29,000, the fee revenue will increase to approximately $1,450,00. This is an increase of approximately $869,435. These funds are deposited in a special non-reverting account in the Department of Environment and Natural Resources and are used to offset the cost of the sedimentation program.

The third potential impact relates to changes in the general contractor's exam. The bill requires that the general contractor exam be modified to include questions about the Sedimentation Control Act. The Department of Insurance staffs the General Contractor's Licensing Board. Because the Division of Land Resources in DENR has agreed to write the questions, the cost to the Department of Insurance should be minimal.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY:

DATE:

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1290 A BILL TO BE ENTITLED AN ACT TO REMOVE THE SPECIAL TAX TREATMENT FOR EQUIPMENT AND FACILITIES FOR RECYCLING, WASTE REDUCTION, OR RESOURCE RECOVERY WHEN ACQUIRED MORE THAN TWO YEARS PRIOR TO THE DATE OF APPLICATION FOR CERTIFICATION BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND TO LIMIT TO THREE YEARS THE CERTIFICATION FOR SPECIAL TAX TREATMENT FOR REAL PROPERTY USED FOR RECYCLING, WASTE REDUCTION, OR RESOURCE RECOVERY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill (#), ☐ ~~which changes the title~~, unfavorable as to ~~(~~original bill~~)~~ ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1290
Proposed Committee Substitute H1290-PCS8145-LC

Short Title: Limit Recycling Tax Incentives. (Public)

Sponsors:

Referred to:

April 19, 1999

A BILL TO BE ENTITLED

AN ACT TO REMOVE THE SPECIAL TAX TREATMENT FOR CERTAIN EQUIPMENT AND FACILITIES FOR RECYCLING, WASTE REDUCTION, OR RESOURCE RECOVERY WHEN ACQUIRED MORE THAN TWO YEARS PRIOR TO THE DATE OF APPLICATION FOR CERTIFICATION BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND TO LIMIT TO THREE YEARS THE CERTIFICATION FOR SPECIAL TAX TREATMENT FOR CERTAIN REAL PROPERTY USED FOR RECYCLING, WASTE REDUCTION, OR RESOURCE RECOVERY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-294(a)(3) reads as rewritten:

"(3) Develop and adopt rules to establish standards for qualification as a 'recycling, reduction or resource recovering facility' or as 'recycling, reduction or resource recovering equipment' for the purpose of special tax classifications or treatment, and to certify as qualifying those applicants which meet the established standards. The standards shall be developed to qualify only those facilities and equipment exclusively used in the actual waste recycling, reduction or resource recovering process and shall exclude any incidental or supportive facilities and ~~equipment;~~ equipment. The following limitations apply to an applicant that is not a large recycling facility or a major recycling facility, qualified under G.S. 105-129.26:

a. Facilities or equipment acquired by the applicant or a related person more than two years before the date application is made for certification under this subdivision shall not be certified as qualifying for special tax classification or treatment under this subdivision.

b. A certificate that qualifies real property for special tax classification or treatment under this subdivision is limited to three years after the date the certificate is issued and shall not be renewed or reissued for that applicant or a related person.

For purposes of this subdivision, 'related person' means a related person as determined under section 267(b) or 707(b) of the Internal Revenue Code."

Section 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1290

Short Title: Limit Recycling Tax Incentives. (Public)

Sponsors: Representative Luebke.

Referred to: Finance.

April 19, 1999

A BILL TO BE ENTITLED

AN ACT TO REMOVE THE SPECIAL TAX TREATMENT FOR EQUIPMENT AND FACILITIES FOR RECYCLING, WASTE REDUCTION, OR RESOURCE RECOVERY WHEN ACQUIRED MORE THAN TWO YEARS PRIOR TO THE DATE OF APPLICATION FOR CERTIFICATION BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND TO LIMIT TO THREE YEARS THE CERTIFICATION FOR SPECIAL TAX TREATMENT FOR REAL PROPERTY USED FOR RECYCLING, WASTE REDUCTION, OR RESOURCE RECOVERY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-294(a)(3) reads as rewritten:

"(3) Develop and adopt rules to establish standards for qualification as a 'recycling, reduction or resource recovering facility' or as 'recycling, reduction or resource recovering equipment' for the purpose of special tax classifications or treatment, and to certify as qualifying those applicants which meet the established standards. The standards shall be developed to qualify only those facilities and equipment exclusively used in the actual waste recycling, reduction or resource recovering process and shall exclude any incidental or supportive facilities and ~~equipment;~~ equipment. Facilities or equipment acquired by the applicant or a related person more than two years prior to the date application is made for certification under this subdivision shall not be certified as qualifying for special tax classification or treatment under this

subdivision. A certificate that qualifies real property for special tax classification or treatment under this subdivision shall be limited to three years from the date the certificate is issued and shall not be renewed or reissued for that applicant or a related person. For purposes of this subdivision, 'related person' means a related person as determined under section 267(b) or 707(b) of the Internal Revenue Code."

Section 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 1999.

HOUSE BILL 1290:
Limit Recycling Tax Incentives

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Luebke
Date:	June 17, 1999	**Summary by:**	Cindy Avrette
Version:	PCS for 1st Edition H1290-CSLC-5/6		Committee Counsel

SUMMARY: House Bill 1290 limits the special tax treatment for certain equipment and facilities used for recycling, waste reduction, or resource recovery so that the tax benefit is realized by companies starting in the business. It limits the tax incentives in two ways:

- *A taxpayer must apply to the Department of Environment and Natural Resources within two years after the facility or equipment is acquired to be certified for the special tax treatment.*
- *The property tax exemption for real property is limited to three years after the date the certification is issued.*

The proposed committee substitute exempts a large recycling facility or a major recycling facility qualified under G.S. 105-129.26 from the limitations imposed by this bill. The bill becomes effective for taxes imposed for taxable years beginning on or after July 1, 2000.

CURRENT LAW: In 1975, the General Assembly provided several tax benefits for capital investments in recycling and resource recovering facilities or equipment to encourage recycling, reduction, and resource recovery. Resource recovering is the process of obtaining material or energy resources from solid waste or the process of collecting, sorting, or otherwise preparing solid waste for reuse or recycling. Recycling is the process by which materials that have been recovered from solid waste are transformed into new products in such a manner that the original materials lose their identity.

To qualify for the special tax treatment, a taxpayer must obtain a certificate from the Department of Environment & Natural Resources certifying that the facility or equipment has actually been purchased, installed, or constructed, that it is in conformance with all DENR rules, and that recycling or resource recovery is the primary purpose of the facility or equipment. The special tax benefits include:

- **Franchise tax.** A corporation may deduct the cost of purchasing, constructing, and installing recycling and resource recovering facilities and equipment from its surplus and undivided profits. The franchise tax is levied on the total amount of a corporation's capital stock, surplus, and undivided profits. *G.S. 105-122(b)*
- **Corporate income tax.** In lieu of a depreciation allowance, a corporation may choose to amortize the cost of purchasing, constructing, and installing recycling and resource recovering facilities and equipment over a 60 months period. If a corporation chooses to amortize its costs, it may deduct any amortization taken in excess of the depreciation allowed under the Code from its federal taxable income for the purposes of deriving its North Carolina taxable income. *G.S. 105-130.10(2); G.S. 105-130.5(b)(6)*

- **Property tax.** Recycling and resource recovering facilities and equipment are excluded from property tax. *G.S. 105-275(8)b.* A taxpayer must apply for the exemption during the January listing period. After the exemption has been approved, the owner does not need to file an application in subsequent years unless something happens necessitating a change in the valuation of the property, use of the property, or eligibility for the exemption.

In 1998, the General Assembly provided tax incentives for "large" and "major" recycling facilities located in Tier One counties at the time of initial construction. A recycling facility is a plant that manufactures products, most of which are made from at least 50% post-consumer waste material. A large recycling facility is one that will involve at least $150 million in new investment and 155 new jobs within a two-year period. A major recycling facility is one that will involve at least $300 million in new investment and 250 new jobs within a four-year period. One of the tax incentives given to major recycling facilities is an expanded version of the existing property tax exemption for property used for recycling. Under general law, to qualify for exemption, the property must be used exclusively for recycling and have recycling as its primary purpose. Effective beginning with the 1999-2000 property tax year, major recycling facilities may qualify for the tax exemption if the property is used predominantly for recycling and has recycling as a purpose. The Department of Environment and Natural Resources determined that these changes would be necessary to prevent a major recycling facility from being disqualified because it adds fillers or other materials to the post-consumer waste material when manufacturing products.

BILL ANALYSIS: With the exception of the tax benefits for large and major recycling facilities, the proposed committee substitute for House Bill 1290 tightens the special tax treatment afforded to facilities, equipment, and property used primarily for the purpose of recycling or resource recovery of or from solid waste. The bill limits the credit in two ways:

- It requires a taxpayer to apply for certification for the tax incentives within two years of the date the facility or equipment is acquired. If the application is made later than two years after the facility or equipment is acquired, the Department will not certify it as qualifying for the tax incentives.
- It provides that the property tax exemption for real property that qualifies for the exemption is limited to three years after the date the certificate is issued. The certification for the exemption cannot be renewed or reissued for that applicant or a related person. A related person is defined in the Code to include all of the following:
  - Two corporations that are members of the same controlling group.
  - An S corporation and another S corporation if the same persons own more than 50% in value of the outstanding stock of each corporation.
  - An S corporation and a C corporation, if the same persons own more than 50% in value of the outstanding stock of each corporation.
  - An individual and a corporation more than 50% in value of the outstanding stock of which is owned, directly or indirectly, by or for the individual.
  - A partnership and a person owning, directly or indirectly, more than 50% of the capital interest, or the profits interests, in the partnership.
  - Two partnerships in which the same persons own, directly or indirectly, more than 50% of the capital interests or profits interests.

FISCAL ANALYSIS MEMORANDUM

DATE: June 16, 1999

TO: House Finance Committee

FROM: Dave Crotts
Fiscal Research Division

RE: PCS for HB 1290 (Limit Recycling Tax Incentives)

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

See "Assumptions and Methodology"

PRINCIPAL DEPARTMENTAFFECTED: Department of Environment and Natural Resources

EFFECTIVE DATE: Taxable years beginning on or after July 1, 2000.

BILL SUMMARY: Removes special corporate income, franchise, and property tax treatment for equipment and facilities used for recycling, waste reduction, or resource recovery when the property is acquired more than 2 years prior to the application date for certification by the Department of Environment and Natural Resources. In addition, the bill limits the certification of real property for special tax treatment to 3 years and the certificate shall not be renewed or reissued for that applicant or a related person.

ASSUMPTIONS AND METHODOLOGY: The enactment of the bill will increase state general fund and local government revenues in future years by an unknown amount (at this time there is no data on the total cost of the special treatment). In addition, discussions with representatives of the Department of Environment and Natural Resources indicate that the bill will reduce the number of certificate applications.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 55
Finance Committee Substitute Adopted 6/2/99
Third Edition Engrossed 6/7/99
PROPOSED HOUSE COMMITTEE SUBSTITUTE
S55-PCSSC-001

ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION.

Short Title: Revenue Laws Technical Changes. (Public)

Sponsors:

Referred to:

February 9, 1999

A BILL TO BE ENTITLED

AN ACT TO CONFORM THE TAX BASE OF THE REGIONAL TRANSIT AUTHORITY VEHICLE RENTAL TAX TO THE TAX BASE OF THE ALTERNATE HIGHWAY USE TAX ON SHORT-TERM VEHICLE RENTALS, AND TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE REVENUE LAWS AND RELATED STATUTES.

The General Assembly of North Carolina enacts:

PART I. MODIFICATION OF THE VEHICLE RENTAL TAX.

Section 1. G.S. 105-550 reads as rewritten:

"**§ 105-550. Definitions.**

The definitions in G.S. 105-164.3 and the following definitions apply in this Article:

(1) Authority. -- A regional public transportation authority or a regional transportation authority created pursuant to Article 26 or Article 27 of Chapter 160A of the General Statutes.

(2) Long-term lease or rental. -- Defined in G.S. 105-187.1.

(2a) Motor vehicle. -- Defined in G.S. 105-164.3.

(3) Motorcycle. -- Defined in G.S. 20-4.01.

(4) Repealed by Session Laws 1998-98, s. 33.

(5) Public transportation system. -- Any combination of real and personal property established for purposes of public transportation. The systems may include one or more of the following: structures, improvements, buildings, equipment, vehicle parking or passenger transfer facilities, railroads and railroad rights-of-way, rights-of-way, bus services, shared-ride services, high-occupancy vehicle facilities, carpool and vanpool programs, voucher programs, telecommunications and information systems, integrated fare systems, bus lanes, and busways. The term does not include, however, streets, roads, or highways except to the extent they are dedicated to public transportation vehicles or to the extent they are necessary for access to vehicle parking or passenger transfer facilities.

(6) Short-term lease or rental. -- A lease or rental that is not a long-term lease or rental.

~~(7) U-drive-it passenger vehicle. -- Defined in G.S. 20-4.01.~~"

Section 2. G.S. 105-551(a) reads as rewritten:

"(a) Tax. -- The board of trustees of an Authority may levy a privilege tax on a retailer who is engaged in the business of leasing or renting ~~U-drive-it passenger vehicles or motorcycles~~ motor vehicles based on the gross receipts derived by the retailer from the short-term lease or rental of these vehicles. The tax rate must be a percentage and may not exceed five percent (5%). A tax levied under this section applies to short-term leases or rentals made by a retailer whose place of business or inventory is located within the territorial jurisdiction of the Authority. This tax is in addition to all other taxes."

Section 3. G.S. 105-552(b) reads as rewritten:

"(b) Collection. -- A tax levied by an Authority under this Article shall be collected by the Authority but shall otherwise be administered in the same manner as the optional gross receipts tax levied by G.S. 105-187.5. Like the optional gross receipts tax, a tax levied under this Article is to be added to the lease or rental price of a ~~U-drive-it passenger vehicle or motorcycle~~ motor vehicle and thereby be paid by the person to whom it is leased or rented.

A tax levied under this Article applies regardless of whether the retailer who leases or rents the ~~U-drive-it passenger vehicle~~

~~or motorcycle~~ motor vehicle has elected to pay the optional gross receipts tax on the lease or rental receipts from the vehicle. A tax levied under this Article must be paid to the Authority that levied the tax by the date an optional gross receipts tax would be payable to the Secretary of Revenue under G.S. 105-187.5 if the retailer who leases or rents the ~~U-drive-it passenger vehicle or motorcycle~~ motor vehicle had elected to pay the optional gross receipts tax."

Section 4. This Part becomes effective July 1, 1999, and applies to contracts entered into on or after that date.

PART II. REVENUE LAWS TECHNICAL CHANGES.

Section 5. Section 7 of S.L. 1998-158 reads as rewritten:

"Section 7. ~~Section 5 of this act is effective for taxable years beginning on or after October 1, 1998. The remainder of this~~ This act is effective when it becomes law."

Section 6. G.S. 1C-1601(a)(9) reads as rewritten:

"(a) Exempt property. -- Each individual, resident of this State, who is a debtor is entitled to retain free of the enforcement of the claims of ~~his~~ creditors:

. . .

(9) Individual retirement ~~accounts as described in Section 408(a) of the Internal Revenue Code, individual retirement annuities as described in Section 408(b) of the Internal Revenue Code, and accounts established as part of a trust described in Section 408(c) of~~ plans as defined in the Internal Revenue Code and any plan treated in the same manner as an individual retirement plan under the Internal Revenue Code. For purposes of this subdivision, 'Internal Revenue Code' means Code as defined in G.S. 105-228.90."

Section 7.(a) G.S. 10A-4(b) reads as rewritten:

"(b) A person qualified for a notarial commission shall meet all of the following requirements:

(1) Be at least 18 years of age.

(2) Reside or work in this State.

(3) Satisfactorily complete a course of study that is approved by the Secretary and consists of not less than three hours nor more than six hours of classroom instruction provided by community colleges throughout the State, unless the person is a licensed member of the Bar of this State.

(4) Purchase and keep as a reference a manual approved by the Secretary that describes the duties, authority, and ethical responsibilities of notaries public.
(5) Submit an application containing no significant misstatement or omission of fact. The application form shall be provided by the Secretary and be available at the register of deeds office in each county. Every application shall bear the signature of the applicant written with pen and ink, and the signature shall be acknowledged by the applicant before a person authorized to administer oaths. The applicant shall also obtain the recommendation of one publicly elected official in North Carolina whose recommendation shall be contained on the application.
(6) Pay a nonrefundable fee of ~~twenty-five dollars ($25.00).~~ thirty dollars ($30.00)."

Section 7.(b) G.S. 10A-7(a) reads as rewritten:

"(a) The course of study required by G.S. 10A-4(b) shall be taught by an instructor certified in accordance with rules adopted by the Secretary. An instructor must meet the following requirements to be certified to teach a course of study for notaries public:
(1) Complete and pass a six-hour instructor's course taught by the Director or other person approved by the Secretary.
(2) Have six months of active experience as a notary public.
(3) Maintain a current commission as a notary public.
(4) Purchase the current notary public guidebook.
(5) Pay a nonrefundable fee of fifty dollars ($50.00).
~~thirty dollars ($30.00) thirty dollars ($30.00)~~"

Section 7.(c) This section becomes effective July 1, 1999.

Section 8. G.S. 28A-21-2(a) reads as rewritten:

"(a) Unless the time for filing the final account has been extended by the clerk of superior court, the personal representative or collector must file ~~his~~ the final account for settlement within one year ~~of his qualification~~ after qualifying or within six months after ~~his receipt of the State~~ receiving a State estate or inheritance tax release, whichever is later. If no estate or inheritance tax return was required to be filed for the ~~estate under G.S. 105-23 because the estate met the~~

~~requirements of subsection (b) of that section,~~ estate, the personal representative or collector shall so certify in the final account filed with the clerk of superior court. Such certification shall list the amount and value of all of the decedent's property, and with respect to real estate, its particular location within or outside the State, including any property transferred by the decedent over which ~~he~~ the decedent had retained any ~~interest as described in G.S. 105-2(a)(3),~~ interest, or any property transferred within three years prior to the date of the decedent's death, and after being filed and accepted by the clerk of the superior court shall be prima facie evidence that such property is free of any State inheritance or State estate tax liability. The personal representative or collector shall produce vouchers for all payments or verified proof for all payments in lieu of vouchers. With the approval of the clerk of superior court, such account may be filed voluntarily at any time. In all cases, the accounting shall be reviewed, audited and recorded by the clerk of superior court in the manner prescribed in G.S. 28A-21-1."

Section 9. G.S. 29-13 reads as rewritten:

"**§ 29-13. Descent and distribution upon intestacy.**

All the estate of a person dying intestate shall descend and be distributed, subject to the payment of costs of administration and other lawful claims against the estate, and subject to the payment ~~by the recipient~~ of State inheritance or estate taxes, as provided in this Chapter."

Section 10. G.S. 29-20 reads as rewritten:

"**§ 29-20. Descent and distribution upon intestacy of illegitimate children.**

All the estate of a person dying illegitimate and intestate shall descend and be distributed, subject to the payment of costs of administration and other lawful claims against ~~his~~ the estate, and subject to the payment ~~by the recipient~~ of State inheritance or estate taxes, as provided in this Article."

Section 11. G.S. 36A-100(c) reads as rewritten:

"(c) A person having the right to designate the beneficiary under a life insurance policy, employee benefit plan or group life insurance policy described in subsection (a) or (b) of this section may designate as such beneficiary a trustee named or to be named in his will whether or not the will is in existence at the time of the designation. The proceeds received by the trustee shall be held and disposed of as part of the trust estate under the terms of the will as they exist at the death of the testator. If no qualified trustee makes claim to the proceeds within six

months after the death of the decedent or if within that period it is established that no trustee can qualify to receive the proceeds, payments shall be made to the personal representative of the estate of the person making the designation unless it is otherwise provided by an alternative designation or by the policy or plan. The proceeds received by the trustee shall not be subject to claims against the estate of the decedent or to estate or inheritance taxes to any greater extent than if the proceeds were payable directly to the beneficiary or beneficiaries named in the trust. The proceeds may be commingled with any other assets which may properly become part of such trust, but the proceeds shall not become part of the decedent's estate for purposes of trust administration unless the will of the decedent expressly so provides."

Section 12. G.S. 36A-125(a) reads as rewritten:

"(a) If at any time the trustee of a noncharitable irrevocable trust determines in good faith that the value of the assets held in trust is ten thousand dollars ($10,000) or less, and the continuance of the trust pursuant to its terms in relation to the cost of its administration would defeat or substantially impair the accomplishment of the purposes of the trust, the trustee, without approval of the court, may, but is not required to, terminate the trust and distribute the trust property, including principal and undistributed income, to the beneficiaries in a manner which conforms as nearly as possible to the intention of the settlor as determined by the trustee from the trust agreement; provided, however, that the trust property, including principal and undistributed income, shall be distributed to the income beneficiary of the trust if the trust otherwise qualifies for the marital deduction for federal estate tax or North Carolina estate or inheritance tax purposes, or is a Qualified Subchapter S Trust as defined in the Internal Revenue Code. The trustee may enter into an agreement or make such other provisions that the trustee deems necessary or appropriate to protect the interests of the beneficiaries and to carry out the intent and purpose of the trust."

Section 13. G.S. 41-2.1(f) reads as rewritten:

"(f) This section does not repeal or modify any provisions of the law relating to estate or inheritance taxes."

Section 14. G.S. 41-2.2(d) reads as rewritten:

"(d) This section does not repeal or modify any provisions of the law relating to estate or inheritance taxes."

Section 15. G.S. 41-2.5(d) reads as rewritten:

"(d) ~~Nothing herein contained shall be construed to repeal or modify any of the provisions of Article 1 of Chapter 105 relating to the administration of the inheritance tax laws or any other provision of the law relating to~~ This section does not repeal or modify any provisions of the law relating to estate or inheritance taxes."

Section 16. G.S. 93B-15 reads as rewritten:

"**§ 93B-15. Payment of license fees by members of the armed forces.**

An individual who is serving in the armed forces of the United States and to whom G.S. 105-249.2 grants an extension of time to file a tax return is granted an extension of time to pay any license fee charged by an occupational licensing board ~~or~~ as a condition of retaining a license granted by the board. The extension is for the same period that would apply if the license fee were a tax."

Section 17. G.S. 105-32.8 reads as rewritten:

"**§ 105-32.8. Federal determination that changes the amount of tax payable to the State.**

If the federal government corrects or otherwise determines the amount of the maximum state death tax credit allowed an estate under section 6166 of the Code, the personal representative must, within two years after being notified of the correction or final determination by the federal government, file an estate tax return with the Secretary reflecting the correct amount of tax payable under this Article. If the federal government corrects or otherwise determines the amount of the maximum state generation-skipping transfer tax credit allowed under section 2604 of the Code, the person who made the transfer must, within two years after being notified of the correction or final determination by the federal government, file a tax return with the Secretary reflecting the correct amount of tax payable under this Article.

The Secretary must assess and collect any additional tax due as provided in Article 9 of this Chapter and must refund any overpayment of tax as provided in Article 9 of this Chapter. A person who fails to report a federal correction or determination in accordance with this section ~~is subject to the penalties in G.S. 105-236 and~~ forfeits the right to any refund due by reason of the determination."

Section 18.(a) G.S. 105-37.1 reads as rewritten:

"~~**§ 105-37.1. (Effective July 1, 1999) Amusements -- Forms of amusement not otherwise taxed.**~~

~~(a) Every person engaged in the business of giving, offering, or managing any form of entertainment or amusement not otherwise taxed under this Article, for which an admission is charged, shall pay a tax upon the gross receipts of the business at the rate of three percent (3%). Reports shall be made to the Secretary within the first 10 days of each month covering all the gross receipts for the previous month, and the tax shall be paid monthly at the time the reports are made.~~

~~Every person giving, offering, or managing any dance or athletic contest of any kind, except high school and elementary school athletic contests, for which an admission fee in excess of fifty cents (50¢) is charged, shall pay a tax upon the gross receipts derived from admission charges at the rate of three percent (3%). The tax upon gross receipts shall be levied and collected as prescribed by the Secretary.~~

~~(b) Counties shall not levy any license tax on the business taxed under this section, but cities may levy a license tax not in excess of twenty-five dollars ($25.00).~~

~~(c), (d) Repealed by Session Laws 1998-95, s. 4, effective July 1, 1999.~~

§ 105-37.1. (Effective July 1, 1999) Dances, athletic events, shows, exhibitions, and other entertainments.

(a) Scope. -- A privilege tax is imposed on the gross receipts of a person who is engaged in any of the following:

(1) Giving, offering, or managing a dance or an athletic contest for which an admission fee in excess of fifty cents (50¢) is charged.

(2) Giving, offering, or managing a form of amusement or entertainment that is not taxed by another provision of this Article and for which an admission fee is charged.

(3) Exhibiting a performance, show, or exhibition, such as a circus or dog show, that is not taxed by another provision of this Article.

(b) Rate and Payment. -- The rate of the privilege tax is three percent (3%) of the gross receipts from the activities described in subsection (a) of this section. The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the gross receipts received during the previous month.

(c) Advance Report. -- A person who owns or controls a performance, show, or exhibition subject to the tax imposed by this section and who plans to bring the performance to this State from outside the State must file a statement with the Secretary

that lists the dates, times, and places of the performance, show, or exhibition. The statement must be filed no less than five days before the first performance, show, or exhibition in this State.

(d) Local Taxes. -- Cities may levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section; however, the tax may not exceed twenty-five dollars ($25.00). Cities may levy a license tax on a person taxed under subdivision (a)(3) of this section; however, the tax may not exceed twenty-five dollars ($25.00) for each day or part of a day the performance, show, or exhibition is given at each location.

Counties may not levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section. Counties may levy a license tax on a person taxed under subdivision (a)(3) to the same extent as a city."

Section 18.(b) G.S. 105-38 is repealed.

Section 18.(c) This section becomes effective July 1, 1999.

Section 19.(a) G.S. 105-38.1 reads as rewritten:

"**§ 105-38.1. ~~Amusements -~~ Motion picture shows.**

~~(a) Tax. --~~A privilege tax at the rate of one percent (1%) is imposed on the gross receipts of a person who is engaged in the business of operating a motion picture show for which an admission is charged. The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the gross receipts received during the previous month. If a person offers an entertainment or amusement that includes both a motion picture taxable under this section and an entertainment or amusement taxable under ~~G.S. 105-37.1 or G.S. 105-38,~~ G.S. 105-37.1, the tax in ~~G.S. 105-37.1 or G.S. 105-38, as appropriate,~~ that statute applies to the entire gross receipts and the tax levied in this section does not apply.

~~(b) Exemption. -- Gross receipts from a motion picture show promoted and managed by a qualifying corporation that operates a center for the performing and visual arts is exempt from the tax imposed under this section if the motion picture is shown at the center and if the showing of motion pictures is not the primary purpose of the center. As used in this subsection, "qualifying corporation" and "center for the performing and visual arts" have the same meaning as in G.S. 105-40.~~"

Section 19.(b) G.S. 105-40(7) reads as rewritten:

"(7) All ~~dances~~ dances, motion picture shows, and other amusements promoted and managed by a qualifying corporation that operates a center for the

performing and visual arts if the dance or other amusement is held at the center. "Qualifying corporation" means a corporation that is exempt from income tax under G.S. 105-130.11(a)(3). "Center for the performing and visual arts" means a facility, having a fixed location, that provides space for dramatic performances, studios, classrooms, and similar accommodations to organized arts groups and individual artists. This exemption does not apply to athletic events."

Section 19.(c) This section becomes effective July 1, 1999.

Section 20. G.S. 105-109.1 is repealed.

Section 21. G.S. 105-113 is repealed.

Section 22. G.S. 105-113.27(c) reads as rewritten:

"(c) The possession of more than six hundred cigarettes ~~bearing the tax stamp of~~ on which tax has been paid to another state or country, by any person other than a licensed distributor, ~~shall be~~ is prima facie evidence that the cigarettes are possessed in violation of this Part."

Section 23. G.S. 105-113.106(4c) reads as rewritten:

"(4c) Low-street-value drug. -- Any of the following controlled substances:

a. An anabolic steroid as defined in G.S. 90-91(k).

b. A depressant described in ~~G.S. 90-89(d), 90-90(d),~~ G.S. 90-89(4), 90-90(4), 90-91(b), or 90-92(a).

c. A hallucinogenic substance described in ~~G.S. 90-89(c) or G.S. 90-90(e).~~ G.S. 90-89(3) or G.S. 90-90(5).

d. A stimulant described in ~~G.S. 90-89(e), 90-90(c),~~ G.S. 90-89(5), 90-90(3), 90-91(j), ~~90-92(d),~~ 90-92(a)(3), or ~~90-93(a)3.~~ 90-93(a)(3).

e. A controlled substance described in G.S. 90-91(c), (d), or (e), ~~90-92(c), (e), or (f),~~ 90-92(a)(3), or (a)(5), or 90-93(a)1.

Section 24. G.S. 105-114(b)(2) reads as rewritten:

"(b) Definitions. -- The following definitions apply in this Article:

. . .

(2) Corporation. -- A domestic corporation, a foreign corporation, an electric membership corporation

organized under Chapter 117 of the General Statutes or doing business in this State, or an association that is organized for pecuniary gain, has capital stock represented by shares, whether with or without par value, and has privileges not possessed by individuals or partnerships. The term includes a mutual or capital stock savings and loan association or building and loan association chartered under the laws of any state or of the United States. The term does not include a limited liability company."

Section 25. G.S. 105-122(c)(1) reads as rewritten:

"(c) (1) After ascertaining and determining the amount of its capital stock, surplus and undivided profits, as provided herein, every corporation permitted to allocate and apportion its net income for income tax purposes under the provisions of Article 4 of this Chapter shall apportion said capital stock, surplus and undivided profits to this State through use of the fraction computed for apportionment of its business income under said Article. A corporation that is subject to franchise tax under this Article but is not subject to income tax under Article 4 of this Chapter must apportion its capital stock, surplus, and undivided profits to this State by using the apportionment formula that would apply to the corporation if it were subject to Article 4.

Provided, that although a corporation is authorized by the Tax Review Board to apportion its business income by use of an alternative formula or method, the corporation may not use such alternative formula or method for apportioning its capital stock, surplus and undivided profits unless specifically authorized to do so by order of the Tax Review Board.

Provided, further, that a corporation which is required to pay an income tax to this State on its entire net income shall apportion its entire capital stock, surplus and undivided profits to this State."

Section 26. G.S. 105-130.16 reads as rewritten:

"**§ 105-130.16. Returns.**

(a) Return. -- Every corporation doing business in this State ~~shall file with the Secretary of Revenue~~ must file with the Secretary an income tax return ~~under affirmation,~~ showing ~~therein~~ specifically the items of gross income and the deductions allowed by this ~~Part,~~ Part and ~~such other facts as the Secretary may require for the purpose of making~~ any other facts the Secretary requires to make any computation required by this Part. The return of a corporation ~~shall be signed by either~~ must be signed by its president, vice-president, treasurer, assistant treasurer, ~~secretary~~ secretary, or assistant secretary. ~~There shall be annexed to the return the affirmation of the officer signing the same, which shall be in the form prescribed in G.S. 105-130.17 of this Part, and the same penalties prescribed in G.S. 105-236 shall apply to any person making wilful misstatements in said returns.~~ The officer signing the return must furnish an affirmation verifying the return. The affirmation must be in the form required by the Secretary.

(b) Correction of Distortions. -- When the Secretary ~~of Revenue~~ has reason to believe that any corporation so conducts its trade or business in such manner as to either directly or indirectly distort its true net income and the net income properly attributable to the State, whether by the arbitrary shifting of income, through price fixing, charges for service, or otherwise, whereby the net income is arbitrarily assigned to one or another unit in a group of taxpayers carrying on business under a substantially common control, ~~he may require such facts as he deems~~ the Secretary may require any facts the Secretary considers necessary for the proper computation of the entire net income and the net income properly attributable to the State, and in determining ~~same the Secretary of Revenue shall~~ these computations, the Secretary must have regard to the fair profit ~~which~~ that would normally arise from the conduct of the trade or business.

(c) Other Corrections. -- When any corporation liable to taxation under this Part conducts its business in such a manner as to either directly or indirectly benefit the members or stockholders thereof or any person interested in ~~such~~ the business by selling its products or goods or commodities in which it deals at less than the fair price which might be obtained therefor, or ~~where~~ when a corporation, a substantial portion of whose capital stock is owned either directly or indirectly by another corporation, acquires and disposes of the products of the corporation so owning a substantial portion of its stock in such a manner as to create a loss or improper net income for either of

~~said~~ the corporations, or ~~where~~ when a corporation, owning directly or indirectly a substantial portion of the stock of another corporation, acquires and disposes of the products of the corporation of which it so owns a substantial portion of the stock in such manner as to create a loss or improper net income for either of ~~said~~ the corporations, the Secretary ~~of Revenue~~ may determine the amount of taxable income of ~~any~~ the such corporations for the calendar or fiscal year, having due regard to the reasonable profits which, but for such arrangement or understanding, might or could have been obtained by the ~~corporation or~~ corporations liable to taxation under this Part from dealing in such products, goods or commodities."

Section 27. G.S. 105-130.33(a) reads as rewritten:

"(a) Any corporation that constructs or installs a hydroelectric generator with a capacity of at least three kilowatts (3KW) at an existing dam or free flowing stream located in this State shall be allowed a credit against the tax imposed by this Part equal to ten percent (10%) of the installation and equipment costs of the hydroelectric generator paid during the taxable year. The credit allowed under this section may not exceed five thousand dollars ($5,000) for any single installation. No credit is allowed, however, to the extent that any of the costs of the system were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the site at the time the hydroelectric generator is installed. The credit allowed by this section may not exceed the amount of the tax imposed by this Part for the taxable year reduced by the sum of all credits ~~allowable under this Part,~~ allowable, except payments of tax made by or on behalf of the taxpayer."

Section 28. G.S. 105-131.7(d) reads as rewritten:

"(d) The agreements required to be filed pursuant to subsection (c) of this section shall be filed at the following times:

(1) At the time the annual return is required to be filed for the first taxable period for which the S Corporation becomes subject to the provisions of this ~~Division; and~~ Part.

(2) At the time the annual return is required to be filed for any taxable period in which the corporation has a nonresident shareholder on whose behalf such an agreement has not been previously filed."

Section 29. G.S. 105-152(e) reads as rewritten:

"(e) Joint Returns. -- A husband and wife shall file a single income tax return jointly if (i) their federal taxable income is determined on a joint federal return and (ii) both spouses are residents of this State or both spouses have North Carolina taxable income. Except as otherwise provided in this Part, a wife and husband filing jointly are treated as one taxpayer for the purpose of determining the tax imposed by this Part. A husband and wife filing jointly are jointly and severally liable for the tax imposed by this Part reduced by the sum of all credits allowable including tax payments made by or on behalf of the husband and wife. However, if a spouse has been relieved of liability for federal tax attributable to a substantial understatement by the other spouse pursuant to section ~~6013~~ 6015 of the Code, that spouse is not liable for the corresponding tax imposed by this Part attributable to the same substantial understatement by the other spouse. A wife and husband filing jointly have expressly agreed that if the amount of the payments made by them with respect to the taxes for which they are liable, including withheld and estimated taxes, exceeds the total of the taxes due, refund of the excess may be made payable to both spouses jointly or, if either is deceased, to the survivor alone."

Section 30. G.S. 105-154(c) reads as rewritten:

"(c) Information Returns of Partnerships. -- A partnership doing business in this State and required to file a return under the Code shall file an information return with the Secretary. A partnership that the Secretary believes to be doing business in this State and to be required to file a return under the Code shall file an information return when requested to do so by the Secretary. The information return shall contain all information required by the Secretary. It shall state specifically the items of the partnership's gross income, the deductions allowed under the Code, and the adjustments required by this Part. The information return shall also include the name and address of each person who would be entitled to share in the partnership's net income, if distributable, and the amount each person's distributive share would be. The information return shall specify the part of each person's distributive share of the net income that represents corporation dividends. The information return shall be signed by one of the partners under affirmation in the form ~~prescribed in G.S. 105-155.~~ required by the Secretary.

A partnership that files an information return under this subsection shall furnish to each person who would be entitled to

share in the partnership's net income, if distributable, any information necessary for that person to properly file a State income tax return. The information shall be in the form prescribed by the Secretary and must be furnished on or before the due date of the information return."

Section 31. G.S. 105-163.011 reads as rewritten:

"**§ 105-163.011. (Repealed effective for investments made on or after January 1, 2003) Tax credits allowed.**

(a) No Credit for Brokered Investments. -- No credit is allowed under this section for a purchase of equity securities or subordinated debt if a broker's fee or commission or other similar remuneration is paid or given directly or indirectly for soliciting the purchase.

(b) Individuals. -- Subject to the limitations contained in G.S. 105-163.012, an individual who purchases the equity securities or subordinated debt of a qualified business venture or a qualified grantee business directly from that business is allowed as a credit against the tax imposed by Part 2 of this Article for the taxable year an amount equal to twenty-five percent (25%) of the amount invested. The aggregate amount of credit allowed an individual for one or more investments in a single taxable year under this ~~Division,~~ Part, whether directly or indirectly as owner of a pass-through entity, may not exceed fifty thousand dollars ($50,000). The credit may not be taken for the year in which the investment is made but shall be taken for the taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in subsection (c) of this section.

(b1) Pass-Through Entities. -- This subsection does not apply to a pass-through entity that has committed capital under management in excess of five million dollars ($5,000,000) or to a pass-through entity that is a qualified grantee business, a qualified business venture, or a North Carolina Enterprise Corporation. Subject to the limitations provided in G.S. 105-163.012, a pass-through entity that purchases the equity securities or subordinated debt of a qualified grantee business or a qualified business venture directly from the business is eligible for a tax credit equal to twenty-five percent (25%) of the amount invested. The aggregate amount of credit allowed a pass-through entity for one or more investments in a single taxable year under this ~~Division,~~ Part, whether directly or indirectly as owner of another pass-through entity, may not exceed seven hundred fifty thousand dollars ($750,000). The pass-through entity is not eligible for the credit for the year

in which the investment by the pass-through entity is made but shall be eligible for the credit for the taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in subsection (c) of this section.

Each individual who is an owner of a pass-through entity is allowed as a credit against the tax imposed by Part 2 of this Article for the taxable year an amount equal to the owner's allocated share of the credits for which the pass-through entity is eligible under this subsection. The aggregate amount of credit allowed an individual for one or more investments in a single taxable year under this ~~Division,~~ Part, whether directly or indirectly as owner of a pass-through entity, may not exceed fifty thousand dollars ($50,000).

If an owner's share of the pass-through entity's credit is limited due to the maximum allowable credit under this section for a taxable year, the pass-through entity and its owners may not reallocate the unused credit among the other owners.

(c) Application. -- To be eligible for the tax credit provided in this section, the taxpayer must file an application for the credit with the Secretary on or before April 15 of the year following the calendar year in which the investment was made. The Secretary may grant extensions of this deadline, as the Secretary finds appropriate, upon the request of the taxpayer, except that the application may not be filed after September 15 of the year following the calendar year in which the investment was made. An application is effective for the year in which it is timely filed. The application shall be on a form prescribed by the Secretary and shall include any supporting documentation that the Secretary may require. If an investment for which a credit is applied for was paid for other than in money, the taxpayer shall include with the application a certified appraisal of the value of the property used to pay for the investment. The application for a credit for an investment made by a pass-through entity must be filed by the pass-through entity.

(d) Penalties. -- The penalties provided in G.S. 105-236 apply in this ~~Division.~~ Part."

Section 32.(a) G.S. 105-164.3(8b) is recodified as G.S. 105-164.3(8c) and reads as rewritten:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article, except when the context clearly indicates a different meaning:

. . .

~~(8b)~~ (8c) "Motor vehicle" means a vehicle that is designed primarily for use upon the highways

and is either self-propelled or propelled by a self-propelled vehicle, but does not include:

a. A ~~moped as defined in G.S. 20-4.01(27)(d1).~~ moped.

b. Special mobile ~~equipment as defined in G.S. 20-4.01(44).~~ equipment.

c. A tow dolly that is exempt from motor vehicle title and registration requirements under G.S. 20-51(10) or (11).

d. A farm tractor or other implement of husbandry.

e. A manufactured home, a mobile office, or a mobile classroom.

f. Road construction or road maintenance machinery or equipment."

Section 32.(b) G.S. 105-164.3 is amended by adding the following new subdivisions in the appropriate alphabetical order:

"(8b) Moped. -- A vehicle that has two or three wheels, no external shifting device, and a motor that does not exceed 50 cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than 20 miles per hour on a level surface.

. . .

(16b) Special mobile equipment. -- Any of the following:

a. A vehicle that has a permanently attached crane, mill, well-boring apparatus, ditch-digging apparatus, air compressor, electric welder, feed mixer, grinder, or other similar apparatus is driven on the highway only to get to and from a nonhighway job and is not designed or used primarily for the transportation of persons or property.

b. A vehicle that has permanently attached special equipment and is used only for parade purposes.

c. A vehicle that is privately owned, has permanently attached fire-fighting equipment, and is used only for fire-fighting purposes.

d. A vehicle that has permanently attached playground equipment and is used only for playground purposes."

Section 32.(c) G.S. 20-4.01(21a) reads as rewritten:

"(21a) Moped. -- A type of passenger vehicle as defined in ~~G.S. 20-4.01(27).~~ G.S. 105-164.3."

Section 32.(d) G.S. 20-4.01(27)d1. reads as rewritten:

"d1. Moped. -- ~~A vehicle that has two or three wheels, no external shifting device, and a motor that does not exceed 50 cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than 20 miles per hour on a level surface.~~ Defined in G.S. 105-164.3."

Section 32.(e) G.S. 20-4.01(44) reads as rewritten:

"(44) Special Mobile Equipment. -- ~~Any of the following:~~

~~a. A vehicle that has a permanently attached crane, mill, well-boring apparatus, ditch-digging apparatus, air compressor, electric welder, feed mixer, grinder, or other similar apparatus, is driven on the highway only to get to and from a nonhighway job, and is not designed or used primarily for the transportation of persons or property.~~

~~b. A vehicle that has permanently attached special equipment and is used only for parade purposes.~~

~~c. A vehicle that is privately owned, has permanently attached fire-fighting equipment, and is used only for fire-fighting purposes.~~

~~d. A vehicle that has permanently attached playground equipment and is used only for playground purposes.~~ Defined in G.S. 105-164.3."

Section 33. G.S. 105-164.4(a)(4) reads as rewritten:

"**§ 105-164.4. Tax imposed on retailers.**

(a) **(Effective July 1, 1999)** A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four percent (4%).

. . .

(4) Every person engaged in the business of operating a dry cleaning, pressing, or hat-blocking establishment, a laundry, or any similar business, engaged in the business of renting clean linen or towels or wearing apparel, or any similar business, or engaged in the business of soliciting cleaning, pressing, hat blocking, laundering or linen rental

business for any of these businesses, is considered a retailer under this Article. A tax at the general rate of tax is levied on the gross receipts derived by these retailers from services rendered in engaging in any of the occupations or businesses named in this subdivision. The tax imposed by this subdivision does not apply to receipts derived from ~~coin- or token-operated~~ coin, token, or card-operated washing machines, extractors, and dryers. The tax imposed by this subdivision does not apply to gross receipts derived from services performed for resale by a retailer that pays the tax on the total gross receipts derived from the services."

Section 34. G.S. 105-164.4(c) reads as rewritten:

"(c) Certificate of Registration. -- Before a person may engage in business as a retailer or a wholesale merchant, the person must obtain a certificate of registration from the Department. To obtain a certificate of registration, a person must register with the Department and pay fifteen dollars ($15.00).

A certificate of registration is valid unless it is revoked for failure to comply with the provisions of this Article or becomes void. A certificate issued to a retailer who makes taxable sales becomes void if, for a period of 18 months, the retailer files no returns or files returns showing no sales."

Section 35. G.S. 105-164.13(4d) reads as rewritten:

"(4d) The lease or rental of ~~burlap~~ tobacco sheets used in handling tobacco in the warehouse and transporting tobacco to and from the warehouse."

Section 36.(a) G.S. 105-187.43 reads as rewritten:

"**§ 105-187.43. (Effective July 1, 1999) Payment of the tax.**

(a) ~~Monthly Return.~~ Payment. -- The tax imposed by this Article is payable monthly to the Secretary. A monthly tax payment is due by the last day of the month that follows the month in which the tax accrues. The tax imposed by this Article on piped natural gas delivered to a sales or transportation customer accrues when the gas is delivered. The tax payable on piped natural gas received by a person who has direct access to an interstate pipeline for consumption by that person accrues when the gas is received.

(b) Small Underpayments. -- A person is not subject to interest on or penalties for an underpayment of a monthly amount due if the person timely pays at least ninety-five percent (95%) of the

amount due and includes the underpayment with the next return the person files.

(c) Return. -- A return is due quarterly. A quarterly return covers a calendar quarter and is due by the last day of the month that follows the quarter covered by the return."

Section 36.(b) G.S. 105-187.44 reads as rewritten:

"**§ 105-187.44. (Effective July 1, 1999) Distribution of part of tax proceeds to cities.**

(a) City Information. -- A ~~monthly~~ quarterly return filed under this Article must indicate the amount of tax attributable to the following:

(1) Piped natural gas delivered during the ~~month~~ quarter to sales or transportation customers in each city in the State.

(2) Piped natural gas received during the ~~month~~ quarter in each city in the State by persons who have direct access to an interstate gas pipeline and who receive the gas for their own consumption.

If a tax return does not state this information, the Secretary must determine how much of the tax proceeds are to be attributed to each city.

(b) Distribution. -- Within 75 days after the end of each calendar quarter, the Secretary must distribute to the cities part of the tax proceeds collected under this Article during that quarter. The amount to be distributed to a city is one-half of the amount of tax attributable to that city for that quarter under subsection (a) of this section."

Section 37. G.S. 105-194 reads as rewritten:

"**§ 105-194. Death of donor within three years; time of assessment.**

~~Where~~ If a donor dies within three years after filing a return, gift taxes may be assessed at any time within ~~said~~ those three years, or on or before the date of final settlement of the donor's State estate or inheritance taxes, whichever is later."

Section 38. G.S. 105-253(a) reads as rewritten:

"(a) Any officer, trustee, or receiver of any corporation or limited liability company required to file a report with the Secretary who has custody of funds of the corporation or company and who allows the funds to be paid out or distributed to the stockholders of the corporation or to the members of the company without having remitted to the Secretary any State taxes that are due is personally liable for the payment of the tax."

Section 39.(a) G.S. 105-275 is amended by adding a new subdivision to read:

"(41) Objects of art held by the North Carolina State Art Society, Incorporated."

Section 39.(b) G.S. 140-15 reads as rewritten:

"~~§ 140-15. Exemption from taxes.~~

~~All gifts made to the North Carolina State Art Society, Incorporated, shall be exempt from State gift and inheritance taxes, and objects of art held by the Society shall be exempt from ad valorem taxes.~~"

Section 40. G.S. 105-449.37(a)(1a) reads as rewritten:

"**§ 105-449.37. Definitions; tax liability.**

(a) Definitions. -- The following definitions apply in this Article:

...

(1a) Motor vehicle. -- A motor vehicle as defined in ~~G.S. 20-4.01(23),~~ G.S. 105-164.3(8c), other than special mobile equipment as defined in ~~G.S. 20-4.01(44).~~ G.S. 105-164.3(16b)."

Section 41. G.S. 105-449.39 reads as rewritten:

"**§ 105-449.39. Credit for payment of motor fuel tax.**

Every motor carrier subject to the tax levied by this Article is entitled to a credit on its quarterly report for tax paid by the carrier on fuel purchased in the State. ~~A motor carrier who files a quarterly report is entitled to a credit at a rate equal to~~ The amount of the credit is determined using the flat cents-per-gallon rate plus the variable cents-per-gallon rate of tax in effect during the quarter ~~for which the credit is claimed. A motor carrier who files an annual report is entitled to a credit at a rate equal to the flat cents-per-gallon rate plus the average of the two variable cents-per-gallon rates of tax in effect during the year for which the credit is claimed.~~ covered by the report. To obtain a credit, the motor carrier must furnish evidence satisfactory to the Secretary that the tax for which the credit is claimed has been paid.

If the amount of a credit to which a motor carrier is entitled for a ~~reporting period~~ quarter exceeds the motor carrier's liability for that ~~reporting period,~~ quarter, the Secretary must refund the excess to the motor carrier."

Section 42. G.S. 105-449.42 reads as rewritten:

"**§ 105-449.42. Payment of tax.**

The tax levied by this Article is due when a motor carrier files a quarterly ~~or an annual~~ report under G.S. 105-449.45. The amount of tax due ~~shall be~~ is calculated ~~upon~~ on the amount of ~~gasoline or other~~ motor fuel or alternative fuel used by the

motor carrier in its operations within this State during the ~~reporting period~~ quarter covered by the report."

Section 43. G.S. 105-449.44(a) reads as rewritten:

" (a) Calculation. -- The amount of ~~gasoline or other~~ motor fuel ~~used in the operations of any motor carrier within this State shall be such proportion of the total amount of such gasoline or other motor fuel used in its entire operations within and without this State as the total number of miles traveled within this State bears to the total number of miles traveled within and without this State.~~ or alternative fuel a motor carrier carries in its operations in this State for a reporting period is the ratio of the number of miles the motor carrier travels in this State during that period to the total number of miles the motor carrier travels inside and outside this State during that period, multiplied by the total amount of fuel the motor carriers uses in its operations inside and outside the State during that period."

Section 44. G.S. 105-449.45 reads as rewritten:

"**§ 105-449.45. Reports of carriers.**

(a) ~~Quarterly~~ Report. -- A motor carrier ~~shall~~ must report its operations to the Secretary on a quarterly basis unless ~~this subsection~~ subsection (b) of this section exempts the motor carrier from this ~~requirement or permits the motor carrier to report on a different basis. A motor carrier is not required to file a quarterly report if:~~

~~(1) All the motor carrier's operations during the quarter were made under a temporary permit issued under G.S. 105-449.49.~~

~~(2) The motor carrier is an intrastate motor carrier, as indicated on the motor carrier's application for registration with the Secretary.~~

~~(3) The motor carrier has been granted permission to file an annual report under subsection (b).~~

requirement. A quarterly report covers a calendar quarter and is due by the last day in April, July, October, and January.

(b) Exemptions. -- A motor carrier is not required to file a quarterly report if any of the following applies:

(1) All the motor carrier's operations during the quarter were made under a temporary permit issued under G.S. 105-449.49.

(2) The motor carrier is an intrastate motor carrier, as indicated on the motor carrier's application for registration with the Secretary.

~~Annual Report. -- The Secretary may authorize a motor carrier whose estimated annual tax liability under this Article does not exceed two hundred dollars ($200.00) to file an annual report of its operations. The tax liability of a motor carrier that files an annual report shall be computed at a rate equal to the flat cents-per-gallon rate plus the average of the two cents-per-gallon rates in effect during the year for which the liability is computed.~~

~~An annual report covers a fiscal year beginning on July 1 and ending on the following June 30 and is due by July 31 after the end of a fiscal year. To file an annual report, a motor carrier must apply to the Secretary for permission to file on an annual basis. An application must be submitted by the date set by the Secretary. Once granted permission, a motor carrier may continue to file an annual report until notified by the Secretary to file a quarterly report.~~

(c) Other Reports. -- A motor carrier ~~shall~~ must file with the Secretary other reports concerning its operations that the Secretary requires.

(d) Penalties. -- A motor carrier that fails to file a report under this section by the required date is subject to a penalty of fifty dollars ($50.00)."

Section 45. G.S. 105-449.47 reads as rewritten:

"**§ 105-449.47. Registration of vehicles.**

(a) Requirement. -- A motor carrier that is subject to the International Fuel Tax Agreement may not operate or cause to be operated in this State any vehicle listed in the definition of motor vehicle unless both the motor carrier and the motor vehicle are registered with the motor carrier's base state jurisdiction. A motor carrier that is not subject to the International Fuel Tax Agreement may not operate or cause to be operated in this State any vehicle listed in the definition of motor ~~carrier~~ vehicle unless both the motor carrier and the motor vehicle are registered with the Secretary for purposes of the tax imposed by this Article.

~~Upon application,~~ When the Secretary ~~shall register~~ registers a motor ~~carrier and shall~~ carrier, the Secretary must issue at least one identification marker for each motor vehicle operated by the motor carrier. Registrations and identification markers issued by the Secretary are for a calendar year. The Secretary may renew a registration or an identification marker without issuing a new registration or identification marker. All identification markers issued by the Secretary remain the property of the State. The Secretary may withhold or revoke a

registration or an identification marker when a motor carrier fails to comply with this Article, former Article 36 or 36A of this Subchapter, or Article 36C or 36D of this Subchapter.

A motor carrier must carry a copy of ~~the~~ its registration ~~of a motor carrier shall be carried~~ in each motor vehicle operated by the motor carrier when the vehicle is in this State. ~~An identification marker shall be clearly displayed at all times and shall~~ A motor vehicle must clearly display an identification marker at all times. The identification marker must be affixed to the vehicle for which it was issued in the place and manner designated by the ~~Secretary.~~ authority that issued it. ~~Registrations and identification markers required by this section shall be issued on a calendar year basis. The Secretary may renew a registration or an identification marker without issuing a new registration or identification marker. All identification markers issued by the Secretary remain the property of the State. The Secretary may withhold or revoke a registration or an identification marker when a motor carrier fails to comply with this Article or Article 36C or 36D of this Subchapter.~~

(b) Exemption. -- This section does not apply to the operation of a vehicle that is registered in another state and is operated temporarily in this State by a public utility, a governmental or cooperative provider of utility services, or a contractor for one of these entities for the purpose of restoring utility services in an emergency outage."

Section 46. G.S. 105-449.57 reads as rewritten:

§ 105-449.57. Cooperative agreements between jurisdictions.

(a) Authority. -- The Secretary may enter into cooperative agreements with other jurisdictions for exchange of information in administering the tax imposed by this Article. No agreement, arrangement, declaration, or amendment to an agreement is effective until stated in writing and approved by the Secretary.

(b) Content. -- An agreement may provide for determining the base state for motor carriers, records requirements, audit procedures, exchange of information, persons eligible for tax licensing, defining qualified motor vehicles, determining if bonding is required, specifying reporting requirements and periods, including defining uniform penalty and interest rates for late reporting, determining methods for collecting and forwarding of ~~gasoline or other~~ motor ~~fuel~~ carrier taxes and penalties to another jurisdiction, and ~~such~~ any other provisions ~~as~~ that will facilitate the administration of the agreement.

(c) Disclosure. -- In accordance with G.S. 105-259, the Secretary may, as required by the terms of an agreement, forward

to officials of another jurisdiction any information in the Department's possession relative to the use of ~~gasoline or other motor fuels~~ motor fuel or alternative fuel by any motor carrier. The Secretary may disclose to officials of another jurisdiction the location of offices, motor vehicles, and other real and personal property of motor carriers.

(d) Audits. -- An agreement may provide for each jurisdiction to audit the records of motor carriers based in the jurisdiction to determine if the ~~gasoline or other motor fuel~~ taxes due each jurisdiction are properly reported and paid. Each jurisdiction ~~shall~~ must forward the findings of the audits performed on motor carriers based in the jurisdiction to each jurisdiction in which the carrier has taxable use of ~~gasoline or other motor fuels.~~ motor fuel or alternative fuel. For motor carriers not based in this ~~State who have taxable use of gasoline or other motor fuels in this~~ State, the Secretary may utilize the audit findings received from another jurisdiction as the basis upon which to propose assessments of ~~gasoline or other motor fuel~~ taxes against the carrier as though the audit had been conducted by the Secretary. Penalties and interest ~~shall~~ must be assessed at the rates provided in the agreement.

No agreement entered into pursuant to this section may preclude the Department from auditing the records of any motor carrier covered by this Chapter.

The provisions of Article 9 of this Chapter apply to any assessment or order made under this section.

(e) Restriction. -- The Secretary may not enter into any agreement that would increase or decrease taxes and fees imposed under Subchapter V of Chapter 105 of the General ~~Statutes,~~ Statutes. ~~and any~~ Any provision to the contrary is void."

Section 47. G.S. 105-449.52(b) reads as rewritten:

"(b) Hearing. -- ~~Any person denying liability for a penalty imposed under this section must pay the penalty under protest and apply to the Department of Revenue for a hearing. Upon receiving a request for a hearing, the Secretary shall schedule a hearing before a duly designated employee or agent of the Department within 30 days after receipt of the request. If after the hearing the Department determines that the person was not liable for the penalty, the amount collected shall be refunded. If after the hearing the Department determines that the person was liable for the penalty, the person paying the penalty may bring an action in the Superior Court of Wake County against the Secretary of Revenue for refund of the penalty. No restraining order or injunction shall issue from any court of the State to restrain or~~

~~enjoin the collection of the penalty or to permit the operation of the vehicle without payment of the penalty.~~ The procedure set out in G.S. 105-449.119 for protesting a penalty imposed under Article 36C, Part 6, of this Chapter applies to a penalty imposed under this section."

Section 48. G.S. 105-449.119 reads as rewritten:

"**§ 105-449.119. Hearing on civil penalty assessment.**

A person who denies liability for a penalty imposed under this Part must pay the penalty under protest and make a written demand to the Department of Revenue for a refund. The written demand must be made within 30 days after the penalty is ~~imposed.~~ imposed and must explain why the person is not liable for the penalty. Upon receiving a demand for a refund, the Secretary ~~shall~~ must schedule a hearing on the matter before an employee or an agent of the Department. The hearing must be held within 30 days after receiving the written demand for a refund. If, after the hearing, the Department determines that the person was not liable for the penalty, the amount collected ~~shall~~ must be refunded. ~~If~~ If, after the ~~hearing~~ hearing, the Department determines that the person was liable for the penalty, the person paying the penalty may appeal the imposition of the penalty in accordance with G.S. 105-241.2, 105-241.3, and 105-241.4."

Section 49. G.S. 160A-31(e2), as enacted by S.L. 1999-19, as it applies to the Town of Huntersville, reads as rewritten:

"(e2) Annexation of property subject to annexation under subsection (e1) of this section shall become effective as to each tract of such property or such part thereof on the last day of the month in which that tract or part thereof becomes ineligible for classification pursuant to ~~G.S. 105-227.4~~ G.S. 105-277.4 and no longer meets the requirements of subdivision (e1)(2) of this section. Until annexation of a tract or a part of a tract becomes effective pursuant to this subsection, the tract or part of a tract is not subject to taxation by the city under Article 12 of Chapter 105 of the General Statutes, nor is the tract or part of the tract entitled to services provided by the city. When annexation becomes effective pursuant to this subsection as to a tract or part of a tract, the city shall provide all required services upon payment of city taxes."

Section 50. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the

amended or repealed statute before the effective date of its amendment or repeal.

Section 51. Except as otherwise provided in this act, this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 3

SENATE BILL 55
Finance Committee Substitute Adopted 6/2/99
Third Edition Engrossed 6/7/99

Short Title: Revenue Laws Technical Changes. (Public)

Sponsors:

Referred to:

February 9, 1999

A BILL TO BE ENTITLED

AN ACT TO CONFORM THE TAX BASE OF THE REGIONAL TRANSIT AUTHORITY VEHICLE RENTAL TAX TO THE TAX BASE OF THE ALTERNATE HIGHWAY USE TAX ON SHORT-TERM VEHICLE RENTALS, AND TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE REVENUE LAWS AND RELATED STATUTES.

The General Assembly of North Carolina enacts:

PART I. MODIFICATION OF THE VEHICLE RENTAL TAX.

Section 1. G.S. 105-550 reads as rewritten:

"**§ 105-550. Definitions.**

The definitions in G.S. 105-164.3 and the following definitions apply in this Article:

(1) Authority. -- A regional public transportation authority or a regional transportation authority created pursuant to Article 26 or Article 27 of Chapter 160A of the General Statutes.

(2) Long-term lease or rental. -- Defined in G.S. 105-187.1.

(2a) Motor vehicle. -- Defined in G.S. 105-164.3.

(3) Motorcycle. -- Defined in G.S. 20-4.01.

(4) Repealed by Session Laws 1998-98, s. 33.

(5) Public transportation system. -- Any combination of real and personal property established for purposes of public transportation. The systems may include one or more of the following: structures,

improvements, buildings, equipment, vehicle parking or passenger transfer facilities, railroads and railroad rights-of-way, rights-of-way, bus services, shared-ride services, high-occupancy vehicle facilities, carpool and vanpool programs, voucher programs, telecommunications and information systems, integrated fare systems, bus lanes, and busways. The term does not include, however, streets, roads, or highways except to the extent they are dedicated to public transportation vehicles or to the extent they are necessary for access to vehicle parking or passenger transfer facilities.

(6) Short-term lease or rental. -- A lease or rental that is not a long-term lease or rental.

~~(7) U-drive-it passenger vehicle. -- Defined in G.S. 20-4.01.~~"

Section 2. G.S. 105-551(a) reads as rewritten:

"(a) Tax. -- The board of trustees of an Authority may levy a privilege tax on a retailer who is engaged in the business of leasing or renting ~~U-drive-it passenger vehicles or motorcycles~~ motor vehicles based on the gross receipts derived by the retailer from the short-term lease or rental of these vehicles. The tax rate must be a percentage and may not exceed five percent (5%). A tax levied under this section applies to short-term leases or rentals made by a retailer whose place of business or inventory is located within the territorial jurisdiction of the Authority. This tax is in addition to all other taxes."

Section 3. G.S. 105-552(b) reads as rewritten:

"(b) Collection. -- A tax levied by an Authority under this Article shall be collected by the Authority but shall otherwise be administered in the same manner as the optional gross receipts tax levied by G.S. 105-187.5. Like the optional gross receipts tax, a tax levied under this Article is to be added to the lease or rental price of a ~~U-drive-it passenger vehicle or motorcycle~~ motor vehicle and thereby be paid by the person to whom it is leased or rented.

A tax levied under this Article applies regardless of whether the retailer who leases or rents the ~~U-drive-it passenger vehicle or motorcycle~~ motor vehicle has elected to pay the optional gross receipts tax on the lease or rental receipts from the vehicle. A tax levied under this Article must be paid to the Authority that levied the tax by the date an optional gross receipts tax would be payable to the Secretary of Revenue under G.S. 105-187.5 if the retailer who leases or rents the ~~U-drive-it passenger vehicle or motorcycle~~ motor vehicle had elected to pay the optional gross receipts tax."

Section 4. This Part becomes effective July 1, 1999, and applies to contracts entered into on or after that date.

PART II. REVENUE LAWS TECHNICAL CHANGES.

Section 5. Section 7 of S.L. 1998-158 reads as rewritten:

"Section 7. ~~Section 5 of this act is effective for taxable years beginning on or after October 1, 1998. The remainder of this~~ This act is effective when it becomes law."

Section 6. G.S. 1C-1601(a)(9) reads as rewritten:

"(a) Exempt property. -- Each individual, resident of this State, who is a debtor is entitled to retain free of the enforcement of the claims of ~~his~~ creditors:

. . .

(9) Individual retirement ~~accounts as described in Section 408(a) of the Internal Revenue Code, individual retirement annuities as described in Section 408(b) of the Internal Revenue Code, and accounts established as part of a trust described in Section 408(c) of~~ plans as defined in the Internal Revenue Code and any plan treated in the same manner as an individual retirement plan under the Internal Revenue Code. For purposes of this subdivision, 'Internal Revenue Code' means Code as defined in G.S. 105-228.90."

Section 7.(a) G.S. 10A-4(b) reads as rewritten:

"(b) A person qualified for a notarial commission shall meet all of the following requirements:

(1) Be at least 18 years of age.

(2) Reside or work in this State.

(3) Satisfactorily complete a course of study that is approved by the Secretary and consists of not less than three hours nor more than six hours of classroom instruction provided by community colleges throughout the State, unless the person is a licensed member of the Bar of this State.

(4) Purchase and keep as a reference a manual approved by the Secretary that describes the duties, authority, and ethical responsibilities of notaries public.

(5) Submit an application containing no significant misstatement or omission of fact. The application form shall be provided by the Secretary and be available at the register of deeds office in each county. Every application shall bear the signature of the applicant written with pen and ink, and the signature shall be acknowledged by the applicant before a person authorized to administer oaths. The applicant shall also obtain the recommendation of one publicly elected official in North Carolina whose recommendation shall be contained on the application.

(6) Pay a nonrefundable fee of ~~twenty-five dollars ($25.00).~~ thirty dollars ($30.00)."

Section 7.(b) G.S. 10A-7(a) reads as rewritten:

"(a) The course of study required by G.S. 10A-4(b) shall be taught by an instructor certified in accordance with rules adopted by the Secretary. An instructor must meet the following requirements to be certified to teach a course of study for notaries public:

(1) Complete and pass a six-hour instructor's course taught by the Director or other person approved by the Secretary.

(2) Have six months of active experience as a notary public.

(3) Maintain a current commission as a notary public.
(4) Purchase the current notary public guidebook.
(5) Pay a nonrefundable fee of fifty dollars ($50.00).

~~thirty dollars ($30.00) thirty dollars ($30.00)~~"

Section 7.(c) This section becomes effective July 1, 1999.

Section 8. G.S. 28A-21-2(a) reads as rewritten:

"(a) Unless the time for filing the final account has been extended by the clerk of superior court, the personal representative or collector must file ~~his~~ the final account for settlement within one year ~~of his qualification~~ after qualifying or within six months after ~~his receipt of the State~~ receiving a State estate or inheritance tax release, whichever is later. If no estate or inheritance tax return was required to be filed for the ~~estate under G.S. 105-23 because the estate met the requirements of subsection (b) of that section,~~ estate, the personal representative or collector shall so certify in the final account filed with the clerk of superior court. Such certification shall list the amount and value of all of the decedent's property, and with respect to real estate, its particular location within or outside the State, including any property transferred by the decedent over which ~~he~~ the decedent had retained any ~~interest as described in G.S. 105-2(a)(3),~~ interest, or any property transferred within three years prior to the date of the decedent's death, and after being filed and accepted by the clerk of the superior court shall be prima facie evidence that such property is free of any State inheritance or State estate tax liability. The personal representative or collector shall produce vouchers for all payments or verified proof for all payments in lieu of vouchers. With the approval of the clerk of superior court, such account may be filed voluntarily at any time. In all cases, the accounting shall be reviewed, audited and recorded by the clerk of superior court in the manner prescribed in G.S. 28A-21-1."

Section 9. G.S. 29-13 reads as rewritten:

"**§ 29-13. Descent and distribution upon intestacy.**

All the estate of a person dying intestate shall descend and be distributed, subject to the payment of costs of administration and other lawful claims against the estate, and subject to the payment ~~by the recipient~~ of State inheritance or estate taxes, as provided in this Chapter."

Section 10. G.S. 29-20 reads as rewritten:

"**§ 29-20. Descent and distribution upon intestacy of illegitimate children.**

All the estate of a person dying illegitimate and intestate shall descend and be distributed, subject to the payment of costs of administration and other lawful claims against ~~his~~ the estate, and subject to the payment ~~by the recipient~~ of State inheritance or estate taxes, as provided in this Article."

Section 11. G.S. 36A-100(c) reads as rewritten:

"(c) A person having the right to designate the beneficiary under a life insurance policy, employee benefit plan or group life insurance policy described in subsection (a) or (b) of this section may designate as such beneficiary a trustee named or to be named in his will whether or not the will is in existence at the time of the designation. The proceeds received by the trustee shall be held and disposed of as part of the trust estate under the terms of the will as they exist at the death of the

testator. If no qualified trustee makes claim to the proceeds within six months after the death of the decedent or if within that period it is established that no trustee can qualify to receive the proceeds, payments shall be made to the personal representative of the estate of the person making the designation unless it is otherwise provided by an alternative designation or by the policy or plan. The proceeds received by the trustee shall not be subject to claims against the estate of the decedent or to estate or inheritance taxes to any greater extent than if the proceeds were payable directly to the beneficiary or beneficiaries named in the trust. The proceeds may be commingled with any other assets which may properly become part of such trust, but the proceeds shall not become part of the decedent's estate for purposes of trust administration unless the will of the decedent expressly so provides."

Section 12. G.S. 36A-125(a) reads as rewritten:

"(a) If at any time the trustee of a noncharitable irrevocable trust determines in good faith that the value of the assets held in trust is ten thousand dollars ($10,000) or less, and the continuance of the trust pursuant to its terms in relation to the cost of its administration would defeat or substantially impair the accomplishment of the purposes of the trust, the trustee, without approval of the court, may, but is not required to, terminate the trust and distribute the trust property, including principal and undistributed income, to the beneficiaries in a manner which conforms as nearly as possible to the intention of the settlor as determined by the trustee from the trust agreement; provided, however, that the trust property, including principal and undistributed income, shall be distributed to the income beneficiary of the trust if the trust otherwise qualifies for the marital deduction for federal estate tax or North Carolina estate or inheritance tax purposes, or is a Qualified Subchapter S Trust as defined in the Internal Revenue Code. The trustee may enter into an agreement or make such other provisions that the trustee deems necessary or appropriate to protect the interests of the beneficiaries and to carry out the intent and purpose of the trust."

Section 13. G.S. 41-2.1(f) reads as rewritten:

"(f) This section does not repeal or modify any provisions of the law relating to estate or inheritance taxes."

Section 14. G.S. 41-2.2(d) reads as rewritten:

"(d) This section does not repeal or modify any provisions of the law relating to estate or inheritance taxes."

Section 15. G.S. 41-2.5(d) reads as rewritten:

"(d) ~~Nothing herein contained shall be construed to repeal or modify any of the provisions of Article 1 of Chapter 105 relating to the administration of the inheritance tax laws or any other provision of the law relating to~~ This section does not repeal or modify any provisions of the law relating to estate or inheritance taxes."

Section 16. G.S. 93B-15 reads as rewritten:

"**§ 93B-15. Payment of license fees by members of the armed forces.**

An individual who is serving in the armed forces of the United States and to whom G.S. 105-249.2 grants an extension of time to file a tax return is granted an extension of time to pay any license fee charged by an occupational licensing board

~~or~~ as a condition of retaining a license granted by the board. The extension is for the same period that would apply if the license fee were a tax."

Section 17. G.S. 105-32.8 reads as rewritten:

"**§ 105-32.8. Federal determination that changes the amount of tax payable to the State.**

If the federal government corrects or otherwise determines the amount of the maximum state death tax credit allowed an estate under section 6166 of the Code, the personal representative must, within two years after being notified of the correction or final determination by the federal government, file an estate tax return with the Secretary reflecting the correct amount of tax payable under this Article. If the federal government corrects or otherwise determines the amount of the maximum state generation-skipping transfer tax credit allowed under section 2604 of the Code, the person who made the transfer must, within two years after being notified of the correction or final determination by the federal government, file a tax return with the Secretary reflecting the correct amount of tax payable under this Article.

The Secretary must assess and collect any additional tax due as provided in Article 9 of this Chapter and must refund any overpayment of tax as provided in Article 9 of this Chapter. A person who fails to report a federal correction or determination in accordance with this section ~~is subject to the penalties in G.S. 105-236 and~~ forfeits the right to any refund due by reason of the determination."

Section 18.(a) G.S. 105-37.1 reads as rewritten:

~~"§ 105-37.1. (Effective July 1, 1999) Amusements -- Forms of amusement not otherwise taxed.~~

~~(a) Every person engaged in the business of giving, offering, or managing any form of entertainment or amusement not otherwise taxed under this Article, for which an admission is charged, shall pay a tax upon the gross receipts of the business at the rate of three percent (3%). Reports shall be made to the Secretary within the first 10 days of each month covering all the gross receipts for the previous month, and the tax shall be paid monthly at the time the reports are made.~~

~~Every person giving, offering, or managing any dance or athletic contest of any kind, except high school and elementary school athletic contests, for which an admission fee in excess of fifty cents (50¢) is charged, shall pay a tax upon the gross receipts derived from admission charges at the rate of three percent (3%). The tax upon gross receipts shall be levied and collected as prescribed by the Secretary.~~

~~(b) Counties shall not levy any license tax on the business taxed under this section, but cities may levy a license tax not in excess of twenty-five dollars ($25.00).~~

~~(c), (d) Repealed by Session Laws 1998-95, s. 4, effective July 1, 1999.~~

§ 105-37.1. (Effective July 1, 1999) Dances, athletic events, shows, exhibitions, and other entertainments.

(a) Scope. -- A privilege tax is imposed on the gross receipts of a person who is engaged in any of the following:

(1) Giving, offering, or managing a dance or an athletic contest for which an admission fee in excess of fifty cents (50¢) is charged.

(2) Giving, offering, or managing a form of amusement or entertainment that is not taxed by another provision of this Article and for which an admission fee is charged.

(3) Exhibiting a performance, show, or exhibition, such as a circus or dog show, that is not taxed by another provision of this Article.

(b) Rate and Payment. -- The rate of the privilege tax is three percent (3%) of the gross receipts from the activities described in subsection (a) of this section. The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the gross receipts received during the previous month.

(c) Advance Report. -- A person who owns or controls a performance, show, or exhibition subject to the tax imposed by this section and who plans to bring the performance to this State from outside the State must file a statement with the Secretary that lists the dates, times, and places of the performance, show, or exhibition. The statement must be filed no less than five days before the first performance, show, or exhibition in this State.

(d) Local Taxes. -- Cities may levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section; however, the tax may not exceed twenty-five dollars ($25.00). Cities may levy a license tax on a person taxed under subdivision (a)(3) of this section; however, the tax may not exceed twenty-five dollars ($25.00) for each day or part of a day the performance, show, or exhibition is given at each location.

Counties may not levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section. Counties may levy a license tax on a person taxed under subdivision (a)(3) to the same extent as a city."

Section 18.(b) G.S. 105-38 is repealed.

Section 18.(c) This section becomes effective July 1, 1999.

Section 19.(a) G.S. 105-38.1 reads as rewritten:

"**§ 105-38.1. ~~Amusements~~ Motion picture shows.**

~~(a) Tax.~~ A privilege tax at the rate of one percent (1%) is imposed on the gross receipts of a person who is engaged in the business of operating a motion picture show for which an admission is charged. The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the gross receipts received during the previous month. If a person offers an entertainment or amusement that includes both a motion picture taxable under this section and an entertainment or amusement taxable under ~~G.S. 105-37.1 or G.S. 105-38,~~ G.S. 105-37.1, the tax in ~~G.S. 105-37.1 or G.S. 105-38, as appropriate,~~ that statute applies to the entire gross receipts and the tax levied in this section does not apply.

~~(b) Exemption. -- Gross receipts from a motion picture show promoted and managed by a qualifying corporation that operates a center for the performing and visual arts is exempt from the tax imposed under this section if the motion picture is shown at the center and if the showing of motion pictures is not the primary purpose of the center. As used in this subsection, "qualifying corporation" and "center for the performing and visual arts" have the same meaning as in G.S. 105-40.~~"

Section 19.(b) G.S. 105-40(7) reads as rewritten:

"(7) All ~~dances~~ dances, motion picture shows, and other amusements promoted and managed by a qualifying corporation that operates a center for the performing and visual arts if the dance or other amusement is held at the center. "Qualifying corporation" means a corporation that is exempt from income tax under G.S. 105-130.11(a)(3). "Center for the performing and visual arts" means a facility, having a fixed location, that provides space for dramatic performances, studios, classrooms, and similar accommodations to organized arts groups and individual artists. This exemption does not apply to athletic events."

Section 19.(c) This section becomes effective July 1, 1999.

Section 20. G.S. 105-109.1 is repealed.

Section 21. G.S. 105-113 is repealed.

Section 22. G.S. 105-113.27(c) reads as rewritten:

"(c) The possession of more than six hundred cigarettes ~~bearing the tax stamp of~~ on which tax has been paid to another state or country, by any person other than a licensed distributor, ~~shall be~~ is prima facie evidence that the cigarettes are possessed in violation of this Part."

Section 23. G.S. 105-114(b)(2) reads as rewritten:

"(b) Definitions. -- The following definitions apply in this Article:

. . .

(2) Corporation. -- A domestic corporation, a foreign corporation, an electric membership corporation organized under Chapter 117 of the General Statutes or doing business in this State, or an association that is organized for pecuniary gain, has capital stock represented by shares, whether with or without par value, and has privileges not possessed by individuals or partnerships. The term includes a mutual or capital stock savings and loan association or building and loan association chartered under the laws of any state or of the United States. The term does not include a limited liability company."

Section 24. G.S. 105-122(c)(1) reads as rewritten:

"(c) (1) After ascertaining and determining the amount of its capital stock, surplus and undivided profits, as provided herein, every corporation permitted to allocate and apportion its net income for income tax purposes under the provisions of Article 4 of this Chapter shall apportion said capital stock, surplus and undivided profits to this State through use of the fraction computed for apportionment of its business income under said Article. A corporation that is subject to franchise tax under this Article but is not subject to income tax under Article 4 of this Chapter must apportion its capital stock, surplus, and undivided profits to this State by using the apportionment formula that would apply to the corporation if it were subject to Article 4.

Provided, that although a corporation is authorized by the Tax Review Board to apportion its business income by use of an alternative formula or method, the corporation may not use such alternative formula or method for apportioning its capital stock, surplus and undivided profits unless specifically authorized to do so by order of the Tax Review Board.

Provided, further, that a corporation which is required to pay an income tax to this State on its entire net income shall apportion its entire capital stock, surplus and undivided profits to this State."

Section 25. G.S. 105-130.16 reads as rewritten:

"**§ 105-130.16. Returns.**

(a) Return. -- Every corporation doing business in this State ~~shall file with the Secretary of Revenue~~ must file with the Secretary an income tax return ~~under affirmation,~~ showing ~~therein~~ specifically the items of gross income and the deductions allowed by this ~~Part,~~ Part and ~~such other facts as the Secretary may require for the purpose of making~~ any other facts the Secretary requires to make any computation required by this Part. The return of a corporation ~~shall be signed by either~~ must be signed by its president, vice-president, treasurer, assistant treasurer, ~~secretary~~ secretary, or assistant secretary. ~~There shall be annexed to the return the affirmation of the officer signing the same, which shall be in the form prescribed in G.S. 105-130.17 of this Part, and the same penalties prescribed in G.S. 105-236 shall apply to any person making wilful misstatements in said returns.~~ The officer signing the return must furnish an affirmation verifying the return. The affirmation must be in the form required by the Secretary.

(b) Correction of Distortions. -- When the Secretary ~~of Revenue~~ has reason to believe that any corporation so conducts its trade or business in such manner as to either directly or indirectly distort its true net income and the net income properly attributable to the State, whether by the arbitrary shifting of income, through price fixing, charges for service, or otherwise, whereby the net income is arbitrarily assigned to one or another unit in a group of taxpayers carrying on business under a substantially common control, ~~he may require such facts as he deems~~ the Secretary may require any facts the Secretary considers necessary for the proper computation of the entire net income and the net income properly attributable to the State, and in determining ~~same the Secretary of Revenue shall~~ these computations, the Secretary must have regard to the fair profit ~~which~~ that would normally arise from the conduct of the trade or business.

(c) Other Corrections. -- When any corporation liable to taxation under this Part conducts its business in such a manner as to either directly or indirectly benefit the members or stockholders thereof or any person interested in ~~such~~ the business by selling its products or goods or commodities in which it deals at less than the fair price which might be obtained therefor, or ~~where~~ when a corporation, a substantial portion of whose capital stock is owned either directly or indirectly by another corporation, acquires and disposes of the products of the corporation so owning a

substantial portion of its stock in such a manner as to create a loss or improper net income for either of ~~said~~ the corporations, or ~~where~~ when a corporation, owning directly or indirectly a substantial portion of the stock of another corporation, acquires and disposes of the products of the corporation of which it so owns a substantial portion of the stock in such manner as to create a loss or improper net income for either of ~~said~~ the corporations, the Secretary ~~of Revenue~~ may determine the amount of taxable income of ~~any~~ the such corporations for the calendar or fiscal year, having due regard to the reasonable profits which, but for such arrangement or understanding, might or could have been obtained by the ~~corporation or~~ corporations liable to taxation under this Part from dealing in such products, goods or commodities."

Section 26. G.S. 105-130.33(a) reads as rewritten:

"(a) Any corporation that constructs or installs a hydroelectric generator with a capacity of at least three kilowatts (3KW) at an existing dam or free flowing stream located in this State shall be allowed a credit against the tax imposed by this Part equal to ten percent (10%) of the installation and equipment costs of the hydroelectric generator paid during the taxable year. The credit allowed under this section may not exceed five thousand dollars ($5,000) for any single installation. No credit is allowed, however, to the extent that any of the costs of the system were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the site at the time the hydroelectric generator is installed. The credit allowed by this section may not exceed the amount of the tax imposed by this Part for the taxable year reduced by the sum of all credits ~~allowable under this Part,~~ allowable, except payments of tax made by or on behalf of the taxpayer."

Section 27. G.S. 105-131.7(d) reads as rewritten:

"(d) The agreements required to be filed pursuant to subsection (c) of this section shall be filed at the following times:

(1) At the time the annual return is required to be filed for the first taxable period for which the S Corporation becomes subject to the provisions of this ~~Division; and~~ Part.

(2) At the time the annual return is required to be filed for any taxable period in which the corporation has a nonresident shareholder on whose behalf such an agreement has not been previously filed."

Section 28. G.S. 105-152(e) reads as rewritten:

"(e) Joint Returns. -- A husband and wife shall file a single income tax return jointly if (i) their federal taxable income is determined on a joint federal return and (ii) both spouses are residents of this State or both spouses have North Carolina taxable income. Except as otherwise provided in this Part, a wife and husband filing jointly are treated as one taxpayer for the purpose of determining the tax imposed by this Part. A husband and wife filing jointly are jointly and severally liable for the tax imposed by this Part reduced by the sum of all credits allowable including tax payments made by or on behalf of the husband and wife. However, if a spouse has

been relieved of liability for federal tax attributable to a substantial understatement by the other spouse pursuant to section ~~6013~~ 6015 of the Code, that spouse is not liable for the corresponding tax imposed by this Part attributable to the same substantial understatement by the other spouse. A wife and husband filing jointly have expressly agreed that if the amount of the payments made by them with respect to the taxes for which they are liable, including withheld and estimated taxes, exceeds the total of the taxes due, refund of the excess may be made payable to both spouses jointly or, if either is deceased, to the survivor alone."

Section 29. G.S. 105-154(c) reads as rewritten:

"(c) Information Returns of Partnerships. -- A partnership doing business in this State and required to file a return under the Code shall file an information return with the Secretary. A partnership that the Secretary believes to be doing business in this State and to be required to file a return under the Code shall file an information return when requested to do so by the Secretary. The information return shall contain all information required by the Secretary. It shall state specifically the items of the partnership's gross income, the deductions allowed under the Code, and the adjustments required by this Part. The information return shall also include the name and address of each person who would be entitled to share in the partnership's net income, if distributable, and the amount each person's distributive share would be. The information return shall specify the part of each person's distributive share of the net income that represents corporation dividends. The information return shall be signed by one of the partners under affirmation in the form ~~prescribed in G.S. 105-155.~~ required by the Secretary.

A partnership that files an information return under this subsection shall furnish to each person who would be entitled to share in the partnership's net income, if distributable, any information necessary for that person to properly file a State income tax return. The information shall be in the form prescribed by the Secretary and must be furnished on or before the due date of the information return."

Section 30. G.S. 105-163.011 reads as rewritten:

"§ 105-163.011. (Repealed effective for investments made on or after January 1, 2003) Tax credits allowed.

(a) No Credit for Brokered Investments. -- No credit is allowed under this section for a purchase of equity securities or subordinated debt if a broker's fee or commission or other similar remuneration is paid or given directly or indirectly for soliciting the purchase.

(b) Individuals. -- Subject to the limitations contained in G.S. 105-163.012, an individual who purchases the equity securities or subordinated debt of a qualified business venture or a qualified grantee business directly from that business is allowed as a credit against the tax imposed by Part 2 of this Article for the taxable year an amount equal to twenty-five percent (25%) of the amount invested. The aggregate amount of credit allowed an individual for one or more investments in a single taxable year under this ~~Division,~~ Part, whether directly or indirectly as owner of a pass-through entity, may not exceed fifty thousand dollars ($50,000). The credit may not be taken for the year in which the investment is made but shall be taken for the

taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in subsection (c) of this section.

(b1) Pass-Through Entities. -- This subsection does not apply to a pass-through entity that has committed capital under management in excess of five million dollars ($5,000,000) or to a pass-through entity that is a qualified grantee business, a qualified business venture, or a North Carolina Enterprise Corporation. Subject to the limitations provided in G.S. 105-163.012, a pass-through entity that purchases the equity securities or subordinated debt of a qualified grantee business or a qualified business venture directly from the business is eligible for a tax credit equal to twenty-five percent (25%) of the amount invested. The aggregate amount of credit allowed a pass-through entity for one or more investments in a single taxable year under this ~~Division,~~ Part, whether directly or indirectly as owner of another pass-through entity, may not exceed seven hundred fifty thousand dollars ($750,000). The pass-through entity is not eligible for the credit for the year in which the investment by the pass-through entity is made but shall be eligible for the credit for the taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in subsection (c) of this section.

Each individual who is an owner of a pass-through entity is allowed as a credit against the tax imposed by Part 2 of this Article for the taxable year an amount equal to the owner's allocated share of the credits for which the pass-through entity is eligible under this subsection. The aggregate amount of credit allowed an individual for one or more investments in a single taxable year under this ~~Division,~~ Part, whether directly or indirectly as owner of a pass-through entity, may not exceed fifty thousand dollars ($50,000).

If an owner's share of the pass-through entity's credit is limited due to the maximum allowable credit under this section for a taxable year, the pass-through entity and its owners may not reallocate the unused credit among the other owners.

(c) Application. -- To be eligible for the tax credit provided in this section, the taxpayer must file an application for the credit with the Secretary on or before April 15 of the year following the calendar year in which the investment was made. The Secretary may grant extensions of this deadline, as the Secretary finds appropriate, upon the request of the taxpayer, except that the application may not be filed after September 15 of the year following the calendar year in which the investment was made. An application is effective for the year in which it is timely filed. The application shall be on a form prescribed by the Secretary and shall include any supporting documentation that the Secretary may require. If an investment for which a credit is applied for was paid for other than in money, the taxpayer shall include with the application a certified appraisal of the value of the property used to pay for the investment. The application for a credit for an investment made by a pass-through entity must be filed by the pass-through entity.

(d) Penalties. -- The penalties provided in G.S. 105-236 apply in this ~~Division.~~ Part."

Section 31.(a) G.S. 105-164.3(8b) is recodified as G.S. 105-164.3(8c) and reads as rewritten:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article, except when the context clearly indicates a different meaning:

. . .

~~(8b)~~ (8c) "Motor vehicle" means a vehicle that is designed primarily for use upon the highways and is either self-propelled or propelled by a self-propelled vehicle, but does not include:

a. A ~~moped as defined in G.S. 20-4.01(27) (d1).~~ moped.

b. Special mobile ~~equipment as defined in G.S. 20-4.01(44).~~ equipment.

c. A tow dolly that is exempt from motor vehicle title and registration requirements under G.S. 20-51(10) or (11).

d. A farm tractor or other implement of husbandry.

e. A manufactured home, a mobile office, or a mobile classroom.

f. Road construction or road maintenance machinery or equipment."

Section 31.(b) G.S. 105-164.3 is amended by adding the following new subdivisions in the appropriate alphabetical order:

"(8b) Moped. -- A vehicle that has two or three wheels, no external shifting device, and a motor that does not exceed 50 cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than 20 miles per hour on a level surface.

. . .

(16b) Special mobile equipment. -- Any of the following:

a. A vehicle that has a permanently attached crane, mill, well-boring apparatus, ditch-digging apparatus, air compressor, electric welder, feed mixer, grinder, or other similar apparatus is driven on the highway only to get to and from a nonhighway job and is not designed or used primarily for the transportation of persons or property.

b. A vehicle that has permanently attached special equipment and is used only for parade purposes.

c. A vehicle that is privately owned, has permanently attached fire-fighting equipment, and is used only for fire-fighting purposes.

d. A vehicle that has permanently attached playground equipment and is used only for playground purposes."

Section 31.(c) G.S. 20-4.01(21a) reads as rewritten:

"(21a) Moped. -- A type of passenger vehicle as defined in ~~G.S. 20-4.01(27).~~ G.S. 105-164.3."

Section 31.(d) G.S. 20-4.01(27)d1. reads as rewritten:

"d1. Moped. -- ~~A vehicle that has two or three wheels, no external shifting device, and a motor that does not exceed 50 cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than 20 miles per hour on a level surface.~~ Defined in G.S. 105-164.3."

Section 31.(e) G.S. 20-4.01(44) reads as rewritten:

"(44) Special Mobile Equipment. -- ~~Any of the following:~~

~~a. A vehicle that has a permanently attached crane, mill, well boring apparatus, ditch digging apparatus, air compressor, electric welder, feed mixer, grinder, or other similar apparatus, is driven on the highway only to get to and from a nonhighway job, and is not designed or used primarily for the transportation of persons or property.~~

~~b. A vehicle that has permanently attached special equipment and is used only for parade purposes.~~

~~c. A vehicle that is privately owned, has permanently attached fire fighting equipment, and is used only for fire fighting purposes.~~

~~d. A vehicle that has permanently attached playground equipment and is used only for playground purposes.~~ Defined in G.S. 105-164.3."

Section 32. G.S. 105-164.4(a)(4) reads as rewritten:

"§ 105-164.4. Tax imposed on retailers.

(a) **(Effective July 1, 1999)** A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four percent (4%).

. . .

(4) Every person engaged in the business of operating a dry cleaning, pressing, or hat-blocking establishment, a laundry, or any similar business, engaged in the business of renting clean linen or towels or wearing apparel, or any similar business, or engaged in the business of soliciting cleaning, pressing, hat blocking, laundering or linen rental business for any of these businesses, is considered a retailer under this Article. A tax at the general rate of tax is levied on the gross receipts derived by these retailers from services rendered in engaging in any of the occupations or businesses named in this subdivision. The tax imposed by this subdivision does not apply to receipts derived from ~~coin or token-operated~~ coin, token, or card-operated washing machines, extractors, and dryers. The tax imposed by this subdivision does not apply to gross receipts derived from services performed for resale by a retailer that pays the tax on the total gross receipts derived from the services."

Section 33. G.S. 105-164.4(c) reads as rewritten:

"(c) Certificate of Registration. -- Before a person may engage in business as a retailer or a wholesale merchant, the person must obtain a certificate of registration from the Department. To obtain a certificate of registration, a person must register with the Department and pay fifteen dollars ($15.00).

A certificate of registration is valid unless it is revoked for failure to comply with the provisions of this Article or becomes void. A certificate ~~issued to a retailer~~ becomes void if, for a period of 18 months, the retailer or wholesale merchant to whom it was issued files no returns or files returns showing no sales."

Section 34. G.S. 105-164.13(4d) reads as rewritten:

"(4d) The lease or rental of ~~burlap~~ tobacco sheets used in handling tobacco in the warehouse and transporting tobacco to and from the warehouse."

Section 35.(a) G.S. 105-187.43 reads as rewritten:

"§ 105-187.43. (Effective July 1, 1999) Payment of the tax.

(a) ~~Monthly Return.~~ Payment. -- The tax imposed by this Article is payable monthly to the Secretary. A monthly tax payment is due by the last day of the month that follows the month in which the tax accrues. The tax imposed by this Article on piped natural gas delivered to a sales or transportation customer accrues when the gas is delivered. The tax payable on piped natural gas received by a person who has direct access to an interstate pipeline for consumption by that person accrues when the gas is received.

(b) Small Underpayments. -- A person is not subject to interest on or penalties for an underpayment of a monthly amount due if the person timely pays at least ninety-five percent (95%) of the amount due and includes the underpayment with the next return the person files.

(c) Return. -- A return is due quarterly. A quarterly return covers a calendar quarter and is due by the last day of the month that follows the quarter covered by the return."

Section 35.(b) G.S. 105-187.44 reads as rewritten:

"§ 105-187.44. (Effective July 1, 1999) Distribution of part of tax proceeds to cities.

(a) City Information. -- A ~~monthly~~ quarterly return filed under this Article must indicate the amount of tax attributable to the following:

(1) Piped natural gas delivered during the ~~month~~ quarter to sales or transportation customers in each city in the State.

(2) Piped natural gas received during the ~~month~~ quarter in each city in the State by persons who have direct access to an interstate gas pipeline and who receive the gas for their own consumption.

If a tax return does not state this information, the Secretary must determine how much of the tax proceeds are to be attributed to each city.

(b) Distribution. -- Within 75 days after the end of each calendar quarter, the Secretary must distribute to the cities part of the tax proceeds collected under this Article during that quarter. The amount to be distributed to a city is one-half of the amount of tax attributable to that city for that quarter under subsection (a) of this section."

Section 36. G.S. 105-194 reads as rewritten:

"**§ 105-194. Death of donor within three years; time of assessment.**

~~Where~~ If a donor dies within three years after filing a return, gift taxes may be assessed at any time within ~~said~~ those three years, or on or before the date of final settlement of the donor's State estate or inheritance taxes, whichever is later."

Section 37. G.S. 105-253(a) reads as rewritten:

"(a) Any officer, trustee, or receiver of any corporation or limited liability company required to file a report with the Secretary who has custody of funds of the corporation or company and who allows the funds to be paid out or distributed to the stockholders of the corporation or company without having remitted to the Secretary any State taxes that are due is personally liable for the payment of the tax."

Section 38.(a) G.S. 105-275 is amended by adding a new subdivision to read:

"(41) Objects of art held by the North Carolina State Art Society, Incorporated."

Section 38.(b) G.S. 140-15 reads as rewritten:

"~~**§ 140-15. Exemption from taxes.**~~

~~All gifts made to the North Carolina State Art Society, Incorporated, shall be exempt from State gift and inheritance taxes, and objects of art held by the Society shall be exempt from ad valorem taxes.~~"

Section 39. G.S. 160A-31(e2), as enacted by S.L. 1999-19, as it applies to the Town of Huntersville, reads as rewritten:

"(e2) Annexation of property subject to annexation under subsection (e1) of this section shall become effective as to each tract of such property or such part thereof on the last day of the month in which that tract or part thereof becomes ineligible for classification pursuant to ~~G.S. 105-227.4~~ G.S. 105-277.4 and no longer meets the requirements of subdivision (e1)(2) of this section. Until annexation of a tract or a part of a tract becomes effective pursuant to this subsection, the tract or part of a tract is not subject to taxation by the city under Article 12 of Chapter 105 of the General Statutes, nor is the tract or part of the tract entitled to services provided by the city. When annexation becomes effective pursuant to this subsection as to a tract or part of a tract, the city shall provide all required services upon payment of city taxes."

Section 40. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

Section 41. Except as otherwise provided in this act, this act is effective when it becomes law.

SENATE BILL 55:
Revenue Laws Technical Changes

BILL ANALYSIS

Committee: House Finance
Date: June 24, 1999
Version: PCS for 3rd Edition
S55-PCSSC-001

Introduced by: Senator Cochrane
Summary by: Martha Walston & Martha Harris, Staff Attorneys, and Mary Shuping, Research Assistant.

SUMMARY: ***Senate Bill 55 makes a number of technical and clarifying changes to various revenue laws and related statutes and makes one substantive change. The substantive change in Part I of the bill broadens the scope of the transit authority vehicle leasing tax to include more types of vehicles. Part II of the bill makes technical and clarifying changes, and was originally recommended by the Revenue Laws Study Commission.***

BILL ANALYSIS: **Part I of Senate Bill 55**, in sections 1 through 4, broadens the scope of the transit authority vehicle leasing tax to include more vehicles, effective July 1, 1999. Under current law, a regional public transportation authority or a regional transportation authority may levy a privilege tax on a retailer who leases or rents U-drive-it passenger vehicles or motorcycles. The tax rate may not exceed 5% of the gross receipts derived from the short-term (less than 365 continuous days) lease or rental of these vehicles. This tax is added to the lease or rental price and paid by the lessee. Senate Bill 55 broadens the scope of this tax to apply to all motor vehicles as defined in G.S. 105-164.3.

"Motor vehicle" means a vehicle that is designed primarily for use upon the highways and is either self-propelled or propelled by a self-propelled vehicle. Motor vehicle does not include the following: a moped, special mobile equipment, tow dolly exempt from title and registration requirements, implements of husbandry, a manufactured home, mobile office, or a mobile classroom, and road construction or road maintenance machinery or equipment.

"U-drive-it passenger vehicles" are passenger vehicles rented or leased and to be operated by the lessee. They do not include vehicles leased or rented to public school authorities for driver-training instruction. Passenger vehicles also do not include pickup trucks and other property hauling vehicles.

Part II. of Senate Bill 55 makes numerous technical and clarifying changes to the revenue laws and related statutes. The following table provides a section-by-section analysis of the proposed changes.

Section	Explanation
5	Corrects an incorrect effective date for the income tax treatment of enhanced wireless 911 fees.
6	Updates list of debtors' property that is retained free of creditors' claims, to add Roth IRAs to regular IRAs and to update terminology for regular IRAs.
7	Reinstates increase in notary commission fee from $25 to $30 that was enacted in the 1998 budget bill but was deleted inadvertently by another 1998 bill. This fee increase would become effective July 1, 1999.
8 – 15	Changes references to the inheritance tax, which was replaced with an estate tax effective for the estates of decedents dying on or after January 1, 1999.

16 Corrects a grammatical error by deleting the word "or" in G.S. 93B-15.

17 Deletes language in G.S. 105-32.8 that a person "is subject to the penalties in G.S. 105-236" when that person fails to report a federal correction or determination of the maximum state death tax credit allowed an estate or of the maximum state generation-skipping transfer tax credit allowed. Failure to report to the Secretary of Revenue would still result in forfeiture of the right to any refund due by reason of the determination. Since repeal of the inheritance tax laws, there are no penalties in G.S. 105-236 that apply to this section.

18 Combines G.S. 105-37.1(Amusements) and G.S. 105-38 (Amusements-Circuses and other traveling amusements) into one statute. These are the amusements subject to 3% gross receipts tax.

19 Clarifies that tax on motion picture shows is an admissions tax. This tax is imposed at the rate of 1% on gross receipts. Also moves the exemption language for certain motion pictures to the list of exemptions in G.S. 104-40 (Amusements exempt from tax).

20 Repeals G.S. 105-109.1 because it is no longer needed. This statute provides that interest will be assessed on the taxes on gross receipts levied on amusements in G.S. 105-37.1 and G.S. 105-38, the tax on installment paper dealers, and the tax on publishers of newsprint publications. This interest runs from the time these taxes were due until paid. This statute is no longer needed now that Article 9 (General Administration; Penalties and Remedies) applies to the privilege license statutes. This repeal also clarifies that interest applies to late payments of the 1% gross receipts tax on movies.

21 Repeals G.S. 105-113 because it is obsolete. This statute requires the sheriff of each county and clerk of the board of alderman of each city to make an annual report to the Secretary of Revenue containing the name and business of every person in his county or city required to obtain a State license under Article 2 of Chapter 105 of the General Statutes.

22 Clarifies that the possession of more than six hundred cigarettes <u>on which tax has been paid to</u> (was "bearing the tax stamp of") another state or country, by any person other than a licensed distributor, is prima facie evidence that the cigarettes are possessed in violation of the Article governing the tobacco products tax. The underlined language clarifies how the Department currently administers this Article. This change is needed because there are states that do not use stamps.

23 Updates the statutory cross-references in the Unauthorized Substance tax law.

24 Clarifies scope of franchise tax to include savings and loan associations, as enacted in 1998.

25 Clarifies that a corporation that owes franchise tax but not income tax must apportion its franchise tax using the apportionment formula that would apply to income tax if the corporation were subject to that tax. The law is silent on this issue, and this new language sets out the Department's position.

26 Removes references to repealed statutes and modernizes statutory language.

27 Restores the word "generator" which was inadvertently deleted in 1998.

28 Changes "Division" to "Part" to conform to new terms enacted in 1998.

29 Changes the reference to the Code section in G.S. 105-152(e). This statute concerns joint tax liability and the innocent spouse. In the IRS Restructuring Act of 1998, the Code section 6013(e) was deleted and substituted in section 6015.

30 Removes reference to repealed statute.

31 Changes "Division" to "Part" to conform to new terms enacted in 1998.

32 Transfers the definitions of "moped" and "special mobile equipment" from Chapter 20 to the sales tax statute in Chapter 105, and then places a cross-reference to the sales tax statute in Chapter 20. These items are subject to sales tax. The Department of Revenue, rather than the DMV, administers the sales tax on special mobile equipment.

33 Adds the term "card-operated" to the sales tax exemption from receipts derived from coin or token-operated washing machines, extractors, and dryers. New technology permits the use of credit and debit cards on this equipment, and the Department has administratively allowed the sales tax exclusion for equipment operated with cards.

34 Clarifies that the certificate of registration filed with the Department by a retailer who makes taxable sales is void if for a period of 18 months the retailer files no returns or files returns showing no sales. Some retailers make only wholesale sales or exempt sales. Those retailers do not need to file sales tax returns and their certificate should not be void because they fail to file a return for a period of 18 months. There was a similar provision in the law prior to its rewrite last session.

35 Deletes the word "burlap" from the reference to the sales tax exemption for the lease or rental of burlap tobacco sheets used in handling tobacco in the warehouse and transporting tobacco to and from the warehouse. This change is necessary because tobacco sheets are now made of other material.

36 Clarifies the filing requirement for the excise tax on piped natural gas. Payment is required monthly and a return is required quarterly. The Department is currently administering the filing requirement this way.

37 Changes references to the inheritance tax, which was replaced with an estate tax effective for the estates of decedents dying on or after January 1, 1999.

38 Adds reference to limited liability companies to conform to remainder of statute.

39 Revises and recodifies a statute that included redundant references to the taxability of property transferred to a tax-exempt nonprofit corporation.

40-46 Deletes references to "annual filing" of motor carrier reports and makes conforming changes to reflect quarterly reports to conform to administrative practice. The Department of Revenue does not allow annual filing because of International Fuel Tax Agreement requirements.

Changes are also made to the reference for gasoline and other motor fuel to "motor fuel and alternative fuel". These references were not changed when tax at the rack was enacted and need to be updated. Section 45 also conforms the registration of motor carriers with the current administrative practice.

47-48	Conforms motor fuel penalty hearing statute to other hearing procedure statutes. Also clarifies that a request for a hearing must explain why the person is not liable for the penalty.
49	Corrects an incorrect statute reference.
50	Savings clause
51	Effective date

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 55 (Senate Finance Committee Substitute)

SHORT TITLE: Revenue Laws Technical Changes

SPONSOR(S): Senators Cochrane, et al.

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Triangle Transit Authority	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000
General Fund Notary Fee	(See Assumptions and Methodology)				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of the Secretary of State, Department of Revenue, Triangle Transit Authority

EFFECTIVE DATE: Part I (Triangle Transit Authority) is effective July 1, 1999 and applies to contracts entered into on or after that date. Part II, section 7 (notary fee) becomes effective July 1, 1999. All remaining sections become effective when it becomes law.

BILL SUMMARY: Part one of the bill broadens the tax base for the Triangle Transit Authority's 5% gross receipts tax on rental vehicles. Part two of the bill makes numerous technical and conforming changes to the Revenue Laws and related statutes.

ASSUMPTIONS AND METHODOLOGY:

Part One – Triangle Transit Authority

Part one of the bill allows the Triangle Transit Authority to begin taxing the short-term rental of heavy trucks and trailers. G.S. 105 – 551 permits a regional public transportation authority or a regional transportation authority to levy a privilege tax of up to 5% on businesses leasing or renting U-drive-it passenger vehicles or motorcycles. This bill broadens the tax base for these authorities by striking the words "U-drive-it passenger vehicles or motorcycles" and replacing

them with the term "motor vehicles". A motor vehicles is defined in GS 105-164.3 as a vehicle "designed primarily for use upon the highways and is either self propelled or propelled by a self-propelled vehicle". A motor vehicle does not include a moped, special mobile equipment, tow dolly, farm tractor, or road construction equipment.

The Department of Revenue's Tax Research Division has determined that a 5% tax on the gross receipts of heavy truck and trailer rental businesses in Durham, Orange, and Wake counties will generate an additional $1 million in revenue each year for the Triangle Transit Authority. This estimate is based on highway use tax returns from four major truck and/or trailer leasing companies in the state that account for 75% of the business in this market. The tax returns are for the 8% gross receipts tax on short-term rentals these businesses pay to the state. Since Durham, Orange, and Wake counties have 12% of the population and motor vehicle registrations in North Carolina, it was assumed that 12% of the truck and trailer leasing business in the state is done in these three counties.

Part Two – Revenue Laws Technical Changes

Except for Section 7, the changes in this bill have no fiscal impact on the General Fund. Section 7 reinstates a $5 increase in the notary commission fee that was enacted by the 1998 General Assembly in SB 1366 (Chapter 212). Section 29A.9 of SB 1366 increased the nonrefundable fee for notarial commissions from $25 to $30. Unfortunately, SB 1552 (Chapter 228) was also enacted to make changes in the Notary Act and it did not increase the fee. When statute 10A-7 was codified, it was determined that the fee would remain $25 despite legislative intent to increase the fee.

The $5 notarial fee increase is estimated to generate the following revenue:

1999-2000	$74,635
2000-2001	76,665
2001-2002	78,750
2002-2003	80,890

Since this estimate was included in the budgeted revenues for 1998-99 and in future year projections, these revenues will not increase the budget. However, failure to pass this bill will result in the reduction of estimated General Fund revenues.

FISCAL RESEARCH DIVISION
733-4910
PREPARED BY: Richard Bostic

APPROVED BY: Tom Covington

DATE: Friday, June 04, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Senate Committee Substitute for
S.B. 1112 A BILL TO BE ENTITLED AN ACT TO PROMOTE ELECTRONIC COMMERCE BY REPEALING THE SALES TAX REGISTRATION FEE AND TO MAKE OTHER CHANGES TO THE TAX LAWS AND RELATED STATUTES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (#), ☐ ~~which changes the title,~~ unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1112
Finance Committee Substitute Adopted 6/14/99
Proposed House Committee Substitute S1112-PCSX3842-RB

Short Title: No Sales Tax Fee/Other Changes. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PROMOTE ELECTRONIC COMMERCE BY REPEALING THE SALES TAX REGISTRATION FEE AND TO MAKE OTHER CHANGES TO THE TAX LAWS AND RELATED STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.4(c) reads as rewritten:

"(c) Certificate of Registration. -- Before a person may engage in business as a retailer or a wholesale merchant, the person must obtain a certificate of registration from the Department. To obtain a certificate of registration, a person must register with the ~~Department and pay fifteen dollars ($15.00).~~ Department.

A certificate of registration is valid unless it is revoked for failure to comply with the provisions of this Article or becomes void. A certificate issued to a retailer becomes void if, for a period of 18 months, the retailer files no returns or files returns showing no sales."

Section 2. G.S. 105-88 reads as rewritten:

"**§ 105-88. Loan ~~agencies or brokers.~~ agencies.**

(a) Every person, firm, or corporation engaged in any of the following businesses must pay for the privilege of engaging in that business an annual tax of seven hundred fifty dollars ($750.00) for each location at which the business is conducted:

(1) The ~~the regular~~ business of making loans or lending money, accepting liens on, or contracts of assignments of, salaries or wages, or any part thereof, or other security or evidence of debt for

repayment of such loans in installment payment or ~~otherwise, and maintaining in connection with same any office or other located or established place for the conduct, negotiation, or transaction of such business and/or advertising or soliciting such business in any manner whatsoever, shall be deemed a loan agency, and shall apply for and procure from the Secretary of Revenue a State license for the privilege of transacting or negotiating such business at each office or place so maintained, and shall pay for such license a tax of seven hundred fifty dollars ($750.00).~~ otherwise.

(2) The business of check cashing regulated under Article 22 of Chapter 53 of the General Statutes.

(3) The business of pawnbroker regulated under Chapter 91A of the General Statutes.

(b) This section does not apply to banks, industrial banks, trust companies, savings and loan associations, cooperative credit unions, the business of negotiating loans on real estate as described in G.S. 105-41, ~~pawnbrokers lending or advancing money on specific articles of personal property,~~ or insurance premium finance companies licensed under Article 35 of Chapter 58 of the General Statutes. This section applies to those persons or concerns operating what are commonly known as loan companies or finance companies and whose business is as hereinbefore described, and those persons, firms, or corporations pursuing the business of lending money and taking as security for the payment of the loan and interest an assignment of wages or an assignment of wages with power of attorney to collect the amount due, or other order or chattel mortgage or bill of sale upon household or kitchen furniture. No real estate mortgage broker is required to obtain a privilege license under this section merely because the broker advances the broker's own funds and takes a security interest in real estate to secure the advances and when, at the time of the advance, the broker has already made arrangements with others for the sale or discount of the obligation at a later date and does so sell or discount the obligation within the period specified in the arrangement or extensions thereof; or when, at the time of the advance the broker intends to sell the obligation to others at a later date and does, within 12 months from date of initial advance, make arrangements with others for the sale of the obligation and does sell the obligation within the period specified in the arrangement or extensions thereof; or because the broker advances the broker's own funds in temporary financing directly involved in the production of permanent-type loans for sale to others; and no real estate mortgage broker whose mortgage lending operations are essentially as described above is required to obtain a privilege license under this section.

(c) At the time of making any such loan, the person, or officer of the firm or corporation making the ~~same,~~ loan, shall give to the borrower in writing in convenient form a statement showing the amount received by the borrower, the amount to be paid back by the borrower, ~~and~~ the time in which ~~said~~ the amount is to be paid, and the rate of interest and discount agreed upon.

(d) ~~Any such person, firm, or corporation failing, refusing, or neglecting to pay the tax herein levied shall be guilty of a Class 1 misdemeanor in addition to double the tax due. No such loan shall be~~ A loan is not collectible at law in the courts of this State in any case where the person making ~~such~~ the loan has failed to pay the tax levied ~~herein, and/or otherwise complied~~ in this section or otherwise failed to comply with the provisions of this section.

(e) Counties, cities, and towns may levy a license tax on the business taxed under this section not in excess of one hundred dollars ($100.00)."

Section 3. G.S. 105-159.1(d) reads as rewritten:

"(d) Return. -- The ~~Secretary shall amend the~~ first page of the income tax return ~~in order that all taxpayers desiring~~ must give an individual the opportunity to make the political ~~contributions~~ contribution authorized in this ~~section may do so by designating on the front face of the tax return. The line of authorization for the designation shall be color contrasted with the color scheme of the remainder of the income tax return.~~ section. The return or its accompanying explanatory ~~instruction shall~~ instructions must readily indicate that ~~any designations neither increase nor decrease~~ a contribution neither increases nor decreases an individual's tax liability."

Section 4. G.S. 105-164.3(25) reads as rewritten:

"(25) 'Utility' means ~~an electric power company or a telephone company that is subject to a privilege tax based on gross receipts under G.S. 105-116 or 105-120, a~~ any of the following:

a. A business entity that provides local, toll, or private telecommunications service as defined by G.S. ~~105-120(c), or a~~ 105-120(e).

b. A business entity or a municipality that sells electric ~~power, other than a municipality whose only wholesale supplier of electric power is a federal agency and who is required by a contract with that federal agency to make payments in lieu of taxes.~~ power."

Section 5. G.S. 105-164.13(12) reads as rewritten:

"(12) Sales of any of the following items:

a. Therapeutic, prosthetic, or artificial devices, such as pulmonary respirators or medical beds, that are designed for individual personal use to correct or alleviate physical illness, disease, or incapacity and that are sold on the written prescription of a physician, dentist, or other professional person licensed to ~~prescribe, and crutches,~~ prescribe.

b. Crutches, artificial limbs, artificial eyes, hearing aids, false teeth, eyeglasses ground on prescription of a physician or an ~~optometrist, and orthopedic~~ optometrist.

c. Orthopedic appliances designed to be worn by the purchaser or user.

d. Durable medical equipment and related medical supplies that are covered under the Medicare or Medicaid program and are sold on either a certificate of medical necessity or a written prescription of a physician, dentist, or other professional person licensed to prescribe. This exemption applies whether or not the item is purchased by a Medicare or Medicaid beneficiary."

Section 6. G.S. 105-164.13(13) reads as rewritten:

"(13) All of the following drugs, including the constituent elements and ingredients used to produce the drugs, the packaging materials, and any instructions or information about the product included in the package with the drugs:

a. Prescription drugs.

b. ~~Medicines~~ Nonprescription drugs sold on prescription of physicians, dentists, or ~~veterinarians; insulin whether or not sold on prescription.~~ veterinarians.

c. Insulin."

Section 7. G.S. 105-164.13(13b) is repealed.

Section 8. G.S. 105-164.13(16) reads as rewritten:

"(16) Sales of ~~any of the following articles:~~

~~a. A used article taken in trade, or a series of trades, as a credit or part payment on the sale of a new article if tax is paid on the sales price of the new article. "New article" means the original stock in trade of the merchant and is not limited to a newly manufactured article.~~

~~b.~~ ~~An~~ an article repossessed by the vendor if tax was paid on the sales price of the article."

Section 9. G.S. 105-164.13(35) reads as rewritten:

"(35) Sales by a nonprofit civic, charitable, educational, scientific, ~~literary~~ literary, or fraternal organization ~~continuously chartered or incorporated within North Carolina for at least two years~~ when ~~such~~ all of the following conditions are met:

a. The sales are conducted only upon an annual basis for the purpose of raising funds for ~~its activities, and when~~ the organization's activities.

b. ~~the~~ The proceeds ~~thereof~~ of the sale are actually used for ~~such purposes; provided, however, that no such sale shall be exempt if not actually consummated~~ the organization's activities.

c. The products sold are delivered to the purchaser within 60 days after the first solicitation of any sale made during ~~said~~ the organization's annual sales period."

Section 10. G.S. 105-164.13(39) is repealed.

Section 11. G.S. 105-164.13(42) reads as rewritten:

"(42) Tangible personal property that is purchased by a retailer for resale or is manufactured or purchased by a wholesale merchant for resale and then withdrawn from inventory and donated by the retailer or wholesale merchant to either a governmental entity or a nonprofit organization, contributions to which are deductible as charitable contributions for federal income tax purposes."

Section 12. G.S. 105-164.13 is amended by adding a new subdivision to read:

"(46) Sales of electricity by a municipality whose only wholesale supplier of electric power is a federal agency and who is required by a contract with that federal agency to make payments in lieu of taxes."

Section 13. G.S. 105-164.13A reads as rewritten:

"**§ 105-164.13A. Service charges on food, beverages, or meals.**

When a service charge is imposed on food, beverages, or meals, so much of ~~said~~ the service charge ~~as~~ that does not exceed ~~fifteen percent (15%)~~ twenty percent (20%) of the sales price is considered a tip and is specifically exempted from the tax imposed by this Article ~~when the service charge:~~ if it meets both of the following conditions:

(1) Is separately stated in the price list, menu, or written proposal and also in the invoice or ~~bill; and~~ bill.

(2) Is turned over to the personnel directly involved in the service of the food, beverages, or meals, in accordance with G.S. 95-25.6.

~~Such service charge shall be considered to be a tip.~~"

Section 14. G.S. 105-164.14(c)(16) reads as rewritten:

"(16) A local airport authority that was created pursuant to a local act of the General ~~Assembly and has at least one of the following characteristics:~~

~~a. It has all of the rights of a municipality.~~

~~b. A local act of the General Assembly declares it to be a municipality.~~

~~c. A local act of the General Assembly specifically authorizes it to receive a refund under this section.~~ Assembly."

Section 15. G.S. 105-236(1) reads as rewritten:

"(1) Penalty for Bad Checks. -- When the bank upon which any uncertified check tendered to the Department of Revenue in payment of any obligation due to the Department returns the check because of insufficient funds or the nonexistence of an account of the drawer, the Secretary shall assess a penalty equal to ten percent (10%) of the check, subject to a minimum of one dollar ($1.00) and a maximum of one thousand dollars ($1,000). This penalty does not apply if the Secretary finds that, when the check was presented for payment, the drawer of the check had sufficient funds in an account at a financial institution in this

State to pay the check and, by inadvertence, the drawer of the check failed to draw the check on the account that had sufficient funds. ~~The penalty imposed may not be waived or diminished by the Secretary.~~"

Section 16. G.S. 105-236(5) reads as rewritten:

"(5) Negligence. --

a. Finding of negligence. -- For negligent failure to comply with any of the provisions to which this Article applies, or rules issued pursuant thereto, without intent to defraud, the Secretary shall assess a penalty equal to ten percent (10%) of the deficiency due to the negligence.

b. Large individual income tax deficiency. -- In the case of individual income tax, if a taxpayer understates taxable income, by any means, by an amount equal to twenty-five percent (25%) or more of gross income, the Secretary shall assess a penalty equal to twenty-five percent (25%) of the deficiency. For purposes of this subdivision, "gross income" means gross income as defined in section 61 of the Code.

c. Other large tax deficiency. -- In the case of a tax other than individual income tax, if a taxpayer understates tax liability by twenty-five percent (25%) or more, the Secretary shall assess a penalty equal to twenty-five percent (25%) of the deficiency.

d. No double penalty. -- If a penalty is assessed under subdivision (6) of this section, no additional penalty for negligence shall be assessed with respect to the same deficiency.

e. Inheritance and gift tax deficiencies. -- This subdivision does not apply to inheritance, estate, and gift tax deficiencies that are the result of valuation understatements."

Section 17. G.S. 105-237(a) reads as rewritten:

"(a) Waiver. -- The Secretary may, upon making a record of the reasons therefor, reduce or waive any penalties provided for in this ~~Subchapter, except the penalty provided in G.S. 105-236 relating to unpaid checks.~~ Subchapter."

Section 18. G.S. 105-259(b)(15) reads as rewritten:

"(b) Disclosure Prohibited. -- An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...

(15) To exchange information concerning a tax imposed by Articles 2A, 2B, 2C, or 2D of this Chapter with one of the following agencies when the information is needed to fulfill a duty imposed on the Department or the agency:

a. The North Carolina Alcoholic Beverage Control Commission.
b. The Division of Alcohol Law Enforcement of the Department of Crime Control and Public Safety.
c. The Bureau of Alcohol, Tobacco, and Firearms of the United States Treasury Department.
d. Local law enforcement agencies."

Section 19. G.S. 105-266(c)(1) reads as rewritten:

"(c) Statute of Limitations. -- The period in which a refund must be demanded or discovered under this section is determined as follows:

(1) General Rule. -- No overpayment shall be refunded, whether upon discovery or receipt of written demand, if the discovery is not made or the demand is not received within three years after the date set by the statute for the filing of the return or within six months after the payment of the tax alleged to be an overpayment, whichever is later. An agreement by a taxpayer to extend the time in which the Department can assess the taxpayer for an underpayment automatically extends the time in which the taxpayer can request a refund."

Section 20. G.S. 105-449.65(a)(8) is repealed.

Section 21. G.S. 105-449.65(a)(9) is repealed.

Section 22. G.S. 105-449.87(a)(1) reads as rewritten:

"(a) Tax. -- An excise tax at the motor fuel rate is imposed on the following:

(1) Dyed diesel fuel that is used to operate a highway vehicle for a use that is not a nontaxable use under § 4082(b) of the Code. The tax does not apply, however, to dyed diesel fuel that is used to operate special mobile equipment."

Section 23. G.S. 105-449.97(b) reads as rewritten:

"(b) Administrative Discount. -- A supplier that files a timely return and sends a timely payment may deduct from the amount of tax payable with the return an administrative discount of one-tenth of one percent (0.1%) of the amount of tax payable to this State as the trustee, not to exceed eight thousand dollars ($8,000) a month. The discount covers expenses incurred in collecting taxes on motor fuel."

Section 24. G.S. 105-449.106 reads as rewritten:

"**§ 105-449.106. Quarterly refunds for certain local governmental entities, nonprofit organizations, ~~and taxicabs.~~ taxicabs, and special mobile equipment.**

(a) Government and Nonprofits. -- A local governmental entity or a nonprofit organization listed below that purchases and uses motor fuel may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the amount of the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less one cent (1¢) per gallon. ~~Any of the following entities may receive a refund under this section:~~

~~(1) A county or a municipal corporation.~~

~~(2) A private, nonprofit organization that transports passengers under contract with or at the express designation of a unit of local government.~~
~~(3) A volunteer fire department.~~
~~(4) A volunteer rescue squad.~~
~~(5) A sheltered workshop recognized by the Department of Health and Human Services.~~

An application for a refund allowed under this ~~section~~ subsection must be made in accordance with this Part and must be signed by the chief executive officer of the entity. The chief executive officer of a nonprofit organization is the president of the organization or another officer of the organization designated in the charter or bylaws of the organization.

Any of the following entities may receive a refund under this subsection:

(1) A county or a municipal corporation.
(2) A private, nonprofit organization that transports passengers under contract with or at the express designation of a unit of local government.
(3) A volunteer fire department.
(4) A volunteer rescue squad.
(5) A sheltered workshop recognized by the Department of Health and Human Services.

(b) Taxi. -- A person who purchases and uses motor fuel in a taxicab, as defined in G.S. 20-87(1), while the taxicab is engaged in transporting passengers for hire, or in a bus operated as part of a city transit system that is exempt from regulation by the North Carolina Utilities Commission under G.S. 62-260(a)(8), may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less one cent (1¢) per gallon. An application for a refund must be made in accordance with this Part.

(c) Special Mobile Equipment. -- A person who purchases and uses motor fuel to operate special mobile equipment off-highway may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less the amount of sales and use tax due on the fuel under this Chapter, as determined in accordance with G.S. 105-449.107(c). An application for a refund must be made in accordance with this Part."

Section 25. G.S. 105-449.116 is repealed.

Section 26. G.S. 20-50(a) reads as rewritten:

"(a) ~~Except as otherwise provided in this Article, every owner of a~~ A vehicle intended to be operated upon any highway of this State must be registered with the Division in accordance with G.S. 20-52, and the owner of the vehicle must comply with G.S. 20-52 before operating the vehicle. A vehicle that is leased to an individual who is a resident of this State is a vehicle intended to be operated upon a highway of this State. ~~and required by this Article to be registered shall, before the~~

~~same is so operated, apply to the Division for and obtain the registration thereof, the registration plates therefor and a certificate of title therefor, and attach the registration plates to the vehicle, except when an owner is permitted to operate a vehicle under the registration provisions relating to manufacturers, dealers and nonresidents contained in G.S. 20-79, or under temporary registration plates as provided in this Article: Provided that the~~

The Commissioner of Motor Vehicles or ~~his~~ the Commissioner's duly authorized agent is empowered to grant a special one-way trip permit to move a vehicle without license upon good cause being shown. ~~It is further provided that when~~ When the owner of a vehicle leases ~~such~~ the vehicle to a carrier of passengers or property and ~~it~~ the vehicle is actually used by ~~such~~ the carrier in the operation of its business, the ~~registration~~ license plates may be obtained by the lessee, upon written consent of the owner, after the certificate of title has been obtained by the owner. ~~Provided further that when~~ When the owner of a vehicle leases ~~such~~ the vehicle to a farmer and ~~it~~ the vehicle is actually used by ~~such~~ the farmer in the operation of ~~his~~ a farm, the ~~registration~~ license plates may be obtained by the farmer at the applicable farmer rate, upon written consent of the owner, after the certificate of title has been obtained by the owner. The lessee shall make application on an appropriate form furnished by the Division and file such evidence of the lease as the Division may require."

Section 27. G.S. 20-87(10) reads as rewritten:

"(10) Special Mobile Equipment. -- The fee for special mobile equipment for the license year or any part of the license year is ~~the same as~~ two times the fee in subdivision (5) for a private passenger motor vehicle of not more than 15 passengers."

Section 28. G.S. 20-116(a) reads as rewritten:

"(a) The total outside width of any vehicle or the load thereon shall not exceed 96 inches, except as otherwise provided in this ~~section: Provided that when~~ section. When hogsheads of tobacco are being transported, a tolerance of six inches ~~shall be allowed and that when~~ is allowed. When sheet or bale tobacco is being transported the load ~~does~~ must not exceed a width of 114 inches at the top of the load and the bottom of the load at the truck bed ~~does~~ must not exceed the width of 102 inches inclusive of allowance for load shifting or settling. Special mobile equipment is allowed a total outside width not to exceed 102 inches. ~~Provided, further, that vehicles~~ Vehicles (other than passenger buses) ~~which~~ that do not exceed the overall width of 102 inches and otherwise provided in this section may be operated in accordance with G.S. 20-115.1(c), (f), and (g)."

Section 29. G.S. 20-140.5 reads as rewritten:

"**§ 20-140.5. Special mobile equipment may tow certain vehicles.**

Special mobile equipment may ~~tow any of the following vehicles:~~ not tow any vehicle other than the following:

(1) A single passenger vehicle that can carry no more than nine ~~passengers and is not loaded, in whole or in part, with passengers or property.~~ passengers and is carrying no passengers.

(2) A single property-hauling vehicle that has a registered weight of 5,000 pounds or ~~less and is not loaded, in whole or in part, with passengers or property.~~ less, is carrying no passengers, and does not exceed its registered weight.

~~Special mobile equipment may not tow a vehicle that is not listed in this section.~~"

Section 30. G.S. 110-129.2(g) reads as rewritten:

"(g) Other Uses of Directory Information. -- The ~~Employment Security Commission~~ following agencies may access information entered into the Directory from employer reports for the ~~purpose~~ purposes stated:

(1) The Employment Security Commission for the purpose of administering employment security programs.

(2) The North Carolina Industrial Commission ~~may access information entered into the Directory from employer reports~~ for the purpose of administering workers' compensation programs.

(3) The Department of Revenue for the purpose of administering the taxes it has a duty to collect under Chapter 105 of the General Statutes."

Section 31. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

Section 32. Sections 1 and 27 of this act become effective January 1, 2000. Sections 2 and 14 of this act become effective July 1, 1999; Section 14 applies to purchases made on or after that date. Sections 5 through 11, 13, 15 through 17, and 22 of this act become effective October 1, 1999; Sections 15 through 17 apply to penalties assessed on or after that date. The remainder of this act is effective when it becomes law; Section 24 applies to taxes paid on or after January 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1112
Finance Committee Substitute Adopted 6/14/99

Short Title: No Sales Tax Fee/Other Changes. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PROMOTE ELECTRONIC COMMERCE BY REPEALING THE SALES TAX REGISTRATION FEE AND TO MAKE OTHER CHANGES TO THE TAX LAWS AND RELATED STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.4(c) reads as rewritten:

"(c) Certificate of Registration. -- Before a person may engage in business as a retailer or a wholesale merchant, the person must obtain a certificate of registration from the Department. To obtain a certificate of registration, a person must register with the ~~Department and pay fifteen dollars ($15.00).~~ Department.

A certificate of registration is valid unless it is revoked for failure to comply with the provisions of this Article or becomes void. A certificate issued to a retailer becomes void if, for a period of 18 months, the retailer files no returns or files returns showing no sales."

Section 2. G.S. 105-88 reads as rewritten:

"**§ 105-88. Loan ~~agencies or brokers.~~ agencies.**

(a) Every person, firm, or corporation engaged in any of the following businesses must pay for the privilege of engaging in that business an annual tax of seven hundred fifty dollars ($750.00) for each location at which the business is conducted:

(1) The ~~the regular~~ business of making loans or lending money, accepting liens on, or contracts of assignments of, salaries or wages, or any part thereof, or other security or evidence of debt for repayment of such loans in installment payment or ~~otherwise, and~~

~~maintaining in connection with same any office or other located or established place for the conduct, negotiation, or transaction of such business and/or advertising or soliciting such business in any manner whatsoever, shall be deemed a loan agency, and shall apply for and procure from the Secretary of Revenue a State license for the privilege of transacting or negotiating such business at each office or place so maintained, and shall pay for such license a tax of seven hundred fifty dollars ($750.00).~~ otherwise.

(2) The business of check cashing regulated under Article 22 of Chapter 53 of the General Statutes.

(3) The business of pawnbroker regulated under Chapter 91A of the General Statutes.

(b) This section does not apply to banks, industrial banks, trust companies, savings and loan associations, cooperative credit unions, the business of negotiating loans on real estate as described in G.S. 105-41, ~~pawnbrokers lending or advancing money on specific articles of personal property,~~ or insurance premium finance companies licensed under Article 35 of Chapter 58 of the General Statutes. This section applies to those persons or concerns operating what are commonly known as loan companies or finance companies and whose business is as hereinbefore described, and those persons, firms, or corporations pursuing the business of lending money and taking as security for the payment of the loan and interest an assignment of wages or an assignment of wages with power of attorney to collect the amount due, or other order or chattel mortgage or bill of sale upon household or kitchen furniture. No real estate mortgage broker is required to obtain a privilege license under this section merely because the broker advances the broker's own funds and takes a security interest in real estate to secure the advances and when, at the time of the advance, the broker has already made arrangements with others for the sale or discount of the obligation at a later date and does so sell or discount the obligation within the period specified in the arrangement or extensions thereof; or when, at the time of the advance the broker intends to sell the obligation to others at a later date and does, within 12 months from date of initial advance, make arrangements with others for the sale of the obligation and does sell the obligation within the period specified in the arrangement or extensions thereof; or because the broker advances the broker's own funds in temporary financing directly involved in the production of permanent-type loans for sale to others; and no real estate mortgage broker whose mortgage lending operations are essentially as described above is required to obtain a privilege license under this section.

(c) At the time of making any such loan, the person, or officer of the firm or corporation making the ~~same,~~ loan, shall give to the borrower in writing in convenient form a statement showing the amount received by the borrower, the amount to be paid back by the borrower, ~~and~~ the time in which ~~said~~ the amount is to be paid, and the rate of interest and discount agreed upon.

(d) ~~Any such person, firm, or corporation failing, refusing, or neglecting to pay the tax herein levied shall be guilty of a Class 1 misdemeanor in addition to double~~

~~the tax due. No such loan shall be~~ A loan is not collectible at law in the courts of this State in any case where the person making ~~such~~ the loan has failed to pay the tax levied ~~herein, and/or otherwise complied~~ in this section or otherwise failed to comply with the provisions of this section.

(e) Counties, cities, and towns may levy a license tax on the business taxed under this section not in excess of one hundred dollars ($100.00)."

Section 3. G.S. 105-164.3(25) reads as rewritten:

"(25) 'Utility' means ~~an electric power company or a telephone company that is subject to a privilege tax based on gross receipts under G.S. 105-116 or 105-120, a~~ any of the following:

a. A business entity that provides local, toll, or private telecommunications service as defined by G.S. ~~105-120(e), or a~~ 105-120(e).

b. A business entity or a municipality that sells electric ~~power, other than a municipality whose only wholesale supplier of electric power is a federal agency and who is required by a contract with that federal agency to make payments in lieu of taxes.~~ power."

Section 4. G.S. 105-164.13(12) reads as rewritten:

"(12) Sales of any of the following items:

a. Therapeutic, prosthetic, or artificial devices, such as pulmonary respirators or medical beds, that are designed for individual personal use to correct or alleviate physical illness, disease, or incapacity and that are sold on the written prescription of a physician, dentist, or other professional person licensed to ~~prescribe, and crutches,~~ prescribe.

b. Crutches, artificial limbs, artificial eyes, hearing aids, false teeth, eyeglasses ground on prescription of a physician or an ~~optometrist, and orthopedic~~ optometrist.

c. Orthopedic appliances designed to be worn by the purchaser or user.

d. Durable medical equipment and related medical supplies that are covered under the Medicare or Medicaid program and are sold on either a certificate of medical necessity or a written prescription of a physician, dentist, or other professional person licensed to prescribe. This exemption applies whether or not the item is purchased by a Medicare or Medicaid beneficiary."

Section 5. G.S. 105-164.13(13) reads as rewritten:

"(13) All of the following drugs, including the constituent elements and ingredients used to produce the drugs, the packaging materials, and any instructions or information about the product included in the package with the drugs:

a. Prescription drugs.
b. ~~Medicines~~ Nonprescription drugs sold on prescription of physicians, dentists, or ~~veterinarians; insulin whether or not sold on prescription.~~ veterinarians.
c. Insulin."

Section 6. G.S. 105-164.13(13b) is repealed.

Section 7. G.S. 105-164.13(16) reads as rewritten:

"(16) Sales of ~~any of the following articles:~~

~~a. A used article taken in trade, or a series of trades, as a credit or part payment on the sale of a new article if tax is paid on the sales price of the new article. "New article" means the original stock in trade of the merchant and is not limited to a newly manufactured article.~~

~~b.~~ ~~An~~ an article repossessed by the vendor if tax was paid on the sales price of the article."

Section 8. G.S. 105-164.13(35) reads as rewritten:

"(35) Sales by a nonprofit civic, charitable, educational, scientific, ~~literary~~ literary, or fraternal organization ~~continuously chartered or incorporated within North Carolina for at least two years~~ when ~~such~~ all of the following conditions are met:

a. The sales are conducted only upon an annual basis for the purpose of raising funds for ~~its activities, and when~~ the organization's activities.

b. ~~the~~ The proceeds ~~thereof~~ of the sale are actually used for ~~such purposes; provided, however, that no such sale shall be exempt if not actually consummated~~ the organization's activities.

c. The products sold are delivered to the purchaser within 60 days after the first solicitation of any sale made during ~~said~~ the organization's annual sales period."

Section 9. G.S. 105-164.13(39) is repealed.

Section 10. G.S. 105-164.13(42) reads as rewritten:

"(42) Tangible personal property that is purchased by a retailer for resale or is manufactured or purchased by a wholesale merchant for resale and then withdrawn from inventory and donated by the retailer or wholesale merchant to either a governmental entity or a nonprofit organization, contributions to which are deductible as charitable contributions for federal income tax purposes."

Section 11. G.S. 105-164.13 is amended by adding a new subdivision to read:

"(46) Sales of electricity by a municipality whose only wholesale supplier of electric power is a federal agency and who is required by a contract with that federal agency to make payments in lieu of taxes."

Section 12. G.S. 105-164.13A reads as rewritten:

"**§ 105-164.13A. Service charges on food, beverages, or meals.**

When a service charge is imposed on food, beverages, or meals, so much of ~~said~~ the service charge ~~as~~ that does not exceed ~~fifteen percent (15%)~~ twenty percent (20%) of the sales price is considered a tip and is specifically exempted from the tax imposed by this Article ~~when the service charge.~~ if it meets both of the following conditions:

(1) Is separately stated in the price list, menu, or written proposal and also in the invoice or ~~bill; and~~ bill.

(2) Is turned over to the personnel directly involved in the service of the food, beverages, or meals, in accordance with G.S. 95-25.6.

~~Such service charge shall be considered to be a tip.~~"

Section 13. G.S. 105-236(1) reads as rewritten:

"(1) Penalty for Bad Checks. -- When the bank upon which any uncertified check tendered to the Department of Revenue in payment of any obligation due to the Department returns the check because of insufficient funds or the nonexistence of an account of the drawer, the Secretary shall assess a penalty equal to ten percent (10%) of the check, subject to a minimum of one dollar ($1.00) and a maximum of one thousand dollars ($1,000). This penalty does not apply if the Secretary finds that, when the check was presented for payment, the drawer of the check had sufficient funds in an account at a financial institution in this State to pay the check and, by inadvertence, the drawer of the check failed to draw the check on the account that had sufficient funds. ~~The penalty imposed may not be waived or diminished by the Secretary.~~"

Section 14. G.S. 105-236(5) reads as rewritten:

"(5) Negligence. --

a. Finding of negligence. -- For negligent failure to comply with any of the provisions to which this Article applies, or rules issued pursuant thereto, without intent to defraud, the Secretary shall assess a penalty equal to ten percent (10%) of the deficiency due to the negligence.

b. Large individual income tax deficiency. -- In the case of individual income tax, if a taxpayer understates taxable income, by any means, by an amount equal to twenty-five percent (25%) or more of gross income, the Secretary shall assess a penalty equal to twenty-five percent (25%) of the deficiency. For purposes of this subdivision, "gross income" means gross income as defined in section 61 of the Code.

c. Other large tax deficiency. -- In the case of a tax other than individual income tax, if a taxpayer understates tax liability by twenty-five percent (25%) or more, the Secretary shall

assess a penalty equal to twenty-five percent (25%) of the deficiency.

d. No double penalty. -- If a penalty is assessed under subdivision (6) of this section, no additional penalty for negligence shall be assessed with respect to the same deficiency.

e. Inheritance and gift tax deficiencies. -- This subdivision does not apply to inheritance, estate, and gift tax deficiencies that are the result of valuation understatements."

Section 15. G.S. 105-237(a) reads as rewritten:

"(a) Waiver. -- The Secretary may, upon making a record of the reasons therefor, reduce or waive any penalties provided for in this ~~Subchapter, except the penalty provided in G.S. 105-236 relating to unpaid checks.~~ Subchapter."

Section 16. G.S. 105-259(b)(15) reads as rewritten:

"(b) Disclosure Prohibited. -- An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...

(15) To exchange information concerning a tax imposed by Articles 2A, 2B, 2C, or 2D of this Chapter with one of the following agencies when the information is needed to fulfill a duty imposed on the Department or the agency:

a. The North Carolina Alcoholic Beverage Control Commission.

b. The Division of Alcohol Law Enforcement of the Department of Crime Control and Public Safety.

c. The Bureau of Alcohol, Tobacco, and Firearms of the United States Treasury Department.

d. Local law enforcement agencies."

Section 17. G.S. 105-266(c)(1) reads as rewritten:

"(c) Statute of Limitations. -- The period in which a refund must be demanded or discovered under this section is determined as follows:

(1) General Rule. -- No overpayment shall be refunded, whether upon discovery or receipt of written demand, if the discovery is not made or the demand is not received within three years after the date set by the statute for the filing of the return or within six months after the payment of the tax alleged to be an overpayment, whichever is later. An agreement by a taxpayer to extend the time in which the Department can assess the taxpayer for an underpayment automatically extends the time in which the taxpayer can request a refund."

Section 18. G.S. 105-449.87(a)(1) reads as rewritten:

"(a) Tax. -- An excise tax at the motor fuel rate is imposed on the following:

(1) Dyed diesel fuel that is used to operate a highway vehicle for a use that is not a nontaxable use under § 4082(b) of the Code. The tax does not apply, however, to dyed diesel fuel that is used to operate special mobile equipment."

Section 19. G.S. 105-449.106 reads as rewritten:

"**§ 105-449.106. Quarterly refunds for certain local governmental entities, nonprofit organizations, ~~and taxicabs.~~ taxicabs, and special mobile equipment.**

(a) Government and Nonprofits. -- A local governmental entity or a nonprofit organization listed below that purchases and uses motor fuel may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the amount of the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less one cent (1¢) per gallon. ~~Any of the following entities may receive a refund under this section:~~

~~(1) A county or a municipal corporation.~~

~~(2) A private, nonprofit organization that transports passengers under contract with or at the express designation of a unit of local government.~~

~~(3) A volunteer fire department.~~

~~(4) A volunteer rescue squad.~~

~~(5) A sheltered workshop recognized by the Department of Health and Human Services.~~

An application for a refund allowed under this ~~section~~ subsection must be made in accordance with this Part and must be signed by the chief executive officer of the entity. The chief executive officer of a nonprofit organization is the president of the organization or another officer of the organization designated in the charter or bylaws of the organization.

Any of the following entities may receive a refund under this subsection:

(1) A county or a municipal corporation.

(2) A private, nonprofit organization that transports passengers under contract with or at the express designation of a unit of local government.

(3) A volunteer fire department.

(4) A volunteer rescue squad.

(5) A sheltered workshop recognized by the Department of Health and Human Services.

(b) Taxi. -- A person who purchases and uses motor fuel in a taxicab, as defined in G.S. 20-87(1), while the taxicab is engaged in transporting passengers for hire, or in a bus operated as part of a city transit system that is exempt from regulation by the North Carolina Utilities Commission under G.S. 62-260(a)(8), may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less one cent (1¢) per gallon. An application for a refund must be made in accordance with this Part.

(c) Special Mobile Equipment. -- A person who purchases and uses motor fuel to operate special mobile equipment off-highway may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less the amount of sales and use tax due on the fuel under this Chapter, as determined in accordance with G.S. 105-449.107(c). An application for a refund must be made in accordance with this Part."

Section 20. G.S. 105-449.116 is repealed.

Section 21. G.S. 20-50(a) reads as rewritten:

"(a) ~~Except as otherwise provided in this Article, every owner of a~~ A vehicle intended to be operated upon any highway of this State must be registered with the Division in accordance with G.S. 20-52, and the owner of the vehicle must comply with G.S. 20-52 before operating the vehicle. A vehicle that is leased to an individual who is a resident of this State is a vehicle intended to be operated upon a highway of this State. ~~and required by this Article to be registered shall, before the same is so operated, apply to the Division for and obtain the registration thereof, the registration plates therefor and a certificate of title therefor, and attach the registration plates to the vehicle, except when an owner is permitted to operate a vehicle under the registration provisions relating to manufacturers, dealers and nonresidents contained in G.S. 20-79, or under temporary registration plates as provided in this Article. Provided that the~~

The Commissioner of Motor Vehicles or ~~his~~ the Commissioner's duly authorized agent is empowered to grant a special one-way trip permit to move a vehicle without license upon good cause being shown. ~~It is further provided that when~~ When the owner of a vehicle leases ~~such~~ the vehicle to a carrier of passengers or property and ~~it~~ the vehicle is actually used by ~~such~~ the carrier in the operation of its business, the ~~registration~~ license plates may be obtained by the lessee, upon written consent of the owner, after the certificate of title has been obtained by the owner. ~~Provided further that when~~ When the owner of a vehicle leases ~~such~~ the vehicle to a farmer and ~~it~~ the vehicle is actually used by ~~such~~ the farmer in the operation of ~~his~~ a farm, the ~~registration~~ license plates may be obtained by the farmer at the applicable farmer rate, upon written consent of the owner, after the certificate of title has been obtained by the owner. The lessee shall make application on an appropriate form furnished by the Division and file such evidence of the lease as the Division may require."

Section 22. G.S. 20-87(10) reads as rewritten:

"(10) Special Mobile Equipment. -- The fee for special mobile equipment for the license year or any part of the license year is ~~the same as~~ two times the fee in subdivision (5) for a private passenger motor vehicle of not more than 15 passengers."

Section 23. G.S. 20-116(a) reads as rewritten:

"(a) The total outside width of any vehicle or the load thereon shall not exceed 96 inches, except as otherwise provided in this ~~section: Provided that when~~ section. When hogsheads of tobacco are being transported, a tolerance of six inches ~~shall be allowed and that when~~ is allowed. When sheet or bale tobacco is being transported

the load ~~does~~ must not exceed a width of 114 inches at the top of the load and the bottom of the load at the truck bed ~~does~~ must not exceed the width of 102 inches inclusive of allowance for load shifting or settling. ~~Provided, further, that vehicles~~ Vehicles (other than passenger buses) ~~which~~ that do not exceed the overall width of 102 inches and otherwise provided in this section may be operated in accordance with G.S. 20-115.1(c), (f), and (g). Special mobile equipment is allowed a total outside width of 102 inches."

Section 24. G.S. 20-140.5 reads as rewritten:

"**§ 20-140.5. Special mobile equipment may tow certain vehicles.**

Special mobile equipment may ~~tow any of the following vehicles:~~ not tow any vehicle other than the following:

(1) A single passenger vehicle that can carry no more than nine ~~passengers and is not loaded, in whole or in part, with passengers or property.~~ passengers and is carrying no passengers.

(2) A single property-hauling vehicle that has a registered weight of 5,000 pounds or ~~less and is not loaded, in whole or in part, with passengers or property.~~ less, is carrying no passengers, and does not exceed its registered weight.

~~Special mobile equipment may not tow a vehicle that is not listed in this section.~~"

Section 25. G.S. 110-129.2(g) reads as rewritten:

"(g) Other Uses of Directory Information. -- The ~~Employment Security Commission~~ following agencies may access information entered into the Directory from employer reports for the ~~purpose~~ purposes stated:

(1) The Employment Security Commission for the purpose of administering employment security programs.

(2) The North Carolina Industrial Commission ~~may access information entered into the Directory from employer reports~~ for the purpose of administering workers' compensation programs.

(3) The Department of Revenue for the purpose of administering the taxes it has a duty to collect under Chapter 105 of the General Statutes."

Section 26. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

Section 27. Sections 1 and 22 of this act become effective January 1, 2000. Section 2 of this act becomes effective July 1, 1999. Sections 4 through 10, 12 through 15, and 18 of this act become effective October 1, 1999; Sections 13 through 15 apply to penalties assessed on or after that date. The remainder of this act is effective when it becomes law; Section 19 applies to taxes paid on or after January 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1112
Finance Committee Substitute Adopted 6/14/99
PROPOSED HOUSE COMMITTEE SUBSTITUTE
S1112-CSRBX-6/23

Short Title: No Sales Tax Fee/Other Changes. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PROMOTE ELECTRONIC COMMERCE BY REPEALING THE SALES TAX REGISTRATION FEE AND TO MAKE OTHER CHANGES TO THE TAX LAWS AND RELATED STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.4(c) reads as rewritten:

"(c) Certificate of Registration. -- Before a person may engage in business as a retailer or a wholesale merchant, the person must obtain a certificate of registration from the Department. To obtain a certificate of registration, a person must register with the ~~Department and pay fifteen dollars ($15.00).~~ Department.

A certificate of registration is valid unless it is revoked for failure to comply with the provisions of this Article or becomes void. A certificate issued to a retailer becomes void if, for a period of 18 months, the retailer files no returns or files returns showing no sales."

Section 2. G.S. 105-88 reads as rewritten:

"§ 105-88. Loan ~~agencies or brokers.~~ agencies.

(a) Every person, firm, or corporation engaged in any of the following businesses must pay for the privilege of engaging in

that business an annual tax of seven hundred fifty dollars ($750.00) for each location at which the business is conducted:

(1) The ~~the regular~~ business of making loans or lending money, accepting liens on, or contracts of assignments of, salaries or wages, or any part thereof, or other security or evidence of debt for repayment of such loans in installment payment or ~~otherwise, and maintaining in connection with same any office or other located or established place for the conduct, negotiation, or transaction of such business and/or advertising or soliciting such business in any manner whatsoever, shall be deemed a loan agency, and shall apply for and procure from the Secretary of Revenue a State license for the privilege of transacting or negotiating such business at each office or place so maintained, and shall pay for such license a tax of seven hundred fifty dollars ($750.00).~~ otherwise.

(2) The business of check cashing regulated under Article 22 of Chapter 53 of the General Statutes.

(3) The business of pawnbroker regulated under Chapter 91A of the General Statutes.

(b) This section does not apply to banks, industrial banks, trust companies, savings and loan associations, cooperative credit unions, the business of negotiating loans on real estate as described in G.S. 105-41, ~~pawnbrokers lending or advancing money on specific articles of personal property,~~ or insurance premium finance companies licensed under Article 35 of Chapter 58 of the General Statutes. This section applies to those persons or concerns operating what are commonly known as loan companies or finance companies and whose business is as hereinbefore described, and those persons, firms, or corporations pursuing the business of lending money and taking as security for the payment of the loan and interest an assignment of wages or an assignment of wages with power of attorney to collect the amount due, or other order or chattel mortgage or bill of sale upon household or kitchen furniture. No real estate mortgage broker is required to obtain a privilege license under this section merely because the broker advances the broker's own funds and takes a security interest in real estate to secure the advances and when, at the time of the advance, the broker has already made arrangements with others for the sale or discount of the obligation at a later date and does so sell or discount the obligation within the period specified in the arrangement or extensions thereof; or

when, at the time of the advance the broker intends to sell the obligation to others at a later date and does, within 12 months from date of initial advance, make arrangements with others for the sale of the obligation and does sell the obligation within the period specified in the arrangement or extensions thereof; or because the broker advances the broker's own funds in temporary financing directly involved in the production of permanent-type loans for sale to others; and no real estate mortgage broker whose mortgage lending operations are essentially as described above is required to obtain a privilege license under this section.

(c) At the time of making any such loan, the person, or officer of the firm or corporation making the ~~same,~~ loan, shall give to the borrower in writing in convenient form a statement showing the amount received by the borrower, the amount to be paid back by the borrower, ~~and~~ the time in which ~~said~~ the amount is to be paid, and the rate of interest and discount agreed upon.

(d) ~~Any such person, firm, or corporation failing, refusing, or neglecting to pay the tax herein levied shall be guilty of a Class 1 misdemeanor in addition to double the tax due. No such loan shall be~~ A loan is not collectible at law in the courts of this State in any case where the person making ~~such~~ the loan has failed to pay the tax levied ~~herein, and/or otherwise complied~~ in this section or otherwise failed to comply with the provisions of this section.

(e) Counties, cities, and towns may levy a license tax on the business taxed under this section not in excess of one hundred dollars ($100.00)."

Section 3. G.S. 105-159.1(d) reads as rewritten:

"(d) Return. -- The ~~Secretary shall amend the~~ first page of the income tax return ~~in order that all taxpayers desiring~~ must give an individual the opportunity to make the political ~~contributions~~ contribution authorized in this ~~section may do so by designating on the front face of the tax return. The line of authorization for the designation shall be color contrasted with the color scheme of the remainder of the income tax return.~~ section. The return or its accompanying explanatory ~~instruction shall~~ instructions must readily indicate that ~~any designations neither increase nor decrease~~ a contribution neither increases or decreases an individual's tax liability."

Section 4. G.S. 105-164.3(25) reads as rewritten:

"(25) 'Utility' means ~~an electric power company or a telephone company that is subject to a privilege tax based on gross receipts under~~

~~G.S. 105-116 or 105-120, a~~ any of the following:

a. A business entity that provides local, toll, or private telecommunications service as defined by G.S. ~~105-120(e), or a~~ 105-120(e).

b. A business entity or a municipality that sells electric ~~power, other than a municipality whose only wholesale supplier of electric power is a federal agency and who is required by a contract with that federal agency to make payments in lieu of taxes.~~ power."

Section 5. G.S. 105-164.13(12) reads as rewritten:

"(12) Sales of any of the following items:

a. Therapeutic, prosthetic, or artificial devices, such as pulmonary respirators or medical beds, that are designed for individual personal use to correct or alleviate physical illness, disease, or incapacity and that are sold on the written prescription of a physician, dentist, or other professional person licensed to ~~prescribe, and crutches,~~ prescribe.

b. Crutches, artificial limbs, artificial eyes, hearing aids, false teeth, eyeglasses ground on prescription of a physician or an ~~optometrist, and orthopedic~~ optometrist.

c. Orthopedic appliances designed to be worn by the purchaser or user.

d. Durable medical equipment and related medical supplies that are covered under the Medicare or Medicaid program and are sold on either a certificate of medical necessity or a written prescription of a physician, dentist, or other professional person licensed to prescribe. This exemption applies whether or not the item is purchased by a Medicare or Medicaid beneficiary."

Section 6. G.S. 105-164.13(13) reads as rewritten:

"(13) All of the following drugs, including the constituent elements and ingredients used to produce the drugs, the packaging materials, and any instructions or information about the product included in the package with the drugs:

a. Prescription drugs.

b. ~~Medicines~~ Nonprescription drugs sold on prescription of physicians, dentists, or ~~veterinarians; insulin whether or not sold on prescription.~~ veterinarians.

c. Insulin."

Section 7. G.S. 105-164.13(13b) is repealed.

Section 8. G.S. 105-164.13(16) reads as rewritten:

"(16) Sales of ~~any of the following articles:~~

~~a.~~ ~~A used article taken in trade, or a series of trades, as a credit or part payment on the sale of a new article if tax is paid on the sales price of the new article. "New article" means the original stock in trade of the merchant and is not limited to a newly manufactured article.~~

~~b.~~ ~~An~~ an article repossessed by the vendor if tax was paid on the sales price of the article."

Section 9. G.S. 105-164.13(35) reads as rewritten:

"(35) Sales by a nonprofit civic, charitable, educational, scientific, ~~literary~~ literary, or fraternal organization ~~continuously chartered or incorporated within North Carolina for at least two years~~ when ~~such~~ all of the following conditions are met:

a. The sales are conducted only upon an annual basis for the purpose of raising funds for ~~its activities, and when~~ the organization's activities.

b. ~~the~~ The proceeds ~~thereof~~ of the sale are actually used for ~~such purposes; provided, however, that no such sale shall be exempt if not actually consummated~~ the organization's activities.

c. The products sold are delivered to the purchaser within 60 days after the first solicitation of any sale made during ~~said~~ the organization's annual sales period."

Section 10. G.S. 105-164.13(39) is repealed.

Section 11. G.S. 105-164.13(42) reads as rewritten:

"(42) Tangible personal property that is purchased by a retailer for resale or is manufactured or purchased by a wholesale merchant for resale and then withdrawn from inventory and donated by the retailer or wholesale merchant to either a

governmental entity or a nonprofit organization, contributions to which are deductible as charitable contributions for federal income tax purposes."

Section 12. G.S. 105-164.13 is amended by adding a new subdivision to read:

"(46) Sales of electricity by a municipality whose only wholesale supplier of electric power is a federal agency and who is required by a contract with that federal agency to make payments in lieu of taxes."

Section 13. G.S. 105-164.13A reads as rewritten:

"**§ 105-164.13A. Service charges on food, beverages, or meals.**

When a service charge is imposed on food, beverages, or meals, so much of ~~said~~ the service charge ~~as~~ that does not exceed ~~fifteen percent (15%)~~ twenty percent (20%) of the sales price is considered a tip and is specifically exempted from the tax imposed by this Article ~~when the service charge:~~ if it meets both of the following conditions:

(1) Is separately stated in the price list, menu, or written proposal and also in the invoice or ~~bill; and~~ bill.

(2) Is turned over to the personnel directly involved in the service of the food, beverages, or meals, in accordance with G.S. 95-25.6.

~~Such service charge shall be considered to be a tip.~~"

Section 14. G.S. 105-164.14(c)(16) reads as rewritten:

"(16) A local airport authority that was created pursuant to a local act of the General ~~Assembly and has at least one of the following characteristics:~~

~~a. It has all of the rights of a municipality.~~

~~b. A local act of the General Assembly declares it to be a municipality.~~

~~c. A local act of the General Assembly specifically authorizes it to receive a refund under this section.~~ Assembly."

Section 15. G.S. 105-236(1) reads as rewritten:

"(1) Penalty for Bad Checks. -- When the bank upon which any uncertified check tendered to the Department of Revenue in payment of any obligation due to the Department returns the check because of insufficient funds or the nonexistence of an account of the drawer, the Secretary shall assess a penalty equal to ten percent (10%) of the check,

subject to a minimum of one dollar ($1.00) and a maximum of one thousand dollars ($1,000). This penalty does not apply if the Secretary finds that, when the check was presented for payment, the drawer of the check had sufficient funds in an account at a financial institution in this State to pay the check and, by inadvertence, the drawer of the check failed to draw the check on the account that had sufficient funds. ~~The penalty imposed may not be waived or diminished by the Secretary.~~"

Section 16. G.S. 105-236(5) reads as rewritten:

"(5) Negligence. --

a. Finding of negligence. -- For negligent failure to comply with any of the provisions to which this Article applies, or rules issued pursuant thereto, without intent to defraud, the Secretary shall assess a penalty equal to ten percent (10%) of the deficiency due to the negligence.

b. Large individual income tax deficiency. -- In the case of individual income tax, if a taxpayer understates taxable income, by any means, by an amount equal to twenty-five percent (25%) or more of gross income, the Secretary shall assess a penalty equal to twenty-five percent (25%) of the deficiency. For purposes of this subdivision, "gross income" means gross income as defined in section 61 of the Code.

c. Other large tax deficiency. -- In the case of a tax other than individual income tax, if a taxpayer understates tax liability by twenty-five percent (25%) or more, the Secretary shall assess a penalty equal to twenty-five percent (25%) of the deficiency.

d. No double penalty. -- If a penalty is assessed under subdivision (6) of this section, no additional penalty for negligence shall be assessed with respect to the same deficiency.

e. Inheritance and gift tax deficiencies. -- This subdivision does not apply to inheritance, estate, and gift tax deficiencies that are the result of valuation understatements."

Section 17. G.S. 105-237(a) reads as rewritten:

"(a) Waiver. -- The Secretary may, upon making a record of the reasons therefor, reduce or waive any penalties provided for in this ~~Subchapter, except the penalty provided in G.S. 105-236 relating to unpaid checks.~~ Subchapter."

Section 18. G.S. 105-259(b)(15) reads as rewritten:

"(b) Disclosure Prohibited. -- An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...

(15) To exchange information concerning a tax imposed by Articles 2A, 2B, 2C, or 2D of this Chapter with one of the following agencies when the information is needed to fulfill a duty imposed on the Department or the agency:

a. The North Carolina Alcoholic Beverage Control Commission.

b. The Division of Alcohol Law Enforcement of the Department of Crime Control and Public Safety.

c. The Bureau of Alcohol, Tobacco, and Firearms of the United States Treasury Department.

d. Local law enforcement agencies."

Section 19. G.S. 105-266(c)(1) reads as rewritten:

"(c) Statute of Limitations. -- The period in which a refund must be demanded or discovered under this section is determined as follows:

(1) General Rule. -- No overpayment shall be refunded, whether upon discovery or receipt of written demand, if the discovery is not made or the demand is not received within three years after the date set by the statute for the filing of the return or within six months after the payment of the tax alleged to be an overpayment, whichever is later. An agreement by a taxpayer to extend the time in which the Department can assess the taxpayer for an underpayment automatically extends the time in which the taxpayer can request a refund."

Section 20. G.S. 105-449.65(a)(8) is repealed.

Section 21. G.S. 105-449.65(a)(9) is repealed.

Section 22. G.S. 105-449.87(a)(1) reads as rewritten:

"(a) Tax. -- An excise tax at the motor fuel rate is imposed on the following:

(1) Dyed diesel fuel that is used to operate a highway vehicle for a use that is not a nontaxable use under § 4082(b) of the Code. The tax does not apply, however, to dyed diesel fuel that is used to operate special mobile equipment."

Section 23. G.S. 105-449.97(b) reads as rewritten:

"(b) Administrative Discount. -- A supplier that files a timely return and sends a timely payment may deduct from the amount of tax payable with the return an administrative discount of one-tenth of one percent (0.1%) of the amount of tax payable to this State as the trustee, not to exceed eight thousand dollars ($8,000) a month. The discount covers expenses incurred in collecting taxes on motor fuel."

Section 24. G.S. 105-449.106 reads as rewritten:

"**§ 105-449.106. Quarterly refunds for certain local governmental entities, nonprofit organizations, ~~and taxicabs.~~ taxicabs, and special mobile equipment.**

(a) Government and Nonprofits. -- A local governmental entity or a nonprofit organization listed below that purchases and uses motor fuel may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the amount of the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less one cent (1¢) per gallon. ~~Any of the following entities may receive a refund under this section:~~

~~(1) A county or a municipal corporation.~~

~~(2) A private, nonprofit organization that transports passengers under contract with or at the express designation of a unit of local government.~~

~~(3) A volunteer fire department.~~

~~(4) A volunteer rescue squad.~~

~~(5) A sheltered workshop recognized by the Department of Health and Human Services.~~

An application for a refund allowed under this ~~section~~ subsection must be made in accordance with this Part and must be signed by the chief executive officer of the entity. The chief executive officer of a nonprofit organization is the president of the organization or another officer of the organization designated in the charter or bylaws of the organization.

Any of the following entities may receive a refund under this subsection:

(1) A county or a municipal corporation.

(2) A private, nonprofit organization that transports passengers under contract with or at the express designation of a unit of local government.
(3) A volunteer fire department.
(4) A volunteer rescue squad.
(5) A sheltered workshop recognized by the Department of Health and Human Services.

(b) Taxi. -- A person who purchases and uses motor fuel in a taxicab, as defined in G.S. 20-87(1), while the taxicab is engaged in transporting passengers for hire, or in a bus operated as part of a city transit system that is exempt from regulation by the North Carolina Utilities Commission under G.S. 62-260(a)(8), may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less one cent (1¢) per gallon. An application for a refund must be made in accordance with this Part.

(c) Special Mobile Equipment. -- A person who purchases and uses motor fuel to operate special mobile equipment off-highway may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less the amount of sales and use tax due on the fuel under this Chapter, as determined in accordance with G.S. 105-449.107(c). An application for a refund must be made in accordance with this Part."

Section 25. G.S. 105-449.116 is repealed.

Section 26. G.S. 20-50(a) reads as rewritten:

"(a) ~~Except as otherwise provided in this Article, every owner of a~~ A vehicle intended to be operated upon any highway of this State must be registered with the Division in accordance with G.S. 20-52, and the owner of the vehicle must comply with G.S. 20-52 before operating the vehicle. A vehicle that is leased to an individual who is a resident of this State is a vehicle intended to be operated upon a highway of this State. ~~and required by this Article to be registered shall, before the same is so operated, apply to the Division for and obtain the registration thereof, the registration plates therefor and a certificate of title therefor, and attach the registration plates to the vehicle, except when an owner is permitted to operate a vehicle under the registration provisions relating to manufacturers, dealers and nonresidents contained in G.S. 20-79,~~

~~or under temporary registration plates as provided in this Article: Provided that the~~ The Commissioner of Motor Vehicles or ~~his~~ the Commissioner's duly authorized agent is empowered to grant a special one-way trip permit to move a vehicle without license upon good cause being shown. ~~It is further provided that when~~ When the owner of a vehicle leases ~~such~~ the vehicle to a carrier of passengers or property and ~~it~~ the vehicle is actually used by ~~such~~ the carrier in the operation of its business, the ~~registration~~ license plates may be obtained by the lessee, upon written consent of the owner, after the certificate of title has been obtained by the owner. ~~Provided further that when~~ When the owner of a vehicle leases ~~such~~ the vehicle to a farmer and ~~it~~ the vehicle is actually used by ~~such~~ the farmer in the operation of ~~his~~ a farm, the ~~registration~~ license plates may be obtained by the farmer at the applicable farmer rate, upon written consent of the owner, after the certificate of title has been obtained by the owner. The lessee shall make application on an appropriate form furnished by the Division and file such evidence of the lease as the Division may require."

Section 27. G.S. 20-87(10) reads as rewritten:

"(10) Special Mobile Equipment. -- The fee for special mobile equipment for the license year or any part of the license year is ~~the same as~~ two times the fee in subdivision (5) for a private passenger motor vehicle of not more than 15 passengers."

Section 28. G.S. 20-116(a) reads as rewritten:

"(a) The total outside width of any vehicle or the load thereon shall not exceed 96 inches, except as otherwise provided in this ~~section: Provided that when~~ section. When hogsheads of tobacco are being transported, a tolerance of six inches ~~shall be allowed and that when~~ is allowed. When sheet or bale tobacco is being transported the load ~~does~~ must not exceed a width of 114 inches at the top of the load and the bottom of the load at the truck bed ~~does~~ must not exceed the width of 102 inches inclusive of allowance for load shifting or settling. Special mobile equipment is allowed a total outside width not to exceed 102 inches. ~~Provided, further, that vehicles~~ Vehicles (other than passenger buses) ~~which~~ that do not exceed the overall width of 102 inches and otherwise provided in this section may be operated in accordance with G.S. 20-115.1(c), (f), and (g)."

Section 29. G.S. 20-140.5 reads as rewritten:

"**§ 20-140.5. Special mobile equipment may tow certain vehicles.**

Special mobile equipment may ~~tow any of the following vehicles:~~ not tow any vehicle other than the following:

(1) A single passenger vehicle that can carry no more than nine ~~passengers and is not loaded, in whole or in part, with passengers or property.~~ passengers and is carrying no passengers.

(2) A single property-hauling vehicle that has a registered weight of 5,000 pounds or ~~less and is not loaded, in whole or in part, with passengers or property.~~ less, is carrying no passengers, and does not exceed its registered weight.

~~Special mobile equipment may not tow a vehicle that is not listed in this section.~~"

Section 30. G.S. 110-129.2(g) reads as rewritten:

"(g) Other Uses of Directory Information. -- The ~~Employment Security Commission~~ following agencies may access information entered into the Directory from employer reports for the ~~purpose~~ purposes stated:

(1) The Employment Security Commission for the purpose of administering employment security programs.

(2) The North Carolina Industrial Commission ~~may access information entered into the Directory from employer reports~~ for the purpose of administering workers' compensation programs.

(3) The Department of Revenue for the purpose of administering the taxes it has a duty to collect under Chapter 105 of the General Statutes."

Section 31. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

Section 32. Sections 1 and 27 of this act become effective January 1, 2000. Sections 2 and 14 of this act become effective July 1, 1999; Section 14 applies to purchases made on or after that date. Sections 5 through 11, 13, 15 through 17, and 22 of this act become effective October 1, 1999; Sections 15 through 17 apply to penalties assessed on or after that date. The remainder of this act is effective when it becomes law; Section 24 applies to taxes paid on or after January 1, 1999.

SENATE BILL 1112:
No Sales Tax Fee/Other Changes

BILL ANALYSIS

To:	House Finance	**Sponsor:**	Senator Kerr
Date:	June 23, 1999	**Summary by:**	Martha H. Harris & Cindy Avrette
Version:	PCS for 2nd Edition S1112-CSRBX-6/23		Staff Attorney

SUMMARY: ***Promotes electronic commerce by repealing the sales tax registration fee and makes other changes to the tax laws and related statutes.***

BILL ANALYSIS:

Section 1 repeals the $15 sales tax registration fee effective January 1, 2000. This fee is payable at the time a person applies for and obtains a sales tax registration number. The elimination of the fee will better enable the Department to begin receiving sales and use tax reports electronically.

Section 2 provides that check cashers and pawnbrokers are subject to the same annual $750 privilege license tax as loan agencies, effective July 1, 1999. The tax must be paid for each location.

Section 3 removes the requirement that the line on the income tax form authorizing a contribution to the Political Parties Financing Fund be color contrasted with the color scheme of the remainder of the income tax return. Beginning next year, the income tax returns will have a uniform drop-out ink color for purposes of optical character reading. With the implementation of optical character reading, the color contrast requirement is not compatible with efficient processing of the millions of tax returns filed each year because the contrast color would interfere with recognition of the proper fields.

Sections 4 and 12 clarify the definition of a utility for sales tax purposes and move an exemption from the definition section to the exemption section. These sections become effective when they become law.

Section 5 exempts durable medical equipment and medical sundries, which are eligible for coverage under Medicare and Medicaid, from State and local sales tax. The exemption only applies to items purchased on prescription or by a Certificate of Medical Need. While the item must be eligible under Medicare or Medicaid, it can be purchased by anyone with a prescription. Therefore, the bill exempts Medicare, Medicaid, and some private pay purchases of certain durable medical equipment and medical sundries. Durable medical equipment includes a variety of medical items such as wheelchairs, IV bag holders, and cane stands. Medical sundries are easily and frequently disposed of items like latex gloves, gauze, medical tape, and syringes. This section becomes effective October 1, 1999.

Sections 6 and 7 provide that all prescription drugs are exempt from sales tax, effective October 1, 1999. All of the drugs exempt from sales tax are placed in one statutory subdivision. Section 7 repeals one of the exemptions because it is incorporated into Section 6.

Section 8 simplifies the sales tax treatment of traded-in items by removing the sales tax exemption for traded-in items. Under the current law, the sale of a traded-in item is not subject to sales tax IF the person who traded-in the item paid the full amount of sales tax on the new item the person purchased. Retailers have a very difficult time maintaining sufficient records to document the amount of tax paid on a new item and how that relates to the traded-in item. This administrative problem is exacerbated in the area of farm equipment, which is subject to a reduced sales tax rate of 1%, with an $80 cap. This section becomes effective October 1, 1999.

Section 9 deletes the language that a nonprofit corporation must be chartered or incorporated within North Carolina for two years before its sales are tax exempt. This restriction is constitutionally suspect because there appears to be no rational basis for the distinction. This section becomes effective October 1, 1999.

Section 10 repeals an unconstitutional sales tax exemption for the sale of paper, ink, and other tangible personal property to commercial printers and commercial publishers for use as component parts of free circulation publications that contain advertising of a general nature. The exemption applies primarily to publications such as "The Village Advocate". It does not apply to other free circulation publications, such as a real estate guide. To be constitutional, the exemption needs to be expanded to include all free circulation publications or it needs to be repealed. This section repeals it. This section becomes effective October 1, 1999.

Section 11 adds "governmental entity" as a donee in the sales tax exemption of tangible personal property that is purchased by a retailer for resale or is manufactured or purchased by a wholesale merchant for resale and then withdrawn from inventory and donated by the retailer or merchant to a nonprofit organization. This change would allow contributions to governmental entities such as schools to qualify for the sales tax exemption. This section becomes effective October 1, 1999.

Section 13 increases the percentage that may be added to a patron's bill as a tip without that amount being subject to sales tax, effective October 1, 1999. A service charge, or tip, imposed on a meal is subject to sales tax if it exceeds 15% of the amount charged for the meal. Some restaurants add a slightly higher gratuity to a meal served to large parties. This section increases the amount that may be added to a bill as a tip without being subject to sales tax from 15% to 20%.

Section 14 provides that a local airport authority created by a local act of the General Assembly may apply for an annual refund of State and local sales taxes paid by it. Under the current law, the authorities may receive an annual refund if the local act creating it provided for the refund. Of the 33 local airport authorities created by the General Assembly, more than half have the statutory language necessary to receive the refund. Earlier this session, the General Assembly amended the local act creating two of the other authorities to give them the necessary authority to receive the refund.

Sections 15 and 17 provide that the Secretary of Revenue may waive the penalty for bad checks, effective October 1, 1999. The Secretary has the authority to waive all other tax penalties for good cause.

Section 16 rewrites the tax penalties for negligence, effective October 1, 1999. Currently, in the case of income tax, a 25% penalty applies if the taxpayer understates taxable income by an amount equal to or greater than ¼ of gross income. For other taxes, the 25% penalty applies if the taxpayer understates tax liability by an amount equal to or greater than ¼ of actual liability. Thus, the 25% penalty is harder to trigger for income taxes than for other taxes. This section would limit the trigger based on gross income to individual income taxes. Thus, corporate income taxes would trigger the 25% penalty if liability is understated by at least ¼, not just if taxable income is understated by at least ¼ of gross income.

Section 18 amends the tax secrecy statute to allow the Department to communicate with local law enforcement officers concerning administration of the unauthorized substances tax. This section is effective when it becomes law.

Section 19 amends G.S. 105-266(c)(1) to give taxpayers the same amount of time to request a refund that the Department has to make an assessment. The Department can currently assess for a longer period of time than a person can get a refund. Taxpayers voluntarily extend the time for the Department to assess in some circumstance, but this does not extend the time for getting refund if any overpayments are found. This amendment would automatically extend the time to request a refund when the taxpayers agrees to extend the time the Department can assess. This section becomes effective when it becomes law.

Sections 20 and 21 repeal the requirement that bulk end users and retailers of undyed diesel fuel get a license. This information can be obtained from Agriculture if it is needed and it imposes an unnecessary requirement on businesses.

Sections 22, 24, and 27 address a problem of special mobile equipment and the motor fuel tax. Special mobile equipment is a vehicle that has a permanently attached crane, mill, ditch-digging apparatus, or similar apparatus. The vehicle is driven on the highway only to get to and from a non-highway job. It is not designed or used primarily for the transportation of persons or property. It should not be paying motor fuel tax on the fuel used for a non-highway purpose. However, under the current law, it cannot use dyed (untaxed) diesel fuel nor can it receive a refund of the motor fuel tax paid on clear (taxed) diesel fuel. Section 22 provides that dyed (untaxed) diesel fuel may be used in special mobile equipment, effective October 1, 1999. Section 24 allows a quarterly refund for tax paid on fuel used in special mobile equipment, effective for taxes paid on or after January 1, 1999. As a result of these changes, the motor fuel used in special mobile equipment will be subject to sales tax, which is credited to the General Fund, as opposed to the motor fuel tax, which is credited to the Highway Fund and the Highway Trust Fund. Section 27 seeks to reduce the loss to the Highway Fund by increasing the registration fee for special mobile equipment from $20 to $40, effective January 1, 2000.

Section 23 clarifies that a motor fuel supplier discount is not allowed if the tax is not paid on time.

Section 25 repeals an unnecessary statute requiring certain fuel importers to register, effective when it becomes law.

Section 26 clarifies that vehicles leased to individuals who live in this State must be registered in this State, effective when this act becomes law.

Section 28 expands the maximum width of special mobile equipment from 96 inches to 102 inches, effective when this act becomes law.

Section 29 clarifies that vehicles towed by special mobile equipment may carry property that does not exceed the weight of the towed vehicle, effective when this act becomes law.

Section 30 allows the Department of Revenue to use information in the State Directory of New Hires for the purpose of administering the taxes it has a duty to collect. The State Directory of New Hires was established in 1997 to assist in the location of persons owing child support.. The Department of Health and Human Services maintains it. Every employer in the State must report to the Directory the hiring of every employee for whom a federal W-4 form is required to be completed. The report must contain the name, address, and social security number of the newly hired employee and the name, address, and federal and State tax ID number of the employer. This section becomes effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

DRAFT

BILL NUMBER: SB 1112 (House Finance Committee Substitute)

SHORT TITLE: No Sales Tax Fee / Other Changes

SPONSOR(S): Senator John Kerr

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

REVENUES	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
General Fund					
Sales Tax Reg. Fee	($270,000)	($540,000)	($540,000)	($540,000)	($540,000)
Check Cashing	$750,000	$750,000	$750,000	$750,000	$750,000
Pawnbrokers	$337,500	$337,500	$337,500	$337,500	$337,500
Prescription Drugs	($1,200,000)	($1,872,000)	($2,190,000)	($2,560,000)	($3,000,000)
Medical Equipment	($450,000)	($640,000)	($680,000)	($730,000)	($790,000)
Used Equipment	$937,500	$1,250,000	$1,250,000	$1,250,000	$1,250,000
Local Airports	Not Yet Determined				
Shoppers' Guides	$1,875,000	$2,500,000	$2,500,000	$2,500,000	$2,500,000
Net General Fund	$1,980,000	$1,785,500	$1,427,500	$1,007,500	$507,500
Local Govts.					
Prescription Drugs	($600,000)	($936,000)	($1,095,000)	($1,280,000)	($1,500,000)
Medical Equipment	($230,000)	($320,000)	($340,000)	($370,000)	($390,000)
Used Equipment	NA	NA	NA	NA	NA
Local Airports	Not Yet Determined				
Shoppers' Guides	$937,500	$1,250,000	$1,250,000	$1,250,000	$1,250,000
Net Local Govt.	$107,500	($6,000)	($185,000)	($400,000)	($640,000)
Highway Fund					
Special Mobile Equipment	$41,160	$41,160	$41,160	$41,160	$41,160

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue, Department of Transportation – Division of Motor Vehicles

EFFECTIVE DATE: Sections 1 (sales tax registration fee) and 27 (vehicle registration for special mobile equipment) of this act become effective January 1, 2000. Sections 2 (check cashers & pawnbrokers) and 14 (local airport authorities) become effective July 1, 1999. Section 5 (medical equipment), sections 6 and 7 (prescription drugs), section 8 (used equipment), sections 9 and 11 (nonprofit sales), section 10 (shoppers' guide), section 13 (tips), section 15 & 17 (bad checks), section 16 (income tax penalty), and section 22 (fuel in special mobile equipment) become effective October 1, 1999. Section 24 (fuel tax refunds to special mobile equipment) applies to taxes paid on or after January 1, 1999. The remainder of this act is effective when it becomes law.

BILL SUMMARY: This bill amends various tax laws and related statutes.

ASSUMPTIONS AND METHODOLOGY:
The following is a section by section analysis of SB 1112 PCS:

Section 1
This section repeals the $15 sales tax certificate of registration fee charged to new businesses. The number of registrations in recent years is as follows:

FY 1995-96	34,559
FY 1996-97	38,193
FY 1997-98	36,609

In 1998 and 1999, sales tax registrations are averaging approximately 3,000 a month. Assuming the continuation of the current registration rate, this section will eliminate the $15 fee for 36,000 businesses each year. The General Fund revenue loss will be $540,000 per year. The FY 1999-00 revenue loss will be $270,000 due to a January 1, 2000 effective date.

Section 2
This section imposes an annual $750 privilege license tax on each location of a check cashing or pawnbroker business. As of May 28, 1999, there are 195 check cashing businesses in North Carolina with 975 locations. The number of check cashing businesses has grown tremendously since 1997 when the state approved SB 312 (1997 SL, chapter 391) regulating the industry and approving the delayed deposit of personal checks. The Consumer Finance Administrator at the Office of the Commissioner of Banks thinks the check cashing market has now reached a saturation point and receives only two or three applications per month for new locations. This fiscal note assumes the number of check cashing businesses will peak at 1,000 in FY 1999-00. The $750,000 in revenue from the $750 tax on 1,000 locations will be deposited in the General Fund. With the 1997 law scheduled to sunset on July 1, 2001, it is uncertain how many locations will exist in FY 2001-02 and beyond.

As for pawnbrokers, there is no exact data on the number of businesses in the state. Prior to 1997, pawnbrokers were subject to an annual privilege license tax of $275 (formerly GS 105-50). The Department of Revenue reports that the number of pawnbrokers paying the privilege tax declined from 584 in FY 1993-94 to 356 in FY 1996-97. The past chair of the NC Pawn Brokers Association estimates there are 450 pawnbrokers in the state. The Consumer Finance Administrator at the Office of the Commissioner of Banks found 500 pawnbrokers in an internet phone directory search in 1997. This fiscal note will assume 450 pawnbroker locations and no future growth. The $750 annual privilege tax will result in $337,500 in revenue to the General Fund each year.

Section 3
Cost avoidance – if not removed, the color contrast requirement in the law could interfere with the processing of tax returns by optical character reader.

Section 4
No fiscal impact – clarifies definition of utility.

Section 5

This section exempts from state and local sales tax all durable medical equipment and medical sundries that are eligible for coverage under Medicare or Medicaid. This section is identical to SB 884, Medical Equipment Sales Tax, for which a fiscal note was filed on April 23, 1999. Only a brief explanation of the fiscal impact of this section will appear in this fiscal note.

Durable Medical Equipment (DME) includes a variety of medical items such as wheelchairs, IV bag holders, and cane stands. Medical sundries are easily and frequently disposed of items like latex gloves, gauze, medical tape, and syringes. The exemption only applies to items purchased on prescription or by a Certificate of Medical Need. According to the Department of Revenue, there are currently 49 DME items covered by Medicare that are taxable under North Carolina law. The Department determined that these items are taxable because they are not designed to "correct or alleviate a physical aliment" (G.S. 105 – 164.13 (12) exempts items that correct or alleviate a physical aliment from sales tax). Since the tax applies to all 49 DME and sundry items regardless of the form or type of payment, the tax should be applied to all private pay, Medicare, and Medicaid sales.

Based on information from the federal Health Care Finance Administration and from a survey of the 110 member North Carolina Association of Medical Equipment Suppliers (NCAMES), Fiscal Research Division staff determined that this sales tax exemption would produce a state and local revenue loss of $900,000 in the FY 1999-00. According to the federal Health Care Financing Administration's Office of the Actuary, national health spending is expected to grow at a rate of 6.5% annually through 2001 and 7.5% a year between 2001 and 2007. These growth rates are used in the chart below to calculate the revenue loss for this exemption in future years.

($million)

	1999-00	2000-01	2001-02	2002-03	2003-04
State	0.60	0.64	0.68	0.73	0.79
Local	0.30	0.32	0.34	0.37	0.39
Total	0.90	0.96	1.02	1.10	1.18

The actual amount shown for FY 1999-00 on page one reflects the adjustment for the October 1, 1999 effective date.

Section 6

Section 6 repeals the remaining state and local sales tax on prescription drugs. Most prescription drugs are either exempt from State and local sales and use taxes or are refundable. Drugs purchased with a prescription, prescription drugs distributed free of charge by the manufacturer of the drugs, and prescription drugs purchased for use in the commercial production of animals are already exempt from sales tax. Most hospitals receive refunds of State and local sales and use taxes paid on prescription drugs acquired by the hospital. The only entities that pay tax on prescription drugs are 1) physicians and other medical professionals who buy the drugs to administer to patients in the course of their practice and 2) state hospitals, (other than the UNC hospitals), four state psychiatric hospitals, Alcohol and Drug Treatment Centers, and Mental Retardation Centers.

The Department of Revenue Sales and Use Tax Division estimates the state and local tax loss from this exemption to be $2.4 million in FY 1999-00. This estimate is considerably less than an

estimate made in 1997 for SB 41 due to recent Tax Review Board decisions which held that physicians can be retail sellers of prescription drugs and therefore sales are exempt. The estimate is based on information obtained from sales and use tax audits of medical and dental practices and from an AMA survey. The number of medical professionals was obtained from the Census of Service Industries for North Carolina. The Department did not estimate any growth in the volume of prescription sales or in prescription drug prices. Data from State Employee Health Benefit Plan's self-insured indemnity program show that prescription drug prices increase 15% to 19% a year. This fiscal note uses a 17% inflation rate, the midpoint of this range. The October 1, 1999 effective date will reduce the FY 1999-00 revenue loss by one fourth.

Section 7

No fiscal impact - incorporates the exemption of prescription drugs distributed free of charge by the drug manufacturer into the language in Section 6.

Section 8

This section removes a sales tax exemption for trade-in items. More exactly, the exemption is for "a used article taken in trade, or a series of trades, as a credit or part payment on the sale of a new article if tax is paid on the sales price of the new article". When a similar law change was proposed in 1991, the Department of Revenue estimated that removing the exemption would result in a $750,000 to $1,000,000 annual revenue gain. The Department has not recalculated the amount since that time. Both the Sales Tax Division and the Tax Research Division of the Department of Revenue believe there has been limited growth in this area. Based on audit results they believe that many dealers are already charging the tax in the bill. Therefore, while the price of traded-in items has grown significantly, the actual potential loss has not grown, or grown moderately. As a result, the Department believes that $1,000,000 to $1,500,000 would be an accurate estimate for the current year. The fiscal note uses the mid-point of these two numbers, $1,250,000, for the fiscal estimate of the General Fund loss. There is no information on the local sales tax loss. Most items in this category are taxed at the 1%, $80 maximum state tax only.

Section 9

This section deletes the requirement that a nonprofit corporation must be chartered or incorporated in North Carolina for two years before its sales are tax exempt. The Director of the Sales Tax Division of the Department of Revenue believes the fiscal impact of this section is negligible, because few nonprofits are rejected for tax exemption status.

Section 10

This section repeals a sales tax exemption for free circulation publications such as shoppers' guides. The Department of Revenue Sales and Use Tax Division reports that the state tax loss for this exemption is $2.5 million a year. Thus repeal of this exemption will provide a revenue gain of $2.5 million to the General Fund each year. The corresponding local sales tax gain will be $1.25 million each year. The October 1, 1999 effective date will reduce the FY 1999-00 revenue gain to $1,875,000 for the General Fund and $937,500 for local governments.

Section 11

This section allows a sales tax exemption for corporate contributions of inventory to governmental entities. There have been no taxpayer complaints about the existing law, but

Department officials perceive this as a future problem. No fiscal estimate is available, but the Department of Revenue believes that the impact is insignificant.

Section 12
No fiscal impact – this existing language is being moved to the exemption section of the sales tax statutes.

Section 13
No fiscal impact – this increases the allowable service charge or tip on meals from 15% to 20%.

Section 14
Not yet available - Of the 33 local airport authorities in North Carolina, 15 directly receive refunds of sales and use tax (2 of this number were approved in 1999 by HB 708) and 5 receive refunds through their city or county government. The General Assembly's Fiscal Research Division is surveying the remaining 13 airports to determine the amount of tax to be refunded by this provision. However, the fiscal impact of this section should be small given that the airports approved in HB 708, Brunswick and Sanford-Lee, will receive refunds averaging only $1125 per year in state and local sales tax.

Sections 15 & 17
No estimate available – the language allowing the Secretary of Revenue to waive penalties for bad checks is permissive. If the Secretary of Revenue chooses to waive a substantial number of penalties, there will be a small revenue loss.

Section 16
No estimate available. The Department of Revenue assesses very few penalties for negligence. This section could produce a small revenue gain for the General Fund if penalties are easier to assess on corporate taxpayers.

Section 18
No fiscal impact – technical change.

Section 19
No estimate available. By extending the time a taxpayer can request a refund, this section might produce a small revenue loss. However, the Department of Revenue has received only a small number of complaints about the current refund policy.

Sections 20 & 21
No fiscal impact – since there was no fee for this license, its repeal will not harm the Highway Fund.

Sections 22 & 24
No estimate available. These sections will produce a small revenue loss to the Highway Fund and the Highway Trust Fund, but the Department of Revenue cannot provide the data needed to quantify the loss. Currently operators of special mobile equipment buy enough tax paid clear diesel fuel to cover their miles driven on the highway. For off highway use, the equipment operators use dyed, non-tax diesel fuel. If they request a refund for tax paid on clear fuel, their refunds are processed annually. By providing that dyed fuel may be used in special mobile

equipment, this section codifies an administrative practice allowed by the Department of Revenue. However, the Highway Fund will lose the tax paid currently on diesel fuel for highway use. For those that apply for a refund, it will speed up the refund process and the state will lose interest on invested funds.

Section 23
No fiscal impact – motor fuel suppliers pay by electronic funds transfer and have not paid late, but this section does clarify discount policy.

Section 25
No fiscal impact – according to Revenue, the statute requiring bonded fuel importers to register is unnecessary due to the lack of importers in this category.

Section 26
No fiscal impact - codifies the administrative practice used by the Division of Motor Vehicles to register vehicles leased out of state.

Section 27
The fee for special mobile equipment is doubled by section 27. As of January 1, 2000, the fee will increase from $20 a year to $40 on 2,058 pieces of special mobile equipment. This fee increase will produce a $41,160 revenue gain for the Highway Fund each year. It is difficult to project future year growth in the volume of vehicles registered, because there has been no consistent pattern of registration in the last five years. Equipment numbers have increased and declined in recent years.

Section 28
No fiscal impact – equipment operators now can apply for overweight or oversize permits for larger width.

Section 29
No estimate available – this section may reduce DMV revenue from penalties, but no data are available to quantify the amount.

Section 30
No fiscal impact – broadens access to information.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic & Linda Struyk Millsaps

APPROVED BY:

DATE:

VISITOR REGISTRATION SHEET 24

House Finance — June 23, 1999
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Brad Adcock	BCBSNC
Jack Cogwell	Parker Poe Adams Bernstein
BRUCE THOMPSON	PARKER POE ADAMS + BERNSTEIN
Sandy Sorah	WCSR
Joe Ruscek	NCRMA
Debbie Matthews	NCEWR Solid Waste Section
CHARLES ARCHER	HALIFAX Co.
Tommy Worth	Carolinas HealthCare System
Andy Gale	NCRMA
Jim Ritchy	TTA
[illegible]	NCAHP
Tracy Harris	NCPMA
Paul Lyon	OSBM
Robert A Mabry	N.C. Utilities Commission
Becca Ramsey	Public Staff
Bob Gillam	Public Staff - NCUC
Robert Bennett	NCUC Staff
Paul Lassiter	Public Staff - NCUC
Jean Cantu	H+W
Jonny Fullbright	Hunton & Williams
Sabra Faires	Dept. of Revenue
Patti Seawell	"
Andy Sybil	"
David Baker	"
LENNIE COLLINS	NC DOR
Diane Johnson	DMV
Gary Rudford	NC DOR
Mark Benson	Capitol Group

VISITOR REGISTRATION SHEET

Name of Committee , 1999
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Doug Lassiter	McClees Consulting
Sace McGee	Mayor of Bimini
Charles Collins	DOR
Bernard Allen	SOS
Preston Howard	MCIC

HOUSE FINANCE COMMITTEE

Tuesday, June 29, 1999 – Room 544 LOB

CALL TO ORDER

BILLS TO BE HEARD:

HB 1481 – Amend Tax Laws / 2 – Rep. Miller
SB 912 – Bonds for Higher Education – Sen. Rand

Speakers:

Speaker of the House Jim Black
President Pro Tempore of the Senate Marc Basnight
Harlan Boyles, State Treasurer
President Molly Broad
Ben Ruffin, Chair of the UNC Board of Governors
Martin Lancaster, President of the Community College System
Eva Klein, Consultant to project
Chancellors
Community College Presidents
Martha Harris, Bill Drafting Division
David Crotts, Fiscal Research Division

ADJOURNMENT OF MEETING

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE
AFTER SESSION MEETING

Tuesday, June 29, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 1434 - Coastal Recreational Fishing License - Rep. Redwine
HB 1233 - Structural Pest Control Amendments - Rep. Hill

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Tuesday, June 29, 1999
8:30 a.m. meeting

The House Committee on Finance met Jointly with Senate Finance on Tuesday, June 29, 1999 in Room 643 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke, Miller; Vice Chairs Jarrell; Representatives Baddour, Braswell, Bridgeman, Brown, Buchanan, Capps, Church, Creech, Cunningham, Decker, Dedmon, Eddins, Goodwin, Hackney, Hill, McComas, McCombs, Pope, Rayfield, Tucker, Wilson, and Womble. Staff including Cindy Avrette, Richard Bostic, Martha Harris, Mary Shuping, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Miller called the meeting to order to consider the following bills:

Sen. Kerr was recognized to explain SB 912, A BILL TO BE ENTITLED AN ACT (1) TO PROVIDE FOR THE FINANCING OF CAPITAL FACILITIES FOR THE UNIVERSITY OF NORTH CAROLINA THROUGH THE ISSUANCE OF STATE OF NORTH CAROLINA UNIVERSITY IMPROVEMENT SECURITY INTEREST BONDS, (2) TO AUTHORIZE THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO ISSUE SPECIAL OBLIGATION BONDS FOR IMPROVEMENTS TO THE FACILITIES OF THE UNIVERSITY OF NORTH CAROLINA AND FOR THE UNIVERSITY OF NORTH CAROLINA HOSPITALS AT CHAPEL HILL, AND OTHER FACILITIES OF THE UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM, AND (3) TO PROVIDE FOR THE FINANCING OF CAPITAL IMPROVEMENTS FOR COMMUNITY COLLEGES THROUGH THE ISSUANCE OF STATE OF NORTH CAROLINA COMMUNITY COLLEGE SECURITY INTEREST BONDS. Sen. Kerr moves for adoption of the Proposed Committee Substitute for discussion only. Sen. Rand is recognized for an explanation of the bill. Rep. Luebke moved to adopt the Proposed Committee Substitute for HB 1481 for discussion only. The Chair recognized President Molly Broad of the University of North Carolina Education System who stated her support for the bill and gave an explanation of her support. The Chair recognized Mr. Ben Ruffin, Chairman of the UNC Board of Governors who stated his support for the bill. The Chair recognized State Treasurer Harlan Boyles who supported the bill and explained the reasoning behind his department's financing of the bill. The Chair recognized the Honorable Jim Holshouser, former governor of N.C. who supported the bill. The Chair recognized the Honorable Bob Scott, former governor of N.C. who supported the bill. The Chair recognized Dr. William Friday of the UNC System who supported the bill. The Chair recognized Mr. John Saunders who supported the bill. The Chair recognized Mr. Phil Kirk, Executive Director of N.C.C.B.I. who supported the bill. The Chair recognized Mr. Martin Lancaster, President of the Community College System who supported the bill. Chair Miller ended the meeting and stated they would meet again at 1 p.m. today. The bills and Proposed Committee Substitutes for HB 1481 and SB 912, the Bill Summary, various fiscal notes from State Treasurer's office, Eva Klein's report and resume, and speakers' comments are included in these minutes.

The Chair adjourned at 9:50 a.m.

Respectfully submitted:

Representative George Miller
Chair

Kristen L. Crosson
Assistant to the Committee

SENATE AND HOUSE JOINT FINANCE COMMITTEE MEETING
TUESDAY, JUNE 29, 1999
8:30 AM AND 1:00 PM – ROOM 643

1:00 PM – SESSION

Senator John Kerr, CoChairman of the Senate Finance Committee, called the Meeting to order for the afternoon Session. He called on Ms. Eva Klein to come and complete her presentation from the Morning Session. Senator Soles moved for adoption of a proposed committee substitute for the purpose of discussion to SB 912 – Bonds for Higher Ed., motion passed. Senator Kerr turned the meeting over to Ms. Klein to explain the report that took 18 months to work on and complete. At this time, Ms. Klein gave a slide presentation of their findings on the 16 University Campuses.

After the slide presentation, Senator Kerr asked if there were people outside of the members of the committee that would like to speak on the bill. Mr. George Leef, Director of the Pope Center for Higher Education Policy spoke. Mr. Jim Blackburn of the N. C. County Commissions' Association spoke on behalf of the Bill. Mr. Charles Fuller of the N. C. Center for Sound Economy spoke on the Bill. He stated that he does not oppose the bonds but feels that the issue should be brought before the public for a vote. Mr. Jeff Neiman, President of the UNC System of Student Government Association and also the representative of the students that serves on the Board of Governors, spoke on behalf of the Bonds.

Senator Kerr opened the meeting to the members of the Committee with a rotation between Senate and House for questions. After a length debate of questions and answers, Senator Hoyle sent forth an amendment to SB 912 and moved that it be adopted. Martha Harris, Staff Attorney, explained the amendment and the motion passed. There was again a length debate on the bill as amended. Senator Soles moved that Bill as amended be given a "Favorable Report" and rolled into a committee substitute, motion passed. Copy of Bill, Committee Substitute Bill and supporting documents and comments are included in the Minutes.

Meeting adjourned.

David W. Hoyle, Co-Chair

John H. Kerr, III Co-Chair

Penny N. Williams, Clerk

Evelyn S. Hartsell, Clerk

Committee Report is Attachment #1

MINUTES
HOUSE COMMITTEE ON FINANCE

Tuesday, June 29, 1999
AFTER SESSION

The House Committee on Finance met on Tuesday, June 29, 1999 in Room 544 of the Legislative Office Building AFTER SESSION. The following members were present: Chairs Allen, Luebke; Vice Chairs Jarrell and Wood; Representatives Braswell, Bridgeman, Brown, Buchanan, Capps, Cox, Cunningham, Decker, Eddins, Edwards, Gibson, Goodwin, Gray, Hackney, Hill, McComas, McCombs, Morris, Pope, Rayfield, Starnes, Tucker, Wilson, and Womble. Staff including Cindy Avrette, Richard Bostic, George Givens, Jeff Hudson, Mary Shuping, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Allen called the meeting to order to consider the following bills:

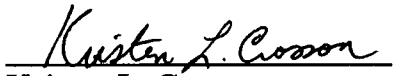
Rep. McComas was recognized to explain Rep. Redwine's HB 1434, A BILL TO BE ENTITLED AN ACT TO ESTABLISH A COASTAL RECREATIONAL FISHING LICENSE. Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion only. Jeff Hudson explained the bill. Rep. McComas commented on the bill. Rep. Buchanan questioned Rep. McComas. The Chair recognized Mr. Preston Prom, Director of Marine Fisheries who answered questions. Jeff Hudson answered a question from Rep. Buchanan. Rep. Wilson stated she supported the bill. Rep. Capps questioned fiscal staff regarding the fiscal note. The Chair recognized Mr. Gerry Shell of the N.C. Fisheries Association who commented. Rep. Rayfield sent forward an amendment and moved its adoption. The amendment was adopted. Rep. Gibson stated he supported the bill. Rep. McComas moved to roll the amendment into a new Proposed Committee Substitute and to give the new Proposed Committee Substitute a favorable report and an unfavorable report to the original bill. The motion passed. A copy of the bill, Proposed Committee Substitute, Bill Summary, Fiscal Note, and handout are included in these minutes.

Rep. Hill was recognized to explain HB 1233, A BILL TO BE ENTITLED AN ACT TO AMEND THE STRUCTURAL PEST CONTROL ACT. Rep. Buchanan moved to give the bill a favorable report. Rep. Hackney questioned Rep. Hill. The Chair recognized Mr. David McCloud of the N.C. Department of Agriculture who answered Rep. Hackney's question. Rep. Cox and Luebke questioned Mr. McCloud. Rep. Buchanan's motion for a favorable report passed. A copy of the bill and Bill Summary are included in these minutes.

There being no further business, the Chair adjourned the meeting.

Respectfully submitted:

Representative Gordon Allen
Chair



Kristen L. Crosson
Assistant to the Committee

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 1233 A BILL TO BE ENTITLED AN ACT TO AMEND THE STRUCTURAL PEST CONTROL ACT.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

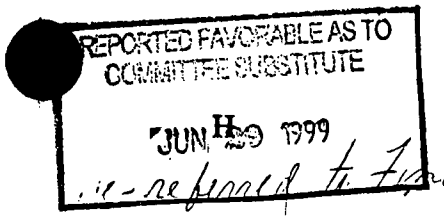
☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

D

HOUSE BILL 1233
Proposed Committee Substitute H1233-PCS1298-RF

Short Title: Structural Pest Control Amendments. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE STRUCTURAL PEST CONTROL ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-65.23 reads as rewritten:

"**§ 106-65.23. Structural Pest Control Division of Department of Agriculture and Consumer Services recreated; Director; powers and duties of Commissioner; Structural Pest Control Committee created; appointment; terms; powers and duties; quorum.**

(a) There is recreated, within the North Carolina Department of Agriculture and Consumer Services, a Division to be known as the Structural Pest Control Division. The Commissioner of Agriculture may appoint a Director of the ~~Division~~ Division, chosen from a list of nominees submitted to him by the Structural Pest Control Committee created in this section, whose duties and authority shall be determined by the ~~Commissioner.~~ Commissioner in consultation with the Committee. The Director shall be responsible for and answerable to the Commissioner of Agriculture and the Structural Pest Control Committee as to the operation and conduct of the Structural Pest Control Division. The Director shall act as secretary to the Structural Pest Control ~~Committee created in this section.~~ Committee.

(b) The Commissioner shall have the following powers and duties under this Article:

(1) To administer and enforce the provisions of this Article and the rules adopted thereunder by the Structural Pest Control Committee. In order to carry out these powers and duties, the Commissioner may delegate to the Director of the Structural Pest

Control Division the powers and duties assigned to him under this Article.

(2) To assign the administrative and enforcement duties assigned to him in this Article.

(3) To direct, in consultation with the Structural Pest Control Committee, the work of the personnel employed by the Structural Pest Control Committee and the work of the personnel of the Department assigned to perform the administrative and enforcement functions of this Article.

(4) To develop, for the Structural Pest Control Committee's consideration for adoption, proposed rules, policies, new programs, and revisions of existing programs under this Article.

(5) To monitor existing enforcement programs and to provide evaluations of these programs to the Structural Pest Control Committee.

(6) To attend all meetings of the Structural Pest Control Committee, but without the power to vote unless the Commissioner attends as the designee on the Committee from the Department of Agriculture and Consumer Services.

(7) To keep an accurate and complete record of all meetings of the Structural Pest Control Committee and to have legal custody of all books, papers, documents, and other records of the Committee.

(8) To perform such other duties as may be assigned to him by the Structural Pest Control Committee.

(c) There is hereby created a Structural Pest Control Committee to be composed of the following members. The Commissioner shall appoint one member of the Committee who is not in the structural pest control business for a four-year term. The Commissioner of Agriculture shall designate an employee of the Department of Agriculture and Consumer Services to serve on the Committee at the pleasure of the Commissioner. The dean of the School of Agriculture of North Carolina State University at Raleigh shall appoint one member of the Committee who shall serve for one term of two years and who shall be a member of the entomology faculty of the University. The vacancy occurring on the Committee by the expired term of the member from the entomology faculty of the University shall be filled by the dean of the School of Agriculture of North Carolina State University at Raleigh who shall designate any person of the dean's choice from the entomology faculty of the University to serve on the Committee at the pleasure of the dean. The Secretary of Health and Human Services shall appoint one member of the Committee who shall be an epidemologist and who shall serve at the pleasure of the Secretary. The Governor shall appoint two members of the Committee who are actively engaged in the pest control industry, who are licensed in at least two phases of structural pest control as provided under G.S. 106-65.25(a), and who are residents of the State of North Carolina but not affiliates of the same company.

One member of the Committee shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, and one member of the Committee shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. Vacancies in such appointments shall be filled in accordance with G.S. 120-122.

The initial Committee members from the pest control industry shall be appointed as follows: one for a two-year term and one for a three-year term. The Governor shall appoint one member of the Committee who is a public member and who is unaffiliated with the structural pest control industry, the pesticide industry, the Department of Agriculture and Consumer Services, the Department of Health and Human Services and the School of Agriculture at North Carolina State University at Raleigh. The initial public member shall be appointed for a term of two years, commencing July 1, 1991. After the initial appointments by the Governor, all ensuing appointments by the Governor shall be for terms of four years. Appointments made by the General Assembly shall be for terms of two years. Any vacancy occurring on the Committee by reason of death, resignation, or otherwise shall be filled by the Governor or the Commissioner of Agriculture, as the case may be, for the unexpired term of the member whose seat is vacant.

(d) The Structural Pest Control Committee shall have the following powers and duties:

(1) To adopt rules and make policies as provided in this Article.

(2) To issue, deny, suspend, revoke, modify, or restrict licenses, certified applicator cards, and registered technician cards under the provisions of this Article. In all matters affecting licensure, the decision of the Committee shall constitute the final agency decision.

~~make final decisions under this Article concerning licenses, certified applicator cards, and identification cards. The Committee shall~~

(3) To report annually to the Board of Agriculture the action taken in the Committee's final decisions and the financial status of the Structural Pest Control Division.

~~The Director shall be responsible for and answerable to the Commissioner of Agriculture as to the operation and conduct of the Structural Pest Control Division.~~

(e) Each member of the Committee who is not an employee of the State shall receive as compensation for services per diem and necessary travel expenses and registration fees in accordance with the provisions as outlined for members of occupational licensing boards and currently provided for in G.S. 93B-5. Such per diem and necessary travel expenses and registration fees shall apply to the same effect that G.S. 93B-5 might hereafter be amended.

Five members of the Committee shall constitute a quorum but no action at any meeting of the Committee shall be taken without four votes in accord. The chairman shall be entitled to vote at all times.

The Committee shall meet at such times and such places in North Carolina as the chairman shall direct; provided, however, that four members of the Committee may call a special meeting of the Committee on five days' notice to the other members thereof.

Except as otherwise provided herein, all members of the Committee shall be appointed or designated, as the case may be, prior to and shall commence their respective terms on July 1, 1967.

At the first meeting of the Committee they shall elect a chairman who shall serve as such at the pleasure of the Committee.

Section 2. G.S. 106-65.24 reads as rewritten:

"**§ 106-65.24. Definitions.**

~~For the purposes of this Article, the following terms, when used in the Article or the rules and regulations, or orders made pursuant thereto, shall be construed respectively to mean:~~ As used in this Article:

(1) 'Animal' means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish.

(1a) 'Applicant for a certified applicator's identification card' means any person making application to use restricted use pesticides in any phase of structural pest control.

(2) 'Applicant for a license' means any person in charge of any individual, firm, partnership, corporation, association, or any other organization or any combination thereof, making application for a license to engage in structural pest control, control of structural pests or household pests, or fumigation operations, or any person qualified under the terms of this Article.

(3) 'Attractants' means substances, under whatever name known, which may be toxic to insects and other pests but are used primarily to induce insects and other pests to eat poisoned baits or to enter traps.

(3a) Repealed by Session Laws 1989, c. 725.

(3b) 'Branch Office' means any office under the management of a licensee that is not a home office. ~~'Call office' means any office or telephone answering service other than a licensee's home office which is used by a licensee to conduct structural pest control work and which employs no more than one individual engaged in structural pest control work.~~

(4) 'Certified applicator' means any individual who is certified under G.S. 106-65.25 as authorized to use or supervise the use of any pesticide which is classified for restricted use.

(5) 'Commissioner' means the Commissioner of Agriculture of the State of North Carolina.

(6) 'Committee' means the Structural Pest Control Committee.

(6a) 'Deviation' means failure of the licensee or certified applicator or registered technician card holder to follow any rule adopted by the Committee under provisions of this Article.

(7) 'Device' means any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, virus, or other microorganism on or in living man or other living animals); but not including equipment used for the application of pesticides when sold separately therefrom.

(8) Repealed by Session Laws 1975, c. 570, s. 4.

(8a) 'Director' means the Director of the Structural Pest Control Division of the Department of Agriculture and Consumer Services.

(9) 'Employee' means any person employed by a licensee with the exceptions of clerical, janitorial, or office maintenance employees, or those employees performing work completely disassociated with the control of insect pests, rodents or the control of wood-destroying organisms.

(9a) 'Enforcement agency' means the Structural Pest Control Division of the Department of Agriculture and Consumer Services.

(10) 'Fumigants' means any substance which by itself or in combination with any other substance emits or liberates a gas or gases, fumes or vapors and which gas or gases, fumes or vapors when liberated and when used will destroy vermin, rodents, insects, and other pests; but may be lethal, poisonous, noxious, or dangerous to human life.

(11) 'Fungi' means wood-decaying fungi.

(11a) 'Home office' means the ~~licensee's principal place of business.~~ office identified to the enforcement agency by a licensee as his or her principal place of business.

(12) 'Insect' means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insects, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes, and sowbugs.

(13) 'Insecticides' means substances, not fumigants, under whatever name known, used for the destruction or control of insects and similar pests.

(14) 'Label' means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.

(14a) The term 'labeling' means all labels and other written, printed, or graphic matter:

a. Upon the pesticide (or device) or any of its containers or wrappers;
b. Accompanying the pesticide (or device) at any time;
c. To which reference is made on the label or in literature accompanying the pesticide (or device) except when accurate nonmisleading reference is made to current official publications of the United States Department of Agriculture or Interior, the United States Public Health Service, state experiment stations, state agricultural colleges, or other similar federal institutions or official agencies of this State or other states authorized by the law to conduct research in the field of pesticides.

(15) 'Licensee' means ~~the designated person in charge of the business establishment or business entity, whether it be individual, firm, partnership, corporation, association or any organization, or any combination thereof, engaged in pest control work covered under the provisions of this Article. Each branch office of a business establishment is to be in charge of a person who has a license herein provided for.~~ any person qualified for and holding a license for any phase of structural pest control pursuant to this Article.

(16) 'Person' means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

(17) 'Pest' means any living organism, including but not limited to, insects, rodents, birds, and fungi, which the Commissioner declares to be a pest.

(18) 'Pesticide' means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.

(19) 'Registered pesticide' means a pesticide which has been registered by federal and/or State agency responsible for registering pesticides.

(19a) 'Registered technician' means any individual who is required to be registered with the Structural Pest Control Division under G.S. 106-65.31.

(20) 'Repellents' means substances, not fumigants, under whatever name known, which may be toxic to insects and related pests, but are generally employed because of capacity for preventing the entrance or attack of pests.

(21) 'Restricted use pesticide' means a pesticide which has been designated as such by the federal and/or State agency responsible for registering pesticides.

(22) 'Rodenticides' means substances, not fumigants, under whatever name known, whether poisonous or otherwise, used for the destruction or control of rodents.

(23) 'Structural pest control' means the control of wood-destroying organisms or household pests (including, but not limited to, animals such as moths, cockroaches, ants, beetles, flies, mosquitoes, ticks, wasps, bees, fleas, mites, silverfish, millipedes, centipedes, sowbugs, crickets, termites, wood borers, etc.), including the identification of infestations or infections, the making of inspections, the use of pesticides, including insecticides, repellents, attractants, rodenticides, fungicides, and fumigants, as well as all other substances, mechanical devices or structural modifications under whatever name known, for the purpose of preventing, controlling and eradicating insects, vermin, rodents and other pests in household structures, commercial buildings, and other structures (including household structures, commercial buildings and other structures in all stages of construction), and outside areas, as well as all phases of fumigation, including treatment of products by vacuum fumigation, and the fumigation of railroad cars, trucks, ships, and airplanes, or any one or any combination thereof.

(24) 'Under the direct supervision of a certified applicator' means, unless otherwise prescribed by its labeling, a pesticide shall be considered to be applied under the direct supervision of a certified applicator if it is applied by a competent person acting under the instructions and control of a certified applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied."

Section 3. G.S. 106-65.25 reads as rewritten:

"**§ 106-65.25. Phases of structural pest control; prohibited acts; license required; exceptions.**

(a) The Committee shall classify license phases to be issued under this Article. Separate phases or subphases shall be specified for:

(1) Control of household pests by any method other than fumigation ('P' phase);

(2) Control of wood-destroying organisms by any method other than fumigation ('W' phase); and

(3) Fumigation ('F' phase).

(b) It shall be unlawful for any person ~~to act in the capacity of a structural pest control licensee,~~ to:

(1) ~~advertise~~ Advertise as, offer to engage in, or engage in or supervise work as a manager, owner, or owner-operator in any phase of structural pest control or otherwise act in the capacity of a structural pest control licensee unless ~~he~~ the person is licensed ~~as provided for in~~ pursuant to this ~~Article.~~ Article or has engaged the services of a licensee as a full-time regular employee who is responsible for the structural pest control performed by the

company. A license is required for each phase of structural pest control. ~~No person may hold~~

(2) Hold more than one license for each ~~phase.~~ phase of structural pest control. ~~The licensee shall be responsible for the supervision of the work performed under his license.~~

(3) Use a restricted use pesticide in any phase of structural pest control, whether it be on the person's own property or on the property of another, unless the person:

a. Qualifies as a certified applicator for that phase of structural pest control; or

b. Is under the direct supervision of a certified applicator who possesses a valid certified applicator's identification card for that phase of structural pest control.

(4) Use or supervise the use of restricted use pesticides in demonstrating or supervising a demonstration to the public of the proper use and techniques of the application of pesticides or conducting field research with pesticides unless:

a. The person possesses a valid certified applicator's identification card;

b. The person is conducting laboratory research involving restricted use pesticides; or

c. The person is a doctor of medicine or a doctor of veterinary medicine applying restricted use pesticides as drugs or medication during the course of his or her normal professional practice.

This subdivision applies to all persons, including cooperative extension specialists demonstrating pesticide products, individuals demonstrating methods used in public programs, and local, State, federal, commercial, and other persons conducting field research on or using restricted use pesticides.

(c) ~~A licensee may not establish any office other than his home office from which more than one employee is performing structural pest control work unless a separate licensee is placed in charge of that office.~~ It shall be unlawful for any licensee to do any of the following:

(1) Establish, be in charge of, or manage any branch office in excess of the number of branch offices that may be established, supervised, or managed by a licensee as set forth in rules adopted by the Committee.

(2) Fail to supervise the structural pest control performed out of the licensee's home office or any branch office under the licensee's management.

(3) Allow his or her license to be used by any person or company for which he or she is not a full-time regular employee actively and

personally engaged in the supervision of the structural pest control performed under the license.

(4) Use any pesticide, material, or device prohibited by the Committee or use any approved pesticide, material, or device in a manner prohibited by the Committee.

(5) Use or supervise the use of restricted use pesticides in a phase of structural pest control for which the person is not licensed or qualified as a certified applicator unless the person's use is under the supervision of a licensee or certified applicator certified in that phase of structural pest control.

(c1) The Committee shall adopt rules that permit a licensee to establish branch offices in addition to a home office. In no event shall the rules adopted restrict the number of branch offices a licensee can establish, supervise, or manage to fewer than two branch offices. The rules shall include provisions to ensure that the licensee can adequately supervise all structural pest control performed from the offices and under his or her license.

(d) A license is not required for any person (or ~~his~~ the person's full-time regular employees) doing structural pest control ~~work~~ on ~~his~~ the person's own ~~property: provided, however, that no~~ property. No fee may be charged for structural pest control ~~work~~ performed by any such person.

~~(e) Any person who uses a restricted use pesticide in any phase of structural pest control, whether it be on his own property or on the property of another, must:~~

~~(1) Qualify as a certified applicator for that phase of structural pest control; or~~

~~(2) Be under the direct supervision of a certified applicator possessing a valid identification card for that phase of structural pest control.~~

~~(f) Persons who demonstrate to the public the proper use and techniques of application of pesticides or supervise such demonstration or conduct field research with pesticides, and in doing so, use or supervise the use of restricted use pesticides must possess a valid certified applicator's identification card. Included in the first group are such persons as extension representatives demonstrating pesticide products and those individuals demonstrating methods used on public programs. The second group includes local, State, federal, commercial, and other persons conducting field research on or utilizing restricted use pesticides.~~

~~This subsection does not apply to the following persons:~~

~~(1) Persons conducting laboratory-type research involving restricted use pesticides; or~~

~~(2) Doctors of medicine and doctors of veterinary medicine applying restricted use pesticides as drugs or medication during the course of their normal practice.~~

(g) Any person issued a license for any one or any combination of the phases of structural pest control shall be deemed to be a 'certified applicator' to use or supervise the use of restricted use pesticides so long as the pesticides are being used only in the ~~phase(s)~~ phase of structural pest control for which the person is licensed.

(h) Licenses and certified applicator's identification cards may only be issued to individuals. License certificates and certified applicator's identification cards shall be issued in the name of the individual, shall bear the name and address of ~~his~~ the individual's business or employer's business and shall indicate the phase or phases for which the individual is qualified and such other information as the Committee may specify."

Section 4. G.S. 106-65.26(d) reads as rewritten:

"(d) All applicants for license must have practical experience and knowledge of practical and scientific facts underlying the practice of structural pest control, control of wood-destroying ~~organisms~~ organisms, or fumigation. ~~No person who has within five years of his application been convicted of or has entered a plea of guilty or a plea of nolo contendere to a crime involving moral turpitude, or who has forfeited bond to a charge involving moral turpitude, shall be entitled to take an examination or the issuance of a license under the provisions of this Article.~~ No applicant is entitled to take an examination for the issuance of a license pursuant to this Article who has within five years of the date of application been convicted, entered a plea of guilty or of nolo contendre, or forfeited bond in any State or federal court for a violation of G.S. 106-65.25(b), any felony, or any crime involving moral turpitude."

Section 5. G.S. 106-65.27(c1) reads as rewritten:

"(c1) When there is a transfer of ownership, management, operation of a structural pest control business or in the event of the death or disability of a licensee there shall be not more than a total of 90 days during any 12-month period in which said business shall operate without a licensee assigned to ~~it.~~ it; provided that, in the event of the death or disability of a licensee, the Committee shall have the authority to grant up to an additional 90 days within the 12-month period in which a business may operate without a licensee assigned to it.

The owner, partnership, corporation, or other entity operating said business shall, within 10 days of such transfer or disability or within 30 days of death, designate in writing to the Division a certified applicator who shall be responsible for and in charge of the structural pest control operations of said business during the 90-day period. If the owner, partnership, corporation, or other entity operating the business fails to designate a certified applicator who shall be responsible for the operation of the business during the 90-day period, the business shall cease all structural pest control activities upon expiration of the applicable notification period and shall not resume operations until a certified applicator is so designated.

During the 90-day period the use of any restricted use pesticide shall be by or under the direct supervision of the certified applicator designated in writing to the Division. The designated certified applicator shall be responsible for correcting all deviations on all existing contracts and for all work performed under his supervision.

The new licensee shall be responsible for correcting all deviations on all existing contracts and for all work performed under his supervision."

Section 6. G.S. 106-65.28 is amended by adding a new subsection to read:

"(g) Any pesticide, material, or device for which such information is requested by the Committee pursuant to G.S. 106-65.29(9a) and denied by the registrant or manufacturer shall not be used in any structural pest control performed for compensation and may only be used by an individual performing structural pest control on the individual's own property."

Section 7. G.S. 106-65.29 reads as rewritten:

"**§ 106-65.29. Rules and regulations.**

In order to ensure that persons licensed and certified under this Article are capable of performing a high quality of workmanship, the Committee ~~is hereby authorized and empowered to make~~ may adopt rules ~~and regulations~~ with respect to:

(1) The amount and kind of training required of an applicant for a license and certified applicator's card to engage in any one or more of the three phases of structural pest control, and the amount and kind of training required of an applicant for a registered technician's identification card.

(2) The type, frequency and passing score of any examination given an applicant for a license and certified applicator's card under this Article.

(3) The amount, kind and frequency of continuing education required of a licensee and certified applicator.

(4) The methods and materials to be used in performing any work authorized by the issuance of a license and certified applicator's card under this Article.

(5) The business records to be made and maintained by licensees and certified applicators under this Article necessary for the Committee to determine whether the licensee and certified applicator is performing a high quality of workmanship.

(6) The credentials and identification required of licensees and certified applicators, their employees and equipment, including service vehicles, when engaged in any work defined under this Article.

(7) Safety methods and procedures for structural pest control work.

(8) Fees for reinspection following a finding of a deviation, as defined by the Committee.

(9) Fees for training materials provided by the Committee or the Division. Such fees may be placed in a revolving fund to be used for training and continuing education purposes and shall not revert to the General Fund.

(9a) Efficacy data and other technical information to be submitted by registrants and manufacturers of pesticides and other materials or devices for review and approval, in order for the Committee and the enforcement agency to ensure the efficacy of pesticides and other materials or devices used in structural pest control in this State. This subdivision does not require either the Committee or

the enforcement agency to disclose any information that is confidential information within the meaning of G.S. 132-1.2.

(10) The policies and programs set forth in this Article."

Section 8. G.S. 106-65.30 reads as rewritten:

"**§ 106-65.30. Inspectors; inspections and reports of violations; designation of resident agent.**

(a) For the enforcement of the provisions of this Article the Commissioner is authorized to appoint one or more qualified inspectors and such other employees as are necessary in order to carry out and enforce the provisions of this Article. The inspectors shall be known as "structural pest control inspectors." The Commissioner ~~shall~~ may enforce compliance with the provisions of this Article by making or causing to be made periodical and unannounced inspections of work done by licensees and certified applicators under this Article who engage in or supervise any one or more phases of structural pest control as defined in G.S. 106-65.25. The Commissioner shall cause the prompt and diligent investigation of all reports of violations of the provisions of this Article and all rules and regulations adopted pursuant to the provisions hereof; provided, however, no inspection shall be made by a representative of the Commissioner of any property without first securing the permission of the owner or occupant thereof.

(b) Prior to the issuance or renewal of a license or certified applicator's identification card, every nonresident owner of a business performing any phase of structural pest control work shall designate in writing to the Commissioner or his authorized agent a resident agent upon whom service of notice or process may be made to enforce the provisions of this Article and rules and regulations adopted pursuant to the provisions hereof or any civil or criminal liabilities arising hereunder.

(c) The Commissioner shall have authority to appoint personnel of the Structural Pest Control Division as special inspectors and said special inspectors are hereby vested with the authority to arrest with a warrant, or to arrest without a warrant when a violation of this Article is being committed in their presence or they have reasonable grounds to believe that a violation of this Article is being committed in their presence. Said special inspectors shall take offenders before the several courts of this State for prosecution or other proceedings. The provisions of this section do not apply to any person holding a valid structural pest control license, or a certified applicator's identification card, or a registered technician's identification card as issued under the provisions of this Article. Special inspectors shall not be entitled to the benefits of the Law Enforcement Officers' Benefit and Retirement Fund or the benefits of the Law Enforcement Officers' and Others Death Benefit Act as provided for in Articles 12 and 12A of Chapter 143 of the General Statutes, respectively."

Section 9. G.S. 106-65.31(b) reads as rewritten:

"(b) License. -- The fee for the issuance or renewal of a license for any one phase of structural pest control shall be ~~one hundred twenty-five dollars ($125.00).~~ one hundred fifty dollars ($150.00). Each additional phase shall be ~~fifty dollars ($50.00).~~ sixty-five dollars ($65.00). The fee for each subphase shall be ~~ten dollars ($10.00).~~ fifteen dollars ($15.00). Licenses shall expire on June 30 of each year and shall be

renewed annually. All licensees who fail or neglect to renew their license on or before June 30, but who make application before January 1 of the following year, may have their license renewed without having to be reexamined, unless the applicant is scheduled for periodic reexamination under regulations adopted pursuant to G.S. 106-65.27(d)(3). No structural pest control work may be performed until the license has been renewed or until a new license has been issued.

Any licensee whose employment is terminated by his employer or any licensee who is transferred to another company or location other than the company or location shown on his license certificate, may at any time, have his license reissued for the remainder of the license year for a fee of ten dollars ($10.00).

Any licensee whose license is lost or destroyed may secure a duplicate license for a fee of ten dollars ($10.00)."

Section 10. G.S. 106-65.33 reads as rewritten:

"**§ 106-65.33. Violation of Article, falsification of records, or misuse of registered pesticide a misdemeanor.**

(a) Any person who shall be adjudged to have violated any provision of this Article or who falsifies any records required to be kept by this Article or by the rules and regulations pursuant to this Article or who uses a registered pesticide in a manner inconsistent with its labeling shall be guilty of a Class 2 misdemeanor. In addition, if any person continues to violate or further violates any provision of this Article after written notice from the Committee, the court may determine that each day during which the violation continued or is repeated constitutes a separate violation subject to the foregoing penalties.

(b) Nothing in this Article shall be construed to require the Committee or the Commissioner to initiate, or attempt to initiate, any criminal or administrative proceedings under this Article for a minor violation of this Article whenever the Committee or Commissioner determines that the public interest will be adequately served in the circumstances by a suitable written notice or warning."

Section 11. G.S. 106-65.41 reads as rewritten:

"**§ 106-65.41. Civil penalties.**

A civil penalty of not more than two thousand dollars ($2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through ~~(12).~~ (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article. In determining the amount of any penalty, the Committee shall consider the degree and extent of harm caused by the violation. No civil penalty may be assessed under this section unless the person has been given an opportunity for a hearing pursuant to Chapter 150B of the General Statutes. Assessments may be collected, following judicial review, if any, of the Committee's final decision imposing the assessment, in any lawful manner for the collection of a debt.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

Section 12. This act becomes effective October 1, 1999.

HB 1233:
Structural Pest Control Act Amendments

BILL ANALYSIS

Committee:	House Agriculture	**Introduced by:**	Representative Hill
Date:	June 28, 1999	**Summary by:**	Barbara Riley
Version:	PCS		Committee Counsel

SUMMARY:

House Bill 1233 makes several changes to the Structural Pest Control Statutes, including a clarification of the responsibilities of the Department of Agriculture and the Structural Pest Control Committee,the allowance of branch offices, and the increase of annual licensing fees.

BACKGROUND:

Structural pest control is the control of household pests and wood destroying insects, including inspection, identification, and the use of pesticides and other substances to eradicate or control pests in household structures, commercial buildings and other structures and outside areas. G.S. 105-65.24(23). The structural pest control industry is regulated under the Structural Pest Control Act, Article 4C of Chapter 106 of the General Statutes. The act is administered by Structural Pest Control Division (the Division) of the North Carolina Department of Agriculture and Consumer Services. Currently, the Director of the Division is appointed by the Commissioner of Agriculture, who also sets out the Director's duties and authority. The Act also provides for the appointment of a Structural Pest Control Committee (SPCC) that is charged with making the final agency decisions on licensing matters and authorized to make rules on training and education requirments, examination scores, methods and materials to be used in pest control work, safety, credentials and other matters. The membership of the SPCC includes one member appointed by the Commissioner who is not in the structural pest business, one member appointed by the Commissioner who is an employee of NCDA, one member appointed by the Dean of the College of Ag at NCSU who is on the entomology faculty, one member appointed by the Secretary of Health and Human Services who is an epidemiolgist, two members appointed by the Governor who are actively engaged in the structural pest control business, and two members appointed by the General Assembly.

BILL ANALYSIS:

The first portion of House Bill 1233 rewrites the provisions of G.S. 106-65.23 clarifying the powers and duties of the Commissioner and those of the SPCC with respect to the administration of the structural pest control law. The bill provides that Commissioner shall have the power to:

Administer and enforce the provisions of the Act and the rules adopted thereunder.

Assign administrative and enforcement duties.

Direct the work of the Division's employees and personnel assigned to the SPCC.

Develop proposed rules and programsfor consideration for adoption by the SPCC.

Monitor and evaluate existing programs and report on these to the SPCC.

Attend and keep records of the meetings of the SPCC.

Perform othere duties assigned by the SPCC.

The SPCC is given the authority to:

Adopt rules and make policies as provided for in the Article.

Issue, deny, suspend, revoke, modify or restrict licenses.

Report annually to the Board of Agriculture.

In addition, the amendments to Article 4C allow the SPCC a larger role in the selection and oversight of the Director of the Division. Currently appointed by the Commissioner, the bill provides that the Director shall be chosen from a list of nominees provided by the SPCC. The Director's duties are to be set by the Commissioner in consultation with the SPCC and the Director is to be answerable to both the Commissioner and the SPCC for the operation of the Division.

Section 2 of the bill rewrites definitions. The term "call office" is deleted and replaced with the term "branch office". A branch office is any office under the management of a licensee that is not a home office. The term "home office" is redefined to mean the place of business identified to the Division as the principle place of business. The term "licensee" is redefined to mean a person qualified and holding a license for any phase of structural pest control.

Section 3 of the bill makes two substantial changes to G.S. 106-65.25 regarding prohibited acts.

The first major change provides some flexibility to persons who wish to engage in the structural pest control business. Curently such a person must himself be licensed. The amendment would allow a person to advertise, engage in, or supervise work in any phase of structural pest control, or otherwise act in the capacity of structural pest control licensee if the person either is licensed or employes a licensee as a full time regular employee responsible for each phase of structural pest control.

The second major change would allow a licensee to establish branch offices, the maximum number of which is to be set by the SPCC but in no event fewer than two branch offices in addition to a home office. It is unlawful for a licensee to establish more branch offices than allowed by rule, to fail to supervise the work performed out of any office under his management, to allow his license to be used by a person or company for which he is not a full-time regular employee, use prohibited materials or devices or use approved pesticides or devices in an unapproved manner, or to use or supervise the use of a restricted use pesticide for which he is not licensed.

Other portions of G.S. 106-65.25 are also rewritten for clarity and moved within the section.

Section 4 of the bill amends G.S. 106-65.26(d) expanding the bases for refusing to allow a license applicant to sit for an examination. As rewritten these will include violations of G.S. 106-65.25(b), regarding the operation and supervision of branch offices, and felonies, in addtion to crimes involving moral turpitude.

Section 5 of the bill amends G.S. 106-65.27(c1) to allow the SPCC to grant an additional 90 days during which a structural pest control business may operate without a licensee assigned to it in the event of the death or disability of the licensee.

Sec tion 6 of the bill ads a new subsection to G.S. 106-65.28 that would curtail the commercial use of any pesticide, material, or device for which the SPCC has requested information from the manufacturer or

registrant but that request has been denied. Such pesticides and other material may only be used by an individual applying the material on his own property.

Section 7 of the bill would allow the SPCC to adopt rules that would require manufacturers and registrants of pesticides and other materials to provide efficacy data and other technical information on such products. Confidential information provided under these rules is not required to be disclosed by the Division or SPCC.

Section 8 of the bill provides the Division with discretion as to the number of inspections it conducts of work done by licensees.

Section 9 of the bill raises the fee for any one phase of structural pest control from $125 to $150 per year. Each additional phase license fee is raised from $50 to $65. The fee for each subphase license is raised from $10 to $15 annually.

Section 10 of the bill amends G.S. 106-65.33, Violation of Article, to provide that the SPCC and the Commissioner are not required under the provisions of Article 4C to initiate criminal or administrative proceedings for minor violations of the article if the SPCC or Commissioner determins that the public interest would be adequately served by written warning.

Section 11 of the bill amends the civil penalties portion of Article 4C to authorize the SPCC to impose a civil penalty for violations of G.S. 106-65.28(a)(14) and (15). Subsection (14) prohibits applying a substance that contains the active ingredients of a registered pesticide but is not a registered pesticide. Subsection (15) prohibits combining a substance whose application is prohibited pursuant to Subsection (14) with any other substance to apply as a pesticide or for any other reason. The amendment also provides that a civil penalty may be levied against any person who violates the provisions of Article 4C or the rules adopted thereunder by the SPCC.

The act becomes effective October 1, 1999.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 1434 A BILL TO BE ENTITLED AN ACT TO ESTABLISH A COASTAL RECREATIONAL FISHING LICENSE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill (# 2), ☐ ~~which changes the title~~, unfavorable as to ~~(original bill)~~ (Committee Substitute Bill # 1), ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

H. B. No. 1434 DATE 6/29/99

S. B. No. _____ Amendment No. _____

(to be filled in by Principal Clerk)

Rep.) Rayfield

Sen.)

moves to amend the bill on page 6, lines 5-8,

by rewriting those lines to read:

"pier. within 30 days following a change of ownership of a pier, or a change as to the"; AND

on page 4, line 21,

by deleting "through (3)" and substituting "and (2)".

SIGNED _____

ADOPTED John Rayfield FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1434
Committee Substitute Favorable 6/23/99
Proposed Committee Substitute H1434-PCS3451-RT

Short Title: Coastal Recreational Fishing License. (Public)

Sponsors:

Referred to:

April 29, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A COASTAL RECREATIONAL FISHING LICENSE.

Whereas, the State of North Carolina has one of the most diverse fisheries in the United States; and

Whereas, the General Assembly recognizes that for many citizens fishing is an important recreational activity and that recreational fishing is a source of great personal enjoyment and satisfaction; and

Whereas, the General Assembly recognizes the importance of providing plentiful fishery resources to maintain and enhance tourism as a major contributor to the economy of the State; and

Whereas, the General Assembly recognizes that commercial fishermen perform an essential function by providing wholesome food for the citizens of the State, nation, and world, and thereby properly earn a livelihood; and

Whereas, the General Assembly recognizes the economic contribution and important heritage of traditional full-time and part-time commercial fishing; and

Whereas, the General Assembly recognizes the need to protect our coastal fishery resources and to balance the commercial and recreational interests through better management of these resources; and

Whereas, the General Assembly is committed to the continued viability of both recreational and commercial fishing industries in the State; and

Whereas, the General Assembly intends that the commercial fishing industry be allowed to continue to take fish by means of all methods traditionally employed in commercial fishing operations, including the use of nets and trawls; and

Whereas, the General Assembly finds that in order to protect coastal fishery resources, it is essential that the recreational as well as the commercial fishing sectors provide data on use of fishery resources for the development of scientifically valid plans to manage fishery resources; and

Whereas, the General Assembly finds that it is essential to the success of efforts to better manage fishery resources that both the recreational and commercial fishing sectors are involved in and support these efforts; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 113 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 14B.

"Coastal Recreational Fishing Licenses.

"**§ 113-174. Definitions.**

As used in this Article:

(1) 'Commission' means the Marine Fisheries Commission.

(2) 'CRFL' means Coastal Recreational Fishing License.

(3) 'Division' means the Division of Marine Fisheries in the Department of Environment and Natural Resources.

(4) 'North Carolina resident' means a person who is a resident within the meaning of G.S. 113-130(4).

(5) 'RCGL' means Recreational Commercial Gear License.

(6) 'Recreational fishing' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, by any means:

a. That does not constitute a commercial fishing operation as defined in G.S. 113-168.

b. Except as provided in G.S. 113-261.

(7) 'RSCFL' means Retired Standard Commercial Fishing License issued pursuant to G.S. 113-168.3.

(8) 'SCFL' means Standard Commercial Fishing License issued pursuant to G.S. 113-168.2.

"**§ 113-174.1. General provisions governing licenses.**

(a) License Required to Engage in Recreational Fishing. -- It is unlawful for any person to engage in recreational fishing in coastal fishing waters without holding a license required by this Article. It is unlawful for any person to engage in recreational fishing without complying with the provisions of this Article and rules adopted by the Commission under this Article.

(b) Sale of Fish Prohibited. -- A license issued under this Article does not authorize a person who takes or lands any species of fish under the authority of the Commission to sell, offer for sale, barter, or exchange the fish for anything of value. Except as provided in G.S. 113-168.4, it is unlawful for any person who takes or lands

any species of fish under the authority of the Commission by any means to sell, offer for sale, barter, or exchange these fish for anything of value.

(c) Assignment and Transfer Prohibited. -- Except as provided in G.S. 113-174.2(f)(1) and G.S. 113-174.3(e)(1), it is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article.

(d) Format. -- A license issued under this Article shall be issued in the name of the applicant. A license shall show the type of license; the name, mailing address, physical or residence address, and date of birth of the licensee; the date on which the license is issued; the date on which the license expires; and any other information that the Commission or the Division determines to be necessary to accomplish the purposes of this Subchapter.

(e) Licenses Available for Inspection. -- It is unlawful for any person to engage in recreational fishing in coastal fishing waters in the State without having ready at hand for inspection all licenses required under this Article. It is unlawful for a person to refuse to exhibit any license required by this Article upon the request of an inspector or other law enforcement officer authorized to enforce federal or State laws, regulations, or rules relating to marine fisheries.

(f) Replacement Licenses. -- The Division shall issue a replacement license to a licensee for a license that has not been suspended or revoked. A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and shall apply for a replacement license within 30 days of a change in the licensee's name or address. A licensee may apply for a replacement license in person at any office of the Division or by mail to the Morehead City office of the Division. A licensee may use a copy of the application for a replacement license that has been filed with the Division as a temporary license until the licensee receives the replacement license. The Commission may establish a fee for each type of replacement license, not to exceed five dollars ($5.00), that compensates the Division for the administrative costs associated with issuing the replacement license.

(g) No Dual Residency. -- It is unlawful for any person to hold any license issued under this Article to the person as a North Carolina resident if that person holds any commercial or recreational fishing license issued by another state to the person as a resident of that state.

(h) Limitations on Eligibility. -- A person is not eligible to obtain a license under G.S. 113-174.3 if, at the time the person applies for the license, any other license or endorsement issued to the person under G.S. 113-174.3 or Article 14A of Chapter 113 of the General Statutes is suspended or revoked. A person is not eligible to obtain a license under G.S. 113-174.3 if, within the three years prior to the date of application, the person has been determined to be responsible for four or more violations of State laws, regulations, or rules governing the management of marine and estuarine resources. An applicant for a license under G.S. 113-174.3 shall certify that the applicant has not been determined to be responsible for four or more violations of State laws, regulations, or rules governing the management of marine and estuarine resources during the previous three years. The Division may also

consider violations of federal law and regulations governing the management of marine and estuarine resources in determining whether an applicant is eligible for a license.

(i) Cancellation. -- The Division may cancel a license issued on the basis of an application that contains false information supplied by the applicant. A cancelled license is void from the date of issuance. A person in possession of a cancelled license shall surrender the cancelled license to the Division. It is unlawful to refuse to surrender a cancelled license upon demand of any authorized agent of the Division.

(j) Reporting Requirements. -- The holder of a license issued under this Article shall comply with the biological data sampling and survey programs of the Commission and the Division.

"**§ 113-174.2. Coastal Recreational Fishing License.**

(a) License Required. -- Except as otherwise provided in this Article, it is unlawful for any person to engage in recreational fishing in coastal fishing waters by means of recreational gear without holding a CRFL issued under this section. It is unlawful for any person licensed under this section or fishing under a CRFL to possess fish in excess of recreational possession limits.

(b) Purchase; Renewal. -- Any license issued under this section may be purchased at designated offices of the Division or from the Division by mail. A license issued under subdivisions (1) through (3) of subsection (c) of this section may also be purchased through a license agent authorized under G.S. 113-174.5. Any license issued under this section may be renewed by mail.

(c) Types of CRFLs; Fees; Duration. -- The Division shall issue the following CRFLs:

(1) Standard CRFL. -- $7.50. This license is valid for a period of one year from the date of issuance.

(2) Ten-Day CRFL. -- $5.00. This license is valid for a period of seven days.

(3) Subsistence CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant takes fish solely for the purpose of direct consumption by the individual and the members of the individual's household in circumstances where fish constitutes a substantial portion of the diet of the individual and the household. A license issued under this subdivision shall be issued without charge and is valid for one year from the date of issuance.

(4) Lifetime CRFL. -- This license is valid for the lifetime of the licensee. The fee for the Lifetime CRFL, based on the age of the prospective licensee as of the date on which the application is filed with the Division, is:

a.	Younger than six years of age	$100.00
b.	Between six and 11 years of age	$150.00
c.	Between 11 and 17 years of age	$200.00

d. Between 17 and 65 years of age $250.00

(5) Permanently Handicapped or Disabled Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is permanently handicapped or disabled. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(6) Disabled Veteran Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is a fifty percent (50%) or more disabled war veteran as determined by the United States Department of Veterans Affairs. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(7) Legally Blind Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is legally blind. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(d) Charter/Head/Dive Boat Blanket CRFL. -- A person who operates a charter boat, head boat, or dive boat may purchase a Charter/Head/Dive Boat Blanket CRFL. The Charter/Head/Dive Boat Blanket CRFL entitles all persons on the boat who do not hold a CRFL to engage in recreational fishing by means of recreational gear. It shall be unlawful for the owner of a charter, head, or dive boat who does not hold a Charter/Head/Dive Boat Blanket CRFL to allow any person on the boat who does not hold a CRFL to engage in recreational fishing by means of recreational gear. This license is valid for a period of one year from the date of issuance. The fee for a Charter/Head/Dive Boat Blanket CRFL is:

(1)	Vessel of 18 feet or less in length	$1.50 per foot
(2)	Vessel of greater than 18 feet in length but less than 38 feet in length	$2.25 per foot
(3)	Vessel of 38 feet or greater in length	$4.50 per foot

(e) Ocean Fishing Pier Blanket CRFL. -- A person who owns or operates an ocean fishing pier and who charges a fee to allow a person to engage in recreational fishing by means of recreational gear from the pier shall purchase an Ocean Fishing Pier Blanket CRFL. An applicant for an Ocean Fishing Pier Blanket CRFL shall disclose the names of all parties involved in the pier operation, including the owner of the property, the owner of the pier if different, and all leasehold or other corporate arrangements, and all persons with a substantial financial interest in the pier. The Ocean Fishing Pier Blanket CRFL entitles all persons on the pier who do not hold a CRFL to engage in recreational fishing by means of recreational gear.

This license is valid for a period of one year from the date of issuance. The fee for an Ocean Fishing Pier Blanket CRFL is one dollar ($1.00) per linear foot, to the nearest foot, that the pier extends into coastal fishing waters beyond the mean high waterline. The length of the pier shall be measured to include all extensions of the pier. It shall be unlawful for the owner or operator of an ocean fishing pier who does not hold an Ocean Fishing Pier Blanket CRFL to allow any person on the pier who does not hold a CRFL to engage in recreational fishing by means of recreational gear. Within 30 days following a change of ownership of a pier, or a change as to the manager, the manager or new manager shall secure a replacement pier license as provided in G.S. 113-174.1(f).

(f) Exemptions. -- A person may engage in recreational fishing by means of recreational gear without holding a CRFL if the person:

(1) Is under 16 years of age.

(2) Is 65 years of age or older.

(3) Holds a SCFL or a RSCFL.

(4) Engages in recreational fishing from the shore or from a shore-based structure.

"§ 113-174.3. Recreational Commercial Gear License.

(a) License Required. -- Except as provided in subsection (e) of this section, it is unlawful for any person to engage in recreational fishing by means of commercial fishing equipment or gear in coastal fishing waters without holding a RCGL. The RCGL entitles the licensee to use authorized commercial gear to take fish for personal use subject to recreational possession limits. It is unlawful for any person licensed under this section or fishing under a RCGL to possess fish in excess of recreational possession limits.

(b) Authorized Commercial Gear. -- The Commission shall adopt rules authorizing the use of a limited amount of commercial fishing equipment or gear for recreational fishing under a RCGL. The Commission may authorize the limited use of commercial gear on a uniform basis in all coastal fishing waters or may vary the limited use of commercial gear within specified areas of the coastal fishing waters. The Commission shall periodically evaluate and revise the authorized use of commercial gear for recreational fishing. Authorized commercial gear shall be identified by visible colored tags or other means specified by the Commission in order to distinguish between commercial gear used in a commercial fishing operation as defined in G.S. 113-168 and commercial gear used for recreational fishing.

(c) Purchase; Renewal. -- A RCGL may be purchased at designated offices of the Division and from a license agent authorized under G.S. 113-174.5. A RCGL may be renewed by mail.

(d) Duration; Fees. -- The RCGL shall be valid for a one-year period from the date of purchase. The fee for a RCGL for a North Carolina resident shall be thirty-five dollars ($35.00). The fee for a RCGL for an individual who is not a North Carolina resident shall be two hundred fifty dollars ($250.00).

(e) Exemptions. --

(1) A person who is under 16 years of age may engage in recreational fishing by means of authorized commercial gear without holding a RCGL if the person is accompanied by a parent, grandparent, or guardian who holds a valid RCGL or if the person has in the person's possession a valid RCGL issued to the person's parent, grandparent, or guardian.

(2) A person may engage in recreational fishing for crabs by means of one or more crab pots attached to the shore along privately owned land or to a privately owned pier without holding a RCGL provided that the crab pots are attached with the permission of the owner of the land or pier.

(3) A person who is on a vessel may engage in recreational fishing by means of authorized commercial gear without holding a RCGL if there is another person on the vessel who holds a valid RCGL. This exemption does not authorize the use of commercial gear in excess of that authorized for use by the person who holds the valid RCGL or, if more than one person on the vessel holds a RCGL, in excess of that authorized for use by those persons.

(4) A person using nonmechanical means may take shellfish for personal use within the limits specified in G.S. 113-169.2(i) without holding a RCGL.

(5) A person may take fish for recreational purposes by means of a gig without holding a RCGL.

"**§ 113-174.4. Sealife Enhancement Fund.**

(a) Definitions. -- As used in this section:

(1) 'Fund' means the Sealife Enhancement Fund.

(2) 'License revenues' means the net proceeds from the sale of licenses issued under G.S. 113-174.2 and interest earned from the investment of license proceeds. The term includes funds realized from the sale, lease, rental, or other grant of rights to real or personal property acquired or produced with license revenues and federal aid project reimbursements to the extent that license revenues originally funded the project for which the reimbursement is made.

(b) Sealife Enhancement Fund Established. -- The Sealife Enhancement Fund is established as a special nonreverting fund within the Department. License revenues shall be deposited in the Fund. The State Treasurer shall invest the assets of the Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The Commission shall administer the Fund with the advice of the Sealife Enhancement Advisory Committee.

(c) Allocation of Moneys From the Fund. -- The Secretary shall disburse moneys from the Fund only upon the written direction of the Commission. The Commission shall use the moneys that accrue to the Fund in each fiscal year for the administration

and enforcement of the provisions of Subchapter IV of Chapter 113 of the General Statutes related to marine fisheries as follows:

(1) Resource and habitat enhancement. -- Not less than forty percent (40%) of the moneys in the Fund shall be used for resource and habitat enhancement, including, but not limited to, artificial reef construction, restoration and enhancement of submerged aquatic vegetation, acquisition of land or an interest in land that provides for the preservation of critical fisheries habitat, and studies used in the development of a Fishery Management Plan or a Coastal Habitat Protection Plan.

(2) Law enforcement. -- Not more than fifteen percent (15%) of the moneys in the Fund shall be used for law enforcement.

(3) Marine fisheries research. -- Not less than twenty-five percent (25%) of the moneys in the Fund shall be used for marine fisheries research, including, but not limited to, life history studies of commercially or recreationally significant marine and estuarine species or fisheries, sampling and statistical studies, data collection and analysis, fisheries habitat studies, commercial and recreational discard mortality studies, and studies used in the development of a Fishery Management Plan or a Coastal Habitat Protection Plan.

(4) Grants. -- Not more than five percent (5%) of the moneys in the Fund shall be used to fund grants for coastal fishing programs, projects, and scholarships.

(5) Administration. -- Not more than ten percent (10%) of the moneys, exclusive of the license agent fees, in the Fund shall be used for administrative costs.

(6) Public education and information. -- Not less than five percent (5%), but no more than ten percent (10%) of the moneys in the Fund, shall be used for public education and information.

(d) Sealife Enhancement Advisory Committee. -- The Sealife Enhancement Advisory Committee shall advise the Commission on expenditure of license revenues from the Fund. The Advisory Committee shall consist of nine members as follows:

(1) The Governor shall appoint seven persons each of whom holds a CRFL at the time of appointment. A person appointed under this subdivision must continue to hold a CRFL in order to remain eligible to serve on the Advisory Committee.

(2) The Director of the Division of Marine Fisheries or the Director's designee shall serve as a nonvoting, ex officio member of the Advisory Committee.

(3) The Chair of the Marine Fisheries Commission or the Chair's designee shall serve as a nonvoting, ex officio member of the Advisory Committee.

(e) Report Required. -- The Secretary shall submit to the Joint Legislative Commission on Seafood and Aquaculture and the Joint Legislative Commission on

Governmental Operations by 30 September of each year a report on the Fund that shall include the source and amounts of all moneys credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year.

"**§ 113-174.5. License agents.**

(a) The Secretary shall designate license agents for the Department. At least one license agent shall be designated for each county that contains or borders on coastal fishing waters. The Secretary may designate additional license agents in any county if the Secretary determines that additional agents are needed to provide efficient service to the public. The Division and license agents designated by the Secretary under this section shall issue licenses authorized under this Article in accordance with this Article and the rules of the Commission.

(b) The Secretary may require license agents to enter into a contract that provides for their duties and compensation, post a bond, and submit to reasonable inspections and audits. If a license agent violates any provision of this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate proceedings for the forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to renew a designation as a license agent and may impound or require the return of all licenses, moneys, record books, reports, license forms and other documents, ledgers, and materials pertinent or apparently pertinent to the license agency. The Secretary shall report evidence of misuse of State property, including license fees, by a license agent to the State Bureau of Investigation as provided by G.S. 114-15.1.

(c) A license agent may deduct a fee of six percent (6%) from the amount collected for each license."

Section 2. G.S. 113-168(1) reads as rewritten:

"(1) 'Commercial fishing operation' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, either with the use of commercial fishing equipment or gear, or by any means if the purpose of the taking is to obtain fish for sale. Commercial fishing operation does not include (i) the taking of fish as part of a recreational fishing tournament, unless commercial fishing equipment or gear is ~~used or~~ used, (ii) the taking of fish under a ~~RCGL.~~ RCGL, or (iii) the taking of fish as provided in G.S. 113-261."

Section 3. G.S. 113-168.1(a) reads as rewritten:

"(a) Duration, Fees. -- ~~Except as provided in G.S. 113-173(f), all~~ All licenses and endorsements issued under this Article expire on the last day of the license year. An applicant for any license or endorsement shall pay the full annual fee at the time the applicant applies for the license or endorsement regardless of when application is made."

Section 4. G.S. 113-168.1(f) reads as rewritten:

"(f) License Issuance and Renewal. -- ~~Except as provided in G.S. 113-173(d), the~~ The Division shall issue licenses and endorsements under this Article to eligible

applicants at any office of the Division or by mail from the Morehead City office of the Division. A license or endorsement may be renewed in person at any office of the Division or by mail to the Morehead City office of the Division. Eligibility to renew an expired SCFL shall end one year after the date of expiration of the SCFL."

Section 5. G.S. 113-168.1(g) reads as rewritten:

"(g) Limitations on Eligibility. -- A person is not eligible to obtain or renew a license or endorsement under this Article if, at the time the person applies for the license or endorsement, any other license or endorsement issued to the person under this Article or G.S. 113-174.3 is suspended or revoked. A person is not eligible to obtain a license or endorsement under this Article if, within the three years prior to the date of application, the person has been determined to be responsible for four or more violations of state laws, regulations, or rules governing the management of marine and estuarine resources. An applicant for a license under this Article shall certify that the applicant has not been determined to be responsible for four or more violations of state laws, regulations, or rules governing the management of marine and estuarine resources during the previous three years. The Division may also consider violations of federal law and regulations governing the management of marine and estuarine resources in determining whether an applicant is eligible for a license."

Section 6. G.S. 113-185(a) reads as rewritten:

"(a) It is unlawful to fish in the ocean from vessels or with a net within 750 feet of an ocean pier licensed in accordance with G.S. ~~113-169.4.~~ 113-174.2(e). The prohibition shall be effective when:

(1) Buoys or beach markers, placed at the owner's expense in accordance with the rules adopted by the Marine Fisheries Commission, indicate clearly to fishermen in vessels and on the beach the requisite distance of 750 feet from the pier, and

(2) The public is allowed to fish from the pier for a reasonable fee.

The prohibition shall not apply to littoral proprietors whose property is within 750 feet of a duly licensed ocean pier."

Section 7. G.S. 113-169.4 is repealed.

Section 8. G.S. 113-172 is repealed.

Section 9. G.S. 113-173 is repealed.

Section 10. G.S. 143B-289.52(a) is amended by adding a new subdivision to read:

"(13) To adopt rules to define fishing gear as either recreational gear or commercial gear."

Section 11. The Division of Marine Fisheries may issue a Lifetime CRFL under G.S. 113-174.2(c)(4) without charge to a person who holds either a Lifetime Resident Comprehensive Fishing License under G.S. 113-271(d)(3) or a Lifetime Sportsman Combination License under G.S. 113-270.1D(b).

Section 12. The Joint Legislative Commission on Seafood and Aquaculture shall study issues related to the establishment of a unified recreational fishing license for recreational fishing in both the inland and coastal fishing waters of

the State. The Commission shall make specific findings as to whether a unified licensing system should be adopted for recreational fishing in the State and, if so, what that system should be and how it should be implemented. The Commission shall present its findings and recommendations, if any, to the 2000 Regular Session of the 1999 General Assembly.

Section 13. Unless otherwise expressly provided, every agency to which this act applies shall adopt rules to implement the provisions of this act only in accordance with the provisions of Chapter 150B of the General Statutes. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Every agency to which this act applies that is authorized to adopt rules to implement the provisions of this act may adopt temporary rules to implement the provisions of this act. This section shall continue in effect until all rules necessary to implement the provisions of this act have become effective as either temporary rules or permanent rules.

Section 14. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

Section 15. Sections 10, 12, and 15 of this act are effective when this act becomes law. All other sections of this act become effective 1 March 2002. Section 11 of this act expires 31 December 2002.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1434
Committee Substitute Favorable 6/23/99
Proposed Committee Substitute H1434-PCS6224-RT

Short Title: Coastal Recreational Fishing License. (Public)

Sponsors:

Referred to:

April 29, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A COASTAL RECREATIONAL FISHING LICENSE.

Whereas, the State of North Carolina has one of the most diverse fisheries in the United States; and

Whereas, the General Assembly recognizes that for many citizens fishing is an important recreational activity and that recreational fishing is a source of great personal enjoyment and satisfaction; and

Whereas, the General Assembly recognizes the importance of providing plentiful fishery resources to maintain and enhance tourism as a major contributor to the economy of the State; and

Whereas, the General Assembly recognizes that commercial fishermen perform an essential function by providing wholesome food for the citizens of the State, nation, and world, and thereby properly earn a livelihood; and

Whereas, the General Assembly recognizes the economic contribution and important heritage of traditional full-time and part-time commercial fishing; and

Whereas, the General Assembly recognizes the need to protect our coastal fishery resources and to balance the commercial and recreational interests through better management of these resources; and

Whereas, the General Assembly is committed to the continued viability of both recreational and commercial fishing industries in the State; and

Whereas, the General Assembly intends that the commercial fishing industry be allowed to continue to take fish by means of all methods traditionally employed in commercial fishing operations, including the use of nets and trawls; and

Whereas, the General Assembly finds that in order to protect coastal fishery resources, it is essential that the recreational as well as the commercial fishing sectors provide data on use of fishery resources for the development of scientifically valid plans to manage fishery resources; and

Whereas, the General Assembly finds that it is essential to the success of efforts to better manage fishery resources that both the recreational and commercial fishing sectors are involved in and support these efforts; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 113 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 14B.

"Coastal Recreational Fishing Licenses.

"**§ 113-174. Definitions.**

As used in this Article:

(1) 'Commission' means the Marine Fisheries Commission.

(2) 'CRFL' means Coastal Recreational Fishing License.

(3) 'Division' means the Division of Marine Fisheries in the Department of Environment and Natural Resources.

(4) 'North Carolina resident' means a person who is a resident within the meaning of G.S. 113-130(4).

(5) 'RCGL' means Recreational Commercial Gear License.

(6) 'Recreational fishing' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, by any means:

a. That does not constitute a commercial fishing operation as defined in G.S. 113-168.

b. Except as provided in G.S. 113-261.

(7) 'RSCFL' means Retired Standard Commercial Fishing License issued pursuant to G.S. 113-168.3.

(8) 'SCFL' means Standard Commercial Fishing License issued pursuant to G.S. 113-168.2.

"**§ 113-174.1. General provisions governing licenses.**

(a) License Required to Engage in Recreational Fishing. -- It is unlawful for any person to engage in recreational fishing in coastal fishing waters without holding a license required by this Article. It is unlawful for any person to engage in recreational fishing without complying with the provisions of this Article and rules adopted by the Commission under this Article.

(b) Sale of Fish Prohibited. -- A license issued under this Article does not authorize a person who takes or lands any species of fish under the authority of the Commission to sell, offer for sale, barter, or exchange the fish for anything of value. Except as provided in G.S. 113-168.4, it is unlawful for any person who takes or lands

any species of fish under the authority of the Commission by any means to sell, offer for sale, barter, or exchange these fish for anything of value.

(c) Assignment and Transfer Prohibited. -- Except as provided in G.S. 113-174.2(f)(1) and G.S. 113-174.3(e)(1), it is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article.

(d) Format. -- A license issued under this Article shall be issued in the name of the applicant. A license shall show the type of license; the name, mailing address, physical or residence address, and date of birth of the licensee; the date on which the license is issued; the date on which the license expires; and any other information that the Commission or the Division determines to be necessary to accomplish the purposes of this Subchapter.

(e) Licenses Available for Inspection. -- It is unlawful for any person to engage in recreational fishing in coastal fishing waters in the State without having ready at hand for inspection all licenses required under this Article. It is unlawful for a person to refuse to exhibit any license required by this Article upon the request of an inspector or other law enforcement officer authorized to enforce federal or State laws, regulations, or rules relating to marine fisheries.

(f) Replacement Licenses. -- The Division shall issue a replacement license to a licensee for a license that has not been suspended or revoked. A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and shall apply for a replacement license within 30 days of a change in the licensee's name or address. A licensee may apply for a replacement license in person at any office of the Division or by mail to the Morehead City office of the Division. A licensee may use a copy of the application for a replacement license that has been filed with the Division as a temporary license until the licensee receives the replacement license. The Commission may establish a fee for each type of replacement license, not to exceed five dollars ($5.00), that compensates the Division for the administrative costs associated with issuing the replacement license.

(g) No Dual Residency. -- It is unlawful for any person to hold any license issued under this Article to the person as a North Carolina resident if that person holds any commercial or recreational fishing license issued by another state to the person as a resident of that state.

(h) Limitations on Eligibility. -- A person is not eligible to obtain a license under G.S. 113-174.3 if, at the time the person applies for the license, any other license or endorsement issued to the person under G.S. 113-174.3 or Article 14A of Chapter 113 of the General Statutes is suspended or revoked. A person is not eligible to obtain a license under G.S. 113-174.3 if, within the three years prior to the date of application, the person has been determined to be responsible for four or more violations of State laws, regulations, or rules governing the management of marine and estuarine resources. An applicant for a license under G.S. 113-174.3 shall certify that the applicant has not been determined to be responsible for four or more violations of State laws, regulations, or rules governing the management of marine and estuarine resources during the previous three years. The Division may also

consider violations of federal law and regulations governing the management of marine and estuarine resources in determining whether an applicant is eligible for a license.

(i) Cancellation. -- The Division may cancel a license issued on the basis of an application that contains false information supplied by the applicant. A cancelled license is void from the date of issuance. A person in possession of a cancelled license shall surrender the cancelled license to the Division. It is unlawful to refuse to surrender a cancelled license upon demand of any authorized agent of the Division.

(j) Reporting Requirements. -- The holder of a license issued under this Article shall comply with the biological data sampling and survey programs of the Commission and the Division.

"§ 113-174.2. Coastal Recreational Fishing License.

(a) License Required. -- Except as otherwise provided in this Article, it is unlawful for any person to engage in recreational fishing in coastal fishing waters by means of recreational gear without holding a CRFL issued under this section. It is unlawful for any person licensed under this section or fishing under a CRFL to possess fish in excess of recreational possession limits.

(b) Purchase; Renewal. -- Any license issued under this section may be purchased at designated offices of the Division or from the Division by mail. A license issued under subdivisions (1) and (2) of subsection (c) of this section may also be purchased through a license agent authorized under G.S. 113-174.5. Any license issued under this section may be renewed by mail.

(c) Types of CRFLs; Fees; Duration. -- The Division shall issue the following CRFLs:

(1) Standard CRFL. -- $7.50. This license is valid for a period of one year from the date of issuance.

(2) Ten-Day CRFL. -- $5.00. This license is valid for a period of seven days.

(3) Subsistence CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant takes fish solely for the purpose of direct consumption by the individual and the members of the individual's household in circumstances where fish constitutes a substantial portion of the diet of the individual and the household. A license issued under this subdivision shall be issued without charge and is valid for one year from the date of issuance.

(4) Lifetime CRFL. -- This license is valid for the lifetime of the licensee. The fee for the Lifetime CRFL, based on the age of the prospective licensee as of the date on which the application is filed with the Division, is:

a.	Younger than six years of age	$100.00
b.	Between six and 11 years of age	$150.00
c.	Between 11 and 17 years of age	$200.00

d. Between 17 and 65 years of age $250.00

(5) Permanently Handicapped or Disabled Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is permanently handicapped or disabled. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(6) Disabled Veteran Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is a fifty percent (50%) or more disabled war veteran as determined by the United States Department of Veterans Affairs. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(7) Legally Blind Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is legally blind. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(d) Charter/Head/Dive Boat Blanket CRFL. -- A person who operates a charter boat, head boat, or dive boat may purchase a Charter/Head/Dive Boat Blanket CRFL. The Charter/Head/Dive Boat Blanket CRFL entitles all persons on the boat who do not hold a CRFL to engage in recreational fishing by means of recreational gear. It shall be unlawful for the owner of a charter, head, or dive boat who does not hold a Charter/Head/Dive Boat Blanket CRFL to allow any person on the boat who does not hold a CRFL to engage in recreational fishing by means of recreational gear. This license is valid for a period of one year from the date of issuance. The fee for a Charter/Head/Dive Boat Blanket CRFL is:

(1) Vessel of 18 feet or less in length $1.50 per foot

(2) Vessel of greater than 18 feet in length but less than 38 feet in length $2.25 per foot

(3) Vessel of 38 feet or greater in length $4.50 per foot

(e) Ocean Fishing Pier Blanket CRFL. -- A person who owns or operates an ocean fishing pier and who charges a fee to allow a person to engage in recreational fishing by means of recreational gear from the pier shall purchase an Ocean Fishing Pier Blanket CRFL. An applicant for an Ocean Fishing Pier Blanket CRFL shall disclose the names of all parties involved in the pier operation, including the owner of the property, the owner of the pier if different, and all leasehold or other corporate arrangements, and all persons with a substantial financial interest in the pier. The Ocean Fishing Pier Blanket CRFL entitles all persons on the pier who do not hold a CRFL to engage in recreational fishing by means of recreational gear.

This license is valid for a period of one year from the date of issuance. The fee for an Ocean Fishing Pier Blanket CRFL is one dollar ($1.00) per linear foot, to the nearest foot, that the pier extends into coastal fishing waters beyond the mean high waterline. The length of the pier shall be measured to include all extensions of the pier. Within 30 days following a change of ownership of a pier, or a change as to the manager, the manager or new manager shall secure a replacement pier license as provided in G.S. 113-174.1(f).

(f) Exemptions. -- A person may engage in recreational fishing by means of recreational gear without holding a CRFL if the person:

(1) Is under 16 years of age.

(2) Is 65 years of age or older.

(3) Holds a SCFL or a RSCFL.

(4) Engages in recreational fishing from the shore or from a shore-based structure.

"**§ 113-174.3. Recreational Commercial Gear License.**

(a) License Required. -- Except as provided in subsection (e) of this section, it is unlawful for any person to engage in recreational fishing by means of commercial fishing equipment or gear in coastal fishing waters without holding a RCGL. The RCGL entitles the licensee to use authorized commercial gear to take fish for personal use subject to recreational possession limits. It is unlawful for any person licensed under this section or fishing under a RCGL to possess fish in excess of recreational possession limits.

(b) Authorized Commercial Gear. -- The Commission shall adopt rules authorizing the use of a limited amount of commercial fishing equipment or gear for recreational fishing under a RCGL. The Commission may authorize the limited use of commercial gear on a uniform basis in all coastal fishing waters or may vary the limited use of commercial gear within specified areas of the coastal fishing waters. The Commission shall periodically evaluate and revise the authorized use of commercial gear for recreational fishing. Authorized commercial gear shall be identified by visible colored tags or other means specified by the Commission in order to distinguish between commercial gear used in a commercial fishing operation as defined in G.S. 113-168 and commercial gear used for recreational fishing.

(c) Purchase; Renewal. -- A RCGL may be purchased at designated offices of the Division and from a license agent authorized under G.S. 113-174.5. A RCGL may be renewed by mail.

(d) Duration; Fees. -- The RCGL shall be valid for a one-year period from the date of purchase. The fee for a RCGL for a North Carolina resident shall be thirty-five dollars ($35.00). The fee for a RCGL for an individual who is not a North Carolina resident shall be two hundred fifty dollars ($250.00).

(e) Exemptions. --

(1) A person who is under 16 years of age may engage in recreational fishing by means of authorized commercial gear without holding a RCGL if the person is accompanied by a parent, grandparent, or guardian who holds a valid RCGL or if the person has in the

person's possession a valid RCGL issued to the person's parent, grandparent, or guardian.

(2) A person may engage in recreational fishing for crabs by means of one or more crab pots attached to the shore along privately owned land or to a privately owned pier without holding a RCGL provided that the crab pots are attached with the permission of the owner of the land or pier.

(3) A person who is on a vessel may engage in recreational fishing by means of authorized commercial gear without holding a RCGL if there is another person on the vessel who holds a valid RCGL. This exemption does not authorize the use of commercial gear in excess of that authorized for use by the person who holds the valid RCGL or, if more than one person on the vessel holds a RCGL, in excess of that authorized for use by those persons.

(4) A person using nonmechanical means may take shellfish for personal use within the limits specified in G.S. 113-169.2(i) without holding a RCGL.

(5) A person may take fish for recreational purposes by means of a gig without holding a RCGL.

"**§ 113-174.4. Sealife Enhancement Fund.**

(a) Definitions. -- As used in this section:

(1) 'Fund' means the Sealife Enhancement Fund.

(2) 'License revenues' means the net proceeds from the sale of licenses issued under G.S. 113-174.2 and interest earned from the investment of license proceeds. The term includes funds realized from the sale, lease, rental, or other grant of rights to real or personal property acquired or produced with license revenues and federal aid project reimbursements to the extent that license revenues originally funded the project for which the reimbursement is made.

(b) Sealife Enhancement Fund Established. -- The Sealife Enhancement Fund is established as a special nonreverting fund within the Department. License revenues shall be deposited in the Fund. The State Treasurer shall invest the assets of the Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The Commission shall administer the Fund with the advice of the Sealife Enhancement Advisory Committee.

(c) Allocation of Moneys From the Fund. -- The Secretary shall disburse moneys from the Fund only upon the written direction of the Commission. The Commission shall use the moneys that accrue to the Fund in each fiscal year for the administration and enforcement of the provisions of Subchapter IV of Chapter 113 of the General Statutes related to marine fisheries as follows:

(1) Resource and habitat enhancement. -- Not less than forty percent (40%) of the moneys in the Fund shall be used for resource and habitat enhancement, including, but not limited to, artificial reef

construction, restoration and enhancement of submerged aquatic vegetation, acquisition of land or an interest in land that provides for the preservation of critical fisheries habitat, and studies used in the development of a Fishery Management Plan or a Coastal Habitat Protection Plan.

(2) Law enforcement. -- Not more than fifteen percent (15%) of the moneys in the Fund shall be used for law enforcement.

(3) Marine fisheries research. -- Not less than twenty-five percent (25%) of the moneys in the Fund shall be used for marine fisheries research, including, but not limited to, life history studies of commercially or recreationally significant marine and estuarine species or fisheries, sampling and statistical studies, data collection and analysis, fisheries habitat studies, commercial and recreational discard mortality studies, and studies used in the development of a Fishery Management Plan or a Coastal Habitat Protection Plan.

(4) Grants. -- Not more than five percent (5%) of the moneys in the Fund shall be used to fund grants for coastal fishing programs, projects, and scholarships.

(5) Administration. -- Not more than ten percent (10%) of the moneys, exclusive of the license agent fees, in the Fund shall be used for administrative costs.

(6) Public education and information. -- Not less than five percent (5%), but no more than ten percent (10%) of the moneys in the Fund, shall be used for public education and information.

(d) Sealife Enhancement Advisory Committee. -- The Sealife Enhancement Advisory Committee shall advise the Commission on expenditure of license revenues from the Fund. The Advisory Committee shall consist of nine members as follows:

(1) The Governor shall appoint seven persons each of whom holds a CRFL at the time of appointment. A person appointed under this subdivision must continue to hold a CRFL in order to remain eligible to serve on the Advisory Committee.

(2) The Director of the Division of Marine Fisheries or the Director's designee shall serve as a nonvoting, ex officio member of the Advisory Committee.

(3) The Chair of the Marine Fisheries Commission or the Chair's designee shall serve as a nonvoting, ex officio member of the Advisory Committee.

(e) Report Required. -- The Secretary shall submit to the Joint Legislative Commission on Seafood and Aquaculture and the Joint Legislative Commission on Governmental Operations by 30 September of each year a report on the Fund that shall include the source and amounts of all moneys credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year.

"**§ 113-174.5. License agents.**

(a) The Secretary shall designate license agents for the Department. At least one license agent shall be designated for each county that contains or borders on coastal fishing waters. The Secretary may designate additional license agents in any county if the Secretary determines that additional agents are needed to provide efficient service to the public. The Division and license agents designated by the Secretary under this section shall issue licenses authorized under this Article in accordance with this Article and the rules of the Commission.

(b) The Secretary may require license agents to enter into a contract that provides for their duties and compensation, post a bond, and submit to reasonable inspections and audits. If a license agent violates any provision of this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate proceedings for the forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to renew a designation as a license agent and may impound or require the return of all licenses, moneys, record books, reports, license forms and other documents, ledgers, and materials pertinent or apparently pertinent to the license agency. The Secretary shall report evidence of misuse of State property, including license fees, by a license agent to the State Bureau of Investigation as provided by G.S. 114-15.1.

(c) A license agent may deduct a fee of six percent (6%) from the amount collected for each license."

Section 2. G.S. 113-168(1) reads as rewritten:

"(1) 'Commercial fishing operation' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, either with the use of commercial fishing equipment or gear, or by any means if the purpose of the taking is to obtain fish for sale. Commercial fishing operation does not include (i) the taking of fish as part of a recreational fishing tournament, unless commercial fishing equipment or gear is ~~used or~~ used, (ii) the taking of fish under a ~~RCGL.~~ RCGL, or (iii) the taking of fish as provided in G.S. 113-261."

Section 3. G.S. 113-168.1(a) reads as rewritten:

"(a) Duration, Fees. -- ~~Except as provided in G.S. 113-173(f), all~~ All licenses and endorsements issued under this Article expire on the last day of the license year. An applicant for any license or endorsement shall pay the full annual fee at the time the applicant applies for the license or endorsement regardless of when application is made."

Section 4. G.S. 113-168.1(f) reads as rewritten:

"(f) License Issuance and Renewal. -- ~~Except as provided in G.S. 113-173(d), the~~ The Division shall issue licenses and endorsements under this Article to eligible applicants at any office of the Division or by mail from the Morehead City office of the Division. A license or endorsement may be renewed in person at any office of the Division or by mail to the Morehead City office of the Division. Eligibility to renew an expired SCFL shall end one year after the date of expiration of the SCFL."

Section 5. G.S. 113-168.1(g) reads as rewritten:

"(g) Limitations on Eligibility. -- A person is not eligible to obtain or renew a license or endorsement under this Article if, at the time the person applies for the license or endorsement, any other license or endorsement issued to the person under this Article or G.S. 113-174.3 is suspended or revoked. A person is not eligible to obtain a license or endorsement under this Article if, within the three years prior to the date of application, the person has been determined to be responsible for four or more violations of state laws, regulations, or rules governing the management of marine and estuarine resources. An applicant for a license under this Article shall certify that the applicant has not been determined to be responsible for four or more violations of state laws, regulations, or rules governing the management of marine and estuarine resources during the previous three years. The Division may also consider violations of federal law and regulations governing the management of marine and estuarine resources in determining whether an applicant is eligible for a license."

Section 6. G.S. 113-185(a) reads as rewritten:

"(a) It is unlawful to fish in the ocean from vessels or with a net within 750 feet of an ocean pier licensed in accordance with G.S. ~~113-169.4.~~ 113-174.2(e). The prohibition shall be effective when:

(1) Buoys or beach markers, placed at the owner's expense in accordance with the rules adopted by the Marine Fisheries Commission, indicate clearly to fishermen in vessels and on the beach the requisite distance of 750 feet from the pier, and

(2) The public is allowed to fish from the pier for a reasonable fee.

The prohibition shall not apply to littoral proprietors whose property is within 750 feet of a duly licensed ocean pier."

Section 7. G.S. 113-169.4 is repealed.

Section 8. G.S. 113-172 is repealed.

Section 9. G.S. 113-173 is repealed.

Section 10. G.S. 143B-289.52(a) is amended by adding a new subdivision to read:

"(13) To adopt rules to define fishing gear as either recreational gear or commercial gear."

Section 11. The Division of Marine Fisheries may issue a Lifetime CRFL under G.S. 113-174.2(c)(4) without charge to a person who holds either a Lifetime Resident Comprehensive Fishing License under G.S. 113-271(d)(3) or a Lifetime Sportsman Combination License under G.S. 113-270.1D(b).

Section 12. The Joint Legislative Commission on Seafood and Aquaculture shall study issues related to the establishment of a unified recreational fishing license for recreational fishing in both the inland and coastal fishing waters of the State. The Commission shall make specific findings as to whether a unified licensing system should be adopted for recreational fishing in the State and, if so, what that system should be and how it should be implemented. The Commission

shall present its findings and recommendations, if any, to the 2000 Regular Session of the 1999 General Assembly.

Section 13. Unless otherwise expressly provided, every agency to which this act applies shall adopt rules to implement the provisions of this act only in accordance with the provisions of Chapter 150B of the General Statutes. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Every agency to which this act applies that is authorized to adopt rules to implement the provisions of this act may adopt temporary rules to implement the provisions of this act. This section shall continue in effect until all rules necessary to implement the provisions of this act have become effective as either temporary rules or permanent rules.

Section 14. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

Section 15. Sections 10, 12, and 15 of this act are effective when this act becomes law. All other sections of this act become effective 1 March 2002. Section 11 of this act expires 31 December 2002.

HOUSE BILL 1434:
Coastal Recreational Fishing License

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Representatives Redwine and McComas
Date:	June 29, 1999		
Version:	Second Edition	**Summary by:**	Jeff Hudson, Staff Attorney

Section 1 establishes a program for the licensing of coastal recreational fishing under a new Article 14B in Chapter 113 of the General Statutes.

G.S. 113-174. – Definitions.

- Commission means the Marine Fisheries Commission
- CRFL means Coastal Recreational Fishing License
- Division means the Division of Marine Fisheries
- Recreational Fishing means any activity involved in taking fish regulated by the Commission that is not part of a commercial fishing operation or for scientific purposes

G.S. 113-174.1 – General Provisions Governing Coastal Recreational Fishing Licenses.

- It is unlawful to engage in recreational fishing without complying with the new licensing requirements
- A CRFL does not authorize the license holder to sell fish taken under the license
- Assignment or transfer of a CRFL is prohibited
- A CRFL will show the name, mailing address, residence address, and date of birth of the licensee, as well as the date the license was issued, the date it will expire, and any other information the Division or Commission determines to be necessary
- A person engaging in recreational fishing must have a CRFL available for inspection
- A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and must apply for a replacement license within 30 days of a change of name or address
- A person isn't eligible to obtain a Recreational Commercial Gear License (RCGL) if the person's RCGL or commercial fishing license has been suspended or revoked or the person has been responsible for 4 or more violations of marine fisheries laws in the three years prior to the date of application
- The Division may cancel a CRFL issued on the basis of false information
- The holder of a CRFL must comply with sampling and survey programs conducted by the Division and Commission

G.S. 113-174.2. – Coastal Recreational Fishing License

Any CRFL may be purchased from a Division office or from the Division by mail. The Standard, One Week, and One Day CRFL may be purchased from authorized license agents.

Types of CRFLS:

Standard CRFL	$7.50	One year duration
One Week CRFL	$3.50	One week duration
One Day CRFL	$1.00	One day duration
CRFL for Commercial License Holders	No charge	Expires June 30 each year
Subsistence CRFL	No charge	One year duration
Lifetime CRFL		Lifetime duration
Younger than 6 years of age	$100.00	
Between 6 and 11 years of age	$150.00	
Between 11 and 17 years of age	$200.00	
Between 17 and 65 years of age	$250.00	
Lifetime CRFL for holders of:		
Lifetime Resident Comp. Fishing License	No charge	Lifetime duration
Lifetime Sportsman Comb. License	No charge	Lifetime duration
Permanently Disabled Lifetime CRFL	No charge	Lifetime duration
Disabled Veteran Lifetime CRFL	No charge	Lifetime duration
Legally Blind Lifetime CRFL	No charge	Lifetime duration
Charterboat Blanket CRFL		One year duration
Vessel of 18 feet or less	$1.50/foot	
Vessel between 18 and 38 feet	$2.25/foot	
Vessel of 38 feet or more	$4.50/ foot	
Ocean Fishing Pier Blanket CRFL	$5.00/linear foot	One year duration

Exemptions

- A person under 16 years of age is exempt from CRFL requirements.
- A person fishing from shore or a shore-based structure is exempt from CRFL requirements.
- A person 65 years of age or older is exempt from CRFL requirements.

G.S. 113-174.3. – Recreational Commercial Gear License (RCGL)

This provision moves the existing G.S. 113-173 in Article 14A (Commercial Fishing Licenses) to the new Article 14B (Recreational Fishing Licenses) without substantive changes

G.S. 113-174.4. – Sealife Enhancement Fund

Establishes the Sealife Enhancement Fund in the Department of Environment and Natural Resources to hold proceeds from the sale of CRFL's. The Secretary of Environment and Natural Resources may disburse moneys from the Fund only upon written direction from the Commission. The Commission shall use moneys from the Fund as follows:

- Resource and Habitat Enhancement: Not less than 25%
- Law Enforcement: Not more than 25%
- Marine Fisheries Research, including data collection and the development of Fishery Management Plans and Coastal Habitat Protection Plans: Not less than 25%
- Grants for coastal fishing programs and scholarships: Not more than 10%
- Administration: Not more than 10%
- Public Education and Information: 5% to 10%

The Commission will be assisted by the Sealife Enhancement Advisory Committee. The Advisory Committee will be composed of nine members as follows:

- Seven members, each of whom holds a CRFL or RCGL, to be appointed by the Governor
- The Director of the Division of Marine Fisheries or the Director's designee (*ex officio* and non-voting)
- The Chair of the Marine Fisheries Commission or the Chair's designee (*ex officio* and non-voting)

G.S. 113-174.5. – License Agents

Recodified from existing G.S. 113-172 with the following substantive changes:

- License agents shall be compensated at a rate of 6% of the value of each license sold rather than $1.00 per license sold
- The Secretary of Environment and Natural Resources is authorized rather than required to bond license agents

Sections 2 through 9 make technical, clarifying, and conforming changes.

Section 10 directs the Marine Fisheries Commission to define fishing gear as recreational or commercial.

Section 11 directs the Joint Legislative Commission on Seafood and Aquaculture to study issues related to the establishment of a unified recreational fishing license for recreational fishing in both the inland and coastal fishing waters of the State.

Section 12 authorizes the adoption of temporary rules to implement this act.

EFFECTIVE DATE: Sections 10, 11, and 14 of this act are effective when this act becomes law. All other sections of this act become effective March 1, 2001.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1434 (2nd Edition)

SHORT TITLE: Coastal Recreational Fishing License

SPONSOR(S): Representatives Redwine and McComas

FISCAL IMPACT

Yes (x) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Sealife Enhancement Fund License Revenue *		$554,813	$2,219,252	$2,219,252	$2,219,252
Marine Fisheries Agency Receipts		($7,355)	($29,418)	($29,418)	($29,418)
EXPENDITURES					
Wildlife Resources Commission System Modification	$780,000				
Division of Marine Fisheries System Development and Administration *	$1,008,086	$389,477	$767,842	$775,098	$783,233
POSITIONS:		6.00	6.00	6.00	6.00

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources, Division of Marine Fisheries; Wildlife Resources Commission

EFFECTIVE DATE: March 1, 2001; except Section 10 authorizing the Marine Fisheries Commission to adopt rules regarding the definition of fishing gear, and Section 11 requiring study of a unified recreational inland and coastal waters fishing license. These sections become effective when the act becomes law.

**** The bill authorizes up to 10% of the funds credited to the Sealife Enhancement Fund to be used for administration. This administrative allowance will not be sufficient to cover the total cost of the licensing program.***

BILL SUMMARY: Establishes general provisions governing a coastal recreational fishing license. Sets out a fee structure for the sale of coastal recreational fishing licenses. Recodifies the existing recreational commercial gear license. Creates the Sealife Enhancement Fund to hold the proceeds from the sale of the new coastal recreational fishing license and provides for the allocation of the proceeds upon direction of the Marine Fisheries Commission.

ASSUMPTIONS AND METHODOLOGY:

REVENUES

Total revenue from the sale of Coastal Recreational Fishing Licenses (CRFL) proposed in House Bill 1434 is estimated using data collected by the Division of Marine Fisheries through annual Marine Recreational Fishery Statistics Surveys. The surveys include direct interviews with approximately 20,000 anglers at various public access points along the North Carolina coast, as well as telephone interviews with 20,000 additional, randomly selected persons.

Information obtained through the surveys is used to estimate the total number of marine or coastal anglers in North Carolina, the total number of coastal fishing trips annually and the mode of fishing (i.e. from a man-made structure, beach or bank, charter/head boat or private boats).

The following two tables summarize the results of the annual survey over the last five years:

Table 1:

Estimated Number of Marine Recreational Anglers in NC, 1993-1997

	Coastal Residents	Non-Coastal Residents	Out-of State	Total Anglers
1997	321,520	163,261	840,679	1,325,460
1996	260,000	176,000	708,000	1,144,000
1995	340,000	216,000	721,000	1,277,000
1994	409,000	256,000	815,000	1,480,000
1993	398,000	224,000	745,000	1,367,000
5 Year Average	345,704	207,052	765,936	1,318,692
Percentage of Total	26%	16%	58%	

Table 2:

Estimated Marine Recreational Fishing Trips in NC, 1993-1997

	Man-made	Beach/Bank	Charter Boats	Private Boats	Total
1997	1,272,993	1,704,436	294,890	1,509,565	4,781,884
1996	1,246,284	1,802,507	243,156	1,312,645	4,604,592
1995	1,437,773	2,020,224	203,719	1,330,754	4,992,470
1994	1,595,701	1,904,294	186,188	1,483,954	5,170,137
1993	1,316,431	1,832,538	130,929	1,436,184	4,716,082
5 Year Average	1,373,836	1,852,800	211,776	1,414,620	4,853,033
Percentage of Total	28%	38%	4%	29%	

Based on the five-year average number of estimated marine anglers (Table 1), there are 1,318,692 potential licensees. However, the bill provides for a number of general exemptions and individual licenses at no charge, reducing the number of potential anglers subject to the coastal recreational fishing license fees. Table 3 outlines the adjustments necessary to estimate the number of anglers who may be required to purchase a license:

Table 3: Calculation of Adjusted Total Number of Anglers

Total Number of Anglers, 5 year average:		1,318,692
No Charge Licenses, General Exemptions, Attrition		
1. Standard/Retired Standard Commercial Fishing License (SCFL/RSCFL)	20,000	
2. Wildlife Resources Commission - Lifetime Resident Comprehensive Fishing License and Lifetime Sportsman Combination License Holders (87,686 issued; assume 90% will seek CRFL)	78,917	
Less SCFL/RSCFL, WRC Lifetime		98,917
Subtotal		1,219,775
3. Subsistence, Permanently Handicapped/Disabled, Disabled Veteran, Legally Blind, Attrition (Assume 15% of subtotal anglers to capture persons eligible for no charge licenses and possible attrition; note recent annual fluctuation in total anglers)	182,966	
4. Persons < 16 Years of Age (1997 North Carolina Marine Recreational Fishery Statistics Survey indicates 7.2% of coastal anglers are under the age of 16; assume 8% of subtotal anglers will fall under this exemption)	97,582	
5. Persons age 65 and over (1997 North Carolina Marine Recreational Fishery Statistics Survey indicates 8.1% of coastal anglers are age 65 and over; assume 9% of subtotal anglers will fall under this exemption)	109,780	
Less Other No Charge Licenses, General Exemptions, Attrition		390,328
Adjusted Total Number of Anglers		829,447

According to the Division of Marine Fisheries, applying the percentages associated with each type of fishing trip (Table 2) to the adjusted total number of anglers (Table 3) provides a rough estimate of the number of anglers engaging in that particular mode of fishing. Table 4 provides a breakdown of total anglers by type of fishing trip:

Table 4: Estimated Marine Recreational Anglers by Type of Fishing Trip

	Man-made	Beach/Bank	Charter Boats	Private Boats	Total
Adjusted for no charge licenses, general exemptions and attrition	234,807	316,668	36,195	241,777	829,447

Note: Because the Marine Recreational Fishery Statistics Survey does not include private entry points, such as personally owned piers or docks, man-made structures are assumed to be commercial or other public fishing piers and structures.

These numbers can be used to estimate the number of additional exemptions as specified in the bill and the number of anglers purchasing CRFLs as follows:

Table 5: Calculation of Anglers Purchasing Coastal Recreational Fishing Licenses

Adjusted Total Number of Anglers		829,447
Blanket Licenses and Specific Fishing Related Exemptions		
1. Beach/Bank Exemption	316,668	
2. Charter/Head/Dive Boat Blanket (Assume 30% of charter boat fishermen will purchase a CRFL to fish using a different means; therefore 70% will fall under the blanket license)	25,337	
3. Ocean Fishing Pier Blanket (Assume 30% of pier fishermen will purchase a CRFL to fish using a different means, therefore 70% of those persons fishing from man-made structures will fall under the blanket license.	164,365	
Less Blanket Licenses and Exemptions		506,370
Adjusted Total Number of Anglers Purchasing CRFLs		323,077

The estimated revenue from the sale of the Coastal Recreational Fishing License as outlined in the bill follows:

Table 6: Estimated Revenue Generated by Coastal Recreational Fishing License

License Type	License Fee	Estimated Sales	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
Standard CRFL	$7.50	225,023	$421,918	$1,687,673	$1,687,673	$1,687,673
One Week CRFL	$3.50	80,366	$70,320	$281,281	$281,281	$281,281
One Day CRFL	$1.00	16,073	$4,018	$16,073	$16,073	$16,073
		321,462				
Lifetime CRFL						
< 6 years of age	$100.00	663	$16,575	$66,300	$66,300	$66,300
6 to 11 years of age	$150.00	242	$9,075	$36,300	$36,300	$36,300
11 to 17 years of age	$200.00	242	$12,100	$48,400	$48,400	$48,400
17 to 65 years of age	$250.00	468	$29,250	$117,000	$117,000	$117,000
		1,615				
Charter/Head/Dive Boat Blanket CRFL	$1.50/ft to $4.50/ft	200	$5,925	$23,700	$23,700	$23,700
Ocean Fishing Pier Blanket CRFL	$5.00/linear ft	25	$21,045	$84,180	$84,180	$84,180
Gross Revenue from CRFL Receipts		**323,302**	**$590,227**	**$2,360,907**	**$2,360,907**	**$2,360,907**
Less License Agent Fee (6%)			($35,414)	($141,654)	($141,654)	($141,654)
Net Revenue from CRFL Receipts -- Credited to the Sealife Enhancement Fund			**$554,813**	**$2,219,252**	**$2,219,252**	**$2,219,252**

This revenue estimate is based on the following assumptions:

1. Since the total number of anglers can vary significantly from year to year (Table 1), possible attrition was accounted for in calculating the number of potential anglers subject to the CRFL fees (Table 3). However, a comparison of total anglers in 1993 versus 1997, indicates very little change over the five-year period; therefore, no additional attrition or growth is assumed in projecting future revenues.

2. The license provisions become effective March 1, 2001. License revenue for the 2000-01 fiscal year is assumed to be one-fourth of the annual amount.

3. Lifetime licenses are assumed to be 0.50% of total sales. The sale of lifetime licenses to persons under age 70 accounted for 0.89% of total Wildlife Resources Commission (WRC) license sales in the 1997-98 fiscal year. Because House Bill 1434 contains a beach and shore-based structure exemption and blanket licenses, the sale of lifetime CRFLs is anticipated to account for a lower percentage of total sales than Wildlife experiences.

4. The distribution of lifetime license sales among the various age groupings is based on the sale WRC lifetime licenses.

5. Distribution of license sales among the short-term licenses is assumed to be 70% for the standard or annual license, 25% for the weekly and 5% for the daily.

6. The Division of Marine Fisheries estimates revenue from the Charter/Head Boat Blanket CRFL based on known charter boat operations and average vessel lengths to be $23,700 annually.

7. The Division of Marine Fisheries estimates revenue from the Ocean Fishing Pier Blanket CRFL based on the known number of piers and average lengths to be $84,180 annually.

The proceeds from the sale of recreational licenses are to be credited to the Sealife Enhancement Fund established in the bill. The Marine Fisheries Commission is responsible for directing the use of the funds in accordance with the specified percentages and limitations established in the bill. The allocation of funds for administration may not exceed 10%.

Other Revenue Issues

The bill repeals the current pier license of $0.50 per linear foot. The Division of Marine Fisheries currently retains the proceeds from this fee to offset operating costs. The division estimates the repeal of this fee will reduce annual revenue by $8,418.

House Bill 1434 also changes the amount to be retained by authorized license agents from the sale of Recreational Commercial Gear Licenses (RCGL). The licenses will go on sale July 1, 1999. Agents are currently authorized to charge $1.00 in addition to the NC resident RCGL fee of $35.00. The bill changes this practice to reimburse the agent 6% of the license fee or $2.10 per license sold. The Division expects 10,000 RCGLs will be sold annually through license agents, reducing annual revenue by $21,000.

EXPENDITURES

This analysis assumes the coastal license program will be automated and integrated with the existing license system operated by the Wildlife Resources Commission. However, the WRC must provide prior approval before system modification and development proceeds.

Wildlife Resources Commission

The Division of Marine Fisheries would like to take advantage of the automated licensing system employed by the Wildlife Resources Commission and the large network of WRC License Agents to sell CRFLs.

To accommodate the additional license types, the Wildlife system will require some modification and upgrades. Based on the license proposal in House Bill 1434, the WRC estimates the cost for software modification to be $150,000 and the cost of system upgrades to accommodate additional license agents and increased volume to be $350,000. Point of sale computer equipment will be provided to any new agent selling the CRFLs. Assuming 200 business owners in coastal counties choose to sell the licenses, an additional $280,000 ($1,400 per agent) will be required for hardware costs. The total up front cost for license system modification and equipment will require a General Fund appropriation of $780,000.

Division of Marine Fisheries

Integration of the Marine Fisheries licensing system with the Wildlife licensing system will also require up front General Fund expenditures for system development. The division estimates that $1,008,086 will be required in the 1999-2000 fiscal year for additional hardware, software development and related information technology expenses. Funds are needed in the 1999-2000 fiscal year to ensure that the system is complete and operational by March 1, 2001 when the licenses go on sale.

The division also anticipates requiring additional staff and operating support to administer the CRFL program. An administrative officer will oversee management of the license program and will serve as the primary contact with the WRC. A computer programmer will be responsible for system maintenance, quality control and data transfer. A computer tech position is needed to provide technical assistance to license agents. An accounting clerk will be responsible for tracking license sales, deposits and auditing sales records. Two processing assistants will issue licenses, handle questions concerning license requirements and regulations, and data entry in the Morehead and Columbia offices. For the purposes of this analysis positions are assumed to be effective September 1, 2000, or six months prior to the effective date of the licenses to allow for recruitment and training. Operating support for the 2000-01 fiscal year is assumed to be one half the annual amount since the licenses will not go on sale until March 1, 2001.

In addition, the division will pay a per transaction fee to the Wildlife Resources Commission to cover the commission's costs for technical support, hardware maintenance, and communication charges associated with the transfer of data to and from agents. The transaction fee will be based on expected volume of license sales.

Beginning July 1, 1999 the WRC will sell the Recreational Commercial Gear License (RCFL) on behalf of the Division of Marine Fisheries. Wildlife will receive $3.50 per license sold, or 10% of the $35.00 resident RCGL fee. For the purposes of this analysis, the per transaction fee is assumed to be 10% of the CRFL fee.

The total estimated budget requirements for Marine Fisheries to implement the Coastal Recreational Fishing License requirements is outlined in the following table:

Table 7: Division of Marine Fisheries, Total Budget Requirements

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
Personnel					
Administrative Officer II		31,270	38,932	40,309	41,852
Applications Analyst Programmer II		49,558	61,737	63,957	66,446
Computer Support Tech II		23,744	29,548	30,577	31,730
Accounting Clerk IV		20,449	25,439	26,316	27,299
(2) Processing Assistant IV		39,457	49,141	50,895	52,861
Total Salaries & Benefits *	-	164,477	204,797	212,053	220,188
Positions		*6.00*	*6.00*	*6.00*	*6.00*
Operating Expenses	1,008,086	165,977	326,954	326,954	326,954
Transaction Fee Paid to WRC		59,023	236,091	236,091	236,091
Total Requirements	**$1,008,086**	**$389,477**	**$767,842**	**$775,098**	**$783,233**

**** Salaries adjusted for inflation based on January 1999 forecasts by Data Resources, Inc, as provided by the Office of State Budget and Management.***

The bill authorizes up to 10% of the funds credited to the Sealife Enhancement Fund to be used for administrative costs. Based on the revenue projections outlined on page 4 (Table 6), this allowance will not cover the required expenditures beginning with the 2000-01 fiscal year. Assuming the Marine Fisheries Commission authorizes the maximum for administration, a General Fund appropriation will be required to cover the remainder as follows:

Table 8: Appropriation Required for License Administration

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
Total Requirements	$389,477	$767,842	$775,098	$783,233
Less 10% Adminstrative Allowance, Sealife Enhancement Fund	($55,481)	($221,925)	($221,925)	($221,925)
Appropriation Required	**$333,995**	**$545,916**	**$553,173**	**$561,308**

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Mona Moon

APPROVED BY: Tom Covington

DATE: Tuesday, June 29, 1999

FISCAL ANALYSIS MEMORANDUM

DATE: June 29, 1999

TO: House Committee on Finance

FROM: Mona Moon
Fiscal Research Division

RE: House Bill 1434, Coastal Recreational Fishing License
Proposed Committee Substitute, PCS3451-RT

FISCAL IMPACT

Yes (x) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Sealife Enhancement Fund License Revenue *			$582,425	$2,329,699	$2,329,699
Marine Fisheries Agency Receipts			($7,355)	($29,418)	($29,418)
EXPENDITURES					
Wildlife Resources Commission System Modification		$780,000			
Division of Marine Fisheries System Development and Administration *		$1,008,086	$397,919	$786,848	$794,983
POSITIONS:			6.00	6.00	6.00

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources, Division of Marine Fisheries; Wildlife Resources Commission

EFFECTIVE DATE: March 1, 2002; except Section 10 authorizing the Marine Fisheries Commission to adopt rules regarding the definition of fishing gear, and Section 12 requiring study of a unified recreational inland and coastal waters fishing license. These sections become effective when the act becomes law.

**** The bill authorizes up to 10% of the funds credited to the Sealife Enhancement Fund to be used for administration. This administrative allowance will not be sufficient to cover the total cost of the licensing program.***

BILL SUMMARY: Establishes general provisions governing a coastal recreational fishing license. Sets out a fee structure for the sale of coastal recreational fishing licenses. Recodifies the existing recreational commercial gear license. Creates the Sealife Enhancement Fund to hold the proceeds from the sale of the new coastal recreational fishing license and provides for the allocation of the proceeds upon direction of the Marine Fisheries Commission.

ASSUMPTIONS AND METHODOLOGY:

REVENUES

Total revenue from the sale of Coastal Recreational Fishing Licenses (CRFL) proposed in House Bill 1434 is estimated using data collected by the Division of Marine Fisheries through annual Marine Recreational Fishery Statistics Surveys. The surveys include direct interviews with approximately 20,000 anglers at various public access points along the North Carolina coast, as well as telephone interviews with 20,000 additional, randomly selected persons.

Information obtained through the surveys is used to estimate the total number of marine or coastal anglers in North Carolina, the total number of coastal fishing trips annually and the mode of fishing (i.e. from a man-made structure, beach or bank, charter/head boat or private boats).

The following two tables summarize the results of the annual survey over the last five years:

Table 1:

Estimated Number of Marine Recreational Anglers in NC, 1993-1997

	Coastal Residents	Non-Coastal Residents	Out-of State	Total Anglers
1997	321,520	163,261	840,679	1,325,460
1996	260,000	176,000	708,000	1,144,000
1995	340,000	216,000	721,000	1,277,000
1994	409,000	256,000	815,000	1,480,000
1993	398,000	224,000	745,000	1,367,000
5 Year Average	345,704	207,052	765,936	1,318,692
Percentage of Total	26%	16%	58%	

Table 2:

Estimated Marine Recreational Fishing Trips in NC, 1993-1997

	Man-made	Beach/Bank	Charter Boats	Private Boats	Total
1997	1,272,993	1,704,436	294,890	1,509,565	4,781,884
1996	1,246,284	1,802,507	243,156	1,312,645	4,604,592
1995	1,437,773	2,020,224	203,719	1,330,754	4,992,470
1994	1,595,701	1,904,294	186,188	1,483,954	5,170,137
1993	1,316,431	1,832,538	130,929	1,436,184	4,716,082
5 Year Average	1,373,836	1,852,800	211,776	1,414,620	4,853,033
Percentage of Total	28%	38%	4%	29%	

Based on the five-year average number of estimated marine anglers (Table 1), there are 1,318,692 potential licensees. However, the bill provides for a number of general exemptions and individual licenses at no charge, reducing the number of potential anglers subject to the coastal recreational fishing license fees. Table 3 outlines the adjustments necessary to estimate the number of anglers who may be required to purchase a license:

Table 3: Calculation of Adjusted Total Number of Anglers

Total Number of Anglers, 5 year average:		1,318,692
No Charge Licenses, General Exemptions, Attrition		
1. Standard/Retired Standard Commercial Fishing License (SCFL/RSCFL)	20,000	
2. Wildlife Resources Commission - Lifetime Resident Comprehensive Fishing License and Lifetime Sportsman Combination License Holders (87,686 issued; assume 90% will seek CRFL)	78,917	
Less SCFL/RSCFL, WRC Lifetime		98,917
Subtotal		1,219,775
3. Subsistence, Permanently Handicapped/Disabled, Disabled Veteran, Legally Blind, Attrition (Assume 15% of subtotal anglers to capture persons eligible for no charge licenses and possible attrition; note recent annual fluctuation in total anglers)	182,966	
4. Persons < 16 Years of Age (1997 North Carolina Marine Recreational Fishery Statistics Survey indicates 7.2% of coastal anglers are under the age of 16; assume 8% of subtotal anglers will fall under this exemption)	97,582	
5. Persons age 65 and over (1997 North Carolina Marine Recreational Fishery Statistics Survey indicates 8.1% of coastal anglers are age 65 and over; assume 9% of subtotal anglers will fall under this exemption)	109,780	
Less Other No Charge Licenses, General Exemptions, Attrition		390,328
Adjusted Total Number of Anglers		829,447

According to the Division of Marine Fisheries, applying the percentages associated with each type of fishing trip (Table 2) to the adjusted total number of anglers (Table 3) provides a rough estimate of the number of anglers engaging in that particular mode of fishing. Table 4 provides a breakdown of total anglers by type of fishing trip:

Table 4: Estimated Marine Recreational Anglers by Type of Fishing Trip

	Man-made	Beach/Bank	Charter Boats	Private Boats	Total
Adjusted for no charge licenses, general exemptions and attrition	234,807	316,668	36,195	241,777	829,447

Note: Because the Marine Recreational Fishery Statistics Survey does not include private entry points, such as personally owned piers or docks, man-made structures are assumed to be commercial or other public fishing piers and structures.

These numbers can be used to estimate the number of additional exemptions as specified in the bill and the number of anglers purchasing CRFLs as follows:

Table 5: Calculation of Anglers Purchasing Coastal Recreational Fishing Licenses

Adjusted Total Number of Anglers		829,447
Blanket Licenses and Specific Fishing Related Exemptions		
1. Beach/Bank Exemption	316,668	
2. Charter/Head/Dive Boat Blanket (Assume 30% of charter boat fishermen will purchase a CRFL to fish using a different means; therefore 70% will fall under the blanket license)	25,337	
3. Ocean Fishing Pier Blanket (Assume 30% of pier fishermen will purchase a CRFL to fish using a different means, therefore 70% of those persons fishing from man-made structures will fall under the blanket license.	164,365	
Less Blanket Licenses and Exemptions		506,370
Adjusted Total Number of Anglers Purchasing CRFLs		323,077

The estimated revenue from the sale of the Coastal Recreational Fishing License as outlined in the bill follows:

Table 6: Estimated Revenue Generated by Coastal Recreational Fishing License

License Type	License Fee	Estimated Sales	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
Standard CRFL	$7.50	225,023		$421,918	$1,687,673	$1,687,673
10 Day CRFL	$5.00	96,439		$120,549	$482,195	$482,195
		321,462				
Lifetime CRFL						
< 6 years of age	$100.00	663		$16,575	$66,300	$66,300
6 to 11 years of age	$150.00	242		$9,075	$36,300	$36,300
11 to 17 years of age	$200.00	242		$12,100	$48,400	$48,400
17 to 65 years of age	$250.00	468		$29,250	$117,000	$117,000
		1,615				
Charter/Head/Dive Boat Blanket CRFL	$1.50/ft to $4.50/ft	200		$5,925	$23,700	$23,700
Ocean Fishing Pier Blanket CRFL	$1.00/linear ft	25		$4,209	$16,836	$16,836
Gross Revenue from CRFL Receipts		**323,302**	**$0**	**$619,601**	**$2,478,404**	**$2,478,404**
Less License Agent Fee (6%)			$0	($37,176)	($148,704)	($148,704)
Net Revenue from CRFL Receipts -- Credited to the Sealife Enhancement Fund			**$0**	**$582,425**	**$2,329,699**	**$2,329,699**

This revenue estimate is based on the following assumptions:

1. Since the total number of anglers can vary significantly from year to year (Table 1), possible attrition was accounted for in calculating the number of potential anglers subject to the CRFL fees (Table 3). However, a comparison of total anglers in 1993 versus 1997, indicates very little change over the five-year period; therefore, no additional attrition or growth is assumed in projecting future revenues.

2. The license provisions become effective March 1, 2002. License revenue for the 2001-02 fiscal year is assumed to be one-fourth of the annual amount.

3. Lifetime licenses are assumed to be 0.50% of total sales. The sale of lifetime licenses to persons under age 70 accounted for 0.89% of total Wildlife Resources Commission (WRC) license sales in the 1997-98 fiscal year. Because House Bill 1434 contains a beach and shore-based structure exemption and blanket licenses, the sale of lifetime CRFLs is anticipated to account for a lower percentage of total sales than Wildlife experiences.

4. The distribution of lifetime license sales among the various age groupings is based on the sale of WRC lifetime licenses.

5. Distribution of license sales among the short-term licenses is assumed to be 70% for the standard or annual license, 30% for the ten day.

6. The Division of Marine Fisheries estimates revenue from the Charter/Head Boat Blanket CRFL based on known charter boat operations and average vessel lengths to be $23,700 annually.

7. The Division of Marine Fisheries estimates revenue from the Ocean Fishing Pier Blanket CRFL based on the known number of piers and average lengths to be $16,836 annually.

The proceeds from the sale of recreational licenses are to be credited to the Sealife Enhancement Fund established in the bill. The Marine Fisheries Commission is responsible for directing the use of the funds in accordance with the specified percentages and limitations established in the bill. The allocation of funds for administration may not exceed 10%.

Other Revenue Issues

The bill repeals the current pier license of $0.50 per linear foot. The Division of Marine Fisheries currently retains the proceeds from this fee to offset operating costs. The division estimates the repeal of this fee will reduce annual revenue by $8,418.

House Bill 1434 also changes the amount to be retained by authorized license agents from the sale of Recreational Commercial Gear Licenses (RCGL). The licenses will go on sale July 1, 1999. Agents are currently authorized to charge $1.00 in addition to the NC resident RCGL fee of $35.00. The bill changes this practice to reimburse the agent 6% of the license fee or $2.10 per license sold. The Division expects 10,000 RCGLs will be sold annually through license agents, reducing annual revenue by $21,000.

EXPENDITURES

This analysis assumes the coastal license program will be automated and integrated with the existing license system operated by the Wildlife Resources Commission. However, the WRC must provide prior approval before system modification and development proceeds.

Wildlife Resources Commission

The Division of Marine Fisheries would like to take advantage of the automated licensing system employed by the Wildlife Resources Commission and the large network of WRC License Agents to sell CRFLs.

To accommodate the additional license types, the Wildlife system will require some modification and upgrades. Based on the license proposal in House Bill 1434, the WRC estimates the cost for software modification to be $150,000 and the cost of system upgrades to accommodate additional license agents and increased volume to be $350,000. Point of sale computer equipment will be provided to any new agent selling the CRFLs. Assuming 200 business owners in coastal counties choose to sell the licenses, an additional $280,000 ($1,400 per agent) will be required for hardware costs. The total up front cost for license system modification and equipment will require a General Fund appropriation of $780,000. Funds are needed in the 2000-01 fiscal year to ensure that the system is complete and operational by March 1, 2002 when the licenses go on sale.

Division of Marine Fisheries

Integration of the Marine Fisheries licensing system with the Wildlife licensing system will also require up front General Fund expenditures for system development. The division estimates that $1,008,086 will be required in the 2000-01 fiscal year for additional hardware, software development and related information technology expenses. Funds are needed in the 2000-01 fiscal year to ensure that the system is complete and operational by March 1, 2002 when the licenses go on sale.

The division also anticipates requiring additional staff and operating support to administer the CRFL program. An administrative officer will oversee management of the license program and will serve as the primary contact with the WRC. A computer programmer will be responsible for system maintenance, quality control and data transfer. A computer tech position is needed to provide technical assistance to license agents. An accounting clerk will be responsible for tracking license sales, deposits and auditing sales records. Two processing assistants will issue licenses, handle questions concerning license requirements and regulations, and data entry in the Morehead and Columbia offices. For the purposes of this analysis positions are assumed to be effective September 1, 2001, or six months prior to the effective date of the licenses to allow for recruitment and training. Operating support for the 2001-02 fiscal year is assumed to be one half the annual amount since the licenses will not go on sale until March 1, 2002.

In addition, the division will pay a per transaction fee to the Wildlife Resources Commission to cover the commission's costs for technical support, hardware maintenance, and communication charges associated with the transfer of data to and from agents. The transaction fee will be based on expected volume of license sales.

Beginning July 1, 1999 the WRC will sell the Recreational Commercial Gear License (RCFL) on behalf of the Division of Marine Fisheries. Wildlife will receive $3.50 per license sold, or 10% of the $35.00 resident RCGL fee. For the purposes of this analysis, the per transaction fee is assumed to be 10% of the CRFL fee.

The total estimated budget requirements for Marine Fisheries to implement the Coastal Recreational Fishing License requirements is outlined in the following table:

Table 7: Division of Marine Fisheries, Total Budget Requirements

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
Personnel					
Administrative Officer II			32,314	40,309	41,852
Applications Analyst Programmer II			51,242	63,957	66,446
Computer Support Tech II			24,525	30,577	31,730
Accounting Clerk IV			21,114	26,316	27,299
(2) Processing Assistant IV			40,787	50,895	52,861
Total Salaries & Benefits *	-	-	169,982	212,053	220,188
Positions			*6.00*	*6.00*	*6.00*
Operating Expenses		1,008,086	165,977	326,954	326,954
Transaction Fee Paid to WRC		-	61,960	247,840	247,840
Total Requirements	**$0**	**$1,008,086**	**$397,919**	**$786,848**	**$794,983**

**** Salaries adjusted for inflation based on January 1999 forecasts by Data Resources, Inc, as provided by the Office of State Budget and Management.***

The bill authorizes up to 10% of the funds credited to the Sealife Enhancement Fund to be used for administrative costs. Based on the revenue projections outlined on page 4 (Table 6), this allowance will not cover the required expenditures beginning with the 2001-02 fiscal year. Assuming the Marine Fisheries Commission authorizes the maximum for administration, a General Fund appropriation will be required to cover the remainder as follows:

Table 8: Appropriation Required for License Administration

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
Total Requirements		$397,919	$786,848	$794,983
Less 10% Adminstrative Allowance, Sealife Enhancement Fund	$0	($58,242)	($232,970)	($232,970)
Appropriation Required	**$0**	**$339,676**	**$553,878**	**$562,013**

Proposed Committee Substitute for House Bill 1434

(Coastal Recreational Fishing License)

H1434-PCS3451-RT

The Proposed Committee Substitute for HB 1434 makes the following changes to the Second Edition of the bill:

Clarifies that the Coastal Recreational Fishing License requirement only applies to coastal fishing waters.

Replaces the $3.50, One Week Coastal Recreational Fishing License (CRFL) with a $5.00, Ten Day CRFL.

Deletes the $1.00, One Day CRFL.

Exempts holders of a Standard Commercial Fishing License or Retired Standard Commercial Fishing License from the requirement to hold a CRFL in order to engage in recreational fishing by means of recreational gear.

Adds a December 31, 2002 sunset to the provision that allows the holder of a Wildlife Resources Commission Lifetime Resident Comprehensive Fishing License or a Lifetime Sportsman Combination License to obtain a free Lifetime CRFL.

Reduces the fee for the Ocean Fishing Pier Blanket CRFL from $5.00 per linear foot to $1.00 per linear foot.

Conforms an exemption to the Recreational Commercial Gear License requirement with S.L. 99-0209, which became law June 28, 1999.

Provides that for purposes of the Sealife Enhancement Fund, "License revenues" means *net* proceeds from the sale of the CRFL. This clarifies that license agents will receive a fee for the sale of the CRFL prior to the deposit of license proceeds into the Sealife Enhancement Fund.

Clarifies that the Sealife Enhancement Fund is a nonreverting fund.

Changes the allowable distribution of moneys from the Sealife Enhancement Fund as follows

- Increases the percentage of moneys that must be used for resource and habitat enhancement from 25% to 40% and adds an illustrative list of the types of activities to be funded for resource and habitat enhancement.
- Decreases the maximum percentage of moneys to be used for Law Enforcement from 25% to 15%.
- Adds an illustrative list of the types of activities to be funded for marine fisheries research.
- Decreases the maximum percentage of moneys to be used for grants from 10% to 5%.

Replaces the requirement that the Department of Environment and Natural Resources refund to each license agent 6% of the value of each license sold with a provision that authorizes each license agent to deduct a fee of 6% from the amount collected for each license.

Replaces the March 1, 2001 effective date with a March 1, 2002 effective date.

Prepared by Jeff Hudson, Staff Attorney

June 29, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☒ Senate Committee Substitute for
S.B. 271 A BILL TO BE ENTITLED AN ACT TO ANNEX TO THE EXISTING CITY LIMITS OF THE TOWN OF HUNTERSVILLE CERTAIN AREAS SURROUNDED BY EXISTING CITY LIMITS OF THE TOWN OF HUNTERSVILLE.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

Favorable rept. - reported out today KC

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-236
SENATE BILL 271

AN ACT TO ANNEX TO THE EXISTING CITY LIMITS OF THE TOWN OF HUNTERSVILLE CERTAIN AREAS SURROUNDED BY EXISTING CITY LIMITS OF THE TOWN OF HUNTERSVILLE.

Whereas, there are areas and tracts of land not presently part of the Town of Huntersville but which are completely surrounded by the existing town limits of the Town of Huntersville; and

Whereas, the Town of Huntersville cannot provide police protection and other services to such areas, and any entity providing such services must travel through the Town of Huntersville to reach the areas in question; and

Whereas, in order to provide for the safety and welfare of the owners and residents of the affected areas, such areas should be and become part of the Town of Huntersville and be entitled to all of the services as are provided by the Town of Huntersville to other residents and property; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The corporate limits of the Town of Huntersville are extended to include the following described area:

TRACT I

All courses and distances hereafter given are contiguous with existing town limits:

BEGINNING on the existing town limits lines at the intersection of the northerly right-of-way of Gilead Road (SR 2136) and easterly right-of-way line of Commerce Center Drive, thence, with the easterly right-of-way line of Commerce Center Drive (1) with the arc of a circular curve to the right having a radius of 20 feet, an arc distance of 31.41 feet (and with a chord of N. 49-10-50W. 28.28 feet); (2) N. 04-10-50 W. 37 feet; (3) N. 07-02-34 W. 110.14 feet, a corner of lot bearing Mecklenburg Tax Code 017-121-33; thence with southerly line of said lot in an easterly direction 353.57 feet to a point on the line of Tax Parcel Number 017-121-03; thence with said lot N. 04-14-10 E. approximately 35.13 feet; thence N. 85-39-45 E. approximately 99 feet; thence in a southerly direction with the existing town limit line approximately 546.97 feet to the northerly right-of-way margin of Gilead Road; thence with said right-of-way in a westerly direction approximately 100 feet; thence along the new right-of-way margin in a northerly direction 20 feet; thence with said margin S. 85-49-10 W. 330 feet to the beginning, said property comprising Mecklenburg tax parcels 017-121-27 and portions of 017-121-03 and 04.

TRACT II

All courses and distances hereafter given are contiguous with existing town limits:

BEGINNING on the existing town limits line at the point

of intersection of the southerly right-of-way margin of Huntersville-Concord Road and the centerline, as projected, of Glendale Drive; thence, with the centerline of Glendale Drive in a northerly direction to the point of intersection of the easterly right-of-way margin of Hunters Ridge Road, as projected; thence in a northerly direction with said easterly right-of-way margin and the front lot lines of lots 1 through 5 as shown on map in Map Book 21, page 960, Mecklenburg Registry, for a distance of approximately 807.07 feet, a course of the aforesaid lot 5; thence with line of lot 5 in an easterly direction 197.97 feet; thence with the rear lot lines of lots 5 through 1, approximately 841 feet; thence in a northerly direction 23.6 feet; thence in a southeasterly direction 206.14 feet to a point on the southerly right-of-way margin of Huntersville-Concord Road; thence with said right-of-way margin in a westerly direction 150 feet, more or less, the point of BEGINNING, said property comprising Mecklenburg Tax Parcel Numbers 019-282-03, 04, 05, 06, 07 and 019-262-14.

TRACT III

All courses and distances hereafter given are contiguous with existing town limits:

BEGINNING at a point on the northerly right-of-way margin of Glendale Road, the southwest corner of Lot 1, Map Book 21, Page 881, Mecklenburg Registry; thence N. 03-14-39 W. 278.28 feet; thence S. 86-27-16 W. 70.11 feet; thence S. 67-46-26 W. 159.56 feet; thence S. 10-32-46 W. 106.19 feet to a point on Glendale Drive; thence with Glendale Drive S. 66-11-89 E. 39.07 feet; thence S. 73-08-59 E. 99.86 feet; thence S. 67-09-09 E. 99.94 feet; thence S. 52-02-03 E. 37.81 feet to BEGINNING, said property consisting of Mecklenburg tax parcel 019-281-12.

TRACT IV

All courses and distances hereafter given are contiguous with existing town limits:

BEGINNING at a point on the existing town limits line on the northerly margin of Ramah Church Road (SR #2439), a common corner of tax parcels 011-013-37 and 011-181-01, thence northerly with said tax parcel 136.66 feet; thence northwesterly with said parcels 381.35 feet; thence with the line of tax parcel # 011-013-38 northeasterly 327.51 feet, thence continuing northeasterly 211.08 feet; then continuing with said tax parcel and parcel number 011-181-12 1238.74 feet; then continuing with tax parcel number 011-181-12 approximately 200 feet to tax parcel 011-181-04; thence with said tax parcel number southeasterly 610.14 feet; thence northeasterly 265.74 feet; thence continuing with said tax parcel number 480.09 feet to the northerly margin of Ramah Church Road; thence with the said northerly margin of Ramah Church Road in a westerly direction approximately 2,123.97 feet to the BEGINNING, comprising all of Mecklenburg tax parcel numbers 011-181-01; 011-181-03, 011-181-10, 011-181-11, and 011-181-13.

TRACT V

All courses and distances hereafter given are contiguous with existing town limits:

BEGINNING on the existing town limits line on the southerly margin of Hagers Road (SR 2438), the common line between tax parcel numbers 011-011-40 and 011-011-08; thence in a southerly direction with tax parcels 011-011-08 and 011-011-17, approximately 663.48 feet; thence in an easterly direction with tax parcel numbers 011-011-17 and 011-011-05, 1258.83 feet to SR

2438 at its terminus; then continuing easterly with tax parcel number 011-091-13, 546.56 feet; then continuing easterly with tax parcel number 011-171-03, 464.72 feet to a point, then southerly with tax parcel number 011-191-98, 616.92 feet; then westerly with tax parcel number 011-191-98, 520.14 feet and continuing 1225.28 feet; thence southerly with said tax parcel 1,056 feet, thence westerly on the line of tax parcel number 011-013-38 approximately 1068.80 feet; then continuing with tax parcel number 011-013-38 (1) southerly 350.77 feet, (2) easterly 193.54 feet, (3) southerly 117.46 feet, (4) southeasterly 291.67 feet, (5) southeasterly 131.97 feet, (6) westerly 309.31 feet, then continuing southerly with tax parcel number 011-013-38 and tax parcel number 011-013-85, 324.9 feet; thence southwesterly approximately 400 feet to the northeast corner of tax parcel number 011-013-24; then with tax parcel number 011-013-24 westerly, 143 feet, then southerly approximately 300 feet, then continuing with the existing town limits line in a westerly direction to a point at the northeast corner of tax parcel number 011-013-20; thence with the existing town limits in a northerly line generally along the purported right-of-way of the Norfolk Southern Railroad approximately 1489.69 feet, thence easterly to the centerline of said railroad approximately 35 feet; thence continuing northerly with said centerline approximately 2,713 feet to the southwest corner of tax parcel number 011-012-34; thence easterly with said tax parcel 1028.28 feet; thence northerly approximately 945.57 feet to the southerly margin of Hagers Road, then with said southerly margin in a generally easterly direction approximately 700 feet to the BEGINNING point, comprising all or part of tax parcel numbers:

011-011-02	011-012-29	011-013-47
011-011-03	011-012-30	011-191-28
011-011-04	011-012-31	011-191-29
011-011-10	011-012-32	011-191-31
011-011-11	011-012-35	011-191-32
011-011-14	011-013-02	011-191-35
011-011-19	011-013-26	011-191-36
011-011-39	011-013-28	011-191-37
011-011-40	011-013-39	011-191-34
011-012-01	011-013-40	
011-012-02	011-013-41	
011-012-03	011-013-42	
011-012-04	011-013-43	
011-012-05	011-013-44	
011-012-27	011-013-45	
011-012-28	011-013-46	

Section 2. From and after the effective date of this act, the subject areas shall be entitled to those services in the same manner that the Town of Huntersville provides to its residents and property lying therein, and the residents of such areas shall be entitled to all of the privileges, rights, and obligations of other residents of the Town of Huntersville.

Section 3. This act becomes effective at midnight, June 30, 1999.

In the General Assembly read three times and ratified this the 30th day of June, 1999.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black

Speaker of the House of Representatives

newest

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 912
Proposed Committee Substitute S912-PCSX6691-LC

Short Title: Bonds for Higher Education. (Public)

Sponsors:

Referred to:

April 14, 1999

A BILL TO BE ENTITLED

AN ACT (1) TO PROVIDE FOR THE FINANCING OF CAPITAL FACILITIES FOR THE UNIVERSITY OF NORTH CAROLINA THROUGH THE ISSUANCE OF STATE OF NORTH CAROLINA UNIVERSITY IMPROVEMENT SECURITY INTEREST BONDS, (2) TO AUTHORIZE THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO ISSUE SPECIAL OBLIGATION BONDS FOR IMPROVEMENTS TO THE FACILITIES OF THE UNIVERSITY OF NORTH CAROLINA AND FOR THE UNIVERSITY OF NORTH CAROLINA HOSPITALS AT CHAPEL HILL AND OTHER FACILITIES OF THE UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM, AND (3) TO PROVIDE FOR THE FINANCING OF CAPITAL IMPROVEMENTS FOR COMMUNITY COLLEGES THROUGH THE ISSUANCE OF STATE OF NORTH CAROLINA COMMUNITY COLLEGE SECURITY INTEREST BONDS.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 116D.

"Higher Education Bonds.

"ARTICLE 1.

"General Provisions.

"§ 116D-1. Definitions.

The following definitions apply in this Chapter:

(1) Board of Governors. -- The Board of Governors of the University.

(2) Capital facility. -- Any one or more of the following for the University or for a community college:

a. One or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment and furnishings in connection therewith.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

The term includes, without limitation, classroom buildings, laboratory buildings, research facilities, libraries, physical education facilities, continuing education centers, student cafeterias, and activity facilities, including sports facilities, student and faculty housing facilities, and administrative office facilities.

(3) Cost. -- Any of the following in financing the cost of capital facilities and special obligation bond projects, as authorized by this Chapter:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities and special obligation bond projects, including the acquisition of land, rights-of-way, easements, franchises, equipment, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility or special obligation bond project.

b. The cost of engineering, architectural, and other consulting services as may be required.

c. The cost of providing personnel to ensure effective project management.

d. Finance charges, reserves for debt service, and interest prior to and during construction.

e. Administrative expenses and charges incurred by the State in connection with the administration of a bond program created under this Chapter.

f. The cost of bond insurance, investment contracts, credit enhancement, and liquidity facilities, interest-rate swap agreements or other derivative products, financial and legal consultants, and related costs of bond and note issuance.

g. The cost of reimbursing the State for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Chapter.

(4) Credit facility. -- An agreement entered into by the State Treasurer on behalf of the State with a bank, savings and loan association or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States, and providing for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption or acceleration), redemption premium, if any, and interest on any bonds or notes payable on demand or tender by the owner, in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(5) Fiscal period. -- A fiscal biennium or a fiscal year of the fiscal biennium.

(6) Fiscal year. -- The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(7) Par formula. -- A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any bonds or notes, including:

a. A provision providing for an adjustment so that the purchase price of bonds or notes in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. A provision that the State Treasurer determines is consistent with this Chapter and will not materially and adversely affect the financial position of the State and the marketing of bonds or notes at a reasonable interest cost to the State.

(8) Securities issued under this Chapter. -- Any of the following:

a. University improvement security interest bonds, refunding bonds, notes, and refunding notes issued under Article 2 of this Chapter.

b. Special obligation bonds, bond anticipation notes, and refunding bonds issued under Article 3 of this Chapter.

c. Community college security interest bonds, refunding bonds, notes, and refunding notes issued under Article 4 of this Chapter.

(9) State. -- The State of North Carolina.

(10) State Treasurer. -- The incumbent Treasurer, from time to time, of the State.

(11) University. -- The University of North Carolina and its constituent and affiliated institutions, including, without limitation, the University of North Carolina Center for Public Television, the University of North Carolina Health Care System, the North Carolina School of Science and Mathematics, and the North Carolina Arboretum.

"**§ 116D-2. General provisions.**

(a) Signatures. -- Should any officer whose signature or facsimile signature appears on securities issued under this Chapter cease to be that officer before the delivery of the securities, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery of the securities. Securities issued under this Chapter may bear the facsimile signatures of persons, who at the actual time of the execution of the securities were the proper officers to sign any security although at the date of the security those persons may not have been officers.

(b) Tax Exemption. -- Securities issued under this Chapter shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, or gift taxes, income taxes on the gain from the transfer of the securities, and franchise taxes. The interest on the securities is not subject to taxation as income.

(c) Investment Eligibility. -- Securities issued under this Chapter are securities in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions, insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, other financial institutions engaged in business in the State, executors, administrators, trustees, and other fiduciaries. Securities issued under this Chapter are securities which may properly and legally be deposited with and received by any officer or agency of the State or a political subdivision of the State for any purpose for which the deposit of bonds or notes of the State or any political subdivision is now or may later be authorized by law.

(d) Inconsistent Laws. -- All general, special, or local laws that are inconsistent with this Chapter do not apply to this Chapter.

"**§ 116D-3. Reports.**

(a) Board of Governors. -- The Board of Governors shall report to the Joint Legislative Commission on Governmental Operations by September 15 of each year, and more frequently as the Commission requests, on the following:

(1) University Improvement Security Interest Bonds. -- The Board of Governors shall report on projects funded by university improvement security interest bonds under Article 2 of this Chapter, including the total project costs, the amount to be funded

from the bonds, the expenditures to date from the bonds and other sources, and the percentage of each project completed. Each annual report shall include estimated operating costs for each project begun in the preceding fiscal year, including proposed sources of funds and anticipated dates for occupancy. Operating costs shall be projected for a period of at least 20 years from the date of anticipated project completion.

(2) Special Obligation Bonds. -- The Board of Governors shall report on special obligation bonds issued under Article 3 of this Chapter, including the amount of debt, itemized for each institution of the University, by bond issue, and by project. The report shall include schedules of debt service requirements and actual payments, as well as evidence of compliance with additional financial covenants required by bond documents. The report shall identify the trends and current revenue streams of the sources of obligated resources pledged for each bond issue.

(b) Treasurer. -- Upon issuance of university improvement security interest bonds under Article 2 of this Chapter or community college security interest bonds under Article 4 of this Chapter, the Treasurer shall forward a schedule of required payments of principal and interest over the life of the bonds to the Director of the Budget, with copies to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. The Treasurer shall report to the Joint Legislative Commission on Governmental Operations by September 15 of each year, and more frequently as the Commission requests, on the university improvement security interest bonds issued under Article 2 of this Chapter and community college security interest bonds issued under Article 4 of this Chapter, including the annual debt service requirements over the remainder of the life of the bonds.

(c) Community Colleges. -- The Community Colleges System Office shall report quarterly to the Joint Legislative Education Oversight Committee on the projects funded from community college security interest bonds. Each report shall include the total project costs, the amount to be funded from the bonds, the expenditures to date from the bonds and other sources, and the percentage of each project completed.

"ARTICLE 2.

"Security Interest Bonds for Financing Capital Facilities for The University of North Carolina.

"§ 116D-5. Short title.

This Article may be cited as the University Improvement Security Interest Bonds Finance Act.

"§ 116D-6. Findings and purpose.

The General Assembly finds that:

(1) Article IX of the North Carolina Constitution requires the General Assembly to maintain a public system of higher education comprising The University of North Carolina, that the benefits of

the University, as far as practicable, be extended to the people of North Carolina without expense.

(2) Recent studies have shown that billions of dollars will be necessary to repair and renovate the current facilities of the University, to expand the facilities to meet future enrollment demands, to modernize existing facilities of the University in order for the University to continue to provide excellent educational opportunities for the people of North Carolina, and to meet the challenges of changing technologies and globalization of economies.

(3) The University is one of the most valuable assets of the State, and the State cannot afford to permit the quality of the University to decline due to failure to maintain, expand, and modernize the facilities of the University. The failure to expend the required amounts to maintain, modernize, and expand the University will have a significant negative impact upon the continuing quality of the University. Such a negative impact is unacceptable to the citizens of the State.

(4) The University's capital facilities have been and will continue to be provided from University funds on hand, direct appropriations by the State, the proceeds of University self-liquidating debt obligations, and the proceeds of State general obligation bonds secured by a pledge of the faith and credit of the State. There is a need, however, for the use of alternative financing methods to facilitate funding capital facilities when circumstances and conditions warrant the use of financing methods other than those currently used.

(5) The use of State of North Carolina University Improvement Security Interest Bonds, secured by a lien on or security interest in University property acquired, constructed, or improved with the bond proceeds, with the payments of principal and interest appropriated by the General Assembly, will provide flexibility to the State in the financing of facilities for the University and will permit the State to take advantage of changing financial and economic environments.

"**§ 116D-7. Definitions.**

The following definitions apply in this Article:

(1) Bonds. -- Bonds authorized to be issued under this Article, including refunding bonds.

(2) Notes. -- Notes issued under this Article.

(3) University improvement security interest bonds. -- Bonds authorized to be issued under this Article, including refunding bonds.

"**§ 116D-8. Authorization of bonds and notes.**

The State Treasurer may, by and with the consent of the Council of State, issue and sell, at one time or from time to time, university improvement security interest bonds of the State to be designated 'State of North Carolina University Improvement Security Interest Bonds', with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State. Except as otherwise provided by this Article, the aggregate amount of bonds and notes issued pursuant to this Article shall not exceed two billion seven hundred million dollars ($2,700,000,000). The bonds and notes shall be issued in the following years up to the following amounts:

Fiscal Year	Aggregate Amount
1999-2000	$240,000,000
2000-2001	480,000,000
2001-2002	700,000,000
2002-2003	640,000,000
2003-2004	640,000,000

If less than the aggregate amount of bonds or notes authorized to be issued in a fiscal year is issued in that fiscal year, the balance for that fiscal year may be issued in any subsequent fiscal year. Refunding bonds and notes issued pursuant to G.S. 116D-11(f) shall not be included in the limitation on the aggregate amount of bonds and notes that may be issued pursuant to this Article.

The proceeds of bonds or notes issued under this Article shall be applied to finance the cost of improvement, construction, and acquisition of capital facilities for the University or to refund any outstanding bonds or notes issued under this Article. The capital facilities to be improved, constructed, or acquired with the proceeds of bonds or notes shall be determined as provided in G.S. 116D-9.

"**§ 116D-9. Designation of capital facilities and preconditions to bond issuance.**

The capital facilities to be financed in whole or in part with the proceeds of university improvement security interest bonds shall be set forth in legislation enacted from time to time by the General Assembly. The proceeds of university improvement security interest bonds shall not be expended to pay the costs of any capital facilities other than those set forth in that legislation.

"**§ 116D-10. Security; other requirements.**

(a) Security. -- To secure payment of the principal of and interest on bonds or notes issued under this Article, the State may create a lien on or a security interest in one or more of the following:

(1) In all or any part of the capital facilities to be financed by the bonds or notes.

(2) In the case of construction of improvements on real property, in all or some portion of the land on which the improvements are to be located or in all or part of the improvements.

(3) In the case of renovations or improvements to or the installation of fixtures in existing facilities, in all or some portion of the existing facilities, or in all or part of the renovations or improvements.

Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for university improvement security interest bonds, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for university improvement security interest bonds following the State's default on its obligations under the bonds or notes or any trust agreement or other instrument securing payment of the bonds or notes. The security for an issue of bonds shall be set forth in general terms in the resolution of the Council of State authorizing the issuance of the bonds. The property that will be the subject of a lien, deed of trust, or security interest to secure the bonds need not bear any particular relationship to the principal amount of the bonds or notes. The State may grant multiple liens or security interests in a capital facility to the extent not otherwise limited by the terms of other issues of bonds or notes.

(b) Default. -- If university improvement security interest bonds are secured by a lien, deed of trust, or security interest in multiple items of property, the mortgage, deed of trust, or security agreement or other instrument creating the lien, deed of trust, or security interest shall provide that if the State defaults on its obligations with respect to university improvement security interest bonds, the Board of Governors, on behalf of the State, shall determine the order in which the property comprising the security shall be sold or otherwise conveyed to satisfy the obligations of the State. In carrying out the provisions of this subsection, the Board of Governors shall endeavor to select for sale or conveyance to satisfy the obligations of the State those items of property that, in the judgment of the Board of Governors, if sold, would result in the least amount of interruption to the operations of the University as a whole and its ability to carry out its mission. Any determination made by the Board of Governors in carrying out this endeavor shall be conclusive. Nothing in this subsection prohibits the sale or conveyance of up to all of the property securing university improvement security interest bonds to the extent necessary to satisfy the obligations of the State under the bonds.

(c) Governor's Budget. -- Documentation relating to any bonds or notes may include provisions requiring the Governor to submit in the Governor's budget proposal, or in any amendments or supplements to the budget proposal, appropriations necessary to make the payments required to pay the bonds or notes.

(d) Appropriations. -- Amounts payable by the State in respect of an issue of bonds or notes during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) State Liability. -- No deficiency judgment may be rendered against the State in any action for breach of any obligation contained in an issue of bonds or notes or any trust agreement or other instrument securing payment of the bonds or notes. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under an issue of bonds or notes. In the event that the State fails to pay any payments required under or with respect to an issue of bonds or notes, whether on account of a failure by the General Assembly to appropriate sufficient funds for the payment or for some other reason, the net proceeds received

from the sale or other disposition of the capital facilities subject to the lien or security interest securing the bonds or notes shall be applied to satisfy the payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest, and the net proceeds are hereby appropriated for the purpose of making those payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under an issue of bonds or notes shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. -- No documentation relating to an issue of bonds or notes may contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility financed or purchased by the bonds or notes.

(g) Terms Protecting Lender. -- The documentation relating to an issue of bonds or notes may contain provisions for protecting and enforcing the rights and remedies of the owners of the bonds or notes that are reasonable and proper and not in violation of law. It may include covenants setting forth the duties of the State in respect of the purposes to which the proceeds of the bonds or notes may be applied, the disposition and application of any appropriations of the State, and the duties of the State with respect to the capital facilities financed, including, without limitation, the payment of the costs of insurance and maintenance of the capital facilities, the terms under which the collateral securing the bonds may be released or substitute collateral may be delivered, the terms and conditions of the issuance of additional bonds or notes similarly secured, and the custody, safeguarding, investment, and application of all moneys.

(h) Statement on Face of Bonds. -- Bonds issued under this Article shall contain on their face a statement to the effect that neither the faith and credit nor the taxing power of the State or of any political subdivision or instrumentality of the State is pledged to the payment of the principal of or the interest on the bonds.

"§ 116D-11. Issuance of bonds and notes.

(a) Terms and Conditions. -- Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 25 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. -- Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear the State Treasurer's facsimile signature, and shall bear the Great Seal of the State or a facsimile of the Seal impressed or imprinted on them. If bonds or notes bear the

facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as the State Treasurer may determine in conformity with this Article.

(c) Manner of Sale; Expenses. -- Subject to the approval by the Council of State as to the manner in which bonds or notes shall be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. -- The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys which may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. -- By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment or principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes as authorized in this Article.

Funds derived from the sale of bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General

Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. -- By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding bonds or notes issued pursuant to this Article and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes similarly secured. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the bonds or notes being refunded or, if not required for the immediate payment of the bonds or notes being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the bonds or notes being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) obligations of any agency or instrumentality of the United States government if the timely payment of principal and interest on the obligations is unconditionally guaranteed by the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of bonds or notes being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Trust Agreement. -- In the discretion of the State Treasurer, any bonds and notes issued under the provisions of this Article may be secured by a trust agreement or similar instrument by and between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank having the powers of a trust company within or without the State. The trust agreement or resolution may provide for security, and pledges and assignments with respect to the security, as permitted under this Article and may provide for the granting of a lien or security interest in the property as authorized in G.S. 116D-10. The trust agreement or resolution may contain provisions for the terms and conditions of the issuance of additional bonds and notes, and the custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article shall be equally and ratably secured as provided in the trust agreement or resolution, without priority by reasons of number, or dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust agreement or resolution. The trust agreement or resolution may, however, provide that the bonds or notes shall, to the extent and in the manner prescribed in

the trust agreement or resolution, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security thereof, to any other bonds or notes. It shall be lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities as may be required by the State Treasurer. Any trust agreement or resolution may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, any trust agreement or resolution may contain other provisions that the State Treasurer considers reasonable and proper for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of any trust agreement or resolution may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 116D-12. Variable rate demand bonds and notes.**

(a) In fixing the details of bonds and notes, the State Treasurer may provide that the bonds and notes may:

(1) Be made payable from time to time on demand or tender for purchase by the owner, if a credit facility supports the bonds or notes, unless the State Treasurer specifically determines that a credit facility is not required upon a finding and determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State and the marketing of the bonds or notes at a reasonable interest cost to the State.

(2) Be additionally supported by a credit facility.

(3) Be made subject to redemption or a mandatory tender for purchase prior to maturity.

(4) Bear interest at rates that may vary from any periods of time, as may be provided in the proceedings providing for the issuance of the bonds or notes, including, without limitation, any variations as may be permitted pursuant to a par formula.

(5) Be made the subject of a remarketing agreement whereby an attempt is made to remarket bonds or notes to new purchasers prior to their presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of bonds or notes secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium, or for any other reason, then the amount of authorized but unissued bonds or notes during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 116D-13. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of bonds or notes. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated with any bond issue under this Article as the State Treasurer considers necessary.

"ARTICLE 3.

"Special Obligation Bonds for Improvements to the Facilities of The University of North Carolina.

"**§ 116D-21. Purpose.**

The purpose of this Article is to authorize the Board of Governors of The University of North Carolina to issue special obligation bonds, payable from obligated resources, but with no pledge of taxes or the faith and credit of the State or any agency or political subdivision of the State, to pay the cost, in whole or in part, of improvements to the facilities of the University.

"**§ 116D-22. Definitions.**

The following definitions apply in this Article:

(1) Existing facilities. -- Buildings and facilities then existing that generate income or receipts to the Board of Governors that are pledged, under the provisions of a resolution authorizing the issuance of the special obligation bonds under this Article, to the payment of the bonds.

(2) Institution. -- Each of the institutions enumerated in G.S. 116-2, and any affiliated institutions of the University, including, without limitation, the University of North Carolina Center for Public Television, the University of North Carolina Health Care System, the North Carolina School of Science and Mathematics, and the North Carolina Arboretum.

(3) Obligated resources. -- Any sources of income or receipts of the Board of Governors or the institution at which a special obligation bond project is or will be located that are designated by the Board as the security and source of payment for bonds issued under this Article to finance a special obligation bond project, including, without limitation, any of the following:

a. Rents, charges, or fees to be derived by the Board of Governors or the institution from any activities conducted at the institution.

b. Earnings on the investment of the endowment fund of the institution at which a special obligation project will be located, to the extent that the use of the earnings will not violate any lawful condition placed by the donor upon the

part of the endowment fund that generates the investment earnings.

c. Funds to be received under a contract or a grant agreement, including 'overhead costs reimbursement' under a grant agreement, entered into by the Board of Governors or the institution to the extent the use of the funds is not restricted by the terms of the contract or grant agreement or the use of the funds as provided in this Article does not violate the restriction.

Obligated resources do not include funds appropriated to the Board of Governors or the institution from the General Fund by the General Assembly from funds derived from general tax and other revenues of the State, and obligated resources do not include tuition payment by students.

(4) Special obligation bonds. -- Bonds issued under this Article to finance the cost of a special obligation project, which bonds are secured by and payable from obligated resources designated by the Board of Governors at the time the issuance of the bonds is authorized in accordance with this Article.

(5) Special obligation bond project. -- Any capital facilities located or to be located at an institution for the purpose of carrying out the mission of that institution and designated specifically by the Board of Governors as a 'special obligation bond project' for purposes of this Article. A special obligation bond project need not necessarily consist of buildings or facilities that are expected to generate 'self-liquidating revenues' to the Board of Governors or the institution from direct rentals, charges, or fees from the services provided by the building or facility, and may include facilities such as classroom buildings, administration buildings, research facilities, libraries, and equipment that do not produce direct, or indirect, income to the Board of Governors or the institution.

"§ 116D-23. Credit and taxing power of State not pledged; statement on face of bonds.

Special obligation bonds issued under this Article shall not constitute a debt or liability of the State or any political subdivision of the State or a pledge of the faith and credit of the State or of any political subdivision of the State. Special obligation bonds shall be secured solely by the obligated resources pledged to their payment. All of the special obligation bonds shall contain on their face a statement to the effect that neither the State nor the Board of Governors is obligated to pay the bonds or the interest on the bonds except from the obligated resources pledged for payment and that neither the faith and credit nor the taxing power of the State or of any political subdivision or instrumentality of the State is pledged to the payment of the principal of or the interest on the bonds. The issuance of special obligation bonds under this

Article does not directly or indirectly or contingently obligate the State or any political subdivision of the State to levy or to pledge any taxes for the bonds.

"**§ 116D-24. General powers of Board of Governors.**

The Board of Governors is authorized, subject to the requirements of this Article, to do all of the following:

(1) Determine the location and character of any special obligation bond project, to acquire, construct, and provide the project, and to maintain, repair, and operate and enter into contracts for the management, lease, use, or operation of all or any portion of any special obligation bond project and any existing facilities.

(2) Issue special obligation bonds to pay all or any part of the cost of a special obligation bond project, and to fund or refund any bonds previously issued by the Board of Governors to finance facilities designated as a special obligation bond project.

(3) Fix and revise from time to time and charge and collect fees, rates, rents, charges, and other income for the use of and for the services furnished by the institution that are designated as obligated resources in connection with a special obligation bond issue.

(4) Establish and enforce, and to agree through any resolution or trust agreement authorizing or securing bonds under this Article to make and enforce, rules for the use of and services rendered by the institution of the income or receipts to be obtained from the use or services designated as obligated resources in connection with a special obligation bond issue.

(5) Acquire, hold, lease, and dispose of real and personal property in the exercise of its powers and the performance of its duties and to lease all or any part of a special obligation bond project and any existing facilities for any periods of years, not exceeding 40 years, upon any terms and conditions as the Board of Governors determines, subject to the provisions of G.S. 143-341.

(6) Employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and any other employees and agents as may be necessary in its judgment in connection with a special obligation bond project and existing facilities, and to fix their compensation.

(7) Enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Article.

(8) Receive and accept from any federal, State, or other public agency and any private agency, person, or other entity donations, loans, grants, aid, or contributions of any money, property, labor, or other things of value for a special obligation bond project or any other services provided by the institution that is designated as the obligated resource in connection with a special obligation bond

issue, and to agree to apply and use them in accordance with the terms and conditions under which they are provided.

(9) Do all acts and things necessary or convenient to carry out the powers granted by this Article.

"§ 116D-25. Consultation with the Joint Legislative Commission on Governmental Operations.

Whenever this Article requires the approval of the Director of the Budget of an action, the Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations before giving approval.

"§ 116D-26. Issuance of special obligation bonds and bond anticipation notes.

(a) Authority. -- The Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, special obligation bonds of the Board of Governors for the purpose of paying all or any part of the cost of acquiring, constructing, or providing a special obligation project. Before issuing special obligation bonds, the Board of Governors shall first adopt a resolution (i) setting forth the designation by the Board of Governors that the buildings or facilities to be financed by the bond issue are the special obligation bond project being financed and (ii) designating the obligated resources that will secure and be the source of payment of the special obligation bonds to be issued. The Board of Governors shall not issue any special obligation bonds unless the Board of Governors finds that sufficient obligated resources are reasonably expected to be available (i) to pay the principal and interest on the special obligation bonds proposed to be issued, (ii) to create and maintain any reserves for the payment of the special obligation bonds, to the extent the Board of Governors is required to maintain reserves for this purpose by the terms of the trust agreement or resolution authorizing the issuance of the special obligation bonds, and (iii) to provide for the maintenance and operation of the facilities that are to generate the obligated resources to the extent the Board of Governors is required to maintain those facilities by the terms of the trust agreement or resolution authorizing the issuance of the special obligation bonds. Notwithstanding any other provision of this Article, the proceeds of special obligation bonds to be secured by obligated resources derived from the operation of or activities at one institution may not be applied to finance a special obligation project to be located at another institution.

(b) Approval Required. -- The Board of Governors shall not issue any special obligation bonds for a project at an institution unless the board of trustees of that institution has approved the issuance of bonds for that project. The Board of Governors shall not issue special obligation bonds under this Article until the effective date of legislation enacted by the General Assembly authorizing the undertaking of the special obligation bond project to be financed and fixing the maximum aggregate principal amount of special obligation bonds that shall be issued for that purpose. In submitting proposed special obligation bond projects to the General Assembly for approval, the Board of Governors shall submit information on the need for each project, project costs, estimates of increased operating costs upon completion, estimated debt service requirements, and the sources and amounts of

obligated resources to be pledged for the repayment of the bonds. If the obligated resources to repay the bonds or to operate the proposed project potentially involve increased costs to students or to the General Fund, these costs shall be identified in the Board of Governors' submission.

Except as provided in this Article, special obligation bond projects may be undertaken, special obligation bonds may be issued, and other powers vested in the Board of Governors under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, or things which are specifically required by this Article.

(c) Term; Form. -- The special obligation bonds of each issue shall be dated, shall mature at any times not exceeding 25 years from their dates, shall bear interest at any rates as may be determined by the Board of Governors, and may be redeemable before maturity at the option of the Board, at any prices and under any terms and conditions as may be fixed by the Board prior to the issuance of the special obligation bonds. The Board of Governors shall determine the form and manner of execution of the special obligation bonds and shall fix the denominations of the special obligation bonds and the places of payment of principal and interest, which may be at any bank or trust company within or without the State. Notwithstanding any of the other provisions of this Article or any recitals in any special obligation bonds issued under the provisions of this Article, all special obligation bonds shall be negotiable instruments under the laws of this State, subject only to the provisions for registration in a resolution authorizing the issuance of the special obligation bonds or a trust agreement securing the bonds. The Board of Governors may sell the special obligation bonds in any manner, at public or private sale, and for any price, as it may determine to be for its best interests.

(d) Proceeds; Additional Bonds. -- The proceeds of the special obligation bonds of each issue shall be used solely for the purpose for which the bonds have been authorized and shall be disbursed in the manner and under such restrictions, if any, as the Board of Governors may provide in the resolution authorizing the issuance of the bonds or in the trust agreement securing them. Unless otherwise provided in the authorizing resolution or in the trust agreement securing the special obligation bonds, if the proceeds of the special obligation bonds, by error of estimates or otherwise, are less than the cost of the special obligation bond project, additional bonds may in like manner be issued to provide the amount of the deficit and shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of special obligation bonds, and any trust agreement securing them, may also contain limitations upon the issuance of additional special obligation bonds as the Board of Governors considers proper, and the additional special obligation bonds must be issued under the restrictions and limitations prescribed by the resolution or trust agreement.

(e) Temporary Bonds; Notes. -- Before preparing definitive bonds, the Board of Governors may, under like restrictions, issue interim receipts or temporary bonds exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The Board may also provide for the replacement of any bonds which become mutilated, destroyed, or lost.

The Board of Governors may enter into or negotiate a note with an acceptable bank or trust company in lieu of issuing special obligation bonds for the financing of special obligation bond projects covered under this Article. The terms and conditions of any note of this nature shall be in accordance with the terms and conditions surrounding issuance of the special obligation bonds.

(f) Bond Anticipation Notes. -- The Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, bond anticipation notes of the Board of Governors in anticipation of the issuance of special obligation bonds authorized by this Article. The principal of and the interest on these notes shall be payable solely from the proceeds of special obligation bonds or renewal notes or, in the event bond or renewal note proceeds are not available, from the obligated resources designated for their payment. The notes of each issue shall be dated, shall mature at any times not exceeding two years from their dates, shall bear interest at any rates as may be determined by the Board of Governors, and may be redeemable before maturity, at the option of the Board of Governors, at any prices and under any terms and conditions as may be fixed by the Board of Governors prior to the issuance of the notes. The Board shall determine the form and the manner of execution of the notes and shall fix the denominations of the notes and the places of payment of principal and interest, which may be at any bank or trust company within or without the State. Notwithstanding any of the other provisions of this Article or any recitals in any notes issued under the provisions of this Article, all notes shall be negotiable instruments under the laws of this State, subject only to the provisions for registration in a resolution authorizing the issuance of the notes or any trust agreement securing the bonds in anticipation of which the notes are being issued. The Board of Governors may sell the notes in any manner, at public or private sale, and for any price, as it may determine to be for its best interests.

The proceeds of the notes of each issue shall be used solely for the purpose for which the special obligation bonds in anticipation of which the notes are being issued have been authorized, and the note proceeds shall be disbursed in any manner and under any restrictions as the Board of Governors may provide in the resolution authorizing the issuance of the notes or bonds or in the trust agreement securing the special obligation bonds.

The resolution providing for the issuance of notes, and any trust agreement securing the special obligation bonds in anticipation of which the notes are being authorized, may also contain limitations upon the issuance of additional notes as the Board of Governors considers proper, and such additional notes shall be issued under the restrictions and limitations prescribed by the resolution or trust agreement. The Board may also provide for the replacement of any notes which shall become mutilated, destroyed, or lost.

Except as provided in this Article, notes may be issued under this Article and other powers vested in the Board of Governors under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this Article.

Unless the context indicates otherwise, the word 'bonds', wherever used in this Article, include the words 'bond anticipation notes'.

"§ 116D-27. Trust agreement; money received deemed trust funds; insurance; remedies.

(a) Trust Agreement Securing Bonds. -- In the discretion of the Board of Governors and subject to the approval of the Director of the Budget, any special obligation bonds issued under this Article may be secured by a trust agreement by and between the Board of Governors and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. The trust agreement or the resolution providing for the issuance of special obligation bonds may pledge or assign the obligated resources designated as security for the special obligation bonds, but shall not convey or mortgage any property of the institution. The trust agreement or resolution providing for the issuance of special obligation bonds may contain provisions for protecting and enforcing the rights and remedies of the holders of the special obligation bonds that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the Board of Governors in relation to the acquisition, construction, or provision of any of the charging and collecting of any rates, fees, or charges that have been designated as obligated resources, the maintenance, repair, operation, and insurance of any property of the institution, and the custody, safeguarding, and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depositary of the proceeds of special obligation bonds or funds securing special obligation bonds to furnish any indemnifying bonds or to pledge any securities as may be required by the Board of Governors. A trust agreement or resolution may set forth the rights and remedies of the holders of the special obligation bonds and the rights, remedies, and immunities of the trustee or trustees, if any, and may restrict the individual right of action by the holders. In addition to the foregoing, a trust agreement or resolution may contain other provisions the Board of Governors considers reasonable and proper for the security of the holders. All expenses incurred in carrying out the provisions of the trust agreement or resolution may be treated as a part of the cost of the special obligation bond projects for which the special obligation bonds are issued or as an expense of operation of the special obligation bond project.

(b) Trust Funds. -- All moneys received pursuant to the authority of this Article, whether as proceeds from the sale of bonds, or as obligated resources, are trust funds to be held and applied solely as provided in this Article. The Board of Governors may provide for the payment of all or part of the proceeds of the sale of the special obligation bonds and the obligated resources to any officer, board, or depositary that

it may designate for their custody, and may provide for their method of disbursement, with any safeguards and restrictions it may determine. Any officer with whom, or any bank or trust company with which, moneys are deposited shall act as trustee of the moneys and shall hold and apply them for the purposes of this Article, subject to any requirements provided in this Article and in the resolution or trust agreement, authorizing or securing the special obligation bonds.

(c) Insurance. -- Notwithstanding the provisions of any other law, the Board of Governors may carry insurance on any special obligation bond projects and any existing facilities in any amounts and covering any risks it considers advisable.

(d) Remedies. -- Any holder of special obligation bonds issued under this Article and the trustees under a trust agreement, except to the extent the rights given in this section may be restricted by the trust agreement or the resolution authorizing the issuance of the special obligation bonds, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the State or granted under this Article or under the trust agreement or resolution, and may enforce and compel the performance of all duties required by this Article or by the trust agreement or resolution to be performed by the Board of Governors or by any of its officers, including the fixing, charging, and collecting of obligated resources.

"§ 116D-28. Fixing and collecting obligated resources.

(a) Board to Provide Sufficient Resources. -- For the purpose of aiding in the financing of a special obligation bond project and to provide security to the owners of the special obligation bonds issued to finance the special obligation bond project, the Board of Governors is authorized, to the extent the generation of the obligated resources is in the control of the Board, to fix, revise from time to time, charge, and collect the rents, charges, fees, or other revenues constituting the obligated resources. Fees and other revenue sources constituting obligated resources may be imposed or increased only with the approval of the Board of Governors. As long as any special obligation bonds issued under this Article and payable from those obligated resources are outstanding, the obligated resources, to the extent within the control of the Board of Governors, shall be so fixed and adjusted, with relation to other funds available, as to provide funds pursuant to the requirements of the resolution or trust agreement authorizing or securing the special obligation bonds and at least sufficient to pay the principal of and the interest on the special obligation bonds as they become due and payable, to assure the continued collection of the obligated resources, and to create and maintain reserves for these purposes. A sufficient amount of the obligated resources, except any part that may be necessary to pay the cost of maintenance, repair, and operation, and to provide reserves for these purposes and for renewals, replacements, extensions, enlargements, and improvements as may be provided for in the resolution authorizing the issuance of the special obligation bonds or in the trust agreement securing the same, shall be set aside at regular intervals as may be provided in the resolution or trust agreement authorizing the issuance of the special obligation bonds in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on the special obligation bonds as they

become due and the redemption price or the purchase price of special obligation bonds retired by call or purchase as provided in the resolution or trust agreement. This pledge shall be valid and binding from the time it is made, the obligated resources so pledged and thereafter received by the Board of Governors shall immediately be subject to the lien of the pledge without any physical delivery of the pledge or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Board of Governors, irrespective of whether the parties have notice of the pledge. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Board of Governors. The use and disposition of moneys to the credit of the sinking fund shall be subject to the provisions of the resolution authorizing the issuance of the special obligation bonds or of the trust agreement securing the bonds.

(b) State Pledge. -- The State pledges to, and agrees with, the holders of any special obligation bonds or notes issued by the Board of Governors pursuant to this Article that as long as any of the special obligation bonds or notes are outstanding and unpaid, the State will not limit or alter the rights vested in the Board of Governors at the time of issuance of the special obligation bonds or notes to set the terms and conditions of the special obligation bonds or notes and to fulfill the terms of any agreements made with the bondholders or noteholders. The State shall in no way impair the rights and remedies of the bondholders or noteholders until the special obligation bonds or notes and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders or noteholders are fully paid, met, and discharged.

"**§ 116D-29. Vesting powers in committee.**

The Board of Governors may authorize its budget and finance committee to sell any special obligation bonds which the Board has, with the approval of the Director of the Budget, authorized to be issued under this Article in any manner and under any limitations or conditions as the Board prescribes and to perform other functions under this Article the Board determines.

"**§ 116D-30. Refunding bonds.**

The Board of Governors may, subject to the approval of the Director of the Budget, issue from time to time refunding bonds for the purpose of refunding any bonds by the Board under this Article or under any Article of Chapter 116 of the General Statutes, including the payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the bonds refunded. The Board of Governors is further authorized, subject to the approval of the Director of the Budget, to issue from time to time refunding bonds for the combined purpose of (i) refunding any bonds issued by the Board under this Article or under any Article of Chapter 116 of the General Statutes, including the payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the bonds, and (ii) paying all or any part of the cost of acquiring or constructing any additional special obligation bond projects.

This Article, as applicable, governs the issuance of refunding bonds, their maturities and other details, the rights and remedies of their holders, and the rights, powers, privileges, duties, and obligations of the Board of Governors with respect to them.

"§ 116D-31. Additional and alternative method.

This Article provides an additional and alternative method for the doing of the things authorized and is supplemental and additional to powers conferred by other laws, including G.S. 116-175 to G.S. 116-185, inclusive and G.S. 116-197 and G.S. 116-198, and is not in derogation of or repealing any powers now existing under any other law, whether general, special, or local. The issuance of special obligation bonds or refunding bonds under this Article, however, need not comply with the requirements of any other law applicable to the issuance of bonds.

"ARTICLE 4.

"Community Colleges Facilities Security Interest Finance Act.

"§ 116D-40. Short title.

This Article may be cited as the Community College Facilities Security Interest Finance Act.

"§ 116D-41. Findings and purpose.

The General Assembly finds as follows:

(1) There is a continuing need for capital facilities for the State's community colleges, many of which will continue to be provided from current appropriations by counties, proceeds of various types of indebtedness incurred by counties for community college purposes, appropriations by the State, and the proceeds of State general obligation bonds secured by a pledge of the faith and credit of the State. There is a need, however, for the use of alternative financing methods such as authorized in this Article to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through a financing method other than those previously used.

(2) The use of State of North Carolina Community College Security Interest Bonds, secured by a lien on or security interest in the community college property acquired, constructed, or improved with the bond proceeds, and the payment of principal and interest on which are subject to appropriation at the discretion of the General Assembly, will provide financing flexibility to counties and the State and permit the counties and the State to take advantage of changing financial and economic environments.

"§ 116D-42. Definitions.

The following definitions apply in this Article:

(1) Bonds. -- Bonds authorized to be issued under this Article, including refunding bonds.

(2) Community college. -- Defined in G.S. 115D-2.

(3) Community college security interest bonds. -- Bonds authorized to be issued under this Article, including refunding bonds.

(4) Community Colleges System Office. -- The North Carolina Community Colleges System Office, created by Article 1 of Chapter 115D of the General Statutes, or if the Community Colleges System Office is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers, and duties given by this Article to the Community Colleges System Office.

(5) Notes. -- Notes issued under this Article.

"**§ 116D-43. Authorization of bonds and notes.**

Upon the application of the Community Colleges System Office, the State Treasurer may, by and with the consent of the Council of State, issue and sell, at one time or from time to time, community college security interest bonds of the State to be designated 'State of North Carolina Community College Security Interest Bonds', with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State. Except as otherwise provided by this Article, the aggregate amount of bonds and notes issued pursuant to this Article shall not exceed three hundred million dollars ($300,000,000). Refunding bonds and notes issued pursuant to G.S. 116D-46(f) shall not be included in the limitation on the aggregate amount of bonds and notes that may be issued pursuant to this Article.

The proceeds of bonds or notes issued under this Article shall be applied to finance the cost of grants to be made by the State to community colleges to finance the cost of capital facilities for the community college or to refund any outstanding bonds or notes issued under this Article. The capital facilities to be improved, constructed, or acquired with the proceeds of bonds or notes shall be determined as provided in G.S. 116D-44.

"**§ 116D-44. Designation of capital facilities and preconditions to bond issuance.**

The capital facilities to be financed in whole or in part with the proceeds of community college security interest bonds shall be described in legislation enacted from time to time by the General Assembly. The proceeds of community college security interest bonds shall not be expended to pay the costs of any capital facilities other than those described in that legislation.

"**§ 116D-45. Security; other requirements.**

(a) Security. -- To secure payment of the principal of and interest on bonds or notes issued under this Article, each community college that receives a grant pursuant to this Article, and each county to the extent it owns the capital facilities to be acquired or improved by a grant from the State pursuant to this Article, may create a lien on or a security interest in one or more of the following:

(1) In all or any part of the capital facilities to be financed by the bonds or notes.

(2) In the case of construction of improvements on real property, in all or some portion of the land on which the improvements are to be located or in all or part of the improvements.

(3) In the case of renovations or improvements to or the installation of fixtures in existing facilities, in all or some portion of the existing facilities or in all or part of the renovations or improvements.

The security for an issue of bonds shall be set forth in general terms in the resolution of the Council of State authorizing the issuance of the bonds. The property that will be the subject of a lien, deed of trust, or security interest to secure the bonds need not bear any particular relationship to the principal amount of the bonds or notes. A community college or county may grant multiple liens or security interests in a capital facility to the extent not otherwise limited by the terms of other issues of bonds or notes.

(b) Default. -- If community college security interest bonds are secured by a lien, deed of trust, or security interest in multiple items of property, the mortgage, deed of trust, or security agreement or other instrument creating the lien, deed of trust, or security interest shall provide that if the State defaults on its obligations with respect to community college security interest bonds, the Community Colleges System Office, on behalf of the State, shall determine the order in which the property comprising the security shall be sold or otherwise conveyed to satisfy the obligations of the State. In carrying out the provisions of this subsection, the Community Colleges System Office shall endeavor to select for sale or conveyance to satisfy the obligations of the State those items of property that, in the judgment of the Community Colleges System Office, if sold, would result in the least amount of interruption to the operations of the State's community college system as a whole and its ability to carry out its mission. Any determination made by the Community Colleges System Office in carrying out this endeavor shall be conclusive. Nothing in this subsection prohibits the sale or conveyance of up to all of the property securing community college security interest bonds to the extent necessary to satisfy the obligations of the State under the bonds.

(c) Governor's Budget. -- Documentation relating to any bonds or notes may include provisions requiring the Governor to submit in the Governor's budget proposal, or in any amendments or supplements to the budget proposal, appropriations necessary to make the payments required to pay the bonds or notes.

(d) Appropriations. -- Amounts payable by the State in respect of an issue of bonds or notes during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) State Liability. -- No deficiency judgment may be rendered against the State in any action for breach of any obligation contained in an issue of bonds or notes. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under an issue of bonds or notes. In the event that the State fails to pay any payments required under or with respect to an issue of bonds or notes, whether on account of a failure by the General Assembly to appropriate sufficient funds for the payment or for some other reason, the net proceeds received

from the sale or other disposition of the capital facilities subject to the lien or security interest securing the bonds or notes shall be applied to satisfy the payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest, and the net proceeds are hereby appropriated for the purpose of making those payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under an issue of bonds or notes shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. -- No documentation relating to an issue of bonds or notes may contain a nonsubstitution clause that restricts the right of the State, a community college, or a county to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility financed or purchased by the bonds or notes.

(g) Terms Protecting Lender. -- The documentation relating to an issue of bonds or notes, or relating to the security for an issue of bonds or notes, may contain provisions for protecting and enforcing the rights and remedies of the owners of the bonds or notes that are reasonable and proper and not in violation of law. The documentation may include covenants setting forth the duties of the State or a community college in respect of the purposes to which the proceeds of the bonds or notes may be applied, the disposition and application of any appropriations of the State, and the duties of the State or a community college with respect to the capital facilities financed, including, without limitation, the payment of the costs of insurance and maintenance of the capital facilities, the terms under which the collateral securing the bonds may be released or substitute collateral may be delivered, the terms and conditions of the issuance of additional bonds or notes similarly secured, and the custody, safeguarding, investment, and application of all moneys.

(h) Statement on Face of Bonds. -- Bonds issued under this Article shall contain on their face a statement to the effect that neither the faith and credit nor the taxing power of the State or of any political subdivision or instrumentality of the State is pledged to the payment of the principal of or the interest on the bonds.

"§ 116D-46. Issuance of bonds and notes.

(a) Terms and Conditions. -- Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 25 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. -- Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear

the State Treasurer's facsimile signature, and shall bear the Great Seal of the State or a facsimile of the Seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as the State Treasurer may determine in conformity with this Article.

(c) Manner of Sale; Expenses. -- Subject to the approval by the Council of State as to the manner in which bonds or notes shall be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. -- The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys which may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. -- By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment or principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes as authorized in this Article.

Funds derived from the sale of bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. -- By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding bonds or notes issued pursuant to this Article and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes similarly secured. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the bonds or notes being refunded or, if not required for the immediate payment of the bonds or notes being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the bonds or notes being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) obligations of any agency or instrumentality of the United States government if the timely payment of principal and interest on the obligations is unconditionally guaranteed by the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of bonds or notes being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Trust Agreement. -- In the discretion of the State Treasurer, any bonds and notes issued under the provisions of this Article may be secured by a trust agreement or similar instrument by and between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank having the powers of a trust company within or without the State. The trust agreement or resolution may provide for security and pledges and assignments with respect to the security, as permitted under this Article, and may provide for the granting of a lien or security interest in the property as authorized in G.S. 116D-10. The trust agreement or resolution may contain provisions for the terms and conditions of the issuance of additional bonds and notes, and the custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article shall be equally and ratably secured as provided in the trust agreement or resolution, without priority by reasons of number, or dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of

the trust agreement or resolution. The trust agreement or resolution may, however, provide that the bonds or notes shall, to the extent and in the manner prescribed in the trust agreement or resolution, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security thereof, to any other bonds or notes. It shall be lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities as may be required by the State Treasurer. Any trust agreement or resolution may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, any trust agreement or resolution may contain other provisions that the State Treasurer considers reasonable and proper for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of any trust agreement or resolution may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 116D-47. Variable rate demand bonds and notes.**

(a) In fixing the details of bonds and notes, the State Treasurer may provide that the bonds and notes may:

(1) Be made payable from time to time on demand or tender for purchase by the owner, if a credit facility supports the bonds or notes, unless the State Treasurer specifically determines that a credit facility is not required upon a finding and determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State and the marketing of the bonds or notes at a reasonable interest cost to the State.

(2) Be additionally supported by a credit facility.

(3) Be made subject to redemption or a mandatory tender for purchase prior to maturity.

(4) Bear interest at rates that may vary from any periods of time, as may be provided in the proceedings providing for the issuance of the bonds or notes, including, without limitation, any variations as may be permitted pursuant to a par formula.

(5) Be made the subject of a remarketing agreement whereby an attempt is made to remarket bonds or notes to new purchasers prior to their presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of bonds or notes secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium, or for any other reason, then the amount of authorized but unissued bonds or notes during the term of the credit facility shall not be less than the amount of the

excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 116D-48. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of bonds or notes. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated with any bond issue under this Article as the State Treasurer considers necessary.

"**§ 116D-49. Procurement of capital facilities.**

Any laws, rules, or regulations of the State that relate to the acquisition and construction of capital facilities shall apply to the capital facilities financed pursuant to this Article."

Section 2. Proceeds of University Improvement Security Interest Bonds. -- (a) The proceeds of university improvement security interest bonds and notes, including any premium thereon, except the proceeds of university improvement security interest bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be allocated and expended for paying the cost of university capital facilities, to the extent and as provided in Article 2 of Chapter 116D of the General Statutes, as enacted by this act and subject to change as provided in this act, as follows:

Constituent or Affiliated Institution or Board of Governors Capital Improvement	Projected Allocation
Appalachian State University	
Central Library Complex	$ 47,586,735
New Science Building	1,260,000
Rankin Science Building - Renovation and modernization	7,750,000
Belk Library Renovation - Planning	545,020
Living and Learning Center - Academic Facility	4,022,725
Visual Arts Center - Renovation and Addition	6,063,435
Smith Wright Hall - Renovation and modernization.	1,636,111
Founders Hall - Renovation and modernization.	1,044,082
Land Acquisition	4,977,675
Potable Water - Infrastructure improvements.	2,625,000
Technology Infrastructure Expansion	4,838,909
East Carolina University	
Science Laboratories and Technology Building	55,125,315
Expansion of the Rivers Building	11,997,300
Nursing, Allied Health and DEC Complex:	

Medical School	46,882,500
Flanagan Building - Renovations	13,421,276
Land Acquisition - Phase I	5,000,000
Classroom Improvements - Phase II	3,648,435
Belk Allied Health - Renovations and modernization	7,791,348
Library and Study Space Requirements - Phase I	12,600,000
Old Cafeteria - Renovations	4,442,103
Infrastructure	16,125,165
Rivers School of Nursing - North Wing Renovations	2,688,174
Materials Warehouse	3,045,315
Campus Computing Center - Renovation	1,785,000
Academic Space Requirements - Teaching Labs	5,250,000
Technology Infrastructure Expansion	807,575
Elizabeth City State University	
New Student Center	9,178,313
New Residence Hall	6,510,000
General Campus Development	1,811,250
Historic Structures Preservation - Phase I	1,050,000
Lester Hall - Renovation and modernization	2,912,177
Williams Hall - Renovation and modernization	3,236,156
Lane Hall - Renovation and modernization	2,360,568
Trigg Hall - Renovation and modernization	2,109,017
White Graduate/Cont. Educ. Bldg - Renovation and modernization	1,575,000
Johnson Hall - Renovation and modernization	3,156,308
Wamack Hall - Renovation and modernization	3,334,303
Bias Hall - Renovation and modernization.	1,858,222
Mitchell-Lewis - Renovation and modernization	2,123,675
Roebuck Stadium Field House	1,260,000
Campus Property Development - Phase I	650,000
Technology Infrastructure Expansion	3,149,387
Fayetteville State University	
New Residence Hall.	6,872,250
Charles A. Lyons Science - Renovation/ modernization and addition	16,800,000
Seabrook Auditorium - Renovation and modernization	6,825,000
Lauretta J. Taylor Gymnasium - Renovations, modernization, and addition	3,360,000
Lilly Gymnasium - Renovation	3,256,367
Cook Dining Hall - Renovation.	1,773,450
Howard School Museum	210,000

Fire Safety Improvements, Student Residence Halls 611,730
Roads, Parking, Landscaping Improvements - Phase I 3,675,000
Spaulding Infirmary and Roadway/Entrance 1,000,000
Technology Infrastructure Expansion 1,137,582

North Carolina Agricultural and Technical State University
General Classroom & Laboratory Building Complex #1 29,470,665
Land Acquisition 6,300,000
Chemistry Building 21,831,600
Harrison Auditorium - Renovation and modernization 3,193,196
Curtis Hall - Replacement 3,723,510
Scott Hall - Replacement 24,165,330
Gamble Complex 1,449,420
Hazardous Materials and Waste Storage Facility 1,575,000
Replace Barn - Agricultural Farm 919,185
Replace Poultry Complex Laying Houses - Agricultural Farm 913,500
Zoe Barbee Hall - Renovation and modernization 5,876,786
Barnes Hall - Renovation and modernization 6,097,128
Graham Hall - Renovation and modernization 5,899,838
Corbett Sports Center Addition 7,035,000
Replacement of Steamlines and Manholes 1,568,280
Electrical Distribution System - updgrade and expansion. 2,256,802
Central Cooling Plant - North and South chiller loops 6,405,000
Parking Enhancements, Phase I 4,725,735
Cherry Hall - Renovation and modernization 8,613,152
General Renovations and Modernizations 8,872,918
Technology Infrastructure Expansion 2,921,662

North Carolina Central University
New Science Complex and Demolition of Old Hillside High School 36,780,000
Chidley Hall - Renovation and modernization 6,621,943
General Campus Master Plan 250,000
Farrison-Newton Bldg. - Renovation and modernization 7,048,652
Graduate Apartments, George Street - Replacement 1,556,642
Rush Hall - Renovation and modernization 2,089,387
Baynes Hall - Replacement 15,091,127
Eagleson Hall - Renovation and modernization 6,869,505

Shepard Dormitory - Renovation and modernization 7,284,923
Latham Hall - Renovation and modernization 3,411,600
McLean Hall - Renovation and modernization 1,942,070
Pearson Cafeteria - Renovation and modernization 1,263,570
Fire Safety Improvements - Student Residence Halls 1,612,695
Landscape Campus Perimeter 840,000
Landscape Pedestrian Corridors 787,500
Directional Signage - Vehicular/pedestrian 735,000
Pedestrian Corridor on Campus Drive. 892,500
Pedestrian Mall at George Street. 472,500
Dormitory Security System 630,000
Parking Enhancements Phase 1 - Nelson St. Pkg. Deck 6,353,235
Electrical Power - New transformers 858,654
Life-Safety/OSHA Corrections 3,675,000
Land Acquisition 4,000,000
Relocate Campus Police Station 840,000
Replace Power Distribution Cables 1,115,940
Underground Piping Repairs 4,252,710
Technology Infrastructure Expansion 1,422,080

North Carolina School of the Arts
Basic Performance & Education Complex 19,130,685
Stevens Center - Renovation and modernization. 4,434,480
New Student Activities Building - Renovation 2,500,000
Roanoke Island Music & Theatrical Complex 10,500,000
Landscaping Improvements 1,050,000
Costume Shop - Renovations and relocations 420,000
Land Acquisition 2,650,000
Technology Infrastructure Expansion 1,862,312

North Carolina State University
I. BUILDINGS
A. Renovation, Modernization, & Replacements:
Classroom/Office Space
Renovation and modernization of buildings 91,312,249
Laboratory Space
Renovation and modernization of buildings 49,000,000
Student Support Space
Renovation, modernization, and fire
safety improvements 2,070,000
B. Building Capacity:
Construction of College of Engineering Complex -
Phase I and Phase II; Undergraduate Science
Teaching Lab - Phase I and Phase II; Jordan Hall

Addition; Gymnasium; Library Space; Student Services Space; and David-Clark Laboratory Renovation and addition 149,978,194

C. Other Building Needs:

Construction of Administrative Services Center - II; Extension Facilities; Field Research Laboratories and Outlying Research - Phase I; Research Laboratory Space, Phase I; Hazardous Materials Facility; Partners Building V; College of Veterinary Medicine Research Addition and renovations; Physical Sciences Research; Genomic Sciences Research; Services Buildings at Sullivan Site and Centennial Campus. 43,960,952

II. OTHER CAMPUS REQUIREMENTS

A. General Campus:

University Signage; Pedestrian Tunnel; Security CardAccess; and Public Safety Facility 15,579,475

B. Infrastructure:

Construction of Chilled Water Plant; Potable Water Building Backflow Preventers; College of Veterinary Medicine Indoor Air Quality Upgrade; North Campus Chiller Service; Brickyard Loop Chilled Water Extension and Cooling Tower; Infrastructure for Centennial Campus Partnership; Infrastructure for Veterinary Medicine Private/ Public Partnership; and Steam Distribution and Capacity Improvements 92,999,130

Technology Infrastructure Expansion 2,308,681

C. Land Acquisition. 2,100,000

University of North Carolina at Asheville

New Math/Science Building 22,203,195

Highsmith Center Renovation and Addition 9,473,100

New Physical Plant Building. 6,318,900

Carmichael Hall - Renovation and modernization 3,912,805

Zaiger Hall - Renovation and modernization 3,524,624

General Campus Improvements 3,728,550

Technology Infrastructure Expansion 751,235

University of North Carolina at Chapel Hill

I. BUILDINGS

A. Renovation, Modernization, & Replacements:

Classroom/Office Space

Renovation and modernization of buildings.....104,861,491
Laboratory Space
Renovation and modernization of buildings.....93,531,460
B. Building Capacity:
Construction of Multidisciplinary Environmental Studies Building; Addition to Carrington Hall - School of Nursing; Teaching Research Bldg - School of Public Health; and Interdisciplinary Physical Science Bldg 87,465,000
C. Other Building Needs:
Construction of Health Affairs Biomolecular Research Bldg, Phase I; Health Affairs Frank Porter Graham Child Development Center; Health Affairs Institute on Aging Bldg; Center for Global and International Education; Digital Multimedia Instructional Center; Medical School Office Bldg No. 1; Sports Medicine Facility; Ackland Art Museum Renovation and Expansion; Relocate Physical Plant Grounds Dept; Administration Office Bldg; Chapel Hill North; Campus Mail Center; and Physical Plant Maintenance Shops Addition.....48,000,000

II. OTHER CAMPUS REQUIREMENTS
A. General Campus:
Campus Signage System 2,100,000
B. Infrastructure:
Construction of Storm Drainage Replacement; Heating Line Installation; Cogeneration Facility Turbine Generator; Gilsulate Replacement; Steam Line Installation; East and South Chiller Plant Expansion; North and South Chiller Plant Replacements; Energy Management & Control System Upgrade; Campus Fiber Optics Network; Horace Williams Infrastructure - Phase I; Main Campus Infrastructure Expansion - Phase I; Chilled Water Air Conditioning Systems in Classroom Bldgs; and Coal Silo Replacement.....154,041,090
Technology Infrastructure Expansion 1,287,051
C. Land Acquisition:
Land Acquisition - South Campus Expansion.....8,000,000

University of North Carolina at Charlotte
Academic Facilities - Humanities.....10,046,925

Science and Technology Building	35,707,035
Classroom and Office Building	26,102,475
College of Education Building	24,654,476
College of Nursing and Health Professions	34,125,000
Graduate Engineering Complex	14,700,000
Research Facility - Phase I	16,800,000
University Conference Center	10,500,000
Central Heating Plant Improvement	2,625,000
Technology Infrastructure Expansion	3,345,507
University of North Carolina at Greensboro	
Science Instructional Building	38,412,150
Roadway Improvements	6,825,000
Land Acquisition	7,000,000
Brown - Renovation and modernization	6,493,859
Petty Science Building - Renovation and modernization	16,272,270
McIver Building - Renovation and modernization	21,636,510
Aycock Auditorium - Renovation and modernization	17,662,980
Stone - Renovation and modernization	8,930,354
Heating Plant - Renovation, modernization, and expansion	4,851,288
Forney Building - Renovation and modernization	3,565,364
McNutt Building - Renovation and modernization	2,723,956
Research Space Phase I	5,250,000
Electrical Power Distribution Upgrades	4,091,038
McIver Chiller Plant	8,373,750
Technology Infrastructure Expansion	7,859,789
University of North Carolina at Pembroke	
Regional Center for Economic, Professional, and Community Development	4,004,385
New Science Building	9,408,000
Chavis Center Expansion	3,221,400
Jones PE Building - Renovation and modernization	8,925,000
Business Administration Building - Renovation and modernization	2,140,762
ADA Renovations	525,000
Locklear - Renovation and modernization	2,464,319
Moore Hall - Renovation and modernization	2,464,661
D.F. Lowery Building - Renovation and modernization	2,680,528
Jacobs Hall - Renovation and modernization	4,155,525

West Hall - Renovation and modernization 4,961,580
Belk Hall - Renovation and modernization 3,055,985
Land Acquisition 1,500,000
Wellons Hall - Renovation and modernization 4,323,382
Technology Infrastructure Expansion 2,798,476

University of North Carolina at Wilmington
School of Education Building 17,576,370
Fine Arts Building/Concert Hall 26,250,000
General Classroom Building 12,646,935
Arnold K. King Hall - Renovation and modernization 2,697,442
Hoggard Hall - Renovation and modernization 3,550,430
Alderman Admin. - Renovation and modernization 2,940,843
Westside Hall - Renovation and modernization 2,687,347
Kenan Hall - Renovation and modernization 3,056,633
Hinton James Hall - Renovation and modernization 1,843,981
Deloach Hall - Renovation and modernization 5,193,585
Friday Hall - Renovation and modernization 7,693,351
S. G. Kenan Auditorium - Renovation and modernization. 3,095,303
Marine Sciences Research Center - Operations Facilities 3,559,912
Computing Center 1,512,000
Print Shop 672,000
Warehouse Expansion 1,890,000
Land Acquisition 2,100,000
Sprinkler Systems - Hoggard, Trask, & Nixon 823,620
Miscellaneous HVAC Projects 1,027,320
Miscellaneous Electrical Projects 676,305
Facility Improvements for Energy Efficiency 747,390
Primary Electrical Distribution System Upgrade 2,238,158
Storm Drainage Improvements 743,185
Technology Infrastructure Expansion 2,948,927

Western Carolina University
Fine and Performing Arts Center 25,805,745
Stillwell - Renovation and modernization 15,057,541
McKee Building 5,289,690
Bird Building - Renovation 1,836,450
Living - Learning Center - Conversion 1,887,113
Land Acquisition 3,618,000
Breese - Renovation and modernization 1,161,332
Vehicular Traffic Relocation 4,989,600

Indoor Recreation Facility 6,306,300
Hinds University Center - Addition 4,158,000
New Housing Facility. 13,308,750
Chiller Replacement and Retrofit 1,418,655
Replace steam and condensate lines 3,937,500
Upgrade Electrical Distribution System 883,995
Campus Pedestrian Corridors 1,386,000
Perimeter Parking Lots 1,039,500
Steam Plant Improvements - Phase III 644,595
Automated Energy Management System Enhancements 700,455
Technology Infrastructure Expansion 5,018,607

Winston-Salem State University
Computer Science Facility 5,748,330
New Physical and Life Sciences Building - Phase I 12,109,545
Anderson School Building - Renovation and modernization 6,917,905
Health Center Building and Old Nursing Building - Renovation and modernization 2,265,865
Carolina Hall - Renovation and modernization 4,270,688
Hauser Union - Renovation and modernization 3,895,461
Pegram Hall - Renovation and modernization 2,287,613
General Campus Improvements - Phase I. 3,104,640
Technology Infrastructure Expansion 1,676,127

University of North Carolina Center for Public Television
Conversion to Digital TV - Phase I 64,995,000
Mobile Satellite Uplink 895,545
UNC Public Radio - Building Addition 478,938
North Carolina School of Science and Mathematics
Renovation of Bryan Center 3,172,575
Renovation of Royall Outreach Center (Wyche House) 1,990,380
North Carolina Arboretum
Maintenance & Operations Facility 1,541,295
Entrance Gates and Gatehouses 785,610
Main Entrance Road Utility & Landscape Development 2,259,180
Demonstration Greenhouse 3,776,325
Bus Parking 969,255
North Carolina Botanical Gardens - Herbarium Research Building 7,061,355
J. C. Raulston Arboretum Education & Visitors Center 3,639,510
General Administration Building Renovation 2,887,500
Central Library Storage Facility and Central Records Storage - Planning 500,000

Matching Gift Incentive Program Projects 282,648,212

TOTAL $ 2,700,000,000

Section 2.(b) The Director of the Budget is empowered, when the Director of the Budget determines it is in the best interest of the State and the University to do so, and if the cost of a particular capital facility is less than the amount allocated for it, to use the excess funds to meet increased cost of other capital facilities itemized in this section and located at the same institution. The Director of the Budget shall report to the Joint Legislative Commission on Governmental Operations on changes made under this subsection. In addition, any capital facility and the amount of the allocation for it set forth above may be changed from time to time as the General Assembly may decide, except that the General Assembly may not delete or remove from funding any capital improvement that has been pledged as security for university improvement security interest bonds that have been issued if such a change would impair the security of the owners of the university improvement security interest bonds. The provisions of G.S. 116-11(9) with respect to appropriations to the Board of Governors of The University of North Carolina shall not apply to proceeds of university improvement security interest bonds and notes issued pursuant to Article 2 of Chapter 116D of the General Statutes, as enacted by this act.

Section 2.(c) Allocations to the costs of a capital improvement or undertaking in each case may include allocations to pay the costs set forth in this act in connection with the issuance of university improvement security interest bonds for that capital improvement or undertaking.

Section 2.(d) The proceeds of two hundred eighty-two million six hundred forty-eight thousand two hundred twelve dollars ($282,648,212) university improvement security interest bonds authorized by this act and allocated in subsection (a) of this section for matching gift incentive program projects shall be allocated and expended for particular projects as provided in this subsection. The Board of Governors of The University of North Carolina shall employ a private consultant to develop a list of capital facilities which are to be funded jointly from these bonds and private donations. The Board of Governors shall submit this list of recommended projects, including the proposed matching requirements by the University or its constituent or affiliated institutions, to the General Assembly by April 1, 2000. The matching requirements must be based on analyses of the fund-raising capabilities of each institution as determined by a private consultant in order to maximize private fund-raising for capital projects. The proceeds of these bonds or notes shall not be issued or allocated until the General Assembly authorizes the issuance of some or all of these bonds or notes and appropriates the proceeds for specific projects by separate legislative action at any subsequent session.

Section 2.(e) The validity of university improvement security interest bonds and notes issued under Article 2 of Chapter 116D of the General Statutes, as

enacted by this act, is not affected by any subsequent adjustment of allocations, or by any failure to comply with the reporting requirements provided in this act.

Section 3. Proceeds of Community College Security Interest Bonds. -- (a) The proceeds of community college security interest bonds and notes, including any premium thereon, except the proceeds of community college security interest bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be allocated and expended for paying the cost of community college capital facilities, to the extent and as provided in Article 4 of Chapter 116D of the General Statutes, as enacted by this act and subject to change as provided in this act, to be located at the following community colleges:

COLLEGE	NEW CONSTRUCTION	REPAIR & RENOVATION	TOTAL ALLOCATION
Alamance CC	4,044,756	491,415	4,536,171
Anson CC	1,061,903	840,055	1,901,958
Asheville-Buncombe TCC	1,381,875	1,722,802	3,104,677
Beaufort County CC	1,061,903	1,128,185	2,190,088
Bladen CC	1,061,903	279,588	1,341,491
Blue Ridge CC	2,030,342	2,305,387	4,335,729
Brunswick CC	1,061,903	248,261	1,310,164
Caldwell CC & TI	3,353,211	377,326	3,730,537
Cape Fear CC	1,061,903	2,068,435	3,130,338
Carteret CC	1,061,903	1,882,001	2,943,904
Catawba Valley CC	1,242,780	2,743,429	3,986,209
Central Carolina CC	8,125,128	244,147	8,369,275
Central Piedmont CC	31,492,890	6,129,832	37,622,722
Cleveland CC	1,061,903	486,221	1,548,124
Coastal Carolina CC	15,659,820	348,511	16,008,331
College of the Albemarle	4,516,924	128,735	4,645,659
Craven CC	3,833,227	573,564	4,406,791
Davidson County CC	1,061,903	2,287,656	3,349,559

Durham TCC	6,071,653	842,633	6,914,286
Edgecombe CC	7,864,395	1,563,500	9,427,895
Fayetteville TCC	15,469,002	2,166,691	17,635,693
Forsyth TCC	1,061,903	1,039,816	2,101,719
Gaston College	1,061,903	270,458	1,332,361
Guilford TCC	2,311,980	3,083,432	5,395,412
Halifax CC	1,061,903	817,189	1,879,092
Haywood CC	1,061,903	2,195,573	3,257,476
Isothermal CC	1,061,903	949,267	2,011,170
James Sprunt CC	1,061,903	516,788	1,578,691
Johnston CC	1,061,903	921,977	1,983,880
Lenoir CC	2,308,020	1,048,459	3,356,479
Martin CC	1,340,460	142,636	1,483,096
Mayland CC	3,148,914	213,742	3,362,656
McDowell TCC	1,128,600	273,269	1,401,869
Mitchell CC	1,061,903	983,677	2,045,580
Montgomery CC	1,061,903	301,703	1,363,606
Nash CC	1,061,903	1,021,442	2,083,345
Pamlico CC	1,061,903	302,049	1,363,952
Piedmont CC	1,909,710	2,111,177	4,020,887
Pitt CC	13,844,565	2,091,308	15,935,873
Randolph CC	1,061,903	551,886	1,613,789
Richmond CC	3,110,085	984,167	4,094,252
Roanoke-Chowan CC	1,061,903	567,718	1,629,621
Robeson CC	5,485,095	2,192,511	7,677,606
Rockingham CC	1,061,903	1,278,538	2,340,441

Rowan-Cabarrus CC	4,813,887	2,925,850	7,739,737
Sampson CC	1,061,903	1,653,903	2,715,806
Sandhills CC	2,575,320	2,831,582	5,406,902
Southeastern CC	1,061,886	1,112,304	2,174,190
Southwestern CC	3,714,002	1,228,660	4,942,662
Stanly CC	3,675,885	1,506,808	5,182,693
Surry CC	4,607,701	225,489	4,833,190
Tri-County CC	1,822,425	712,338	2,534,763
Vance-Granville CC	11,072,160	805,858	11,878,018
Wake TCC	22,158,345	2,850,623	25,008,968
Wayne CC	3,422,100	202,099	3,624,199
Western Piedmont CC	1,220,959	1,292,053	2,513,012
Wilkes CC	2,776,724	776,451	3,553,175
Wilson TCC	1,218,855	921,379	2,140,234
TOTAL	$228,237,450	$71,762,550	$300,000,000

Section 3.(b) Except as provided in subsection (d) of this section, a community college may use the bond proceeds allocated in subsection (a) of this section only in accordance with the State Board of Community Colleges' consultant's report on the capital allocation and repairs and renovations funding formula. Funds allocated for repair and renovations must be used in accordance with exhibit 5-6 of the Funding Formula Study: Phase 3 Report, submitted May 15, 1998. Funds allocated for new construction must be used in accordance with exhibits 15 and 16 of the Funding Formula Study: Phase 4 Report, submitted February 4, 1999. New construction funds allocated by the report to a specific site may not be allocated to another site. Each community college shall submit to the State Board of Community Colleges a statement (i) proposing the capital facilities to be financed with the proceeds of community college security interest bonds allocated to that community college, (ii) certifying that the proposed site is included in the consultant's report referred to in this section, (iii) certifying that the community college is prepared to proceed with the construction, acquisition, or improvement of the proposed capital facilities, and (iv) demonstrating that the applicable matching requirements have been or will be met.

Upon receipt by the State Board of Community Colleges of the information set forth above, the Board shall add the proposed capital facilities to the next application of the Community Colleges System Office to the State Treasurer to issue bonds pursuant to G.S. 116D-43.

The board of trustees of an individual community college may use funds allocated for new construction either for new construction or for repair and renovations. The board of trustees of a community college may use funds allocated for repair and renovations only for repair and renovations, and not for new construction.

The projected allocations set forth above may be changed from time to time as the General Assembly may decide, except that the General Assembly may not delete or remove from funding any capital improvement that has been pledged as security for community college security interest bonds that have been issued if such a change would impair the security of the owners of the university improvement security interest bonds.

Section 3.(c) Community colleges are not required to match bond proceeds allocated in this section for repair and renovations. The match requirements of Chapter 115D of the General Statutes apply to bond proceeds allocated for new construction except as provided in this subsection. The consultant hired by the State Board of Community Colleges to determine funding formulas for the community college system developed an index to measure each county's ability to pay. The consultant found that some counties are unable to meet their local match requirement under Chapter 115D of the General Statutes because of inability to pay. Accordingly, community colleges are required to match bond proceeds allocated for new construction in subsection (a) or (d) of this section only as follows: Community colleges assigned a matching rate of less than forty percent (40%) in the "adjusted matching requirements" contained in exhibit 14 of the State Board of Community Colleges' consultant's Funding Formula Study: Phase 4 Report, submitted February 4, 1999, are not required to match, and community colleges assigned a matching rate of forty percent (40%) or more in the adjusted matching requirements are required to match only at the assigned rate.

Section 3.(d) Each community college that was not allocated funds for new construction in the State Board of Community Colleges' consultant's report on the capital allocation funding formula may receive the bond proceeds allocated to it for new construction in subsection (a) of this section only to the extent that it can document to the State Board of Community Colleges its actual need for funds for new construction, or its actual need for funds for repair and renovations in excess of the amount allocated to it for repair and renovations in subsection (a) of this section. If any community college is unable to document to the State Board of Community Colleges by January 1, 2001, these needs in the amount of its entire allocation for new construction under subsection (a) of this section, the State Board shall reallocate the excess of the allocation over the amount the college was able to document among the remaining community colleges to the extent they can document actual needs in

excess of their allocations in subsection (a) of this section for new construction, repair, and renovations, or both.

Section 3.(e) The validity of community college security interest bonds and notes issued under Article 4 of Chapter 116D of the General Statutes, as enacted by this act, is not affected by any subsequent adjustment of allocations or matching requirements provided in this act, or by any failure to comply with matching requirements or reporting requirements provided in this act.

Section 4. Interpretation of Act. (a) Additional Method. -- This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing The University of North Carolina to issue self-liquidating debt or other debt secured by designated sources of funds.

Section 4.(b) Statutory References. -- References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

Section 4.(c) Liberal Construction. -- This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

Section 4.(d) Severability. -- If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 5. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 912
Finance Committee Substitute Adopted 6/29/99
Third Edition Engrossed 6/30/99
Fourth Edition Engrossed 7/1/99
Proposed House Committee Substitute S912-CSLCX-7/9

Short Title: Bonds for Higher Education. (Public)

Sponsors:

Referred to:

April 14, 1999

A BILL TO BE ENTITLED

AN ACT (1) TO AUTHORIZE THE ISSUANCE OF ONE BILLION TWO HUNDRED MILLION DOLLARS GENERAL OBLIGATION BONDS OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE STATE, TO PROVIDE FUNDS FOR CAPITAL IMPROVEMENTS FOR THE UNIVERSITY OF NORTH CAROLINA AND GRANTS TO COMMUNITY COLLEGES FOR CAPITAL IMPROVEMENTS, (2) TO AUTHORIZE THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO ISSUE SPECIAL OBLIGATION BONDS FOR IMPROVEMENTS TO THE FACILITIES OF THE UNIVERSITY OF NORTH CAROLINA AND FOR THE UNIVERSITY OF NORTH CAROLINA HOSPITALS AT CHAPEL HILL AND OTHER FACILITIES OF THE UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM, AND (3) TO RESTRICT THE NAMING OF STATE CONSTRUCTION PROJECTS FOR SITTING MEMBERS OF THE GENERAL ASSEMBLY AND THE COUNCIL OF STATE.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known as the Michael K. Hooker Higher Education Facilities Financing Act.

Section 1.1. The General Assembly finds that although The University of North Carolina is one of the State's most valuable assets, the current facilities of the University have

1
old

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 912
Finance Committee Substitute Adopted 6/29/99
Third Edition Engrossed 6/30/99
Fourth Edition Engrossed 7/1/99
Proposed House Committee Substitute S912-PCSX6700-LC

Short Title: Bonds for Higher Education. (Public)

Sponsors:

Referred to:

April 14, 1999

A BILL TO BE ENTITLED

AN ACT (1) TO AUTHORIZE THE ISSUANCE OF ONE BILLION TWO HUNDRED MILLION DOLLARS GENERAL OBLIGATION BONDS OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE STATE, TO PROVIDE FUNDS FOR CAPITAL IMPROVEMENTS FOR THE UNIVERSITY OF NORTH CAROLINA AND GRANTS TO COMMUNITY COLLEGES FOR CAPITAL IMPROVEMENTS, (2) TO AUTHORIZE THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO ISSUE SPECIAL OBLIGATION BONDS FOR IMPROVEMENTS TO THE FACILITIES OF THE UNIVERSITY OF NORTH CAROLINA AND FOR THE UNIVERSITY OF NORTH CAROLINA HOSPITALS AT CHAPEL HILL AND OTHER FACILITIES OF THE UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM, AND (3) TO RESTRICT THE NAMING OF STATE CONSTRUCTION PROJECTS FOR SITTING MEMBERS OF THE GENERAL ASSEMBLY AND THE COUNCIL OF STATE.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known as the Michael K. Hooker Higher Education Facilities Financing Act.

Section 1.1. The General Assembly finds that although The University of North Carolina is one of the State's most valuable assets, the current facilities of the University have been allowed to deteriorate due to decades of neglect and have

unfortunately fallen into a state of disrepair because of inadequate attention to maintenance. It is the intent of the General Assembly to reverse this trend and to provide a mechanism to assure that the University's capital assets are adequately maintained. The General Assembly commits to responsible stewardship of these assets to protect their value over the years, as follows:

(1) The Board of Governors of The University of North Carolina shall require each constituent and affiliated institution to monitor the condition of its facilities and their needs or repair and renovation, and to assure that all necessary maintenance is carried out within funds available.

(2) The Board of Governors shall report annually to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee on the condition of the University's capital facilities, the repair, renovation, and maintenance projects being undertaken, and all needs for additional funding to maintain the facilities.

(3) It is the intent of the General Assembly to assure that adequate oversight, funding, and accountability are continually provided so that the capital facilities of the University are properly maintained to preserve the level of excellence the citizens of this State deserve. To this end, the Joint Legislative Education Oversight Committee shall report to the General Assembly annually its recommendations for legislative changes to implement this policy.

Section 1.2. The General Statutes are amended by adding a new Chapter to read:

"Chapter 116D.

"Higher Education Bonds.

"ARTICLE 1.

"General Provisions.

"**§ 116D-1. Definitions.**

The following definitions apply in this Chapter:

(1) Board of Governors. -- The Board of Governors of the University.

(2) Capital facility. -- Any one or more of the following for the University or for a community college:

a. One or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment and furnishings in connection therewith.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

The term includes, without limitation, classroom buildings, laboratory buildings, research facilities, libraries, physical education facilities, continuing education centers, student cafeterias, and activity facilities, including sports facilities, student and faculty housing facilities, and administrative office facilities.

(3) Cost. -- Any of the following in financing the cost of capital facilities and special obligation bond projects, as authorized by this Chapter:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities and special obligation bond projects, including the acquisition of land, rights-of-way, easements, franchises, equipment, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility or special obligation bond project.

b. The cost of engineering, architectural, and other consulting services as may be required.

c. The cost of providing personnel to ensure effective project management.

d. Finance charges, reserves for debt service, and interest prior to and during construction.

e. Administrative expenses and charges incurred by the State in connection with the administration of a bond program created under this Chapter.

f. The cost of bond insurance, investment contracts, credit enhancement, and liquidity facilities, interest-rate swap agreements or other derivative products, financial and legal consultants, and related costs of bond and note issuance.

g. The cost of reimbursing the State for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Chapter.

(4) Credit facility. -- An agreement entered into by the State Treasurer on behalf of the State with a bank, savings and loan association or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States, and providing for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption or acceleration), redemption premium, if any, and interest on any bonds or notes payable on demand or tender by the owner, in consideration of the

State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(5) Fiscal period. -- A fiscal biennium or a fiscal year of the fiscal biennium.

(6) Fiscal year. -- The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(7) Par formula. -- A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any bonds or notes, including:

a. A provision providing for an adjustment so that the purchase price of bonds or notes in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. A provision that the State Treasurer determines is consistent with this Chapter and will not materially and adversely affect the financial position of the State and the marketing of bonds or notes at a reasonable interest cost to the State.

(8) Securities issued under this Chapter. -- Any of the following:

a. University improvement general obligation bonds, refunding bonds, notes, and refunding notes issued under Article 2 of this Chapter.

b. Special obligation bonds, bond anticipation notes, and refunding bonds issued under Article 3 of this Chapter.

c. Community college general obligation bonds, refunding bonds, notes, and refunding notes issued under Article 4 of this Chapter.

(9) State. -- The State of North Carolina.

(10) State Treasurer. -- The incumbent Treasurer, from time to time, of the State.

(11) University. -- The University of North Carolina and its constituent and affiliated institutions, including, without limitation, the University of North Carolina Center for Public Television, the University of North Carolina Health Care System, the North Carolina School of Science and Mathematics, and the North Carolina Arboretum.

"**§ 116D-2. General provisions.**

(a) Signatures. -- Should any officer whose signature or facsimile signature appears on securities issued under this Chapter cease to be that officer before the delivery of the securities, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery of the

securities. Securities issued under this Chapter may bear the facsimile signatures of persons, who at the actual time of the execution of the securities were the proper officers to sign any security although at the date of the security those persons may not have been officers.

(b) Tax Exemption. -- Securities issued under this Chapter shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, or gift taxes, income taxes on the gain from the transfer of the securities, and franchise taxes. The interest on the securities is not subject to taxation as income.

(c) Investment Eligibility. -- Securities issued under this Chapter are securities in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions, insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, other financial institutions engaged in business in the State, executors, administrators, trustees, and other fiduciaries. Securities issued under this Chapter are securities which may properly and legally be deposited with and received by any officer or agency of the State or a political subdivision of the State for any purpose for which the deposit of bonds or notes of the State or any political subdivision is now or may later be authorized by law.

(d) Inconsistent Laws. -- All general, special, or local laws that are inconsistent with this Chapter do not apply to this Chapter.

"§ 116D-3. Reports.

(a) Board of Governors. -- The Board of Governors shall report to the Joint Legislative Commission on Governmental Operations by September 15 of each year, and more frequently as the Commission requests, on the following:

(1) University Improvement General Obligation Bonds. -- The Board of Governors shall report on projects funded by university improvement general obligation bonds under Article 2 of this Chapter, including the total project costs, the amount to be funded from the bonds, the expenditures to date from the bonds and other sources, and the percentage of each project completed. Each annual report shall include estimated operating costs for each project begun in the preceding fiscal year, including proposed sources of funds and anticipated dates for occupancy. Operating costs shall be projected for a period of at least 20 years from the date of anticipated project completion.

(2) Special Obligation Bonds. -- The Board of Governors shall report on special obligation bonds issued under Article 3 of this Chapter, including the amount of debt, itemized for each institution of the University, by bond issue, and by project. The report shall include schedules of debt service requirements and actual payments, as well as evidence of compliance with additional financial covenants required by bond documents. The report shall identify the trends

and current revenue streams of the sources of obligated resources pledged for each bond issue.

(b) Treasurer. -- Upon issuance of university improvement general obligation bonds under Article 2 of this Chapter or community college general obligation bonds under Article 4 of this Chapter, the Treasurer shall forward a schedule of required payments of principal and interest over the life of the bonds to the Director of the Budget, with copies to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. The Treasurer shall report to the Joint Legislative Commission on Governmental Operations by September 15 of each year, and more frequently as the Commission requests, on the university improvement general obligation bonds issued under Article 2 of this Chapter and community college general obligation bonds issued under Article 4 of this Chapter, including the annual debt service requirements over the remainder of the life of the bonds.

(c) Community Colleges. -- The Community Colleges System Office shall report quarterly to the Joint Legislative Education Oversight Committee on the projects funded from community college general obligation bonds. Each report shall include the total project costs, the amount to be funded from the bonds, the expenditures to date from the bonds and other sources, and the percentage of each project completed.

"ARTICLE 2.

"General Obligation Bonds for Financing Capital Facilities for The University of North Carolina.

"§ 116D-6. Short title.

This Article may be cited as the University Improvement General Obligation Bonds Finance Act.

"§ 116D-7. Definitions.

The following definitions apply in this Article:

(1) Bonds. -- Bonds authorized to be issued under this Article, including refunding bonds.

(2) Notes. -- Notes issued under this Article.

(3) University improvement general obligation bonds. -- Bonds authorized to be issued under this Article, including refunding bonds.

"§ 116D-8. Authorization of bonds and notes.

Subject to a favorable vote of a majority of the qualified voters of the State who vote on the question of issuing university improvement general obligation bonds in the election held as provided by law, the State Treasurer may, by and with the consent of the Council of State, issue and sell, at one time or from time to time, university improvement general obligation bonds of the State to be designated 'State of North Carolina University Improvement General Obligation Bonds', with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State. Except as otherwise provided by this Article, the aggregate amount of bonds and notes issued pursuant to this Article shall not exceed one billion dollars ($1,000,000,000). The bonds and notes shall be issued in the following years up to the following amounts:

Fiscal Year	Aggregate Amount
1999-2000	$240,000,000
2000-2001	480,000,000
2001-2002	280,000,000

If less than the aggregate amount of bonds or notes authorized to be issued in a fiscal year is issued in that fiscal year, the balance for that fiscal year may be issued in any subsequent fiscal year. Refunding bonds and notes issued pursuant to G.S. 116D-11(f) shall not be included in the limitation on the aggregate amount of bonds and notes that may be issued pursuant to this Article.

The proceeds of bonds or notes issued under this Article shall be applied to finance the cost of improvement, construction, and acquisition of capital facilities for the University or to refund any outstanding bonds or notes issued under this Article. The capital facilities to be improved, constructed, or acquired with the proceeds of bonds or notes shall be determined as provided in G.S. 116D-9.

"§ 116D-9. Designation of capital facilities and preconditions to bond issuance.

The capital facilities to be financed in whole or in part with the proceeds of university improvement general obligation bonds shall be set forth in legislation enacted from time to time by the General Assembly. This legislation shall also provide for voter approval of the bonds to finance the capital facilities and shall become effective only upon approval by the voters. The proceeds of university improvement general obligation bonds shall not be expended to pay the costs of any capital facilities other than those set forth in that legislation.

"§ 116D-10. Faith and credit.

The faith and credit and taxing power of the State are hereby pledged for the payment of the principal of and the interest on bonds and notes. The State retains the right to amend any provision of this Article to the extent it does not impair any contractual right of a bond owner.

"§ 116D-11. Issuance of bonds and notes.

(a) Terms and Conditions. -- Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 25 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. -- Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear the State Treasurer's facsimile signature, and shall bear the Great Seal of the State or a facsimile of the Seal impressed or imprinted on them. If bonds or notes bear the

facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as the State Treasurer may determine in conformity with this Article.

(c) Manner of Sale; Expenses. -- Subject to the approval by the Council of State as to the manner in which bonds or notes shall be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. -- The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys which may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. -- By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment or principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes as authorized in this Article.

Funds derived from the sale of bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General

Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. -- By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding bonds or notes issued pursuant to this Article and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes similarly secured. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the bonds or notes being refunded or, if not required for the immediate payment of the bonds or notes being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the bonds or notes being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) obligations of any agency or instrumentality of the United States government if the timely payment of principal and interest on the obligations is unconditionally guaranteed by the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of bonds or notes being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) University Improvement Bonds Fund. -- The proceeds of university improvement general obligation bonds and notes, including premium thereon, if any, except the proceeds of bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special fund to be designated 'University Improvement Bonds Fund'. Moneys in the University Improvement Bonds Fund shall be used for the purposes set forth in this Article.

Any additional moneys that may be received by means of a grant or grants from the United States of America or any agency or department thereof or from any other source to aid in financing the cost of any university improvements authorized by this Article may be placed by the State Treasurer in the University Improvement Bonds Fund or in a separate account or fund and shall be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this act.

The proceeds of university improvement general obligation bonds and notes may be used with any other moneys made available by the General Assembly for the making of university improvements, including the proceeds of any other State bond

issues, whether previously made available or which may be made available after the effective date of this Article. The proceeds of university improvement bonds and notes shall be expended and disbursed under the direction and supervision of the Director of the Budget. The funds provided by this Article for university improvements shall be disbursed for the purposes provided in this Article upon warrants drawn on the State Treasurer by the State Controller, which warrants shall not be drawn until requisition has been approved by the Director of the Budget and which requisition shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

"§ 116D-12. Variable rate demand bonds and notes.

(a) In fixing the details of bonds and notes, the State Treasurer may provide that the bonds and notes may:

(1) Be made payable from time to time on demand or tender for purchase by the owner, if a credit facility supports the bonds or notes, unless the State Treasurer specifically determines that a credit facility is not required upon a finding and determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State and the marketing of the bonds or notes at a reasonable interest cost to the State.

(2) Be additionally supported by a credit facility.

(3) Be made subject to redemption or a mandatory tender for purchase prior to maturity.

(4) Bear interest at rates that may vary from any periods of time, as may be provided in the proceedings providing for the issuance of the bonds or notes, including, without limitation, any variations as may be permitted pursuant to a par formula.

(5) Be made the subject of a remarketing agreement whereby an attempt is made to remarket bonds or notes to new purchasers prior to their presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of bonds or notes secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium, or for any other reason, then the amount of authorized but unissued bonds or notes during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"§ 116D-13. Other agreements.

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance

of bonds or notes. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated with any bond issue under this Article as the State Treasurer considers necessary.

"ARTICLE 3.

"Special Obligation Bonds for Improvements to the Facilities of The University of North Carolina.

"§ 116D-21. Purpose.

The purpose of this Article is to authorize the Board of Governors of The University of North Carolina to issue special obligation bonds, payable from obligated resources, but with no pledge of taxes or the faith and credit of the State or any agency or political subdivision of the State, to pay the cost, in whole or in part, of improvements to the facilities of the University.

"§ 116D-22. Definitions.

The following definitions apply in this Article:

(1) Existing facilities. -- Buildings and facilities then existing that generate income or receipts to the Board of Governors that are pledged, under the provisions of a resolution authorizing the issuance of the special obligation bonds under this Article, to the payment of the bonds.

(2) Institution. -- Each of the institutions enumerated in G.S. 116-2, and any affiliated institutions of the University, including, without limitation, the University of North Carolina Center for Public Television, the University of North Carolina Health Care System, the North Carolina School of Science and Mathematics, and the North Carolina Arboretum.

(3) Obligated resources. -- Any sources of income or receipts of the Board of Governors or the institution at which a special obligation bond project is or will be located that are designated by the Board as the security and source of payment for bonds issued under this Article to finance a special obligation bond project, including, without limitation, any of the following:

a. Rents, charges, or fees to be derived by the Board of Governors or the institution from any activities conducted at the institution.

b. Earnings on the investment of the endowment fund of the institution at which a special obligation project will be located, to the extent that the use of the earnings will not violate any lawful condition placed by the donor upon the part of the endowment fund that generates the investment earnings.

c. Funds to be received under a contract or a grant agreement, including 'overhead costs reimbursement' under a grant agreement, entered into by the Board of Governors or the institution to the extent the use of the funds is not restricted

by the terms of the contract or grant agreement or the use of the funds as provided in this Article does not violate the restriction.

Obligated resources do not include funds appropriated to the Board of Governors or the institution from the General Fund by the General Assembly from funds derived from general tax and other revenues of the State, and obligated resources do not include tuition payment by students.

(4) Special obligation bonds. -- Bonds issued under this Article to finance the cost of a special obligation project, which bonds are secured by and payable from obligated resources designated by the Board of Governors at the time the issuance of the bonds is authorized in accordance with this Article.

(5) Special obligation bond project. -- Any capital facilities located or to be located at an institution for the purpose of carrying out the mission of that institution and designated specifically by the Board of Governors as a 'special obligation bond project' for purposes of this Article. A special obligation bond project need not necessarily consist of buildings or facilities that are expected to generate 'self-liquidating revenues' to the Board of Governors or the institution from direct rentals, charges, or fees from the services provided by the building or facility, and may include facilities such as classroom buildings, administration buildings, research facilities, libraries, and equipment that do not produce direct, or indirect, income to the Board of Governors or the institution.

"§ 116D-23. Credit and taxing power of State not pledged; statement on face of bonds.

Special obligation bonds issued under this Article shall not constitute a debt or liability of the State or any political subdivision of the State or a pledge of the faith and credit of the State or of any political subdivision of the State. Special obligation bonds shall be secured solely by the obligated resources pledged to their payment. All of the special obligation bonds shall contain on their face a statement to the effect that neither the State nor the Board of Governors is obligated to pay the bonds or the interest on the bonds except from the obligated resources pledged for payment and that neither the faith and credit nor the taxing power of the State or of any political subdivision or instrumentality of the State is pledged to the payment of the principal of or the interest on the bonds. The issuance of special obligation bonds under this Article does not directly or indirectly or contingently obligate the State or any political subdivision of the State to levy or to pledge any taxes for the bonds.

"§ 116D-24. General powers of Board of Governors.

The Board of Governors is authorized, subject to the requirements of this Article, to do all of the following:

(1) Determine the location and character of any special obligation bond project, to acquire, construct, and provide the project, and to

maintain, repair, and operate and enter into contracts for the management, lease, use, or operation of all or any portion of any special obligation bond project and any existing facilities.

(2) Issue special obligation bonds to pay all or any part of the cost of a special obligation bond project, and to fund or refund any bonds previously issued by the Board of Governors to finance facilities designated as a special obligation bond project.

(3) Fix and revise from time to time and charge and collect fees, rates, rents, charges, and other income for the use of and for the services furnished by the institution that are designated as obligated resources in connection with a special obligation bond issue.

(4) Establish and enforce, and to agree through any resolution or trust agreement authorizing or securing bonds under this Article to make and enforce, rules for the use of and services rendered by the institution of the income or receipts to be obtained from the use or services designated as obligated resources in connection with a special obligation bond issue.

(5) Acquire, hold, lease, and dispose of real and personal property in the exercise of its powers and the performance of its duties and to lease all or any part of a special obligation bond project and any existing facilities for any periods of years, not exceeding 40 years, upon any terms and conditions as the Board of Governors determines, subject to the provisions of G.S. 143-341.

(6) Employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and any other employees and agents as may be necessary in its judgment in connection with a special obligation bond project and existing facilities, and to fix their compensation.

(7) Enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Article.

(8) Receive and accept from any federal, State, or other public agency and any private agency, person, or other entity donations, loans, grants, aid, or contributions of any money, property, labor, or other things of value for a special obligation bond project or any other services provided by the institution that is designated as the obligated resource in connection with a special obligation bond issue, and to agree to apply and use them in accordance with the terms and conditions under which they are provided.

(9) Do all acts and things necessary or convenient to carry out the powers granted by this Article.

"§ 116D-25. Consultation with the Joint Legislative Commission on Governmental Operations.

Whenever this Article requires the approval of the Director of the Budget of an action, the Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations before giving approval.

"§ 116D-26. Issuance of special obligation bonds and bond anticipation notes.

(a) Authority. -- The Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, special obligation bonds of the Board of Governors for the purpose of paying all or any part of the cost of acquiring, constructing, or providing a special obligation project. Before issuing special obligation bonds, the Board of Governors shall first adopt a resolution (i) setting forth the designation by the Board of Governors that the buildings or facilities to be financed by the bond issue are the special obligation bond project being financed and (ii) designating the obligated resources that will secure and be the source of payment of the special obligation bonds to be issued. The Board of Governors shall not issue any special obligation bonds unless the Board of Governors finds that sufficient obligated resources are reasonably expected to be available (i) to pay the principal and interest on the special obligation bonds proposed to be issued, (ii) to create and maintain any reserves for the payment of the special obligation bonds, to the extent the Board of Governors is required to maintain reserves for this purpose by the terms of the trust agreement or resolution authorizing the issuance of the special obligation bonds, and (iii) to provide for the maintenance and operation of the facilities that are to generate the obligated resources to the extent the Board of Governors is required to maintain those facilities by the terms of the trust agreement or resolution authorizing the issuance of the special obligation bonds. Notwithstanding any other provision of this Article, the proceeds of special obligation bonds to be secured by obligated resources derived from the operation of or activities at one institution may not be applied to finance a special obligation project to be located at another institution.

(b) Approval Required. -- The Board of Governors shall not issue any special obligation bonds for a project at an institution unless the board of trustees of that institution has approved the issuance of bonds for that project. The Board of Governors shall not issue special obligation bonds under this Article until the effective date of legislation enacted by the General Assembly authorizing the undertaking of the special obligation bond project to be financed and fixing the maximum aggregate principal amount of special obligation bonds that shall be issued for that purpose. In submitting proposed special obligation bond projects to the General Assembly for approval, the Board of Governors shall submit information on the need for each project, project costs, estimates of increased operating costs upon completion, estimated debt service requirements, and the sources and amounts of obligated resources to be pledged for the repayment of the bonds. If the obligated resources to repay the bonds or to operate the proposed project potentially involve increased costs to students or to the General Fund, these costs shall be identified in the Board of Governors' submission.

Except as provided in this Article, special obligation bond projects may be undertaken, special obligation bonds may be issued, and other powers vested in the

Board of Governors under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, or things which are specifically required by this Article.

(c) Term; Form. -- The special obligation bonds of each issue shall be dated, shall mature at any times not exceeding 25 years from their dates, shall bear interest at any rates as may be determined by the Board of Governors, and may be redeemable before maturity at the option of the Board, at any prices and under any terms and conditions as may be fixed by the Board prior to the issuance of the special obligation bonds. The Board of Governors shall determine the form and manner of execution of the special obligation bonds and shall fix the denominations of the special obligation bonds and the places of payment of principal and interest, which may be at any bank or trust company within or without the State. Notwithstanding any of the other provisions of this Article or any recitals in any special obligation bonds issued under the provisions of this Article, all special obligation bonds shall be negotiable instruments under the laws of this State, subject only to the provisions for registration in a resolution authorizing the issuance of the special obligation bonds or a trust agreement securing the bonds. The Board of Governors may sell the special obligation bonds in any manner, at public or private sale, and for any price, as it may determine to be for its best interests.

(d) Proceeds; Additional Bonds. -- The proceeds of the special obligation bonds of each issue shall be used solely for the purpose for which the bonds have been authorized and shall be disbursed in the manner and under such restrictions, if any, as the Board of Governors may provide in the resolution authorizing the issuance of the bonds or in the trust agreement securing them. Unless otherwise provided in the authorizing resolution or in the trust agreement securing the special obligation bonds, if the proceeds of the special obligation bonds, by error of estimates or otherwise, are less than the cost of the special obligation bond project, additional bonds may in like manner be issued to provide the amount of the deficit and shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of special obligation bonds, and any trust agreement securing them, may also contain limitations upon the issuance of additional special obligation bonds as the Board of Governors considers proper, and the additional special obligation bonds must be issued under the restrictions and limitations prescribed by the resolution or trust agreement.

(e) Temporary Bonds; Notes. -- Before preparing definitive bonds, the Board of Governors may, under like restrictions, issue interim receipts or temporary bonds exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The Board may also provide for the replacement of any bonds which become mutilated, destroyed, or lost.

The Board of Governors may enter into or negotiate a note with an acceptable bank or trust company in lieu of issuing special obligation bonds for the financing of

special obligation bond projects covered under this Article. The terms and conditions of any note of this nature shall be in accordance with the terms and conditions surrounding issuance of the special obligation bonds.

(f) Bond Anticipation Notes. -- The Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, bond anticipation notes of the Board of Governors in anticipation of the issuance of special obligation bonds authorized by this Article. The principal of and the interest on these notes shall be payable solely from the proceeds of special obligation bonds or renewal notes or, in the event bond or renewal note proceeds are not available, from the obligated resources designated for their payment. The notes of each issue shall be dated, shall mature at any times not exceeding two years from their dates, shall bear interest at any rates as may be determined by the Board of Governors, and may be redeemable before maturity, at the option of the Board of Governors, at any prices and under any terms and conditions as may be fixed by the Board of Governors prior to the issuance of the notes. The Board shall determine the form and the manner of execution of the notes and shall fix the denominations of the notes and the places of payment of principal and interest, which may be at any bank or trust company within or without the State. Notwithstanding any of the other provisions of this Article or any recitals in any notes issued under the provisions of this Article, all notes shall be negotiable instruments under the laws of this State, subject only to the provisions for registration in a resolution authorizing the issuance of the notes or any trust agreement securing the bonds in anticipation of which the notes are being issued. The Board of Governors may sell the notes in any manner, at public or private sale, and for any price, as it may determine to be for its best interests.

The proceeds of the notes of each issue shall be used solely for the purpose for which the special obligation bonds in anticipation of which the notes are being issued have been authorized, and the note proceeds shall be disbursed in any manner and under any restrictions as the Board of Governors may provide in the resolution authorizing the issuance of the notes or bonds or in the trust agreement securing the special obligation bonds.

The resolution providing for the issuance of notes, and any trust agreement securing the special obligation bonds in anticipation of which the notes are being authorized, may also contain limitations upon the issuance of additional notes as the Board of Governors considers proper, and such additional notes shall be issued under the restrictions and limitations prescribed by the resolution or trust agreement. The Board may also provide for the replacement of any notes which shall become mutilated, destroyed, or lost.

Except as provided in this Article, notes may be issued under this Article and other powers vested in the Board of Governors under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this Article.

Unless the context indicates otherwise, the word 'bonds', wherever used in this Article, include the words 'bond anticipation notes'.

"§ 116D-27. Trust agreement; money received deemed trust funds; insurance; remedies.

(a) Trust Agreement Securing Bonds. -- In the discretion of the Board of Governors and subject to the approval of the Director of the Budget, any special obligation bonds issued under this Article may be secured by a trust agreement by and between the Board of Governors and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. The trust agreement or the resolution providing for the issuance of special obligation bonds may pledge or assign the obligated resources designated as security for the special obligation bonds, but shall not convey or mortgage any property of the institution. The trust agreement or resolution providing for the issuance of special obligation bonds may contain provisions for protecting and enforcing the rights and remedies of the holders of the special obligation bonds that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the Board of Governors in relation to the acquisition, construction, or provision of any of the charging and collecting of any rates, fees, or charges that have been designated as obligated resources, the maintenance, repair, operation, and insurance of any property of the institution, and the custody, safeguarding, and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depositary of the proceeds of special obligation bonds or funds securing special obligation bonds to furnish any indemnifying bonds or to pledge any securities as may be required by the Board of Governors. A trust agreement or resolution may set forth the rights and remedies of the holders of the special obligation bonds and the rights, remedies, and immunities of the trustee or trustees, if any, and may restrict the individual right of action by the holders. In addition to the foregoing, a trust agreement or resolution may contain other provisions the Board of Governors considers reasonable and proper for the security of the holders. All expenses incurred in carrying out the provisions of the trust agreement or resolution may be treated as a part of the cost of the special obligation bond projects for which the special obligation bonds are issued or as an expense of operation of the special obligation bond project.

(b) Trust Funds. -- All moneys received pursuant to the authority of this Article, whether as proceeds from the sale of bonds, or as obligated resources, are trust funds to be held and applied solely as provided in this Article. The Board of Governors may provide for the payment of all or part of the proceeds of the sale of the special obligation bonds and the obligated resources to any officer, board, or depositary that it may designate for their custody, and may provide for their method of disbursement, with any safeguards and restrictions it may determine. Any officer with whom, or any bank or trust company with which, moneys are deposited shall act as trustee of the moneys and shall hold and apply them for the purposes of this Article, subject to any requirements provided in this Article and in the resolution or trust agreement, authorizing or securing the special obligation bonds.

(c) Insurance. -- Notwithstanding the provisions of any other law, the Board of Governors may carry insurance on any special obligation bond projects and any existing facilities in any amounts and covering any risks it considers advisable.

(d) Remedies. -- Any holder of special obligation bonds issued under this Article and the trustees under a trust agreement, except to the extent the rights given in this section may be restricted by the trust agreement or the resolution authorizing the issuance of the special obligation bonds, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the State or granted under this Article or under the trust agreement or resolution, and may enforce and compel the performance of all duties required by this Article or by the trust agreement or resolution to be performed by the Board of Governors or by any of its officers, including the fixing, charging, and collecting of obligated resources.

"§ 116D-28. Fixing and collecting obligated resources.

(a) Board to Provide Sufficient Resources. -- For the purpose of aiding in the financing of a special obligation bond project and to provide security to the owners of the special obligation bonds issued to finance the special obligation bond project, the Board of Governors is authorized, to the extent the generation of the obligated resources is in the control of the Board, to fix, revise from time to time, charge, and collect the rents, charges, fees, or other revenues constituting the obligated resources. Fees and other revenue sources constituting obligated resources may be imposed or increased only with the approval of the Board of Governors. As long as any special obligation bonds issued under this Article and payable from those obligated resources are outstanding, the obligated resources, to the extent within the control of the Board of Governors, shall be so fixed and adjusted, with relation to other funds available, as to provide funds pursuant to the requirements of the resolution or trust agreement authorizing or securing the special obligation bonds and at least sufficient to pay the principal of and the interest on the special obligation bonds as they become due and payable, to assure the continued collection of the obligated resources, and to create and maintain reserves for these purposes. A sufficient amount of the obligated resources, except any part that may be necessary to pay the cost of maintenance, repair, and operation, and to provide reserves for these purposes and for renewals, replacements, extensions, enlargements, and improvements as may be provided for in the resolution authorizing the issuance of the special obligation bonds or in the trust agreement securing the same, shall be set aside at regular intervals as may be provided in the resolution or trust agreement authorizing the issuance of the special obligation bonds in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on the special obligation bonds as they become due and the redemption price or the purchase price of special obligation bonds retired by call or purchase as provided in the resolution or trust agreement. This pledge shall be valid and binding from the time it is made, the obligated resources so pledged and thereafter received by the Board of Governors shall immediately be subject to the lien of the pledge without any physical delivery of the pledge or further act, and the lien of the pledge shall be valid and binding as against

all parties having claims of any kind in tort, contract, or otherwise against the Board of Governors, irrespective of whether the parties have notice of the pledge. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Board of Governors. The use and disposition of moneys to the credit of the sinking fund shall be subject to the provisions of the resolution authorizing the issuance of the special obligation bonds or of the trust agreement securing the bonds.

(b) State Pledge. -- The State pledges to, and agrees with, the holders of any special obligation bonds or notes issued by the Board of Governors pursuant to this Article that as long as any of the special obligation bonds or notes are outstanding and unpaid, the State will not limit or alter the rights vested in the Board of Governors at the time of issuance of the special obligation bonds or notes to set the terms and conditions of the special obligation bonds or notes and to fulfill the terms of any agreements made with the bondholders or noteholders. The State shall in no way impair the rights and remedies of the bondholders or noteholders until the special obligation bonds or notes and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders or noteholders are fully paid, met, and discharged.

"§ 116D-29. Vesting powers in committee.

The Board of Governors may authorize its budget and finance committee to sell any special obligation bonds which the Board has, with the approval of the Director of the Budget, authorized to be issued under this Article in any manner and under any limitations or conditions as the Board prescribes and to perform other functions under this Article the Board determines.

"§ 116D-30. Refunding bonds.

The Board of Governors may, subject to the approval of the Director of the Budget, issue from time to time refunding bonds for the purpose of refunding any bonds by the Board under this Article or under any Article of Chapter 116 of the General Statutes, including the payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the bonds refunded. The Board of Governors is further authorized, subject to the approval of the Director of the Budget, to issue from time to time refunding bonds for the combined purpose of (i) refunding any bonds issued by the Board under this Article or under any Article of Chapter 116 of the General Statutes, including the payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the bonds, and (ii) paying all or any part of the cost of acquiring or constructing any additional special obligation bond projects.

This Article, as applicable, governs the issuance of refunding bonds, their maturities and other details, the rights and remedies of their holders, and the rights, powers, privileges, duties, and obligations of the Board of Governors with respect to them.

"§ 116D-31. Additional and alternative method.

This Article provides an additional and alternative method for the doing of the things authorized and is supplemental and additional to powers conferred by other

laws, including G.S. 116-175 to G.S. 116-185, inclusive and G.S. 116-197 and G.S. 116-198, and is not in derogation of or repealing any powers now existing under any other law, whether general, special, or local. The issuance of special obligation bonds or refunding bonds under this Article, however, need not comply with the requirements of any other law applicable to the issuance of bonds.

"ARTICLE 4.

"Community Colleges Facilities General Obligation Finance Act.

"§ 116D-41. Short title.

This Article may be cited as the Community College Facilities General Obligation Finance Act.

"§ 116D-42. Definitions.

The following definitions apply in this Article:

(1) Bonds. -- Bonds authorized to be issued under this Article, including refunding bonds.

(2) Community college. -- Defined in G.S. 115D-2.

(3) Community college general obligation bonds. -- Bonds authorized to be issued under this Article, including refunding bonds.

(4) Community Colleges System Office. -- The North Carolina Community Colleges System Office, created by Article 1 of Chapter 115D of the General Statutes, or if the Community Colleges System Office is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers, and duties given by this Article to the Community Colleges System Office.

(5) Notes. -- Notes issued under this Article.

"§ 116D-43. Authorization of bonds and notes.

Subject to a favorable vote of a majority of the qualified voters of the State who vote on the question of issuing community college general obligation bonds in the election held as provided by law, and upon the application of the Community Colleges System Office, the State Treasurer may, by and with the consent of the Council of State, issue and sell, at one time or from time to time, community college general obligation bonds of the State to be designated 'State of North Carolina Community College General Obligation Bonds', with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State. Except as otherwise provided by this Article, the aggregate amount of bonds and notes issued pursuant to this Article shall not exceed two hundred million dollars ($200,000,000). Refunding bonds and notes issued pursuant to G.S. 116D-46(f) shall not be included in the limitation on the aggregate amount of bonds and notes that may be issued pursuant to this Article.

The proceeds of bonds or notes issued under this Article shall be applied to finance the cost of grants to be made by the State to community colleges to finance the cost of capital facilities for the community college or to refund any outstanding bonds or notes issued under this Article. The capital facilities to be improved,

constructed, or acquired with the proceeds of bonds or notes shall be determined as provided in G.S. 116D-44.

"**§ 116D-44. Designation of capital facilities and preconditions to bond issuance.**

The capital facilities to be financed in whole or in part with the proceeds of community college general obligation bonds shall be described in legislation enacted from time to time by the General Assembly. This legislation shall also provide for voter approval of the bonds to finance the capital facilities and shall become effective only upon approval by the voters. The proceeds of community college general obligation bonds shall not be expended to pay the costs of any capital facilities other than those described in that legislation.

"**§ 116D-45. Faith and credit.**

The faith and credit and taxing power of the State are hereby pledged for the payment of the principal of and the interest on bonds and notes. The State retains the right to amend any provision of this Article to the extent it does not impair any contractual right of a bond owner.

"**§ 116D-46. Issuance of bonds and notes.**

(a) Terms and Conditions. -- Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 25 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. -- Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear the State Treasurer's facsimile signature, and shall bear the Great Seal of the State or a facsimile of the Seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as the State Treasurer may determine in conformity with this Article.

(c) Manner of Sale; Expenses. -- Subject to the approval by the Council of State as to the manner in which bonds or notes shall be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time

at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. -- The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys which may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. -- By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment or principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes as authorized in this Article.

Funds derived from the sale of bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. -- By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding bonds or notes issued pursuant to this Article and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes similarly secured. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the bonds or notes being refunded or, if not required for the immediate payment of the

bonds or notes being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the bonds or notes being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) obligations of any agency or instrumentality of the United States government if the timely payment of principal and interest on the obligations is unconditionally guaranteed by the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of bonds or notes being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Community College Bonds Fund. -- The proceeds of community college general obligation bonds and notes, including premium thereon, if any, except the proceeds of bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special fund to be designated 'Community College Bonds Fund'. Moneys in the Community College Bonds Fund shall be used for the purposes set forth in this Article.

Any additional moneys that may be received by means of a grant or grants from the United States of America or any agency or department thereof or from any other source to aid in financing the cost of any community college capital facilities authorized by this Article may be placed by the State Treasurer in the Community College Bonds Fund or in a separate account or fund and shall be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this act.

The proceeds of community college general obligation bonds and notes may be used with any other moneys made available by the General Assembly for the making of grants to community colleges for capital facilities, including the proceeds of any other State bond issues, whether previously made available or which may be made available after the effective date of this Article. The proceeds of community college bonds and notes shall be expended and disbursed under the direction and supervision of the Director of the Budget. The funds provided by this Article for grants to community colleges shall be disbursed for the purposes provided in this Article upon warrants drawn on the State Treasurer by the State Controller, which warrants shall not be drawn until requisition has been approved by the Director of the Budget and which requisition shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

"**§ 116D-47. Variable rate demand bonds and notes.**

(a) In fixing the details of bonds and notes, the State Treasurer may provide that the bonds and notes may:

(1) Be made payable from time to time on demand or tender for purchase by the owner, if a credit facility supports the bonds or notes, unless the State Treasurer specifically determines that a credit facility is not required upon a finding and determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State and the marketing of the bonds or notes at a reasonable interest cost to the State.

(2) Be additionally supported by a credit facility.

(3) Be made subject to redemption or a mandatory tender for purchase prior to maturity.

(4) Bear interest at rates that may vary from any periods of time, as may be provided in the proceedings providing for the issuance of the bonds or notes, including, without limitation, any variations as may be permitted pursuant to a par formula.

(5) Be made the subject of a remarketing agreement whereby an attempt is made to remarket bonds or notes to new purchasers prior to their presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of bonds or notes secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium, or for any other reason, then the amount of authorized but unissued bonds or notes during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 116D-48. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of bonds or notes. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated with any bond issue under this Article as the State Treasurer considers necessary.

"**§ 116D-49. Procurement of capital facilities.**

Any laws, rules, or regulations of the State that relate to the acquisition and construction of capital facilities shall apply to the capital facilities financed pursuant to this Article."

Section 2. Proceeds of University Improvement General Obligation Bonds. -- (a) The proceeds of university improvement general obligation bonds and notes, including any premium thereon, except the proceeds of university improvement general obligation bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be

allocated and expended for paying the cost of university capital facilities, to the extent and as provided in Article 2 of Chapter 116D of the General Statutes, as enacted by this act and subject to change as provided in this act, as follows:

Constituent or Affiliated Institution or Board of Governors Capital Improvement	Projected Allocation
Appalachian State University	
Central Library Complex - Planning	$ 2,350,000
New Science Building - Planning	1,260,000
Rankin Science Building - Renovation and modernization	7,750,000
Belk Library Renovation - Planning	545,020
Living and Learning Center - Academic Facility	4,022,725
Visual Arts Center - Renovation and Addition	5,774,700
Smith Wright Hall - Renovation and modernization.	1,636,111
Founders Hall - Renovation and modernization.	1,044,082
Land Acquisition	3,939,512
Potable Water - Infrastructure improvements.	1,000,000
Technology Infrastructure Expansion	4,838,909
East Carolina University	
Science Laboratories and Technology Building	55,125,315
Expansion of the Rivers Building - Planning	11,997,300
Nursing, Allied Health and DEC Complex: Medical School - Planning	2,250,000
Land Acquisition - Phase I	1,500,000
Classroom Improvements - Phase II	1,126,844
Infrastructure	2,250,000
Materials Warehouse	2,000,000
Campus Computing Center - Renovation	1,785,000
Technology Infrastructure Expansion	807,575
Elizabeth City State University	
New Residence Hall	6,510,000
General Campus Development - Planning	250,000
Lester Hall - Renovation and modernization	2,809,370
Williams Hall - Renovation and modernization	3,047,370
Mitchell-Lewis Residence - Renovation and modernization	2,123,675
Roebuck Stadium Field House	1,260,000
Technology Infrastructure Expansion	3,149,387
Fayetteville State University	
New Residence Hall	6,872,250

Charles A. Lyons Science - Renovation/ modernization and addition	10,819,230
Technology Infrastructure Expansion	1,137,582
North Carolina Agricultural and Technical State University	
General Classroom & Laboratory Building Complex #1	29,470,665
Land Acquisition	4,300,000
Chemistry Building	21,831,600
Curtis Hall - Replacement	3,723,510
General Renovations and Modernizations	1,374,707
Technology Infrastructure Expansion	2,921,662
North Carolina Central University	
New Science Complex and Demolition of Old Hillside High School	36,780,000
General Campus Master Plan	250,000
Shepard Dormitory - Renovation and modernization	7,233,196
Latham Hall - Renovation and modernization	3,411,600
Technology Infrastructure Expansion	1,422,080
North Carolina School of the Arts	
Basic Performance & Education Complex - Phase I	11,500,000
Stevens Center - Renovation and modernization	2,700,000
New Student Activities Building - Renovation	1,536,651
Technology Infrastructure Expansion	1,862,312
North Carolina State University	
Withers Hall - Renovations	22,960,770
Laezar Hall - Renovations	8,361,104
College of Engineering Complex - Phase I	32,806,515
College of Engineering Complex - Phase II Design	4,000,000
David-Clark Laboratory - Renovation and addition	11,555,775
Jordan Hall Addition	13,553,295
Undergraduate Science Teaching Labs - Phase I	23,606,520
Undergraduate Science Teaching Labs - Phase II	12,197,010
Administrative Services Center	7,091,319
College of Veterinary Medicine Research - Renovation and addition	20,179,950
Chilled Water and Cooling Tower - Brickyard	2,913,750
Chilled Water Central Plant - North Campus	5,040,187
Centennial Campus - Infrastructure - Engineering	9,363,846
North Campus Chiller Service - Distribution	6,665,277
Steam Distribution and Capacity - Sullivan Drive	3,244,080

Technology Infrastructure Expansion	2,308,681
University of North Carolina at Asheville	
New Math/Science Building - Planning	1,250,000
Highsmith Center - Renovation and addition	9,473,100
New Physical Plant Building	6,318,900
Carmichael Hall - Renovation and modernization - Planning	400,000
Zaiger Hall - Renovation and modernization - Planning	350,000
General Campus Improvements	2,102,093
Technology Infrastructure Expansion	751,235
University of North Carolina at Chapel Hill	
Murphey Hall - Renovations	6,403,317
Institute of Marine Sciences	1,746,000
Interdisciplinary Physical Sciences Building	59,000,000
Carrington Hall, School of Nursing - Addition	5,873,000
School of Public Health	28,900,000
Memorial Hall	12,000,000
Biomolecular Research Bldg, School of Medicine	26,718,000
R.D. Smith Middle School Wing, School of Education	1,442,896
Administrative Office Building	7,005,200
Infrastructure/Technology Improvements	15,654,531
Digital Multimedia Instructional Center	12,000,000
Academic Facilities Renovations	26,000,000
Technology Infrastructure Expansion	3,777,350
University of North Carolina at Charlotte	
Academic Facilities - Humanities	10,046,925
Science and Technology Building	35,707,035
Classroom and Office Building	22,756,968
College of Education Building - Planning	1,300,000
College of Nursing and Health Professions - Planning	720,748
Technology Infrastructure Expansion	3,345,507
University of North Carolina at Greensboro	
Science Instructional Building	38,412,150
Roadway Improvements	6,825,000
Land Acquisition	7,000,000
Brown - Renovation and modernization	6,062,668
Technology Infrastructure Expansion	7,859,789
University of North Carolina at Pembroke	

Regional Center for Economic, Professional, and Community Development	4,004,385
New Science Building	9,408,000
Jones PE Building - Renovation and modernization	2,212,660
Locklear - Renovation and modernization	1,500,000
D.F. Lowery Building - Renovation and modernization	1,500,000
Wellons Hall - Renovation and modernization	2,000,000
Technology Infrastructure Expansion	2,798,476
University of North Carolina at Wilmington	
School of Education Building	17,576,000
General Classroom Building	12,647,000
Hoggard Hall - Renovation and modernization	2,500,000
Friday Hall - Renovation and modernization	3,040,986
S. G. Kenan Auditorium - Renovation and modernization	2,000,000
Marine Sciences Research Center - Operations Facilities	1,930,000
Land Acquisition	2,100,000
Technology Infrastructure Expansion	2,948,927
Western Carolina University	
Fine and Performing Arts Center	25,805,745
McKee Building - Renovation and modernization	5,289,690
Bird Building - Renovation	1,836,450
Land Acquisition	1,126,004
Hinds University Center - Addition (partial)	1,000,000
Steam Plant Improvements - Phase III	644,595
Technology Infrastructure Expansion	5,018,607
Winston-Salem State University	
Computer Science Facility	5,087,272
New Physical and Life Sciences Building - Phase I	10,723,345
Technology Infrastructure Expansion	1,676,127
University of North Carolina Center for Public Television	
Conversion to Digital TV - Phase I	28,129,140
North Carolina School of Science and Mathematics	
Renovation of Bryan Center	3,172,575
North Carolina Arboretum	
Maintenance & Operations Facility	1,541,295
Entrance Gates and Gatehouses	785,610
Main Entrance Road Utility & Landscape Development	2,259,180
General Administration Building Renovation	2,887,500

Central Library Storage Facility and Central Records Storage - Planning 500,000

TOTAL $ 1,000,000,000

Section 2.(b) The Director of the Budget is empowered, when the Director of the Budget determines it is in the best interest of the State and the University to do so, and if the cost of a particular capital facility is less than the amount allocated for it, to use the excess funds to meet increased cost of other capital facilities itemized in this section and located at the same institution. The Director of the Budget shall report to the Joint Legislative Commission on Governmental Operations on changes made under this subsection. In addition, any capital facility and the amount of the allocation for it set forth above may be changed from time to time as the General Assembly may decide. The provisions of G.S. 116-11(9) with respect to appropriations to the Board of Governors of The University of North Carolina shall not apply to proceeds of university improvement general obligation bonds and notes issued pursuant to Article 2 of Chapter 116D of the General Statutes, as enacted by this act.

Section 2.(c) Allocations to the costs of a capital improvement or undertaking in each case may include allocations to pay the costs set forth in this act in connection with the issuance of university improvement general obligation bonds for that capital improvement or undertaking.

Section 2.(d) The validity of university improvement general obligation bonds and notes issued under Article 2 of Chapter 116D of the General Statutes, as enacted by this act, is not affected by any subsequent adjustment of allocations, or by any failure to comply with the reporting requirements provided in this act.

Section 3. Proceeds of Community College General Obligation Bonds. -- (a) The proceeds of community college general obligation bonds and notes, including any premium thereon, except the proceeds of community college general obligation bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be allocated and expended for paying the cost of community college capital facilities, to the extent and as provided in Article 4 of Chapter 116D of the General Statutes, as enacted by this act and subject to change as provided in this act, to be located at the following community colleges:

COLLEGE	NEW CONSTRUCTION	REPAIR & RENOVATION	TOTAL ALLOCATION
Alamance CC	$2,844,030	$ 491,415	$3,335,445
Anson CC	1,000,000	840,055	1,840,055
Asheville-Buncombe TCC	1,381,875	1,722,802	3,104,677
Beaufort County CC	1,000,000	1,128,185	2,128,185

Bladen CC	1,000,000	279,588	1,279,588
Blue Ridge CC	2,030,342	2,305,387	4,335,729
Brunswick CC	1,000,000	248,261	1,248,261
Caldwell CC & TI	2,844,030	377,326	3,221,356
Cape Fear CC	1,000,000	2,068,435	3,068,435
Carteret CC	1,000,000	1,882,001	2,882,001
Catawba Valley CC	1,242,780	2,743,429	3,986,209
Central Carolina CC	6,897,631	244,147	7,141,778
Central Piedmont CC	6,315,060	6,129,832	12,444,892
Cleveland CC	1,000,000	486,221	1,486,221
Coastal Carolina CC	2,844,030	348,511	3,192,541
College of the Albemarle	4,465,864	128,735	4,594,599
Craven CC	2,844,030	573,564	3,417,594
Davidson County CC	1,000,000	2,287,656	3,287,656
Durham TCC	2,844,030	842,633	3,686,663
Edgecombe CC	5,198,250	1,563,500	6,761,750
Fayetteville TCC	2,844,030	2,166,691	5,010,721
Forsyth TCC	1,000,000	1,039,816	2,039,816
Gaston College	1,000,000	270,458	1,270,458
Guilford TCC	2,311,980	3,083,432	5,395,412
Halifax CC	1,000,000	817,189	1,817,189
Haywood CC	1,000,000	2,195,573	3,195,573
Isothermal CC	1,000,000	949,267	1,949,267
James Sprunt CC	1,000,000	516,788	1,516,788
Johnston CC	1,000,000	921,977	1,921,977
Lenoir CC	2,308,020	1,048,459	3,356,479

Martin CC	1,340,460	142,636	1,483,096
Mayland CC	3,148,914	213,742	3,362,656
McDowell TCC	1,128,600	273,269	1,401,869
Mitchell CC	1,000,000	983,677	1,983,677
Montgomery CC	1,000,000	301,703	1,301,703
Nash CC	1,000,000	1,021,442	2,021,442
Pamlico CC	1,000,000	302,049	1,302,049
Piedmont CC	1,909,710	2,111,177	4,020,887
Pitt CC	2,844,030	2,091,308	4,935,338
Randolph CC	1,000,000	551,886	1,551,886
Richmond CC	2,844,030	984,167	3,828,197
Roanoke-Chowan CC	1,000,000	567,718	1,567,718
Robeson CC	2,844,030	2,192,511	5,036,541
Rockingham CC	1,000,000	1,278,538	2,278,538
Rowan-Cabarrus CC	2,844,030	2,925,850	5,769,880
Sampson CC	1,000,000	1,653,903	2,653,903
Sandhills CC	2,575,320	2,831,582	5,406,902
Southeastern CC	1,000,000	1,112,304	2,112,304
Southwestern CC	3,714,002	1,228,660	4,942,662
Stanly CC	2,844,030	1,506,808	4,350,838
Surry CC	3,526,515	225,489	3,752,004
Tri-County CC	1,822,425	712,338	2,534,763
Vance-Granville CC	7,886,760	805,858	8,692,618
Wake TCC	5,688,060	2,850,623	8,538,683
Wayne CC	2,844,014	202,099	3,046,113
Western Piedmont CC	1,220,959	1,292,053	2,513,012

Wilkes CC	2,776,724	776,451	3,553,175
Wilson TCC	1,218,855	921,379	2,140,234
TOTAL	$128,237,450	$71,762,550	$200,000,000

Section 3.(b) Except as provided in this subsection and subsection (d) of this section, a community college may use the bond proceeds allocated in subsection (a) of this section only in accordance with the allocations in the State Board of Community Colleges' consultant's report on the capital allocation and repairs and renovations funding formula. Funds allocated for repair and renovations must be used in accordance with exhibit 5-6 of the Funding Formula Study: Phase 3 Report, submitted May 15, 1998. Funds allocated for new construction must be used in accordance with exhibits 15 and 16 of the Funding Formula Study: Phase 4 Report, submitted February 4, 1999, up to the amounts allocated in this section.

Except as provided in this paragraph, new construction funds allocated by the report to a specific site may not be allocated to another site. If the local board of trustees of a community college determines that new construction funds allocated to a specific site are not needed at that site, the board may request that the State Board of Community Colleges reallocate those funds for new construction at another site of the community college. If the State Board of Community Colleges determines that the funds are not needed for new construction at the site for which they were originally allocated, it shall approve the reallocation to the other site and shall substitute the proposed facility at the other site in the Community Colleges System Office's application to the State Treasurer pursuant to G.S. 116D-43.

Each community college shall submit to the State Board of Community Colleges a statement (i) proposing the capital facilities to be financed with the proceeds of community college general obligation bonds allocated to that community college, (ii) certifying that the proposed site is included in the consultant's report referred to in this section or is a substitute facility at another site because the funds are not needed for new construction at the site for which they are allocated in the consultant's report, (iii) certifying that the community college is prepared to proceed with the construction, acquisition, or improvement of the proposed capital facilities, and (iv) demonstrating that the applicable matching requirements have been or will be met.

Upon receipt by the State Board of Community Colleges of the information set forth above, the Board shall add the proposed capital facilities to the next application of the Community Colleges System Office to the State Treasurer to issue bonds pursuant to G.S. 116D-43.

The board of trustees of an individual community college may use funds allocated for new construction either for new construction or for repair and renovations. The board of trustees of a community college may use funds allocated for repair and renovations only for repair and renovations, and not for new construction.

The projected allocations set forth above may be changed from time to time as the General Assembly may decide.

Section 3.(c) Community colleges are not required to match bond proceeds allocated in this section for repair and renovations. The match requirements of Chapter 115D of the General Statutes apply to bond proceeds allocated for new construction except as provided in this subsection. The consultant hired by the State Board of Community Colleges to determine funding formulas for the community college system developed an index to measure each county's ability to pay. The consultant found that some counties are unable to meet their local match requirement under Chapter 115D of the General Statutes because of inability to pay. Accordingly, community colleges are required to match bond proceeds allocated for new construction in subsection (a) or (d) of this section only as follows: Community colleges assigned a matching rate of less than forty percent (40%) in the "adjusted matching requirements" contained in exhibit 14 of the State Board of Community Colleges' consultant's Funding Formula Study: Phase 4 Report, submitted February 4, 1999, are not required to match, and community colleges assigned a matching rate of forty percent (40%) or more in the adjusted matching requirements are required to match only at the assigned rate.

Section 3.(d) Each community college that was not allocated funds for new construction in the State Board of Community Colleges' consultant's report on the capital allocation funding formula may receive the bond proceeds allocated to it for new construction in subsection (a) of this section only to the extent that it can document to the State Board of Community Colleges its actual need for funds for new construction, or its actual need for funds for repair and renovations in excess of the amount allocated to it for repair and renovations in subsection (a) of this section. If any community college is unable to document to the State Board of Community Colleges by January 1, 2001, these needs in the amount of its entire allocation for new construction under subsection (a) of this section, the State Board shall reallocate the excess of the allocation over the amount the college was able to document among the remaining community colleges to the extent they can document actual needs in excess of their allocations in subsection (a) of this section for new construction, repair, and renovations, or both.

Section 3.(e) The validity of community college general obligation bonds and notes issued under Article 4 of Chapter 116D of the General Statutes, as enacted by this act, is not affected by any subsequent adjustment of allocations or matching requirements provided in this act, or by any failure to comply with matching requirements or reporting requirements provided in this act.

Section 4.(a) University of North Carolina Capital Plan. -- The General Assembly finds that recent studies have shown that billions of dollars will be necessary to repair and renovate the current facilities of the University, to expand the facilities to meet future enrollment demands, to modernize existing facilities of the University in order for the University to continue to provide excellent educational opportunities for the people of North Carolina, and to meet the challenges of changing technologies and globalization of economies. The amount of bonds

authorized in this act for university improvements represents only a part of the demonstrated needs. The following list encompasses the critical needs of The University of North Carolina Capital Plan:

Constituent or Affiliated Institution or Board of Governors Capital Improvement	Projected Allocation
Appalachian State University	
Central Library Complex	$ 47,586,735
New Science Building	1,260,000
Rankin Science Building - Renovation and modernization	7,750,000
Belk Library Renovation - Planning	545,020
Living and Learning Center - Academic Facility	4,022,725
Visual Arts Center - Renovation and Addition	6,063,435
Smith Wright Hall - Renovation and modernization	1,636,111
Founders Hall - Renovation and modernization	1,044,082
Land Acquisition	4,977,675
Potable Water - Infrastructure improvements	2,625,000
Technology Infrastructure Expansion	4,838,909
East Carolina University	
Science Laboratories and Technology Building	55,125,315
Expansion of the Rivers Building	11,997,300
Nursing, Allied Health and DEC Complex: Medical School	46,882,500
Flanagan Building - Renovations	13,421,276
Land Acquisition - Phase I	5,000,000
Classroom Improvements - Phase II	3,648,435
Belk Allied Health - Renovations and modernization	7,791,348
Library and Study Space Requirements - Phase I	12,600,000
Old Cafeteria - Renovations	4,442,103
Infrastructure	16,125,165
Rivers School of Nursing - North Wing Renovations	2,688,174
Materials Warehouse	3,045,315
Campus Computing Center - Renovation	1,785,000
Academic Space Requirements - Teaching Labs	5,250,000
Technology Infrastructure Expansion	807,575
Elizabeth City State University	
New Student Center	9,178,313
New Residence Hall	6,510,000
General Campus Development	1,811,250
Historic Structures Preservation - Phase I	1,050,000

Lester Hall - Renovation and modernization 2,912,177
Williams Hall - Renovation and modernization 3,236,156
Lane Hall - Renovation and modernization 2,360,568
Trigg Hall - Renovation and modernization 2,109,017
White Graduate/Cont. Educ. Bldg -
Renovation and modernization 1,575,000
Johnson Hall - Renovation and modernization 3,156,308
Wamack Hall - Renovation and modernization 3,334,303
Bias Hall - Renovation and modernization 1,858,222
Mitchell-Lewis - Renovation and modernization 2,123,675
Roebuck Stadium Field House 1,260,000
Campus Property Development - Phase I 650,000
Technology Infrastructure Expansion 3,149,387

Fayetteville State University
New Residence Hall 6,872,250
Charles A. Lyons Science - Renovation/
modernization and addition 16,800,000
Seabrook Auditorium - Renovation and
modernization 6,825,000
Lauretta J. Taylor Gymnasium - Renovations,
modernization, and addition 3,360,000
Lilly Gymnasium - Renovation 3,256,367
Cook Dining Hall - Renovation 1,773,450
Howard School Museum 210,000
Fire Safety Improvements, Student Residence Halls 611,730
Roads, Parking, Landscaping Improvements - Phase I 3,675,000
Spaulding Infirmary and Roadway/Entrance 1,000,000
Technology Infrastructure Expansion 1,137,582

North Carolina Agricultural and Technical State University
General Classroom & Laboratory Building
Complex #1 29,470,665
Land Acquisition 6,300,000
Chemistry Building 21,831,600
Harrison Auditorium - Renovation and
modernization 3,193,196
Curtis Hall - Replacement 3,723,510
Scott Hall - Replacement 24,165,330
Gamble Complex 1,449,420
Hazardous Materials and Waste Storage Facility 1,575,000
Replace Barn - Agricultural Farm 919,185
Replace Poultry Complex Laying Houses -
Agricultural Farm 913,500

Zoe Barbee Hall - Renovation and modernization 5,876,786
Barnes Hall - Renovation and modernization 6,097,128
Graham Hall - Renovation and modernization 5,899,838
Corbett Sports Center Addition 7,035,000
Replacement of Steamlines and Manholes 1,568,280
Electrical Distribution System - upgrade and expansion 2,256,802
Central Cooling Plant - North and South chiller loops 6,405,000
Parking Enhancements, Phase I 4,725,735
Cherry Hall - Renovation and modernization 8,613,152
General Renovations and Modernizations 8,872,918
Technology Infrastructure Expansion 2,921,662

North Carolina Central University
New Science Complex and Demolition of Old Hillside High School 36,780,000
Chidley Hall - Renovation and modernization 6,621,943
General Campus Master Plan 250,000
Farrison-Newton Bldg. - Renovation and modernization 7,048,652
Graduate Apartments, George Street - Replacement 1,556,642
Rush Hall - Renovation and modernization 2,089,387
Baynes Hall - Replacement 15,091,127
Eagleson Hall - Renovation and modernization 6,869,505
Shepard Dormitory - Renovation and modernization 7,284,923
Latham Hall - Renovation and modernization 3,411,600
McLean Hall - Renovation and modernization 1,942,070
Pearson Cafeteria - Renovation and modernization 1,263,570
Fire Safety Improvements - Student Residence Halls 1,612,695
Landscape Campus Perimeter 840,000
Landscape Pedestrian Corridors 787,500
Directional Signage - Vehicular/pedestrian 735,000
Pedestrian Corridor on Campus Drive 892,500
Pedestrian Mall at George Street 472,500
Dormitory Security System 630,000
Parking Enhancements Phase 1 - Nelson St. Pkg. Deck 6,353,235
Electrical Power - New transformers 858,654
Life-Safety/OSHA Corrections 3,675,000
Land Acquisition 4,000,000
Relocate Campus Police Station 840,000
Replace Power Distribution Cables 1,115,940
Underground Piping Repairs 4,252,710
Technology Infrastructure Expansion 1,422,080

North Carolina School of the Arts
Basic Performance & Education Complex 19,130,685
Stevens Center - Renovation and modernization 4,434,480
New Student Activities Building - Renovation 2,500,000
Roanoke Island Music & Theatrical Complex 10,500,000
Landscaping Improvements 1,050,000
Costume Shop - Renovations and relocations 420,000
Land Acquisition 2,650,000
Technology Infrastructure Expansion 1,862,312

North Carolina State University
I. BUILDINGS
A. Renovation, Modernization, & Replacements:
Classroom/Office Space
Renovation and modernization of buildings 91,312,249
Laboratory Space
Renovation and modernization of buildings 49,000,000
Student Support Space
Renovation, modernization, and fire safety improvements 2,070,000
B. Building Capacity:
Construction of College of Engineering Complex - Phase I and Phase II; Undergraduate Science Teaching Lab - Phase I and Phase II; Jordan Hall Addition; Gymnasium; Library Space; Student Services Space; and David-Clark Laboratory Renovation and addition 149,978,194
C. Other Building Needs:
Construction of Administrative Services Center - II; Extension Facilities; Field Research Laboratories and Outlying Research - Phase I; Research Laboratory Space, Phase I; Hazardous Materials Facility; Partners Building V; College of Veterinary Medicine Research Addition and renovations; Physical Sciences Research; Genomic Sciences Research; Services Buildings at Sullivan Site and Centennial Campus 43,960,952

II. OTHER CAMPUS REQUIREMENTS
A. General Campus:
University Signage; Pedestrian Tunnel; Security CardAccess; and Public Safety Facility 15,579,475
B. Infrastructure:

Construction of Chilled Water Plant; Potable Water Building Backflow Preventers; College of Veterinary Medicine Indoor Air Quality Upgrade; North Campus Chiller Service; Brickyard Loop Chilled Water Extension and Cooling Tower; Infrastructure for Centennial Campus Partnership; Infrastructure for Veterinary Medicine Private/ Public Partnership; and Steam Distribution and Capacity Improvements. 92,999,130

Technology Infrastructure Expansion 2,308,681

C. Land Acquisition 2,100,000

University of North Carolina at Asheville

New Math/Science Building 22,203,195

Highsmith Center Renovation and Addition 9,473,100

New Physical Plant Building 6,318,900

Carmichael Hall - Renovation and modernization 3,912,805

Zaiger Hall - Renovation and modernization 3,524,624

General Campus Improvements 3,728,550

Technology Infrastructure Expansion 751,235

University of North Carolina at Chapel Hill

I. BUILDINGS

A. Renovation, Modernization, & Replacements:

Classroom/Office Space

Renovation and modernization of buildings 104,861,491

Laboratory Space

Renovation and modernization of buildings 93,531,460

B. Building Capacity:

Construction of Multidisciplinary Environmental Studies Building; Addition to Carrington Hall - School of Nursing; Teaching Research Bldg - School of Public Health; and Interdisciplinary Physical Science Bldg 87,465,000

C. Other Building Needs:

Construction of Health Affairs Biomolecular Research Bldg, Phase I; Health Affairs Frank Porter Graham Child Development Center; Health Affairs Institute on Aging Bldg; Center for Global and International Education; Digital Multimedia Instructional Center; Medical School Office Bldg No. 1; Sports Medicine Facility; Ackland Art Museum Renovation and Expansion; Relocate Physical Plant Grounds Dept; Administration

Office Bldg; Chapel Hill North; Campus Mail Center; and Physical Plant Maintenance Shops Addition 48,000,000

II. OTHER CAMPUS REQUIREMENTS

A. General Campus:

Campus Signage System 2,100,000

B. Infrastructure:

Construction of Storm Drainage Replacement; Heating Line Installation; Cogeneration Facility Turbine Generator; Gilsulate Replacement; Steam Line Installation; East and South Chiller Plant Expansion; North and South Chiller Plant Replacements; Energy Management & Control System Upgrade; Campus Fiber Optics Network; Horace Williams Infrastructure - Phase I; Main Campus Infrastructure Expansion - Phase I; Chilled Water Air Conditioning Systems in Classroom Bldgs; and Coal Silo Replacement 154,041,090

Technology Infrastructure Expansion 1,287,051

C. Land Acquisition:

Land Acquisition - South Campus Expansion 8,000,000

University of North Carolina at Charlotte

Academic Facilities - Humanities 10,046,925
Science and Technology Building 35,707,035
Classroom and Office Building 26,102,475
College of Education Building 24,654,476
College of Nursing and Health Professions 34,125,000
Graduate Engineering Complex 14,700,000
Research Facility - Phase I 16,800,000
University Conference Center 10,500,000
Central Heating Plant Improvement 2,625,000
Technology Infrastructure Expansion 3,345,507

University of North Carolina at Greensboro

Science Instructional Building 38,412,150
Roadway Improvements 6,825,000
Land Acquisition 7,000,000
Brown - Renovation and modernization 6,493,859
Petty Science Building - Renovation and modernization 16,272,270
McIver Building - Renovation and modernization 21,636,510
Aycock Auditorium - Renovation and

modernization 17,662,980
Stone - Renovation and modernization 8,930,354
Heating Plant - Renovation, modernization,
and expansion 4,851,288
Forney Building - Renovation and modernization 3,565,364
McNutt Building - Renovation and modernization 2,723,956
Research Space Phase I 5,250,000
Electrical Power Distribution Upgrades 4,091,038
McIver Chiller Plant 8,373,750
Technology Infrastructure Expansion 7,859,789

University of North Carolina at Pembroke
Regional Center for Economic, Professional, and
Community Development 4,004,385
New Science Building 9,408,000
Chavis Center Expansion 3,221,400
Jones PE Building - Renovation and modernization 8,925,000
Business Administration Building - Renovation
and modernization 2,140,762
ADA Renovations 525,000
Locklear - Renovation and modernization 2,464,319
Moore Hall - Renovation and modernization 2,464,661
D.F. Lowery Building - Renovation and
modernization 2,680,528
Jacobs Hall - Renovation and modernization 4,155,525
West Hall - Renovation and modernization 4,961,580
Belk Hall - Renovation and modernization 3,055,985
Land Acquisition 1,500,000
Wellons Hall - Renovation and modernization 4,323,382
Technology Infrastructure Expansion 2,798,476

University of North Carolina at Wilmington
School of Education Building 17,576,370
Fine Arts Building/Concert Hall 26,250,000
General Classroom Building 12,646,935
Arnold K. King Hall - Renovation and
modernization 2,697,442
Hoggard Hall - Renovation and modernization 3,550,430
Alderman Admin. - Renovation and modernization 2,940,843
Westside Hall - Renovation and modernization 2,687,347
Kenan Hall - Renovation and modernization 3,056,633
Hinton James Hall - Renovation and
modernization 1,843,981
Deloach Hall - Renovation and modernization 5,193,585

Friday Hall - Renovation and modernization	7,693,351
S. G. Kenan Auditorium - Renovation and modernization.	3,095,303
Marine Sciences Research Center - Operations Facilities	3,559,912
Computing Center	1,512,000
Print Shop	672,000
Warehouse Expansion	1,890,000
Land Acquisition	2,100,000
Sprinkler Systems - Hoggard, Trask, & Nixon	823,620
Miscellaneous HVAC Projects	1,027,320
Miscellaneous Electrical Projects	676,305
Facility Improvements for Energy Efficiency	747,390
Primary Electrical Distribution System Upgrade	2,238,158
Storm Drainage Improvements	743,185
Technology Infrastructure Expansion	2,948,927
Western Carolina University	
Fine and Performing Arts Center	25,805,745
Stillwell - Renovation and modernization	15,057,541
McKee Building	5,289,690
Bird Building - Renovation	1,836,450
Living - Learning Center - Conversion	1,887,113
Land Acquisition	3,618,000
Breese - Renovation and modernization	1,161,332
Vehicular Traffic Relocation	4,989,600
Indoor Recreation Facility	6,306,300
Hinds University Center - Addition	4,158,000
New Housing Facility	13,308,750
Chiller Replacement and Retrofit	1,418,655
Replace steam and condensate lines	3,937,500
Upgrade Electrical Distribution System	883,995
Campus Pedestrian Corridors	1,386,000
Perimeter Parking Lots	1,039,500
Steam Plant Improvements - Phase III	644,595
Automated Energy Management System Enhancements	700,455
Technology Infrastructure Expansion	5,018,607
Winston-Salem State University	
Computer Science Facility	5,748,330
New Physical and Life Sciences Building - Phase I	12,109,545
Anderson School Building - Renovation and modernization	6,917,905
Health Center Building and Old Nursing Building - Renovation and modernization	2,265,865

Carolina Hall - Renovation and modernization	4,270,688
Hauser Union - Renovation and modernization	3,895,461
Pegram Hall - Renovation and modernization	2,287,613
General Campus Improvements - Phase I	3,104,640
Technology Infrastructure Expansion	1,676,127
University of North Carolina Center for Public Television	
Conversion to Digital TV - Phase I	64,995,000
Mobile Satellite Uplink	895,545
UNC Public Radio - Building Addition	478,938
North Carolina School of Science and Mathematics	
Renovation of Bryan Center	3,172,575
Renovation of Royall Outreach Center (Wyche House)	1,990,380
North Carolina Arboretum	
Maintenance & Operations Facility	1,541,295
Entrance Gates and Gatehouses	785,610
Main Entrance Road Utility & Landscape Development	2,259,180
Demonstration Greenhouse	3,776,325
Bus Parking	969,255
North Carolina Botanical Gardens - Herbarium Research Building	7,061,355
J. C. Raulston Arboretum Education & Visitors Center	3,639,510
General Administration Building Renovation	2,887,500
Central Library Storage Facility and Central Records Storage - Planning	500,000
Matching Gift Incentive Program Projects	282,648,212
TOTAL	$ 2,700,000,000

Section 4.(b) Matching Gift Incentive Program Projects. -- The critical needs capital plan set out in this section allocates two hundred eighty-two million six hundred forty-eight thousand two hundred twelve dollars ($282,648,212) for matching gift incentive program projects. The Board of Governors of The University of North Carolina shall employ a private consultant to develop a list of capital facilities which are to be funded jointly from these funds and private donations. The Board of Governors shall submit this list of recommended projects, including the proposed matching requirements by the University or its constituent or affiliated institutions, to the General Assembly by April 1, 2000. The matching requirements must be based on analyses of the fund-raising capabilities of each institution as determined by a private consultant in order to maximize private fund-raising for capital projects. The General Assembly will consider providing these funds for matching gift incentive program projects in accordance with this proposal.

Section 5. Interpretation of Act. (a) Additional Method. -- This act provides an additional and alternative method for the doing of the things authorized

by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing The University of North Carolina to issue self-liquidating debt or other debt secured by designated sources of funds.

Section 5.(b) Statutory References. -- References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

Section 5.(c) Liberal Construction. -- This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

Section 5.(d) Severability. -- If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 6. Repair and Renovation Reports. -- The Board of Governors of The University of North Carolina shall report annually to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee on the condition of all of the University's capital facilities, including a status report on all repair, renovation, and maintenance projects being undertaken and an assessment of needs for additional funding to repair, renovate, and maintain the facilities.

The Board of Governors of The University of North Carolina shall also study the repairs and renovations formula currently utilized with respect to funding for the Repairs and Renovations Reserve Account to determine whether it adequately takes into account all of the appropriate maintenance needs of each constituent and affiliated institution, and shall recommend to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee any changes necessary to improve the formula. The Board shall make recommendations on the scope and adequacy of the methodology used to calculate the funding for the repairs and renovations reserve as specified in G.S. 143-15.2.

Section 7. Minority Business Participation. -- The goals set by G.S. 143-128 for participation in projects by minority businesses apply to projects funded by the proceeds of bonds or notes issued under this act. The following State agencies shall monitor compliance with this requirement and shall report to the General Assembly by January 1 of each year on the participation by minority businesses in these projects. The State Construction Office, Department of Administration, shall monitor compliance with regard to projects funded by the proceeds of university improvement general obligation bonds and notes and special obligation bonds and notes; the Board of Governors of The University of North Carolina shall provide the State Construction Office any information required by the State Construction Office to monitor compliance. The Community Colleges System Office shall monitor

compliance with regard to projects funded by the proceeds of community college general obligation bonds and notes.

Section 8. Private Resources for University Improvements. -- The Board of Governors of The University of North Carolina shall review the recommendations in the "Capital Equity and Adequacy Study" regarding the potential for increased use of private resources in providing University facilities. The Board of Governors shall study the potential for private development of these facilities as student housing, public/private partnerships for joint development of facilities, establishment of a private nonprofit corporation to assist in development of University facilities, and any other alternatives the Board considers appropriate and feasible. The Board of Governors shall develop recommendations and proposals to implement these recommendations and report these proposals to the Joint Legislative Education Oversight Committee by April 15, 2000.

Section 9. Article 36 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-342.2. Restriction on naming construction projects funded by the State.**

Notwithstanding any other provision of law, no construction project funded in whole or in part from State funds shall be named for a member of the General Assembly or the Council of State during the time the person is holding office either as a member of the General Assembly or the Council of State."

Section 10. The questions of the issuance of the bonds authorized by Articles 2 and 4 of Chapter 116D of the General Statutes, as enacted by this act, and authorized by Sections 2 and 3 of this act, shall be submitted to the qualified voters of the State at the statewide primary election to be held in May 2000. Any other primary, election, or referendum validly called or scheduled by law at the time the election on the bond question provided for in this section is held may be held as called or scheduled. Notice of the election shall be given in the manner and at the times required by G.S. 163-33(8). The election and the registration of voters therefor shall be held under and in accordance with the general laws of the State. Absentee ballots shall be authorized in the election.

The State Board of Elections shall reimburse the counties of the State for all necessary expenses incurred in holding the election that are in addition to those that would have otherwise been incurred, the same to be paid out of the Contingency and Emergency Fund or other funds available to the State Board of Elections.

Ballots, voting systems authorized by Article 14 of Chapter 163 of the General Statutes, or both may be used in accordance with rules prescribed by the State Board of Elections. The bond questions to be used in the ballots or voting systems shall be in substantially the following form:

[ ] FOR [ ] AGAINST

the issuance of one billion dollars ($1,000,000,000) State of North Carolina University Improvement General Obligation Bonds constituting general obligation bonds of the State secured by a pledge of the faith and credit and taxing power of the State for the purpose of providing funds, with any other available funds, to pay the cost of capital

improvements for constituent or affiliated institutions and the Center for Public Television of The University of North Carolina.

[ ] FOR [ ] AGAINST

the issuance of two hundred million dollars ($200,000,000) State of North Carolina Community College General Obligation Bonds constituting general obligation bonds of the State secured by a pledge of the faith and credit and taxing power of the State for the purpose of providing funds, together with other available funds, to make grants to community colleges to pay all or a portion of the cost of providing capital improvements.

If a majority of those voting on a bond question in the election vote in favor of the issuance of the bonds described in the question, those bonds may be issued as provided in this act. If a majority of those voting on a bond question in the election do not vote for the issuance of the bonds described in the question, those bonds shall not be issued.

The results of the election shall be canvassed and declared as provided by law for elections for State officers; the results of the election shall be certified by the State Board of Elections to the Secretary of State, in the manner and at the time provided by the general election laws of the State.

Section 11. This act is effective when it becomes law.

June 29
afternoon

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 912

Short Title: UNC Financing. (Public)

Sponsors: Senator Rand.

Referred to: Rules and Operations of the Senate.

April 14, 1999

A BILL TO BE ENTITLED

AN ACT PERTAINING TO CAPITAL FINANCING FOR THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. This act pertains to capital financing for The University of North Carolina.

Section 2. This act is effective when it becomes law.

HOUSE BILL 1481/SENATE BILL 912: Bonds for Higher Education

BILL ANALYSIS

Committee:	House and Senate Finance	**Sponsor:**	Rep. Miller/Sen. Rand
Date:	June 29, 1999	**Analysis by:**	Martha H. Harris
Version:	Proposed Committee Substitute for First Edition		Staff Attorney

SUMMARY: This bill would create a new Chapter 116D of the General Statutes to establish the following mechanisms for debt financing of higher education facilities:

1. *It authorizes the State to issue security interest bonds to finance $2.7 billion of capital facilities for the University of North Carolina and $300 million of capital facilities for community colleges. The bonds would be secured by a security interest in the capital facilities being financed.*
2. *It authorizes the UNC Board of Governors to issue special obligation bonds to finance capital facilities for the University. The bonds would be secured by the University's receipts, other than tuition or appropriations from the General Fund.*

Security Interest Bonds. Article 2 of the new Chapter 116D created by this bill would authorize the State to issue university improvement security interest bonds secured by a lien on or security interest in University property acquired, constructed, or improved with the bond proceeds. Article 4 of the new Chapter 116D would authorize the State to issue community college security interest bonds secured by a lien on or security interest in community college property acquired, constructed, or improved with the bond proceeds. These security interest bonds would be repaid from the General Fund. The maximum maturity on the bonds would be 25 years.

The university improvement security interest bonds would be used for construction, improvement, and acquisition of capital facilities for constituent and affiliated institutions of The University of North Carolina, including the Center for Public Television, the UNC Health Care System, the School of Science and Mathematics, and the North Carolina Arboretum. Similarly, the community college security interest bonds would be used for grants to community colleges for construction, improvement, and acquisition of their capital facilities. The bill specifically defines capital facilities as buildings, utilities, structures, and other facilities and property developments, including streets, landscaping, equipment and furnishings in connection with a building project, and land acquisition. The facilities may include sports facilities, housing, and administrative offices as well as educational buildings.

The security interest bonds would be issuable by the Treasurer only to fund allocations established by the General Assembly; those allocations are set out in Sections 2 and 3 of this bill. The bill limits the amount of community college security interest bonds that may be issued to $300 million and limits the amount of university improvement security interest bonds that may be issued each year over five years as follows:

Fiscal Year	Aggregate Amount
1999-2000	$240,000,000
2000-2001	480,000,000
2001-2002	700,000,000
2002-2003	640,000,000

2003-2004 640,000,000

The proposed security interest bonds are not general obligation bonds and thus are not required to be approved by the voters. They are not secured by the full faith and credit or the taxing power of the State; a statement to this effect would appear on the face of the bonds. The State could choose not to appropriate funds to pay the bonds, but such a decision would have negative consequences for the State's credit rating.

The security interest bonds would be secured by a lien or security interest in all or any part of the capital facilities to be financed, including all or part of any land on which improvements are to be constructed. If the project is a renovation, the entire existing facility as well as the improvement could serve as security. In the case of community college bonds, although the bonds are issued by the State, the community college or county that owns the property would give the security interest. No deficiency judgment could be rendered against the State if the bonds were not paid. The property securing the bonds would be sold and the net proceeds would be applied to pay the bonds.

Section 2 of the bill sets out the specific projects for which university improvement security interest bonds would be issued. If the cost of a project changed, the Board of Governors could reallocate funds from one project to another, but only between projects at the same institution.

Section 2 also allocates nearly $300 million of the university improvement security interest bonds for matching gift incentive program projects. The bill directs the Board of Governors to employ a private consultant to develop a list of capital facilities to be funded jointly from the bonds and private donations. The list would include matching requirements based on each institution's fund-raising capabilities. The Board of Governors must submit the list to the General Assembly by April 1, 2000. The bonds for these projects can be issued only after the General Assembly enacts legislation allocating the proceeds for the specific projects.

Section 3 of the bill sets out the amount allocated to each community college for new construction and for repairs and renovations and requires that the allocations must be used in accordance with the State Board of Community Colleges' consultant's report, which establishes the funding formula for new construction needs and repair and renovation needs at each campus. A community college could not reallocate to another campus funds that the consultant's report allocates to a specific campus. Bond proceeds allocated for repair and renovations could be used only for repair and renovations, but bond proceeds allocated for new construction could be used either for new construction or for repair and renovations.

There are some community colleges that did not have an allocation for new construction in the consultant's report, but that do have an allocation of bond proceeds for new construction in the bill. The bill provides that these community colleges may receive their new construction allocation only to the extent they can document to the State Board of Community Colleges their actual needs for new construction, or their actual needs for repair and renovations in excess of the amount allocated in the bill for repairs of renovations. If any bond proceeds could not be used because of a community college's failure to document these needs, those amounts would be pooled and reallocated by the State Board to other community colleges that were able to document actual needs in excess of the amounts already allocated for those needs in the bill.

Under general law, community colleges are required to match State capital funds on a dollar-for-dollar basis. This bill provides three limited exceptions to this requirement for the bond proceeds. First, bond proceeds allocated for repair and renovations need not be matched. Second, community colleges which the consultant's report determined had a matching ability of 40% or less, based on ability to pay, need not

match allocations for new construction. Third, community colleges which the consultant's report determined had a matching ability of more than 40% must match new construction allocations only at the matching ability percentage assigned to them in the report.

UNC Special Obligation Bonds. Article 3 of the new Chapter 116D created by this bill would authorize the UNC Board of Governors to issue special obligation bonds payable with any sources of income or receipts of the Board of Governors or a constituent or affiliated institution, but not including tuition payments or appropriations from the General Fund from State revenues. The bond proceeds could be used for construction, improvement, and acquisition of any capital facilities located at UNC constituent and affiliated institutions. The maximum maturity on the bonds would be 25 years. Special obligation bonds could be issued only for projects specifically authorized by the General Assembly, as is the current practice for revenue bonds (self-liquidating bonds).

The proposed UNC special obligation bonds are not general obligation bonds and thus are not required to be approved by the voters. They are not secured by the full faith and credit or the taxing power of the State; a statement to this effect would appear on the face of the bonds. Property could not be pledged to secure the bonds. The bonds would be secured by the Board of Governors' pledge of obligated resources to serve as security for the bonds. Obligated resources, defined in proposed G.S. 116D-22, would include rents, charges, or fees to be derived by the Board of Governors or a constituent institution from any activity; earnings on the investment of an endowment fund; and funds to be received from grants and contracts. Obligated resources would not include tuition payments or appropriations of general revenues. Obligated resources derived from one institution could not be used to finance a bond project located at a different institution.

To the extent the generation of obligated resources is within the control of the Board of Governors, proposed G.S. 116D-28 would authorize and require the Board to increase the underlying fees or charges as necessary to generate sufficient revenues to pay the bonds. An individual institution could not increase a fee or charge with out approval of the Board of Governors. The Board would be required to set aside a sufficient amount of obligated resources on a regular basis into a sinking fund pledged to pay the principal and interest on the bonds. The bill provides that the State pledges and contracts that it will not limit or alter the rights vested in the Board of Governors with respect to the bonds as long as any bonds are outstanding.

The amount of special obligation bonds that could be issued is limited by the extent to which the Board of Governors finds that sufficient obligated resources are "reasonably expected" to be available to pay the debt service. In submitting proposed special obligation bond projects to the General Assembly for approval, the Board of Governors would be required to justify the need for each project and to itemize the cost of the project, the estimated operating costs upon completion, and the sources and amounts of obligated resources to be pledged for repayment of the bonds. The Board of Governors could submit a proposed project for approval by the General Assembly only if the project has been approved by the board of trustees of the institution at which the project would be located.

Reporting Requirements. The bill imposes reporting requirements to allow the General Assembly to monitor all aspects of the proposed bonds. The Board of Governors would be required to report annually to the Joint Legislative Commission on Governmental Operations on (1) the university improvement security interest bonds, including total project costs, amount funded by bonds, expenditures to date, progress to completion, and estimated operating costs and their proposed source of payment; and on (2) the special obligation bonds, including, for each institution, outstanding debt, specific projects, debt service requirements, actual repayments, compliance with all applicable financial requirements, and

trends and revenue streams for obligated resources. The State Treasurer would be required to report annually, and upon each issuance of university improvement security interest bonds and community college security interest bonds, on debt service requirements for the bonds. Finally, the Community Colleges System Office would be required to report quarterly to the Joint Legislative Education Oversight Committee on projects funded from community college security interest bonds, including total project costs, the amount funded by bonds, expenditures to date, and progress to completion.

HOUSE BILL 1481/SENATE BILL 912: Bonds for Higher Education

BILL ANALYSIS

Committee:	House and Senate Finance	**Sponsor:**	Rep. Miller/Sen. Rand
Date:	June 28, 1999	**Analysis by:**	Martha H. Harris Staff Attorney
Version:	Proposed Committee Substitute for First Edition		

SUMMARY: This bill would create a new Chapter 116D of the General Statutes to establish the following mechanisms for debt financing of higher education facilities:

1. *It authorizes the State to issue security interest bonds to finance $2.7 billion of capital facilities for the University of North Carolina and $300 million of capital facilities for community colleges. The bonds would be secured by a security interest in the capital facilities being financed.*
2. *It authorizes the UNC Board of Governors to issue special obligation bonds to finance capital facilities for the University. The bonds would be secured by the University's receipts, other than tuition or appropriations from the General Fund.*

Security Interest Bonds. Article 2 of the new Chapter 116D created by this bill would authorize the State to issue university improvement security interest bonds secured by a lien on or security interest in University property acquired, constructed, or improved with the bond proceeds. Article 4 of the new Chapter 116D would authorize the State to issue community college security interest bonds secured by a lien on or security interest in community college property acquired, constructed, or improved with the bond proceeds. These security interest bonds would be repaid from the General Fund. The maximum maturity on the bonds would be 25 years.

The university improvement security interest bonds would be used for construction, improvement, and acquisition of capital facilities for constituent and affiliated institutions of The University of North Carolina, including the Center for Public Television, the UNC Health Care System, the School of Science and Mathematics, and the North Carolina Arboretum. Similarly, the community college security interest bonds would be used for grants to community colleges for construction, improvement, and acquisition of their capital facilities. The bill specifically defines capital facilities as buildings, utilities, structures, and other facilities and property developments, including streets, landscaping, equipment and furnishings in connection with a building project, and land acquisition. The facilities may include sports facilities, housing, and administrative offices as well as educational buildings.

The security interest bonds would be issuable by the Treasurer only to fund allocations established by the General Assembly; those allocations are set out in Sections 2 and 3 of this bill. The bill limits the amount of community college security interest bonds that may be issued to $300 million and limits the amount of university improvement security interest bonds that may be issued each year over five years as follows:

Fiscal Year	Aggregate Amount
1999-2000	$240,000,000
2000-2001	480,000,000
2001-2002	700,000,000
2002-2003	640,000,000

2003-2004 640,000,000

The proposed security interest bonds are not general obligation bonds and thus are not required to be approved by the voters. They are not secured by the full faith and credit or the taxing power of the State; a statement to this effect would appear on the face of the bonds. The State could choose not to appropriate funds to pay the bonds, but such a decision would have negative consequences for the State's credit rating.

The security interest bonds would be secured by a lien or security interest in all or any part of the capital facilities to be financed, including all or part of any land on which improvements are to be constructed. If the project is a renovation, the entire existing facility as well as the improvement could serve as security. In the case of community college bonds, although the bonds are issued by the State, the community college or county that owns the property would give the security interest. No deficiency judgment could be rendered against the State if the bonds were not paid. The property securing the bonds would be sold and the net proceeds would be applied to pay the bonds.

Section 2 of the bill sets out the specific projects for which university improvement security interest bonds would be issued. If the cost of a project changed, the Board of Governors could reallocate funds from one project to another, but only between projects at the same institution.

Section 2 also allocates nearly $300 million of the university improvement security interest bonds for matching gift incentive program projects. The bill directs the Board of Governors to employ a private consultant to develop a list of capital facilities to be funded jointly from the bonds and private donations. The list would include matching requirements based on each institution's fund-raising capabilities. The Board of Governors must submit the list to the General Assembly by April 1, 2000. The bonds for these projects can be issued only after the General Assembly enacts legislation allocating the proceeds for the specific projects.

Section 3 of the bill sets out the amount allocated to each community college for new construction and for repairs and renovations and requires that the allocations must be used in accordance with the State Board of Community Colleges' consultant's report, which establishes the funding formula for new construction needs and repair and renovation needs at each campus. A community college could not reallocate to another campus funds that the consultant's report allocates to a specific campus. Bond proceeds allocated for repair and renovations could be used only for repair and renovations, but bond proceeds allocated for new construction could be used either for new construction or for repair and renovations.

There are some community colleges that did not have an allocation for new construction in the consultant's report, but that do have an allocation of bond proceeds for new construction in the bill. The bill provides that these community colleges may receive their new construction allocation only to the extent they can document to the State Board of Community Colleges their actual needs for new construction, or their actual needs for repair and renovations in excess of the amount allocated in the bill for repairs of renovations. If any bond proceeds could not be used because of a community college's failure to document these needs, those amounts would be pooled and reallocated by the State Board to other community colleges that were able to document actual needs in excess of the amounts already allocated for those needs in the bill.

Under general law, community colleges are required to match State capital funds on a dollar-for-dollar basis. This bill provides three limited exceptions to this requirement for the bond proceeds. First, bond proceeds allocated for repair and renovations need not be matched. Second, community colleges which the consultant's report determined had a matching ability of 40% or less, based on ability to pay, need not

match allocations for new construction. Third, community colleges which the consultant's report determined had a matching ability of more than 40% must match new construction allocations only at the matching ability percentage assigned to them in the report.

UNC Special Obligation Bonds. Article 3 of the new Chapter 116D created by this bill would authorize the UNC Board of Governors to issue special obligation bonds payable with any sources of income or receipts of the Board of Governors or a constituent or affiliated institution, but not including tuition payments or appropriations from the General Fund from State revenues. The bond proceeds could be used for construction, improvement, and acquisition of any capital facilities located at UNC constituent and affiliated institutions. The maximum maturity on the bonds would be 25 years. Special obligation bonds could be issued only for projects specifically authorized by the General Assembly, as is the current practice for revenue bonds (self-liquidating bonds).

The proposed UNC special obligation bonds are not general obligation bonds and thus are not required to be approved by the voters. They are not secured by the full faith and credit or the taxing power of the State; a statement to this effect would appear on the face of the bonds. Property could not be pledged to secure the bonds. The bonds would be secured by the Board of Governors' pledge of obligated resources to serve as security for the bonds. Obligated resources, defined in proposed G.S. 116D-22, would include rents, charges, or fees to be derived by the Board of Governors or a constituent institution from any activity; earnings on the investment of an endowment fund; and funds to be received from grants and contracts. Obligated resources would not include tuition payments or appropriations of general revenues. Obligated resources derived from one institution could not be used to finance a bond project located at a different institution.

To the extent the generation of obligated resources is within the control of the Board of Governors, proposed G.S. 116D-28 would authorize and require the Board to increase the underlying fees or charges as necessary to generate sufficient revenues to pay the bonds. An individual institution could not increase a fee or charge with out approval of the Board of Governors. The Board would be required to set aside a sufficient amount of obligated resources on a regular basis into a sinking fund pledged to pay the principal and interest on the bonds. The bill provides that the State pledges and contracts that it will not limit or alter the rights vested in the Board of Governors with respect to the bonds as long as any bonds are outstanding.

The amount of special obligation bonds that could be issued is limited by the extent to which the Board of Governors finds that sufficient obligated resources are "reasonably expected" to be available to pay the debt service. In submitting proposed special obligation bond projects to the General Assembly for approval, the Board of Governors would be required to justify the need for each project and to itemize the cost of the project, the estimated operating costs upon completion, and the sources and amounts of obligated resources to be pledged for repayment of the bonds. The Board of Governors could submit a proposed project for approval by the General Assembly only if the project has been approved by the board of trustees of the institution at which the project would be located.

Reporting Requirements. The bill imposes reporting requirements to allow the General Assembly to monitor all aspects of the proposed bonds. The Board of Governors would be required to report annually to the Joint Legislative Commission on Governmental Operations on (1) the university improvement security interest bonds, including total project costs, amount funded by bonds, expenditures to date, progress to completion, and estimated operating costs and their proposed source of payment; and on (2) the special obligation bonds, including, for each institution, outstanding debt, specific projects, debt service requirements, actual repayments, compliance with all applicable financial requirements, and

trends and revenue streams for obligated resources. The State Treasurer would be required to report annually, and upon each issuance of university improvement security interest bonds and community college security interest bonds, on debt service requirements for the bonds. Finally, the Community Colleges System Office would be required to report quarterly to the Joint Legislative Education Oversight Committee on projects funded from community college security interest bonds, including total project costs, the amount funded by bonds, expenditures to date, and progress to completion.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

H. B. No. _____ DATE _____

S. B. No. 912 PCS Amendment No. _____
(to be filled in by Principal Clerk)

Rep.)
) HOYLE
Sen.)

moves to amend the bill on page 4 1, line 7

by deleting "1,061,903" in column one and substituting "1,061,886". ~~and adding the total~~

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

√2 new

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1481
Proposed Committee Substitute H1481-PCSX6222-LC

Short Title: Bonds for Higher Education. (Public)

Sponsors:

Referred to:

May 13, 1999

A BILL TO BE ENTITLED

AN ACT (1) TO PROVIDE FOR THE FINANCING OF CAPITAL FACILITIES FOR THE UNIVERSITY OF NORTH CAROLINA THROUGH THE ISSUANCE OF STATE OF NORTH CAROLINA UNIVERSITY IMPROVEMENT SECURITY INTEREST BONDS, (2) TO AUTHORIZE THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO ISSUE SPECIAL OBLIGATION BONDS FOR IMPROVEMENTS TO THE FACILITIES OF THE UNIVERSITY OF NORTH CAROLINA AND FOR THE UNIVERSITY OF NORTH CAROLINA HOSPITALS AT CHAPEL HILL AND OTHER FACILITIES OF THE UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM, AND (3) TO PROVIDE FOR THE FINANCING OF CAPITAL IMPROVEMENTS FOR COMMUNITY COLLEGES THROUGH THE ISSUANCE OF STATE OF NORTH CAROLINA COMMUNITY COLLEGE SECURITY INTEREST BONDS.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 116D.

"Higher Education Bonds.

"ARTICLE 1.

"General Provisions.

"**§ 116D-1. Definitions.**

The following definitions apply in this Chapter:

(1) Board of Governors. -- The Board of Governors of the University.
(2) Capital facility. -- Any one or more of the following for the University or for a community college:
a. One or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment and furnishings in connection therewith.
b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.
c. Land or an interest in land.
d. Other infrastructure.

The term includes, without limitation, classroom buildings, laboratory buildings, research facilities, libraries, physical education facilities, continuing education centers, student cafeterias, and activity facilities, including sports facilities, student and faculty housing facilities, and administrative office facilities.

(3) Cost. -- Any of the following in financing the cost of capital facilities and special obligation bond projects, as authorized by this Chapter:
a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities and special obligation bond projects, including the acquisition of land, rights-of-way, easements, franchises, equipment, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility or special obligation bond project.
b. The cost of engineering, architectural, and other consulting services as may be required.
c. The cost of providing personnel to ensure effective project management.
d. Finance charges, reserves for debt service, and interest prior to and during construction.
e. Administrative expenses and charges incurred by the State in connection with the administration of a bond program created under this Chapter.
f. The cost of bond insurance, investment contracts, credit enhancement, and liquidity facilities, interest-rate swap agreements or other derivative products, financial and legal consultants, and related costs of bond and note issuance.
g. The cost of reimbursing the State for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Chapter.

(4) Credit facility. -- An agreement entered into by the State Treasurer on behalf of the State with a bank, savings and loan association or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States, and providing for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption or acceleration), redemption premium, if any, and interest on any bonds or notes payable on demand or tender by the owner, in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(5) Fiscal period. -- A fiscal biennium or a fiscal year of the fiscal biennium.

(6) Fiscal year. -- The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(7) Par formula. -- A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any bonds or notes, including:

a. A provision providing for an adjustment so that the purchase price of bonds or notes in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. A provision that the State Treasurer determines is consistent with this Chapter and will not materially and adversely affect the financial position of the State and the marketing of bonds or notes at a reasonable interest cost to the State.

(8) Securities issued under this Chapter. -- Any of the following:

a. University improvement security interest bonds, refunding bonds, notes, and refunding notes issued under Article 2 of this Chapter.

b. Special obligation bonds, bond anticipation notes, and refunding bonds issued under Article 3 of this Chapter.

c. Community college security interest bonds, refunding bonds, notes, and refunding notes issued under Article 4 of this Chapter.

(9) State. -- The State of North Carolina.

(10) State Treasurer. -- The incumbent Treasurer, from time to time, of the State.

(11) University. -- The University of North Carolina and its constituent and affiliated institutions, including, without limitation, the University of North Carolina Center for Public Television, the University of North Carolina Health Care System, the North Carolina School of Science and Mathematics, and the North Carolina Arboretum.

"**§ 116D-2. General provisions.**

(a) Signatures. -- Should any officer whose signature or facsimile signature appears on securities issued under this Chapter cease to be that officer before the delivery of the securities, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery of the securities. Securities issued under this Chapter may bear the facsimile signatures of persons, who at the actual time of the execution of the securities were the proper officers to sign any security although at the date of the security those persons may not have been officers.

(b) Tax Exemption. -- Securities issued under this Chapter shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, or gift taxes, income taxes on the gain from the transfer of the securities, and franchise taxes. The interest on the securities is not subject to taxation as income.

(c) Investment Eligibility. -- Securities issued under this Chapter are securities in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions, insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, other financial institutions engaged in business in the State, executors, administrators, trustees, and other fiduciaries. Securities issued under this Chapter are securities which may properly and legally be deposited with and received by any officer or agency of the State or a political subdivision of the State for any purpose for which the deposit of bonds or notes of the State or any political subdivision is now or may later be authorized by law.

(d) Inconsistent Laws. -- All general, special, or local laws that are inconsistent with this Chapter do not apply to this Chapter.

"**§ 116D-3. Reports.**

(a) Board of Governors. -- The Board of Governors shall report to the Joint Legislative Commission on Governmental Operations by September 15 of each year, and more frequently as the Commission requests, on the following:

(1) University Improvement Security Interest Bonds. -- The Board of Governors shall report on projects funded by university improvement security interest bonds under Article 2 of this Chapter, including the total project costs, the amount to be funded

from the bonds, the expenditures to date from the bonds and other sources, and the percentage of each project completed. Each annual report shall include estimated operating costs for each project begun in the preceding fiscal year, including proposed sources of funds and anticipated dates for occupancy. Operating costs shall be projected for a period of at least 20 years from the date of anticipated project completion.

(2) Special Obligation Bonds. -- The Board of Governors shall report on special obligation bonds issued under Article 3 of this Chapter, including the amount of debt, itemized for each institution of the University, by bond issue, and by project. The report shall include schedules of debt service requirements and actual payments, as well as evidence of compliance with additional financial covenants required by bond documents. The report shall identify the trends and current revenue streams of the sources of obligated resources pledged for each bond issue.

(b) Treasurer. -- Upon issuance of university improvement security interest bonds under Article 2 of this Chapter or community college security interest bonds under Article 4 of this Chapter, the Treasurer shall forward a schedule of required payments of principal and interest over the life of the bonds to the Director of the Budget, with copies to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. The Treasurer shall report to the Joint Legislative Commission on Governmental Operations by September 15 of each year, and more frequently as the Commission requests, on the university improvement security interest bonds issued under Article 2 of this Chapter and community college security interest bonds issued under Article 4 of this Chapter, including the annual debt service requirements over the remainder of the life of the bonds.

(c) Community Colleges. -- The Community Colleges System Office shall report quarterly to the Joint Legislative Education Oversight Committee on the projects funded from community college security interest bonds. Each report shall include the total project costs, the amount to be funded from the bonds, the expenditures to date from the bonds and other sources, and the percentage of each project completed.

"ARTICLE 2.

"Security Interest Bonds for Financing Capital Facilities for The University of North Carolina.

"§ 116D-5. Short title.

This Article may be cited as the University Improvement Security Interest Bonds Finance Act.

"§ 116D-6. Findings and purpose.

The General Assembly finds that:

(1) Article IX of the North Carolina Constitution requires the General Assembly to maintain a public system of higher education comprising The University of North Carolina, that the benefits of

the University, as far as practicable, be extended to the people of North Carolina without expense.

(2) Recent studies have shown that billions of dollars will be necessary to repair and renovate the current facilities of the University, to expand the facilities to meet future enrollment demands, to modernize existing facilities of the University in order for the University to continue to provide excellent educational opportunities for the people of North Carolina, and to meet the challenges of changing technologies and globalization of economies.

(3) The University is one of the most valuable assets of the State, and the State cannot afford to permit the quality of the University to decline due to failure to maintain, expand, and modernize the facilities of the University. The failure to expend the required amounts to maintain, modernize, and expand the University will have a significant negative impact upon the continuing quality of the University. Such a negative impact is unacceptable to the citizens of the State.

(4) The University's capital facilities have been and will continue to be provided from University funds on hand, direct appropriations by the State, the proceeds of University self-liquidating debt obligations, and the proceeds of State general obligation bonds secured by a pledge of the faith and credit of the State. There is a need, however, for the use of alternative financing methods to facilitate funding capital facilities when circumstances and conditions warrant the use of financing methods other than those currently used.

(5) The use of State of North Carolina University Improvement Security Interest Bonds, secured by a lien on or security interest in University property acquired, constructed, or improved with the bond proceeds, with the payments of principal and interest appropriated by the General Assembly, will provide flexibility to the State in the financing of facilities for the University and will permit the State to take advantage of changing financial and economic environments.

"**§ 116D-7. Definitions.**

The following definitions apply in this Article:

(1) Bonds. -- Bonds authorized to be issued under this Article, including refunding bonds.

(2) Notes. -- Notes issued under this Article.

(3) University improvement security interest bonds. -- Bonds authorized to be issued under this Article, including refunding bonds.

"**§ 116D-8. Authorization of bonds and notes.**

The State Treasurer may, by and with the consent of the Council of State, issue and sell, at one time or from time to time, university improvement security interest bonds of the State to be designated 'State of North Carolina University Improvement Security Interest Bonds', with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State. Except as otherwise provided by this Article, the aggregate amount of bonds and notes issued pursuant to this Article shall not exceed two billion seven hundred million dollars ($2,700,000,000). The bonds and notes shall be issued in the following years up to the following amounts:

Fiscal Year	Aggregate Amount
1999-2000	$240,000,000
2000-2001	480,000,000
2001-2002	700,000,000
2002-2003	640,000,000
2003-2004	640,000,000

If less than the aggregate amount of bonds or notes authorized to be issued in a fiscal year is issued in that fiscal year, the balance for that fiscal year may be issued in any subsequent fiscal year. Refunding bonds and notes issued pursuant to G.S. 116D-11(f) shall not be included in the limitation on the aggregate amount of bonds and notes that may be issued pursuant to this Article.

The proceeds of bonds or notes issued under this Article shall be applied to finance the cost of improvement, construction, and acquisition of capital facilities for the University or to refund any outstanding bonds or notes issued under this Article. The capital facilities to be improved, constructed, or acquired with the proceeds of bonds or notes shall be determined as provided in G.S. 116D-9.

"**§ 116D-9. Designation of capital facilities and preconditions to bond issuance.**

The capital facilities to be financed in whole or in part with the proceeds of university improvement security interest bonds shall be set forth in legislation enacted from time to time by the General Assembly. The proceeds of university improvement security interest bonds shall not be expended to pay the costs of any capital facilities other than those set forth in that legislation.

"**§ 116D-10. Security; other requirements.**

(a) Security. -- To secure payment of the principal of and interest on bonds or notes issued under this Article, the State may create a lien on or a security interest in one or more of the following:

(1) In all or any part of the capital facilities to be financed by the bonds or notes.

(2) In the case of construction of improvements on real property, in all or some portion of the land on which the improvements are to be located or in all or part of the improvements.

(3) In the case of renovations or improvements to or the installation of fixtures in existing facilities, in all or some portion of the existing facilities, or in all or part of the renovations or improvements.

Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for university improvement security interest bonds, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for university improvement security interest bonds following the State's default on its obligations under the bonds or notes or any trust agreement or other instrument securing payment of the bonds or notes. The security for an issue of bonds shall be set forth in general terms in the resolution of the Council of State authorizing the issuance of the bonds. The property that will be the subject of a lien, deed of trust, or security interest to secure the bonds need not bear any particular relationship to the principal amount of the bonds or notes. The State may grant multiple liens or security interests in a capital facility to the extent not otherwise limited by the terms of other issues of bonds or notes.

(b) Default. -- If university improvement security interest bonds are secured by a lien, deed of trust, or security interest in multiple items of property, the mortgage, deed of trust, or security agreement or other instrument creating the lien, deed of trust, or security interest shall provide that if the State defaults on its obligations with respect to university improvement security interest bonds, the Board of Governors, on behalf of the State, shall determine the order in which the property comprising the security shall be sold or otherwise conveyed to satisfy the obligations of the State. In carrying out the provisions of this subsection, the Board of Governors shall endeavor to select for sale or conveyance to satisfy the obligations of the State those items of property that, in the judgment of the Board of Governors, if sold, would result in the least amount of interruption to the operations of the University as a whole and its ability to carry out its mission. Any determination made by the Board of Governors in carrying out this endeavor shall be conclusive. Nothing in this subsection prohibits the sale or conveyance of up to all of the property securing university improvement security interest bonds to the extent necessary to satisfy the obligations of the State under the bonds.

(c) Governor's Budget. -- Documentation relating to any bonds or notes may include provisions requiring the Governor to submit in the Governor's budget proposal, or in any amendments or supplements to the budget proposal, appropriations necessary to make the payments required to pay the bonds or notes.

(d) Appropriations. -- Amounts payable by the State in respect of an issue of bonds or notes during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) State Liability. -- No deficiency judgment may be rendered against the State in any action for breach of any obligation contained in an issue of bonds or notes or any trust agreement or other instrument securing payment of the bonds or notes. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under an issue of bonds or notes. In the event that the State fails to pay any payments required under or with respect to an issue of bonds or notes, whether on account of a failure by the General Assembly to appropriate sufficient funds for the payment or for some other reason, the net proceeds received

from the sale or other disposition of the capital facilities subject to the lien or security interest securing the bonds or notes shall be applied to satisfy the payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest, and the net proceeds are hereby appropriated for the purpose of making those payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under an issue of bonds or notes shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. -- No documentation relating to an issue of bonds or notes may contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility financed or purchased by the bonds or notes.

(g) Terms Protecting Lender. -- The documentation relating to an issue of bonds or notes may contain provisions for protecting and enforcing the rights and remedies of the owners of the bonds or notes that are reasonable and proper and not in violation of law. It may include covenants setting forth the duties of the State in respect of the purposes to which the proceeds of the bonds or notes may be applied, the disposition and application of any appropriations of the State, and the duties of the State with respect to the capital facilities financed, including, without limitation, the payment of the costs of insurance and maintenance of the capital facilities, the terms under which the collateral securing the bonds may be released or substitute collateral may be delivered, the terms and conditions of the issuance of additional bonds or notes similarly secured, and the custody, safeguarding, investment, and application of all moneys.

(h) Statement on Face of Bonds. -- Bonds issued under this Article shall contain on their face a statement to the effect that neither the faith and credit nor the taxing power of the State or of any political subdivision or instrumentality of the State is pledged to the payment of the principal of or the interest on the bonds.

"**§ 116D-11. Issuance of bonds and notes.**

(a) Terms and Conditions. -- Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 25 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. -- Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear the State Treasurer's facsimile signature, and shall bear the Great Seal of the State or a facsimile of the Seal impressed or imprinted on them. If bonds or notes bear the

facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as the State Treasurer may determine in conformity with this Article.

(c) Manner of Sale; Expenses. -- Subject to the approval by the Council of State as to the manner in which bonds or notes shall be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. -- The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys which may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. -- By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment or principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes as authorized in this Article.

Funds derived from the sale of bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General

Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. -- By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding bonds or notes issued pursuant to this Article and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes similarly secured. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the bonds or notes being refunded or, if not required for the immediate payment of the bonds or notes being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the bonds or notes being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) obligations of any agency or instrumentality of the United States government if the timely payment of principal and interest on the obligations is unconditionally guaranteed by the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of bonds or notes being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Trust Agreement. -- In the discretion of the State Treasurer, any bonds and notes issued under the provisions of this Article may be secured by a trust agreement or similar instrument by and between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank having the powers of a trust company within or without the State. The trust agreement or resolution may provide for security, and pledges and assignments with respect to the security, as permitted under this Article and may provide for the granting of a lien or security interest in the property as authorized in G.S. 116D-10. The trust agreement or resolution may contain provisions for the terms and conditions of the issuance of additional bonds and notes, and the custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article shall be equally and ratably secured as provided in the trust agreement or resolution, without priority by reasons of number, or dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust agreement or resolution. The trust agreement or resolution may, however, provide that the bonds or notes shall, to the extent and in the manner prescribed in

the trust agreement or resolution, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security thereof, to any other bonds or notes. It shall be lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities as may be required by the State Treasurer. Any trust agreement or resolution may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, any trust agreement or resolution may contain other provisions that the State Treasurer considers reasonable and proper for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of any trust agreement or resolution may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"§ 116D-12. Variable rate demand bonds and notes.

(a) In fixing the details of bonds and notes, the State Treasurer may provide that the bonds and notes may:

(1) Be made payable from time to time on demand or tender for purchase by the owner, if a credit facility supports the bonds or notes, unless the State Treasurer specifically determines that a credit facility is not required upon a finding and determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State and the marketing of the bonds or notes at a reasonable interest cost to the State.

(2) Be additionally supported by a credit facility.

(3) Be made subject to redemption or a mandatory tender for purchase prior to maturity.

(4) Bear interest at rates that may vary from any periods of time, as may be provided in the proceedings providing for the issuance of the bonds or notes, including, without limitation, any variations as may be permitted pursuant to a par formula.

(5) Be made the subject of a remarketing agreement whereby an attempt is made to remarket bonds or notes to new purchasers prior to their presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of bonds or notes secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium, or for any other reason, then the amount of authorized but unissued bonds or notes during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 116D-13. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of bonds or notes. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated with any bond issue under this Article as the State Treasurer considers necessary.

"ARTICLE 3.

"Special Obligation Bonds for Improvements to the Facilities of The University of North Carolina.

"**§ 116D-21. Purpose.**

The purpose of this Article is to authorize the Board of Governors of The University of North Carolina to issue special obligation bonds, payable from obligated resources, but with no pledge of taxes or the faith and credit of the State or any agency or political subdivision of the State, to pay the cost, in whole or in part, of improvements to the facilities of the University.

"**§ 116D-22. Definitions.**

The following definitions apply in this Article:

(1) Existing facilities. -- Buildings and facilities then existing that generate income or receipts to the Board of Governors that are pledged, under the provisions of a resolution authorizing the issuance of the special obligation bonds under this Article, to the payment of the bonds.

(2) Institution. -- Each of the institutions enumerated in G.S. 116-2, and any affiliated institutions of the University, including, without limitation, the University of North Carolina Center for Public Television, the University of North Carolina Health Care System, the North Carolina School of Science and Mathematics, and the North Carolina Arboretum.

(3) Obligated resources. -- Any sources of income or receipts of the Board of Governors or the institution at which a special obligation bond project is or will be located that are designated by the Board as the security and source of payment for bonds issued under this Article to finance a special obligation bond project, including, without limitation, any of the following:

a. Rents, charges, or fees to be derived by the Board of Governors or the institution from any activities conducted at the institution.

b. Earnings on the investment of the endowment fund of the institution at which a special obligation project will be located, to the extent that the use of the earnings will not violate any lawful condition placed by the donor upon the

part of the endowment fund that generates the investment earnings.

c. Funds to be received under a contract or a grant agreement, including 'overhead costs reimbursement' under a grant agreement, entered into by the Board of Governors or the institution to the extent the use of the funds is not restricted by the terms of the contract or grant agreement or the use of the funds as provided in this Article does not violate the restriction.

Obligated resources do not include funds appropriated to the Board of Governors or the institution from the General Fund by the General Assembly from funds derived from general tax and other revenues of the State, and obligated resources do not include tuition payment by students.

(4) Special obligation bonds. -- Bonds issued under this Article to finance the cost of a special obligation project, which bonds are secured by and payable from obligated resources designated by the Board of Governors at the time the issuance of the bonds is authorized in accordance with this Article.

(5) Special obligation bond project. -- Any capital facilities located or to be located at an institution for the purpose of carrying out the mission of that institution and designated specifically by the Board of Governors as a 'special obligation bond project' for purposes of this Article. A special obligation bond project need not necessarily consist of buildings or facilities that are expected to generate 'self-liquidating revenues' to the Board of Governors or the institution from direct rentals, charges, or fees from the services provided by the building or facility, and may include facilities such as classroom buildings, administration buildings, research facilities, libraries, and equipment that do not produce direct, or indirect, income to the Board of Governors or the institution.

"§ 116D-23. Credit and taxing power of State not pledged; statement on face of bonds.

Special obligation bonds issued under this Article shall not constitute a debt or liability of the State or any political subdivision of the State or a pledge of the faith and credit of the State or of any political subdivision of the State. Special obligation bonds shall be secured solely by the obligated resources pledged to their payment. All of the special obligation bonds shall contain on their face a statement to the effect that neither the State nor the Board of Governors is obligated to pay the bonds or the interest on the bonds except from the obligated resources pledged for payment and that neither the faith and credit nor the taxing power of the State or of any political subdivision or instrumentality of the State is pledged to the payment of the principal of or the interest on the bonds. The issuance of special obligation bonds under this

Article does not directly or indirectly or contingently obligate the State or any political subdivision of the State to levy or to pledge any taxes for the bonds.

"**§ 116D-24. General powers of Board of Governors.**

The Board of Governors is authorized, subject to the requirements of this Article, to do all of the following:

(1) Determine the location and character of any special obligation bond project, to acquire, construct, and provide the project, and to maintain, repair, and operate and enter into contracts for the management, lease, use, or operation of all or any portion of any special obligation bond project and any existing facilities.

(2) Issue special obligation bonds to pay all or any part of the cost of a special obligation bond project, and to fund or refund any bonds previously issued by the Board of Governors to finance facilities designated as a special obligation bond project.

(3) Fix and revise from time to time and charge and collect fees, rates, rents, charges, and other income for the use of and for the services furnished by the institution that are designated as obligated resources in connection with a special obligation bond issue.

(4) Establish and enforce, and to agree through any resolution or trust agreement authorizing or securing bonds under this Article to make and enforce, rules for the use of and services rendered by the institution of the income or receipts to be obtained from the use or services designated as obligated resources in connection with a special obligation bond issue.

(5) Acquire, hold, lease, and dispose of real and personal property in the exercise of its powers and the performance of its duties and to lease all or any part of a special obligation bond project and any existing facilities for any periods of years, not exceeding 40 years, upon any terms and conditions as the Board of Governors determines, subject to the provisions of G.S. 143-341.

(6) Employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and any other employees and agents as may be necessary in its judgment in connection with a special obligation bond project and existing facilities, and to fix their compensation.

(7) Enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Article.

(8) Receive and accept from any federal, State, or other public agency and any private agency, person, or other entity donations, loans, grants, aid, or contributions of any money, property, labor, or other things of value for a special obligation bond project or any other services provided by the institution that is designated as the obligated resource in connection with a special obligation bond

issue, and to agree to apply and use them in accordance with the terms and conditions under which they are provided.

(9) Do all acts and things necessary or convenient to carry out the powers granted by this Article.

"§ 116D-25. Consultation with the Joint Legislative Commission on Governmental Operations.

Whenever this Article requires the approval of the Director of the Budget of an action, the Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations before giving approval.

"§ 116D-26. Issuance of special obligation bonds and bond anticipation notes.

(a) Authority. -- The Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, special obligation bonds of the Board of Governors for the purpose of paying all or any part of the cost of acquiring, constructing, or providing a special obligation project. Before issuing special obligation bonds, the Board of Governors shall first adopt a resolution (i) setting forth the designation by the Board of Governors that the buildings or facilities to be financed by the bond issue are the special obligation bond project being financed and (ii) designating the obligated resources that will secure and be the source of payment of the special obligation bonds to be issued. The Board of Governors shall not issue any special obligation bonds unless the Board of Governors finds that sufficient obligated resources are reasonably expected to be available (i) to pay the principal and interest on the special obligation bonds proposed to be issued, (ii) to create and maintain any reserves for the payment of the special obligation bonds, to the extent the Board of Governors is required to maintain reserves for this purpose by the terms of the trust agreement or resolution authorizing the issuance of the special obligation bonds, and (iii) to provide for the maintenance and operation of the facilities that are to generate the obligated resources to the extent the Board of Governors is required to maintain those facilities by the terms of the trust agreement or resolution authorizing the issuance of the special obligation bonds. Notwithstanding any other provision of this Article, the proceeds of special obligation bonds to be secured by obligated resources derived from the operation of or activities at one institution may not be applied to finance a special obligation project to be located at another institution.

(b) Approval Required. -- The Board of Governors shall not issue any special obligation bonds for a project at an institution unless the board of trustees of that institution has approved the issuance of bonds for that project. The Board of Governors shall not issue special obligation bonds under this Article until the effective date of legislation enacted by the General Assembly authorizing the undertaking of the special obligation bond project to be financed and fixing the maximum aggregate principal amount of special obligation bonds that shall be issued for that purpose. In submitting proposed special obligation bond projects to the General Assembly for approval, the Board of Governors shall submit information on the need for each project, project costs, estimates of increased operating costs upon completion, estimated debt service requirements, and the sources and amounts of

obligated resources to be pledged for the repayment of the bonds. If the obligated resources to repay the bonds or to operate the proposed project potentially involve increased costs to students or to the General Fund, these costs shall be identified in the Board of Governors' submission.

Except as provided in this Article, special obligation bond projects may be undertaken, special obligation bonds may be issued, and other powers vested in the Board of Governors under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, or things which are specifically required by this Article.

(c) Term; Form. -- The special obligation bonds of each issue shall be dated, shall mature at any times not exceeding 25 years from their dates, shall bear interest at any rates as may be determined by the Board of Governors, and may be redeemable before maturity at the option of the Board, at any prices and under any terms and conditions as may be fixed by the Board prior to the issuance of the special obligation bonds. The Board of Governors shall determine the form and manner of execution of the special obligation bonds and shall fix the denominations of the special obligation bonds and the places of payment of principal and interest, which may be at any bank or trust company within or without the State. Notwithstanding any of the other provisions of this Article or any recitals in any special obligation bonds issued under the provisions of this Article, all special obligation bonds shall be negotiable instruments under the laws of this State, subject only to the provisions for registration in a resolution authorizing the issuance of the special obligation bonds or a trust agreement securing the bonds. The Board of Governors may sell the special obligation bonds in any manner, at public or private sale, and for any price, as it may determine to be for its best interests.

(d) Proceeds; Additional Bonds. -- The proceeds of the special obligation bonds of each issue shall be used solely for the purpose for which the bonds have been authorized and shall be disbursed in the manner and under such restrictions, if any, as the Board of Governors may provide in the resolution authorizing the issuance of the bonds or in the trust agreement securing them. Unless otherwise provided in the authorizing resolution or in the trust agreement securing the special obligation bonds, if the proceeds of the special obligation bonds, by error of estimates or otherwise, are less than the cost of the special obligation bond project, additional bonds may in like manner be issued to provide the amount of the deficit and shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of special obligation bonds, and any trust agreement securing them, may also contain limitations upon the issuance of additional special obligation bonds as the Board of Governors considers proper, and the additional special obligation bonds must be issued under the restrictions and limitations prescribed by the resolution or trust agreement.

(e) Temporary Bonds; Notes. -- Before preparing definitive bonds, the Board of Governors may, under like restrictions, issue interim receipts or temporary bonds exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The Board may also provide for the replacement of any bonds which become mutilated, destroyed, or lost.

The Board of Governors may enter into or negotiate a note with an acceptable bank or trust company in lieu of issuing special obligation bonds for the financing of special obligation bond projects covered under this Article. The terms and conditions of any note of this nature shall be in accordance with the terms and conditions surrounding issuance of the special obligation bonds.

(f) Bond Anticipation Notes. -- The Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, bond anticipation notes of the Board of Governors in anticipation of the issuance of special obligation bonds authorized by this Article. The principal of and the interest on these notes shall be payable solely from the proceeds of special obligation bonds or renewal notes or, in the event bond or renewal note proceeds are not available, from the obligated resources designated for their payment. The notes of each issue shall be dated, shall mature at any times not exceeding two years from their dates, shall bear interest at any rates as may be determined by the Board of Governors, and may be redeemable before maturity, at the option of the Board of Governors, at any prices and under any terms and conditions as may be fixed by the Board of Governors prior to the issuance of the notes. The Board shall determine the form and the manner of execution of the notes and shall fix the denominations of the notes and the places of payment of principal and interest, which may be at any bank or trust company within or without the State. Notwithstanding any of the other provisions of this Article or any recitals in any notes issued under the provisions of this Article, all notes shall be negotiable instruments under the laws of this State, subject only to the provisions for registration in a resolution authorizing the issuance of the notes or any trust agreement securing the bonds in anticipation of which the notes are being issued. The Board of Governors may sell the notes in any manner, at public or private sale, and for any price, as it may determine to be for its best interests.

The proceeds of the notes of each issue shall be used solely for the purpose for which the special obligation bonds in anticipation of which the notes are being issued have been authorized, and the note proceeds shall be disbursed in any manner and under any restrictions as the Board of Governors may provide in the resolution authorizing the issuance of the notes or bonds or in the trust agreement securing the special obligation bonds.

The resolution providing for the issuance of notes, and any trust agreement securing the special obligation bonds in anticipation of which the notes are being authorized, may also contain limitations upon the issuance of additional notes as the Board of Governors considers proper, and such additional notes shall be issued under the restrictions and limitations prescribed by the resolution or trust agreement. The Board may also provide for the replacement of any notes which shall become mutilated, destroyed, or lost.

Except as provided in this Article, notes may be issued under this Article and other powers vested in the Board of Governors under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this Article.

Unless the context indicates otherwise, the word 'bonds', wherever used in this Article, include the words 'bond anticipation notes'.

"§ 116D-27. Trust agreement; money received deemed trust funds; insurance; remedies.

(a) Trust Agreement Securing Bonds. -- In the discretion of the Board of Governors and subject to the approval of the Director of the Budget, any special obligation bonds issued under this Article may be secured by a trust agreement by and between the Board of Governors and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. The trust agreement or the resolution providing for the issuance of special obligation bonds may pledge or assign the obligated resources designated as security for the special obligation bonds, but shall not convey or mortgage any property of the institution. The trust agreement or resolution providing for the issuance of special obligation bonds may contain provisions for protecting and enforcing the rights and remedies of the holders of the special obligation bonds that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the Board of Governors in relation to the acquisition, construction, or provision of any of the charging and collecting of any rates, fees, or charges that have been designated as obligated resources, the maintenance, repair, operation, and insurance of any property of the institution, and the custody, safeguarding, and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depositary of the proceeds of special obligation bonds or funds securing special obligation bonds to furnish any indemnifying bonds or to pledge any securities as may be required by the Board of Governors. A trust agreement or resolution may set forth the rights and remedies of the holders of the special obligation bonds and the rights, remedies, and immunities of the trustee or trustees, if any, and may restrict the individual right of action by the holders. In addition to the foregoing, a trust agreement or resolution may contain other provisions the Board of Governors considers reasonable and proper for the security of the holders. All expenses incurred in carrying out the provisions of the trust agreement or resolution may be treated as a part of the cost of the special obligation bond projects for which the special obligation bonds are issued or as an expense of operation of the special obligation bond project.

(b) Trust Funds. -- All moneys received pursuant to the authority of this Article, whether as proceeds from the sale of bonds, or as obligated resources, are trust funds to be held and applied solely as provided in this Article. The Board of Governors may provide for the payment of all or part of the proceeds of the sale of the special obligation bonds and the obligated resources to any officer, board, or depositary that

it may designate for their custody, and may provide for their method of disbursement, with any safeguards and restrictions it may determine. Any officer with whom, or any bank or trust company with which, moneys are deposited shall act as trustee of the moneys and shall hold and apply them for the purposes of this Article, subject to any requirements provided in this Article and in the resolution or trust agreement, authorizing or securing the special obligation bonds.

(c) Insurance. -- Notwithstanding the provisions of any other law, the Board of Governors may carry insurance on any special obligation bond projects and any existing facilities in any amounts and covering any risks it considers advisable.

(d) Remedies. -- Any holder of special obligation bonds issued under this Article and the trustees under a trust agreement, except to the extent the rights given in this section may be restricted by the trust agreement or the resolution authorizing the issuance of the special obligation bonds, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the State or granted under this Article or under the trust agreement or resolution, and may enforce and compel the performance of all duties required by this Article or by the trust agreement or resolution to be performed by the Board of Governors or by any of its officers, including the fixing, charging, and collecting of obligated resources.

"**§ 116D-28. Fixing and collecting obligated resources.**

(a) Board to Provide Sufficient Resources. -- For the purpose of aiding in the financing of a special obligation bond project and to provide security to the owners of the special obligation bonds issued to finance the special obligation bond project, the Board of Governors is authorized, to the extent the generation of the obligated resources is in the control of the Board, to fix, revise from time to time, charge, and collect the rents, charges, fees, or other revenues constituting the obligated resources. Fees and other revenue sources constituting obligated resources may be imposed or increased only with the approval of the Board of Governors. As long as any special obligation bonds issued under this Article and payable from those obligated resources are outstanding, the obligated resources, to the extent within the control of the Board of Governors, shall be so fixed and adjusted, with relation to other funds available, as to provide funds pursuant to the requirements of the resolution or trust agreement authorizing or securing the special obligation bonds and at least sufficient to pay the principal of and the interest on the special obligation bonds as they become due and payable, to assure the continued collection of the obligated resources, and to create and maintain reserves for these purposes. A sufficient amount of the obligated resources, except any part that may be necessary to pay the cost of maintenance, repair, and operation, and to provide reserves for these purposes and for renewals, replacements, extensions, enlargements, and improvements as may be provided for in the resolution authorizing the issuance of the special obligation bonds or in the trust agreement securing the same, shall be set aside at regular intervals as may be provided in the resolution or trust agreement authorizing the issuance of the special obligation bonds in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on the special obligation bonds as they

become due and the redemption price or the purchase price of special obligation bonds retired by call or purchase as provided in the resolution or trust agreement. This pledge shall be valid and binding from the time it is made, the obligated resources so pledged and thereafter received by the Board of Governors shall immediately be subject to the lien of the pledge without any physical delivery of the pledge or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Board of Governors, irrespective of whether the parties have notice of the pledge. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Board of Governors. The use and disposition of moneys to the credit of the sinking fund shall be subject to the provisions of the resolution authorizing the issuance of the special obligation bonds or of the trust agreement securing the bonds.

(b) State Pledge. -- The State pledges to, and agrees with, the holders of any special obligation bonds or notes issued by the Board of Governors pursuant to this Article that as long as any of the special obligation bonds or notes are outstanding and unpaid, the State will not limit or alter the rights vested in the Board of Governors at the time of issuance of the special obligation bonds or notes to set the terms and conditions of the special obligation bonds or notes and to fulfill the terms of any agreements made with the bondholders or noteholders. The State shall in no way impair the rights and remedies of the bondholders or noteholders until the special obligation bonds or notes and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders or noteholders are fully paid, met, and discharged.

"**§ 116D-29. Vesting powers in committee.**

The Board of Governors may authorize its budget and finance committee to sell any special obligation bonds which the Board has, with the approval of the Director of the Budget, authorized to be issued under this Article in any manner and under any limitations or conditions as the Board prescribes and to perform other functions under this Article the Board determines.

"**§ 116D-30. Refunding bonds.**

The Board of Governors may, subject to the approval of the Director of the Budget, issue from time to time refunding bonds for the purpose of refunding any bonds by the Board under this Article or under any Article of Chapter 116 of the General Statutes, including the payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the bonds refunded. The Board of Governors is further authorized, subject to the approval of the Director of the Budget, to issue from time to time refunding bonds for the combined purpose of (i) refunding any bonds issued by the Board under this Article or under any Article of Chapter 116 of the General Statutes, including the payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the bonds, and (ii) paying all or any part of the cost of acquiring or constructing any additional special obligation bond projects.

This Article, as applicable, governs the issuance of refunding bonds, their maturities and other details, the rights and remedies of their holders, and the rights, powers, privileges, duties, and obligations of the Board of Governors with respect to them.

"§ 116D-31. Additional and alternative method.

This Article provides an additional and alternative method for the doing of the things authorized and is supplemental and additional to powers conferred by other laws, including G.S. 116-175 to G.S. 116-185, inclusive and G.S. 116-197 and G.S. 116-198, and is not in derogation of or repealing any powers now existing under any other law, whether general, special, or local. The issuance of special obligation bonds or refunding bonds under this Article, however, need not comply with the requirements of any other law applicable to the issuance of bonds.

"ARTICLE 4.

"Community Colleges Facilities Security Interest Finance Act.

"§ 116D-40. Short title.

This Article may be cited as the Community College Facilities Security Interest Finance Act.

"§ 116D-41. Findings and purpose.

The General Assembly finds as follows:

(1) There is a continuing need for capital facilities for the State's community colleges, many of which will continue to be provided from current appropriations by counties, proceeds of various types of indebtedness incurred by counties for community college purposes, appropriations by the State, and the proceeds of State general obligation bonds secured by a pledge of the faith and credit of the State. There is a need, however, for the use of alternative financing methods such as authorized in this Article to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through a financing method other than those previously used.

(2) The use of State of North Carolina Community College Security Interest Bonds, secured by a lien on or security interest in the community college property acquired, constructed, or improved with the bond proceeds, and the payment of principal and interest on which are subject to appropriation at the discretion of the General Assembly, will provide financing flexibility to counties and the State and permit the counties and the State to take advantage of changing financial and economic environments.

"§ 116D-42. Definitions.

The following definitions apply in this Article:

(1) Bonds. -- Bonds authorized to be issued under this Article, including refunding bonds.

(2) Community college. -- Defined in G.S. 115D-2.

(3) Community college security interest bonds. -- Bonds authorized to be issued under this Article, including refunding bonds.

(4) Community Colleges System Office. -- The North Carolina Community Colleges System Office, created by Article 1 of Chapter 115D of the General Statutes, or if the Community Colleges System Office is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers, and duties given by this Article to the Community Colleges System Office.

(5) Notes. -- Notes issued under this Article.

"**§ 116D-43. Authorization of bonds and notes.**

Upon the application of the Community Colleges System Office, the State Treasurer may, by and with the consent of the Council of State, issue and sell, at one time or from time to time, community college security interest bonds of the State to be designated 'State of North Carolina Community College Security Interest Bonds', with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State. Except as otherwise provided by this Article, the aggregate amount of bonds and notes issued pursuant to this Article shall not exceed three hundred million dollars ($300,000,000). Refunding bonds and notes issued pursuant to G.S. 116D-46(f) shall not be included in the limitation on the aggregate amount of bonds and notes that may be issued pursuant to this Article.

The proceeds of bonds or notes issued under this Article shall be applied to finance the cost of grants to be made by the State to community colleges to finance the cost of capital facilities for the community college or to refund any outstanding bonds or notes issued under this Article. The capital facilities to be improved, constructed, or acquired with the proceeds of bonds or notes shall be determined as provided in G.S. 116D-44.

"**§ 116D-44. Designation of capital facilities and preconditions to bond issuance.**

The capital facilities to be financed in whole or in part with the proceeds of community college security interest bonds shall be described in legislation enacted from time to time by the General Assembly. The proceeds of community college security interest bonds shall not be expended to pay the costs of any capital facilities other than those described in that legislation.

"**§ 116D-45. Security; other requirements.**

(a) Security. -- To secure payment of the principal of and interest on bonds or notes issued under this Article, each community college that receives a grant pursuant to this Article, and each county to the extent it owns the capital facilities to be acquired or improved by a grant from the State pursuant to this Article, may create a lien on or a security interest in one or more of the following:

(1) In all or any part of the capital facilities to be financed by the bonds or notes.

(2) In the case of construction of improvements on real property, in all or some portion of the land on which the improvements are to be located or in all or part of the improvements.

(3) In the case of renovations or improvements to or the installation of fixtures in existing facilities, in all or some portion of the existing facilities or in all or part of the renovations or improvements.

The security for an issue of bonds shall be set forth in general terms in the resolution of the Council of State authorizing the issuance of the bonds. The property that will be the subject of a lien, deed of trust, or security interest to secure the bonds need not bear any particular relationship to the principal amount of the bonds or notes. A community college or county may grant multiple liens or security interests in a capital facility to the extent not otherwise limited by the terms of other issues of bonds or notes.

(b) Default. -- If community college security interest bonds are secured by a lien, deed of trust, or security interest in multiple items of property, the mortgage, deed of trust, or security agreement or other instrument creating the lien, deed of trust, or security interest shall provide that if the State defaults on its obligations with respect to community college security interest bonds, the Community Colleges System Office, on behalf of the State, shall determine the order in which the property comprising the security shall be sold or otherwise conveyed to satisfy the obligations of the State. In carrying out the provisions of this subsection, the Community Colleges System Office shall endeavor to select for sale or conveyance to satisfy the obligations of the State those items of property that, in the judgment of the Community Colleges System Office, if sold, would result in the least amount of interruption to the operations of the State's community college system as a whole and its ability to carry out its mission. Any determination made by the Community Colleges System Office in carrying out this endeavor shall be conclusive. Nothing in this subsection prohibits the sale or conveyance of up to all of the property securing community college security interest bonds to the extent necessary to satisfy the obligations of the State under the bonds.

(c) Governor's Budget. -- Documentation relating to any bonds or notes may include provisions requiring the Governor to submit in the Governor's budget proposal, or in any amendments or supplements to the budget proposal, appropriations necessary to make the payments required to pay the bonds or notes.

(d) Appropriations. -- Amounts payable by the State in respect of an issue of bonds or notes during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) State Liability. -- No deficiency judgment may be rendered against the State in any action for breach of any obligation contained in an issue of bonds or notes. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under an issue of bonds or notes. In the event that the State fails to pay any payments required under or with respect to an issue of bonds or notes, whether on account of a failure by the General Assembly to appropriate sufficient funds for the payment or for some other reason, the net proceeds received

from the sale or other disposition of the capital facilities subject to the lien or security interest securing the bonds or notes shall be applied to satisfy the payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest, and the net proceeds are hereby appropriated for the purpose of making those payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under an issue of bonds or notes shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. -- No documentation relating to an issue of bonds or notes may contain a nonsubstitution clause that restricts the right of the State, a community college, or a county to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility financed or purchased by the bonds or notes.

(g) Terms Protecting Lender. -- The documentation relating to an issue of bonds or notes, or relating to the security for an issue of bonds or notes, may contain provisions for protecting and enforcing the rights and remedies of the owners of the bonds or notes that are reasonable and proper and not in violation of law. The documentation may include covenants setting forth the duties of the State or a community college in respect of the purposes to which the proceeds of the bonds or notes may be applied, the disposition and application of any appropriations of the State, and the duties of the State or a community college with respect to the capital facilities financed, including, without limitation, the payment of the costs of insurance and maintenance of the capital facilities, the terms under which the collateral securing the bonds may be released or substitute collateral may be delivered, the terms and conditions of the issuance of additional bonds or notes similarly secured, and the custody, safeguarding, investment, and application of all moneys.

(h) Statement on Face of Bonds. -- Bonds issued under this Article shall contain on their face a statement to the effect that neither the faith and credit nor the taxing power of the State or of any political subdivision or instrumentality of the State is pledged to the payment of the principal of or the interest on the bonds.

"**§ 116D-46. Issuance of bonds and notes.**

(a) Terms and Conditions. -- Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 25 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. -- Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear

the State Treasurer's facsimile signature, and shall bear the Great Seal of the State or a facsimile of the Seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as the State Treasurer may determine in conformity with this Article.

(c) Manner of Sale; Expenses. -- Subject to the approval by the Council of State as to the manner in which bonds or notes shall be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. -- The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys which may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. -- By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment or principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes as authorized in this Article.

Funds derived from the sale of bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. -- By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding bonds or notes issued pursuant to this Article and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes similarly secured. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the bonds or notes being refunded or, if not required for the immediate payment of the bonds or notes being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the bonds or notes being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) obligations of any agency or instrumentality of the United States government if the timely payment of principal and interest on the obligations is unconditionally guaranteed by the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of bonds or notes being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Trust Agreement. -- In the discretion of the State Treasurer, any bonds and notes issued under the provisions of this Article may be secured by a trust agreement or similar instrument by and between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank having the powers of a trust company within or without the State. The trust agreement or resolution may provide for security and pledges and assignments with respect to the security, as permitted under this Article, and may provide for the granting of a lien or security interest in the property as authorized in G.S. 116D-10. The trust agreement or resolution may contain provisions for the terms and conditions of the issuance of additional bonds and notes, and the custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article shall be equally and ratably secured as provided in the trust agreement or resolution, without priority by reasons of number, or dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of

the trust agreement or resolution. The trust agreement or resolution may, however, provide that the bonds or notes shall, to the extent and in the manner prescribed in the trust agreement or resolution, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security thereof, to any other bonds or notes. It shall be lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities as may be required by the State Treasurer. Any trust agreement or resolution may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, any trust agreement or resolution may contain other provisions that the State Treasurer considers reasonable and proper for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of any trust agreement or resolution may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"§ 116D-47. Variable rate demand bonds and notes.

(a) In fixing the details of bonds and notes, the State Treasurer may provide that the bonds and notes may:

(1) Be made payable from time to time on demand or tender for purchase by the owner, if a credit facility supports the bonds or notes, unless the State Treasurer specifically determines that a credit facility is not required upon a finding and determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State and the marketing of the bonds or notes at a reasonable interest cost to the State.

(2) Be additionally supported by a credit facility.

(3) Be made subject to redemption or a mandatory tender for purchase prior to maturity.

(4) Bear interest at rates that may vary from any periods of time, as may be provided in the proceedings providing for the issuance of the bonds or notes, including, without limitation, any variations as may be permitted pursuant to a par formula.

(5) Be made the subject of a remarketing agreement whereby an attempt is made to remarket bonds or notes to new purchasers prior to their presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of bonds or notes secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium, or for any other reason, then the amount of authorized but unissued bonds or notes during the term of the credit facility shall not be less than the amount of the

excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 116D-48. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of bonds or notes. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated with any bond issue under this Article as the State Treasurer considers necessary.

"**§ 116D-49. Procurement of capital facilities.**

Any laws, rules, or regulations of the State that relate to the acquisition and construction of capital facilities shall apply to the capital facilities financed pursuant to this Article."

Section 2. Proceeds of University Improvement Security Interest Bonds. -- (a) The proceeds of university improvement security interest bonds and notes, including any premium thereon, except the proceeds of university improvement security interest bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be allocated and expended for paying the cost of university capital facilities, to the extent and as provided in Article 2 of Chapter 116D of the General Statutes, as enacted by this act and subject to change as provided in this act, as follows:

Constituent or Affiliated Institution or Board of Governors Capital Improvement	Projected Allocation
Appalachian State University	
Central Library Complex	$ 47,586,735
New Science Building	1,260,000
Rankin Science Building - Renovation and modernization	7,750,000
Belk Library Renovation - Planning	545,020
Living and Learning Center - Academic Facility	4,022,725
Visual Arts Center - Renovation and Addition	6,063,435
Smith Wright Hall - Renovation and modernization.	1,636,111
Founders Hall - Renovation and modernization.	1,044,082
Land Acquisition	4,977,675
Potable Water - Infrastructure improvements.	2,625,000
Technology Infrastructure Expansion	4,838,909
East Carolina University	
Science Laboratories and Technology Building	55,125,315
Expansion of the Rivers Building	11,997,300
Nursing, Allied Health and DEC Complex:	

Medical School	46,882,500
Flanagan Building - Renovations	13,421,276
Land Acquisition - Phase I	5,000,000
Classroom Improvements - Phase II	3,648,435
Belk Allied Health - Renovations and modernization	7,791,348
Library and Study Space Requirements - Phase I	12,600,000
Old Cafeteria - Renovations	4,442,103
Infrastructure	16,125,165
Rivers School of Nursing - North Wing Renovations	2,688,174
Materials Warehouse	3,045,315
Campus Computing Center - Renovation	1,785,000
Academic Space Requirements - Teaching Labs	5,250,000
Technology Infrastructure Expansion	807,575
Elizabeth City State University	
New Student Center	9,178,313
New Residence Hall	6,510,000
General Campus Development	1,811,250
Historic Structures Preservation - Phase I	1,050,000
Lester Hall - Renovation and modernization	2,912,177
Williams Hall - Renovation and modernization	3,236,156
Lane Hall - Renovation and modernization	2,360,568
Trigg Hall - Renovation and modernization	2,109,017
White Graduate/Cont. Educ. Bldg - Renovation and modernization	1,575,000
Johnson Hall - Renovation and modernization	3,156,308
Wamack Hall - Renovation and modernization	3,334,303
Bias Hall - Renovation and modernization.	1,858,222
Mitchell-Lewis - Renovation and modernization	2,123,675
Roebuck Stadium Field House	1,260,000
Campus Property Development - Phase I	650,000
Technology Infrastructure Expansion	3,149,387
Fayetteville State University	
New Residence Hall.	6,872,250
Charles A. Lyons Science - Renovation/ modernization and addition	16,800,000
Seabrook Auditorium - Renovation and modernization	6,825,000
Lauretta J. Taylor Gymnasium - Renovations, modernization, and addition	3,360,000
Lilly Gymnasium - Renovation	3,256,367
Cook Dining Hall - Renovation.	1,773,450
Howard School Museum	210,000

Fire Safety Improvements, Student Residence Halls 611,730
Roads, Parking, Landscaping Improvements - Phase I 3,675,000
Spaulding Infirmary and Roadway/Entrance 1,000,000
Technology Infrastructure Expansion 1,137,582

North Carolina Agricultural and Technical State University
General Classroom & Laboratory Building Complex #1 29,470,665
Land Acquisition 6,300,000
Chemistry Building 21,831,600
Harrison Auditorium - Renovation and modernization 3,193,196
Curtis Hall - Replacement 3,723,510
Scott Hall - Replacement 24,165,330
Gamble Complex 1,449,420
Hazardous Materials and Waste Storage Facility 1,575,000
Replace Barn - Agricultural Farm 919,185
Replace Poultry Complex Laying Houses - Agricultural Farm 913,500
Zoe Barbee Hall - Renovation and modernization 5,876,786
Barnes Hall - Renovation and modernization 6,097,128
Graham Hall - Renovation and modernization 5,899,838
Corbett Sports Center Addition 7,035,000
Replacement of Steamlines and Manholes 1,568,280
Electrical Distribution System - updgrade and expansion. 2,256,802
Central Cooling Plant - North and South chiller loops 6,405,000
Parking Enhancements, Phase I 4,725,735
Cherry Hall - Renovation and modernization 8,613,152
General Renovations and Modernizations 8,872,918
Technology Infrastructure Expansion 2,921,662

North Carolina Central University
New Science Complex and Demolition of Old Hillside High School 36,780,000
Chidley Hall - Renovation and modernization 6,621,943
General Campus Master Plan 250,000
Farrison-Newton Bldg. - Renovation and modernization 7,048,652
Graduate Apartments, George Street - Replacement 1,556,642
Rush Hall - Renovation and modernization 2,089,387
Baynes Hall - Replacement 15,091,127
Eagleson Hall - Renovation and modernization 6,869,505

Shepard Dormitory - Renovation and modernization 7,284,923
Latham Hall - Renovation and modernization 3,411,600
McLean Hall - Renovation and modernization 1,942,070
Pearson Cafeteria - Renovation and modernization 1,263,570
Fire Safety Improvements - Student Residence Halls 1,612,695
Landscape Campus Perimeter 840,000
Landscape Pedestrian Corridors 787,500
Directional Signage - Vehicular/pedestrian 735,000
Pedestrian Corridor on Campus Drive. 892,500
Pedestrian Mall at George Street 472,500
Dormitory Security System 630,000
Parking Enhancements Phase 1 - Nelson St. Pkg. Deck 6,353,235
Electrical Power - New transformers 858,654
Life-Safety/OSHA Corrections 3,675,000
Land Acquisition 4,000,000
Relocate Campus Police Station 840,000
Replace Power Distribution Cables 1,115,940
Underground Piping Repairs 4,252,710
Technology Infrastructure Expansion 1,422,080

North Carolina School of the Arts
Basic Performance & Education Complex 19,130,685
Stevens Center - Renovation and modernization. 4,434,480
New Student Activities Building - Renovation 2,500,000
Roanoke Island Music & Theatrical Complex 10,500,000
Landscaping Improvements 1,050,000
Costume Shop - Renovations and relocations 420,000
Land Acquisition 2,650,000
Technology Infrastructure Expansion 1,862,312

North Carolina State University
I. BUILDINGS
A. Renovation, Modernization, & Replacements:
Classroom/Office Space
Renovation and modernization of buildings 91,312,249
Laboratory Space
Renovation and modernization of buildings 49,000,000
Student Support Space
Renovation, modernization, and fire
safety improvements 2,070,000
B. Building Capacity:
Construction of College of Engineering Complex -
Phase I and Phase II; Undergraduate Science
Teaching Lab - Phase I and Phase II; Jordan Hall

Addition; Gymnasium; Library Space; Student Services Space; and David-Clark Laboratory Renovation and addition 149,978,194

C. Other Building Needs:
Construction of Administrative Services Center - II; Extension Facilities; Field Research Laboratories and Outlying Research - Phase I; Research Laboratory Space, Phase I; Hazardous Materials Facility; Partners Building V; College of Veterinary Medicine Research Addition and renovations; Physical Sciences Research; Genomic Sciences Research; Services Buildings at Sullivan Site and Centennial Campus. 43,960,952

II. OTHER CAMPUS REQUIREMENTS

A. General Campus:
University Signage; Pedestrian Tunnel; Security CardAccess; and Public Safety Facility 15,579,475

B. Infrastructure:
Construction of Chilled Water Plant; Potable Water Building Backflow Preventers; College of Veterinary Medicine Indoor Air Quality Upgrade; North Campus Chiller Service; Brickyard Loop Chilled Water Extension and Cooling Tower; Infrastructure for Centennial Campus Partnership; Infrastructure for Veterinary Medicine Private/ Public Partnership; and Steam Distribution and Capacity Improvements 92,999,130
Technology Infrastructure Expansion 2,308,681

C. Land Acquisition. 2,100,000

University of North Carolina at Asheville

New Math/Science Building 22,203,195
Highsmith Center Renovation and Addition 9,473,100
New Physical Plant Building. 6,318,900
Carmichael Hall - Renovation and modernization 3,912,805
Zaiger Hall - Renovation and modernization 3,524,624
General Campus Improvements 3,728,550
Technology Infrastructure Expansion 751,235

University of North Carolina at Chapel Hill

I. BUILDINGS

A. Renovation, Modernization, & Replacements:
Classroom/Office Space

Renovation and modernization of buildings.....104,861,491
Laboratory Space
Renovation and modernization of buildings.....93,531,460
B. Building Capacity:
Construction of Multidisciplinary Environmental Studies Building; Addition to Carrington Hall - School of Nursing; Teaching Research Bldg - School of Public Health; and Interdisciplinary Physical Science Bldg 87,465,000
C. Other Building Needs:
Construction of Health Affairs Biomolecular Research Bldg, Phase I; Health Affairs Frank Porter Graham Child Development Center; Health Affairs Institute on Aging Bldg; Center for Global and International Education; Digital Multimedia Instructional Center; Medical School Office Bldg No. 1; Sports Medicine Facility; Ackland Art Museum Renovation and Expansion; Relocate Physical Plant Grounds Dept; Administration Office Bldg; Chapel Hill North; Campus Mail Center; and Physical Plant Maintenance Shops Addition.....48,000,000

II. OTHER CAMPUS REQUIREMENTS
A. General Campus:
Campus Signage System 2,100,000
B. Infrastructure:
Construction of Storm Drainage Replacement; Heating Line Installation; Cogeneration Facility Turbine Generator; Gilsulate Replacement; Steam Line Installation; East and South Chiller Plant Expansion; North and South Chiller Plant Replacements; Energy Management & Control System Upgrade; Campus Fiber Optics Network; Horace Williams Infrastructure - Phase I; Main Campus Infrastructure Expansion - Phase I; Chilled Water Air Conditioning Systems in Classroom Bldgs; and Coal Silo Replacement.....154,041,090
Technology Infrastructure Expansion 1,287,051
C. Land Acquisition:
Land Acquisition - South Campus Expansion.....8,000,000

University of North Carolina at Charlotte
Academic Facilities - Humanities.....10,046,925

Science and Technology Building	35,707,035
Classroom and Office Building	26,102,475
College of Education Building	24,654,476
College of Nursing and Health Professions	34,125,000
Graduate Engineering Complex	14,700,000
Research Facility - Phase I	16,800,000
University Conference Center	10,500,000
Central Heating Plant Improvement	2,625,000
Technology Infrastructure Expansion	3,345,507
University of North Carolina at Greensboro	
Science Instructional Building	38,412,150
Roadway Improvements	6,825,000
Land Acquisition	7,000,000
Brown - Renovation and modernization	6,493,859
Petty Science Building - Renovation and modernization	16,272,270
McIver Building - Renovation and modernization	21,636,510
Aycock Auditorium - Renovation and modernization	17,662,980
Stone - Renovation and modernization	8,930,354
Heating Plant - Renovation, modernization, and expansion	4,851,288
Forney Building - Renovation and modernization	3,565,364
McNutt Building - Renovation and modernization	2,723,956
Research Space Phase I	5,250,000
Electrical Power Distribution Upgrades	4,091,038
McIver Chiller Plant	8,373,750
Technology Infrastructure Expansion	7,859,789
University of North Carolina at Pembroke	
Regional Center for Economic, Professional, and Community Development	4,004,385
New Science Building	9,408,000
Chavis Center Expansion	3,221,400
Jones PE Building - Renovation and modernization	8,925,000
Business Administration Building - Renovation and modernization	2,140,762
ADA Renovations	525,000
Locklear - Renovation and modernization	2,464,319
Moore Hall - Renovation and modernization	2,464,661
D.F. Lowery Building - Renovation and modernization	2,680,528
Jacobs Hall - Renovation and modernization	4,155,525

West Hall - Renovation and modernization 4,961,580
Belk Hall - Renovation and modernization 3,055,985
Land Acquisition 1,500,000
Wellons Hall - Renovation and modernization 4,323,382
Technology Infrastructure Expansion 2,798,476

University of North Carolina at Wilmington
School of Education Building 17,576,370
Fine Arts Building/Concert Hall 26,250,000
General Classroom Building 12,646,935
Arnold K. King Hall - Renovation and modernization 2,697,442
Hoggard Hall - Renovation and modernization 3,550,430
Alderman Admin. - Renovation and modernization 2,940,843
Westside Hall - Renovation and modernization 2,687,347
Kenan Hall - Renovation and modernization 3,056,633
Hinton James Hall - Renovation and modernization 1,843,981
Deloach Hall - Renovation and modernization 5,193,585
Friday Hall - Renovation and modernization 7,693,351
S. G. Kenan Auditorium - Renovation and modernization. 3,095,303
Marine Sciences Research Center - Operations Facilities 3,559,912
Computing Center 1,512,000
Print Shop 672,000
Warehouse Expansion 1,890,000
Land Acquisition 2,100,000
Sprinkler Systems - Hoggard, Trask, & Nixon 823,620
Miscellaneous HVAC Projects 1,027,320
Miscellaneous Electrical Projects 676,305
Facility Improvements for Energy Efficiency 747,390
Primary Electrical Distribution System Upgrade 2,238,158
Storm Drainage Improvements 743,185
Technology Infrastructure Expansion 2,948,927

Western Carolina University
Fine and Performing Arts Center 25,805,745
Stillwell - Renovation and modernization 15,057,541
McKee Building 5,289,690
Bird Building - Renovation 1,836,450
Living - Learning Center - Conversion 1,887,113
Land Acquisition 3,618,000
Breese - Renovation and modernization 1,161,332
Vehicular Traffic Relocation 4,989,600

Indoor Recreation Facility	6,306,300
Hinds University Center - Addition	4,158,000
New Housing Facility.	13,308,750
Chiller Replacement and Retrofit	1,418,655
Replace steam and condensate lines	3,937,500
Upgrade Electrical Distribution System	883,995
Campus Pedestrian Corridors	1,386,000
Perimeter Parking Lots	1,039,500
Steam Plant Improvements - Phase III	644,595
Automated Energy Management System Enhancements	700,455
Technology Infrastructure Expansion	5,018,607
Winston-Salem State University	
Computer Science Facility	5,748,330
New Physical and Life Sciences Building - Phase I	12,109,545
Anderson School Building - Renovation and modernization	6,917,905
Health Center Building and Old Nursing Building - Renovation and modernization	2,265,865
Carolina Hall - Renovation and modernization	4,270,688
Hauser Union - Renovation and modernization	3,895,461
Pegram Hall - Renovation and modernization	2,287,613
General Campus Improvements - Phase I.	3,104,640
Technology Infrastructure Expansion	1,676,127
University of North Carolina Center for Public Television	
Conversion to Digital TV - Phase I	64,995,000
Mobile Satellite Uplink	895,545
UNC Public Radio - Building Addition	478,938
North Carolina School of Science and Mathematics	
Renovation of Bryan Center	3,172,575
Renovation of Royall Outreach Center (Wyche House)	1,990,380
North Carolina Arboretum	
Maintenance & Operations Facility	1,541,295
Entrance Gates and Gatehouses	785,610
Main Entrance Road Utility & Landscape Development	2,259,180
Demonstration Greenhouse	3,776,325
Bus Parking	969,255
North Carolina Botanical Gardens - Herbarium Research Building	7,061,355
J. C. Raulston Arboretum Education & Visitors Center	3,639,510
General Administration Building Renovation	2,887,500
Central Library Storage Facility and Central Records Storage - Planning	500,000

Matching Gift Incentive Program Projects 282,648,212

TOTAL $ 2,700,000,000

Section 2.(b) The Director of the Budget is empowered, when the Director of the Budget determines it is in the best interest of the State and the University to do so, and if the cost of a particular capital facility is less than the amount allocated for it, to use the excess funds to meet increased cost of other capital facilities itemized in this section and located at the same institution. The Director of the Budget shall report to the Joint Legislative Commission on Governmental Operations on changes made under this subsection. In addition, any capital facility and the amount of the allocation for it set forth above may be changed from time to time as the General Assembly may decide, except that the General Assembly may not delete or remove from funding any capital improvement that has been pledged as security for university improvement security interest bonds that have been issued if such a change would impair the security of the owners of the university improvement security interest bonds. The provisions of G.S. 116-11(9) with respect to appropriations to the Board of Governors of The University of North Carolina shall not apply to proceeds of university improvement security interest bonds and notes issued pursuant to Article 2 of Chapter 116D of the General Statutes, as enacted by this act.

Section 2.(c) Allocations to the costs of a capital improvement or undertaking in each case may include allocations to pay the costs set forth in this act in connection with the issuance of university improvement security interest bonds for that capital improvement or undertaking.

Section 2.(d) The proceeds of two hundred eighty-two million six hundred forty-eight thousand two hundred twelve dollars ($282,648,212) university improvement security interest bonds authorized by this act and allocated in subsection (a) of this section for matching gift incentive program projects shall be allocated and expended for particular projects as provided in this subsection. The Board of Governors of The University of North Carolina shall employ a private consultant to develop a list of capital facilities which are to be funded jointly from these bonds and private donations. The Board of Governors shall submit this list of recommended projects, including the proposed matching requirements by the University or its constituent or affiliated institutions, to the General Assembly by April 1, 2000. The matching requirements must be based on analyses of the fund-raising capabilities of each institution as determined by a private consultant in order to maximize private fund-raising for capital projects. The proceeds of these bonds or notes shall not be issued or allocated until the General Assembly authorizes the issuance of some or all of these bonds or notes and appropriates the proceeds for specific projects by separate legislative action at any subsequent session.

Section 2.(e) The validity of university improvement security interest bonds and notes issued under Article 2 of Chapter 116D of the General Statutes, as

enacted by this act, is not affected by any subsequent adjustment of allocations, or by any failure to comply with the reporting requirements provided in this act.

Section 3. Proceeds of Community College Security Interest Bonds. -- (a) The proceeds of community college security interest bonds and notes, including any premium thereon, except the proceeds of community college security interest bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be allocated and expended for paying the cost of community college capital facilities, to the extent and as provided in Article 4 of Chapter 116D of the General Statutes, as enacted by this act and subject to change as provided in this act, to be located at the following community colleges:

COLLEGE	NEW CONSTRUCTION	REPAIR & RENOVATION	TOTAL ALLOCATION
Alamance CC	4,044,756	491,415	4,536,171
Anson CC	1,061,903	840,055	1,901,958
Asheville-Buncombe TCC	1,381,875	1,722,802	3,104,677
Beaufort County CC	1,061,903	1,128,185	2,190,088
Bladen CC	1,061,903	279,588	1,341,491
Blue Ridge CC	2,030,342	2,305,387	4,335,729
Brunswick CC	1,061,903	248,261	1,310,164
Caldwell CC & TI	3,353,211	377,326	3,730,537
Cape Fear CC	1,061,903	2,068,435	3,130,338
Carteret CC	1,061,903	1,882,001	2,943,904
Catawba Valley CC	1,242,780	2,743,429	3,986,209
Central Carolina CC	8,125,128	244,147	8,369,275
Central Piedmont CC	31,492,890	6,129,832	37,622,722
Cleveland CC	1,061,903	486,221	1,548,124
Coastal Carolina CC	15,659,820	348,511	16,008,331
College of the Albemarle	4,516,924	128,735	4,645,659
Craven CC	3,833,227	573,564	4,406,791
Davidson County CC	1,061,903	2,287,656	3,349,559

Durham TCC	6,071,653	842,633	6,914,286
Edgecombe CC	7,864,395	1,563,500	9,427,895
Fayetteville TCC	15,469,002	2,166,691	17,635,693
Forsyth TCC	1,061,903	1,039,816	2,101,719
Gaston College	1,061,903	270,458	1,332,361
Guilford TCC	2,311,980	3,083,432	5,395,412
Halifax CC	1,061,903	817,189	1,879,092
Haywood CC	1,061,903	2,195,573	3,257,476
Isothermal CC	1,061,903	949,267	2,011,170
James Sprunt CC	1,061,903	516,788	1,578,691
Johnston CC	1,061,903	921,977	1,983,880
Lenoir CC	2,308,020	1,048,459	3,356,479
Martin CC	1,340,460	142,636	1,483,096
Mayland CC	3,148,914	213,742	3,362,656
McDowell TCC	1,128,600	273,269	1,401,869
Mitchell CC	1,061,903	983,677	2,045,580
Montgomery CC	1,061,903	301,703	1,363,606
Nash CC	1,061,903	1,021,442	2,083,345
Pamlico CC	1,061,903	302,049	1,363,952
Piedmont CC	1,909,710	2,111,177	4,020,887
Pitt CC	13,844,565	2,091,308	15,935,873
Randolph CC	1,061,903	551,886	1,613,789
Richmond CC	3,110,085	984,167	4,094,252
Roanoke-Chowan CC	1,061,903	567,718	1,629,621
Robeson CC	5,485,095	2,192,511	7,677,606
Rockingham CC	1,061,903	1,278,538	2,340,441

Rowan-Cabarrus CC	4,813,887	2,925,850	7,739,737
Sampson CC	1,061,903	1,653,903	2,715,806
Sandhills CC	2,575,320	2,831,582	5,406,902
Southeastern CC	1,061,903	1,112,304	2,174,190
Southwestern CC	3,714,002	1,228,660	4,942,662
Stanly CC	3,675,885	1,506,808	5,182,693
Surry CC	4,607,701	225,489	4,833,190
Tri-County CC	1,822,425	712,338	2,534,763
Vance-Granville CC	11,072,160	805,858	11,878,018
Wake TCC	22,158,345	2,850,623	25,008,968
Wayne CC	3,422,100	202,099	3,624,199
Western Piedmont CC	1,220,959	1,292,053	2,513,012
Wilkes CC	2,776,724	776,451	3,553,175
Wilson TCC	1,218,855	921,379	2,140,234
TOTAL	$228,237,450	$71,762,550	$300,000,000

Section 3.(b) Except as provided in subsection (d) of this section, a community college may use the bond proceeds allocated in subsection (a) of this section only in accordance with the State Board of Community Colleges' consultant's report on the capital allocation and repairs and renovations funding formula. Funds allocated for repair and renovations must be used in accordance with exhibit 5-6 of the Funding Formula Study: Phase 3 Report, submitted May 15, 1998. Funds allocated for new construction must be used in accordance with exhibits 15 and 16 of the Funding Formula Study: Phase 4 Report, submitted February 4, 1999. New construction funds allocated by the report to a specific site may not be allocated to another site. Each community college shall submit to the State Board of Community Colleges a statement (i) proposing the capital facilities to be financed with the proceeds of community college security interest bonds allocated to that community college, (ii) certifying that the proposed site is included in the consultant's report referred to in this section, (iii) certifying that the community college is prepared to proceed with the construction, acquisition, or improvement of the proposed capital facilities, and (iv) demonstrating that the applicable matching requirements have been or will be met.

Upon receipt by the State Board of Community Colleges of the information set forth above, the Board shall add the proposed capital facilities to the next application of the Community Colleges System Office to the State Treasurer to issue bonds pursuant to G.S. 116D-43.

The board of trustees of an individual community college may use funds allocated for new construction either for new construction or for repair and renovations. The board of trustees of a community college may use funds allocated for repair and renovations only for repair and renovations, and not for new construction.

The projected allocations set forth above may be changed from time to time as the General Assembly may decide, except that the General Assembly may not delete or remove from funding any capital improvement that has been pledged as security for community college security interest bonds that have been issued if such a change would impair the security of the owners of the university improvement security interest bonds.

Section 3.(c) Community colleges are not required to match bond proceeds allocated in this section for repair and renovations. The match requirements of Chapter 115D of the General Statutes apply to bond proceeds allocated for new construction except as provided in this subsection. The consultant hired by the State Board of Community Colleges to determine funding formulas for the community college system developed an index to measure each county's ability to pay. The consultant found that some counties are unable to meet their local match requirement under Chapter 115D of the General Statutes because of inability to pay. Accordingly, community colleges are required to match bond proceeds allocated for new construction in subsection (a) or (d) of this section only as follows: Community colleges assigned a matching rate of less than forty percent (40%) in the "adjusted matching requirements" contained in exhibit 14 of the State Board of Community Colleges' consultant's Funding Formula Study: Phase 4 Report, submitted February 4, 1999, are not required to match, and community colleges assigned a matching rate of forty percent (40%) or more in the adjusted matching requirements are required to match only at the assigned rate.

Section 3.(d) Each community college that was not allocated funds for new construction in the State Board of Community Colleges' consultant's report on the capital allocation funding formula may receive the bond proceeds allocated to it for new construction in subsection (a) of this section only to the extent that it can document to the State Board of Community Colleges its actual need for funds for new construction, or its actual need for funds for repair and renovations in excess of the amount allocated to it for repair and renovations in subsection (a) of this section. If any community college is unable to document to the State Board of Community Colleges by January 1, 2001, these needs in the amount of its entire allocation for new construction under subsection (a) of this section, the State Board shall reallocate the excess of the allocation over the amount the college was able to document among the remaining community colleges to the extent they can document actual needs in

excess of their allocations in subsection (a) of this section for new construction, repair, and renovations, or both.

Section 3.(e) The validity of community college security interest bonds and notes issued under Article 4 of Chapter 116D of the General Statutes, as enacted by this act, is not affected by any subsequent adjustment of allocations or matching requirements provided in this act, or by any failure to comply with matching requirements or reporting requirements provided in this act.

Section 4. Interpretation of Act. (a) Additional Method. -- This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing The University of North Carolina to issue self-liquidating debt or other debt secured by designated sources of funds.

Section 4.(b) Statutory References. -- References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

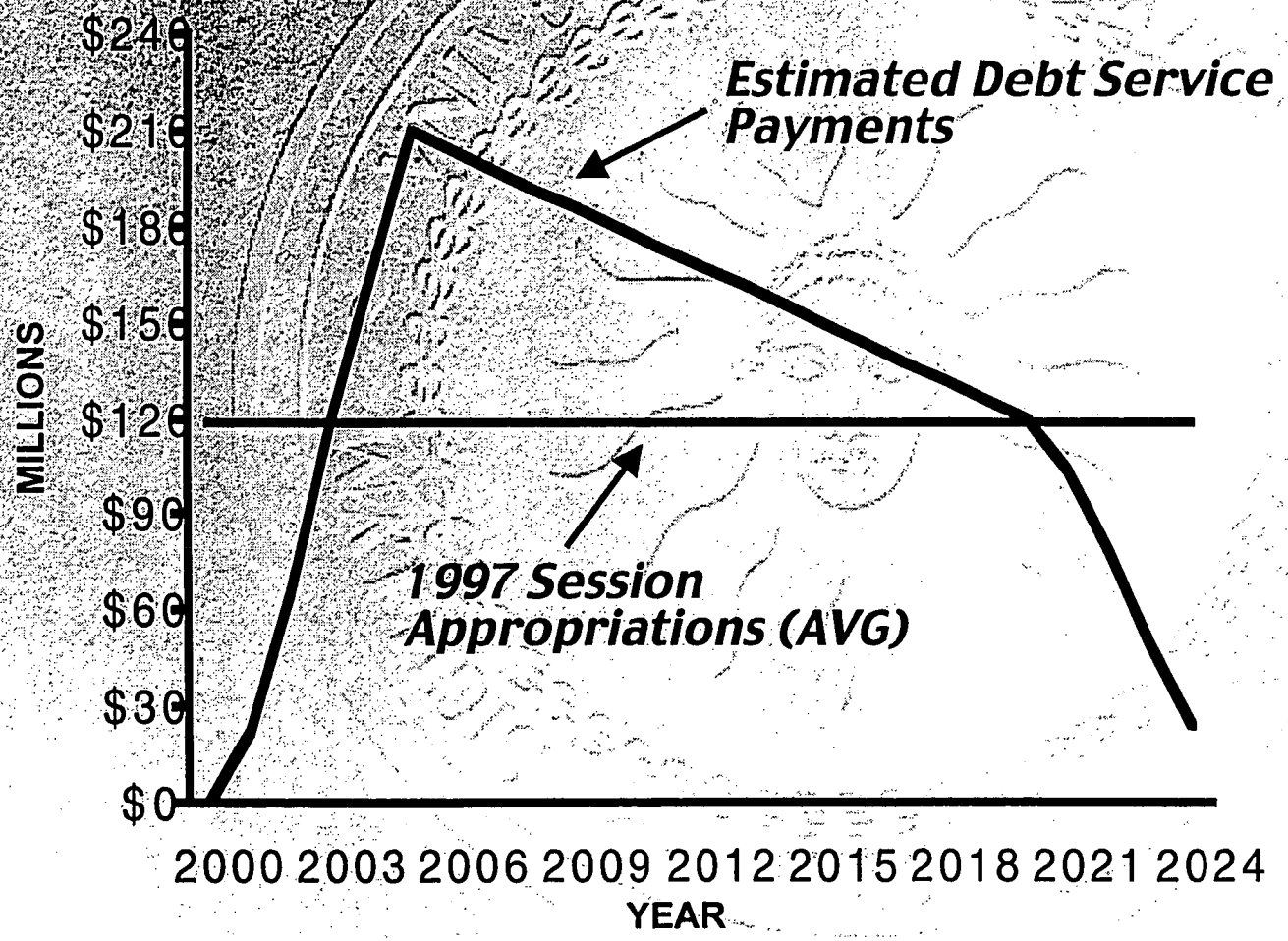
Section 4.(c) Liberal Construction. -- This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

Section 4.(d) Severability. -- If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 5. This act is effective when it becomes law.

The University of North Carolina

Estimated Debt Service Requirements



BOND SCHEDULE

FISCAL YEAR	*BOND AMOUNT*
2000	$200 Million
2001	$400 Million
2002	$500 Million
2003	$450 Million
2004	$450 Million
TOTAL=	$2 BILLION

This hypothetical debt service repayment schedule assumes a 6% interest rate and was prepared by the Office of the State Treasurer.

EVA KLEIN

Eva Klein, president of Eva Klein & Associates, is known for her expertise in strategic management and financing for higher education and not-for-profit organizations, and for her international work in knowledge-based economic development. Her 27-year career includes high school teaching, university administration, public finance/investment banking, and management consulting. She has held senior positions at The American University (DC), KPMG Peat Marwick (NY), and Chemical Bank (NY).

Ms Klein served on the boards of directors of the Association of University Related Research Parks (AURRP) and the National Council for Urban Economic Development (CUED). Her publication topics include strategic planning, trusteeship, marketing, capital finance, research park/incubator development, commercialization of university research, real estate asset utilization, and the role of higher education institutions in economic development. She authored the chapter on *"Debt Financing and Management"* for NACUBO's *College and University Business Administration* (5th edition) and the chapter on *"Technology Parks and Incubators: A Nexus Between University Research and Industrial Research and Development,"* in *Innovative Models for University Research* (Haden & Brink, Elsevier 1992). Ms. Klein's invited speaking engagements have included keynote or major addresses in the US, Canada, France, Italy, Brazil, Russia, Hungary, the Czech Republic, Uzbekistan, Senegal, and the People's Republic of China.

Ms. Klein's earned degrees include an MBA (Management and Finance) from The Wharton School, University of Pennsylvania, an MA (French Literature) from New York University, with studies at The University of Paris/Sorbonne, an MS (Education) from the Graduate School of Education, University of Pennsylvania, and a BA (Liberal Arts/French) from Douglass College, Rutgers University. Ms. Klein is fluent in French and speaks some Hungarian, Russian, and Spanish.

June 28, 1999

President Friday:

In response to your request for information yesterday, please note the following:

1. Bonds for Higher Education – The packet includes the legislation (SB 912) and supporting information. The projects are listed in the bill and also in a supplemental schedule. The projects for North Carolina School of the Arts total $42.5 million as noted on the clipped page.

2. Aid to Private Colleges Programs – A schedule shows the Program budgets and the House and Senate Expansion budgets. As you know, the Conferees are at work to settle the differences.

3. 1999-2000 Tuition Rates – A schedule shows the tuition rate increases approved by the Board of Governors in March and the rates are incorporated into both the House and Senate budget bills. The Senate special provision related to possible increases of up to $250 in 2000-01 and up to $250 more in 2001-02 would be on top of these tuition rates for 1999-2000 shown in the schedule.

4. The Lost Colony Operating Funds – There is $260,000 in recurring funds included in the Senate's budget bill; I found no comparable item in the House's budget. Of course, this is a difference for the Conferees to settle. A copy of the supporting Senate Appropriation Committee report item is highlighted and attached.

Attachments

Fen Logan

	FY 99-2000		FY 2000-01	
1330 NC Arts Council				
63 Travel Reduce funds in line item 532714.	($5,000)	R	($5,000)	R
64 Basic Grants Program Funding provides a one-time increase in the continuation budget for grants to local arts organizations: Primary Arts Organizations $600,000 Rural Arts Leadership $400,000 Cultural Tourism $200,000	$1,200,000	NR		
65 Grassroots Arts Program Provides one-time increase in the continuation budget for grants awarded to local arts councils.	$800,000	NR		
66 Shakespeare Festival Funds Provide funds for the Educational Outreach Touring Program.	$260,000	R	$260,000	R
67 The Lost Colony Appropriate funds to the Roanoke Island Historical Association to support operations of the the Lost Colony outdoor drama production.	$260,000	R	$260,000	R
1360 Grants-in-Aid to Arts				
68 NC Symphony Grant-Memorial Auditorium Provide balance of State funding as grant-in-aid to NC Symphony Society for acoustical enhancements.	$1,500,000	NR		
1410 State Library				
69 Travel Reduce funds in line item 532714.	($2,000)	R	($2,000)	R
1500 Museum of History				
70 Adjust Various Line Items Reduce funds in the following line items: 531311 Temp Salaries $40,000 531511 Social security $3,060 532714Tran - Ground-In-State $5,917 533990 Other Supplies and Materials $22,326 534610 Art and Artifacts $22,000	($93,303)	R	($93,303)	R

The University of North Carolina
Tuition Rates for the 1999-2000 Academic Year

		Resident			Nonresident		
		1998-99	Increase	1999-2000	1998-99	Increase	1999-2000
Elizabeth City State University	*undergraduate*	768.00	**38.00**	806.00	7,186.00	**38.00**	7,224.00
	graduate	768.00	**52.00**	820.00	7,186.00	**52.00**	7,238.00
The University of North Carolina at Asheville	*undergraduate*	768.00	**38.00**	806.00	7,186.00	**238.00**	7,424.00
	graduate	768.00	**52.00**	820.00	7,186.00	**238.00**	7,424.00
Winston-Salem State University	*undergraduate*	768.00	**38.00**	806.00	7,186.00	**38.00**	7,224.00
	graduate	768.00	**52.00**	820.00	7,186.00	**52.00**	7,238.00
Appalachian State University	*undergraduate*	918.00	**44.00**	962.00	8,188.00	**44.00**	8,232.00
	graduate	918.00	**64.00**	982.00	8,188.00	**64.00**	8,252.00
East Carolina University (1), (6)	*undergraduate*	918.00	**74.00**	992.00	8,188.00	**370.00**	8,558.00
	graduate	918.00	**94.00**	1,012.00	8,188.00	**390.00**	8,578.00
Fayetteville State University	*undergraduate*	918.00	**44.00**	962.00	8,188.00	**44.00**	8,232.00
	graduate	918.00	**64.00**	982.00	8,188.00	**64.00**	8,252.00
North Carolina A & T State University	*undergraduate*	918.00	**44.00**	962.00	8,188.00	**44.00**	8,232.00
	graduate	918.00	**64.00**	982.00	8,188.00	**64.00**	8,252.00
North Carolina Central University (2)	*undergraduate*	918.00	**44.00**	962.00	8,188.00	**44.00**	8,232.00
	graduate	918.00	**64.00**	982.00	8,188.00	**64.00**	8,252.00
The University of North Carolina at Charlotte	*undergraduate*	918.00	**44.00**	962.00	8,188.00	**44.00**	8,232.00
	graduate	918.00	**64.00**	982.00	8,188.00	**64.00**	8,252.00
The University of North Carolina at Pembroke	*undergraduate*	918.00	**44.00**	962.00	8,188.00	**44.00**	8,232.00
	graduate	918.00	**64.00**	982.00	8,188.00	**64.00**	8,252.00
The University of North Carolina at Wilmington	*undergraduate*	918.00	**44.00**	962.00	8,188.00	**44.00**	8,232.00
	graduate	918.00	**64.00**	982.00	8,188.00	**64.00**	8,252.00
Western Carolina University	*undergraduate*	918.00	**44.00**	962.00	8,188.00	**44.00**	8,232.00
	graduate	918.00	**64.00**	982.00	8,188.00	**64.00**	8,252.00
North Carolina State University (3)	*undergraduate*	1,456.00	**72.00**	1,528.00	10,622.00	**72.00**	10,694.00
	graduate	1,456.00	**122.00**	1,578.00	10,622.00	**122.00**	10,744.00
The University of North Carolina at Chapel Hill (4)	*undergraduate*	1,456.00	**72.00**	1,528.00	10,622.00	**72.00**	10,694.00
	graduate	1,456.00	**122.00**	1,578.00	10,622.00	**122.00**	10,744.00
The University of North Carolina at Greensboro	*undergraduate*	1,036.00	**50.00**	1,086.00	9,490.00	**50.00**	9,540.00
	graduate	1,036.00	**72.00**	1,108.00	9,490.00	**72.00**	9,562.00
North Carolina School of the Arts (5)	*undergraduate*	1,428.00	**69.00**	1,497.00	10,056.00	**69.00**	10,125.00
	graduate	1,428.00	**99.00**	1,527.00	10,056.00	**99.00**	10,155.00

(1) Does not include Medical School
(2) Does not include Law School
(3) Does not include Veterinary School
(4) Does not include Health Sciences Schools, Business School, and Law School
(5) Does not include High School
(6) A portion of the increase at ECU is related to the institution's transition to a Doctoral II institution.

Aid to Private Colleges
1999-2000

	1999-2000	Proposed Expansion		Totals if Funded	
	Continuation Budget	House	Senate	House	Senate
Contractual Scholarship Program	$25,057,272	$2,088,106	$4,176,212	$27,145,378	$29,233,484
(per qualifying student)	$900	$75	$150	$975	$1,050
Legislative Tuition Grant Program	39,337,213	1,923,319	3,846,638	41,260,532	43,183,851
(per qualifying student)	1,600	75	150	1,675	1,750
Total Both Programs	64,394,485	4,011,425	8,022,850	68,405,910	72,417,335
(per qualifying student)	2,500	150	300	2,650	2,800

6/28/99

A FIRM FOUNDATION: A PLAN FOR BUILDING UNC'S FUTURE

SUGGESTED TALKING POINTS:

Message #1: **Over two centuries, North Carolina has built one of the finest public university systems in the world. UNC campuses belong to the people of North Carolina, and these important state assets have many buildings that are now outmoded, inadequate, and falling apart. Given UNC's critical role in ensuring the state's economic and social future, North Carolina must act now to meet UNC's staggering capital needs.**

- UNC is responding to the proactive initiative of the General Assembly, which in 1997 called for a comprehensive study of the relative equity and adequacy of capital facilities on UNC campuses. As required by an amendment to the provision enacted in the 1998 short session, the report by outside consultant Eva Klein also included a ten-year capital spending plan for UNC.

- As documented by Klein, nearly 800 UNC buildings need significant repairs or modernization, with the greatest deficiencies found in science and technology labs. For every modern building in good condition, Klein found scores with bad wiring, leaks, outdated essential equipment, and inadequate infrastructure. Building rehabilitation is by far the largest component of UNC's ten-year capital plan. [APPROPRIATE TO OFFER HIGHEST-PRIORITY EXAMPLES FOR CAMPUS AND/OR REGION.]

- Prior to 1993, the state did not provide a steady source of funds for the repair and renovation of state-owned buildings. Over the past five years, UNC's annual share of the Reserve for Repairs and Renovations has provided roughly 2.5% of estimated replacement costs toward the upkeep of campus buildings, but these critical funds fail to address decades of deferred maintenance and the need to modernize antiquated buildings.

- UNC expects to enroll some 48,000 additional students over the next decade. Six campuses, including the four largest, have space shortages today. By 2008, ten campuses will be at or beyond their physical capacity.

Message #2: **The cost of delay is escalating, and we cannot postpone the arrival of the nearly 50,000 additional students already in the educational pipeline.**

- UNC campuses need a substantial infusion of capital funding *now* because it generally takes several years to finance, design, and build new facilities. Major renovations also require significant lead time and logistical planning.

--more--

- Time is money. While inflation is averaging less than 3% annually, the State Construction Office estimates a construction inflation factor of 5%. Deferred maintenance costs are rising at a similar rate, and our buildings are deteriorating faster because of UNC's immense backlog of overdue repairs.

- UNC is maximizing resources to minimize costs. To lessen the need for new space, UNC has adopted the most stringent space-utilization standards of any public university system in the nation. Our classrooms are to be used for more hours of the day and night on more days of the week. In planning for enrollment growth, the University plans to use existing capacity to the fullest extent possible and to promote economies of scale.

Message #3: **As graphically depicted in Klein's report, North Carolina's traditional pay-as-you-go approach to capital funding will fall far short of the amount needed to repair, modernize, and expand UNC facilities. Two pieces of proposed legislation drafted under the direction of State Treasurer Harlan Boyles would provide well-established financing alternatives that would enable UNC to implement its ten-year capital plan. Given anticipated enrollment growth and the lengthy lead time required to construct new state buildings and modernize old ones, it is critical than such legislation be passed during this legislative session.**

- Over the years, the General Assembly has been generous to UNC *when capital funds were available*. Since 1989, the state has appropriated roughly $87 million per year for UNC projects. But because of the state's traditional pay-as-you-go approach, capital funding has fluctuated widely, ranging from $1.6 million in 1990 to $125 million in 1997. This practice also has favored new construction over renovations.

- Over the past 75 years, more than 40% of capital construction on UNC campuses has been funded with non-appropriated dollars. Given the authority, UNC is committed to do even more to tap all available resources (University bonds, private sector development, private giving) to supplement and leverage state funding.

- Other states have demonstrated that revenue can be earmarked for capital financing without draining funds from other needs, lowering the state's bond rating, or raising taxes. These states have gained the ability to spend more than ten times their current revenues for repairs to retire outstanding bond debt. Many states that once followed that pay-as-you-go philosophy have earmarked revenues to retire outstanding bond debt.

- In the current market, annual debt service in the amount of $125 million—UNC's 1997 appropriation—would support more than $1.5 billion in needed repairs, modernization, and new construction.

--more--

- Following the advice of Treasurer Boyles, the UNC Board of Governors has unanimously endorsed in concept proposed legislation that would provide new and expanded mechanisms for financing UNC's capital needs:

  ⇒*State Bonds*. This proposed legislation would permit the state to issue "limited obligation" bonds to finance capital improvements for the University. These bonds would not obligate the taxing authority of the state, but essentially would create a moral obligation to repay. The financed projects would be pledged as security for the debt. The indebtedness would be repaid from state appropriations over a specified period of years. Bond financing would—for the first time—provide a predictable revenue stream of sufficient size to meet UNC's long-term capital needs.

  ⇒ *University Bonds*. This proposed legislation would authorize the UNC Board of Governors to issue bonds to be repaid from "obligated" resources, defined sources of income available to the campus carrying out a given capital project. Available income sources would include rents, charges or fees collected by the institution, investments earning on endowment funds, and overhead receipts. The board would not issue bonds by pledging state appropriations or tuition receipts.

A Firm Foundation:
A Plan for Building UNC's Future

May 18, 1999

Molly Corbett Broad - President

The University of North Carolina

UNC Capital Equity/Adequacy Study

"The Board of Governors of . . . shall study the relative equity and adequacy of the physical facilities of its constituent institutions. The study shall consider the condition of the facilities, whether or not facilities are comparable among the campuses given the different missions of the institutions, comparable adequacy of the physical facilities given the size and projected growth of the school, and such other factors deemed appropriate by the Board of Governors."

1997 Session, Senate Bill 352, Section 10.1(b)

The University of North Carolina

UNC Capital Equity/Adequacy Study

"The Board of Governors shall contract with a private consulting firm with expertise in higher education matters to assess the additional capital needs of the constituent institutions of The University of North Carolina. The needs assessment shall project the needs for capital funding for a 10-year period, and shall include a detailed plan for making funding allocations based on the priorities of needs.

The plan shall provide a detailed capital spending plan for the next 10 years to assist the General Assembly in making funding decisions relating to [UNC], as the State plans for major increases in enrollment in higher education and prepares its citizens to compete in a global economy."

1998 Session, Senate Bill 1366, Section 11.4(c)

UNC Capital Equity/Adequacy Study

Findings — Current Capacity

- UNC has enough capacity system wide to meet current enrollment levels; however
  - *Not all capacity is where it is needed*
  - *Six institutions have current capacity needs*
- 10 institutions have some underutilized space, but also have needs for specific types of space
- Laboratories and study space are in short supply
- Classrooms and offices are not in short supply

UNC Capital Equity/Adequacy Study

Findings — Condition and Quality

- Quality is a greater problem than capacity
- Cost to meet quality standards is approximately $3 billion
- Non-appropriated buildings are in better physical condition than appropriated ones
- Current resources do not address repair backlog
- Major renovations must become greater priority
- Of amount estimated for major renovations, $652 million would retrofit science laboratories

The University of North Carolina

UNC Capital Equity/Adequacy Study

Findings — Future Capacity

By 2008...

- Existing capacity will be absorbed
- Specific space needs will exist on all campuses
- Based on enrollment targets, greatest needs will exist at NCSU, UNC-CH, ECU and UNCC
- Greatest space needs will be laboratory, office, study, and student services
- Classroom space will remain sufficient

The University of North Carolina

UNC Capital Equity/Adequacy Study

Recommendations —Capital Equity

- Honor the past – but focus on the future
- Commit fully to the need for all 16 universities
- Set aggressive growth targets with overall quality and market appeal strategies
- Significantly enlarge the "pie" (available funding)

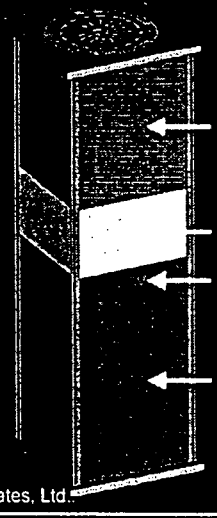
The University of North Carolina

Preliminary 10-Year Capital Needs

University of North Carolina

TOTAL NEEDS

$6.90 Billion



Other/Special = $2.30 Billion

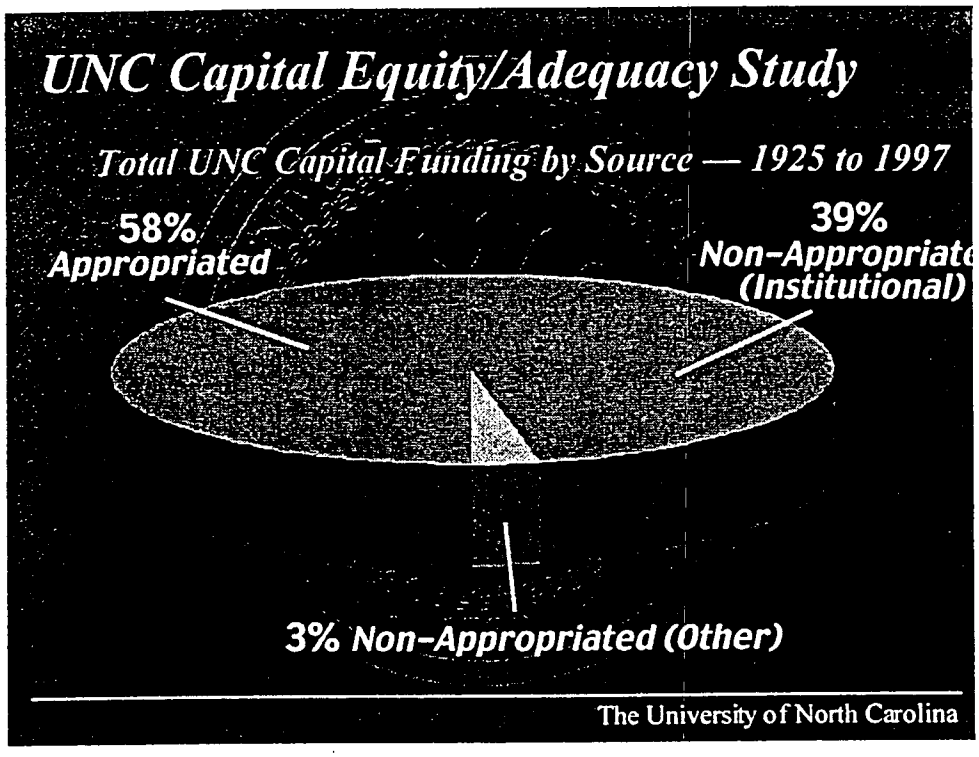
Future Capacity = $1.15 Billion

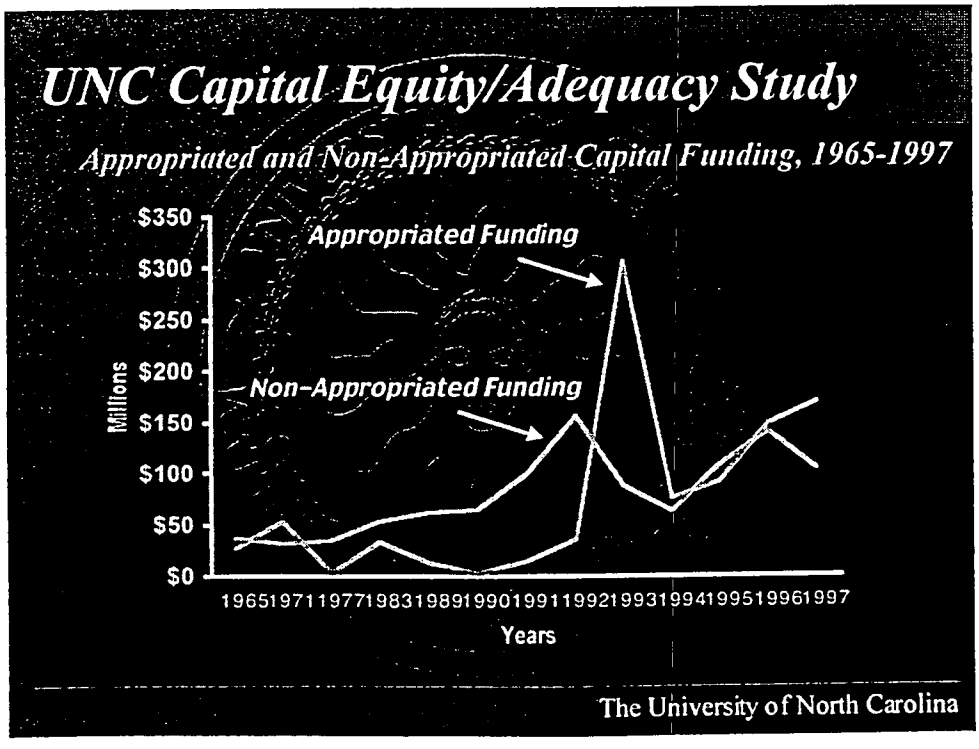
Current Capacity = $0.45 Billion

Rehabilitation = $3.00 Billion

Source: Eva Klein & Associates, Ltd.

The University of North Carolina


UNC Capital Equity/Adequacy Study
Total UNC Capital Funding by Source — 1925 to 1997
58%
Appropriated
39%
Non-Appropriate
(Institutional)
3% Non-Appropriated (Other)
The University of North Carolina


UNC Capital Equity/Adequacy Study
Appropriated and Non-Appropriated Capital Funding, 1965-1997
$350
$300
$250
$200
$150
$100
$50
$0
Millions
Appropriated Funding
Non-Appropriated Funding
1965 1971 1977 1983 1989 1990 1991 1992 1993 1994 1995 1996 1997
Years
The University of North Carolina

UNC Capital Equity/Adequacy Study

Conclusions — Overview of Funding Issues

- Competitive posture will require continued investments in renewal and expansion
- Annual "pie" is too small for identified needs
- Pay-as-you-go overemphasizes new construction
- Pay-as-you-go is not explicit capital development policy
- Insufficient emphasis on private fundraising

The University of North Carolina

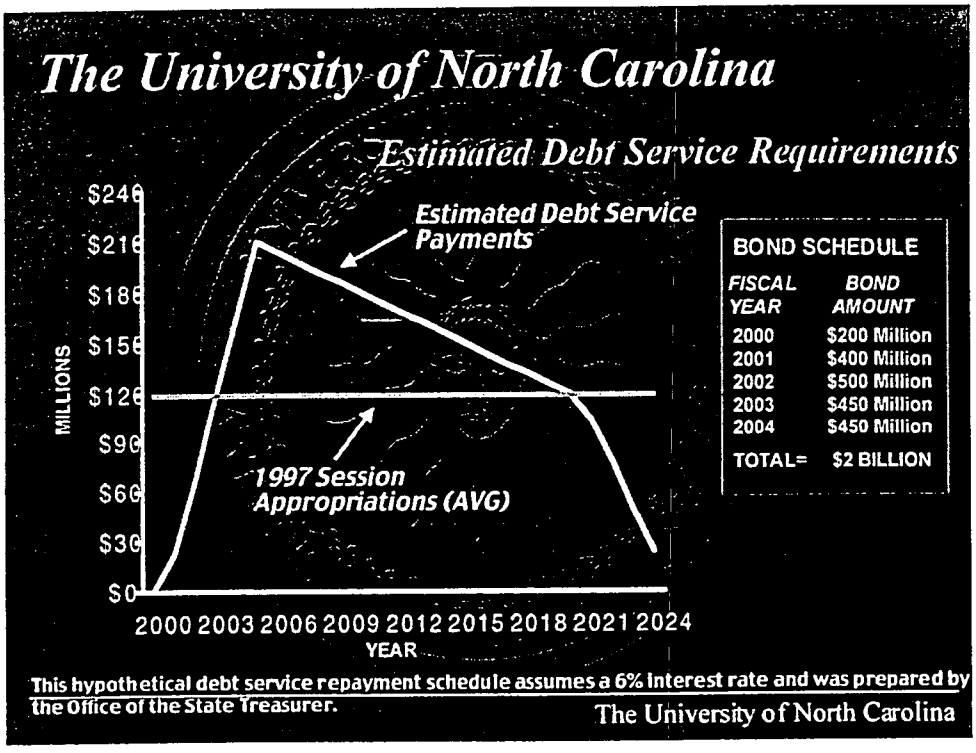
Financing Alternatives — Proposed by State Treasurer

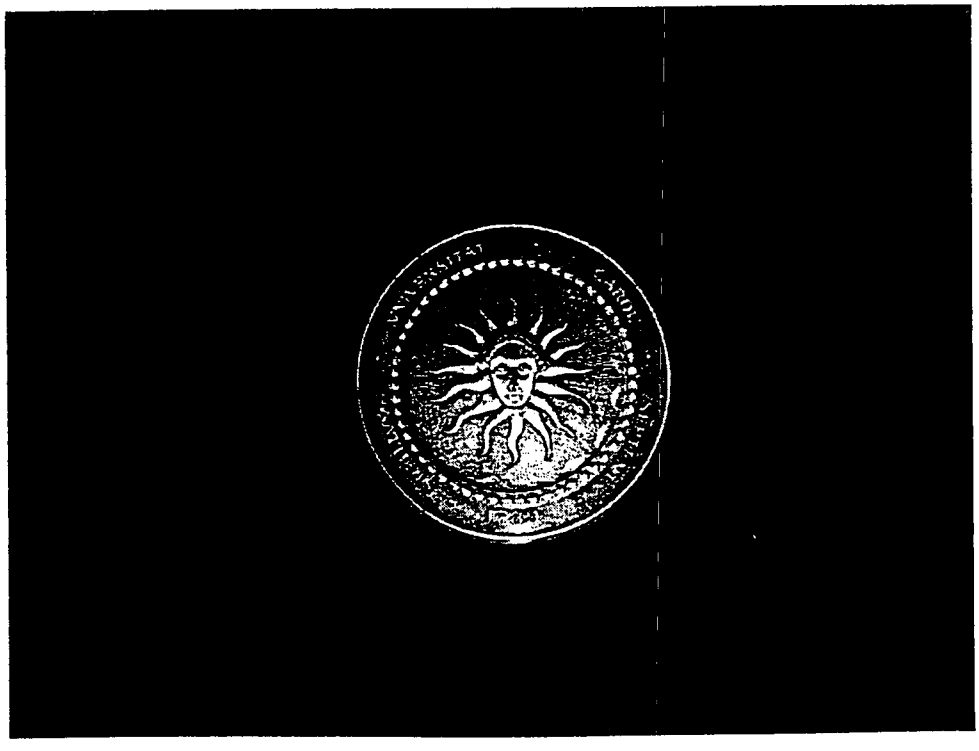
Limited Obligation Bonds

- Indebtedness on the "State's Balance Sheet"
- Secured by a lien or a security interest in University property
- Issuance of the bonds would indicate the intent of the General Assembly to provide funds for debt repayment

Special Obligation Bonds

- Indebtedness on the "University's Balance Sheet"
- The debt would be repaid from rents, fees, endowment earnings, overhead receipts or any other defined revenue stream except for funds derived from general tax revenues or tuition receipts


The University of North Carolina
Estimated Debt Service Requirements
$240
$210
$180
$150
$120
$90
$60
$30
$0
MILLIONS
Estimated Debt Service Payments
1997 Session Appropriations (AVG)
2000 2003 2006 2009 2012 2015 2018 2021 2024
YEAR
BOND SCHEDULE
FISCAL YEAR
BOND AMOUNT
2000 $200 Million
2001 $400 Million
2002 $500 Million
2003 $450 Million
2004 $450 Million
TOTAL= $2 BILLION
This hypothetical debt service repayment schedule assumes a 6% interest rate and was prepared by the Office of the State Treasurer.
The University of North Carolina



N.C. Dep[redacted]t of State Treasurer
State and Loca[redacted]vernment Finance Division
Analysis of Debt and Debt Service
for **GENERAL FUND GENERAL OBLIGATION BONDS**

Fiscal Year	New Issuances: Clean Water & Gas	New Issuances: Schools	Principal Payment	Annual Debt Service (Principal & Interest)	Ending Outstanding Balance
1998/1999	$ -	$ -	$ 107,277,302.30	$ 199,288,092.50	$ 2,212,108,040.15
1999/2000	200,000,000	450,000,000	125,259,115.30	238,474,190.00	2,736,848,924.85
2000/2001	300,000,000		163,714,771.60	312,751,455.00	2,873,134,153.25
2001/2002	250,000,000		175,739,167.30	332,868,515.00	2,947,394,985.95
2002/2003	250,000,000		187,722,158.00	350,709,510.00	3,009,672,827.95
2003/2004			187,568,448.80	348,419,540.00	2,822,104,379.15
2004/2005			187,927,952.60	339,129,720.00	2,634,176,426.55
2005/2006			187,740,431.80	329,306,820.00	2,446,435,994.75
2006/2007			187,560,722.90	319,478,210.00	2,258,875,271.85
2007/2008			187,580,014.55	309,846,855.00	2,071,295,257.30
2008/2009			187,395,257.30	299,971,695.00	1,883,900,000.00
2009/2010			187,550,000.00	288,937,975.00	1,696,350,000.00
2010/2011			187,525,000.00	279,114,575.00	1,508,825,000.00
2011/2012			187,500,000.00	269,292,250.00	1,321,325,000.00
2012/2013			187,480,000.00	259,448,000.00	1,133,845,000.00
2013/2014			187,465,000.00	249,609,750.00	946,380,000.00
2014/2015			187,450,000.00	239,772,250.00	758,930,000.00
2015/2016			187,430,000.00	229,930,500.00	571,500,000.00
2016/2017			166,500,000.00	199,286,500.00	405,000,000.00
2017/2018			164,500,000.00	188,475,000.00	240,500,000.00
2018/2019			160,500,000.00	174,810,000.00	80,000,000.00
2019/2020			46,000,000.00	50,800,000.00	34,000,000.00
2020/2021			34,000,000.00	36,040,000.00	-
Total	$ 1,000,000,000	$ 450,000,000	$ 3,769,385,342.45	$ 5,845,761,402.50	

Assumptions:

Clean Water & Gas Bonds:
Sold August 1st annually from 1999 through 2002
Average Interest Rate = 5.50% for bonds sold in 1999
Average Interest Rate = 6.00% for bonds sold 2000 - 2002
Term of each bond issue = 20 years
Principal payable annually on August 1st beginning 8/1/00
Interest payable semi-annually on February 1and August 1, beginning 2/1/00

School Bonds:
Sold March 1, 2000
Average Interest Rate = 6.00%

Term = 20 years
Principal payable annually on March 1st beginning 3/1/01
Interest payable semi-annually on March 1 and September 1, beginning 9/1/00

N.C. Department of State Treasurer
State and Local Government Finance Division
Analysis of Debt and Debt Service
for **HIGHER EDUCATION LIMITED OBLIGATION BONDS**

Fiscal Year	Proposed Issuances		Principal Payment	Annual Debt Service (Principal & Interest)	Ending Outstanding Balance
	University System	Community Colleges			
1999/2000	$ 240,000,000	$ 100,000,000	$ -	$ -	$ 340,000,000
2000/2001	480,000,000	100,000,000	17,000,000	37,400,000.00	903,000,000
2001/2002	700,000,000	100,000,000	46,000,000	100,180,000.00	1,657,000,000
2002/2003	640,000,000		86,000,000	185,420,000.00	2,211,000,000
2003/2004	640,000,000		118,000,000	250,660,000.00	2,733,000,000
2004/2005			150,000,000	313,980,000.00	2,583,000,000
2005/2006			150,000,000	304,980,000.00	2,433,000,000
2006/2007			150,000,000	295,980,000.00	2,283,000,000
2007/2008			150,000,000	286,980,000.00	2,133,000,000
2008/2009			150,000,000	277,980,000.00	1,983,000,000
2009/2010			150,000,000	268,980,000.00	1,833,000,000
2010/2011			150,000,000	259,980,000.00	1,683,000,000
2011/2012			150,000,000	250,980,000.00	1,533,000,000
2012/2013			150,000,000	241,980,000.00	1,383,000,000
2013/2014			150,000,000	232,980,000.00	1,233,000,000
2014/2015			150,000,000	223,980,000.00	1,083,000,000
2015/2016			150,000,000	214,980,000.00	933,000,000
2016/2017			150,000,000	205,980,000.00	783,000,000
2017/2018			150,000,000	196,980,000.00	633,000,000
2018/2019			150,000,000	187,980,000.00	483,000,000
2019/2020			150,000,000	178,980,000.00	333,000,000
2020/2021			133,000,000	152,980,000.00	200,000,000
2021/2022			104,000,000	116,000,000.00	96,000,000
2022/2023			64,000,000	69,760,000.00	32,000,000
2023/2024			32,000,000	33,920,000.00	-
Total	$ 2,700,000,000	$ 300,000,000	$ 3,000,000,000	$ 4,890,000,000	

Assumptions:
Financing sold February 1st annually from 2000 through 2004
Average interest rate = 6.00% Term of each financing = 20 years
Principal payable annually on February 1, beginning 2/1/01
Interest Payable semi-annually on February 1 and August 1, beginning 8/1/00

NORTH CAROLINA DEPARTMENT OF STATE TREASURER
STATE AND LOCAL GOVERNMENT FINANCE DIVISION
SUMMARY OF LOCAL GOVERNMENT FINANCING AGREEMENTS
APPROVED FROM JULY 1990-JUNE 1999

	1990/1991	1991/1992	1992/1993	1993/1994	1994/1995	1995/1996	1996/1997	1997/1998	1998/1999	TOTAL
SCHOOLS	$ 5,500,000	$ 9,700,000	$ 54,334,873	$ 23,012,500	$ 99,455,550	$ 144,238,811	$ 88,889,732	$ 10,380,000	$ 109,500,000	$ 545,011,466
PUBLIC BUILDINGS	34,287,945	24,939,086	49,508,496	55,961,217	142,077,205	49,542,083	52,121,400	81,789,849	45,660,028	535,887,309
LAW ENF.,JAIL,COURTHOUSE	90,301,321	44,670,000	26,145,311	87,761,991	25,075,640	28,822,665	79,515,000	41,732,910	20,976,314	445,001,152
ARENAS,CONVENTION,COL.	196,500,000	29,000,000	14,740,719	800,000	61,500,000	42,629,800			18,925,000	364,095,519
REFUNDING				164,000,000	3,750,000			144,277,117	42,957,000	354,984,117
WATER	3,754,838	14,837,077	25,367,062	24,658,975	28,029,317	15,818,284	16,163,215	29,793,934	56,977,421	215,400,123
SANITARY SEWER	250,000	2,107,505	7,201,577	6,784,700	27,564,575	15,385,700	40,139,128	38,791,022	24,125,916	162,350,123
HOSPITAL	6,496,000	8,544,690	15,680,132	32,672,465	15,000,000	21,540,000	18,914,626	250,000	5,602,000	124,699,913
PARKING	20,250,000	28,000,000		8,100,000	28,275,000	2,592,709	6,117,500	6,800,000	2,200,000	102,335,209
RECREATION	1,302,001	3,175,000	524,278	3,964,000	14,180,688	5,881,118	6,382,947	17,091,006	26,516,874	79,017,912
EQUIPMENT	6,229,481	148,486	4,603,769	2,938,915	12,202,000	6,450,000	4,100,800	10,519,629	15,316,933	62,510,013
PENSION LIABILITY			25,000,000		22,500,000					47,500,000
FIRE STATION					4,144,000		8,587,256	11,894,140	9,997,649	34,623,045
INDUSTRIAL DEVELOPMENT	1,927,131			1,600,000		4,098,000	3,400,000	13,810,000	6,519,900	31,355,031
LAND ACQUISITION	105,000	421,960	1,017,469	650,000		1,464,800	5,811,200	6,239,913	14,422,293	30,132,635
LIBRARY		700,000	438,362		1,579,300		9,304,978	5,110,862	6,000,000	23,133,502
STREETS/SIDEWALKS	800,000		1,548,626	3,605,000		3,772,000		1,333,800	11,927,000	22,986,426
ELECTRIC				1,200,000			13,309,000	2,842,520	5,591,850	22,943,370
AIRPORT	1,900,000	1,520,000	270,000					4,950,000	5,747,500	14,387,500
COMMUNITY COLLEGE		5,500,000	806,000				6,604,197			12,910,197
SOLID WASTE	2,295,000	450,000	925,000	1,528,375			1,500,000	1,185,000	4,655,000	12,538,375
ENERGY SAVINGS CONTRACTS						3,692,188	1,995,099	1,376,514	3,806,152	10,869,953
OTHER		3,000,000	2,085,646	1,606,770	7,754,840	6,729,644	6,069,052	2,213,129	500,000	29,959,081
TOTAL	$371,898,717	$176,713,804	$230,197,320	$420,844,908	$493,088,115	$352,657,802	$368,925,130	$432,381,345	$437,924,830	$3,284,631,971

Burke/share/user/allen1/90-99.xls

NORTH CAROLINA DEPARTMENT OF STATE TREASRUER
STATE AND LOCAL GOVERNMENT FINANCE DIVISION
SUMMARY OF NORTH CAROLINA EDUCATIONAL FACILITIES FINANCE AGENCY
BONDS ISSUED FROM INCEPTION TO JUNE 30, 1999

Institution	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Totals
Wake Forest University		$ 30,000,000		$ 72,000,000				$ 13,000,000		$ 35,000,000	$ 45,085,000			$ 195,085,000
Duke University	$ 18,900,000	25,377,120			$ 76,695,000	$ 35,240,000				24,275,000				180,487,120
Elon College		11,999,859				24,490,000					17,815,000	$ 14,010,000		68,314,859
Davidson College		20,000,000			3,000,000	25,140,000		2,900,000						51,040,000
Guilford College				9,000,000			$ 11,900,000				21,540,000			42,440,000
Gardner-Webb University											11,725,000		$ 6,700,000	18,425,000
Saint Augustine's College												12,910,000		12,910,000
Shaw University								12,300,000						12,300,000
Warren Wilson College												12,200,000		12,200,000
Johnson C. Smith University													11,325,000	11,325,000
Brevard College											10,800,000			10,800,000
Greensboro College											10,000,000			10,000,000
Methodist College									$ 10,000,000					10,000,000
Wingate University											10,000,000			10,000,000
High Point University			$ 2,490,000								7,110,000			9,600,000
Catawba College													9,500,000	9,500,000
North Carolina Wesleyan College													8,700,000	8,700,000
Cannon School, Inc. *													6,500,000	6,500,000
Belmont Abbey College				1,000,000								4,225,000		5,225,000
St. Augustine College							5,000,000							5,000,000
Lenoir-Rhyne College													4,750,000	4,750,000
Montreat College													4,400,000	4,400,000
Pfeiffer University										3,800,000				3,800,000
Mars Hill College						2,500,000								2,500,000
Salem College							2,500,000							2,500,000
Duke School for Children*													2,175,000	2,175,000
Totals	$ 18,900,000	$ 87,376,979	$ 2,490,000	$ 82,000,000	$ 79,695,000	$ 87,370,000	$ 19,400,000	$ 28,200,000	$ 10,000,000	$ 63,075,000	$ 134,075,000	$ 43,345,000	$ 54,050,000	$ 709,976,979

* Elementary/Secondary School

G:\SHARE\USERS\MTH1\AS_FILES\REPORTS\NCEFFA98.XLS

2
new

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 912
Proposed Committee Substitute S912-PCSX6690-LC

Short Title: Bonds for Higher Education. (Public)

Sponsors:

Referred to:

April 14, 1999

A BILL TO BE ENTITLED

AN ACT (1) TO PROVIDE FOR THE FINANCING OF CAPITAL FACILITIES FOR THE UNIVERSITY OF NORTH CAROLINA THROUGH THE ISSUANCE OF STATE OF NORTH CAROLINA UNIVERSITY IMPROVEMENT SECURITY INTEREST BONDS, (2) TO AUTHORIZE THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO ISSUE SPECIAL OBLIGATION BONDS FOR IMPROVEMENTS TO THE FACILITIES OF THE UNIVERSITY OF NORTH CAROLINA AND FOR THE UNIVERSITY OF NORTH CAROLINA HOSPITALS AT CHAPEL HILL AND OTHER FACILITIES OF THE UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM, AND (3) TO PROVIDE FOR THE FINANCING OF CAPITAL IMPROVEMENTS FOR COMMUNITY COLLEGES THROUGH THE ISSUANCE OF STATE OF NORTH CAROLINA COMMUNITY COLLEGE SECURITY INTEREST BONDS.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 116D.

"Higher Education Bonds.

"ARTICLE 1.

"General Provisions.

"§ 116D-1. Definitions.

The following definitions apply in this Chapter:

(1) Board of Governors. -- The Board of Governors of the University.

(2) Capital facility. -- Any one or more of the following for the University or for a community college:

a. One or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment and furnishings in connection therewith.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

The term includes, without limitation, classroom buildings, laboratory buildings, research facilities, libraries, physical education facilities, continuing education centers, student cafeterias, and activity facilities, including sports facilities, student and faculty housing facilities, and administrative office facilities.

(3) Cost. -- Any of the following in financing the cost of capital facilities and special obligation bond projects, as authorized by this Chapter:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities and special obligation bond projects, including the acquisition of land, rights-of-way, easements, franchises, equipment, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility or special obligation bond project.

b. The cost of engineering, architectural, and other consulting services as may be required.

c. The cost of providing personnel to ensure effective project management.

d. Finance charges, reserves for debt service, and interest prior to and during construction.

e. Administrative expenses and charges incurred by the State in connection with the administration of a bond program created under this Chapter.

f. The cost of bond insurance, investment contracts, credit enhancement, and liquidity facilities, interest-rate swap agreements or other derivative products, financial and legal consultants, and related costs of bond and note issuance.

g. The cost of reimbursing the State for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Chapter.

(4) Credit facility. -- An agreement entered into by the State Treasurer on behalf of the State with a bank, savings and loan association or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States, and providing for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption or acceleration), redemption premium, if any, and interest on any bonds or notes payable on demand or tender by the owner, in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(5) Fiscal period. -- A fiscal biennium or a fiscal year of the fiscal biennium.

(6) Fiscal year. -- The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(7) Par formula. -- A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any bonds or notes, including:

a. A provision providing for an adjustment so that the purchase price of bonds or notes in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. A provision that the State Treasurer determines is consistent with this Chapter and will not materially and adversely affect the financial position of the State and the marketing of bonds or notes at a reasonable interest cost to the State.

(8) Securities issued under this Chapter. -- Any of the following:

a. University improvement security interest bonds, refunding bonds, notes, and refunding notes issued under Article 2 of this Chapter.

b. Special obligation bonds, bond anticipation notes, and refunding bonds issued under Article 3 of this Chapter.

c. Community college security interest bonds, refunding bonds, notes, and refunding notes issued under Article 4 of this Chapter.

(9) State. -- The State of North Carolina.

(10) State Treasurer. -- The incumbent Treasurer, from time to time, of the State.

(11) University. -- The University of North Carolina and its constituent and affiliated institutions, including, without limitation, the University of North Carolina Center for Public Television, the University of North Carolina Health Care System, the North Carolina School of Science and Mathematics, and the North Carolina Arboretum.

"**§ 116D-2. General provisions.**

(a) Signatures. -- Should any officer whose signature or facsimile signature appears on securities issued under this Chapter cease to be that officer before the delivery of the securities, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery of the securities. Securities issued under this Chapter may bear the facsimile signatures of persons, who at the actual time of the execution of the securities were the proper officers to sign any security although at the date of the security those persons may not have been officers.

(b) Tax Exemption. -- Securities issued under this Chapter shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, or gift taxes, income taxes on the gain from the transfer of the securities, and franchise taxes. The interest on the securities is not subject to taxation as income.

(c) Investment Eligibility. -- Securities issued under this Chapter are securities in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions, insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, other financial institutions engaged in business in the State, executors, administrators, trustees, and other fiduciaries. Securities issued under this Chapter are securities which may properly and legally be deposited with and received by any officer or agency of the State or a political subdivision of the State for any purpose for which the deposit of bonds or notes of the State or any political subdivision is now or may later be authorized by law.

(d) Inconsistent Laws. -- All general, special, or local laws that are inconsistent with this Chapter do not apply to this Chapter.

"**§ 116D-3. Reports.**

(a) Board of Governors. -- The Board of Governors shall report to the Joint Legislative Commission on Governmental Operations by September 15 of each year, and more frequently as the Commission requests, on the following:

(1) University Improvement Security Interest Bonds. -- The Board of Governors shall report on projects funded by university improvement security interest bonds under Article 2 of this Chapter, including the total project costs, the amount to be funded

from the bonds, the expenditures to date from the bonds and other sources, and the percentage of each project completed. Each annual report shall include estimated operating costs for each project begun in the preceding fiscal year, including proposed sources of funds and anticipated dates for occupancy. Operating costs shall be projected for a period of at least 20 years from the date of anticipated project completion.

(2) Special Obligation Bonds. -- The Board of Governors shall report on special obligation bonds issued under Article 3 of this Chapter, including the amount of debt, itemized for each institution of the University, by bond issue, and by project. The report shall include schedules of debt service requirements and actual payments, as well as evidence of compliance with additional financial covenants required by bond documents. The report shall identify the trends and current revenue streams of the sources of obligated resources pledged for each bond issue.

(b) Treasurer. -- Upon issuance of university improvement security interest bonds under Article 2 of this Chapter or community college security interest bonds under Article 4 of this Chapter, the Treasurer shall forward a schedule of required payments of principal and interest over the life of the bonds to the Director of the Budget, with copies to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. The Treasurer shall report to the Joint Legislative Commission on Governmental Operations by September 15 of each year, and more frequently as the Commission requests, on the university improvement security interest bonds issued under Article 2 of this Chapter and community college security interest bonds issued under Article 4 of this Chapter, including the annual debt service requirements over the remainder of the life of the bonds.

(c) Community Colleges. -- The Community Colleges System Office shall report quarterly to the Joint Legislative Education Oversight Committee on the projects funded from community college security interest bonds. Each report shall include the total project costs, the amount to be funded from the bonds, the expenditures to date from the bonds and other sources, and the percentage of each project completed.

"ARTICLE 2.

"Security Interest Bonds for Financing Capital Facilities for The University of North Carolina.

"**§ 116D-5. Short title.**

This Article may be cited as the University Improvement Security Interest Bonds Finance Act.

"**§ 116D-6. Findings and purpose.**

The General Assembly finds that:

(1) Article IX of the North Carolina Constitution requires the General Assembly to maintain a public system of higher education comprising The University of North Carolina, that the benefits of

the University, as far as practicable, be extended to the people of North Carolina without expense.

(2) Recent studies have shown that billions of dollars will be necessary to repair and renovate the current facilities of the University, to expand the facilities to meet future enrollment demands, to modernize existing facilities of the University in order for the University to continue to provide excellent educational opportunities for the people of North Carolina, and to meet the challenges of changing technologies and globalization of economies.

(3) The University is one of the most valuable assets of the State, and the State cannot afford to permit the quality of the University to decline due to failure to maintain, expand, and modernize the facilities of the University. The failure to expend the required amounts to maintain, modernize, and expand the University will have a significant negative impact upon the continuing quality of the University. Such a negative impact is unacceptable to the citizens of the State.

(4) The University's capital facilities have been and will continue to be provided from University funds on hand, direct appropriations by the State, the proceeds of University self-liquidating debt obligations, and the proceeds of State general obligation bonds secured by a pledge of the faith and credit of the State. There is a need, however, for the use of alternative financing methods to facilitate funding capital facilities when circumstances and conditions warrant the use of financing methods other than those currently used.

(5) The use of State of North Carolina University Improvement Security Interest Bonds, secured by a lien on or security interest in University property acquired, constructed, or improved with the bond proceeds, with the payments of principal and interest appropriated by the General Assembly, will provide flexibility to the State in the financing of facilities for the University and will permit the State to take advantage of changing financial and economic environments.

"**§ 116D-7. Definitions.**

The following definitions apply in this Article:

(1) Bonds. -- Bonds authorized to be issued under this Article, including refunding bonds.

(2) Notes. -- Notes issued under this Article.

(3) University improvement security interest bonds. -- Bonds authorized to be issued under this Article, including refunding bonds.

"**§ 116D-8. Authorization of bonds and notes.**

The State Treasurer may, by and with the consent of the Council of State, issue and sell, at one time or from time to time, university improvement security interest bonds of the State to be designated 'State of North Carolina University Improvement Security Interest Bonds', with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State. Except as otherwise provided by this Article, the aggregate amount of bonds and notes issued pursuant to this Article shall not exceed two billion seven hundred million dollars ($2,700,000,000). The bonds and notes shall be issued in the following years up to the following amounts:

Fiscal Year	Aggregate Amount
1999-2000	$240,000,000
2000-2001	480,000,000
2001-2002	700,000,000
2002-2003	640,000,000
2003-2004	640,000,000

If less than the aggregate amount of bonds or notes authorized to be issued in a fiscal year is issued in that fiscal year, the balance for that fiscal year may be issued in any subsequent fiscal year. Refunding bonds and notes issued pursuant to G.S. 116D-11(f) shall not be included in the limitation on the aggregate amount of bonds and notes that may be issued pursuant to this Article.

The proceeds of bonds or notes issued under this Article shall be applied to finance the cost of improvement, construction, and acquisition of capital facilities for the University or to refund any outstanding bonds or notes issued under this Article. The capital facilities to be improved, constructed, or acquired with the proceeds of bonds or notes shall be determined as provided in G.S. 116D-9.

"**§ 116D-9. Designation of capital facilities and preconditions to bond issuance.**

The capital facilities to be financed in whole or in part with the proceeds of university improvement security interest bonds shall be set forth in legislation enacted from time to time by the General Assembly. The proceeds of university improvement security interest bonds shall not be expended to pay the costs of any capital facilities other than those set forth in that legislation.

"**§ 116D-10. Security; other requirements.**

(a) Security. -- To secure payment of the principal of and interest on bonds or notes issued under this Article, the State may create a lien on or a security interest in one or more of the following:

(1) In all or any part of the capital facilities to be financed by the bonds or notes.

(2) In the case of construction of improvements on real property, in all or some portion of the land on which the improvements are to be located or in all or part of the improvements.

(3) In the case of renovations or improvements to or the installation of fixtures in existing facilities, in all or some portion of the existing facilities, or in all or part of the renovations or improvements.

Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for university improvement security interest bonds, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for university improvement security interest bonds following the State's default on its obligations under the bonds or notes or any trust agreement or other instrument securing payment of the bonds or notes. The security for an issue of bonds shall be set forth in general terms in the resolution of the Council of State authorizing the issuance of the bonds. The property that will be the subject of a lien, deed of trust, or security interest to secure the bonds need not bear any particular relationship to the principal amount of the bonds or notes. The State may grant multiple liens or security interests in a capital facility to the extent not otherwise limited by the terms of other issues of bonds or notes.

(b) Default. -- If university improvement security interest bonds are secured by a lien, deed of trust, or security interest in multiple items of property, the mortgage, deed of trust, or security agreement or other instrument creating the lien, deed of trust, or security interest shall provide that if the State defaults on its obligations with respect to university improvement security interest bonds, the Board of Governors, on behalf of the State, shall determine the order in which the property comprising the security shall be sold or otherwise conveyed to satisfy the obligations of the State. In carrying out the provisions of this subsection, the Board of Governors shall endeavor to select for sale or conveyance to satisfy the obligations of the State those items of property that, in the judgment of the Board of Governors, if sold, would result in the least amount of interruption to the operations of the University as a whole and its ability to carry out its mission. Any determination made by the Board of Governors in carrying out this endeavor shall be conclusive. Nothing in this subsection prohibits the sale or conveyance of up to all of the property securing university improvement security interest bonds to the extent necessary to satisfy the obligations of the State under the bonds.

(c) Governor's Budget. -- Documentation relating to any bonds or notes may include provisions requiring the Governor to submit in the Governor's budget proposal, or in any amendments or supplements to the budget proposal, appropriations necessary to make the payments required to pay the bonds or notes.

(d) Appropriations. -- Amounts payable by the State in respect of an issue of bonds or notes during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) State Liability. -- No deficiency judgment may be rendered against the State in any action for breach of any obligation contained in an issue of bonds or notes or any trust agreement or other instrument securing payment of the bonds or notes. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under an issue of bonds or notes. In the event that the State fails to pay any payments required under or with respect to an issue of bonds or notes, whether on account of a failure by the General Assembly to appropriate sufficient funds for the payment or for some other reason, the net proceeds received

from the sale or other disposition of the capital facilities subject to the lien or security interest securing the bonds or notes shall be applied to satisfy the payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest, and the net proceeds are hereby appropriated for the purpose of making those payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under an issue of bonds or notes shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. -- No documentation relating to an issue of bonds or notes may contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility financed or purchased by the bonds or notes.

(g) Terms Protecting Lender. -- The documentation relating to an issue of bonds or notes may contain provisions for protecting and enforcing the rights and remedies of the owners of the bonds or notes that are reasonable and proper and not in violation of law. It may include covenants setting forth the duties of the State in respect of the purposes to which the proceeds of the bonds or notes may be applied, the disposition and application of any appropriations of the State, and the duties of the State with respect to the capital facilities financed, including, without limitation, the payment of the costs of insurance and maintenance of the capital facilities, the terms under which the collateral securing the bonds may be released or substitute collateral may be delivered, the terms and conditions of the issuance of additional bonds or notes similarly secured, and the custody, safeguarding, investment, and application of all moneys.

(h) Statement on Face of Bonds. -- Bonds issued under this Article shall contain on their face a statement to the effect that neither the faith and credit nor the taxing power of the State or of any political subdivision or instrumentality of the State is pledged to the payment of the principal of or the interest on the bonds.

"§ 116D-11. Issuance of bonds and notes.

(a) Terms and Conditions. -- Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 25 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. -- Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear the State Treasurer's facsimile signature, and shall bear the Great Seal of the State or a facsimile of the Seal impressed or imprinted on them. If bonds or notes bear the

facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as the State Treasurer may determine in conformity with this Article.

(c) Manner of Sale; Expenses. -- Subject to the approval by the Council of State as to the manner in which bonds or notes shall be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. -- The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys which may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. -- By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment or principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes as authorized in this Article.

Funds derived from the sale of bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General

Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. -- By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding bonds or notes issued pursuant to this Article and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes similarly secured. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the bonds or notes being refunded or, if not required for the immediate payment of the bonds or notes being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the bonds or notes being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) obligations of any agency or instrumentality of the United States government if the timely payment of principal and interest on the obligations is unconditionally guaranteed by the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of bonds or notes being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Trust Agreement. -- In the discretion of the State Treasurer, any bonds and notes issued under the provisions of this Article may be secured by a trust agreement or similar instrument by and between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank having the powers of a trust company within or without the State. The trust agreement or resolution may provide for security, and pledges and assignments with respect to the security, as permitted under this Article and may provide for the granting of a lien or security interest in the property as authorized in G.S. 116D-10. The trust agreement or resolution may contain provisions for the terms and conditions of the issuance of additional bonds and notes, and the custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article shall be equally and ratably secured as provided in the trust agreement or resolution, without priority by reasons of number, or dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust agreement or resolution. The trust agreement or resolution may, however, provide that the bonds or notes shall, to the extent and in the manner prescribed in

the trust agreement or resolution, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security thereof, to any other bonds or notes. It shall be lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities as may be required by the State Treasurer. Any trust agreement or resolution may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, any trust agreement or resolution may contain other provisions that the State Treasurer considers reasonable and proper for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of any trust agreement or resolution may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 116D-12. Variable rate demand bonds and notes.**

(a) In fixing the details of bonds and notes, the State Treasurer may provide that the bonds and notes may:

(1) Be made payable from time to time on demand or tender for purchase by the owner, if a credit facility supports the bonds or notes, unless the State Treasurer specifically determines that a credit facility is not required upon a finding and determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State and the marketing of the bonds or notes at a reasonable interest cost to the State.

(2) Be additionally supported by a credit facility.

(3) Be made subject to redemption or a mandatory tender for purchase prior to maturity.

(4) Bear interest at rates that may vary from any periods of time, as may be provided in the proceedings providing for the issuance of the bonds or notes, including, without limitation, any variations as may be permitted pursuant to a par formula.

(5) Be made the subject of a remarketing agreement whereby an attempt is made to remarket bonds or notes to new purchasers prior to their presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of bonds or notes secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium, or for any other reason, then the amount of authorized but unissued bonds or notes during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 116D-13. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of bonds or notes. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated with any bond issue under this Article as the State Treasurer considers necessary.

"ARTICLE 3.

"Special Obligation Bonds for Improvements to the Facilities of The University of North Carolina.

"**§ 116D-21. Purpose.**

The purpose of this Article is to authorize the Board of Governors of The University of North Carolina to issue special obligation bonds, payable from obligated resources, but with no pledge of taxes or the faith and credit of the State or any agency or political subdivision of the State, to pay the cost, in whole or in part, of improvements to the facilities of the University.

"**§ 116D-22. Definitions.**

The following definitions apply in this Article:

(1) Existing facilities. -- Buildings and facilities then existing that generate income or receipts to the Board of Governors that are pledged, under the provisions of a resolution authorizing the issuance of the special obligation bonds under this Article, to the payment of the bonds.

(2) Institution. -- Each of the institutions enumerated in G.S. 116-2, and any affiliated institutions of the University, including, without limitation, the University of North Carolina Center for Public Television, the University of North Carolina Health Care System, the North Carolina School of Science and Mathematics, and the North Carolina Arboretum.

(3) Obligated resources. -- Any sources of income or receipts of the Board of Governors or the institution at which a special obligation bond project is or will be located that are designated by the Board as the security and source of payment for bonds issued under this Article to finance a special obligation bond project, including, without limitation, any of the following:

a. Rents, charges, or fees to be derived by the Board of Governors or the institution from any activities conducted at the institution.

b. Earnings on the investment of the endowment fund of the institution at which a special obligation project will be located, to the extent that the use of the earnings will not violate any lawful condition placed by the donor upon the

part of the endowment fund that generates the investment earnings.

c. Funds to be received under a contract or a grant agreement, including 'overhead costs reimbursement' under a grant agreement, entered into by the Board of Governors or the institution to the extent the use of the funds is not restricted by the terms of the contract or grant agreement or the use of the funds as provided in this Article does not violate the restriction.

Obligated resources do not include funds appropriated to the Board of Governors or the institution from the General Fund by the General Assembly from funds derived from general tax and other revenues of the State, and obligated resources do not include tuition payment by students.

(4) Special obligation bonds. -- Bonds issued under this Article to finance the cost of a special obligation project, which bonds are secured by and payable from obligated resources designated by the Board of Governors at the time the issuance of the bonds is authorized in accordance with this Article.

(5) Special obligation bond project. -- Any capital facilities located or to be located at an institution for the purpose of carrying out the mission of that institution and designated specifically by the Board of Governors as a 'special obligation bond project' for purposes of this Article. A special obligation bond project need not necessarily consist of buildings or facilities that are expected to generate 'self-liquidating revenues' to the Board of Governors or the institution from direct rentals, charges, or fees from the services provided by the building or facility, and may include facilities such as classroom buildings, administration buildings, research facilities, libraries, and equipment that do not produce direct, or indirect, income to the Board of Governors or the institution.

"§ 116D-23. Credit and taxing power of State not pledged; statement on face of bonds.

Special obligation bonds issued under this Article shall not constitute a debt or liability of the State or any political subdivision of the State or a pledge of the faith and credit of the State or of any political subdivision of the State. Special obligation bonds shall be secured solely by the obligated resources pledged to their payment. All of the special obligation bonds shall contain on their face a statement to the effect that neither the State nor the Board of Governors is obligated to pay the bonds or the interest on the bonds except from the obligated resources pledged for payment and that neither the faith and credit nor the taxing power of the State or of any political subdivision or instrumentality of the State is pledged to the payment of the principal of or the interest on the bonds. The issuance of special obligation bonds under this

Article does not directly or indirectly or contingently obligate the State or any political subdivision of the State to levy or to pledge any taxes for the bonds.

"**§ 116D-24. General powers of Board of Governors.**

The Board of Governors is authorized, subject to the requirements of this Article, to do all of the following:

(1) Determine the location and character of any special obligation bond project, to acquire, construct, and provide the project, and to maintain, repair, and operate and enter into contracts for the management, lease, use, or operation of all or any portion of any special obligation bond project and any existing facilities.

(2) Issue special obligation bonds to pay all or any part of the cost of a special obligation bond project, and to fund or refund any bonds previously issued by the Board of Governors to finance facilities designated as a special obligation bond project.

(3) Fix and revise from time to time and charge and collect fees, rates, rents, charges, and other income for the use of and for the services furnished by the institution that are designated as obligated resources in connection with a special obligation bond issue.

(4) Establish and enforce, and to agree through any resolution or trust agreement authorizing or securing bonds under this Article to make and enforce, rules for the use of and services rendered by the institution of the income or receipts to be obtained from the use or services designated as obligated resources in connection with a special obligation bond issue.

(5) Acquire, hold, lease, and dispose of real and personal property in the exercise of its powers and the performance of its duties and to lease all or any part of a special obligation bond project and any existing facilities for any periods of years, not exceeding 40 years, upon any terms and conditions as the Board of Governors determines, subject to the provisions of G.S. 143-341.

(6) Employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and any other employees and agents as may be necessary in its judgment in connection with a special obligation bond project and existing facilities, and to fix their compensation.

(7) Enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Article.

(8) Receive and accept from any federal, State, or other public agency and any private agency, person, or other entity donations, loans, grants, aid, or contributions of any money, property, labor, or other things of value for a special obligation bond project or any other services provided by the institution that is designated as the obligated resource in connection with a special obligation bond

issue, and to agree to apply and use them in accordance with the terms and conditions under which they are provided.

(9) Do all acts and things necessary or convenient to carry out the powers granted by this Article.

"§ 116D-25. Consultation with the Joint Legislative Commission on Governmental Operations.

Whenever this Article requires the approval of the Director of the Budget of an action, the Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations before giving approval.

"§ 116D-26. Issuance of special obligation bonds and bond anticipation notes.

(a) Authority. -- The Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, special obligation bonds of the Board of Governors for the purpose of paying all or any part of the cost of acquiring, constructing, or providing a special obligation project. Before issuing special obligation bonds, the Board of Governors shall first adopt a resolution (i) setting forth the designation by the Board of Governors that the buildings or facilities to be financed by the bond issue are the special obligation bond project being financed and (ii) designating the obligated resources that will secure and be the source of payment of the special obligation bonds to be issued. The Board of Governors shall not issue any special obligation bonds unless the Board of Governors finds that sufficient obligated resources are reasonably expected to be available (i) to pay the principal and interest on the special obligation bonds proposed to be issued, (ii) to create and maintain any reserves for the payment of the special obligation bonds, to the extent the Board of Governors is required to maintain reserves for this purpose by the terms of the trust agreement or resolution authorizing the issuance of the special obligation bonds, and (iii) to provide for the maintenance and operation of the facilities that are to generate the obligated resources to the extent the Board of Governors is required to maintain those facilities by the terms of the trust agreement or resolution authorizing the issuance of the special obligation bonds. Notwithstanding any other provision of this Article, the proceeds of special obligation bonds to be secured by obligated resources derived from the operation of or activities at one institution may not be applied to finance a special obligation project to be located at another institution.

(b) Approval Required. -- The Board of Governors shall not issue any special obligation bonds for a project at an institution unless the board of trustees of that institution has approved the issuance of bonds for that project. The Board of Governors shall not issue special obligation bonds under this Article until the effective date of legislation enacted by the General Assembly authorizing the undertaking of the special obligation bond project to be financed and fixing the maximum aggregate principal amount of special obligation bonds that shall be issued for that purpose. In submitting proposed special obligation bond projects to the General Assembly for approval, the Board of Governors shall submit information on the need for each project, project costs, estimates of increased operating costs upon completion, estimated debt service requirements, and the sources and amounts of

obligated resources to be pledged for the repayment of the bonds. If the obligated resources to repay the bonds or to operate the proposed project potentially involve increased costs to students or to the General Fund, these costs shall be identified in the Board of Governors' submission.

Except as provided in this Article, special obligation bond projects may be undertaken, special obligation bonds may be issued, and other powers vested in the Board of Governors under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, or things which are specifically required by this Article.

(c) Term; Form. -- The special obligation bonds of each issue shall be dated, shall mature at any times not exceeding 25 years from their dates, shall bear interest at any rates as may be determined by the Board of Governors, and may be redeemable before maturity at the option of the Board, at any prices and under any terms and conditions as may be fixed by the Board prior to the issuance of the special obligation bonds. The Board of Governors shall determine the form and manner of execution of the special obligation bonds and shall fix the denominations of the special obligation bonds and the places of payment of principal and interest, which may be at any bank or trust company within or without the State. Notwithstanding any of the other provisions of this Article or any recitals in any special obligation bonds issued under the provisions of this Article, all special obligation bonds shall be negotiable instruments under the laws of this State, subject only to the provisions for registration in a resolution authorizing the issuance of the special obligation bonds or a trust agreement securing the bonds. The Board of Governors may sell the special obligation bonds in any manner, at public or private sale, and for any price, as it may determine to be for its best interests.

(d) Proceeds; Additional Bonds. -- The proceeds of the special obligation bonds of each issue shall be used solely for the purpose for which the bonds have been authorized and shall be disbursed in the manner and under such restrictions, if any, as the Board of Governors may provide in the resolution authorizing the issuance of the bonds or in the trust agreement securing them. Unless otherwise provided in the authorizing resolution or in the trust agreement securing the special obligation bonds, if the proceeds of the special obligation bonds, by error of estimates or otherwise, are less than the cost of the special obligation bond project, additional bonds may in like manner be issued to provide the amount of the deficit and shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of special obligation bonds, and any trust agreement securing them, may also contain limitations upon the issuance of additional special obligation bonds as the Board of Governors considers proper, and the additional special obligation bonds must be issued under the restrictions and limitations prescribed by the resolution or trust agreement.

(e) Temporary Bonds; Notes. -- Before preparing definitive bonds, the Board of Governors may, under like restrictions, issue interim receipts or temporary bonds exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The Board may also provide for the replacement of any bonds which become mutilated, destroyed, or lost.

The Board of Governors may enter into or negotiate a note with an acceptable bank or trust company in lieu of issuing special obligation bonds for the financing of special obligation bond projects covered under this Article. The terms and conditions of any note of this nature shall be in accordance with the terms and conditions surrounding issuance of the special obligation bonds.

(f) Bond Anticipation Notes. -- The Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, bond anticipation notes of the Board of Governors in anticipation of the issuance of special obligation bonds authorized by this Article. The principal of and the interest on these notes shall be payable solely from the proceeds of special obligation bonds or renewal notes or, in the event bond or renewal note proceeds are not available, from the obligated resources designated for their payment. The notes of each issue shall be dated, shall mature at any times not exceeding two years from their dates, shall bear interest at any rates as may be determined by the Board of Governors, and may be redeemable before maturity, at the option of the Board of Governors, at any prices and under any terms and conditions as may be fixed by the Board of Governors prior to the issuance of the notes. The Board shall determine the form and the manner of execution of the notes and shall fix the denominations of the notes and the places of payment of principal and interest, which may be at any bank or trust company within or without the State. Notwithstanding any of the other provisions of this Article or any recitals in any notes issued under the provisions of this Article, all notes shall be negotiable instruments under the laws of this State, subject only to the provisions for registration in a resolution authorizing the issuance of the notes or any trust agreement securing the bonds in anticipation of which the notes are being issued. The Board of Governors may sell the notes in any manner, at public or private sale, and for any price, as it may determine to be for its best interests.

The proceeds of the notes of each issue shall be used solely for the purpose for which the special obligation bonds in anticipation of which the notes are being issued have been authorized, and the note proceeds shall be disbursed in any manner and under any restrictions as the Board of Governors may provide in the resolution authorizing the issuance of the notes or bonds or in the trust agreement securing the special obligation bonds.

The resolution providing for the issuance of notes, and any trust agreement securing the special obligation bonds in anticipation of which the notes are being authorized, may also contain limitations upon the issuance of additional notes as the Board of Governors considers proper, and such additional notes shall be issued under the restrictions and limitations prescribed by the resolution or trust agreement. The Board may also provide for the replacement of any notes which shall become mutilated, destroyed, or lost.

Except as provided in this Article, notes may be issued under this Article and other powers vested in the Board of Governors under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this Article.

Unless the context indicates otherwise, the word 'bonds', wherever used in this Article, include the words 'bond anticipation notes'.

"§ 116D-27. Trust agreement; money received deemed trust funds; insurance; remedies.

(a) Trust Agreement Securing Bonds. -- In the discretion of the Board of Governors and subject to the approval of the Director of the Budget, any special obligation bonds issued under this Article may be secured by a trust agreement by and between the Board of Governors and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. The trust agreement or the resolution providing for the issuance of special obligation bonds may pledge or assign the obligated resources designated as security for the special obligation bonds, but shall not convey or mortgage any property of the institution. The trust agreement or resolution providing for the issuance of special obligation bonds may contain provisions for protecting and enforcing the rights and remedies of the holders of the special obligation bonds that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the Board of Governors in relation to the acquisition, construction, or provision of any of the charging and collecting of any rates, fees, or charges that have been designated as obligated resources, the maintenance, repair, operation, and insurance of any property of the institution, and the custody, safeguarding, and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depositary of the proceeds of special obligation bonds or funds securing special obligation bonds to furnish any indemnifying bonds or to pledge any securities as may be required by the Board of Governors. A trust agreement or resolution may set forth the rights and remedies of the holders of the special obligation bonds and the rights, remedies, and immunities of the trustee or trustees, if any, and may restrict the individual right of action by the holders. In addition to the foregoing, a trust agreement or resolution may contain other provisions the Board of Governors considers reasonable and proper for the security of the holders. All expenses incurred in carrying out the provisions of the trust agreement or resolution may be treated as a part of the cost of the special obligation bond projects for which the special obligation bonds are issued or as an expense of operation of the special obligation bond project.

(b) Trust Funds. -- All moneys received pursuant to the authority of this Article, whether as proceeds from the sale of bonds, or as obligated resources, are trust funds to be held and applied solely as provided in this Article. The Board of Governors may provide for the payment of all or part of the proceeds of the sale of the special obligation bonds and the obligated resources to any officer, board, or depositary that

it may designate for their custody, and may provide for their method of disbursement, with any safeguards and restrictions it may determine. Any officer with whom, or any bank or trust company with which, moneys are deposited shall act as trustee of the moneys and shall hold and apply them for the purposes of this Article, subject to any requirements provided in this Article and in the resolution or trust agreement, authorizing or securing the special obligation bonds.

(c) Insurance. -- Notwithstanding the provisions of any other law, the Board of Governors may carry insurance on any special obligation bond projects and any existing facilities in any amounts and covering any risks it considers advisable.

(d) Remedies. -- Any holder of special obligation bonds issued under this Article and the trustees under a trust agreement, except to the extent the rights given in this section may be restricted by the trust agreement or the resolution authorizing the issuance of the special obligation bonds, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the State or granted under this Article or under the trust agreement or resolution, and may enforce and compel the performance of all duties required by this Article or by the trust agreement or resolution to be performed by the Board of Governors or by any of its officers, including the fixing, charging, and collecting of obligated resources.

"§ 116D-28. Fixing and collecting obligated resources.

(a) Board to Provide Sufficient Resources. -- For the purpose of aiding in the financing of a special obligation bond project and to provide security to the owners of the special obligation bonds issued to finance the special obligation bond project, the Board of Governors is authorized, to the extent the generation of the obligated resources is in the control of the Board, to fix, revise from time to time, charge, and collect the rents, charges, fees, or other revenues constituting the obligated resources. Fees and other revenue sources constituting obligated resources may be imposed or increased only with the approval of the Board of Governors. As long as any special obligation bonds issued under this Article and payable from those obligated resources are outstanding, the obligated resources, to the extent within the control of the Board of Governors, shall be so fixed and adjusted, with relation to other funds available, as to provide funds pursuant to the requirements of the resolution or trust agreement authorizing or securing the special obligation bonds and at least sufficient to pay the principal of and the interest on the special obligation bonds as they become due and payable, to assure the continued collection of the obligated resources, and to create and maintain reserves for these purposes. A sufficient amount of the obligated resources, except any part that may be necessary to pay the cost of maintenance, repair, and operation, and to provide reserves for these purposes and for renewals, replacements, extensions, enlargements, and improvements as may be provided for in the resolution authorizing the issuance of the special obligation bonds or in the trust agreement securing the same, shall be set aside at regular intervals as may be provided in the resolution or trust agreement authorizing the issuance of the special obligation bonds in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on the special obligation bonds as they

become due and the redemption price or the purchase price of special obligation bonds retired by call or purchase as provided in the resolution or trust agreement. This pledge shall be valid and binding from the time it is made, the obligated resources so pledged and thereafter received by the Board of Governors shall immediately be subject to the lien of the pledge without any physical delivery of the pledge or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Board of Governors, irrespective of whether the parties have notice of the pledge. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Board of Governors. The use and disposition of moneys to the credit of the sinking fund shall be subject to the provisions of the resolution authorizing the issuance of the special obligation bonds or of the trust agreement securing the bonds.

(b) State Pledge. -- The State pledges to, and agrees with, the holders of any special obligation bonds or notes issued by the Board of Governors pursuant to this Article that as long as any of the special obligation bonds or notes are outstanding and unpaid, the State will not limit or alter the rights vested in the Board of Governors at the time of issuance of the special obligation bonds or notes to set the terms and conditions of the special obligation bonds or notes and to fulfill the terms of any agreements made with the bondholders or noteholders. The State shall in no way impair the rights and remedies of the bondholders or noteholders until the special obligation bonds or notes and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders or noteholders are fully paid, met, and discharged.

"**§ 116D-29. Vesting powers in committee.**

The Board of Governors may authorize its budget and finance committee to sell any special obligation bonds which the Board has, with the approval of the Director of the Budget, authorized to be issued under this Article in any manner and under any limitations or conditions as the Board prescribes and to perform other functions under this Article the Board determines.

"**§ 116D-30. Refunding bonds.**

The Board of Governors may, subject to the approval of the Director of the Budget, issue from time to time refunding bonds for the purpose of refunding any bonds by the Board under this Article or under any Article of Chapter 116 of the General Statutes, including the payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the bonds refunded. The Board of Governors is further authorized, subject to the approval of the Director of the Budget, to issue from time to time refunding bonds for the combined purpose of (i) refunding any bonds issued by the Board under this Article or under any Article of Chapter 116 of the General Statutes, including the payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the bonds, and (ii) paying all or any part of the cost of acquiring or constructing any additional special obligation bond projects.

This Article, as applicable, governs the issuance of refunding bonds, their maturities and other details, the rights and remedies of their holders, and the rights, powers, privileges, duties, and obligations of the Board of Governors with respect to them.

"§ 116D-31. Additional and alternative method.

This Article provides an additional and alternative method for the doing of the things authorized and is supplemental and additional to powers conferred by other laws, including G.S. 116-175 to G.S. 116-185, inclusive and G.S. 116-197 and G.S. 116-198, and is not in derogation of or repealing any powers now existing under any other law, whether general, special, or local. The issuance of special obligation bonds or refunding bonds under this Article, however, need not comply with the requirements of any other law applicable to the issuance of bonds.

"ARTICLE 4.

"Community Colleges Facilities Security Interest Finance Act.

"§ 116D-40. Short title.

This Article may be cited as the Community College Facilities Security Interest Finance Act.

"§ 116D-41. Findings and purpose.

The General Assembly finds as follows:

(1) There is a continuing need for capital facilities for the State's community colleges, many of which will continue to be provided from current appropriations by counties, proceeds of various types of indebtedness incurred by counties for community college purposes, appropriations by the State, and the proceeds of State general obligation bonds secured by a pledge of the faith and credit of the State. There is a need, however, for the use of alternative financing methods such as authorized in this Article to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through a financing method other than those previously used.

(2) The use of State of North Carolina Community College Security Interest Bonds, secured by a lien on or security interest in the community college property acquired, constructed, or improved with the bond proceeds, and the payment of principal and interest on which are subject to appropriation at the discretion of the General Assembly, will provide financing flexibility to counties and the State and permit the counties and the State to take advantage of changing financial and economic environments.

"§ 116D-42. Definitions.

The following definitions apply in this Article:

(1) Bonds. -- Bonds authorized to be issued under this Article, including refunding bonds.

(2) Community college. -- Defined in G.S. 115D-2.

(3) Community college security interest bonds. -- Bonds authorized to be issued under this Article, including refunding bonds.

(4) Community Colleges System Office. -- The North Carolina Community Colleges System Office, created by Article 1 of Chapter 115D of the General Statutes, or if the Community Colleges System Office is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers, and duties given by this Article to the Community Colleges System Office.

(5) Notes. -- Notes issued under this Article.

"**§ 116D-43. Authorization of bonds and notes.**

Upon the application of the Community Colleges System Office, the State Treasurer may, by and with the consent of the Council of State, issue and sell, at one time or from time to time, community college security interest bonds of the State to be designated 'State of North Carolina Community College Security Interest Bonds', with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State. Except as otherwise provided by this Article, the aggregate amount of bonds and notes issued pursuant to this Article shall not exceed three hundred million dollars ($300,000,000). Refunding bonds and notes issued pursuant to G.S. 116D-46(f) shall not be included in the limitation on the aggregate amount of bonds and notes that may be issued pursuant to this Article.

The proceeds of bonds or notes issued under this Article shall be applied to finance the cost of grants to be made by the State to community colleges to finance the cost of capital facilities for the community college or to refund any outstanding bonds or notes issued under this Article. The capital facilities to be improved, constructed, or acquired with the proceeds of bonds or notes shall be determined as provided in G.S. 116D-44.

"**§ 116D-44. Designation of capital facilities and preconditions to bond issuance.**

The capital facilities to be financed in whole or in part with the proceeds of community college security interest bonds shall be described in legislation enacted from time to time by the General Assembly. The proceeds of community college security interest bonds shall not be expended to pay the costs of any capital facilities other than those described in that legislation.

"**§ 116D-45. Security; other requirements.**

(a) Security. -- To secure payment of the principal of and interest on bonds or notes issued under this Article, each community college that receives a grant pursuant to this Article, and each county to the extent it owns the capital facilities to be acquired or improved by a grant from the State pursuant to this Article, may create a lien on or a security interest in one or more of the following:

(1) In all or any part of the capital facilities to be financed by the bonds or notes.

(2) In the case of construction of improvements on real property, in all or some portion of the land on which the improvements are to be located or in all or part of the improvements.

(3) In the case of renovations or improvements to or the installation of fixtures in existing facilities, in all or some portion of the existing facilities or in all or part of the renovations or improvements.

The security for an issue of bonds shall be set forth in general terms in the resolution of the Council of State authorizing the issuance of the bonds. The property that will be the subject of a lien, deed of trust, or security interest to secure the bonds need not bear any particular relationship to the principal amount of the bonds or notes. A community college or county may grant multiple liens or security interests in a capital facility to the extent not otherwise limited by the terms of other issues of bonds or notes.

(b) Default. -- If community college security interest bonds are secured by a lien, deed of trust, or security interest in multiple items of property, the mortgage, deed of trust, or security agreement or other instrument creating the lien, deed of trust, or security interest shall provide that if the State defaults on its obligations with respect to community college security interest bonds, the Community Colleges System Office, on behalf of the State, shall determine the order in which the property comprising the security shall be sold or otherwise conveyed to satisfy the obligations of the State. In carrying out the provisions of this subsection, the Community Colleges System Office shall endeavor to select for sale or conveyance to satisfy the obligations of the State those items of property that, in the judgment of the Community Colleges System Office, if sold, would result in the least amount of interruption to the operations of the State's community college system as a whole and its ability to carry out its mission. Any determination made by the Community Colleges System Office in carrying out this endeavor shall be conclusive. Nothing in this subsection prohibits the sale or conveyance of up to all of the property securing community college security interest bonds to the extent necessary to satisfy the obligations of the State under the bonds.

(c) Governor's Budget. -- Documentation relating to any bonds or notes may include provisions requiring the Governor to submit in the Governor's budget proposal, or in any amendments or supplements to the budget proposal, appropriations necessary to make the payments required to pay the bonds or notes.

(d) Appropriations. -- Amounts payable by the State in respect of an issue of bonds or notes during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) State Liability. -- No deficiency judgment may be rendered against the State in any action for breach of any obligation contained in an issue of bonds or notes. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under an issue of bonds or notes. In the event that the State fails to pay any payments required under or with respect to an issue of bonds or notes, whether on account of a failure by the General Assembly to appropriate sufficient funds for the payment or for some other reason, the net proceeds received

from the sale or other disposition of the capital facilities subject to the lien or security interest securing the bonds or notes shall be applied to satisfy the payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest, and the net proceeds are hereby appropriated for the purpose of making those payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under an issue of bonds or notes shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. -- No documentation relating to an issue of bonds or notes may contain a nonsubstitution clause that restricts the right of the State, a community college, or a county to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility financed or purchased by the bonds or notes.

(g) Terms Protecting Lender. -- The documentation relating to an issue of bonds or notes, or relating to the security for an issue of bonds or notes, may contain provisions for protecting and enforcing the rights and remedies of the owners of the bonds or notes that are reasonable and proper and not in violation of law. The documentation may include covenants setting forth the duties of the State or a community college in respect of the purposes to which the proceeds of the bonds or notes may be applied, the disposition and application of any appropriations of the State, and the duties of the State or a community college with respect to the capital facilities financed, including, without limitation, the payment of the costs of insurance and maintenance of the capital facilities, the terms under which the collateral securing the bonds may be released or substitute collateral may be delivered, the terms and conditions of the issuance of additional bonds or notes similarly secured, and the custody, safeguarding, investment, and application of all moneys.

(h) Statement on Face of Bonds. -- Bonds issued under this Article shall contain on their face a statement to the effect that neither the faith and credit nor the taxing power of the State or of any political subdivision or instrumentality of the State is pledged to the payment of the principal of or the interest on the bonds.

"**§ 116D-46. Issuance of bonds and notes.**

(a) Terms and Conditions. -- Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 25 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. -- Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear

the State Treasurer's facsimile signature, and shall bear the Great Seal of the State or a facsimile of the Seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as the State Treasurer may determine in conformity with this Article.

(c) Manner of Sale; Expenses. -- Subject to the approval by the Council of State as to the manner in which bonds or notes shall be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. -- The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys which may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. -- By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment or principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes as authorized in this Article.

Funds derived from the sale of bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. -- By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding bonds or notes issued pursuant to this Article and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes similarly secured. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the bonds or notes being refunded or, if not required for the immediate payment of the bonds or notes being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the bonds or notes being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) obligations of any agency or instrumentality of the United States government if the timely payment of principal and interest on the obligations is unconditionally guaranteed by the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of bonds or notes being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Trust Agreement. -- In the discretion of the State Treasurer, any bonds and notes issued under the provisions of this Article may be secured by a trust agreement or similar instrument by and between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank having the powers of a trust company within or without the State. The trust agreement or resolution may provide for security and pledges and assignments with respect to the security, as permitted under this Article, and may provide for the granting of a lien or security interest in the property as authorized in G.S. 116D-10. The trust agreement or resolution may contain provisions for the terms and conditions of the issuance of additional bonds and notes, and the custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article shall be equally and ratably secured as provided in the trust agreement or resolution, without priority by reasons of number, or dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of

the trust agreement or resolution. The trust agreement or resolution may, however, provide that the bonds or notes shall, to the extent and in the manner prescribed in the trust agreement or resolution, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security thereof, to any other bonds or notes. It shall be lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities as may be required by the State Treasurer. Any trust agreement or resolution may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, any trust agreement or resolution may contain other provisions that the State Treasurer considers reasonable and proper for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of any trust agreement or resolution may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 116D-47. Variable rate demand bonds and notes.**

(a) In fixing the details of bonds and notes, the State Treasurer may provide that the bonds and notes may:

(1) Be made payable from time to time on demand or tender for purchase by the owner, if a credit facility supports the bonds or notes, unless the State Treasurer specifically determines that a credit facility is not required upon a finding and determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State and the marketing of the bonds or notes at a reasonable interest cost to the State.

(2) Be additionally supported by a credit facility.

(3) Be made subject to redemption or a mandatory tender for purchase prior to maturity.

(4) Bear interest at rates that may vary from any periods of time, as may be provided in the proceedings providing for the issuance of the bonds or notes, including, without limitation, any variations as may be permitted pursuant to a par formula.

(5) Be made the subject of a remarketing agreement whereby an attempt is made to remarket bonds or notes to new purchasers prior to their presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of bonds or notes secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium, or for any other reason, then the amount of authorized but unissued bonds or notes during the term of the credit facility shall not be less than the amount of the

excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 116D-48. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of bonds or notes. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated with any bond issue under this Article as the State Treasurer considers necessary.

"**§ 116D-49. Procurement of capital facilities.**

Any laws, rules, or regulations of the State that relate to the acquisition and construction of capital facilities shall apply to the capital facilities financed pursuant to this Article."

Section 2. Proceeds of University Improvement Security Interest Bonds. -- (a) The proceeds of university improvement security interest bonds and notes, including any premium thereon, except the proceeds of university improvement security interest bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be allocated and expended for paying the cost of university capital facilities, to the extent and as provided in Article 2 of Chapter 116D of the General Statutes, as enacted by this act and subject to change as provided in this act, as follows:

Constituent or Affiliated Institution or Board of Governors Capital Improvement	Projected Allocation
Appalachian State University	
Central Library Complex	$ 47,586,735
New Science Building	1,260,000
Rankin Science Building - Renovation and modernization	7,750,000
Belk Library Renovation - Planning	545,020
Living and Learning Center - Academic Facility	4,022,725
Visual Arts Center - Renovation and Addition	6,063,435
Smith Wright Hall - Renovation and modernization.	1,636,111
Founders Hall - Renovation and modernization.	1,044,082
Land Acquisition	4,977,675
Potable Water - Infrastructure improvements.	2,625,000
Technology Infrastructure Expansion	4,838,909
East Carolina University	
Science Laboratories and Technology Building	55,125,315
Expansion of the Rivers Building	11,997,300
Nursing, Allied Health and DEC Complex:	

Medical School	46,882,500
Flanagan Building - Renovations	13,421,276
Land Acquisition - Phase I	5,000,000
Classroom Improvements - Phase II	3,648,435
Belk Allied Health - Renovations and modernization	7,791,348
Library and Study Space Requirements - Phase I	12,600,000
Old Cafeteria - Renovations	4,442,103
Infrastructure	16,125,165
Rivers School of Nursing - North Wing Renovations	2,688,174
Materials Warehouse	3,045,315
Campus Computing Center - Renovation	1,785,000
Academic Space Requirements - Teaching Labs	5,250,000
Technology Infrastructure Expansion	807,575
Elizabeth City State University	
New Student Center	9,178,313
New Residence Hall	6,510,000
General Campus Development	1,811,250
Historic Structures Preservation - Phase I	1,050,000
Lester Hall - Renovation and modernization	2,912,177
Williams Hall - Renovation and modernization	3,236,156
Lane Hall - Renovation and modernization	2,360,568
Trigg Hall - Renovation and modernization	2,109,017
White Graduate/Cont. Educ. Bldg - Renovation and modernization	1,575,000
Johnson Hall - Renovation and modernization	3,156,308
Wamack Hall - Renovation and modernization	3,334,303
Bias Hall - Renovation and modernization.	1,858,222
Mitchell-Lewis - Renovation and modernization	2,123,675
Roebuck Stadium Field House	1,260,000
Campus Property Development - Phase I	650,000
Technology Infrastructure Expansion	3,149,387
Fayetteville State University	
New Residence Hall.	6,872,250
Charles A. Lyons Science - Renovation/ modernization and addition	16,800,000
Seabrook Auditorium - Renovation and modernization	6,825,000
Lauretta J. Taylor Gymnasium - Renovations, modernization, and addition	3,360,000
Lilly Gymnasium - Renovation	3,256,367
Cook Dining Hall - Renovation	1,773,450
Howard School Museum	210,000

Fire Safety Improvements, Student Residence Halls 611,730
Roads, Parking, Landscaping Improvements - Phase I 3,675,000
Spaulding Infirmary and Roadway/Entrance 1,000,000
Technology Infrastructure Expansion 1,137,582

North Carolina Agricultural and Technical State University
General Classroom & Laboratory Building Complex #1 29,470,665
Land Acquisition 6,300,000
Chemistry Building 21,831,600
Harrison Auditorium - Renovation and modernization 3,193,196
Curtis Hall - Replacement 3,723,510
Scott Hall - Replacement 24,165,330
Gamble Complex 1,449,420
Hazardous Materials and Waste Storage Facility 1,575,000
Replace Barn - Agricultural Farm 919,185
Replace Poultry Complex Laying Houses - Agricultural Farm 913,500
Zoe Barbee Hall - Renovation and modernization 5,876,786
Barnes Hall - Renovation and modernization 6,097,128
Graham Hall - Renovation and modernization 5,899,838
Corbett Sports Center Addition 7,035,000
Replacement of Steamlines and Manholes 1,568,280
Electrical Distribution System - updgrade and expansion. 2,256,802
Central Cooling Plant - North and South chiller loops 6,405,000
Parking Enhancements, Phase I 4,725,735
Cherry Hall - Renovation and modernization 8,613,152
General Renovations and Modernizations 8,872,918
Technology Infrastructure Expansion 2,921,662

North Carolina Central University
New Science Complex and Demolition of Old Hillside High School 36,780,000
Chidley Hall - Renovation and modernization 6,621,943
General Campus Master Plan 250,000
Farrison-Newton Bldg. - Renovation and modernization 7,048,652
Graduate Apartments, George Street - Replacement 1,556,642
Rush Hall - Renovation and modernization 2,089,387
Baynes Hall - Replacement 15,091,127
Eagleson Hall - Renovation and modernization 6,869,505

Shepard Dormitory - Renovation and modernization 7,284,923
Latham Hall - Renovation and modernization 3,411,600
McLean Hall - Renovation and modernization 1,942,070
Pearson Cafeteria - Renovation and modernization 1,263,570
Fire Safety Improvements - Student Residence Halls 1,612,695
Landscape Campus Perimeter 840,000
Landscape Pedestrian Corridors 787,500
Directional Signage - Vehicular/pedestrian 735,000
Pedestrian Corridor on Campus Drive. 892,500
Pedestrian Mall at George Street 472,500
Dormitory Security System 630,000
Parking Enhancements Phase 1 - Nelson St. Pkg. Deck 6,353,235
Electrical Power - New transformers 858,654
Life-Safety/OSHA Corrections 3,675,000
Land Acquisition 4,000,000
Relocate Campus Police Station 840,000
Replace Power Distribution Cables 1,115,940
Underground Piping Repairs 4,252,710
Technology Infrastructure Expansion 1,422,080

North Carolina School of the Arts
Basic Performance & Education Complex 19,130,685
Stevens Center - Renovation and modernization. 4,434,480
New Student Activities Building - Renovation 2,500,000
Roanoke Island Music & Theatrical Complex 10,500,000
Landscaping Improvements 1,050,000
Costume Shop - Renovations and relocations 420,000
Land Acquisition 2,650,000
Technology Infrastructure Expansion 1,862,312

North Carolina State University
I. BUILDINGS
A. Renovation, Modernization, & Replacements:
Classroom/Office Space
Renovation and modernization of buildings 91,312,249
Laboratory Space
Renovation and modernization of buildings 49,000,000
Student Support Space
Renovation, modernization, and fire
safety improvements 2,070,000
B. Building Capacity:
Construction of College of Engineering Complex -
Phase I and Phase II; Undergraduate Science
Teaching Lab - Phase I and Phase II; Jordan Hall

Addition; Gymnasium; Library Space; Student Services Space; and David-Clark Laboratory Renovation and addition 149,978,194

C. Other Building Needs:

Construction of Administrative Services Center - II; Extension Facilities; Field Research Laboratories and Outlying Research - Phase I; Research Laboratory Space, Phase I; Hazardous Materials Facility; Partners Building V; College of Veterinary Medicine Research Addition and renovations; Physical Sciences Research; Genomic Sciences Research; Services Buildings at Sullivan Site and Centennial Campus. 43,960,952

II. OTHER CAMPUS REQUIREMENTS

A. General Campus:

University Signage; Pedestrian Tunnel; Security CardAccess; and Public Safety Facility 15,579,475

B. Infrastructure:

Construction of Chilled Water Plant; Potable Water Building Backflow Preventers; College of Veterinary Medicine Indoor Air Quality Upgrade; North Campus Chiller Service; Brickyard Loop Chilled Water Extension and Cooling Tower; Infrastructure for Centennial Campus Partnership; Infrastructure for Veterinary Medicine Private/ Public Partnership; and Steam Distribution and Capacity Improvements 92,999,130

Technology Infrastructure Expansion 2,308,681

C. Land Acquisition. 2,100,000

University of North Carolina at Asheville

New Math/Science Building 22,203,195

Highsmith Center Renovation and Addition 9,473,100

New Physical Plant Building. 6,318,900

Carmichael Hall - Renovation and modernization 3,912,805

Zaiger Hall - Renovation and modernization 3,524,624

General Campus Improvements 3,728,550

Technology Infrastructure Expansion 751,235

University of North Carolina at Chapel Hill

I. BUILDINGS

A. Renovation, Modernization, & Replacements:

Classroom/Office Space

Renovation and modernization of buildings.....104,861,491
Laboratory Space
Renovation and modernization of buildings.....93,531,460
B. Building Capacity:
Construction of Multidisciplinary Environmental Studies Building; Addition to Carrington Hall - School of Nursing; Teaching Research Bldg - School of Public Health; and Interdisciplinary Physical Science Bldg 87,465,000
C. Other Building Needs:
Construction of Health Affairs Biomolecular Research Bldg, Phase I; Health Affairs Frank Porter Graham Child Development Center; Health Affairs Institute on Aging Bldg; Center for Global and International Education; Digital Multimedia Instructional Center; Medical School Office Bldg No. 1; Sports Medicine Facility; Ackland Art Museum Renovation and Expansion; Relocate Physical Plant Grounds Dept; Administration Office Bldg; Chapel Hill North; Campus Mail Center; and Physical Plant Maintenance Shops Addition.....48,000,000

II. OTHER CAMPUS REQUIREMENTS
A. General Campus:
Campus Signage System 2,100,000
B. Infrastructure:
Construction of Storm Drainage Replacement; Heating Line Installation; Cogeneration Facility Turbine Generator; Gilsulate Replacement; Steam Line Installation; East and South Chiller Plant Expansion; North and South Chiller Plant Replacements; Energy Management & Control System Upgrade; Campus Fiber Optics Network; Horace Williams Infrastructure - Phase I; Main Campus Infrastructure Expansion - Phase I; Chilled Water Air Conditioning Systems in Classroom Bldgs; and Coal Silo Replacement.....154,041,090
Technology Infrastructure Expansion 1,287,051
C. Land Acquisition:
Land Acquisition - South Campus Expansion.....8,000,000

University of North Carolina at Charlotte
Academic Facilities - Humanities.....10,046,925

Science and Technology Building	35,707,035
Classroom and Office Building	26,102,475
College of Education Building	24,654,476
College of Nursing and Health Professions	34,125,000
Graduate Engineering Complex	14,700,000
Research Facility - Phase I	16,800,000
University Conference Center	10,500,000
Central Heating Plant Improvement	2,625,000
Technology Infrastructure Expansion	3,345,507
University of North Carolina at Greensboro	
Science Instructional Building	38,412,150
Roadway Improvements	6,825,000
Land Acquisition	7,000,000
Brown - Renovation and modernization	6,493,859
Petty Science Building - Renovation and modernization	16,272,270
McIver Building - Renovation and modernization	21,636,510
Aycock Auditorium - Renovation and modernization	17,662,980
Stone - Renovation and modernization	8,930,354
Heating Plant - Renovation, modernization, and expansion	4,851,288
Forney Building - Renovation and modernization	3,565,364
McNutt Building - Renovation and modernization	2,723,956
Research Space Phase I	5,250,000
Electrical Power Distribution Upgrades	4,091,038
McIver Chiller Plant	8,373,750
Technology Infrastructure Expansion	7,859,789
University of North Carolina at Pembroke	
Regional Center for Economic, Professional, and Community Development	4,004,385
New Science Building	9,408,000
Chavis Center Expansion	3,221,400
Jones PE Building - Renovation and modernization	8,925,000
Business Administration Building - Renovation and modernization	2,140,762
ADA Renovations	525,000
Locklear - Renovation and modernization	2,464,319
Moore Hall - Renovation and modernization	2,464,661
D.F. Lowery Building - Renovation and modernization	2,680,528
Jacobs Hall - Renovation and modernization	4,155,525

West Hall - Renovation and modernization 4,961,580
Belk Hall - Renovation and modernization 3,055,985
Land Acquisition 1,500,000
Wellons Hall - Renovation and modernization 4,323,382
Technology Infrastructure Expansion 2,798,476

University of North Carolina at Wilmington
School of Education Building 17,576,370
Fine Arts Building/Concert Hall 26,250,000
General Classroom Building 12,646,935
Arnold K. King Hall - Renovation and modernization 2,697,442
Hoggard Hall - Renovation and modernization 3,550,430
Alderman Admin. - Renovation and modernization 2,940,843
Westside Hall - Renovation and modernization 2,687,347
Kenan Hall - Renovation and modernization 3,056,633
Hinton James Hall - Renovation and modernization 1,843,981
Deloach Hall - Renovation and modernization 5,193,585
Friday Hall - Renovation and modernization 7,693,351
S. G. Kenan Auditorium - Renovation and modernization. 3,095,303
Marine Sciences Research Center - Operations Facilities 3,559,912
Computing Center 1,512,000
Print Shop 672,000
Warehouse Expansion 1,890,000
Land Acquisition 2,100,000
Sprinkler Systems - Hoggard, Trask, & Nixon 823,620
Miscellaneous HVAC Projects 1,027,320
Miscellaneous Electrical Projects 676,305
Facility Improvements for Energy Efficiency 747,390
Primary Electrical Distribution System Upgrade 2,238,158
Storm Drainage Improvements 743,185
Technology Infrastructure Expansion 2,948,927

Western Carolina University
Fine and Performing Arts Center 25,805,745
Stillwell - Renovation and modernization 15,057,541
McKee Building 5,289,690
Bird Building - Renovation 1,836,450
Living - Learning Center - Conversion 1,887,113
Land Acquisition 3,618,000
Breese - Renovation and modernization 1,161,332
Vehicular Traffic Relocation 4,989,600

Indoor Recreation Facility	6,306,300
Hinds University Center - Addition	4,158,000
New Housing Facility.	13,308,750
Chiller Replacement and Retrofit	1,418,655
Replace steam and condensate lines	3,937,500
Upgrade Electrical Distribution System	883,995
Campus Pedestrian Corridors	1,386,000
Perimeter Parking Lots	1,039,500
Steam Plant Improvements - Phase III	644,595
Automated Energy Management System Enhancements	700,455
Technology Infrastructure Expansion	5,018,607
Winston-Salem State University	
Computer Science Facility	5,748,330
New Physical and Life Sciences Building - Phase I	12,109,545
Anderson School Building - Renovation and modernization	6,917,905
Health Center Building and Old Nursing Building - Renovation and modernization	2,265,865
Carolina Hall - Renovation and modernization	4,270,688
Hauser Union - Renovation and modernization	3,895,461
Pegram Hall - Renovation and modernization	2,287,613
General Campus Improvements - Phase I.	3,104,640
Technology Infrastructure Expansion	1,676,127
University of North Carolina Center for Public Television	
Conversion to Digital TV - Phase I	64,995,000
Mobile Satellite Uplink	895,545
UNC Public Radio - Building Addition	478,938
North Carolina School of Science and Mathematics	
Renovation of Bryan Center	3,172,575
Renovation of Royall Outreach Center (Wyche House)	1,990,380
North Carolina Arboretum	
Maintenance & Operations Facility	1,541,295
Entrance Gates and Gatehouses	785,610
Main Entrance Road Utility & Landscape Development	2,259,180
Demonstration Greenhouse	3,776,325
Bus Parking	969,255
North Carolina Botanical Gardens - Herbarium Research Building	7,061,355
J. C. Raulston Arboretum Education & Visitors Center	3,639,510
General Administration Building Renovation	2,887,500
Central Library Storage Facility and Central Records Storage - Planning	500,000

Matching Gift Incentive Program Projects 282,648,212

TOTAL $ 2,700,000,000

Section 2.(b) The Director of the Budget is empowered, when the Director of the Budget determines it is in the best interest of the State and the University to do so, and if the cost of a particular capital facility is less than the amount allocated for it, to use the excess funds to meet increased cost of other capital facilities itemized in this section and located at the same institution. The Director of the Budget shall report to the Joint Legislative Commission on Governmental Operations on changes made under this subsection. In addition, any capital facility and the amount of the allocation for it set forth above may be changed from time to time as the General Assembly may decide, except that the General Assembly may not delete or remove from funding any capital improvement that has been pledged as security for university improvement security interest bonds that have been issued if such a change would impair the security of the owners of the university improvement security interest bonds. The provisions of G.S. 116-11(9) with respect to appropriations to the Board of Governors of The University of North Carolina shall not apply to proceeds of university improvement security interest bonds and notes issued pursuant to Article 2 of Chapter 116D of the General Statutes, as enacted by this act.

Section 2.(c) Allocations to the costs of a capital improvement or undertaking in each case may include allocations to pay the costs set forth in this act in connection with the issuance of university improvement security interest bonds for that capital improvement or undertaking.

Section 2.(d) The proceeds of two hundred eighty-two million six hundred forty-eight thousand two hundred twelve dollars ($282,648,212) university improvement security interest bonds authorized by this act and allocated in subsection (a) of this section for matching gift incentive program projects shall be allocated and expended for particular projects as provided in this subsection. The Board of Governors of The University of North Carolina shall employ a private consultant to develop a list of capital facilities which are to be funded jointly from these bonds and private donations. The Board of Governors shall submit this list of recommended projects, including the proposed matching requirements by the University or its constituent or affiliated institutions, to the General Assembly by April 1, 2000. The matching requirements must be based on analyses of the fund-raising capabilities of each institution as determined by a private consultant in order to maximize private fund-raising for capital projects. The proceeds of these bonds or notes shall not be issued or allocated until the General Assembly authorizes the issuance of some or all of these bonds or notes and appropriates the proceeds for specific projects by separate legislative action at any subsequent session.

Section 2.(e) The validity of university improvement security interest bonds and notes issued under Article 2 of Chapter 116D of the General Statutes, as

enacted by this act, is not affected by any subsequent adjustment of allocations, or by any failure to comply with the reporting requirements provided in this act.

Section 3. Proceeds of Community College Security Interest Bonds. -- (a) The proceeds of community college security interest bonds and notes, including any premium thereon, except the proceeds of community college security interest bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be allocated and expended for paying the cost of community college capital facilities, to the extent and as provided in Article 4 of Chapter 116D of the General Statutes, as enacted by this act and subject to change as provided in this act, to be located at the following community colleges:

COLLEGE	NEW CONSTRUCTION	REPAIR & RENOVATION	TOTAL ALLOCATION
Alamance CC	4,044,756	491,415	4,536,171
Anson CC	1,061,903	840,055	1,901,958
Asheville-Buncombe TCC	1,381,875	1,722,802	3,104,677
Beaufort County CC	1,061,903	1,128,185	2,190,088
Bladen CC	1,061,903	279,588	1,341,491
Blue Ridge CC	2,030,342	2,305,387	4,335,729
Brunswick CC	1,061,903	248,261	1,310,164
Caldwell CC & TI	3,353,211	377,326	3,730,537
Cape Fear CC	1,061,903	2,068,435	3,130,338
Carteret CC	1,061,903	1,882,001	2,943,904
Catawba Valley CC	1,242,780	2,743,429	3,986,209
Central Carolina CC	8,125,128	244,147	8,369,275
Central Piedmont CC	31,492,890	6,129,832	37,622,722
Cleveland CC	1,061,903	486,221	1,548,124
Coastal Carolina CC	15,659,820	348,511	16,008,331
College of the Albemarle	4,516,924	128,735	4,645,659
Craven CC	3,833,227	573,564	4,406,791
Davidson County CC	1,061,903	2,287,656	3,349,559

Durham TCC	6,071,653	842,633	6,914,286
Edgecombe CC	7,864,395	1,563,500	9,427,895
Fayetteville TCC	15,469,002	2,166,691	17,635,693
Forsyth TCC	1,061,903	1,039,816	2,101,719
Gaston College	1,061,903	270,458	1,332,361
Guilford TCC	2,311,980	3,083,432	5,395,412
Halifax CC	1,061,903	817,189	1,879,092
Haywood CC	1,061,903	2,195,573	3,257,476
Isothermal CC	1,061,903	949,267	2,011,170
James Sprunt CC	1,061,903	516,788	1,578,691
Johnston CC	1,061,903	921,977	1,983,880
Lenoir CC	2,308,020	1,048,459	3,356,479
Martin CC	1,340,460	142,636	1,483,096
Mayland CC	3,148,914	213,742	3,362,656
McDowell TCC	1,128,600	273,269	1,401,869
Mitchell CC	1,061,903	983,677	2,045,580
Montgomery CC	1,061,903	301,703	1,363,606
Nash CC	1,061,903	1,021,442	2,083,345
Pamlico CC	1,061,903	302,049	1,363,952
Piedmont CC	1,909,710	2,111,177	4,020,887
Pitt CC	13,844,565	2,091,308	15,935,873
Randolph CC	1,061,903	551,886	1,613,789
Richmond CC	3,110,085	984,167	4,094,252
Roanoke-Chowan CC	1,061,903	567,718	1,629,621
Robeson CC	5,485,095	2,192,511	7,677,606
Rockingham CC	1,061,903	1,278,538	2,340,441

Rowan-Cabarrus CC	4,813,887	2,925,850	7,739,737
Sampson CC	1,061,903	1,653,903	2,715,806
Sandhills CC	2,575,320	2,831,582	5,406,902
Southeastern CC	1,061,903	1,112,304	2,174,190
Southwestern CC	3,714,002	1,228,660	4,942,662
Stanly CC	3,675,885	1,506,808	5,182,693
Surry CC	4,607,701	225,489	4,833,190
Tri-County CC	1,822,425	712,338	2,534,763
Vance-Granville CC	11,072,160	805,858	11,878,018
Wake TCC	22,158,345	2,850,623	25,008,968
Wayne CC	3,422,100	202,099	3,624,199
Western Piedmont CC	1,220,959	1,292,053	2,513,012
Wilkes CC	2,776,724	776,451	3,553,175
Wilson TCC	1,218,855	921,379	2,140,234
TOTAL	$228,237,450	$71,762,550	$300,000,000

Section 3.(b) Except as provided in subsection (d) of this section, a community college may use the bond proceeds allocated in subsection (a) of this section only in accordance with the State Board of Community Colleges' consultant's report on the capital allocation and repairs and renovations funding formula. Funds allocated for repair and renovations must be used in accordance with exhibit 5-6 of the Funding Formula Study: Phase 3 Report, submitted May 15, 1998. Funds allocated for new construction must be used in accordance with exhibits 15 and 16 of the Funding Formula Study: Phase 4 Report, submitted February 4, 1999. New construction funds allocated by the report to a specific site may not be allocated to another site. Each community college shall submit to the State Board of Community Colleges a statement (i) proposing the capital facilities to be financed with the proceeds of community college security interest bonds allocated to that community college, (ii) certifying that the proposed site is included in the consultant's report referred to in this section, (iii) certifying that the community college is prepared to proceed with the construction, acquisition, or improvement of the proposed capital facilities, and (iv) demonstrating that the applicable matching requirements have been or will be met.

Upon receipt by the State Board of Community Colleges of the information set forth above, the Board shall add the proposed capital facilities to the next application of the Community Colleges System Office to the State Treasurer to issue bonds pursuant to G.S. 116D-43.

The board of trustees of an individual community college may use funds allocated for new construction either for new construction or for repair and renovations. The board of trustees of a community college may use funds allocated for repair and renovations only for repair and renovations, and not for new construction.

The projected allocations set forth above may be changed from time to time as the General Assembly may decide, except that the General Assembly may not delete or remove from funding any capital improvement that has been pledged as security for community college security interest bonds that have been issued if such a change would impair the security of the owners of the university improvement security interest bonds.

Section 3.(c) Community colleges are not required to match bond proceeds allocated in this section for repair and renovations. The match requirements of Chapter 115D of the General Statutes apply to bond proceeds allocated for new construction except as provided in this subsection. The consultant hired by the State Board of Community Colleges to determine funding formulas for the community college system developed an index to measure each county's ability to pay. The consultant found that some counties are unable to meet their local match requirement under Chapter 115D of the General Statutes because of inability to pay. Accordingly, community colleges are required to match bond proceeds allocated for new construction in subsection (a) or (d) of this section only as follows: Community colleges assigned a matching rate of less than forty percent (40%) in the "adjusted matching requirements" contained in exhibit 14 of the State Board of Community Colleges' consultant's Funding Formula Study: Phase 4 Report, submitted February 4, 1999, are not required to match, and community colleges assigned a matching rate of forty percent (40%) or more in the adjusted matching requirements are required to match only at the assigned rate.

Section 3.(d) Each community college that was not allocated funds for new construction in the State Board of Community Colleges' consultant's report on the capital allocation funding formula may receive the bond proceeds allocated to it for new construction in subsection (a) of this section only to the extent that it can document to the State Board of Community Colleges its actual need for funds for new construction, or its actual need for funds for repair and renovations in excess of the amount allocated to it for repair and renovations in subsection (a) of this section. If any community college is unable to document to the State Board of Community Colleges by January 1, 2001, these needs in the amount of its entire allocation for new construction under subsection (a) of this section, the State Board shall reallocate the excess of the allocation over the amount the college was able to document among the remaining community colleges to the extent they can document actual needs in

excess of their allocations in subsection (a) of this section for new construction, repair, and renovations, or both.

Section 3.(e) The validity of community college security interest bonds and notes issued under Article 4 of Chapter 116D of the General Statutes, as enacted by this act, is not affected by any subsequent adjustment of allocations or matching requirements provided in this act, or by any failure to comply with matching requirements or reporting requirements provided in this act.

Section 4. Interpretation of Act. (a) Additional Method. -- This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing The University of North Carolina to issue self-liquidating debt or other debt secured by designated sources of funds.

Section 4.(b) Statutory References. -- References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

Section 4.(c) Liberal Construction. -- This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

Section 4.(d) Severability. -- If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 5. This act is effective when it becomes law.

TESTIMONY OF CHARLES F. FULLER

DIRECTOR, NORTH CAROLINA CITIZENS FOR A SOUND ECONOMY

before the

HOUSE and SENATE FINANCE COMMITTEES

of the

NORTH CAROLINA GENERAL ASSEMBLY

June 29, 1999

Good morning. Mr. Chairman and members of both the House and Senate Finance Committees, I come to you today on behalf of North Carolina Citizens for a Sound Economy. North Carolina CSE is an affiliate of Citizens for a Sound Economy, a 250,000-member non-profit organization advocating free market solutions to public policy problems. The 6,000-strong North Carolina Chapter established an office this year to bring a common sense message of limited government, lower taxes, and reduced regulation to the people of North Carolina.

Historically, the citizens of North Carolina have had the opportunity to vote on bond proposals for the university system. However, the General Assembly is considering a five billion dollar bond issue that bypasses the public's traditional role in approving the state's education bond issues. North Carolina CSE is concerned that such a move would put the state's consumers at risk for higher taxes. It was reported today in the *News & Observer* that bypassing the people's right to vote on the University Bond Issue will cost taxpayers 39 million dollars.

Let me detail for you **10 reasons** why you should let the people vote:

Reason number one why you should let the people vote!

- Approving billions of dollars in spending for the University system, without a vote of the people, does not address the underlying problems. Much of the consultant's report detailing the university system's needs is an indictment of poor management of our physical buildings and facilities. Before approving new bonds and placing the state billions of dollars more in debt, inefficient management practices in the university system should be eliminated. Let the people vote.

Reason number two why you should let the people vote!

- Although the new bonds are said to be targeted toward urgent spending needs, a number of the planned expenditures are far from urgent, including a six million dollar indoor tennis and volleyball center, a ten million dollar music and theater complex, and one million dollars in landscaping at the School of Arts. All totaled, the plan includes more than one hundred million dollars for sports and arts projects. Let the people vote.

Reason number three why you should let the people vote!

- Any one of you here today, if you saved the State of North Carolina 39 million dollars, you would rightfully be hailed a hero. So why would the leadership of the General Assembly bypass the voters, put them in debt billions of dollars, risk higher taxes down the road, and make the taxpayers pay 39 million dollars for the privilege? I say again, let the people vote and save the taxpayers 39 million dollars!

Reason number four why you should let the people vote!

- The voters have chosen wisely in the past. North Carolina's consumers have allowed for the creation of a university system that has a national reputation. We are all proud of our university system. If the case can be made regarding needs, voters will respond. Let the people vote.

Reason number five why you should let the people vote!

- Placing the state an additional five billion dollars in debt could raise taxes. According to our state treasurer it will. In fact, Treasurer Harlan Boyles had this to say last year, "Unless the state's spending philosophy changes, which of late includes mountains of borrowed money, the next governor of North Carolina will face the largest tax increases or the largest budget reductions ever experienced in our history." Voters should be allowed to vote, especially when their taxes may go up to pay the bill. This is another good reason to let the people vote!

Reason number six why you should let the people vote!

- The budget just approved by both houses does not include repayment of the illegal intangibles tax collected by the state between 1991 and 1994. Why should the state be allowed to borrow more money when taxpayers that are owed a refund from an illegal tax have not been repaid? This just does not make sense. Let the people vote!

Reason number seven why you should let the people vote!

- Debt obligates future generations and taxpayers to pay the bills. Citizens should be encouraged to vote, especially when it is obligating their children and grandchildren to pay the bill. Let the people vote!

Reason number eight why you should let the people vote!

- The proposal to increase university spending requires a more thorough evaluation. A private consultant spent two years surveying close to 800 buildings in the university system in order to determine the needs of the system. Now the General Assembly is rushing through a massive spending plan without proper time for lawmakers or the public to review the proposal. Maybe that is why the Greensboro News & Record reported last week that Representative George Miller said their decisions are made in the back room. Two years to review and only two days to decide on spending almost five billion dollars? Let the people vote!

Reason number nine why you should let the people vote!

- As I understand, the University system will not ask for any additional building funds for 10 years if this bond package is approved. Does anyone in this room really believe that will be the case? Another good reason why we should place these issues on the ballot and let the people vote!

Reason number ten why you should let the people vote!

- It's the right thing to do! Let the people vote and save them 39 million dollars!

There indeed may be some real building needs in the University system, but it was built by the people, paid for by the people, and the people deserve a right to vote because they are the ones that will be making payments on this debt for many years to come.

Let the people vote!

Mr. Chairman, thank you for your time and I request a copy of my remarks be placed in the minutes to this meeting.

State of North Carolina
Department of the Treasurer

HARLAN E. BOYLES
STATE TREASURER

325 NORTH SALISBURY STREET
RALEIGH, NORTH CAROLINA 27603-1385

June 28, 1999

Limited Obligation Bonds for UNC Improvements

- Limited obligation bonds are not secured by a pledge by the State of its taxing power to secure their payment and, as authorized by the voters in an amendment to the Constitution in 1970, the use of limited obligation bonds is within the discretionary powers granted to the General Assembly by the people of North Carolina.

- General obligation bonds are secured by a pledge by the State of its taxing power to secure their payment and, when such pledge is made, voter approval is usually required. However, the General Assembly has authorized and the State has issued $147 million of non-voted 2/3 bonds since 1987, while additional bonds totaling some $4.5 billion have been submitted to and approved by the voters since 1993

- Since a pledge of the taxing power usually requires a bond referendum, it is often necessary to determine and identify the projects to be funded very early in the process. The ability to change those projects is limited. Limited obligation bonds offer greater flexibility in determining and planning what projects will be funded.

- The proposed plan of finance calls for financing the required improvements immediately, then using projected "pay as you go" funding and applying those monies to debt service rather than capital funding.

Impact Of The Proposed University Bonds Upon The State's Credit Rating

At the beginning of this century, Governor Charles Aycock saw in North Carolina's children a bright new future for our State, if only we would educate them and give them the tools to improve their standing in the bold new century that awaited them.

Today, we stand on the brink of a new century and face a similar challenge. Those who assess our credit worthiness factor into their ratings how we meet our present and future obligations. They will be more impressed, I believe, to know that we recognize the importance of continuing to support and build one of the best higher education systems in the nation than if they saw we had fallen short of that challenge.

There's no question that we can afford to borrow these funds for the University. We cannot afford to do otherwise. It's simply a question of priorities. The use of borrowed funds, with an obligation to repay the debt incurred over a period of years, serves to reinforce the notion that the physical properties of our University system would be placed among the highest claim on the future resources of our State's general fund. And, no longer would these needs be considered as an "after-thought" to all other governmental requests.

Does the State have the capacity to borrow $3 billion without jeopardizing its credit worthiness?

> Certainly, the State of North Carolina has the capacity to borrow this amount without adversely affecting its credit worthiness. The decision to borrow has more to do with the purposes for which the proceeds will be spent than any other factor. In this instance maintenance and preservation of the University's ability to serve its people in the excellent tradition of the past two hundred years are paramount.

Why advocate the use of Limited Obligation Bonds as opposed to General Obligation Bonds?

> The Constitution recognizes that under our representative form of government, broad authority is given to the elected members of the General Assembly. While the Constitution of North Carolina clearly prohibits the issuance of General Obligation Bonds without a specific vote of approval by the people, no such prohibition exists for Limited Obligation Bonds. It should be noted that Limited Obligation Bonds do not pledge the State's taxing power as do the issuance of General Obligation Bonds and that is a very important difference, both for taxpayers and for bond holders. The lending public has come to accept indebtedness when secured by the assets of the borrowers.

Will Limited Obligation Bonds require a higher rate of interest than General Obligation Bonds?

> Yes. We have been advised by the rating agencies that these Limited Obligation Bonds likely will be rated one notch below the State's Triple A credit rating at AA+. Using this analysis, the additional cost will be approximately 1/8 of one percent greater than for Triple A rated bonds.

a:univbnds\0699\heb

COUNCIL
OF UNIVERSITY OF NORTH CAROLINA
ALUMNI ASSOCIATION PRESIDENTS

Appalachian State University

East Carolina University

Elizabeth City State University

Fayetteville State University

North Carolina Agricultural and Technical State University

North Carolina Central University

North Carolina School of the Arts

North Carolina State University at Raleigh

Pembroke State University

University of North Carolina at Asheville

University of North Carolina at Chapel Hill

University of North Carolina at Charlotte

University of North Carolina at Greensboro

University of North Carolina at Wilmington

Western Carolina University

Winston-Salem State University

An Equal Opportunity/ Affirmative Action Employer

Dear Legislative Friend of Education,

June 24, 1999

The Council of UNC Alumni Association Presidents was formed ten years ago to support the UNC System in improving the margins of excellence for which the system has traditionally been known. We represent over **750,000 University Alumni**, the great majority of whom **live, work, and vote** in North Carolina.

We are writing and will be contacting you in your home district in support of the two bills on University Capital Facilities Finance and Special Obligation Bonds for Improvements to the Facilities of the University of North Carolina. You have already been contacted by many obvious supporters of the University including Administrators, Chancellors, and Trustees who have provided you with **compelling information** from the Eva Klein consultant's report on repair, modernization, and construction needs as well as State Treasurer Harlan Boyles' **innovative financial recommendations**. Given the surprising defeat of the Wake county education bonds and the possible delay in Charlotte, we believe it even more important that **you and the NC Legislature** act with **courage and dispatch** on the subject bills.

The Council represents an **independent and pervasive voice** seeking your support based solely on our **long term commitment to excellence** in the University specifically and Education in general. We are already on record as offering thousands of mentoring volunteers for GEAR UP North Carolina, a grant application for 7-8th grade student intervention as well as offering even larger volunteer support for Governor Hunt's "First in America by 2010" challenge. The Council has previously geared up for a state-wide promotion of University Bonds which the Legislature supported five years ago.

In summary, the Council supports education initiatives from Smart Start to post graduate studies. We believe **education** provides the primary fuel for the **economic and cultural engine** of North Carolina. We applaud the Governor's "First in America" initiative; the State Treasurer's financing alternatives initiative; and the Legislature's Community College financing initiative as well as originating the Klein study. We wish to further applaud you for **passing these two important capital financing bills**.

We are **asking for your help**. You can **ask us for our help** as well. Please contact us at (919) 557-1259 with any questions.

Sincerely,

Carol Lesley
President

Bob Kennel
Executive Director

SUMMARY OF LEGISLATIVE PROPOSALS

University Capital Facilities Finance Act (State Bonds)

- The Act provides for the issuance of "limited obligation" bonds to finance capital facilities for the University. Limited obligation bonds do not require a vote of the people.
- In essence, the General Assembly would have a moral obligation to provide for the repayment of the bonds.
- The bonds would be secured by a lien on or a security interest in University property.
- The proceeds of the bonds would be applied to finance the cost of improvement, construction, and acquisition of capital facilities as determined by the Board of Governors.
- Amounts payable by the State are "limited to funds appropriated for such purpose by the General Assembly." During an interim period, bonds could be issued if the Director of the Budget filed a certificate with the State Treasurer stating that sufficient funds are available to make debt service payments.

Special Obligation Bonds for Improvements to the Facilities of the University of North Carolina (University Bonds)

- Authorizes the Board of Governors to issue bonds, payable from "obligated" resources, but with no pledge of taxes or the faith and credit of the State.
- Obligated resources shall mean any sources of income or receipts of the Board or the institution at which a special obligation bond project is located including, without limitation, rents, charges or fees to be derived by the Board or the institution from any activities conducted at the institution, earnings on the investment of the endowment fund of the institution, and overhead receipts. Obligated resources do not include appropriations by the General Assembly and do not include tuition payments by students.
- "The Board of Governors is authorized to determine the location and character of any special obligation bond project and to acquire, construct and provide the same to maintain, repair and operate and enter into contracts for the management, lease, use or operation of all or any portion of any special obligation bond project and any existing facilities."
- Under the draft legislation, bonds issued are approved by the Director of the Budget. The Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations.

Figure 1: The Legislative *Special Provision* Mandating this *Study*

Section 11.4. Section 10.1 of S.L. 1997-443 reads as rewritten:
"Section 10.1. (a) The funds appropriated to the Board of Governors of The University of North Carolina for equity funds are to address relative inequities in State operating funding revealed through a study of the constituent institutions in the university system. The General Assembly notes that the study dealt with equity based upon current funding from State appropriations and tuition for operations and did not consider historical equity in funding for physical facilities or funding from non-State sources. Therefore, in making this appropriation, the General Assembly does not conclude that the total funding of any institution, including specifically the historically black universities, is adequate in light of all considerations.
(b) Based on findings of the Legislative Study Commission on the Status of Education at The University of North Carolina, the General Assembly is still concerned about perceived differences in the quality of capital facilities on the different campuses, which may impact the ability of some campuses to attract students and faculty. Since the Board of Governors has recently completed studies of equity of funding for operating costs among the constituent institutions and of the Board of Governors' capital improvements request process, it is timely that the question of equity of facilities be addressed.

The Board of Governors of The University of North Carolina shall study the relative equity and adequacy of the physical facilities of its constituent institutions. The study shall consider the condition of the facilities, whether or not facilities are comparable among the campuses given the different missions of the institutions, comparable adequacy of the physical facilities given the size and projected growth of the school, and such other factors deemed appropriate by the Board of Governors. The study shall include all facilities contributing to the accomplishment of the campuses' missions. First, the Board of Governors shall study those facilities considered central to the academic missions of the campuses that are generally supported from General Fund appropriations. Secondly, the Board of Governors shall study those facilities that contribute to the overall missions of the campuses, including residential, dining, research, and other facilities regardless of the sources of funding. The Board of Governors shall consider its policies on funding of self-liquidating projects and whether those policies contribute to any inequities among the campuses, including the overall costs to the students.
(c) The Board of Governors shall contract with a private consulting firm with expertise in higher education matters to assess the additional capital needs of the constituent institutions of The University of North Carolina. The needs assessment shall project the needs for capital funding for a 10-year period, and shall include a detailed plan for making funding allocations based on the priorities of needs.

The plan shall provide a detailed capital spending plan for the next 10 years to assist the General Assembly in making funding decisions relating to The University of North Carolina, as the State plans for major increases in enrollment in higher education and prepares its citizens to compete in a global economy. The plan shall include considerations of the costs and changes in capital needs caused by new technologies and alternative systems for delivery of higher education services.

The consultant shall visit each campus in The University of North Carolina system to understand the needs of each campus based on their assigned missions, physical needs, and plans.

The Board and its consultant shall provide interim progress reports to the General Assembly on a periodic basis. The Board of Governors shall report to the General Assembly by April 15, 1999, with the results of its study and plan.

Of the funds appropriated to the Board of Governors for fiscal year 1998-99, up to two hundred fifty thousand dollars ($250,000) may be reallocated for the purposes of this section, including funds that would normally revert to the General Fund at the end of the fiscal year.

This *Special Provision* represents an historic milestone in that, to the best of our knowledge, it is the first comprehensive, systematic review of UNC's capital needs ever conducted.

A Firm Foundation: Proposed Capital Financing Legislation for the University of North Carolina

BACKGROUND:

In April 1999 the UNC Board of Governors approved *Building for the New Millennium*, the report emerging from a comprehensive study--called for in a 1997 special provision--of the relative equity and adequacy of capital facilities on the 16 University of North Carolina campuses. As required by a follow-up provision enacted in the 1998 short session, the report also included a ten-year capital spending plan for UNC.

Prepared by higher education consultant Eva Klein, the report documented woefully outmoded buildings, mounting deferred maintenance, and a looming shortage of critical science, technology, and study facilities. For every modern building in good condition, Klein found scores with bad wiring, leaks, outdated essential equipment, and inadequate infrastructure. The report identified capital needs totaling $6.9 billion.

The report proposed that UNC's capital needs be financed through increased funding from the General Assembly, coupled with new University-based funding, private-sector development, and increased private giving. In addition, Klein concluded that the state's traditional pay-as-you-go approach to capital funding would fall far short of the amount needed to repair, modernize, and expand UNC facilities and that alternative financing--principally bond financing--was needed to effectively implement the ten-year capital plan.

Under the direction of State Treasurer Harlan Boyles, bond counsel have prepared draft legislation for consideration by the General Assembly that would enable the state and UNC to use well-established methods of capital financing to address the University's staggering needs. Given anticipated enrollment growth and the lengthy lead time required to construct new state buildings and modernize old ones, it is critical that such legislation be passed during this legislative session.

THE PROBLEM:

Over two centuries, North Carolina taxpayers, the University, and its students have built one of the best public university systems in the world. UNC campuses belong to the people of North Carolina, and these important state assets have many buildings that are now outmoded, inadequate, and falling apart.

- UNC expects to enroll some 48,000 additional students over the next decade. Six campuses, including the four largest, have space shortages today. By 2008, ten campuses will be at or beyond their physical capacity.
- As documented in the Klein report, nearly 800 UNC buildings need significant repairs or modernization, with the greatest deficiencies found in science and technology labs. Building rehabilitation is by far the largest component of UNC's ten-year capital plan.
- Prior to 1993, the state did not provide a steady source of funds for the repair and renovation of state-owned buildings. Over the past five years, UNC's annual share of the Reserve for Repairs and Renovations has provided roughly 2.5% of estimated replacement costs toward the upkeep of campus buildings, but these critical funds fail to address decades of deferred maintenance and the need to modernize antiquated buildings.

--more--

- Over the years, the General Assembly has been generous to UNC *when capital funds were available*. Since 1989, the state has appropriated an average of $86.7 million per year for UNC projects. But because of the state's traditional pay-as-you-go approach, capital funding to UNC has fluctuated widely, ranging from $1.6 million in 1990 to $125 million in 1997. This practice also has favored new construction over renovations.
- The cost of new construction is escalating. While inflation is averaging less than 3% annually, the State Construction Office estimates a construction inflation factor of 5%. Deferred maintenance costs are rising at a similar rate.

THE SOLUTION:

Over the past 75 years, more than 40% of capital construction on UNC campuses has been funded with non-appropriated dollars. Given the authority, UNC is committed to do even more to tap all available resources (University bonds, private sector development, private giving) to supplement and leverage state funding.

In her report, Klein strongly recommended that the state and UNC explore alternatives to North Carolina's traditional method of pay-as-you-go financing for University construction. Other states have demonstrated that various revenue streams can be earmarked for capital financing without draining funds from other needs, lowering the state's bond rating, or raising taxes. These states have gained the ability to spend more than ten times their current revenues for repairs, modernization, and construction. Many states that once followed that pay-as-you-go philosophy have earmarked revenues to retire outstanding bond debt. In the current market, annual debt service in the amount of $125 million--UNC's 1997 appropriation--would support more than $1.5 billion in needed repairs, modernization, and new construction.

In coming weeks, we will ask legislators to consider legislation that would provide new mechanisms for financing UNC's capital needs:

Proposed University Capital Facilities Finance Act. This legislation would permit the state to issue "limited obligation" bonds to finance capital improvements for the University. These bonds would not obligate the tax authority of the state, but essentially would create a moral obligation to repay. The financed projects would be pledged as security for the debt. The indebtedness would be repaid from state appropriations over a specified period of years. Bond financing would--for the first time--provide a predictable revenue stream of sufficient size to meet UNC's long-term capital needs.

Proposed Special Obligation Bonds for Improvements to Facilities of the University of North Carolina. This legislation would authorize the UNC Board of Governors to issue bonds to be repaid from "obligated" resources, defined sources of income available to the campus carrying out a given capital project. Available income sources would include rents, charges or fees collected by the institution, investments earnings on endowment funds, and overhead receipts. The board would not issue bonds by pledging state appropriations or tuition receipts.

UNC Report on Capital Equity/Adequacy: Major Findings and Conclusions

FINDINGS: CONDITION AND QUALITY

- Quality is a greater problem than capacity
- Cost to meet quality standards is approximately $3 billion
- Non-appropriated buildings are in better physical condition that appropriated ones
- Current resources do not address repair backlog
- Major renovations must become greater priority
- Of amount estimates for major renovations, $653 million would retrofit science labs

FINDINGS: CURRENT CAPACITY

- UNC has enough capacity systemwide to meet current enrollment levels; however,
  - > Not all capacity is where it is needed
  - > Six campuses have current capacity needs
- Ten campuses have some underutilized space, but also have needs for specific types of space
- Laboratories and study space are in short supply
- Classrooms and offices are not in short supply

FINDINGS: PRELIMINARY TEN-YEAR CAPITAL NEEDS

• Rehabilitation	$3.00 billion	
• Current Capacity	$0.45 billion	
• Future Capacity	$1.15 billion	
• Other/Special	$2.30 billion	TOTAL NEEDS = $6.90 BILLION

FINDINGS: TOTAL UNC CAPITAL FUNDING BY SOURCE, 1925-1997

• Appropriated from state funds	58%
• Non-appropriated	42%

CONCLUSIONS: OVERVIEW OF FUNDING ISSUES

- Competitive posture will require continued investments in renewal and expansion
- Annual "pie" is too small for identified needs
- Pay-as-you-go overemphasizes new construction
- Pay-as you-go is not explicit capital development policy
- Insufficient emphasis on private fundraising

5/19/99

A FIRM FOUNDATION: A PLAN FOR BUILDING UNC'S FUTURE

FREQUENTLY ASKED QUESTIONS AND ANSWERS

Doesn't financing by debt obligate resources that will limit the flexibility of future sessions of the General Assembly?

The University is an ongoing obligation of the State, one that is now facing a huge backlog of deferred maintenance and unprecedented enrollment increases. If the General Assembly continues its pay-as-you-go approach, it will pass on to future legislatures a problem greater than the $6.9-billion capital challenge it faces today. UNC campuses are among the most important assets of the State, and they must be maintained. The "limited obligation" bonds proposed by Treasurer Boyles would make the State's financial response to the problem more predictable and manageable. As the Treasurer explains, the General Assembly would be transforming real but unfunded obligations into securitized, bonded ones.

Will this financing legislation constitute UNC's total capital request for the next five years?

The resources generated by the bonds would provide financing for the University's major construction and renovation needs over the next five years. However, the annual Repair and Renovation funds (R&R) provided pursuant to statute would be expected to continue. If UNC did not continue to receive R&R for routine maintenance and repair, we would not only compound UNC's existing deferred maintenance problems, but create new ones as well.

Is there accountability for how the bond funds will be used?

The final form of the legislation authorizing bond financing is not clear, but there certainly would be oversight by and accountability to the General Assembly. We expect that for new construction, the University would submit a capital plan to the General Assembly for approval each year; whereas for major modernization and renovation projects, the process might require approval by the Government Operations Committee (not unlike the process currently in place for our Repair and Renovations request).

How would the projects to be financed with bond funds be selected?

The Board of Governors has approved a five-year capital plan prepared under the direction of Eva Klein & Associates in collaboration with the 16 campuses. Priorities will be determined by the General Assembly, with the recommendations of the Board of Governors.

--more--

What kinds of University revenues could be used for the "special obligation" bonds?

Currently, UNC campuses have authority to use student fees, user fees, and room and board charges to service debt for statutorily specified facilities. In addition to these historic sources for debt service, the proposed "special obligation" bond legislation would permit use of other campus-based revenues such as overhead receipts and interest earnings on endowment funds. Campuses would not be permitted to use tuition receipts or State appropriations to service debt on the "special obligation" bonds.

Do the "special obligation" or university bonds offer any advantages to the smaller campuses?

Yes. Even today, every UNC campus builds some facilities on a "self-liquidating" basis, and such projects would be financed in the future with "special obligation" bonds. The University's capital funding plan contemplates that as a whole, UNC will continue its historic pattern of providing approximately 40% of the funds for capital facilities. But the ability of campuses to support special obligation bonds varies. By necessity, the smaller campuses will depend more heavily on State-issued bonds. The ability of the larger campuses to take greater advantage of the special obligation bonds should reduce pressure on the State resources—to the benefit of smaller campuses.

Why should the State issue these new "limited obligation" bonds instead of "general obligation" bonds, which would be subject to a vote of the people?

Authorizing the use of "limited obligation" bonds is entirely consistent with the powers granted to the General Assembly in the Constitution. Local governments in North Carolina have successfully used financing mechanisms similar to "limited obligation" bonds for many years. The obligations created by these bonds are "limited" as opposed to "general" because the taxing power of the State is not pledged. Only in that latter case is a vote required by the State Constitution.

As a practical matter, the use of "limited obligation" bonds provides more flexibility to the General Assembly and the University with respect to future projects. In the case of general obligation bonds, all funds typically must be committed to specified projects before bonds are authorized. In the case of "limited obligation" bonds, the State could authorize the bonds and specify highest priority projects now, while retaining the flexibility to select, design, and schedule future projects as campus needs and enrollment levels change.

Finally, with the decline in interest rates in recent years, the differential in interest rates between general obligation bonds and limited obligation bonds or other kinds of special debt has narrowed substantially.

--more--

Why should the State commit to UNC bonds when the public schools and community colleges have such dire needs, as well?

The University is committed to a strong educational system at all levels and is doing everything within its power to help strengthen the public schools and increase collaboration with the community colleges.
The General Assembly called for an independent study of the University's capital needs, which has produced one of the most comprehensive, documented assessments of higher education facilities in the nation. The real needs of the State's other education sectors do not negate the fact that UNC buildings are State obligations and that the pay-as-you-go approach has allowed these valuable State assets to deteriorate.

UNC is acknowledged as one of the best public university systems in the nation. How can it possibly have capital needs of this magnitude if the quality is so high?

UNC buildings have been constructed over two centuries, and as they age, facilities inevitably become outdated or require structural repairs. In decades past, it was sometimes possible to use stop-gap approaches to modify old laboratories or equipment to serve modern functions. But the accelerating pace of scientific and technological change has made such attempts increasingly futile. Nothing short of major retrofits or renovations can adapt antiquated laboratories to accommodate 21st century science, for example.

UNC faculty have continued to teach in such inadequate facilities largely because of the University's national stature and out of loyalty to specific campuses. They also have drawn hope from the State's demonstrated commitment to address the University's huge backlog of capital needs, as evidenced by a queue of partially funded buildings that would require in excess of $400 million to complete.

Finally, a significant portion of the funding needs relate directly to the capacity of our campuses to meet current and future demand. We must be ready to accommodate some 48,000 additional new students by 2008. Six of the 16 campuses are at or beyond their physical capacity now and cannot admit significant numbers of new students without capital investment. The other campuses also have needs relating to enrollment growth.

John Saunders
6/29/99
8:30 am.
House Finance

CONSTITUTIONAL AUTHORIZATION OF NON-VOTED PUBLIC DEBT IN NORTH CAROLINA

The Constitution of North Carolina authorizes the General Assembly to empower The University of North Carolina to borrow money and issue bonds for its repayment with or without a vote of the people of the State, as the General Assembly determines to be in the best interest of the State.

In 1967, the Supreme Court of North Carolina in the case of Vance County v. Royster, 271 N.C. 53, had occasion to interpret Article VII, Section 6 of the Constitution as it then read:

> "Sec. 6. No debt or loan except by a majority of voters. No county, city, town, or other municipal corporation shall contract any debt, pledge its faith or loan its credit, nor shall any tax be levied or collected by any of the officers of the same except for the necessary expenses thereof, unless approved by a majority of those who shall vote thereon in any election held for such purpose."

The specific issue before the Court was whether a contract entered into by Vance County to pay the federal government $1,250 a year for 25 years for the use of land for a public airport constituted a "debt" that required the approval of the voters of the county to be valid.

The Supreme Court concluded that the lease did constitute a "debt" that required voter approval under the Constitution--and that any enforceable contractual obligation except revenue bonds required a popular vote of approval. The result was a substantial restraint on what had generally been thought by local government lawyers to be the ability of local (and state) governments to borrow money without a vote of the people so long as the faith and credit of the borrowing unit were not pledged to its repayment.

The General Assembly of 1967 created the Local Goverment Study Commission to make a thorough study of the structure, organization, powers, and financing of local government in North Carolina. In its report, filed with the 1969 General Assembly, that Commission recommended, among other matters, that "[t]he General Assembly should have authority to determine what contracts other than contracts creating general obligation debt must be submitted to popular vote." [Report of the Local Government Study Commission, 1968, p. 7.] One stated intent of the Commission was to overrule the Vance County decision.

Pursuant to that recommendation and others, the Study Commission proposed a general revision of the constituitonal provisions with respect to public finance, especially Article

V, the finance article. That Commission's recommendation was endorsed by the North Carolina State Constitution Study Commission (1968). It was enacted with minor revisions by the 1969 General Assembly, ratified by the qualified voters of the State in 1970, and took effect by its own terms in 1973. [N. C. Sess. Laws 1969, ch. 1200.] (The delayed effective date was to allow time for the enactment of implementing legislation.) The provisions of the Constitution relevant to the proposed bond issue date from that amendment.

The pertinent provisions of the Constitution with respect to state and local government borrowing are closely similar in language and in legal effect. Thus most court interpretations of the provisions with respect to local government apply as well to state government borrowing.

Article V, Section 3, of the Constitution now reads in part:

> "The General Assembly shall have no power to contract debts <u>secured by a pledge of the faith and credit of the State</u>, unless approved by a majority of the qualified voters of the State who vote thereon, except for . . . [several narrowly defined purposes, such as suppressing riots, or] for any

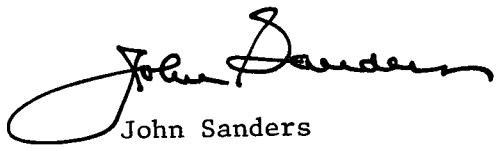
other lawful purpose, to the extent of two-thirds of the amount by which the State's outstanding indebtedness shall have been reduced during the next preceding biennium." [Emphasis supplied.]

Article V, Section 4, contains a virtually identical provision with respect to the contracting of debt by local governments. That provision the Supreme Court was called upon to interpret in 1991 in Wayne County Citizens Association v. Wayne County Board of Commissioners, 328 N.C. 24. The county had entered into an installment purchase contract with a financial institution whereby the county contracted to make annual payments to the institution for a specified period in return for the erection of court, jail, and office buildings for the use of the county. The county by its contract expressly denied that it was making a pledge of its faith and credit to pay the lender; its security was limited to a security interest in the land on which the buildings stood. While it was anticipated that the annual payments would be made by the county from tax funds, the contract expressly provided that such payments would be discretionary on the part of the county. And in the event of foreclosure by the creditor, a deficiency judgment against the county was contractually prohibited.

The Supreme Court found that the contact was not a violation of Article V, Section 4, despite the lack of a provision for a public vote on the issuance of debt, because there was no pledge of the faith and credit of the borrowing county--that is, no commitment of the taxing power of the county--to secure repayment. On that point, the Supreme Court wrote:

> "Plaintiffs argue that . . . [the authorizing statute] is unconstitutional because the statute allows the County to enter into an agreement pursuant to which the County may expend tax revenues in future years without a vote of the people. We find no merit in this argument. What is being pledged as security is the constitutionally significant factor. Unlike general obligation bonds, wherein the taxing power of the governmental unit is pledged, in installment purchase contracts, only the property improved is pledged. The possibility that appropriations which might include income from tax revenues will be used to repay the indebtedness under the contact is not a constitutionally significant factor." [Emphasis supplied.] 328 NC. at 31.

Thus it is clear that the Constitution of North Carolina, as interpreted by our State Supreme Court, empowers the General Assembly to authorize The University of North Carolina to issue the proposed university improvement security interest bonds without a pledge of the faith and credit of the State being given for their redemption, and as no pledge of the faith and credit of the State is to be given, no vote of the people of the State is required to authorize the bonds.



27 June 1999 John Sanders

KC

Molly Corbett Broad
Joint House-Senate Finance Committee Hearing
Room 544 Legislative Office Building
June 29, 1999
8:30 a.m.

RECOGNIZE COMMITTEE CO-CHAIRS PRESENT

[Representatives Luebke, Allen, and Miller; Senators Hoyle and Kerr]

- Good morning, and thank you for the opportunity to share with you the University of North Carolina's response to the capital financing plan proposed in Senate Bill 912 and House Bill 1481.
- I appear before you this morning with the sadness of one who lost a dear colleague during the night. As you may have heard on the news, Chancellor Michael Hooker passed away during the night. When I left Carmen Hooker at 5:00 this morning, her ~~last~~ parting words to me were words of encouraging support to come to this hearing armed with the support of Michael Hooker as well as the many strong supporter of this University here in this room this morning. N.B: Kerr Scott, Holshouser, President Friday.

my friends + colleagues

- Among the 50 states, North Carolina stands alone in her strong and historic support of higher education. This state has in large part defined itself by the character of its great university -- yesterday, today and it is my hope, tomorrow. This state has invested generously in the University of North Carolina for more than two centuries now. And the return on that investment has been nothing short of remarkable. Today our 16-campus University is acknowledged not just as the *oldest*, but as one of the very *best* public university systems in this country and one of this

state's greatest assets. This is a tribute, first and foremost, to the sustained commitment and leadership of the General Assembly. Yet the passage of time has taken a serious toll on the physical condition of our campuses.

- The General Assembly acknowledged the pressing capital needs of the University some two years ago, when you called for a comprehensive, independent study of the equity and adequacy of all University facilities, as well as for the development of a detailed capital plan to address identified shortcomings.

- Over the past 18 months, consultant Eva Klein has engaged the Board of Governors in one of the most thorough, well-documented assessments of capital facilities ever conducted by a university system. Like you, we were at first stunned by the magnitude and seriousness of the problems identified: a crushing backlog of deferred maintenance; the imperative to renovate and retrofit outmoded science facilities and other buildings for modern uses; and the need for new and updated facilities to manage projected enrollment growth of nearly 50,000 students.

- So as we approached the completion of the assignment given to the Unviersity by the General Assembly, we asked Eva to help us forge a rigorous capital plan that was in proper alignment with the University's enrollment planning and the academic missions of each campus. We believe the Phase I five-year plan ratified by the Board of Governors and transmitted to the legislature accomplishes this goal. To lessen the need for new space, UNC has adopted the most stringent space-utilization

standards of any public university system in the nation, and in planning for enrollment growth, we will use existing capacity to the fullest extent possible and promote economies of scale.

- Over the years, the General Assembly has been generous to *UNC when capital funds were available*. But as so starkly revealed by Eva's report, North Carolina's traditional pay-as-you-go approach to capital funding will fall far short of the amount needed to repair, modernize, and expand UNC facilities. We are grateful that Treasurer Boyles brought his vast experience and expertise to the problem and helped devise a sound, fiscally responsible solution. And we are equally grateful that this proposed financing strategy has been embraced by President Pro Tem Basnight, Speaker Black, Governor Hunt, and many others business and government leaders. The Chancellors of our campuses and their staffs have worked intensively to provide the detailed information about facility needs and building condition.

- The General Assembly's approval of the financing legislation advanced in Senate Bill 912 and House Bill 1481 would provide a rare opportunity for us to recapitalize—to rebuild—the University of North Carolina for a stronger future. Such investment now is absolutely essential if we are to prepare for unprecedented enrollment growth; to prepare our campuses to take advantage of technological change and to be more productive and competitive in research and technology transfer. Never before in the history of America has a university education been more important. ~~For~~ We are witnessing the transition to a *knowledge*-based economy in which

our *greatest* competitive advantage is our *people* and the skills, innovation, and know-how they bring to the table.

- For more than two centuries, the fortunes and future of UNC and the state of North Carolina have been inextricably linked. Our forefathers had the vision, the faith, and the courage to create the first public university in America. Today we ask for that same sort of vision. I ask you to make an investment in an institution that is a proven income-generator for our state. I urge you to invest in the University in the spirit of your forebears—in the certainly that this is an investment in our future.

Asheville Citizen-Times
May 29, 1999

EDITORIAL

N.C. university system needs funds to shore up facilities

UNC President Molly Broad's first couple of years in North Carolina have brought some pleasant surprises and some major challenges.

Broad was delighted by the "love affair" between North Carolinians and their university system, she said, but dismayed to find the degree to which the 16-campus system is micro-managed by state legislators and regulations.

Broad and the UNC Board of Governors were more than dismayed, they were "astonished" she said, when an independent consultant they hired at the direction of the General Assembly reported on the university system's capital fund needs.

"The university is unbelievably undercapitalized for our current mission," she said, "Much less for the challenges we face."

More than 800 buildings system-wide are in serious need of repair. Some are in such bad condition the consultant recommended they be torn down and replaced. The cost to do maintenance that has been too long deferred and to retrofit 1950s buildings for teaching 21st-century science and technology: $3 billion. The cost to meet the challenge of providing services for an increased enrollment of 50,000 students expected in the next 10 years: $3.9 billion. Total capital needs: $6.9 billion.

Two factors are primarily responsible for the sad state of many of the university system's buildings. First, the state has always funded its capital fund needs on a pay-as-you-go basis. Legislators have been generous to the university when funds were available, but funds weren't always available. Moreover, the way legislators have been lobbied for specific buildings for specific campuses has favored new construction over maintenance or renovation of old buildings. Second, before 1993, the state didn't provide a steady source of maintenance funds. The amount the university system has received since then has not been nearly enough to address the need for maintenance too long deferred and the need to modernize antiquated buildings.

Broad and her team have worked closely with state treasurer Harlan Boyles to come up with a plan for addressing UNC's desperate capital fund needs. They've put together two pieces of proposed legislation that would allow the system to begin solving the problem.

The first would permit the state to issue limited obligation bonds to finance capital needs. Tax dollars would not be legally obligated to pay for projects funded this way. The projects themselves would be pledged as security on the debt. But the state would, of course, have a moral obligation to pay for the projects from state appropriations over a specified number of years. One big advantage is that the bond money would create a predictable revenue stream.

The second piece of legislation would permit the UNC Board of Governors to issue bonds to be repaid from revenue it receives on rents, fees, investment earnings on endowment funds, etc. The university would not be allowed to issue bonds pledging to repay them with state appropriations or with tuition receipts.

About 60 percent of the total capital needs would be paid for with state bonds and about 40 percent with the university bonds. That's consistent with the fact that over the past 75 years, more than 40 percent of capital construction on UNC campuses has been funded with money from private giving or other money not appropriated by the General Assembly.

Broad insists that one of the primary goals those designing these proposals had in mind was to avoid the need for significant increases in in-state tuition.

Treasurer Boyle's office has prepared two pieces of draft legislation and they've been discussed with the leadership in the state House and Senate. They proposed legislation is currently under review by legislative staff. Broad's hope is that the legislation will be introduced and approved during the current session. Otherwise, the university will, in all likelihood, get very little capital funding during the current year. That would be a tragedy given the extent of the need and the crush of students on their way.

North Carolina has one of the oldest and best university systems in the country. It is one of the state's most valuable assets and one of its proudest treasures. It's an investment we must protect and enhance.

Citizen-Times Asheville, NC JUN 5 1999

Q&A: UNC President Molly Broad charts future

Editor's note: *University of North Carolina President Molly Broad recently met with the Asheville Citizen-Times Editorial Board. Following are her comments and her responses to questions from the board.*

Broad: One of the major priorities for the University of North Carolina over the coming years will be to serve an unprecedented increase in projected enrollment – something like 50,000 more students over the course of the next 10 years. Part of how we have been addressing preparation for that enrollment growth has included evaluating the condition of our physical facilities and determining what physical changes we will need to accommodate that growth.

We were encouraged in doing that by the Legislature that wrote a special provision that mandated that the university hire an independent outside consulting service and build a 10-year capital plan for all 16 campuses...

The staggering conclusion of that analysis is that the university is dramatically undercapitalized and the estimated cost of that recapitalization of the university is $6.9 billion over 10 years. Three billion of it – nearly half of the entire amount – is for rehabilitation and modernization of existing facilities. There are some 800 buildings across the 16 campuses that comprise the university that will require major repair and renovation. And that is wh[illegible]l lead the $3 billion worth of [illegible]nization costs ...

We have a proposal that 60 percent of this $6.9 billion over 10 years would be funded by the state and 40 percent by the university.

We have been operating the university in a pay-as-you-go way, a phrase that does not accurately depict what is meant, because what we have really been doing is, as a state, putting money into a capital budget from year to year on the basis of what is left over.

So the state has been providing money on whatever is left over after the operating budget has been funded and some years it has been very little; other years it has been seemingly quite generous. The last two years that has averaged $120 million. Over the last 10 years we have received $87 million on average per year in capital. But it has been wholly inadequate to the needs of what is now a huge university and one that is very important to the future of the state. And so the conclusion was that this method of financing capital was inadequate to the current and future needs of the state. And that we needed to find some way of infusing additional capital.

We w[illegible]very closely with the state treasurer who has been the architect for gaining the triple A bond rating – the only state in the country, I believe, that has this high bond rating – by engaging in fiscally prudent actions on the part of the state. So that was the first place that we turned to in seeking advice and help because although our needs are great, it seemed essential that we find a fiscally prudent strategy for addressing those needs. And so we've worked closely with (state Treasurer) Harlan Boyles in the design in the development of a legislative initiative that would authorize two kinds of bonds, one on the state's balance sheet and the other on the university's balance sheet to simply define the differences between the two kinds of instruments.

The state bonds would be issued in the name of the university with some kind of property lien, some building that would be pledged against the bonds for the bond-holders, but coupled with an expression of legislative intent to fund on an annual basis the debt service to repay those bonds.

But other revenues, whether it is from residents halls, parking fees, earnings on endowment, athletic fees, research grants and contracts, all of the other sources of revenue would be pledged by the university to support those bonds. If you look at what the rating agencies say about the state of North Carolina, Moody's or Standard and Poors, that have given us this triple A rating, you would find quite intere[illegible]

Citizen-Times

JUN 1999

2 of 4

"I will not be at all surprised if we see a quite significant escalation in post baccalaureate education (in Western North Carolina) and everywhere around the state. Whether that post baccalaureate education will in all cases lead to what you and I see as a master's degree or Ph.D., I think is less clear."

ingly that the investment of this state in its universities is viewed as one of the major factors for the economic strength of North Carolina. And the investment of prior generations in creating such a strong university is viewed as an important part with a significant return on that investment.

So why would Harlan Boyles recommend as strongly as he is recommending and supporting these instruments? In part it is explained by what the rating agency says about the underlying economic strength of North Carolina. And in part it is that the university of North Carolina is an asset of the state. It is owned by the state, it is one of the most important assets of this state and failure to invest in and maintain these facilities, not only will escalate the cost over the long haul but diminish the effectiveness of the university – which after all is a major contributor to the growth and prosperity of the state.

And so the state treasurer is actively supporting this initiative. We are seeking authorization from the General Assembly, hopefully during this session of the legislature. Otherwise it appears we may not have any capital budget in this session of the General Assembly. We would like to get at implementation of the plan.

Question: Most of us are familiar with the bonds that are authorized via referenda. These would not be authorized that way. Talk about the importance of those bonds in the context of how you have framed them, without going to the people.

Broad: I think there are several important reasons for doing it the way Harlan has proposed. One of those is that this will be a plan that evolves from year to year on the basis of what enrollment growth we actually realize.... We have laid out a plan that would fully utilize each of the campuses and as you know some of our campuses are small. They don't achieve the economies of scale and our plan anticipates that those campuses would grow more rapidly than the large campuses.

Question: Including UNCA?

Broad: Except UNC Asheville, where the mission is being an undergraduate liberal arts program with small classes. UNCA and the School of the Arts would be the exception to the general notion. Now, if our assumptions aren't realized and some of those small campuses like North Carolina A&T, Elizabeth City State University, Western Carolina, etc., if they don't grow as we plan, we are going to adapt this plan accordingly from year to year. General obligation bonds, in that sense, are a very blunt instrument. You get to write one proposition that goes on the ballot. You typically have to spell out each and every project, and it just didn't seem as if was going to work for what is clearly a dynamic and changing set of circumstances. And we also felt it was important for the General Assembly to evaluate the effectiveness of implementation from construction management and cost accountability and planning ...

Question: Is there the risk that

Citizen-Times
JUN 5 1999
3 of 4

tuition might have to be raised somewhere down the road to help repay the university's portion of that? Meaning that while tuition itself couldn't necessarily be used, by raising tuition, you could free up money from some other source, endowments or some other source?

Broad: That is quite explicitly not the intention ...

Question: Who is going to set the priorities for which buildings should be funded and will this alleviate some of the politics?

Broad: The procedure will be as it has been. That is, each campus will build its capital plan and capital priorities. That plan will be reviewed by the Board of Governors. I would say we are so much better informed today than the university was, say 10 years ago, about what our needs are. I think our priorities are going to be clearer, cleaner, stronger. But it will go to the General Assembly. And the General Assembly then will approve a capital plan and capital expenditures for each new capital construction project. What is different is where the financing source will come from.

Question: Here in Asheville just a mile from where we sit right now, the dropout rate of African-American male students is almost 60 percent. Do you have a concern that unless something is done by the university system or by the public that underwrites secondary education in Asheville and throughout our state that the university system – particularly the top-rated schools, like UNC-Chapel Hill – could become a university for the elite, for those who are white, whose families and communities support them and help them get through school?

Broad: Such an outcome would be inconsistent with all the history and the ideals of this university from its very earliest conception – more than 200 years ago, and would be inconsistent with the pattern right up to today.

From the university's perspective, I believe the greater problem is the college-going rate. It isn't the character or the diversity or the openness of the university. It's that not enough North Carolinians try to come to the university. Our educational attainment is below the national average ... So one of the strategies that we're embarking upon is a program we call Pathways that would begin with youngsters in the seventh grade and with their parents to talk to them about career options, to lay out what they need to take in high school in order to be admissible to the university and to help their parents plan for the cost of the university education....

Question: Do you have any specific ways or suggestions for high schools to do a better job preparing students for college.

Broad: Well, we are giving some serious thought to utilizing new approaches that are described as portfolio evaluation as a part of admission to the university, and I think, by extension, requirements for high school graduation. One of the main thrusts of these portfolios is for students to demonstrate, not just in a test score but to actually demonstrate through their own work what they know and can do.

"I have begun to gather a group of people who are willing to help to frame an approach and a strategy to assist the university in getting freed up from the regulatory red tape."

Citizen Times

JUN 5 1999

pg 4

Question: Western North Carolinians claim that they don't have opportunities for graduate education here. I wonder if you acknowledge that as a real need and if there are plans to enhance those offerings?

Broad: ...I will not be at all surprised if we see a quite significant escalation in post baccalaureate education here and everywhere around the state. Whether that post baccalaureate education will in all cases lead to what you and I see as a master's degree or Ph.D., I think is less clear. Some of these may be intensive post baccalaureate experiences that lead to a variety of kinds of certificates, but I believe that graduate level education will be and must be expanded...

Question: You have been here about a year and a half. What has been a surprise?

Broad: Most of the surprises have been very positive. This state has a deep and abiding belief in its university in a way you do not find most places in this country. It is a belief that is rooted to the history of this state in which the university was launched within days after becoming a state and has been sustained over the years. And the university has received support from this state when other parts of the state budget have suffered. It has been amazing truly remarkable sustained commitment to the values of a great university, and the belief on the part of citizens who may have never stepped foot on a university campus.... It is almost a love affair that this state has with its university.

Perhaps the biggest surprise on the negative side might even be the flip side of the coin. Mainly that the state regulates this university, instructs it, micromanages it. These words all have different charges but the essence of it is that the state is intimately involved in guiding the course of the university that in this day and time has resulted in a bureaucracy that makes it very difficult for a university to be nimble. And in a time of great change these campuses have to be nimble, they have to be able to change directions, to start something new, to move quickly and it is very hard to move quickly.

Question: What would it take to change that?

Broad: It's a great challenge to me. But I have begun to talk with wise people who don't have a selfinterest. It's very hard because I have such an abiding self-interest in achieving this. I'm trying to find other people who don't have an ax to grind, who don't have a self-interest.... I have begun to gather a group of people who are willing to help to frame an approach and a strategy to assist the university in getting freed up from the regulatory red tape.

Question: Can you give us one example?

Broad: The University of North Carolina at Chapel Hill engaged in a competitive process for who would provide these computers to their incoming students. And they got an incredible deal from IBM. Appalachian State University would like to piggyback onto the terms of that contract. Makes sense, huh?

I signed off on it, said what a great idea. But no dice. The State Office of Procurement wouldn't let us do it. Now I am sure I don't understand all of the laws that they face and for which they need to stand accountable, so I am not being critical. I have not walked in their shoes. But from where I sit, the public purpose has been served. There has been open competition – the lowest price was awarded the contract. A small campus who couldn't leverage that market on their own could be the beneficiary. The vendor was willing. The logic of it is hard for me from where I set to understand, why this doesn't make enormous good sense.

Question: Sometimes we ask visitors who are in positions of authority and responsibility to give themselves a letter grade. So what's the letter grade for your performance?

Broad: Well, we have just spoken about the area where I think my performance is inadequate to the important goal, namely to achieve streamlining of the organization and make it possible for those campuses to be nimble. In other areas of the university, I feel very good about where we're heading and our ability to achieve the goals that we have. So I guess I give myself a B.

Daily News

In-Depth Study Needed Along With Full Truth

It is shocking news to hear that at the University of North Carolina we have some 700 buildings of one type or another which need renovating. But beyond the number of buildings is the estimated cost of repairing those buildings. We read that it will require more than $7 billion to do the complete job as it should be done.

The news about the university property takes on added significance when we read that Harlan Boyles, North Carolina treasurer, has come up with a plan which will bring a good measure of relief. In fact, some UNC leaders are already offering support for the Boyles plan. Molly Broad, president of the Greater University, seems to be enthusiastic about the plan.

Mr. Boyles is well-known as a man who does not believe in spending money foolishly. He is a true conservative, and when he recognizes that North Carolina must do something now about this situation, it seems to be time for all of us to sit up and take notice.

Under the plan as presented and as we understand the state would issue $2 billion in bonds and the university would issue $1.5 billion in bonds. The idea of the university issuing bonds is a new concept for this state to consider. Insofar as we know or believe, state universities have not in past years issued bonds.

Each session of our legislature appropriates money for university use in building repair or renovation. According to Dr. Broad, the money appropriated will just about equal the payments on the bonds on the annual basis.

We look at the proposition and frankly we doubt that there is any newspaper editor in North Carolina who can give a learned opinion on what to do. However, many of us realize the urgent needs and when we look at the Boyles plan, we cannot say that it offers the best answer. But we can and do say that this plan ought to be given in-depth study. We did not realize that we had as many as 700 buildings in need of attention.

Now some of these buildings are dormitories; some are classrooms; some are for special use; all play a part in the overall scheme of educating our young people.

There is one question which people over the state will be asking. Suppose the university cannot pay the annual bill and interest on bonds issued by the university — who pays then? We must suppose that the state of North Carolina must come to the rescue. Still, there are many other questions which will be asked and many answers yet to be given.

This is a huge matter and one which cannot and must not be taken lightly. The university system has been told to prepare to admit some 40,000 more students over the next 20 years.

And while we are dealing the educational cards, never allow us to forget the community college system.

Dispatch
Lexington, NC

MAY 1999

Bonds a creative solution to university needs

As a principle, pay-as-you-go has a lot to recommend it. But it's not always practical.

If we all followed the principle, for instance, most of us wouldn't have houses or cars or other big-ticket items because we'd have to save up the full amount of the cost before we made our purchase.

That's the same way the North Carolina university system has built its buildings and done its repairs and renovations. University administrators ask the General Assembly each year for money to build or renovate certain buildings and the work isn't done until the funds are appropriated by legislators.

But, especially given the state's current growth mode, that isn't working anymore.

A consultant says the 16 university campuses will need about $7 billion (yes, billion) in construction to cope with 800 buildings in need of renovation and repair and to provide enough additional space to care for an anticipated enrollment growth of 48,000 students over the next decade.

There is no way pay-as-you-go can solve that crisis.

So the UNC Board of Governors is asking the General Assembly for legal authority to issue $3.5 billion in bonds. Of that, $2 billion would be repaid by the legislature over the next 20 years.

The other $1.5 billion would be university system bonds that would be repaid from student fees, dormitory rents, research grant overhead, endowment earnings and other non-tuition revenue the universities collect.

UNC President Molly Broad makes a strong case for the "limited obligation" and "special obligation" bonds. Many states and even local governments have used this approach to try to catch up with serious backlogs. So it is not something new — just new for the university system.

We feel particularly optimistic about the wisdom of adopting the bonding program because it is suggested by State Treasurer Harlan Boyles, a very conservative guardian of North Carolina's dollars.

Boyles said Friday, "We're here to help because it's a good investment and the needs are critical. You need an infusion of funds immediately so you can head off some of the deteriorating circumstances you now see."

Senate President Pro Tem Marc Basnight is an enthusiastic backer of Broad's proposal — an important ally in getting the necessary legislation passed.

One problem that could arise is that the General Assembly would stop appropriating building funds during the years it is paying debt service on the bonds. That would be a foolish mistake because it would be creating an additional backlog of expensive building repair and renovation that future legislators would be forced to deal with.

Serious problems require innovative and creative solutions. Legislators should honor the Boyles-Broad plan and give quick approval to bills permitting the $3.5 billion in bonds.

THE NEWS & OBSERVER
WEDNESDAY, JUNE 2, 1999

Some ideas we could do without

Pssst. Can I interest you in a crummy idea? How about six of them from the General Assembly, which has been meeting since January in Raleigh?

Now don't get me wrong. The legislature has been doing many worthwhile things during the session. But I don't count playing loan shark, sugar daddy, bookie and gate keeper among those worthwhile things. Here are six crummy ideas being debated in the legislature:

Rob Christensen

CRUMMY IDEA ONE: Let's call it the loan-sharking enabling act. The finance companies want the legislature to give them authority to jack up interest rates — in some instances as high as 36 percent. This is at a time when most interest rates are near historic lows.

This could cost the state's waitresses, janitors, maids and other working stiffs up to $40 million per year. Many of these finance companies are not mom-and-pop operations but are subsidiaries of such banking giants as First Union and Bank of America.

Two bills affecting different parts of the industry have already passed either the House or the Senate. What's next, a bill, enabling finance companies to hire somebody to break your knee caps if you don't pay on time?

CRUMMY IDEA TWO: More sweetheart deals for big business. The state has been involved in a bidding war with other states to provide taxpayer incentives to companies that create jobs.

I'm not a hard-liner here. I can see giving money for a Nucor or a Wisconsin Tissue to open big plants in poor rural counties. But since when is go-go Charlotte an impoverished area? The Senate last week passed a bill that would allow financial incentives for US Airways and for TIAA-CREF, a New York-based pension-fund manager, both of which are planning new facilities in Charlotte. The bill also extends the incentives program, called the Bill Lee Act, from 2002 until 2007 even though studies have yet to prove that incentives are worth all the money.

CRUMMY IDEA THREE: The lottery. Turns the state into a bookie, promotes gambling and is a notoriously unreliable source of money for the state. Other than that, it's a great idea. Bills are pending in the Senate and House.

CRUMMY IDEA FOUR: Incumbents lining their own pockets. The House has been considering a bill to provide longevity pay for lawmakers — ranging from an extra $669 after five years to an extra $2,008 after 20 years. Companies award longevity pay to valuable long-term employees to reward their loyalty and to help keep them from changing jobs. Tell me again, why we should reward legislators who stick around 20 years?

CRUMMY IDEA FIVE: The Dark Ages are back. The legislature last week made Bermuda Run, a gated golf course community near Winston-Salem, an incorporated town. This idea was very popular in the Middle Ages, when cities built walls around them to keep away raiding Normans or Vikings. I can see Bermuda Run having trouble with turf grass, but Visigoths?

CRUMMY IDEA SIX: The UNC Board of Governors wants authority to borrow $3.5 billion for university construction without submitting the bonds to the voters in the form of a referendum. I'm not saying repairs and new buildings aren't needed. But whatever happened to faith in the citizens who built one the country's great university systems? I bet the finance companies would be willing to loan UNC the money, if Molly Broad doesn't mind paying a 36 percent vigorish.

Rob Christensen can be reached at 829-4532 or at robc@nando.com

NEWS & RECORD
Greensboro, North Carolina

JUN 4 1999

UNC group pushes bond bills

UNC's Board of Governors steps up efforts to find new ways to finance buildings.

By Tim Thornton
Writer

The lobbying has been extensive. It's about to become intense.

The UNC Board of Governors Committee on Public Affairs met by conference call Thursday afternoon to coordinate the push for legislation that would give UNC two new ways to finance buildings. UNC officials consider the legislation critical to raising the $6.9 billion a consultant's report says the system needs to spend on its campuses between now and 2008.

WANT TO KNOW MORE?

UNC-TV will air a segment on the state of UNC's buildings and the proposals for funding at 10 p.m. Friday.

Two UNC finance bills are expected to be introduced next week.

One proposal would allow the state to issue bonds using university property as collateral. Called limited obligation bonds, they would be paid through state appropriations.

The second proposal would allow the Board of Governors to issue bonds that would be paid with virtually any university-generated income except tuition.

"One of the concerns I have right now is that we don't lose our sense of urgency," said Clifton Metcalf, UNC's vice president for state governmental affairs. "This session is really moving along."

In the past, funding options for capital

Please see **UNC,** *Page* **B6**

NEWS & RECORD
Greensboro, North Carolina

JUN 4 1999
2 of 2

UNC

Continued from page B1

projects have been limited to general obligation bonds, which require voter approval; self-liquidating projects, which are paid for by the revenue a project generates; and pay-as-you-go, the option the system has depended most heavily upon.

Pay-as-you-go, according to a consultant's report, "has put at risk the university's ability to compete nimbly in an increasingly competitive, technology-driven economy."

Legislation that would authorize the new funding options hasn't been filed, but the campaign to convince legislators to support the bills is already more than 2 months old.

UNC President Molly Broad and state Treasurer Harlan Boyles have presented the universities' case to the General Assembly leadership, the chairmen of the House appropriations and finance committees, the House Democratic caucus, the House Republican caucus and the House black caucus.

Metcalf has made the schools' case to the Senate GOP caucus and the governor's staff.

Broad and Ben Ruffin, chairman of the UNC Board of Governors, have briefed the chairmen of the board of trustees of each of the universities in the system. The chairmen have passed on the information to the trustees. The trustees have been calling and visiting legislators.

Broad and J.B. Milliken, UNC's vice president for public affairs and university advancement, have been visiting newspaper editorial boards.

Members of the Board of Governors have been assigned to contact specific legislators.

On Thursday, members of the Committee on Public Affairs were assigned to make sure their fellow board members make those calls.

Committee member Helen Marvin urged her colleagues to contact legislators they would vote for, even if those legislators aren't on their assigned list. "That makes an impression on them if they know they can count on you for a vote," Marvin said.

Jim Phillips, the committee chairman, emphasized the importance of meeting with legislators rather than contacting them by telephone or mail.

"This has got to be a conversation," Phillips said. "We've got a lot of information to impart."

Metcalf told the committee that the response from lawmakers has been very positive so far.

Some have questioned the magnitude of UNC's building and renovation plans, but "you hear very few people who are openly opposed to it," he said.

Metcalf also said, even though the bills haven't been filed yet, advocates for community colleges and other groups have expressed an interest in having their names added to the bill — to allow them to use the same bonding procedures the legislation would give to UNC. That's something Boyles warned the Board of Governors against.

Former Gov. James Holshouser, a member of the committee, echoed Boyles' warning.

"I'm afraid if you get too many people on the Christmas tree it's going to fall down," he said.

NEWS & RECORD
Greensboro, N[illegible]lina

JUN 5 1999

Community colleges have own building plan

● Community colleges may benefit from UNC spending proposals.

BY TIM THORNTON
Staff Writer

On Thursday, members of the UNC Board of Governors worried that community colleges might try to hitch a ride on the board's request to trade pay-as-you-go financing for bonds.

On Friday, the president of the community college system said the deal had been done more than a week ago.

"I'm afraid if you get too many people on the Christmas tree it's going to fall down," former Gov. James Holshouser warned his fellow UNC board members.

The next day, Martin Lancaster, president of the community college system, said the General Assembly leadership has assured him that "we also will benefit from any solution that will develop to serve university infrastructure needs."

UNC officials consider the legislation critical

Please see **FUNDING,** *Page* **B2**

○ GTCC hosts first N.C. Community College Celebration. B2

NEWS & RECORD
Greensboro, North Carolina

JUN 5 1999
2072

FUNDING

Continued from page B1

to raising the $6.9 billion a consultant's report says the system needs to spend on its campuses by 2008.

Two bills are being prepared that would give the UNC system and the state more options for financing construction.

One would let the state issue bonds using university property as collateral. These would be paid off with state appropriations. The second bill would let the Board of Governors issue bonds that could be paid off with virtually any university-generated income except tuition.

In the past, the university has had only three ways to pay for building projects:

- General-obligation bonds, which require voter approval;
- Self-liquidating projects, which are paid for by the revenue a project generates;
- Pay-as-you-go, the option the system has depended most heavily upon.

A consultant who has been studying the UNC system for more than 1½ years said the principal weakness of a pay-as-you-go policy is it deals with year-to-year needs without a long-range plan.

Pay-as-you-go, the report added, has favored new construction over renovation, maintenance and modernization.

It also "has put at risk the university's ability to compete nimbly in an increasingly competitive, technology-driven economy."

"If our proposal has long coattails or otherwise helps the community colleges then we would be pleased."

Molly Broad,
UNC president

When state Treasurer Harlan Boyles unveiled the legislative proposals at the Board of Governors' May meeting, he warned against allowing too many amendments to get attached to the UNC bills.

"If you load the wagon too heavily, no matter how worthy the causes ... it may be self-defeating," he said.

"My initial reaction," Boyles said Friday, "was that we shouldn't load the wagon too heavily until we establish some comfort and direction from the General Assembly."

Lancaster said the community colleges have overcome that concern.

Community college buildings already can be used as collateral, Boyles said: County governments own them, and local governments have been able to use this kind of bonding for years.

The difference, he said, is that now the bonds must be paid off with local government funds. If community colleges piggyback onto the UNC legislation, the state will foot the bill.

That change, Boyles warned in May, could make the legislation too expensive to get through the General Assembly.

Instead of piggybacking on the UNC bill, the community colleges have their own bill creating new bonding power. The community college's bill can't be exactly like the proposed UNC legislation because "the state can't place a lien on property it doesn't own," Boyles said.

The bill being created for community colleges would let counties issue bonds, using community-college property as collateral, but the state would agree to pay off the bond.

UNC President Molly Broad said she doesn't believe the amount of money attached to the community-college bonds is great enough to turn the General Assembly away from the new bonds.

The UNC package includes $3.5 billion in bonds. The highest figure being discussed for the community college bonds is $500 million.

Education

News and Record

UNC is refining its building plan

6-9-99

By TIM THORNTON, Staff Writer
News & Record

Greensboro's university chancellors are happy about UNC's tentative building plan.

"I'm very pleased," UNCG Chancellor Patricia Sullivan said. "I'm really pleased if we can get this."

N.C. A&T Chancellor Edward Fort said he is pleased because it acknowledges a consultant's findings that A&T and UNCG are among the neediest campuses in the UNC system and sets to do something about that.

At the General Assembly's request, the UNC Board of Governors has developed a 10-year plan for construction, renovation and modernization on UNC campuses. The board hired Eva Klein & Associates to evaluate UNC's buildings and infrastructure and to determine what needs to be done so they can accommodate the system's needs through 2008. After 18 months, the firm produced a plan with a $6.9 billion price tag.

On Monday, Klein presented the board's Committee on Budget and Finance with a more detailed 5-year plan, one that names specific projects on specific campuses. "It is important that you realize this is a draft," Klein told the committee.

Today, the university chancellors will get a chance to share their opinions of that draft with Klein, UNC President Molly Broad and UNC general administration staff.

The report officially will be presented to the full Board of Governors on Thursday.

UNC-Chapel Hill would get $400 million over five years, more than any other campus in the UNC

Related Info:

Redistricting Our Schools
An In-Depth look at the redistricting process in Guilford County.

Our Schools: A Report Card
A comprehensive ranking of the elementary, middle, and high schools of Guilford County.

Guilford County Schools

Forsyth County Schools

Randolph County Schools

Alamance County Schools

system, according to the version the committee saw Monday. N.C. State would get $300 million, the second-highest total.

The report recommends that UNCG and A&T each receive $150 million, which is money Klein said Greensboro's campuses desperately need.

"That's mainly corrective work for a campus that is just about falling down," Klein said of UNCG. "The same is true of A&T."

"Greensboro has buildings going back 90 years with only a paint job," Klein said. "There is a huge, huge, inventory of aged and crumbling space on those campuses dating back to the 19th century."

UNCG would get money for three new buildings, the renovation and modernization of six others, and improvements in road, heating, water, electrical and sewer systems. The campus also would get $10 million to buy more land.

The draft calls for $36.4 million for a new science building, $5.25 million for new research space and $21.6 million for a replacement for the McIver building.

"If we had our druthers," Sullivan said, "McIver would be our first priority. ... In order to do a new McIver we have to get the land."

McIver was originally on the list as a renovation project, but Sullivan said renovating the building would be more expensive than replacing it. The Board of Governors may consider a renovation project under those circumstances if the building has historical significance, Sullivan said, but "that's not a historic building. ... It's a building in very bad shape."

The new science building was in the works before Klein's study began. "They're designing it now," Sullivan said.

UNCG's Petty Science Building is on a list with A&T's Hines Hall and a science building at N.C. Central University that Klein is particularly adamant about replacing.

"We morally can't teach science in those buildings any longer," she said.

A&T also would get money for two new buildings, 12 building renovations, a new chancellor's

residence, improved walkways, a bicycle lane and land purchases. The plan also mentions five demolition projects and sets aside money for a pedestrian mall on Laurel Street with a bell tower to provide a distinctive image to the university."

Fort said, "We have a need for a modernization of the entrance to our campus so it presents a look as a university should."

But one of the largest single expenses is a central cooling plant. The price tag is $26.25 million.

The other big-ticket projects include $29.47 million for a classroom and laboratory complex, $21.8 million for Hines Hall's replacement, and $10.7 million for renovations to Carver Hall.

There's also $6.3 million to buy land. "That's something we've been seeking for years," Fort said.

Klein told the committee some chancellors seem worried that the second half of this 10-year plan won't happen. Neither Sullivan nor Fort is among those worried chancellors.

Sullivan said she is convinced that if UNC uses money wisely and shows what it can do for students, faculty and the university system, the General Assembly will provide the funding that the Klein report indicates the system needs.

If the state legislators weren't serious, Fort asked, "Why would they have instructed the system to commission such a study?"

Although the projects in this draft "cover substantially the things that seem to be the most pressing needs on each campus," Klein said, this represents the first half of a 10-year plan.

"I have to tell you," she said, "there will still be needs at the end of the day when this project is over."

Contact Us | Web Design & Advertising Info | The Depot
Copyright © 1999 News & Record
Click here for a printable version of this page

OUR VIEW

Critical needs for the UNC System

Remember the muffler commercial that warned: "Pay me now or pay me later."

The UNC System's Board of Governors is facing such a situation, but in reality, the governors have no choice. They need $7 billion now to prop up the infrastructure of this state's most important resource, its university system.

That is the price tag placed on the capital needs of the 16-member university system. It's a lot of money for a state that is cutting taxes, but state Treasurer Harlan Boyles has a plan to raise it. What the plan needs is the signature of our General Assembly.

The UNC system has traditionally taken a pay-as-you-go approach to capital needs for its member institutions. That approach has been much more favorable to the more prestigious universities, such as the ones in Chapel Hill and Raleigh, than it has to minority universities, such as the one in Pembroke.

The University of North Carolina at Pembroke is hoping that the current legislative session delivers money for a regional center. A new science building is also on UNCP's most-needed list.

Boyles' plan would provide enough cash that both of UNCP's needs could be met, and would also help assure that none of our universities would have to settle for the shortest stick.

Boyles proposes that the General Assembly approve the sale of two new kinds of bonds. The state would repay one set of bonds with money that it has used annually to met the UNC System's capital needs. The universities themselves would pay off the second set of bonds with revenue that is generated through dormitory and parking receipts, athletic events, fees and other such sources.

The plan has the support of the governors. Boyles told them earlier this month: "To rely on the pay-as-you-go-system would mean we would be getting further and further behind. And in the eyes of a business person, that would not be good."

Boyles even went so far as to call the funding needs a "moral obligation" that the state must meet. Our lawmakers would be wise to listen to Boyles and move quickly to douse this threat to a state treasure.

VP Public Affairs
& Univ. Advancement
JUN 0 2 1999
Rec'd by

the chapel hill Herald

MAY 15 1999

1052

UNC system seeks loans for renovations

Pay as you go method can't keep up with 791 buildings

By ERIC FERRERI
The Herald-Sun

DURHAM — Until recently, the UNC system's method of paying for renovations to its buildings was simple.

Need some repairs? No problem, as long as there's cash available. No cash? Then the project gets stuck on the back burner until money is freed.

That system, referred in financing circles as the "pay as you go" method, works relatively well for any single building renovation project. But when you have 791 buildings in need of large-scale improvements, there's no way to find enough cash.

The UNC system's Board of Governors took a dramatic step toward solving that problem Friday, endorsing a plan set forth by State Treasurer Harlan Boyles that would let the state borrow the money to get the work started immediately.

Under two proposed pieces of legislation, bonds would be sold to raise about half of the estimated $6.9 billion the system will need during the next decade to fix and improve decaying laboratories, inadequate classrooms and undersized offices at UNC's 16 universities across the state.

The legislation would provide $3.5 billion that would be spent during the next five years and would take roughly 15 to 20 years to pay back.

For too many years, the UNC system has relied on the shortsighted pay-as-you-go method of financing. Boyles told board members who met Friday at N.C. Central.

"Pay as you go is dependent on resources available at the time," he said. "If there's no money, there's no improvements. We've relied upon, too heavily, a pay as you go system that relied on cash at hand."

And university officials say they don't have time to wait.

Across the system, officials are preparing for an influx of students during the next decade that will surely stretch the boundaries of some campuses. About 48,000 additional students are expected to arrive on UNC campuses in the next 10 years.

This enrollment surge necessitates new residence halls and academic buildings, as well as renovations to existing facilities. Thus, the bonding proposal is all the more vital, Boyles said.

"We face a critically important challenge in accommodating the influx of enrollment we anticipate," said Molly Broad, president of the UNC system.

"If we fail to meet that need, our economy and quality of life in North Carolina will suffer. From our point of view, this [legislation] is an imperative. There are [about] 50,000 students coming our way, and we can't postpone

please see LANS/2

the chapel hill Herald

MAY 15 1999
2 of 2

LOANS

when they arrive at our door."

There are two pieces of legislation that will go to the General Assembly for approval. One is for the sale of limited obligation bonds, which will be sold by the state. As new buildings are built or existing buildings are renovated, those buildings will be used as collateral against the bonds used to pay for the work.

The second type would be special obligation bonds, issued by the university. They will be issued for specific, revenue-producing projects such as a residence hall that brings in student fees or a parking deck that collects parking fees. In those cases, the anticipated revenues will be pledged as collateral.

These funding models, while foreign to UNC, are common at other universities as well as on a smaller scale in many North Carolina cities and counties, officials say.

For many university officials, the money can't come fast enough. Many UNC campuses have found themselves handcuffed by a lack of money to do wide-scale improvements.

A recent higher education consultant's report on the state of disrepair of so many buildings made many officials take notice.

"The university is one of the most important assets of this state, yet we find that asset is in significantly diminished condition," Broad said.

"Buildings have deteriorated. Buildings that no longer serve the research function of a major university."

On the UNC Chapel Hill campus, officials have long advocated for an alternative to the pay-as-you-go method of financing, said James Ramsey, Carolina's vice chancellor for finance and administration.

"It's the way to go," he said of the bonding proposal. "We've been promoting debt financing for six to nine months because of the needs on our campus. We think it's critical."

Of the 791 buildings in need of repair, officials have found 19 that may be demolished because the cost of renovating them would be more than simply replacing them. But officials still must evaluate whether those buildings can be converted for other uses. And some of those buildings also may hold historical significance that would necessitate their preservation.

Many legislators were caught by surprise two months ago when officials first started talking dollar figures in relation to capital repairs. But by now, UNC officials say they're confident legislators have gotten past the sticker shock and understand the need for sweeping improvements.

"We're asking for things that are a dire necessity, to protect our investment," said Ben Ruffin, chairman of the Board of Governors. "They understand that."

Rob Lamme, a spokesman for N.C. Senate President Pro Tempore Marc Basnight, said Friday that Basnight is convinced the bond issuance is the best way to pay the overwhelming costs.

"The UNC system has been an engine for our state's economic development through this entire century, and he wants to make sure that remains true in the next one," Lamme said.

The Chapel Hill News

MAY 16 1999

UNC will seek power to issue bonds

DURHAM — The UNC Board of Governors agreed Friday to ask the legislature for new laws that would allow the state and the university to borrow billions of dollars for campus construction.

University leaders hope to secure at least $3.5 billion through bonds to move ahead quickly on an estimated $6.9 billion in overdue renovations and new buildings. They have said they need extensive improvements to be able to accommodate an extra 48,000 students in the next decade as the college-age population swells.

State Treasurer Harlan Boyles, who has advised UNC President Molly Broad on financing options, presented the plan to the board Friday at N.C. Central University.

"As the state's banker, I am here to say we want to be of help," Boyles told the governing board. "We're here to be of help because it's a good investment and the needs are critical. You need an infusion of funds immediately so you can head off some of the deteriorating circumstances you now see."

The board unanimously endorsed Boyles' suggestion for bonds — to be issued by the state and the university.

In the coming weeks, legislators will debate bills that would authorize two types of bonds, neither of which would require voter approval.

One bill would permit the state to issue "limited obligation" bonds, which would essentially create a moral obligation — but not a legal one — on the state to repay the debt. UNC leaders hope to secure $2 billion through this method — to be repaid over 20 years by annual appropriations from the legislature.

The other bill would allow the UNC board to issue "special obligation" bonds to be repaid from defined sources of income — dorm rents, student fees, endowment earnings and overhead receipts from research grants. Tuition could not be used. UNC leaders hope to raise $1.5 billion through this type of bond, which is very similar to revenue bonds already used routinely to build parking decks and residence halls.

UNC Board member Jim Phillips Jr. said he was optimistic about the plan's chances in the legislature. It already has received strong support from Senate President Pro Tem Marc Basnight.

The Charlotte Observer

MAY 13 1999

Officials ready with bond plan for UNC

UPDATING UNIVERSITY SYSTEM CAMPUSES

Boyles

UNC System President Molly Broad (right) and State Treasurer Harlan Boyles (left) will propose issuing **$3.5 billion** in bonds to accommodate **48,000** more students in the next decade.

Broad

By JENNIFER ROTHACKER
Staff Writer

UNC System President Molly Broad and State Treasurer Harlan Boyles will unveil a plan Friday that would use bonds to help pay for billions of dollars in renovation and construction needs at the system's 16 campuses.

A consultant has warned UNC system leaders it will take up to $6.9 billion to refurbish and expand campuses to accommodate an anticipated enrollment growth of 48,000 students in the next decade.

Broad and Boyles hope bonds can pay that bill. The bonds would not need voter approval, even though some of them would be repaid through tax dollars. The legislature would set the amount to be borrowed, although it's unlikely they would agree to the full $6.9 billion.

If the legislature signs onto the plan, it would mark a departure from the state's usual pay-as-you-go strategy for such building needs — a strategy that has delayed many campus projects since ready money tends to be scarce.

"We have 50,000 more students who will be heading our way in 10 years," Broad said Wednesday. "Since we can't postpone their arrival, we can't wait to update these facilities."

While Broad has already enlisted the support of legislative leaders, some legislators are wary when they hear the word "bond."

"It's easy to say, 'Let's go out and get bonds,' " said N.C. Sen. Bob Rucho, R-Mecklenburg. "Bonds are no panacea. . . . That's just not the answer to all the questions."

Rucho admits, though, that number crunchers have thrown some startling figures at the UNC system this year.

Eva Klein, a consultant hired by the state to assess the condition of all 16 universities, found $6.9 billion in needed improvements and new construction. She urged legislators to fund that bill by looking beyond their annual budget allot-

Please see **UNC** */ page* **2C**

The Charlotte Observer

MAY 1999

Bonds to help prepare for wave of students

UNC *from 1C*

ments.

In a separate study, university leaders have predicted the system's 16 schools must absorb 48,000 more students in the next decade to handle the state's growth.

Finding the money to handle all of that is the big problem.

Traditionally, the state annually provides the system money for new building and renovation needs, but the amount is inconsistent. While it has averaged $86.7 million since 1989, it has ranged from $1.6 million in 1990 to $125 million in 1997.

"This (plan) will begin the public dialogue. It's a conversation that could go on for some time."

MOLLY BROAD
UNC SYSTEM PRESIDENT

Still, it's never been enough to do all the work that needs to be done, Broad said.

Now, with Klein's sobering billion-dollar figures, Broad and state treasurer Boyles are calling on the state to provide more money up front through bonds.

Under the plan she and Boyles have penned and will present to the Board of Governors Friday:

- The state would be asked to issue limited obligation bonds. To pay them off, the state would redirect the UNC system's annual capital budget to debt relief.

For example, rather than give the system $200 million next year to fix and build facilities, the legislature would use that money to pay off the bonds.

That way, Broad says, the system would get its capital funding up front in a lump sum without the legislature "breaking the bank."

- The Board of Governors would have authority to issue bonds for campuses needing the money. The campuses would then repay their debt through money collected from such things as dorm rents, food receipts and parking fees — but not tuition.

Broad hopes for legislative approval this session. If she gets it, the bonds could be issued within six months and the system could completely finance partially-funded projects, renovate the most desperate facilities and build new ones to accommodate growth at the system's burgeoning campuses, like UNC Charlotte.

The Charlotte Observer MAY 15 1999

UNC system board endorses bonds for its capital needs

The board that governs North Carolina's university system endorsed a plan Friday to seek billions of dollars in bonds to pay for extensive renovations and build new facilities at the 16 UNC campuses.

UNC System President Molly Broad and State Treasurer Harlan Boyles have drafted two pieces of legislation that would help pay for $6.9 billion in rehab and construction costs recently identified by a consultant.

One piece of legislation would permit the state to issue "limited obligation" bonds that would be repaid with capital funding the state usually gives the UNC system annually.

The second piece would give the Board of Governors power to issue "special obligation" bonds to campuses. The campuses would repay the bonds with money raised through such means as parking, student fees or dorm rents.

The proposal gives the UNC system the money to make critical repairs up front, rather than forcing it wait for the money piecemeal in its annual budget. The plan now goes to the General Assembly to seek sponsors.

Broad hopes to see legislative action this session.

Jennifer Rothacker

The Charlotte Observer MAY 16 1999

EDITORIALS

Moral obligations

Funding proposal for UNC's critical needs makes sense

Jaws dropped and eyes popped when an education consultant told the University of North Carolina board of governors that the 16-campus system had capital needs approaching $7 billion. How could the state keep up with repairs and renovations, let alone provide space for an expected 48,000 additional students, at a time when lawmakers were merrily cutting taxes and limiting choices?

Boyles

Here's how, says state Treasurer Harlan Boyles: Create two new kinds of bonds that will allow the university to jump-start its capital needs response with more than $3 billion in spending for renovations and new facilities, and pay the money back over 20 years. Mr. Boyles, one of the nation's tightest-fisted state financial officers, has developed bond proposals that he says other states have used to deal with similar problems. "It's a good investment and the needs are critical," he added.

His proposal would work this way: The legislature would create and the state would issue limited obligation bonds that would be repaid through annual legislative appropriations equal to about what the legislature has allocated to the university for capital spending over the past decade. The General Assembly would also create special obligation bonds to be issued by the UNC board of governors and repaid through revenue streams available on the campuses — dormitory and parking receipts, athletic proceeds, research overhead and other sources of cash.

This would represent a starkly different approach to funding capital needs on UNC campuses — but it also represents the most promising approach. New tax sources seem out of the question, and the legislature faces tough choices this year thanks to tax cuts and having to repay taxpayers for levies that have been ruled unconstitutional. The old pay-as-you-go method is inadequate at a time when there are so many construction needs and when so many new students will arrive on university campuses in the next decade.

"To rely on the pay-as-you-go-system would mean we would be getting further and further behind," Mr. Boyles told the board of governors Friday. "And in the eyes of any business person, that would not be good."

Mr. Boyles' proposal, developed in conjunction with university leaders, makes sense. Key legislators are beginning to recognize that, and are warming to the idea. Some lawmakers think it's such a good idea, in fact, that they are proposing the community colleges piggyback on the plan, too.

But that might limit the effectiveness of the bonds in several significant ways, hamstringing the state's ability to provide needed facilities on UNC campuses. The university system, after all, is the brightest gem and most important asset of the state, while community colleges are the crown jewels of the counties. They have significant needs as well, and deserve adequate funding in separate legislation.

UNC President Molly Broad and Treasurer Boyles deserve credit for developing the proposals and building public and legislative support for them. As Mr. Boyles puts it, the funding needs are not so much a legal obligation as "a moral obligation" of the state. The bond plan would turn these unfunded obligations into long-lasting state assets that would contribute to continued progress and economic prosperity. The General Assembly should listen — and approve the UNC bonds package.

Official: Proposed UNC construction bonds could benefit ECU

■ UNC President Molly Broad and state Treasurer Harlan Boyles will unveil a plan to fund up to $6.9 billion to refurbish and expand the system's 16 campuses.

Staff, wire reports

A plan to use bonds for billions in UNC system construction needs would greatly benefit ECU, one school official said.

University of North Carolina President Molly Broad and state Treasurer Harlan Boyles will unveil a plan today to fund up to $6.9 billion to refurbish and expand the system's 16 campuses to accommodate an anticipated enrollment growth of 48,000 students in the next decade.

The state's General Assembly, which has always appropriated capital funds on a year-to-year basis, will have to approve the plan.

"This would be a major impact to East Carolina if there would be a bond issue and it were to pass," said Richard Ringeisen, ECU vice chancellor for academic affairs.

A bond issue would be an improvement over the pay-as-you-go practice used by universities, including ECU, Ringeisen said.

"ECU could plan when we could construct our buildings as opposed to asking each year for funds from the legislature," he said.

He noted that the more than $30 million in renovations to Joyner Library were funded through state bonds.

A consultant has warned UNC leaders that it will take up to $6.9 billion to prepare for the expected enrollment boom.

"We have 50,000 more students who will be heading our way in 10 years," Ms. Broad said Wednesday. "Since we can't postpone their arrival, we can't wait to update these facilities."

That influx of students will be felt by ECU, triggering the need for more classrooms and laboratories, especially with Chancellor Richard Eakin's goal of increasing enrollment by about 9,000 students in the next 10 years.

Topping ECU's list of building priorities is a science and technology center. The school has asked the state legislature for $53 million to construct the facility.

However, Ringeisen said a bond issue probably will not materialize in time to pay for the center.

"We still hope to have the science and technology building funded (this legislative session), because the bond issue is a relatively long process," he said.

Site preparation is expected to begin this summer using $3 million

See BONDS, A12

provided by the state legislature.

If lawmakers are unable to find money for the project this year, bonds "would give us assurance it could be funded in the distant future," Ringeisen said.

"We must have it," he said of the new facility.

The bonds would not need voter approval, even though some of them would be repaid through tax dollars.

The Legislature would set the amount to be borrowed, but it's unlikely that lawmakers would agree to the full $6.9 billion. Boyles has been working with UNC administrators on a borrowing plan legislators can accept.

If the Legislature signs onto the plan, it would mark a departure from the state's usual pay-as-you-go strategy for such building needs — a strategy that has delayed many campus projects.

Traditionally, the state annually provides the UNC system money for new building and renovation needs, but the amount is inconsistent. While it has averaged $86.7 million since 1989, it has ranged from $1.6 million in 1990 to $125 million in 1997.

Still, it's never been enough to do all the work that needs to be done, Broad said.

Now, Ms. Broad and Boyles are calling on the state to provide more money up front through bonds.

Today, Boyles will brief the UNC Board of Governors on two bills. One would authorize limited obligation bonds, the other would allow special obligation bonds.

Boyles compared limited obligation bonds to a home mortgage. They would be secured by liens on university property and paid for through annual appropriations from the General Assembly.

If the General Assembly were to take $200 million and apply that money to debt payment instead of capital projects, UNC could sell $2 billion to $2.5 billion in bonds, roughly a third of what the system needs over the next decade, Boyles said. It would take 15 to 20 years to pay those bonds off, Boyles said. If the whole $6.9 billion were funded that way, the annual debt payment would be about $700 million.

Special obligation bonds would be paid with what Boyles called "unencumbered resources the campuses would generate," for example, various fees charged to students.

The financing proposals are likely to occupy a good deal of the Board of Governors' time this week, beginning with today's meeting of the Committee on Budget and Finance.

"This will begin the public dialogue," Ms. Broad said. "It's a conversation that could go on for some time.

Greenville Daily Reflector
5-14-99

FROM ECU NEWS BUREAU
05.17.1999 11:15
P.2

The Herald-Sun

5-17-99

David Hughey
Publisher and President

William E. N. Hawkins
Vice President and Executive Editor

Jon C. Ham
Managing Editor

James R. Wilson
Editorial Page Editor

Editorials

UNC CAPITAL NEEDS

System ditches pay-as-you-go

The UNC system Board of Governors has taken prudent steps to prepare the system's 16 universities for the next century. The board has approved a plan allowing universities to borrow money to pay for critical improvements and renovations.

State lawmakers would be wise to give this timely legislation full consideration when it comes before them. Allowing universities to borrow money by way of general obligation bonds is an idea whose time is past due. The system has traditionally relied on the outdated pay-as-you-go method to pay for its new buildings and renovations.

But the problem with pay-as-you go is that sorely needed capital improvements are often delayed because there is no money on hand to pay for them. And while pay-as-you-go is fiscally prudent in the short term, it could prove to be a long-term liability if buildings on the system's 16 campuses are allowed to further deteriorate. System officials say 791 buildings need repair and that 19 of them may have to be demolished because renovation would be too costly.

The funding plan recommended by State Treasurer Harlan Boyles on Friday calls for $6.9 billion in bonds to be issued over the next 10 years. The money would be used to make badly needed repairs to laboratories, classrooms and offices. Roughly half of that amount, $3.5 billion, would be spent over the next five years.

The plan will come in two parts for state lawmaker's consideration: One would authorize the sale of general obligation bonds by the state. The new buildings would be used as collateral against the bonds to pay for the work. The other would permit universities to issue special obligation bonds. These bonds would be tied to specific revenue-producing projects like residence halls. Fees collected would be pledged as collateral.

The General Assembly's approval of this proposal couldn't come soon enough for a university system expecting 48,000 additional students to flood its 16 campuses over the next 10 years. New dormitories, new academic buildings and major renovations to existing facilities will be in demand before the signatures dry on the documents authorizing the bonds.

"If we fail to meet that need, our economy and quality of life in North Carolina will suffer," says Molly Broad, president of the UNC system. "From our point of view, this is an imperative."

It certainly is.

1 of 2

THE NEWS & OBSERVER
THURSDAY, MAY 13, 1999

UNC wants construction bonds

Campuses suffering from decades of neglect

BY JANE STANCILL
STAFF WRITER

The University of North Carolina system, facing a $6.9 billion construction and renovation tab, wants permission from the legislature to borrow $3.5 billion and begin construction immediately.

According to a plan drawn up under the direction of state Treasurer Harlan Boyles, the university system wants new laws that would allow both the state and the university to issue bonds to pay for capital improvements on the public campuses. UNC leaders want the state to issue bonds for $2 billion and the campuses to issue bonds for $1.5 billion over the next five years. The debt would be paid over 20 years.

'Do we continue to sweep the circumstances under the rug or move forward ... ?'

State Treasurer Harlan Boyles

If UNC is successful, the money would transform its 16 campuses into modern universities with high-tech classrooms and sophisticated laboratories. The scheme would also be a major departure from the way the university system historically has paid for new buildings — by relying on inconsistent annual appropriations from the state.

That pay-as-you-go system simply hasn't worked, Boyles said Wednesday. Now the university has little choice but to borrow

SEE BONDS, PAGE 6A

5/13/99

2 of 2

BONDS

CONTINUED FROM PAGE 1A

money to catch up on a huge backlog of facility repairs.

"The university has a serious problem," he said. "The dollar amounts are quite staggering. The question is: Do we continue to sweep the circumstances under the rug or move forward with a very positive strategy for dealing with the needs?"

According to a recent report by a higher education consultant, the state's campuses are in deplorable condition after decades of neglect. The state has dedicated regular money for repairs only since 1993, and about 800 buildings are due for significant renovation. Rapid improvements are needed if the campuses are to accommodate 48,000 extra students by 2008, UNC officials say.

Boyles will present the financing plan Friday to the UNC Board of Governors. Already, discussions are under way between top UNC officials and the legislative leadership.

Rep. Leo Daughtry of Smithfield was skeptical of the idea.

"It's not a new thing," said Daughtry, who recently stepped down as Republican caucus leader in the House to prepare for a campaign for governor. "It's a question of how much debt the state can handle." He said the legislature also needs to keep in mind the needs of the community college system.

If legislators approve the bond proposal, the UNC system could borrow billions of dollars almost immediately — kick-starting a construction boom but also saddling the state and the universities with long-term debt.

The state would pay off the debt annually for two decades — but the payments wouldn't be much more than what the state already spends on UNC construction, Boyles and UNC President Molly Broad said.

Instead of appropriating an annual capital budget for the universities, the legislature would have to commit the money to debt service payments each year until the debt was paid off. Last year, the General Assembly appropriated $125 million to the UNC system; if the state paid annual debt service at the same level, it could support more than $1.5 billion in construction, UNC officials say.

The campuses would pay off their loans using receipts from dormitory rent, student fees, endowment income and overhead receipts from a burgeoning research enterprise. According to the draft legislation, the universities would not be allowed to use tuition receipts or annual operating money from the state to pay debt.

Broad on Wednesday noted that most public universities sell bonds to pay for capital improvements.

"The advantage for us is that we would receive a significant infusion of capital at a time when we're preparing for unprecedented enrollment growth," she said.

The State University of New York received $2 billion recently from state-issued bonds, and the University of Connecticut has a $1.2 billion bond-financed building spree under way, she said.

Boyles said the state-issued bonds, called "limited obligation bonds," are the type used successfully by counties and cities for almost two decades. Those bonds, which do not require voter approval, have been used to finance schools, courthouses and recreational facilities.

The university-issued bonds, called "special obligation bonds," would require the campuses to identify defined revenue streams to borrow for specific projects.

If the scheme works, the university system would likely be given the green light to expand its use of bonds in the future, Boyles said.

The question is whether the General Assembly will be willing to push the debt onto future legislatures.

Broad said she was optimistic.

"I think they're beginning to feel a little more comfortable with the feasibility of this."

Jane Stancill can be reached at 829-4861 or janes@nando.com

THE NEWS&OBSERVER

MAY 14 1999

Expensive catch-up

The University of North Carolina system looks to bonds as an alternative to 'pay as you go' as a means of financing building improvements. The needs are plain, and the proposal deserves careful study.

It would be a radical change in a state that has always taken a conservative approach to finances. But the University of North Carolina system's leaders believe they face a crisis with worn-out and outdated buildings, at a time when enrollments are expected to soar. Rather than pay for renovation projects as money becomes available from the General Assembly, university leaders want the state, and the university, to issue bonds totalling $3.5 billion — in effect providing borrowed money that would be available for use over the next five years and be paid back over the next 20 years. The state would issue $2 billion worth of bonds, and the university $1.5 billion.

President Molly Broad of the UNC system accurately characterizes the difference as that between paying cash up front — meaning that a relatively modest amount of work could be done in a given year — and paying for buildings as one would pay for a house. That approach enables one to move in immediately and then repay a loan over time.

Broad makes a credible case that the money is, in fact, needed right now. She cites a consultant's finding that 800 buildings are due for renovation and that repairs have been significantly neglected. (The consultant's estimate for all the system's renovation and construction needs to cope with an anticipated enrollment boom within 10 years is nearly $7 billion.)

Broad's argument is supported by State Treasurer Harlan Boyles, the guardian of North Carolina's top-flight credit rating and a man not known to be reckless with a public buck. Boyles is to present the financing proposal to UNC's Board of Governor's today.

At a time when education dollars are stretched thinly over the university system, the community college system and the public schools, a means of financing UNC's needs other than the traditional one of "pay as you go" is attractive.

Obviously, the idea needs a painstaking look from the General Assembly, where legislators will doubtless have many questions. But it does deserve that look, and not a dismissal as too much of a departure from the familiar way of doing business. (And though it may be different for North Carolina, bond issues for universities' capital projects have been used by other states.)

The UNC system, with its 16 campuses, is indeed an economic and cultural jewel that it is in the state's profound interest to nurture and protect. The community college system is also an asset whose value is growing steadily. And the public schools have long been underfunded and under-appreciated. Reconciling the various needs of public education with the available funding, or despite a shortage of funds, is a puzzle that can be solved only with creative thinking. The university's proposition is one such creative and plausible idea, one of a number of alternatives that the legislature should, and must, explore.

THE NEWS & OBSERVER

MAY 1 99

UNC bond issue sought

By Jane Stancill
STAFF WRITER

DURHAM — The UNC Board of Governors agreed Friday to ask the legislature for new laws that would allow the state and the university to borrow billions of dollars for campus construction.

University leaders hope to secure at least $3.5 billion through bonds to move ahead quickly on an estimated $6.9 billion in overdue renovations and new buildings. They have said they need extensive improvements to be able to accommodate an extra 48,000 students in the next decade as the college-age population swells.

State Treasurer Harlan Boyles, who has advised UNC President Molly Broad on financing options, presented the plan to the board Friday at N.C. Central University.

"As the state's banker, I am here to say we want to be of help," Boyles told the governing board. "We're here to be of help because it's a good investment and the needs are critical. You need an infusion of funds immediately so you can head off some of the deteriorating circumstances you now see."

The board unanimously endorsed Boyles' suggestion for bonds — to be issued by the state and the university.

In the coming weeks, legislators will debate bills that would authorize two types of bonds, neither of which would require voter approval.

One bill would permit the state to issue "limited obligation" bonds, which would essentially create a moral obligation — but not a legal one — on the state to repay the debt. UNC leaders hope to secure $2 billion through this method — to be repaid over 20 years by annual appropriations from the legislature.

The other bill would allow the UNC board to issue "special obligation" bonds to be repaid from defined sources of income — dorm rents, student fees, endowment earnings and overhead receipts from research grants. Tuition could not be used. UNC leaders hope to raise $1.5 billion through this type of bond, which is very similar to revenue bonds already used routinely to build parking decks and residence halls.

UNC Board member Jim Phillips Jr. said he was optimistic about the plan's chances in the legislature. It already has received strong support from Senate President Pro Tem Marc Basnight.

Many states already use both types of bonds, as have counties and municipalities in North Carolina, Phillips said. He predicts the legislature will accept the idea.

"The question becomes how much debt are you going to incur," he said. "I don't know where that number will end up — how much money they'll feel comfortable committing."

If the legislation passes and the bonds are issued, the General Assembly likely would not appropriate annual building funds for the university during years of heavy debt service payments. But Broad said she hoped the university would still be eligible for money from the state's annual repair and renovation budget — even during the debt payoff. "If not, in 10 years we will find ourselves having repaired the old problems and created a whole set of new ones," she said.

Last month, a higher education consultant told UNC leaders that some 800 aging buildings on the state's campuses need significant renovation — after decades of neglect. The state did not allocate regular renovation funds to universities until 1993. New building projects have always been funded by the state on a cash-in-hand basis.

"It's clear that pay-as-you-go wasn't working," said Marye Anne Fox, the N.C. State chancellor. "This is the most reasonable option. It requires a vote of faith, but I think the university has earned this faith."

Jane Stancill can be reached at 829-4861 or jstancill@nando.com

News & Record, Thursday, May 13, 1999

1 of 2

UNC board may renounce old pay-as-you-go tradition

The UNC Board of Governors is considering legislation that would authorize borrowing for buildings.

BY TIM THORNTON
Staff Writer

It may be the first nail in the coffin of North Carolina's pay-as-you-go tradition.

When the UNC Board of Governors meeting adjourns on Friday, the board will have discussed, considered and perhaps endorsed legislation that would allow the UNC system to finance at least part of its $6.9 billion building campaign by selling bonds.

"It's unrealistic to think that the General Assembly can do much with that without borrowing money," state Treasurer Harlan Boyles said. He has been working, along with UNC general administration staff, on a borrowing plan legislators can accept.

On Friday, Boyles will brief the board on two bills that have come from that work. One would authorize limited obligation bonds, the other would allow special obligation bonds.

Boyles compared limited obligation bonds to a home mortgage. They would be secured by liens on university property and paid for through annual appropriations from the General Assembly. If the General Assembly were to take the $200 million it has traditionally devoted to capital projects, Boyles said, and apply that money to debt payment instead, UNC could sell $2 billion to $2.5 billion in bonds, roughly a third of what the system needs over the next decade. It would take 15 to 20 years to pay

Please see **UNC**, *Page* **A6**

5/13/99

2 of 2

UNC

Continued from page A1

those bonds off, Boyles said. If the whole $6.9 billion were funded that way, the annual debt payment would be about $700 million.

Special obligation bonds would be paid with what Boyles called "unencumbered resources the campuses would generate," for example, various fees charged to students.

Boyles said two other UNC financing bills have been considered. One would deal with student housing, the other with the university hospital system. "We haven't made much progress on the second two except for jaw-boning," Boyles said.

This drastic change in financing is being considered because of a report the Board of Governors sent to the General Assembly last month. The plan, "Building for the New Millennium," is the result of a yearlong study by Eva Klein and Associates Ltd., an education consultant from northern Virginia.

"The pay-as-you-go policy is not working," Klein told the board at its April meeting. "It's not working for Pembroke and it's not working for Chapel Hill. If you have a policy that's not working for your small institutions and not working for your large institutions, you should take a look at it."

UNC President Molly Broad has echoed Klein's assessment. Broad told a group of Triad civic, business and government leaders assembled at the Greensboro Hilton last month that pay-as-you-go "is not going to be adequate. It hasn't been adequate, or we wouldn't be in the position we find ourselves in now."

Boyles will take his versions of the financing bills to the meeting Friday and said he assumes members of the board will have their versions, too. The essence of the proposals will be the same, he said.

Boyles said Wednesday afternoon he thought UNC General Administration had the most current drafts. General Administration said the most up-to-date version was in the treasurer's office.

"It's very fluid," Boyles said.

The financing proposals are likely to occupy a good deal of the Board of Governors' time this week.

Discussions will begin today when the Committee on Budget and Finance addresses the issues raised in a letter from committee member Ray Farris. Farris's main concern is that the board stay deeply involved in decisions.

"This is not staff decision-making material," he said.

The Committee on Public Affairs will discuss the legislation needed to implement the Klein report's recommendations just before Boyles makes his presentation about that legislation to the full board Friday.

Committee chairman Jim Phillips, a Greensboro attorney, said, "I'm not exactly sure how they're going to play this whole thing" but "I'm excited and optimistic that we've got a chance to deal with this problem sooner rather than later."

Morning Star
ESTABLISHED 1867

John A. Lynch, Publisher
Charles M. Anderson, Executive Editor
John H. Meyer, Managing Editor
Charles W. Riesz, Jr., Editorial Page Editor

Published by
Wilmington Star-News Inc.
1003 South 17th Street
Wilmington, N.C. 28401
A NEW YORK TIMES COMPANY

OUR VIEWS

A sensible way to build UNC

If the University of North Carolina's 16 campuses are to have the buildings their students will need in coming years, there seems only one logical way to pay for them: borrow the money.

That would be a departure for the state, which traditionally has paid for university improvements in cash.

But thanks to reckless tax cuts and a couple of expensive legal setbacks, the state doesn't have that kind of cash these days. Even if it did, it probably wouldn't have enough to meet the needs of the university system.

It's growing at a rapid rate as new students pour in and older North Carolinians go back to school to improve their job skills, change careers and enrich their intellectual lives.

To make matters worse, a consultant has concluded that many existing buildings need to be renovated and modernized.

The bill for all this is put at a hair-raising $6.9 billion.

It should ease the anxieties of knowledgeable North Carolinians to learn that the borrowing plan to finance this project comes from Harlan Boyles, the super-cautious state treasurer.

With the approval of that respected authority on government spending, the university will ask the General Assembly for permission to quickly issue $3.5 billion in bonds. It says its yearly loan payments over 20 years would be close to what it now spends to put up buildings on a pay-as-you go basis.

The figures are huge, of course, but so are the figures you swallow when you get a mortgage to buy a home. That's what the university would be doing – getting a mortgage to build homes for its universities.

Unless the Honorables can come up with a better way to get that kind of money, they ought to agree to the university's request.

It makes sense.

WINSTON-SALEM JOURNAL MAY 14 1998

UNC plan would use bonds to help pay for campus construction

Proposal departs from system's usual pay-as-you-go approach to building needs

THE ASSOCIATED PRESS

CHAPEL HILL

The University of North Carolina board of governors is being asked to consider a proposal that would authorize borrowing for building needs and end the state's pay-as-you-go tradition.

UNC President Molly Broad and state Treasurer Harlan Boyles will introduce a plan today to use bonds to help pay for billions of dollars in construction needs at the system's 16 campuses.

A consultant has warned UNC leaders that it will take up to $6.9 billion to refurbish and expand campuses to accommodate a enrollment growth of 48,000 students in the next 10 years.

"We have 50,000 more students who will be heading our way in 10 years," Broad said Wednesday.

"Since we can't postpone their arrival, we can't wait to update these facilities."

The bonds would not need voter approval, even though some of them would be repaid through tax dollars.

The General Assembly would set the amount to be borrowed, but it is unlikely that legislators would agree to the full $6.9 billion.

Boyles has been working with UNC administrators on a borrowing plan that legislators might find acceptable.

If the legislature signs onto the plan, it would be a departure from the state's usual pay-as-you-go strategy for building needs — a strategy that has delayed many campus projects.

Traditionally, the state provides the UNC system money each year for new building and renovation needs, but the amount is inconsistent.

Although it has averaged $86.7 million since 1989, it has ranged from $1.6 million in 1990 to $125 million in 1997.

It has never been enough to do all the work that needs to be done, Broad said.

Broad and Boyles are calling on the state to provide more money up front through bonds.

Boyles will brief the board of governors today on two proposals.

One would authorize limited-obligation bonds, the other would allow special-obligation bonds.

Boyles compared limited-obligation bonds to a home mortgage.

They would be secured by liens on university property and paid for through annual appropriations from the General Assembly.

If the General Assembly were to take $200 million and apply that money to debt payment instead of capital projects, UNC could sell $2 billion to $2.5 billion in bonds, roughly a third of what the system needs over the next decade, Boyles said.

It would take 15 to 20 years to pay off those bonds.

If the whole $6.9 billion were financed that way, the annual debt payment would be about $700 million.

Special-obligation bonds would be paid with what Boyles called "unencumbered resources the campuses would generate," for example, various fees charged to students.

"This will begin the public dialogue," Broad said.

"It's a conversation that could go on for some time."

UNC told it must hasten repairs

State treasurer says system needs infusion of cash; board of governors approves a proposal for bond bills

By William L. Holmes
JOURNAL REPORTER

DURHAM

State Treasurer Harlan Boyles told leaders of the University of North Carolina system that they need to have the power to finance their building projects or they risk letting the system continue its slide into disrepair.

"We've relied too heavily on a pay-as-you-go system that relied on . . . cash on hand," Boyles told the UNC board of governors at its monthly meeting yesterday. "You need an infusion of cash immediately so you can head off some of the deterioration."

A consultant recently estimated that the system needs $6.9 billion for expansion and repairs to accommodate an expected growth of nearly 50,000 students during the next 10 years.

HARLAN BOYLES

Boyles and Molly Broad, the system's president, have prepared some legislation that would allow the university to use two kinds of bonds to pay for its building projects.

Limited obligation bonds would allow the university to use the building as collateral for the bonds, similar to a home mortgage.

Special obligation bonds would allow a university to pledge its future receipts of rent, fees or other money as payment for the project.

Some cities and counties in North Carolina have used similar bonds to pay for courthouses, social-services buildings and schools.

Several other states allow the issuance of bonds for construction.

But the UNC system has always paid for its buildings with cash appropriated by the General Assembly. The legislation would end that tradition.

The board of governors voted unanimously to support the bills, although they have not been introduced.

"These are drafts, and the likelihood is great that they will be changed before they are introduced and after they are introduced," said Jim Phillips, a Greensboro lawyer who is the chairman of the board's public-affairs committee.

The university could issue the bonds as soon as six months after the bills are approved by the General Assembly, Phillips said. The General Assembly would determine how much the system can borrow, and it is unlikely that legislators would approve $6.9 billion worth of bonds at once.

Buildings that have been partially supported by the

UNC BONDS

Continued From Page B1

General Assembly would receive the first money collected by the sale of the bonds.

The bonds would not be subject to public vote, although they would be paid with tax money.

Robert F. Warwick, another member of the board, questioned whether the state would want to commit to paying off debt yearly for building projects.

The General Assembly has given the university an average of $86.7 million for building projects since 1989, ranging from $1.6 million in 1990 to $125 million in 1997. The system could pay off $2 billion in bonds with annual payments of about $200 million for 15 or 20 years, Boyles said.

The system would continue to seek money for repairs and upkeep beyond what it commits for debt, Broad said.

Otherwise, the 16 public universities in the state may face the same backlog of problems in 10 years.

Ben Ruffin, the chairman of the board of governors, said he expects the General Assembly to approve the bills.

"It's not a situation that we invented," he said.

"We are asking them for things that are a dire necessity to protect the investment."

WINSTON-SALEM JOURNAL
A Media General Newspaper

416-420 North Marshall Street
Winston-Salem, N.C. 27101

FOUNDED APRIL 3, 1897

JON H. WITHERSPOON
Publisher

CARL M. CROTHERS
Managing Editor

JOHN D. GATES
Editorial Page Editor

V.C. "PAT" TAYLOR III
General Manager

Editorials

Tough Choices for UNC

Over the next decade, the University of North Carolina system's 16 campuses will be expected to accommodate 48,000 more students than are currently enrolled. Undoubtedly, that will require the expansion of university facilities, which will require money.

But the numbers being bounced around in Raleigh and Chapel Hill are high enough to cause some pretty intense sticker shock.

MOLLY BROAD

An outside consultant hired by the UNC system to assess the situation warns that it will take up to $6.9 billion to refurbish and expand campuses to accommodate the anticipated growth in enrollment — far more than the General Assembly could be expected to provide in the time frame the money will be needed.

Facing up to that reality, UNC President Molly Broad and State Treasurer Harlan Boyles broke with tradition Friday and unveiled a plan to the UNC Board of Governors to use bonds to help pay for the billions of dollars in construction.

Throughout the history of the UNC system, expansion has been paid for through appropriations, student fees and tuition.

This pay-as-you-go tradition has allowed the UNC system to be free of massive debt, but it has also caused delays in many campus projects.

The General Assembly annually provides the UNC system money for new building and renovation needs, but the amount has been inconsistent. While it has averaged $86.7 million since 1989, it has ranged from $1.6 million in 1990 to $125 million in 1997.

Still, that's never been enough money to do all the work that's needed, system administrators say, and buildings on some campuses, especially the smaller ones with historically minority enrollment, have slipped into disrepair.

Though it's doubtful that state legislators and the UNC board will approve borrowing the full $6.9 billion, it is clear that the system needs money, a lot of it, now.

If the General Assembly were to take $200 million and apply that money to debt payment instead of capital projects, UNC could sell $2 billion to $2.5 billion in bonds, roughly a third of what the system needs over the next decade, Boyles said Friday.

It would take 15 to 20 years to pay those bonds off.

If the whole $6.9 billion were provided that way, the annual debt payment would be about $700 million. Even though some of these massive bonds would be repaid through tax dollars, they would not require voter approval.

The citizens of North Carolina have always made our public universities, recognized as among the best in the nation, a priority, and generous appropriations of tax dollars have kept tuition relatively low.

But our state's growing population and the ever increasing percentage of students seeking a college education are about to force some tough choices. As unappealing as it will be to put the UNC system and the state in hock for billions, bonds may have to be part of that hard reality.

Building for the New Millennium:
The UNC Capital Plan 1999-2003

Presentation to the

North Carolina General Assembly

June 29, 1999

Your Unique Mandate to UNC

An Historic Comprehensive Study

Your Legislative Mandate

- **1997 Special Provision mandated study of:**
  - Historical capital equity -- HBUs
  - Capital adequacy -- growth and 21st century needs
  - ALL facilities contributing to mission
  - ALL facilities irrespective of funding source
  - Impact of self-liquidating policy on equity
  - Philanthropy
- **1998 Amended Special Provision added:**
  - 10-Year Capital Plan -- all known needs, prioritized

The Study

- **Phase I:**
  - Stakeholder interviews
  - Assessment of available historical funding data
  - Development of methods
- **Phase II:**
  - Campus visits
  - Technical/policy work papers
  - Facilities quality evaluation
  - Capacity needs analysis
  - Ongoing communications and reporting

Building for the New Millennium

The April 9 Report

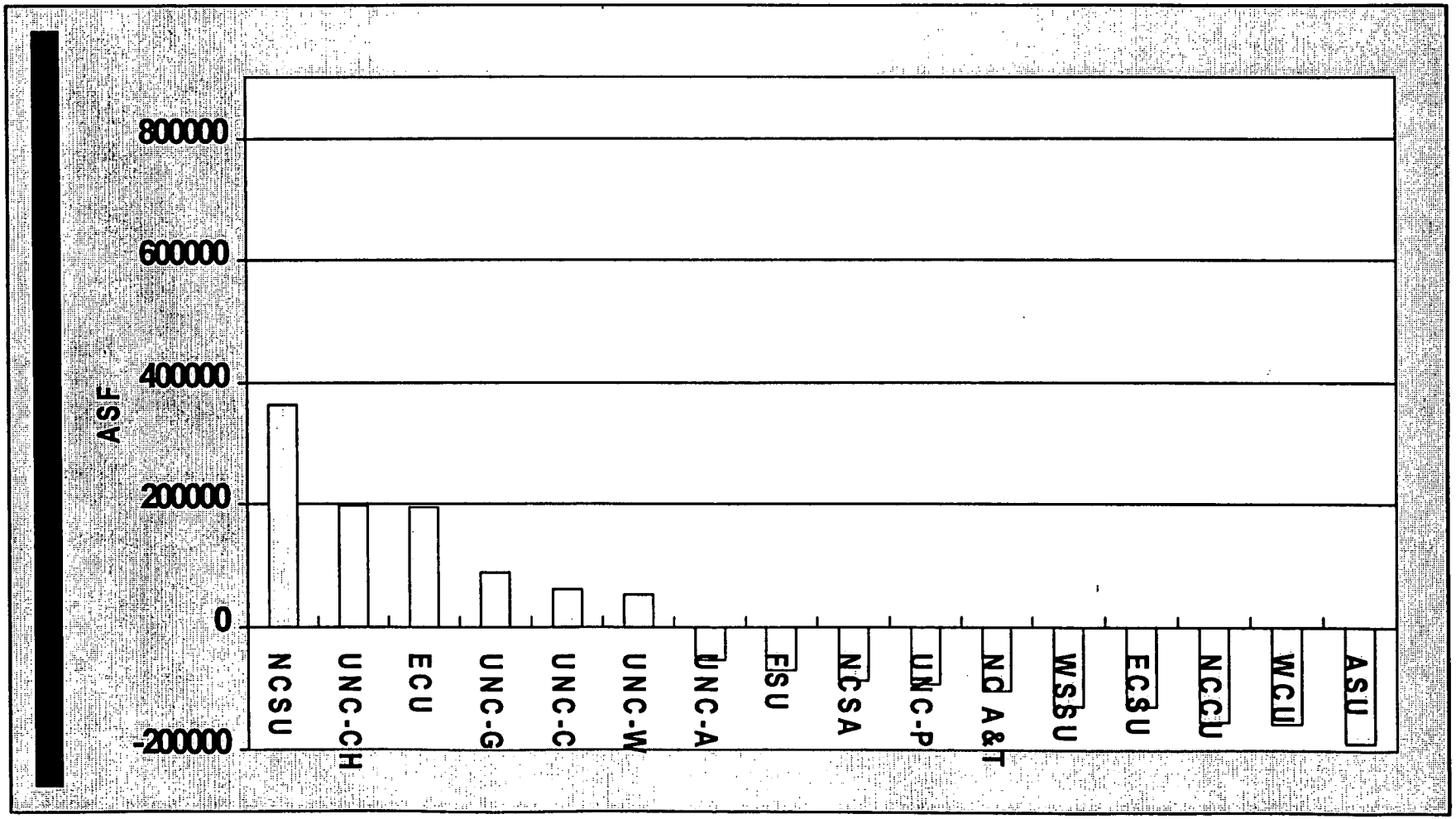
Findings: General Issues

- Science/technology facilities
- Student support and housing facilities
- Infrastructure and general campus appearance
- Impact of small scale on funding capacity of small institutions, including HBUs
- Capacity needs at fast-growth institutions
- Special problems of HBUs/UNC-Pembroke
- Major need for new residential beds--maybe 16,000

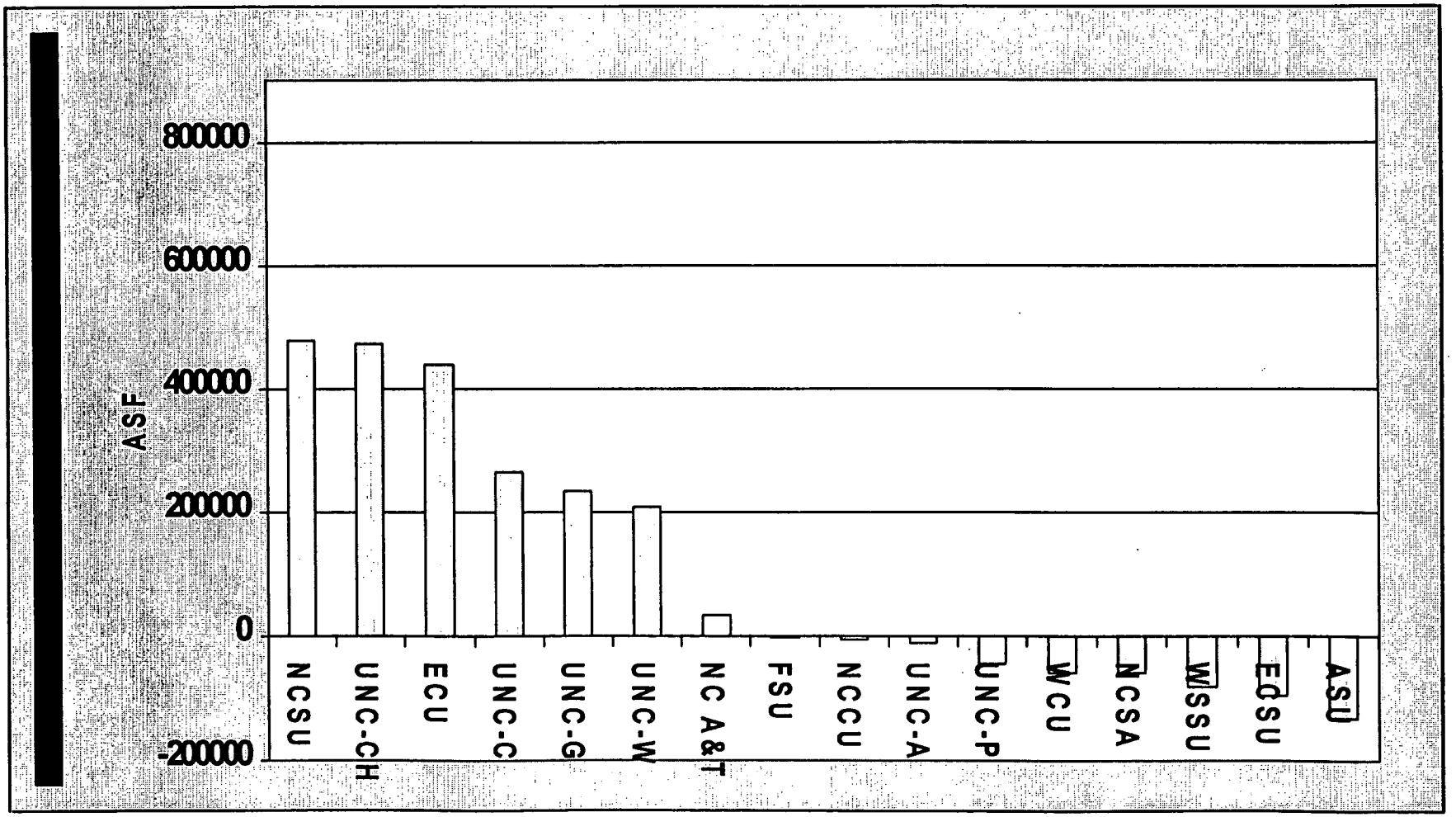
Findings: Capacity

- **Joint analysis with enrollment planning:**
  - Match capacity expansion to growth targets
- **Created and used:**
  - "Planning standards" for each space type
  - Productivity targets for use of existing space
- **Findings:**
  - Only 6 institutions have current capacity needs
  - By 2003, 7 will have capacity needs
  - By 2008, all institutions will have capacity needs or will have used all available capacity

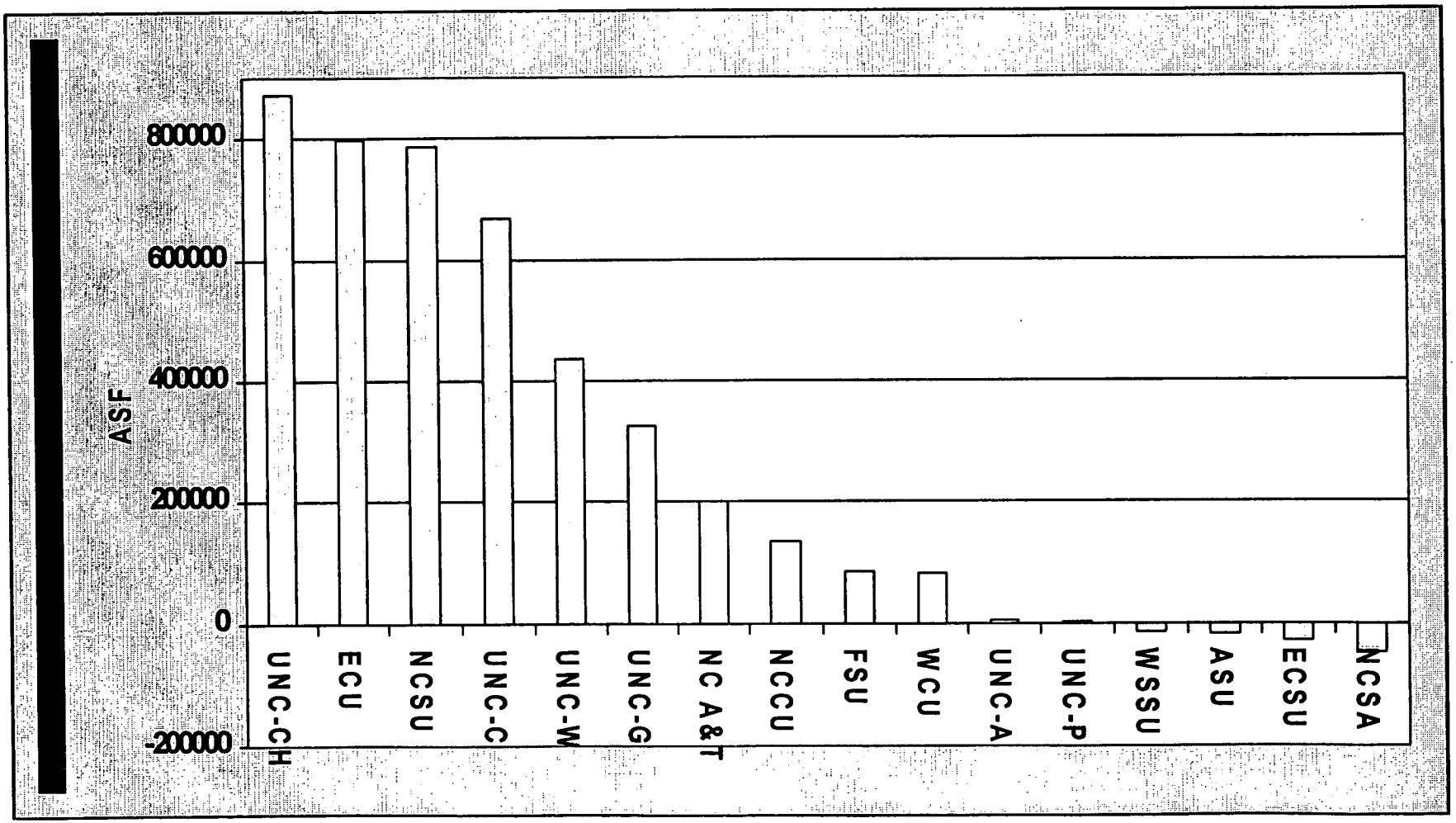
Current Capacity Needs: 1998



Future Capacity Needs: 2003



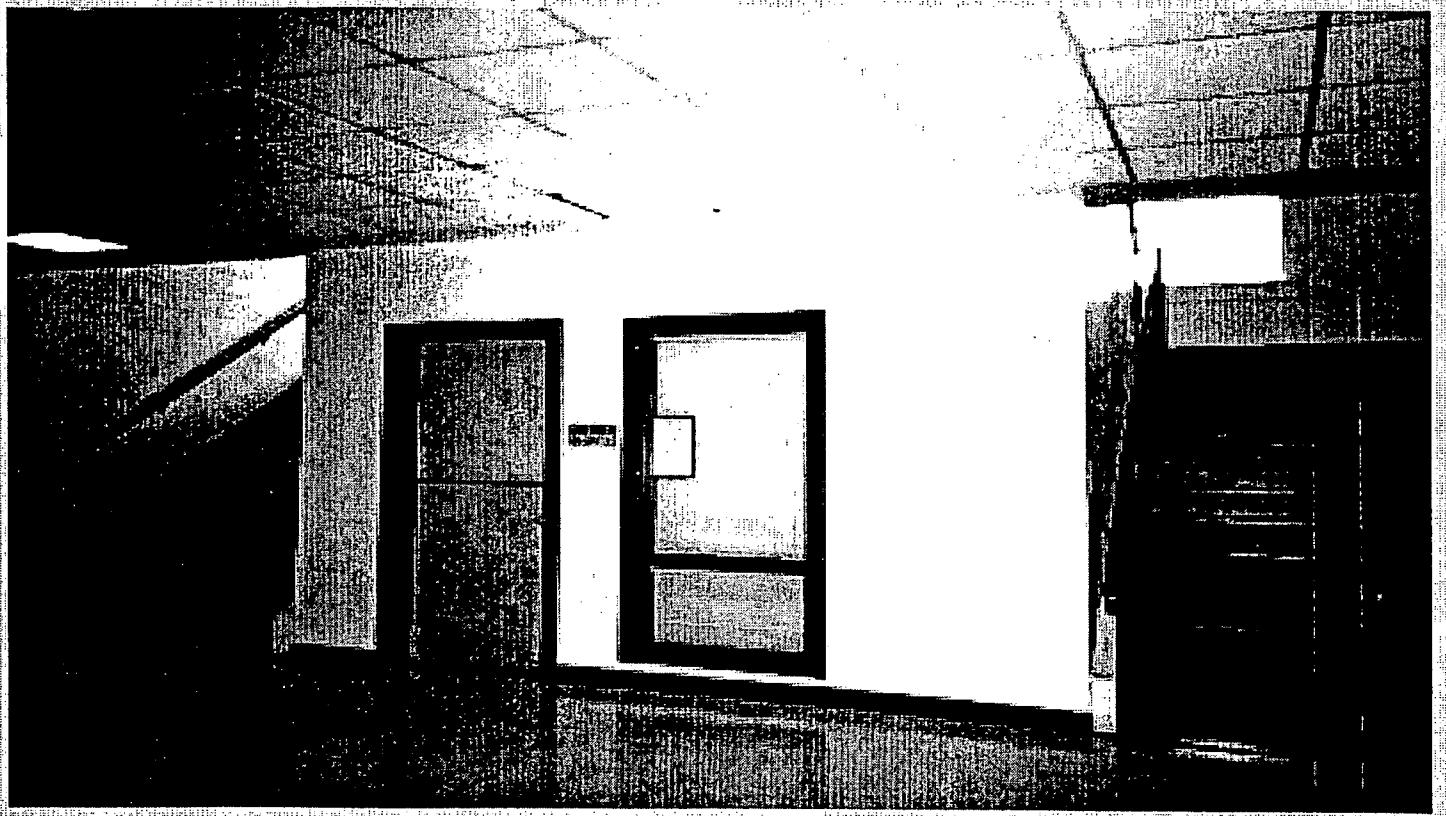
Future Capacity Needs: 2008



Capacity Needs: Some Examples

Tiny shared faculty office, NC State

Capacity Needs: Some Examples

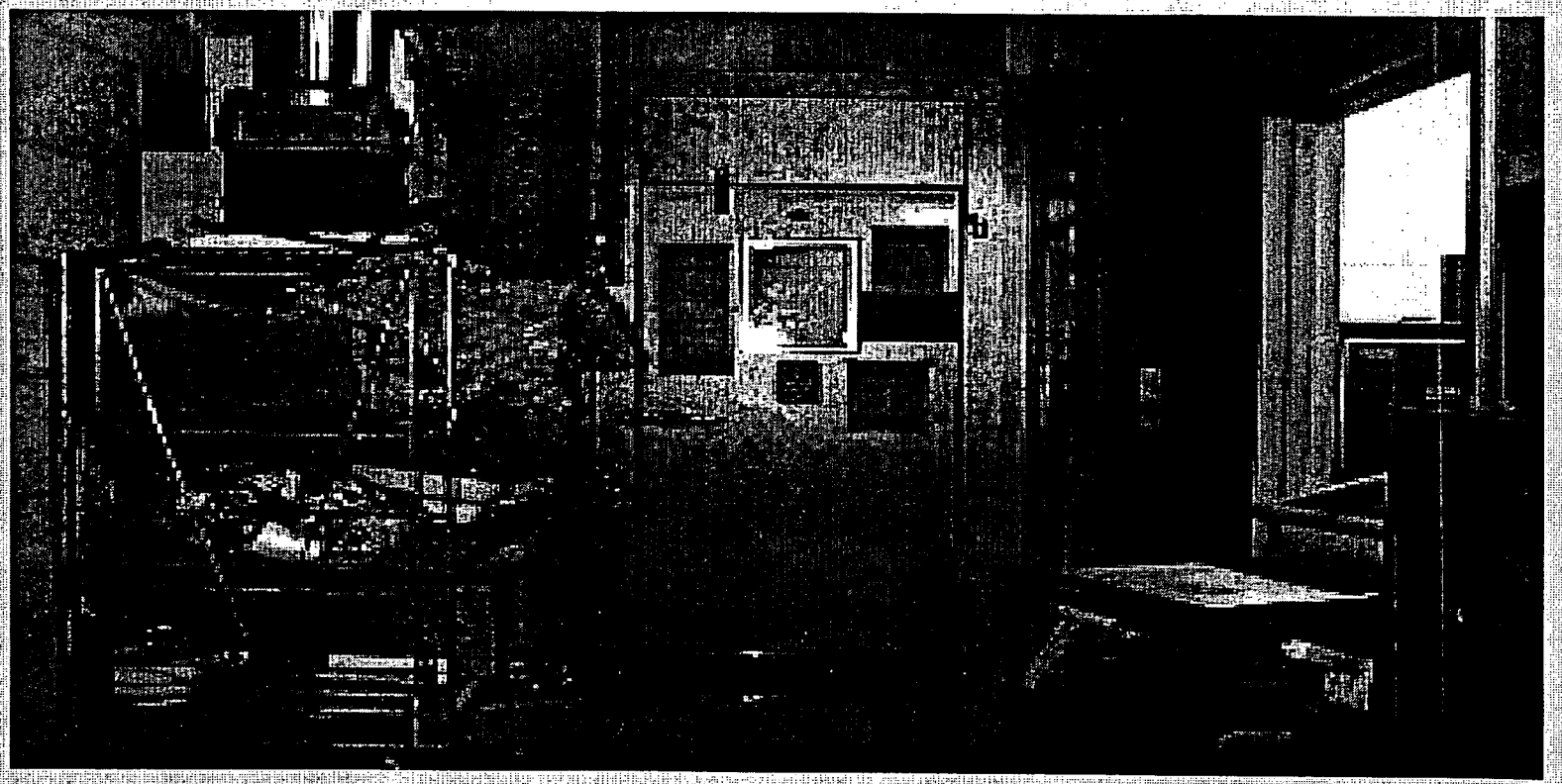


Offices under stairwell, Trask Coliseum, UNC-Wilmington

Capacity Needs: Some Examples

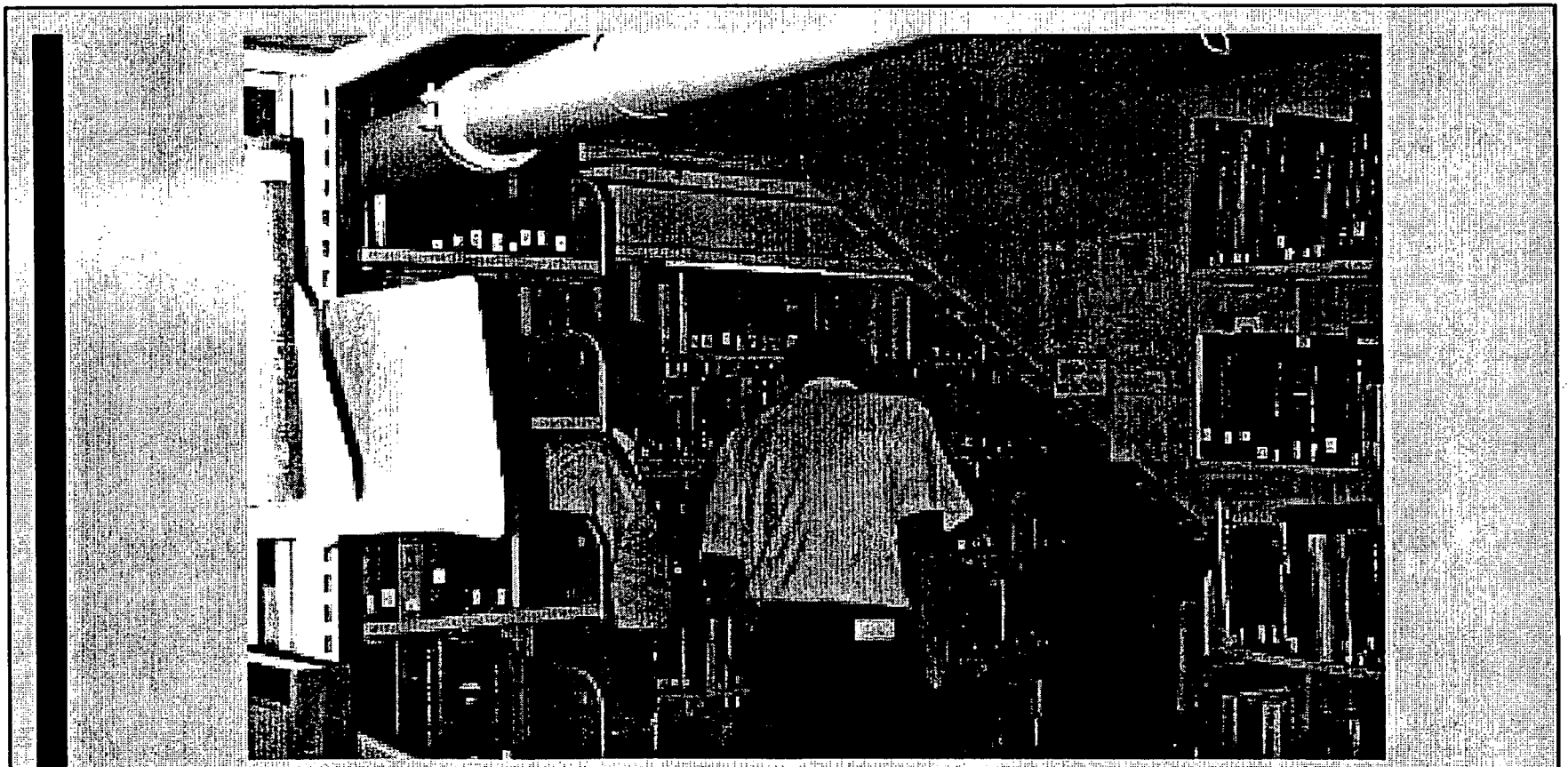
Loading dock classroom, Flanagan Building, ECU

Capacity Needs: Some Examples



Hazardous use of hallway for biology instrument storage, Wilson Hall, UNC-CH

Capacity Needs: Some Examples



Unsafe music library storage in basement, Hill Hall, UNC-CH

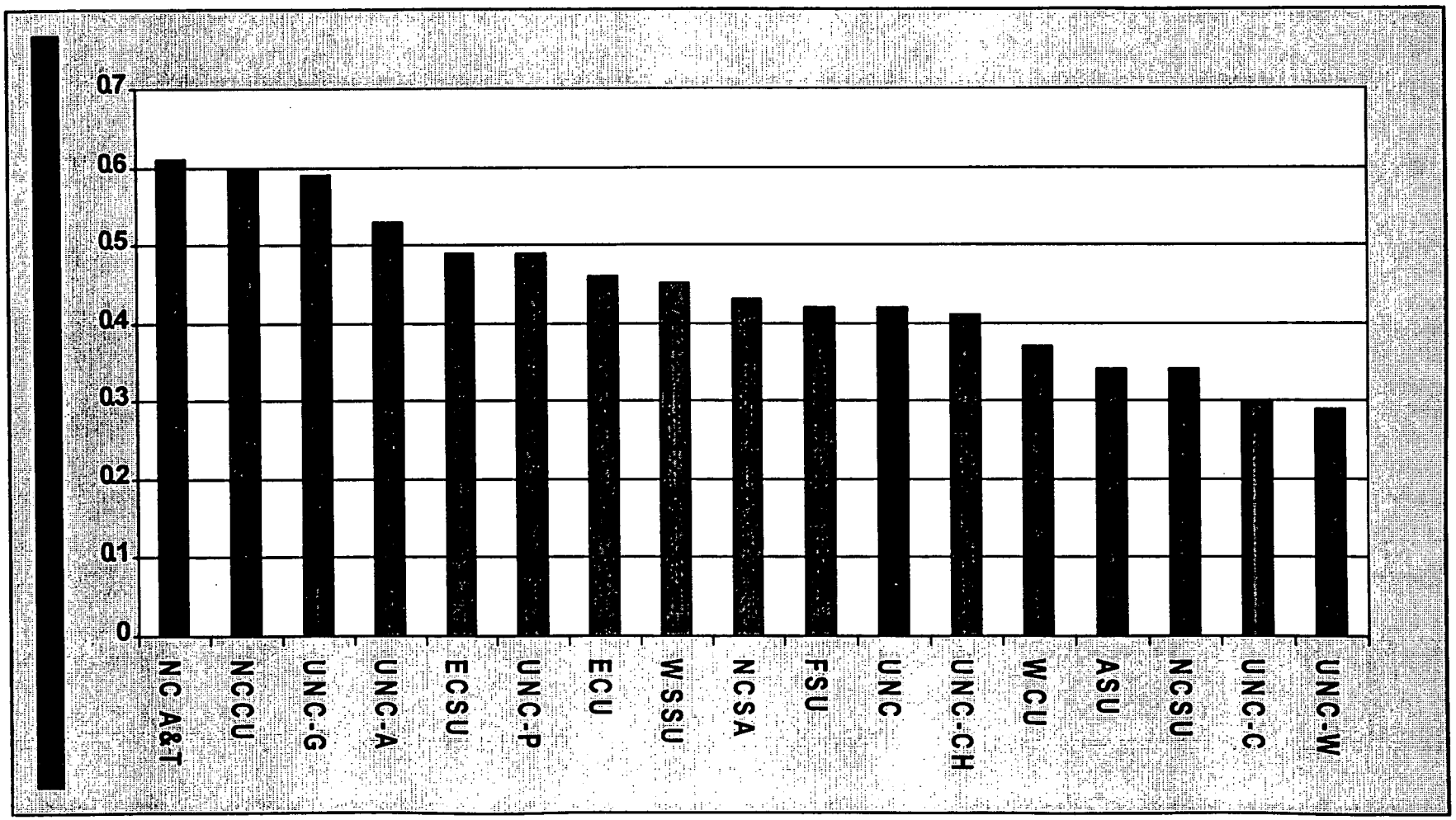
Capacity Needs: Some Examples

Use of temporary trailers for capacity, Allied Health, ECU and Bookstore, NC School of the Arts

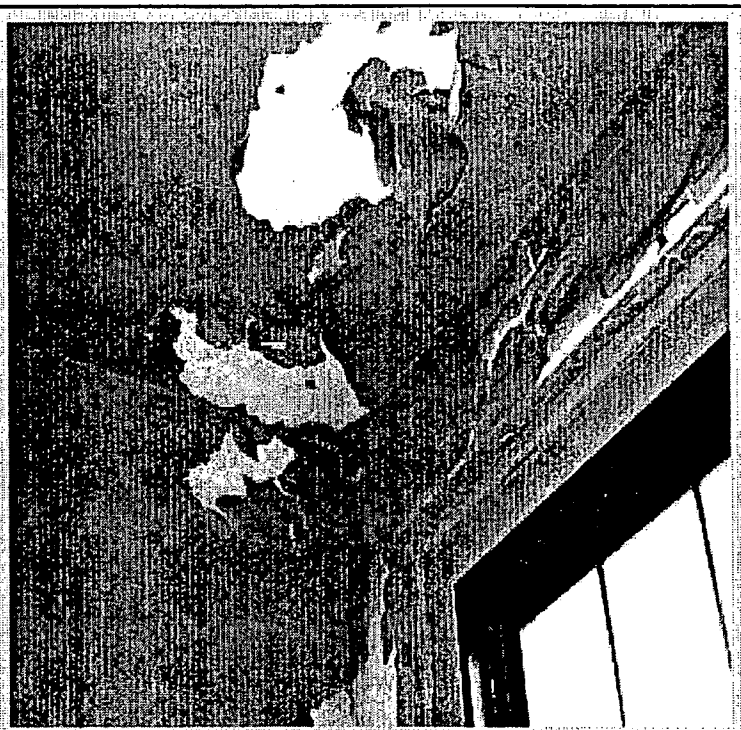
Findings: Quality

- Created "Baseline Space Quality Criteria"
- Created sophisticated WEB-based evaluation process, with VFA's engineers
- Evaluated condition and quality of:
  - 791 buildings
  - Infrastructure
  - General campus characteristics
- Established Facility Condition and Quality Index (FCQI)

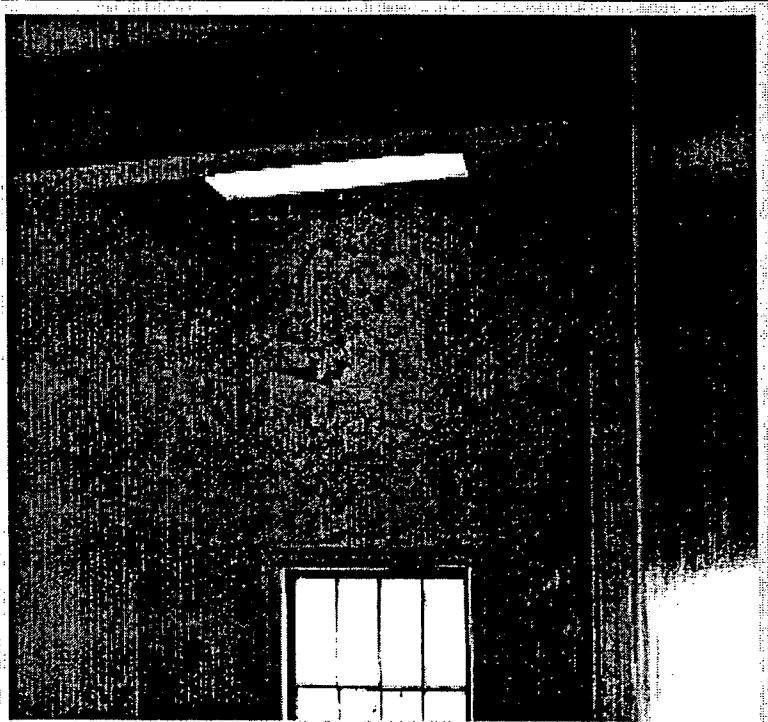
Facility Condition & Quality Index



Quality Needs: Some Examples

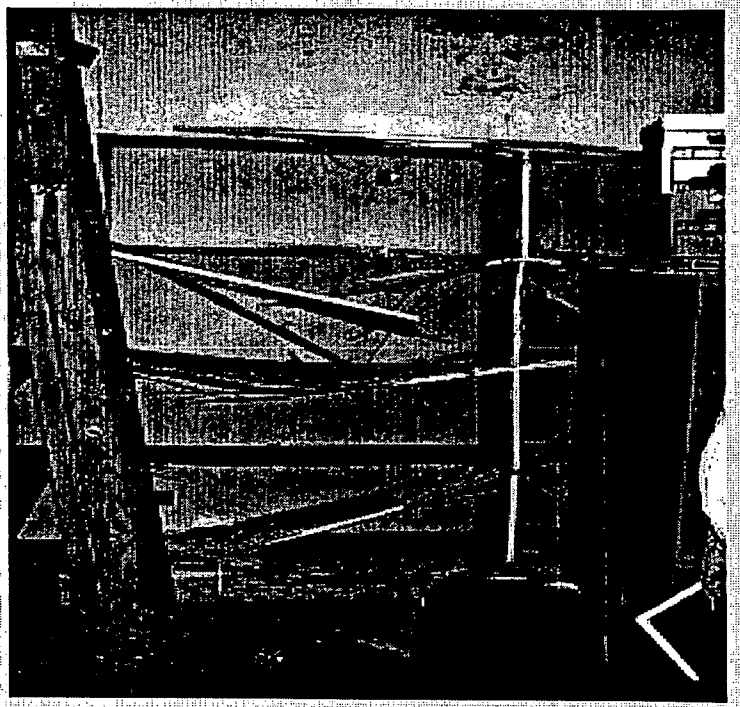


Lack of roof & exterior walls integrity requires constant repairs, Infirmary, NC Central



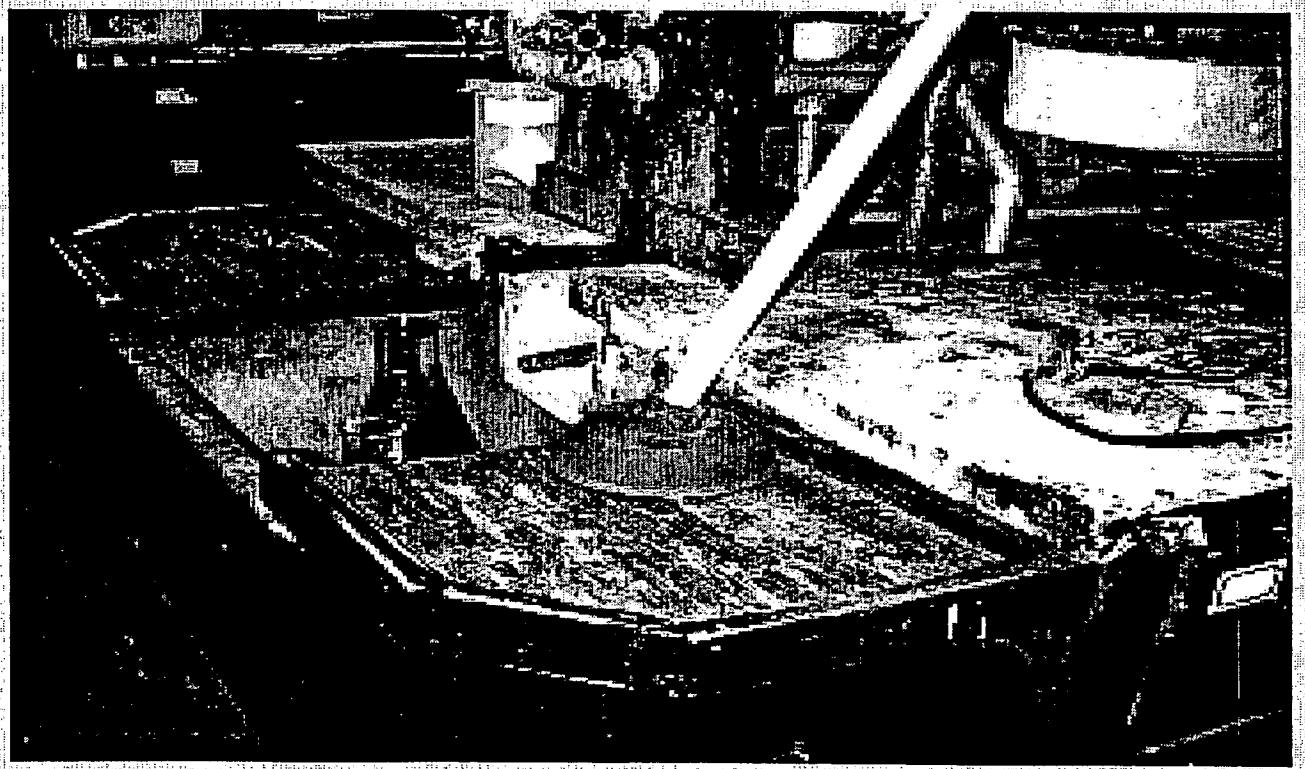
Repeated damage from roof, window, & plumbing failures, Petty Science, UNC-Greensboro

Quality Needs: Some Examples



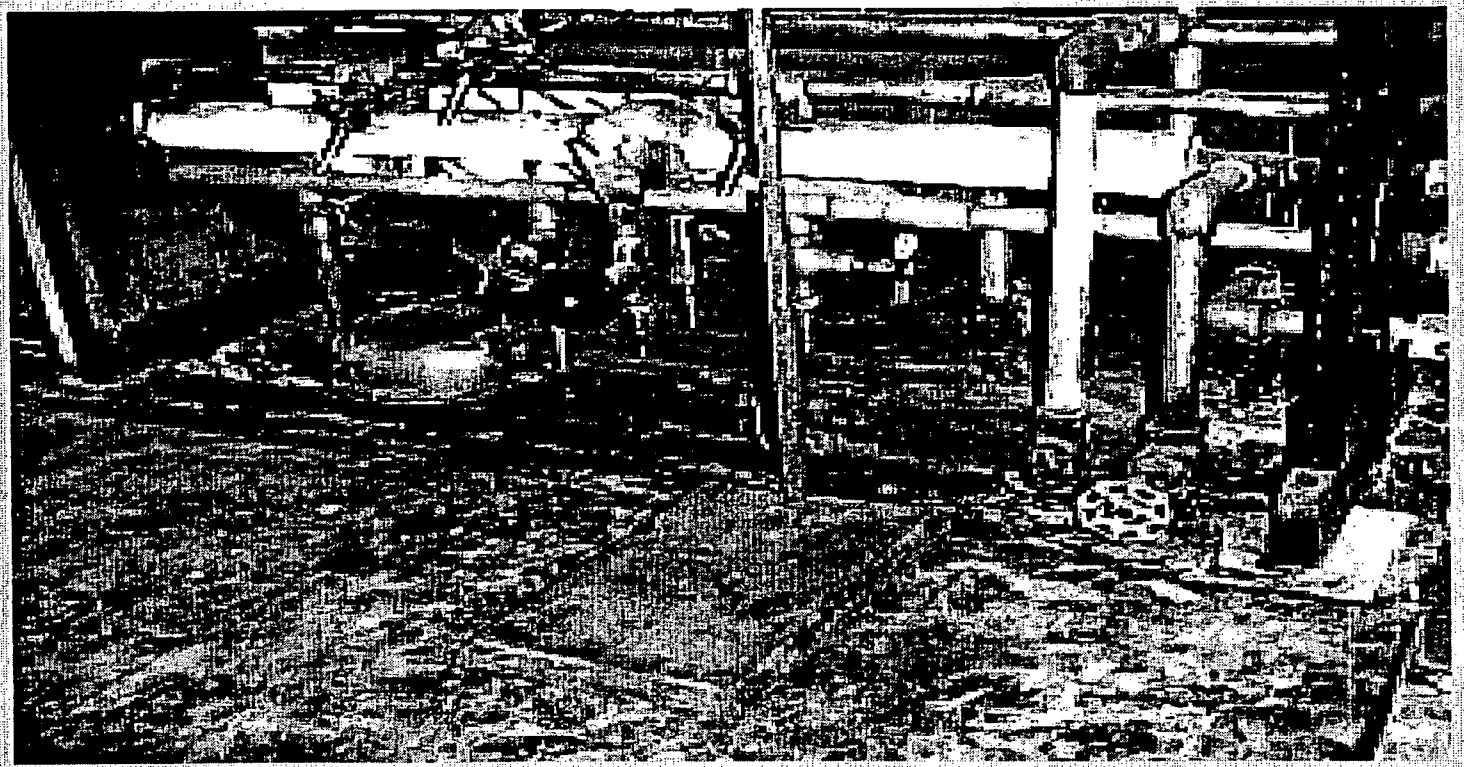
Steam intrusion damage in laboratory, Robinson Hall and termite damage to storage in Taylor Hall, NC Central

Quality Needs: Some Examples



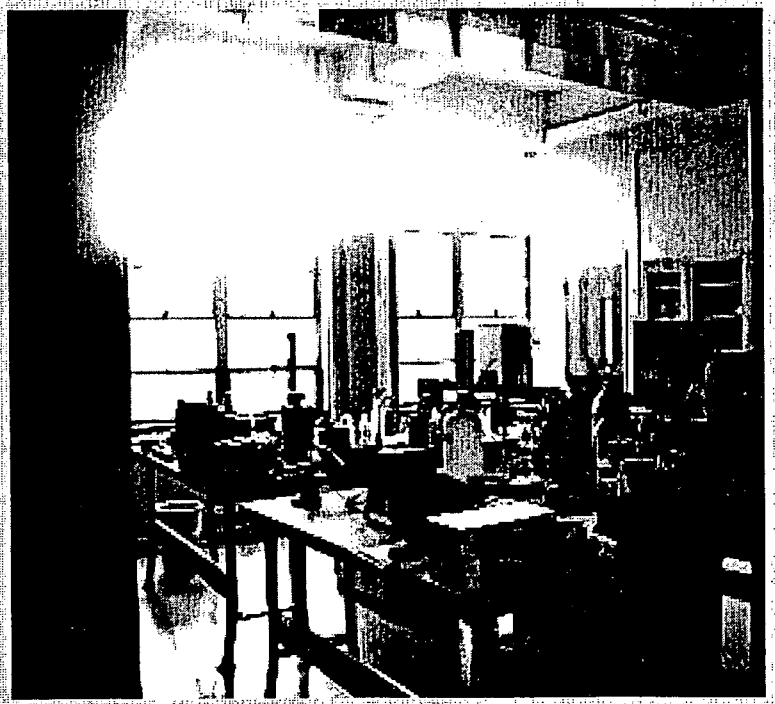
Worn,corroded lab benches beyond their useful life, Petty Science, UNC-Greensboro

Quality Needs: Some Examples



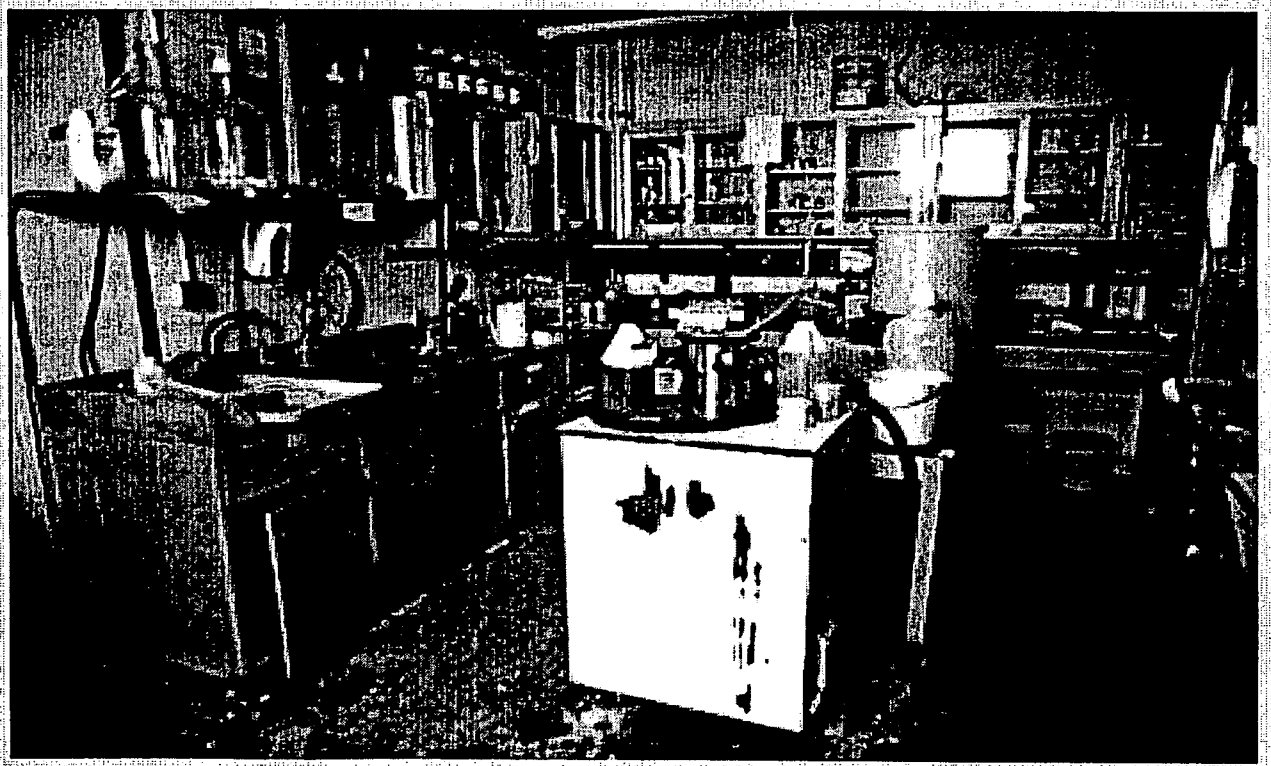
Worn-out, obsolete gas lines & surfaces, chemistry lab, ECU

Quality Needs: Some Examples



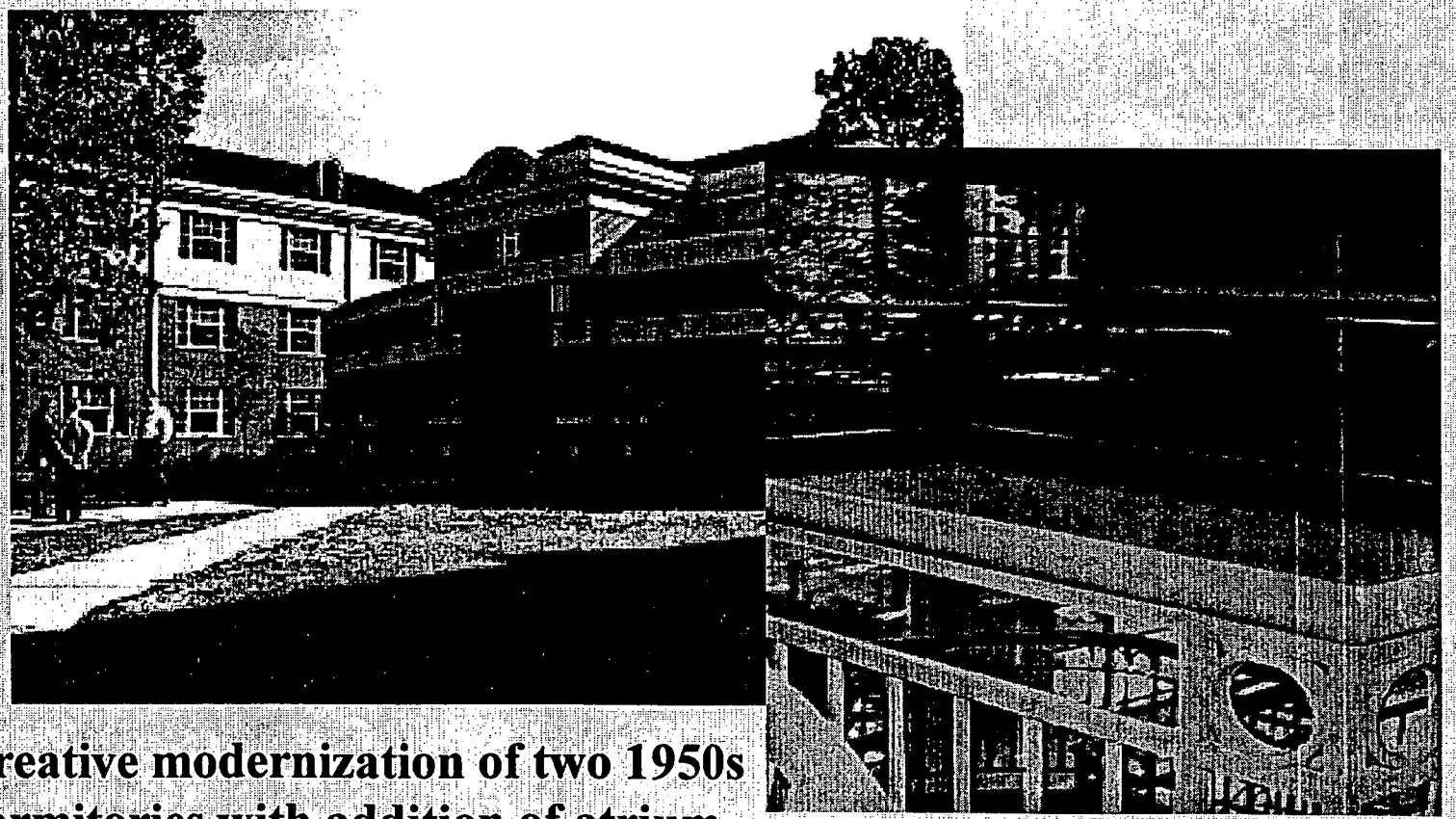
Antiquated & worn-out chemistry laboratories, Hines Hall, NC A&T State

Quality Needs: Some Examples



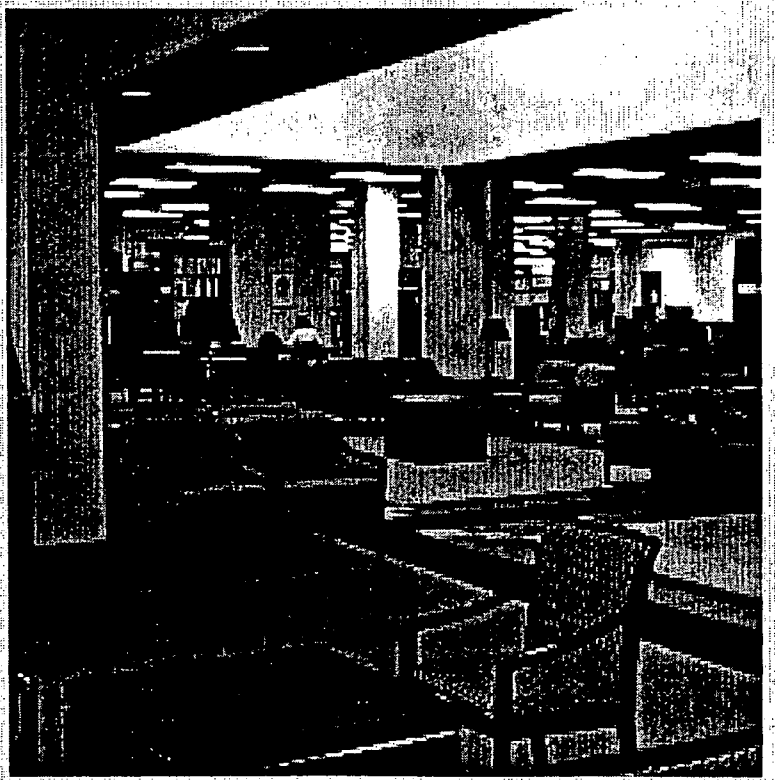
Research Lab, Rosenau Hall, UNC-Chapel Hill

Creative Renovations: Examples



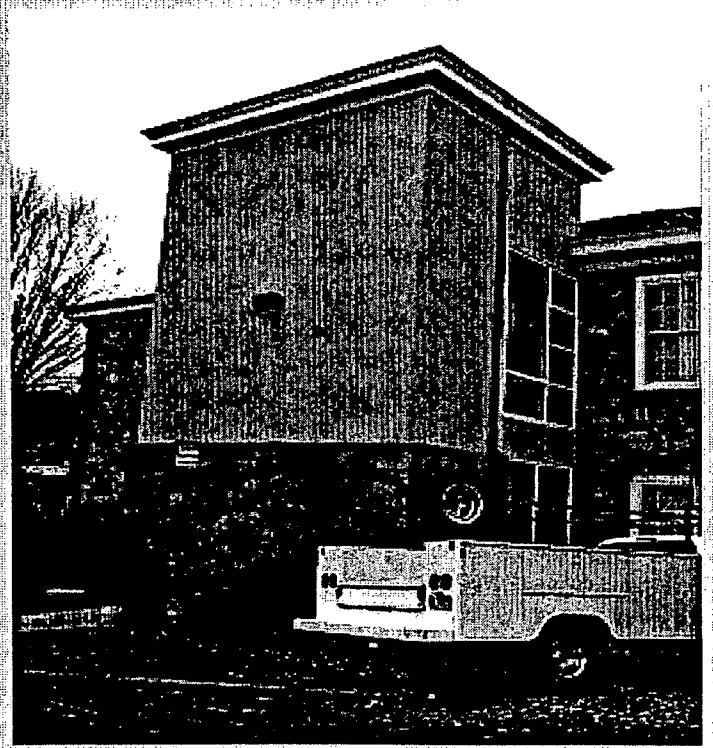
Creative modernization of two 1950s dormitories with addition of atrium common space, UNC-Greensboro

Creative Renovations: Examples



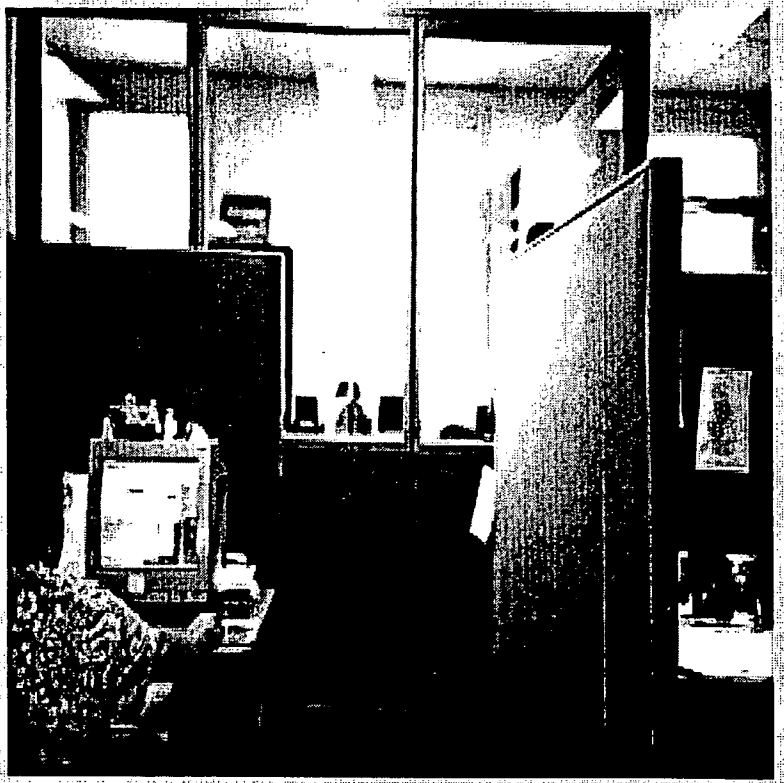
Library renovation including Café Ramsey, to meet light food service needs in that part of campus, UNC-Asheville

Creative Renovations: Examples



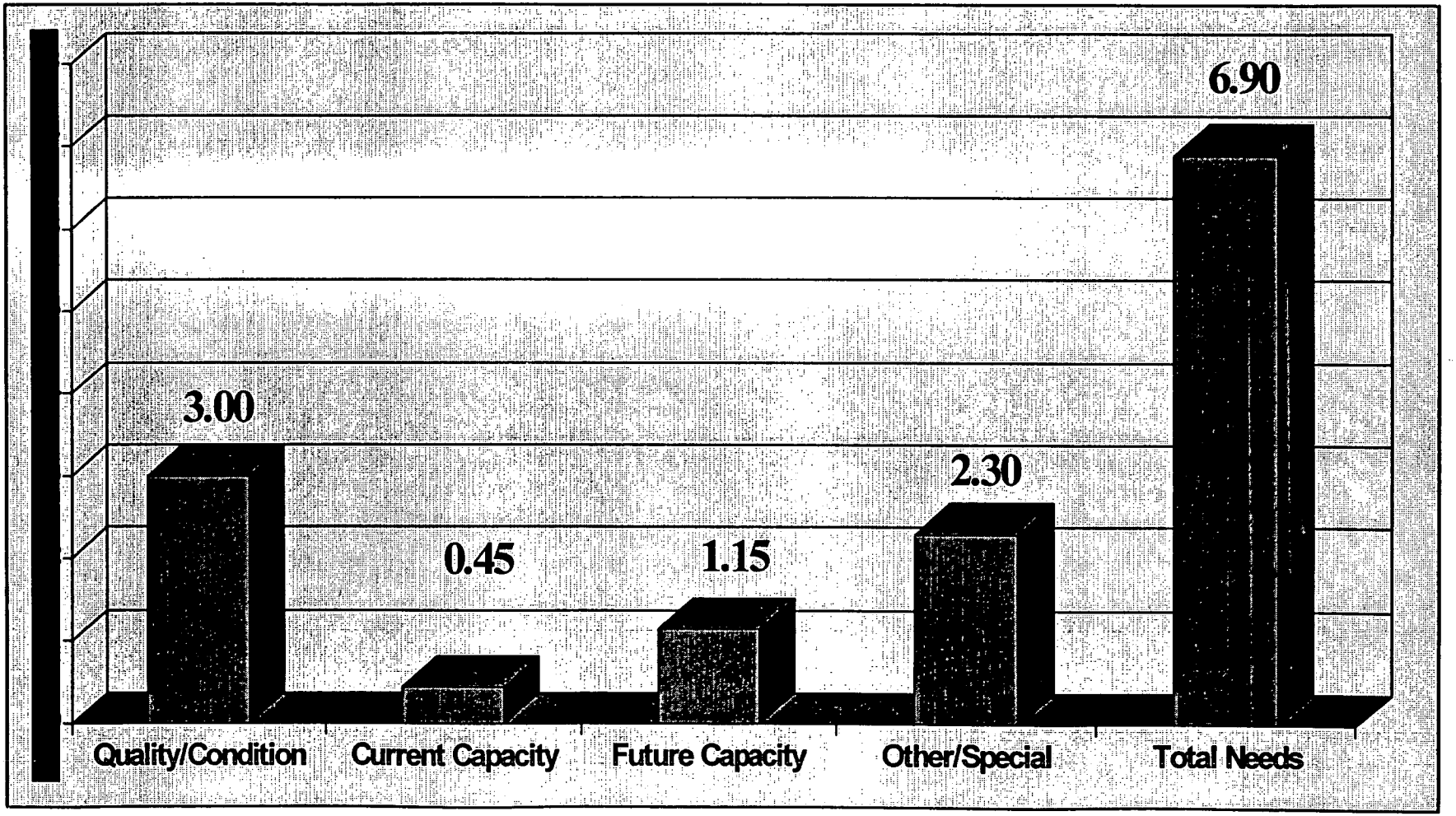
Elevator addition at Chappell-Wilson Hall, to meet ADA needs and creation of bell tower to mask ugly steam chimney, ASU

Creative Renovations: Examples



Recycled city street curbs for benches at UNC-G & effective use of "landscaped" open offices, James Hall, UNC-W

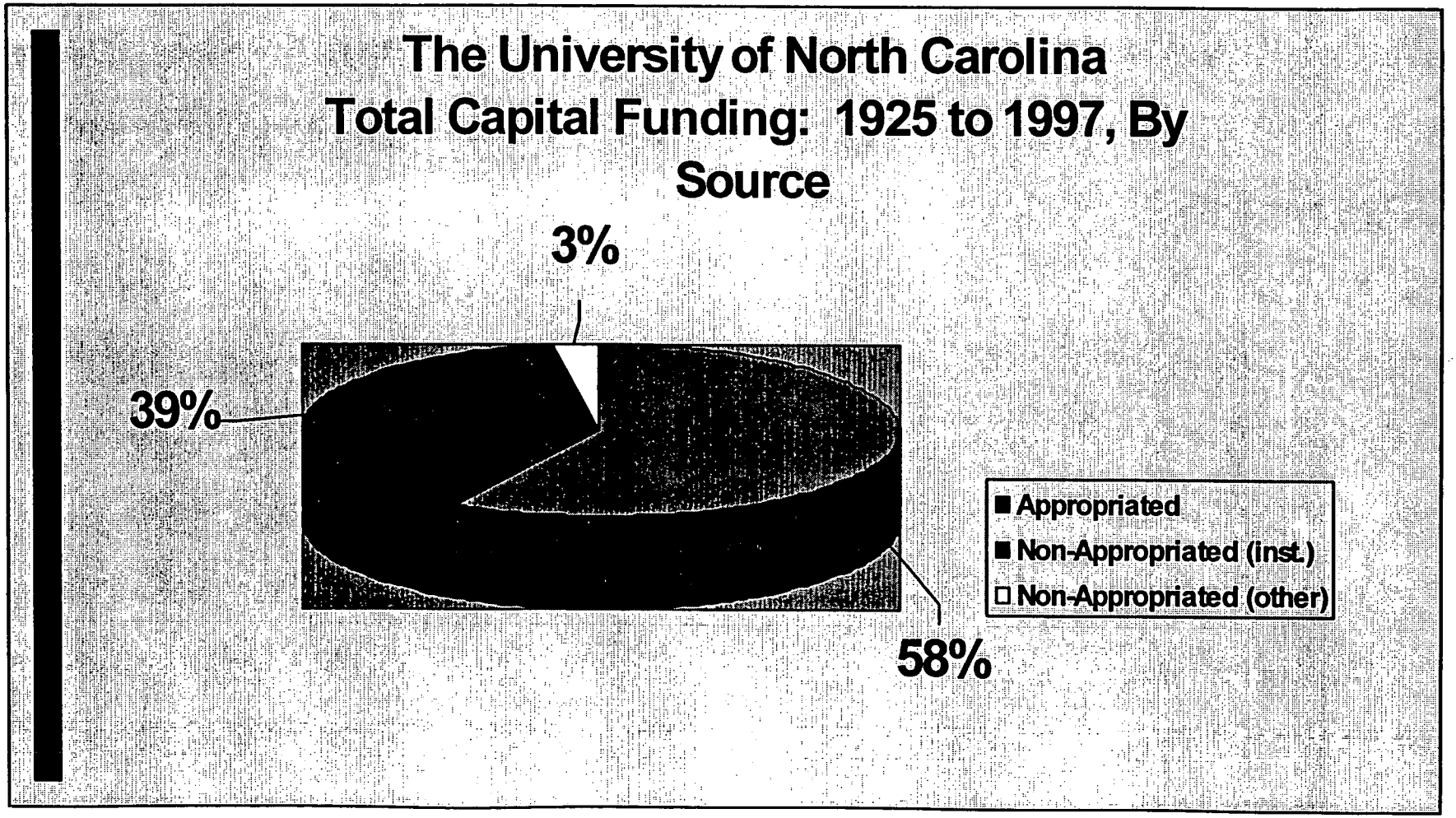
Preliminary 10-Year Capital Needs



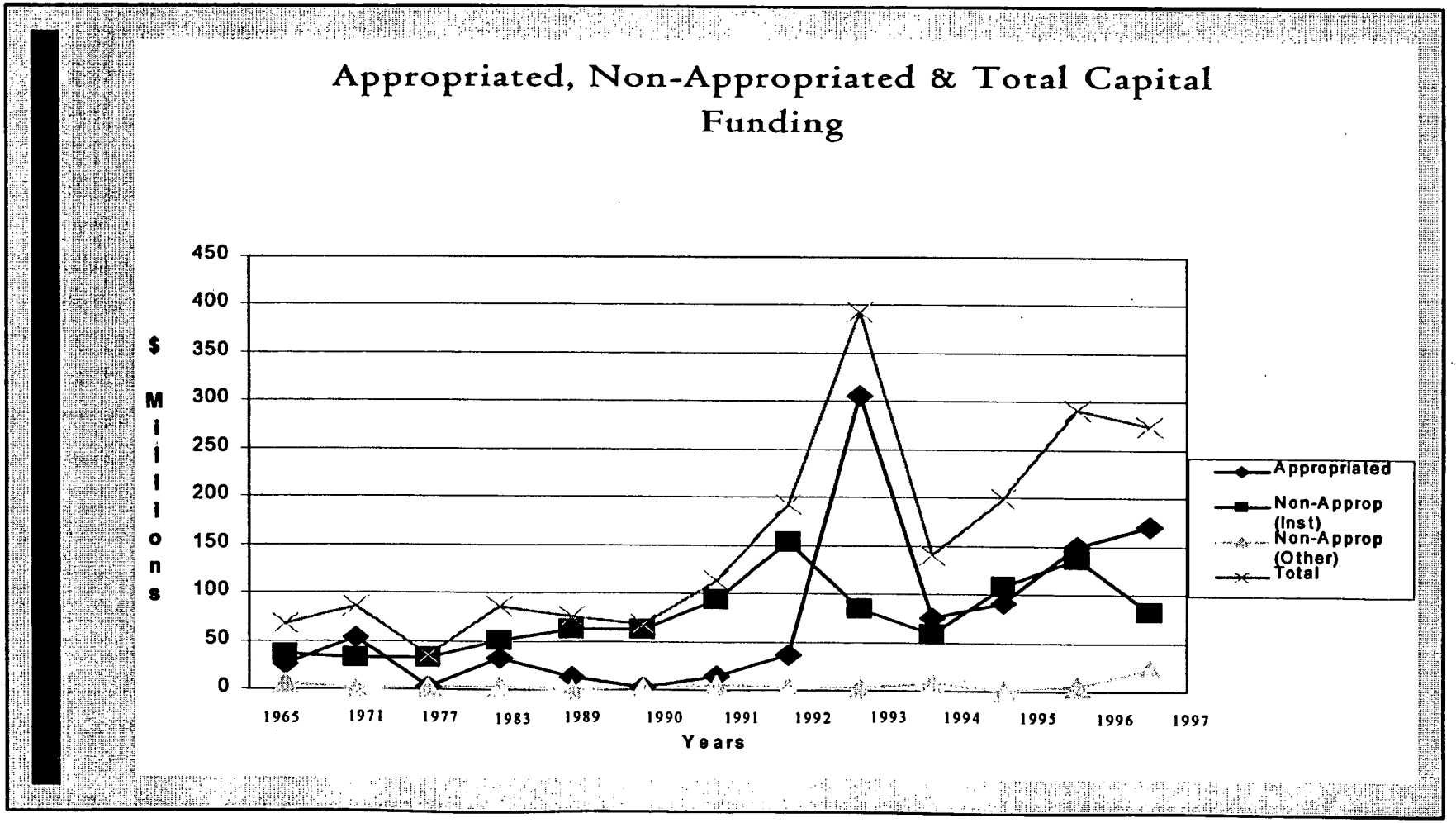
Financing Considerations

A Matrix of Funding Sources

Historical UNC Funding Sources



Increasing Reliance on Non-State Funds



Some Financing Considerations

- **Matrix of financing sources as new policy:**
  - **Replace traditional self-liquidating policy**
  - **Planned mix of state, self-liquidating, research overhead/other receipts, private equity, philanthropy**
- **Increased emphasis on fundraising, with incentive matching funds program**
- **Private non-profit "UNC Development Corporation" to build housing, parking, utilities, etc.**

The 5-Year Phase I Plan

Highest Priority Needs

A Complex Analysis

- **Used all Study outcomes and themes:**
  - **Capacity needs**
  - **Quality needs**
  - **Science/technology initiative**
  - **Growth/diversity initiative for HBUs/small institutions**
  - **Balance of new and renovations; some demolitions**
  - **Balance of buildings, infrastructure, & campus features, plus needed land acquisitions**

A Complex Analysis

- Condition and quality needs predominant at some institutions
- Current capacity needs predominant at others
- Almost all have specific special needs

The Result: A Tailored Capital Program for Each Institution

Selecting Priority Projects

- **For 14 Institutions:**
  - Selected specific projects suitable for state funding, based on all considerations
  - Specifically recommended some dormitories & student facilities on case-by-case basis
- **For 2 research universities:**
  - Did not select projects
  - Assumed "matrix of financing" and made allocations for state money that would be matched by self-liquidating/other funding

Proposed Allocation of $2.4 BB

■ UNC-CH	$498MM
■ NC State	449MM
■ ECU	191MM
■ UNC-C	179MM
■ UNC-G	160MM
■ NC A&T State	154MM
■ NCCU	119MM
■ UNC-W	108MM

Proposed Allocation of $2.4 BB

■ WCU	98MM
■ ASU	82MM
■ UNC-P	57MM
■ UNC-A	50MM
■ ECSU	46MM
■ FSU	44MM
■ NCSA	43MM
■ WSSU	42MM
■ Math/Sci, TV, etc.	102MM

Breakdowns in Categories

New Buildings	$ 521 MM
Replacement (New) Buildings	326
Renovations/Modernizations	758
Renovations/New Additions	276
Infrastructure	379
Technology Infrastructure	44
General Campus Characteristics	64
Land Acquisition	48
Total--All Needs/Uses	$2.4 Billion

Breakdowns - Special Initiatives

- Capacity $ 703 MM
- Science & Technology 556 MM
- HBU/Small Institutions Growth/Diversity 173 MM

Building for the New Millennium

Your Comments and Questions?

THE UNIVERSITY OF NORTH CAROLINA

10-YEAR CAPITAL PLAN: 1999–2008

– PHASE I FIVE-YEAR PLAN –

THE UNIVERSITY OF NORTH CAROLINA
10-YEAR CAPITAL PLAN: 1999–2008

– PHASE I FIVE-YEAR PLAN –

	Page
Appalachian State University	1
East Carolina University	5
Elizabeth City State University	9
Fayetteville State University	13
North Carolina Agricultural and Technical State University	17
North Carolina Central University	23
North Carolina School of the Arts	30
North Carolina State University	34
The University of North Carolina at Asheville	40
The University of North Carolina at Chapel Hill	45
The University of North Carolina at Charlotte	51
The University of North Carolina at Greensboro	56
The University of North Carolina at Pembroke	62
University of North Carolina at Wilmington	66
Western Carolina University	71
Winston–Salem State University	75
Center for Public Television, N.C. School of Science and Math, Special Purpose Projects, GA/Joint Projects	79

APPALACHIAN STATE UNIVERSITY

The University of North Carolina
10-Year Capital Needs/Plan
Phase I Five-Year Plan: 1999-2003 Proposed Priorities
Appalachian State University

PROJECT NAME AND DESCRIPTION	COMMENTS	EST COST BASE + 5%
Central Library Complex. Construction of a 231,000 sq. ft. Library to replace Belk Library which will be converted to classroom/office use.	EKA recommends completion of a detailed architectural and engineering study of the overall feasibility and cost of an existing new library and related building renovations and demolition; the feasibility and cost of renovations and expansion of the exisiting Belk Library; and other possible alternatives.	47,586,735
New Science Building	Add project for completion of 8,000 gsf of unfinished space future use by departments relocated to achieve space standards	1,260,000
Rankin Science Building. Renovation and modernization	Reduce estimated cost due to partial removal of building if new library approved	7,750,000
Belk Library Renovation - Planning Money		545,020
Living and Learning Center Academic Facility		4,022,725
Methodist Church Renovation		5,774,700
Bldg 111-Smith Wright Hall. Renovation and modernization.		1,636,111
Bldg 212-Founders Hall. Renovation and modernization.		1,044,082
Land Acquisition: Acquisiton of 20 Key Land Parcels - RE Master Plan		4,977,675
Potable Water. Infrastructure improvements: Added storage, clearwell replacement, data control additions		2,625,000
Technology Infrastructure Expansion	UNC Technlogy Initiative	4,838,909
Total Appalachian State University		**82,060,957**

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five Year Plan: 1999-2003 Total Needs

Appalachian State University

Col1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Campus Replies	GSF	Est. $ Project Cost	Plus 5% Project Mgmt Costs	Est. Total $ Project Cost
PART 1: PHASE I NEEDS: 1999-2003						
I. BUILDINGS						
A. Renovation, Modernization, & Replacements :						
Classrooms/Office						
Central Library Complex. Construction of a 231,000 sq. ft. Library to replace Belk Library which will be converted to classroom/office use.		EKA recommends completion of a detailed architectural and engineering study of the overall feasibility and cost of an existing new library and related building renovations and demolition; the feasibility and cost of renovations and expansion of the exisiting Belk Library; and other possible alternatives.	231,000	45,320,700	2,266,035	47,586,735
New Science Building		Add project for completion of 8,000 gsf of unfinished space - future use by departments relocated to achieve space standards	8,000	1,200,000	60,000	1,260,000
Belk Library Renovation. Planning funds.		Depends on final decision re: new library.		545,020		545,020
Bldg 111-Smith Wright Hall. Renovation and modernization.	0.38		25,680	1,636,111	81,806	1,717,917
Bldg 212-Founders Hall. Renovation and modernization.	0.38		16,400	1,044,082	52,204	1,096,286
Bldg 103-Duncan Hall		To be demolished if library project approved. EKA recommends feasibility study.				
Bldg 114-Whitener Hall		To be demolished if library project approved.				
Bldg 209-Dougherty Building		To be demolished if library project approved.				
Bldg 101-Broome Kirk Gym		Relocate Main Dining Room from flood plain.				
Subtotal Classrooms/Office				**49,745,913**	**2,460,045**	**52,205,958**
Dormitory						
Bldg 316-Coffey Hall. Renovation and modernization	1.28		24,760	5,644,199	282,210	5,926,409
Subtotal Dormitory				**5,644,199**	**282,210**	**5,926,409**
Medium Intensity Lab						
Rankin Science Building. Renovation and modernization		Reduce estimated cost due to partial removal of building if new library approved		10,625,700	531,285	11,156,985
Subtotal Medium Intensity Lab				**10,625,700**	**531,285**	**11,156,985**
Student Support						
Bldg 203-Welborn Hall. Renovation and modernization	0.94	Replacement	64,316	10,779,423	538,971	11,318,394
Plemmons Student Union. Interior/ Exterior Renovations				4,046,700	202,335	4,249,035
Bookstore Renovation. Renovation of existing bookstore.			22,528	2,250,000	112,500	2,362,500
Miles Annas Student Support Facility. Built in 1981, renovations and possibly additional space for post office and student health facilities.				1,882,800	94,140	1,976,940
Subtotal Student Support				**18,958,923**	**947,946**	**19,906,869**
Sub-Total: Renovations, Modernization & Replacements				*84,974,735*	*3,939,276*	*83,269,812*
B. Building Capacity :						
Living and Learning Center Academic Facility		Currently academic space in residence hall. Space reverts to residence hall use.		3,930,700	196,535	4,127,235
Sub-Total: Building Capacity				*3,930,700*	*196,535*	*4,127,235*
C. Other Building Needs:						

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five Year Plan: 1999-2003 Total Needs

Appalachian State University

Col1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Campus Replies	GSF	Est. $ Project Cost	Plus 5% Project Mgmt Costs	Est. Total $ Project Cost
Athletic Facilities. Construction of an indoor swimming complex and outdoor athletic fields.		Increase estimated cost to $10,000,000 due to scope change/30,000 gsf	30,000	10,000,000	500,000	10,500,000
Methodist Church Renovation		Change to Visual Arts Center		5,774,700	288,735	6,063,435
Vehicle Storage Facility. Reduce high maintenance and replacement expenditures for University vehicles and provide space to support capital construction layout and storage requirements.				750,000	37,500	787,500
Sub-Total: Other Building Needs				*16,524,700*	*826,235*	*17,350,935*
Sub-Total: Buildings				**105,430,135**	**4,962,046**	**104,747,982**
II. OTHER CAMPUS REQUIREMENTS						
A. General Campus:						
Improvements to Roads, Walks and Drives				1,085,600	54,280	1,139,880
2.2000 - Roadways: River Street Pedestrian Bridges/Tunnels to link east & west campus area pedestrian routes				2,751,800	137,590	2,889,390
Drainage and Landscape Improvements				751,100	37,555	788,655
Surface Parking Area Reconstruction				1,670,600	83,530	1,754,130
Central Campus Parking Deck. Replace parking spaces lost to other capital construction.		Increase estimated cost to $10,690,745 architect estimate.		10,690,745	534,537	11,225,282
Convocation Center Parking Deck		Increase estimated cost to $8,166,581 architect estimate		8,166,581	408,329	8,574,910
2.0000 Grounds-Landscape. Replacement for Plazas, walls		QA-1		1,056,740	52,837	1,109,577
Sub-Total: General Campus				*26,173,166*	*1,308,658*	*27,481,824*
B. Infrastructure:						
Improvements to Utilities Infrastructure				742,700	37,135	779,835
3.2000 Potable Water. Infrastructure improvements: Added storage, clearwell replacement, data control additions				2,500,000	125,000	2,625,000
Central Water System Repairs. Repair, replacement, and upgrade of University water distribution system.				1,660,200	83,010	1,743,210
4.1000 Steam and Condensate. Replace underground piping 97-M025				650,000	32,500	682,500
Technology Infrastructure Expansion		UNC Technlogy Initiative		4,608,485	230,424	4,838,909
Technology Infrastructure Expansion		Residence Halls Share		4,116,788	205,839	4,322,627
Sub-Total: Infrastructure				*14,278,173*	*713,909*	*14,992,082*
C. Land Acquisition:						
Land Acquisition. Acquisiton of 20 Key Land Parcels - RE Master Plan		QA-1		4,977,675		4,977,675
Sub-Total: Land Acquisition				*4,977,675*		*4,977,675*
Sub-Total: Other Campus Requirements				**45,429,014**	**2,022,567**	**47,451,581**
TOTAL PHASE I NEEDS: 1999-2003				**150,859,149**	**6,984,613**	**152,199,563**

EAST CAROLINA UNIVERSITY

The University of North Carolina
10-Year Capital Needs/Plan
Phase I Five-Year Plan: 1999-2003 Proposed Priorities
East Carolina University

PROJECT NAME AND DESCRIPTION	COMMENTS	EST COST Base + 5%
Science Laboratories and Technology Building		55,125,315
Expansion of the Rivers Building		11,997,300
Nursing, Allied Health and DEC Complex: Medical School		46,882,500
Flanagan Building. Renovations		13,421,276
Land Acquisition, Phase I	Bundles several of the listed projects for partial funding.	5,250,000
Classroom Improvements, Phase II		3,648,435
Belk Allied Health		7,791,348
Library and Study Space Requirements-Phase I: 54,000 ASF		12,600,000
Old Cafeteria Renovations	Renovation of Classroom/Office facilities	4,442,103
Infrastructure	Bundles several of the listed projects for partial funding.	16,125,165
Rivers School of Nursing-North Wing Renovations		2,688,174
Materials Warehouse		3,045,315
Renovation of a Campus Computing Center		1,785,000
Academic Space Requirements - Teaching Labs: 231,000 ASF	Some initial funding toward academic/lab.	5,250,000
Technology Infrastructure Expansion	UNC Technology Initiative	807,575
Total East Carolina University		190,859,506

East Carolina Univeristy

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est. $ Project Cost	Plus 5% Project Mgmt Cost	Est. Total $ Project Cost
PART I: PHASE I NEEDS: 1999-2003						
I. BUILDINGS						
A. Renovation, Modernization, & Replacements:						
Classroom/Office Space						
Flanagan Building. Renovations	0.76			12,782,168	639,108	13,421,276
Austin Building. Renovations	0.73			7,704,092	385,205	8,089,297
Miscellaneous Mechanical, Electrical and Plumbing Repairs, Phase IV				1,624,400	81,220	1,705,620
Classroom Improvements, Phase II				3,474,700	173,735	3,648,435
Improvements to Meet Department of Insurance and ADA Requirements, Phase IV				3,571,500	178,575	3,750,075
Health Affairs - Rivers School of Nursing	0.51		30,152	2,560,166	128,008	2,688,174
Old Cafeteria Renovations	0.51			4,230,574	211,529	4,442,103
Christenbury		Demolish for Biology Building	89,901	1,000,000		1,000,000
Subtotal Classroom/Office				**36,947,600**	**1,797,380**	**38,744,980**
Dormitory						
Jones Residence Hall, the Galley & College Hill Chiller Plant. Includes renovation and modernizaiton of 500-bed residence hall, food service facility, and establishment of College Hill chiller plant				18,544,200	927,210	19,471,410
Subtotal Dormitory				**18,544,200**	**927,210**	**19,471,410**
Medium Intensity Laboratory						
Belk Allied Health	0.63			7,420,331	371,017	7,791,348
Subtotal Medium Intensity Laboratory				**7,420,331**	**371,017**	**7,791,348**
Student Support Space						
McGinnis Theater	0.53			2,529,913	126,496	2,656,409
Willis Building	0.53			1,446,631	72,332	1,518,963
Subtotal Student Support				**3,976,544**	**198,827**	**4,175,371**
Sub-Total: Renovations, Modernization & Replacements				*66,888,675*	*3,294,434*	*70,183,109*
B. Building Capacity :						
Science Laboratories and Technology Building			249,000	52,500,300	2,625,015	55,125,315
Expansion of the Rivers Building			40,000	11,426,000	571,300	11,997,300
Academic Space Requirements - Teaching Labs: 231,000 ASF		Suggest some initial funding toward this requirement.	356,000	80,000,000	4,000,000	84,000,000
Library and Study Space Requirements-Phase I: 54,000 ASF			77,000	12,000,000	600,000	12,600,000
Residence Halls (934 beds)			233,500	22,229,200	1,111,460	23,340,660
Athletics & Physical Education Space Requirements, Phase I: 92,961 ASF			132,800	20,823,000	1,041,150	21,864,150
Sub-Total: Building Capacity				*198,978,500*	*9,948,925*	*208,927,425*
C. Other Building Needs:						
Nursing, Allied Health and DEC Complex: Medical School			235,000	44,650,000	2,232,500	46,882,500
Materials Warehouse				2,900,300	145,015	3,045,315
Stadium Improvements				6,210,500	310,525	6,521,025
Renovation/Expansion of Ledonia Wright Center			5,000	1,000,000	50,000	1,050,000
West End Dining Hall				12,425,000	621,250	13,046,250

East Carolina Univeristy

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est. $ Project Cost	Plus 5% Project Mgmt Cost	Est. Total $ Project Cost
Renovation of a Campus Computing Center				1,700,000	85,000	1,785,000
Upgrades to Hazardous Storage				1,050,000	52,500	1,102,500
Center for Diabetes, Clinical Skills Assessment and Support Services			44,000	5,280,000	264,000	5,544,000
Mendenhall Dining/The Spot				1,166,800	58,340	1,225,140
Harrington Field Redevelopment				5,840,000	292,000	6,132,000
Sub-Total: Other Building Needs				*82,222,600*	*4,111,130*	*86,333,730*
Sub-Total: Buildings				**348,089,775**	**17,354,489**	**365,444,264**
II. OTHER CAMPUS REQUIREMENTS						
A. General Campus:						
College Hill Landscaping and Reconfiguration				4,206,000	210,300	4,416,300
Parking Expansion				7,138,400	356,920	7,495,320
10 Street Overpass: Grade separation for pedestrians				2,000,000	100,000	2,100,000
Sub-Total: General Campus				*13,344,400*	*667,220*	*14,011,620*
B. Infrastructure:						
Chilled Water Loop - West Campus				1,100,000	55,000	1,155,000
Minges Chiller Plant				1,860,000	93,000	1,953,000
College Hill Chiller Plant				1,117,000	55,850	1,172,850
Replacement of 22 Urbans				2,200,000	110,000	2,310,000
Data Network Infrastructure Upgrade				3,000,000	150,000	3,150,000
Network Infrastructure Development				2,157,500	107,875	2,265,375
Upgrade 15k Distribution System				4,750,000	237,500	4,987,500
College Hill Steam Lines				2,250,000	112,500	2,362,500
CMP Replacement				1,100,000	55,000	1,155,000
Main Campus Utility 3				1,200,000	60,000	1,260,000
Technology Infrastructure Expansion		UNC Technology Initiative		769,119	38,456	807,575
Technology Infrastructure Expansion		Residence Halls Share		1,488,158	74,408	1,562,566
Sub-Total: Infrastructure				*22,991,777*	*1,149,589*	*24,141,366*
C. Land Acquisition:						
Acquire Green Mill Run Property				750,000		750,000
Acquire Property to Elm Street				6,000,000		6,000,000
Acquire Eppes Middle School Property				12,750,000		12,750,000
Acquire Property Along 14th Street				900,000		900,000
Acquire 10th Street Property				600,000		600,000
Sub-Total: Land Acquisition				*21,000,000*		*21,000,000*
Sub-Total: Other Campus Requirements				**57,336,177**	**1,816,809**	**59,152,986**
TOTAL PHASE I NEEDS: 1999-2003				**405,425,952**	**19,171,298**	**424,597,250**

ELIZABETH CITY STATE UNIVERSITY

The University of North Carolina
10-Year Capital Needs/Plan
Phase I Five-Year Plan: 1999-2003 Proposed Priorities
Elizabeth City State University

PROJECT NAME AND DESCRIPTION	COMMENTS	EST COST BASE + 5%
New Student Center. New facility will provide for the cultural, social and recreational needs of students.		9,178,313
New Residence Hall for 200 Students. Replacement for Symera Hall, plus additional beds to allow for other major dormitory renovations. Includes demolition of Symera Hall with FCQI of 1.58.	Replacement--to create capacity that will permit taking several dorms off line for major renovations.	6,510,000
General Campus Development. Project includes master plan development for $250,000, establishment of campus defining elements, landscaping, and irrigation systems.		1,811,250
Historic Structures Preservation, Phase I. Includes historical restoration work of significant campus buildings beyond the normal level of renovation and modernization projects. Includes façade restoration for Lane, Moore, and Trigg Halls.		3,150,000
Bldg 2-Lester Hall. Renovation and modernization.		2,687,897
Bldg 3-Williams Hall. Renovation and modernization.		3,011,876
Elevator Renovations, Lester and Williams Halls		448,560
Bldg 20-Lane Hall. Renovation and modernization.		1,310,568
Bldg 13-Trigg Hall. Renovation and modernization.		1,059,017
Bldg 135-White Graduate/Cont. Educ. Bldg. Renovation and modernization.		1,575,000
Bldg 5-Johnson Hall. HVAC System Replacement.		574,140
Bldg 5-Johnson Hall. Renovation and modernization--balance of work. HVAC system replacement in Phase I.		2,582,168
Bldg 117-Wamack Hall Residence. Renovation and modernization.		3,334,303
Bldg 15-Bias Hall Residence. Renovation and modernization.		1,858,222
Bldg 118-Mitchell-Lewis Residence. Renovation and modernization.		2,123,675
Roebuck Stadium Field House. To provide classrooms/athletic instruction for classes normally held outdoors and locker room space for home and visiting teams.		1,260,000
Campus Property Development, Phase I. Provides for land acquisition adjacent to campus to curtail development of unfavorable environmental influences. Plan is systematic acquisitions on perimeter of the campus.		650,000
Technology Infrastructure Expansion	UNC Technology Initiaitive	3,149,387
Total Elizabeth City State University		**46,274,376**

Elizabeth City State University

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est. $ Project Cost	Plus 5% Cost Inflation and Project Mgmt Costs	Est. Total $ Project Cost
PART I: PHASE I NEEDS: 1999-2003						
I. BUILDINGS						
A. Renovation, Modernization, &						
Classroom/Office Space						
Bldg 2-Lester Hall. Renovation and modernization.	0.92		16,724	2,559,902	127,995	2,687,897
Elevator Renovations, Lester and Williams Halls				427,200	21,360	448,560
Bldg 20-Lane Hall. Renovation and modernization.	0.78		9,665	1,248,160	62,408	1,310,568
Bldg 135-White Graduate/Cont. Educ. Bldg. Renovation and modernization.	0.82		29,900	1,500,000	75,000	1,575,000
Bldg 13-Trigg Hall. Renovation and modernization.	0.68		8,856	1,008,588	50,429	1,059,017
Bldg 1-Moore Hall. Renovation and modernization.	0.46		41,457	3,173,443	158,672	3,332,115
Bldg 5-Johnson Hall. HVAC System Replacement.				546,800	27,340	574,140
Bldg 5-Johnson Hall. Renovation and modernization--balance of work. HVAC system replacement in Phase I.	0.59		30,739	2,459,208	122,960	2,582,168
Bldg 3-Williams Hall. Renovation and	0.44		36,777	2,868,453	143,423	3,011,876
Historic Structures Preservation, Phase I. Includes historical restoration work of significant campus buildings beyond the normal level of renovation and modernization projects. Includes facade restoration for Lane, Moore, and Trigg Halls.				3,000,000	150,000	3,150,000
Subtotal Classroom/Office				**18,791,754**	**939,588**	**19,731,342**
Dormitory						
Bldg 117-Wamack Hall Residence. Renovation and modernization.	1.10		28,557	3,175,527	158,776	3,334,303
Bldg 17-Doles Hall Residence. Renovation and modernization.	0.84		19,311	1,640,517	82,026	1,722,543
Bldg 118-Mitchell-Lewis Residence. Renovation and modernization.	0.53		38,019	2,022,548	101,127	2,123,675
Bldg 14-Cale Hall Residence. Renovation and modernization.	0.62		16,542	1,030,529	51,526	1,082,055
Bldg 15-Bias Hall Residence. Renovation and modernization.	0.60		28,934	1,769,735	88,487	1,858,222
New Residence Hall for 200 Students. Replacement for Symera Hall, plus additional beds to allow for other major dormitory renovations. Includes demolition of Symera Hall with FCQI of		Replacement--to create capacity that will permit taking several dorms off line for major renovations.	50,000	6,200,000	310,000	6,510,000
Subtotal Dormitory				**15,838,856**	**791,943**	**16,630,799**
Student Support Space						
New Student Center. New facility will provide for the cultural, social and recreational needs of			45,000	8,741,250	437,063	9,178,313
Subtotal Student Support Space				**8,741,250**	**437,063**	**9,178,313**
Sub-Total: Renovations, Modernization & Replacements				*43,371,860*	*2,168,593*	*45,540,453*
B. Building Capacity :						
Sub-Total: Building Capacity				*0*	*0*	*0*

Elizabeth City State University

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est. $ Project Cost	Plus 5% Cost Inflation and Project Mgmt Costs	Est. Total $ Project Cost
C. Other Building Needs:						
Roebuck Stadium Field House. To provide classrooms/athletic instruction for classes normally held outdoors and locker room space for home and visiting teams.			10,000	1,200,000	60,000	1,260,000
Sub-Total: Other Building Needs				*1,200,000*	*60,000*	*1,260,000*
Sub-Total: Buildings				**44,571,860**	**2,228,593**	**46,800,453**
II. OTHER CAMPUS REQUIREMENTS						
A. General Campus:						
General Campus Development. Project includes master plan development for $250,000, establishment of campus defining elements, landscaping, and irrigation systems.				1,725,000	86,250	1,811,250
Construct Softball/Baseball Complex. Adjacent to K.E. White Continuing Education Center, on area known as "farm."				750,000	37,500	787,500
Sub-Total: General Campus				*2,475,000*	*123,750*	*2,598,750*
B. Infrastructure:						
Electrical Distribution System Upgrade. Rehabilitation of south loop.				1,500,000	75,000	1,575,000
Storm Drainage System Improvement. Required to handle ground water effectively.				1,500,000	75,000	1,575,000
Campus Lighting Upgrade. Required to change mercury vapor to high pressure sodium fixtures for street, walkway and yard lighting, and to install conduits.				1,500,000	75,000	1,575,000
Data & Telecommunications System Enhancement. Provides expansion to meet requirements.				1,961,295	98,065	2,059,360
Automated Energy Management System Improvements				844,200	42,210	886,410
Technology Infrastructure Expansion		UNC Technology Initiaitive		2,999,416	149,971	3,149,387
Technology Infrastructure Expansion		Residence Halls Share		781,665	39,083	820,748
Sub-Total: Infrastructure				*11,086,576*	*554,329*	*11,640,905*
C. Land Acquisition:						
Campus Property Development, Phase I. Provides for land acquisition adjacent to campus to curtail development of unfavorable environmental influences. Plan is systematic acquisitions on the perimeter of the campus.				650,000		650,000
Sub-Total: Land Acquisition				*650,000*		*650,000*
Sub-Total: Other Campus Requirements				**14,211,576**	**678,079**	**14,889,655**
TOTAL PHASE I NEEDS: 1999-2003				**58,783,436**	**2,906,672**	**61,690,108**

FAYETTEVILLE STATE UNIVERSITY

The University of North Carolina
10-Year Capital Needs/Plan
Phase I Five-Year Plan: 1999-2003 Proposed Priorities
Fayetteville State Universitiy

PROJECT NAME AND DESCRIPTION	COMMENTS	EST COST Base + 5%
New Residence Hall. Addition of 275 beds in direct support of enrollment growth strategies.	Urge immediate funding from state appropriations, to meet current crisis that could impede FSU's enrollment growth/diversity initiative. Current waiting list = 250 students. Subsequent beds would be developed as self-liquidating.	6,872,250
Bldg 29-Chas. A. Lyons Science. Renovation/modernization and addition.	Combined project. Important modernization and an addition to meet expected lab/science shortages = $9,342,800. Project cost revised downward 6/8/99.	16,800,000
Bldg 4-Seabrook Auditorium. Renovation and modernization.	Renovation in lieu of previous Fine Arts/Theater project in Cap Imp Plan. Project cost revised upward to incorporate changes for theater uses.	6,825,000
Lauretta J. Taylor Gymnasium. Renovations and modernization and addition.	In Cap. Improvement Plan. Early Education Childhood Classroom addition and renovations to Taylor Gym.	3,360,000
Bldg 2-Lilly Gymnasium. Renovation and change of use.	Renovation/use change to create Student Services space, to cover expected shortage. One-stop student services model.	3,256,367
Bldg 11-Cook Dining Hall. Renovation and change of use.	Renovation/use change to create Student Services space, to cover expected shortage.	1,773,450
Howard School Museum. Construct Howard School Museum	Important campus historical element. Total project = $500,000. FSU wants to raise some private gifts for this.	210,000
Fire Safety Improvements, Student Residence Halls	Verify that not duplication with whole building renovations.	611,730
Roads, Parking, Landscaping Improvements-Phase I. Per just completed Master Plan and reviewed by EKA with FSU and architects.		3,675,000
Spaulding Infirmary and Roadway/Entrance. Renovation of Spaulding to create new location for Campus Police and initial roadway modifications to main campus entrance–both project per Master Plan.	FSU wants to use $1MM previously funded toward Fine Arts Complex that FSU is dropping for these two Master Plan-driven projects.	1,000,000
Technology Infrastructure Expansion	UNC Technology Initiative	1,137,582
TOTAL Fayetteville State University		**44,383,797**

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

Fayetteville State University

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	**FCQI**	**Comments**	**GSF**	**Est. $ Project Cost**	**Plus 5% Cost Inflation & Project Mgmt**	**Est. Total $ Project Cost**
PART I: PHASE I NEEDS: 1999-2003						
I. BUILDINGS						
A. Renovation, Modernization, & Replacements:						
Classroom/Office Space						
Bldg 4-Seabrook Auditorium. Renovation and modernization.	1.16	Renovation in lieu of previous Fine Arts/Theater project in Cap Imp Plan. Cost adjusted for Theater uses.	21,777	6,500,000	325,000	6,825,000
Lauretta J. Taylor Gymnasium. Renovations/modernization and Addition.		In Cap Improvement Plan. For Early Education Childhood Classroom addition and renovations.		3,200,000	160,000	3,360,000
Sub-Total Classroom/Office				**9,700,000**	**485,000**	**10,185,000**
Medium Intensity Lab						
Bldg 29-Chas. A. Lyons Science. Renovation and addition.	0.58	Combined project. Important modernization and an addition to meet expected lab/science shortages = $9,342,800. Project cost revised downward 6/8/99.	76,686	16,000,000	800,000	16,800,000
Sub-Total Medium Intensity Lab				**16,000,000**	**800,000**	**16,800,000**
Dormitory						
Bldg 7-Joyner Hall. Renovation and modernization.	0.62		18,984	1,181,239	59,062	1,240,301
Bldg 12-Smith Hall. Renovation and modernization.	0.59		20,604	1,236,779	61,839	1,298,618
Bldg 18-Hood Hall. Renovation and modernization.	0.37		17,516	661,995	33,100	695,095
Bldg 10-Harris Hall. Renovation and modernization.	0.23		26,688	620,078	31,004	651,082
Fire Safety Improvements, Student Residence Halls		Verify that not duplication with whole building renovations.		582,600	29,130	611,730
Sub-Total Dormitory				**4,282,691**	**214,135**	**4,496,826**
Student Support Space						
Bldg 2-Lilly Gymnasium. Renovation and change of use.	0.57	Renovation/use change to create Student Services space, to cover expected shortage.	32,867	3,101,302	155,065	3,256,367
Bldg 11-Cook Dining Hall. Renovation and change of use.	1.26	Renovation/use change to create Student Services space, to cover expected shortage.	18,267	3,829,138	191,457	4,020,595
Subtotal Student Support Space				**6,930,440**	**346,522**	**7,276,962**
Sub-Total: Renovations, Modernization & Replacements				*36,913,131*	*1,845,657*	*38,758,788*
B. Building Capacity :						
New Residence Hall. Addition of 275 beds in direct support of enrollment growth strategies.		Urge immediate funding from state appropriations, to meet current crisis that could impede FSU's enrollment growth/diversity initiative. Current waiting list = 250 students. Subsequent beds would be developed as self-liquidating.		6,545,000	327,250	6,872,250
Sub-Total: Building Capacity				*6,545,000*	*327,250*	*6,872,250*
C. Other Building Needs:						
New Admissions and Enrollment Management Building		Important consolidation for enrollment growth plans. Consider adding these funds, and making "one-stop" services in Lilly Gymnasium or other renovation.	GSF?	578,000	28,900	606,900

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

Fayetteville State University

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	**FCQI**	**Comments**	**GSF**	**Est. $ Project Cost**	**Plus 5% Cost Inflation & Project Mgmt**	**Est. Total $ Project Cost**
Howard School Museum. Construct Howard School Museum		Important campus historical element. Total project cost = $500,000. FSU wants to raise some provate gifts for this.	GSF?	200,000	10,000	210,000
Sub-Total: Other Building Needs				*778,000*	*38,900*	*816,900*
Sub-Total: Buildings				**44,236,131**	**2,211,807**	**46,447,938**
II. OTHER CAMPUS REQUIREMENTS						
A. General Campus:						
Landscaping Improvements. For various locations needed, for sidewalks, and around entrances at various locations		Combined two projects.		800,000	40,000	840,000
Road and Parking Modifications. To improve traffic circulation				5,641,000	282,050	5,923,050
Sub-Total: General Campus				*6,441,000*	*322,050*	*6,763,050*
B. Infrastructure:						
Technology Infrastructure Expansion		UNC Technology Initiative		1,083,411	54,171	1,137,582
Technology Infrastructure Expansion		Residence Halls Share		860,005	43,000	903,005
Sub-Total: Infrastructure				*1,943,416*	*97,171*	*2,040,587*
C. Land Acquisition:		None				
Sub-Total: Land Acquisition				*0*		*0*
Sub-Total: Other Campus Requirements				**8,384,416**	**419,221**	**8,803,637**
TOTAL PHASE I NEEDS: 1999-2003				**52,620,547**	**2,631,027**	**55,251,574**

NORTH CAROLINA A&T STATE UNIVERSITY

The University of North Carolina
10-Year Capital Needs/Plan
Phase I Five-Year Plan: 1999-2003
NC A and T State University

PROJECT NAME AND DESCRIPTION	COMMENTS	EST COST BASE + 5%
General Classroom & Laboratory Building Complex #1	EKA suggests modification to plan for better overall balance of space types: planning monies for feasibility study, then design money, with partial demolitions as needed. Total Project cost of $37,067,300; prior appropriation of $9,000,000 from GA. Campus plans reduction of 80,000 ASF through 5 demolition projects, with renovation of Merrick and Crosby, partial renovation of Robeson to provide enhancements for Arts & Sciences and Business School.	29,470,665
Chemistry Building. Replacement for Hines Hall.	Replacement for Hines Hall and additional space.	21,831,600
Land Purchase. Acquire 20.69 acres as proposed in the University Comprehensive Master Plan.		6,300,000
Bldg 116-Harrison Auditorium. Renovation and modernization.	Historic Bldg	3,193,196
Bldg 110-Curtis Hall. Replacement for 149 bed capacity.		3,723,510
Bldg 127-Scott Hall. Replacement for 967 bed capacity.		24,165,330
Bldg 27-Gamble Complex. Replacement for 58 bed capacity .		1,449,420
Hazardous Materials and Waste Storage Facility		1,575,000
Replace Lounging Barn		919,185
Replace Poultry Complex Laying Houses		913,500
Bldg 26-Zoe Barbee Hall. Renovation and modernization.		5,876,786
Bldg 1-Barnes Hall. Renovation and modernization.		6,097,128
Bldg 10-Graham Hall. Renovation and modernization.		5,899,838
Corbett Sports Center Addition. Provides indoor running track, fitness/wellness training, aerobics, weight room, climbing wall, challenge course, pool filter replacement, and sports medicine area.		7,035,000
Replacement of Steamlines and Manholes		1,568,280
Upgrade Electrical Distribution System. Adds capacity to meet additional A/C loads.		1,559,250
Electrical Distribution System Expansion. Install underground electrical service into campus land areas to be purchased.		697,552
Central Cooling Plant. Provides North and South chiller loops.	Partial funding of a $26MM project.	6,405,000
Parking Enhancements, Phase I		4,725,735
Bldg 6-Cherry Hall. Renovation and modernization.		8,613,152
General Renovations and Modernizations.	To address potential failures in facilites during Phase I, projects to be identified at a later date.	8,872,918
Technology Infrastructure Expansion	UNC Technology Initiative	2,921,662
Total NC A&T State University		**153,813,706**

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

North Carolina A & T State University						
Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est. $ Project Cost	Plus 5% Cost Inflation & Project Mgmt	Est. Total $ Project Cost
PART I: PHASE I NEEDS: 1999-2003						
I. BUILDINGS						
A. Renovation, Modernization, & Replacements:						
Classroom/Office Space						
Bldg 8-Frazier Hall. Renovation and modernization.	0.97		19,854	3,194,116	159,706	3,353,822
Bldg 4-Campbell Hall-ROTC. Renovation and modernization.	0.65		19,987	2,158,935	107,947	2,266,882
Bldg 24-Merrick Hall. Renovation and modernization.	0.62		57,485	5,976,393	298,820	6,275,213
Subtotal Classroom/Office				**11,329,444**	**566,472**	**11,895,916**
Dormitory						
Bldg 119-Holland Hall. Renovation and modernization.	1.51	Historic Bldg	27,394	4,197,500	209,875	4,407,375
Bldg 27-Gamble Complex. Replacement for 58 bed capacity .	1.53		8,888	1,380,400	69,020	1,449,420
Bldg 110-Curtis Hall. Replacement for 149 bed capacity.	1.27		27,030	3,546,200	177,310	3,723,510
Bldg 121-Morrison Hall. Renovation and modernization.	1.22	Historic Bldg	26,200	3,239,167	161,958	3,401,125
Bldg 127-Scott Hall. Replacement for 967 bed capacity.	1.14		182,776	23,014,600	1,150,730	24,165,330
Bldg 108-Cooper Hall. Renovation and modernization.	1.00	Historic Bldg	55,532	5,605,337	280,267	5,885,604
Bldg 25-Alex Haley Dorm. Renovation and modernization.	0.93		34,297	3,238,955	161,948	3,400,903
Bldg 133-New Vanstory Hall. Renovation and modernization.	0.91		38,618	3,565,391	178,270	3,743,661
Bldg 114-Alma Morrow Hall. Renovation and modernization.	0.83		46,227	3,899,911	194,996	4,094,907
Bldg 14-Holt Hall. Renovation and modernization.	0.81		17,469	2,540,661	127,033	2,667,694
Bldg 26-Zoe Barbee Hall. Renovation and modernization.	0.77		71,537	5,596,939	279,847	5,876,786
Fire Safety Improvements, Student Residence Halls. Install sprinklers in six dormitories.				3,759,100	187,955	3,947,055
Subtotal Dormitory				**63,584,161**	**3,179,208**	**66,763,369**
High Intensity Lab Use						
Bldg 12-Hines Hall & Annex. Demolition	1.09	Replacement and additional space are included in Chemistry Building project.	46,391			
Chemistry Building. Replacement for Hines Hall.		Provides replacement for Hines Hall and additional space.	85,000	20,792,000	1,039,600	21,831,600
Bldg 20-Reid Greenhouse. Renovation and modernization.	0.71		7,722	1,437,689	71,884	1,509,573
Bldg 6-Cherry Hall. Renovation and modernization.	0.60		52,032	8,203,002	410,150	8,613,152
Subtotal High Intensity Lab				**30,432,691**	**1,521,635**	**31,954,326**
Medium Intensity Lab Use						
Bldg 5-Carver Hall. Renovation and modernization.	0.76		56,824	10,250,910	512,546	10,763,456
Bldg 1-Barnes Hall. Renovation and modernization.	0.71		34,380	5,806,789	290,339	6,097,128
Bldg 10-Graham Hall. Renovation and modernization.	0.68		34,796	5,618,893	280,945	5,899,838

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

North Carolina A & T State University

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	**FCQI**	**Comments**	**GSF**	**Est. $ Project Cost**	**Plus 5% Cost Inflation & Project Mgmt**	**Est. Total $ Project Cost**
General Classroom & Laboratory Building Complex #1		EKA suggests modification to plan for a better overall balance of space types. EKA suggests planning monies for feasibility study, then design money, with partial demolitions as needed. Total Project cost of $37,067,300; prior appropriation of $9,000,000 from GA. Campus plans a reduction of 80,000 ASF through five demolition projects, with renovation of Merrick and Crosby, and partial renovation of Robeson Hall to provide enhancements for Arts & Sciences and the Business School.	GSF?	28,067,300	1,403,365	29,470,665
Bldg 13-Hodgin Hall. Demolition.	0.88	Demolish in conjunction with completion of general classroom building.	34,083			
Subtotal Medium Intensity Lab				110,609,274	5,530,464	116,139,738
Student Support Space						
Bldg 209-Williams Cafeteria. Renovation and modernization.	1.19	Historic bldg	47,412	10,093,862	504,693	10,598,555
Bldg 116-Harrison Auditorium. Renovation and modernization.	0.99	Historic Bldg	17,280	3,041,139	152,057	3,193,196
Bldg 15-Moore Gymnasium. Renovation and modernization.	0.73		50,168	6,561,700	328,085	6,889,785
Bldg 137-Student Union. Renovation and modernization.	0.55		45,955	4,532,435	226,622	4,759,057
Subtotal Student Support				24,229,136	1,211,457	25,440,593
Other Facilities						
Replace Lounging Barn				875,414	43,771	919,185
Replace Poultry Complex Laying Houses			1,600	870,000	43,500	913,500
Subtotal Other Facilities				1,745,414	87,271	1,832,685
Sub-Total: Renovations, Modernization & Replacements				241,930,120	12,096,506	254,026,626
B. Building Capacity :						
Married Graduate Student Housing				6,569,462	328,473	6,897,935
Student Housing. Two 300-bed dormitories.			150,000	14,280,000	714,000	14,994,000
Sub-Total: Building Capacity				20,849,462	1,042,473	21,891,935
C. Other Building Needs:						
New Green House			8,000	720,000	36,000	756,000
Research Facility:Phase III. Includes I.R.C. and one additional facility			94,900	18,980,000	949,000	19,929,000
New Student Medical Center. Replaces Sebastian Infirmary at a centralized location.			10,000	2,200,000	110,000	2,310,000
Corbett Sports Center Addition. Provides indoor running track, fitness/wellness training, aerobics, weight room, climbing wall, challenge course, pool filter replacement, and sports medicine area.				12,100,000	605,000	12,705,000

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

North Carolina A & T State University

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est. $ Project Cost	Plus 5% Cost Inflation & Project Mgmt	Est. Total $ Project Cost
DeHugley Building Annex. Provides space to accommodate Facilities Maintenance and trade shops, Landscape Maintenance, and General Stores and covered storage.			1,800	1,900,000	95,000	1,995,000
Hazardous Materials and Waste Storage Facility			5,000	1,500,000	75,000	1,575,000
Police Administration Building. Accommodates campus security, university police administration, and support services.			8,000	1,361,000	68,050	1,429,050
Sub-Total: Other Building Needs				38,761,000	1,938,050	40,699,050
Sub-Total: Buildings				**301,540,582**	**15,077,029**	**316,617,611**
II. OTHER CAMPUS REQUIREMENTS						
A. General Campus:						
Campus Landscaping Project				1,200,000	60,000	1,260,000
Improve Pedestrian Circulation System, Phase I. Widen walkways and add brick paving to improve pedestrian circulation system and provide lane for bicycles.				2,535,000	126,750	2,661,750
Pedestrian Mall. Establish a brick-paved pedestrian mall with fountain after the rerouting of Laurel Street.				981,663	49,083	1,030,746
Security Lighting. Install an additional 437 security lights on campus.				1,000,000	50,000	1,050,000
Parking Enhancements, Phase I				4,500,700	225,035	4,725,735
Construct Practice Fields. Provides recreational tennis courts and soccer, football, and softball fields.				2,835,000	141,750	2,976,750
Sub-Total: General Campus				13,052,363	652,618	13,704,981
B. Infrastructure:						
Add Water Line. To provide increased capacity for sprinkler systems.				3,877,500	193,875	4,071,375
Water Line Isolation. Install backflow and isolation valve				873,000	43,650	916,650
Steam Distribution System Replacement, Phase I. Replaces 35% of steam distribution system over a 10-year period to provide adequate and reliable service to the campus.				1,000,000	50,000	1,050,000
Central Cooling Plant. Provides North and South chiller loops.				25,000,000	1,250,000	26,250,000
Electrical Distribution System Expansion. Install underground electrical service into campus land areas to be purchased.				664,335	33,217	697,552
Upgrade Electrical Distribution System. Adds capacity to meet additional A/C loads.				1,485,000	74,250	1,559,250
Replacement of Steamlines and Manholes				1,493,600	74,680	1,568,280
Technology Infrastructure Expansion		UNC Technology Initiative		2,782,535	139,127	2,921,662
Technology Infrastructure Expansion		Residence Halls Share		2,338,160	116,908	2,455,068
Sub-Total: Infrastructure				39,514,130	1,975,707	41,489,837

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

North Carolina A & T State University

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est. $ Project Cost	Plus 5% Cost Inflation & Project Mgmt	Est. Total $ Project Cost
C. Land Acquisition:						
Land Purchase. Acquire 20.69 acres of land as proposed in the University Comprehensive Master Plan.				6,300,000		6,300,000
Campus Defining Landscape Feature. Construct a bell tower on campus near the rerouted Laurel Street to provide a distinctive image to the university.				1,000,000		1,000,000
Sub-Total: Land Acquisition				7,300,000		7,300,000
Sub-Total: Other Campus Requirements				59,866,493	2,628,325	62,494,818
TOTAL PHASE I NEEDS: 1999-2003				361,407,075	17,705,354	379,112,429

NORTH CAROLINA CENTRAL UNIVERSITY

The University of North Carolina
10-Year Capital Needs/Plan
Phase I Five-Year Plan: 1999-2003 Proposed Priorities
NC Central University

PROJECT NAME AND DESCRIPTION	Comments	EST COST Base + 5%
New Science Complex	Proposed to replace renovations to Hillside HS and Robinson, Lee, Hubbard and Chemistry Bldgs. Permits vacated space to meet other capital requests.	35,280,000
Old Hillside High School. Demolition.	Urgent need for New Science Complex suggests demo of HS & const. of sci complex as more effective solution.	1,500,000
Bldg 23- Chidley Hall (Men): Renovation and modernization	Demolish Annex and renovate the remaining structure to accommodate our Hospitality/Tourism program.	6,621,943
General Campus Master Plan.	Last master plan 1995. Numerous major renovations & new capital projects require current or updated plan.	250,000
Bldg 50-Farrison-Newton Bldg: Renovation and modernization	Some renov has been C.I. funded	7,048,652
Bldg 33-Graduate Apartments-George Street: Renovation and modernization	Due to FCQI >1, demolish and replace.	1,556,642
Bldg 18-Rush Hall (Honors). Renovation and modernization	Historic	2,089,387
Bldg 21-Baynes Hall (Women). Renovation and modernization	Due to high FCQI, demolish and replace with low rise or mid rise structures.	15,091,127
Bldg 39-Eagleson Hall (Women). Renovation and modernization		6,869,505
Bldg 16-Shepard Dormitory (Women). Renovation and modernization	Historic	7,284,923
Bldg 20-Latham Hall (Women). Renovation and modernization		3,411,600
Bldg 17-McLean Hall (Women). Renovation and modernization	Historic	1,942,070
Pearson Cafeteria: Renovation and modernization.	Enhanced food court for informal and fast food dining.	1,263,570
Fire Safety Improvements: Student Residence Halls	Sprinklers for Latham, Rush and Shepard Dormitories.	1,612,695
Landscape Campus Perimeter. To define boundaries and gateways.		840,000
Landscape Pedestrian Corridors. To define and encourage appropriate pedestrian circulation.		787,500
Directional Signage. For vehicular/pedestrian traffic.		735,000
Pedestrian Corridor on Campus Drive. Remove speed bumps, streetscape for pedestrian use.		892,500
Pedestrian Mall at George St. Remove speed bumps, streetscape for pedestrian use.		472,500
Dormitory Security System. To provide CATV surveillance of residence halls		630,000
Parking Enhancements Phase 1-Nelson St. Pkg. Deck	Does not include land acquisition.	6,353,235

The University of North Carolina
10-Year Capital Needs/Plan
Phase I Five-Year Plan: 1999-2003 Proposed Priorities
NC Central University

Electrical Power. 41 new transformers		858,654
DoL/DoI Corrections	To correct campus life safety and health concerns.	3,675,000
Land Acquisition	Land acquisition is essential in order to properly accommodate replacement of residence halls.	4,200,000
Relocate Campus Police Station	Fire Station 4 was donated by the City of Durham; $800,000 is needed to renovate for use by Campus Police.	840,000
Replace Power Distribution Cables	Electrical distribution cables are 25 years old and in need of replacement.	1,115,940
Underground Piping Repairs	Steam leaks throughout the distribution system contribute to building deterioration and energy inefficiencies. (Estimate has been revised)	4,252,710
Technology Infrastructure Expansion	UNC Technology Initiative	1,422,080
Total NC Central University		118,897,233

North Carolina Central University

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est. $ Project Cost	Plus 5% Cost Inflation & Project Mgmt	Est. Total $ Project Cost
PART I. PHASE I NEEDS: 1999-2003						
I. BUILDINGS						
A. Renovation, Modernization, & Replacements:						
Classroom/Office Space						
Bldg 8-Fine Arts. Replacement for Duke Aud. @13,491 GSF	1.22	Replacement for the functions previously held in Duke Aud. Some renovations has been C.I. Funded. Historic	21,639	3,029,460	151,473	3,180,933
Bldg 4-Edmonds Classroom Bldg. Renovation and modernization	0.85	EKA suggest complete renovation and modernization with the prior funding for renovations from C.I. Funds.	23,664	3,343,739	167,187	3,510,926
Bldg 50-Farrison-Newton Bldg: Renovation and modernization	0.47	Some renov has been C.I. funded	84,861	6,713,002	335,650	7,048,652
Bldg 7-Taylor Education Bldg: Renovation and modernization	0.52	EKA recommends complete renovation and modernization with the prior funding for renovations from C.I. Funds.	37,550	3,233,686	161,684	3,395,370
Bldg 5-Willis Commerce Bldg: Renovation and modernization	0.51	Some renov has been C.I. funded	38,612	3,268,723	163,436	3,432,159
Bldg 32-Human Resource Bldg. Renovation and modernization	0.74	Bldg is a converted residence. Add'l space is req'd.	4,288	531,976	26,599	558,575
New Science Complex		Proposed to replaceHillside HS renovation and renovations to Robinson, Lee, Hubbard and Chemistry Buildings. Permits vacated space to meet other capital requests.	150,000	33,600,000	1,680,000	35,280,000
Old Hillside High School. Demolition.		Urgent need for New Science Complex suggests demo of HS & construction of sci complex to be a more effective solution.		1,500,000		1,500,000
Department of Labor/Insurance Repairs-"Phase 1-Urgent Estimate"		$6 million was in R&R line. $3.5M is shown here assuming some repairs will be covered in other Phase I renovations. Balance is in "Deferred" pending determination of which are covered in "whole-building" renovations and which remain to be done separately.		3,500,000	175,000	3,675,000
Subtotal Classroom/Office				**58,720,586**	**2,861,029**	**61,581,615**
Dormitory						
Bldg 33-Graduate Apartments-George Street: Renovation and modernization	1.08	Replace, renovate and convert to other use. Can we demolish?	13,524	1,482,516	74,126	1,556,642
Bldg 18-Rush Hall (Honors). Renovation and modernization	0.78	Historic	25,284	1,989,892	99,495	2,089,387
Bldg 21-Baynes Hall (Women). Renovation and modernization	1.67	Replace, renovate and convert to other use. Can we demolish?	85,320	14,372,502	718,625	15,091,127
Bldg 39-Eagleson Hall (Women). Renovation and modernization	0.77		84,258	6,542,386	327,119	6,869,505
Bldg 16-Shepard Dormitory (Women). Renovation and modernization	1.56	Historic	44,050	6,938,022	346,901	7,284,923
Bldg 20-Latham Hall (Women). Renovation and modernization	0.78		41,061	3,249,143	162,457	3,411,600
Bldg 17-McLean Hall (Women). Renovation and modernization	0.74	Historic	24,640	1,849,590	92,480	1,942,070

North Carolina Central University

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	**FCQI**	**Comments**	**GSF**	**Est. $ Project Cost**	**Plus 5% Cost Inflation & Project Mgmt**	**Est. Total $ Project Cost**
Fire Safety Improvements: Student Residence Halls		Provides sprinklers for Latham, Rush and Annie Day Shepard Dormitories.		1,535,900	76,795	1,612,695
Subtotal Dormitory				**37,959,951**	**1,897,998**	**39,857,949**
Low Intensity Lab						
Bldg 12-Robinson Science. Renovation and modernization	0.87	Replace w/ Sci Complex and convert to other use.	26,316	4,897,609	244,880	5,142,489
Subtotal Low Intensity Lab				**4,897,609**	**244,880**	**5,142,489**
Medium Intensity Lab						
Bldg 3-Lee Biology Bldg. Renovation and modernization	0.98	Replace w/ Sci Complex and convert to other use. EKA recommends the Student Health Svcs Bldg @ 30,000 GSF or 009-Infirmary.	29,332	6,833,455	341,673	7,175,128
Bldg 40-Hubbard Chemistry. Renovation and modernization	0.69	Replace w/ Sci Complex and convert to other use. EKA recommneds much needed computer and teaching labs to support the BBRI.	29,250	4,815,020	240,751	5,055,771
Subtotal Medium Intensity Lab				**11,648,475**	**582,424**	**12,230,899**
Student Support Space						
Bldg 38-Elder Student Union. Renovation and modernization	0.39	Expansion required to accommodate increased enrollment and large group functions such as formal dining, large multi-functional rooms.	39,575	2,756,395	137,820	2,894,215
Bldg 56-Walker PE and Recreation. Renovation and modernization	0.37		144,386	9,580,600	479,030	10,059,630
Pearson Cafeteria Renovation. Renovation and modernization.		Enhanced food court for informal and fast food dining.		1,203,400	60,170	1,263,570
Bldg 23- Chidley Hall (Men): Renovation and modernization		Demolition of Chidley Annex and conversion of the remaining structure to accommodate the Hospitality/Tourism program. Previous engineering study indicated most of the interior walls were load bearing, making wholesale renovations impractical.	131,216	6,306,612	315,331	6,621,943
Sub-Total Student Support Space				**19,847,007**	**992,350**	**20,839,357**
Sub-Total: Renovations, Modernization & Replacements				*133,073,628*	*6,578,681*	*139,652,309*
B. Building Capacity :		None				
Sub-Total: Building Capacity				*0*	*0*	*0*
C. Other Building Needs:						
Shepard House Restoration. Renovation and modernization		Founder's home. Important to maintain legacy of NCCU founder.		1,000,000	50,000	1,050,000
Relocate Campus Police Station. Renovation and modernization to relocate Campus Police Station to old fire station.		Fire Station donated by City of Durham. Central campus location and ease of access and proximity to old police station makes this ideal for relocation of campus police.		800,000	40,000	840,000
Physical Plant. Replacement for existing Physical Plant facilities that are land locked with insufficient room for materials/equipment storage, parking, shops, space for plan files, and administrative offices.		Additional square footage may be required after program study is completed.	15,000	1,240,000	62,000	1,302,000

North Carolina Central University

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	**FCQI**	**Comments**	**GSF**	**Est. $ Project Cost**	**Plus 5% Cost Inflation & Project Mgmt**	**Est. Total $ Project Cost**
Receiving/Shipping Facility. To provide new, adequate shipping and receiving facility.				500,000	25,000	525,000
Sub-Total: Other Building Needs				*3,540,000*	*177,000*	*3,717,000*
Sub-Total: Buildings				**136,613,628**	**6,755,681**	**143,369,309**
II. OTHER CAMPUS REQUIREMENTS						
A. General Campus:						
General Campus Master Plan.		Last master plan in 1995. Numerous major renovations and new capital projects require a current or updated plan.		250,000		250,000
Landscape Campus Perimeter. To define boundaries and gateways.		EKA suggests that this might become one project.		800,000	40,000	840,000
Landscape Pedestrian Corridors. To define and encourage appropriate pedestrian circulation.				750,000	37,500	787,500
Provide Directional Signage. For vehicular/pedestrian traffic.				700,000	35,000	735,000
Create Pedestrian Corridor on Campus Drive. To remove speed bumps and streetscape for pedestrian use.				850,000	42,500	892,500
Create Pedestrian Mall at George St. To remove speed bumps and provide streetscaping for pedestrian use.				450,000	22,500	472,500
Dormitory Security System. To provide CATV surveillance of residence halls				600,000	30,000	630,000
Parking Enhancements. Phase 1-Nelson Street Parking Deck		Does not include land acquisition.		6,050,700	302,535	6,353,235
Sub-Total: General Campus				*10,450,700*	*510,035*	*10,960,735*
B. Infrastructure:						
Underground Piping Repairs. To repair/replace 4,200 linear feet of steam distribution that are in poor condition.		(Revised estimate)		4,050,200	202,510	4,252,710
Electrical Power. Replace power distribution cables				1,062,800	53,140	1,115,940
Electrical Power. Provide/install 41 new transformers throughout campus.				817,766	40,888	858,654
Expansion of Electrical Infrastructure. This project will extend the existing campus distribution system to serve the 9 acres of property that have recently been acquired.		This project is identified to serve the Hillside HS property from the campus grid..		5,000,000	250,000	5,250,000
Chiller Replacements. Campus-wide				2,435,400	121,770	2,557,170
Technology Infrastructure Expansion		Technology Initiative		1,354,362	67,718	1,422,080
Technology Infrastructure Expansion		Residence Halls Share		1,535,623	76,781	1,612,404
Sub-Total: Infrastructure				*16,256,151*	*812,808*	*17,068,959*
C. Land Acquisition:						
Land Acquisition. Assist environment adjacent to the New Sci Complex.		$4M is only an estimate.		4,000,000		4,000,000
Land Acquisition. Land for parking.				2,500,000		2,500,000
Sub-Total: Land Acquisition				*6,500,000*		*6,500,000*
Sub-Total: Other Campus Requirements				**33,206,851**	**1,322,843**	**34,529,694**

North Carolina Central University

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est. $ Project Cost	Plus 5% Cost Inflation & Project Mgmt	Est. Total $ Project Cost
TOTAL PHASE I NEEDS: 1999-2003				169,820,479	8,078,524	177,899,003

NORTH CAROLINA SCHOOL OF THE ARTS

The University of North Carolina
10-Year Capital Needs/Plan
Phase I Five-Year Plan: 1999-2003 Proposed Priorities
NC School of the Arts

PROJECT NAME AND DESCRIPTION	COMMENTS	EST COST Base + 5%
Basic Performance & Education Complex. Construct new Chamber Music Hall, Drama Rehearsal Rooms, Dance Studios, new classroom labs, and high school connector bldg. Renovate studios in music, Dance, Drama & Gen Studies	Project has been partially funded and construction documents are being prepared.	19,130,685
Bldg 26-Stevens Center. Renovation and modernization	Critical renovations to unusable upper floors. Cannot be accommodated within R&R Reserve Funding.	4,434,480
New Student Activities Bldg Renovation. Completion project.	Project currently funded at $8,700,000 and under construction - additional amount is needed to overcome cost overruns. Cost inflation/proj mgmt factor not applied.	2,500,000.00
Roanoke Island Music & Theatrical Complex. To provide facility for exansion of NCSA's programs at Roanoke Island.	Cost estimate. Space program to be developed.	10,500,000
Landscaping. Plan and execute a program to achieve the basic criteria above, Phases I and 2	Important for General Campus development to meet new criteria. Should proceed after Master Plan is updated.	1,050,000
Costume Shop. Renovations and relocations.		420,000
Land Acquisition. Acquisition of 30 parcels, in part required for Basic Education Complex.		2,650,000
Technology Infrastructure Expansion	UNC Technology Initiative	1,862,312
Total NC School of the Arts		**42,547,476**

North Carolina School of the Arts

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est. $ Project Cost	Plus 5% Cost Inflation & Project Mgmt	Est. Total $ Project Cost
PART I: PHASE I NEEDS: 1999-2003						
I. BUILDINGS						
A. Renovation, Modernization, & Replacements:						
Low Intensity Lab & Special Performance						
Bldg 26-Stevens Center. Renovation and modernization	0.31	Critical renovations to unusable upper floors. Cannot be accommodated within R&R Reserve Funding.	77,150	4,223,314	211,166	4,434,480
Basic Performance & Education Complex. Construct new Chamber Music Hall, Drama Rehearsal Rooms, Dance Studios, new classroom labs, and high school connector bldg. Renovate studios in music, Dance, Drama & Gen Studies		Project has been partially funded and construction documents are being prepared.	77,000	18,219,700	910,985	19,130,685
Costume Shop. Renovations and relocations.				400,000	20,000	420,000
Crawford Hall and the Recital Hall. Renovation and modernization				476,100	23,805	499,905
Subtotal Low Intensity Lab & Special Performance				**23,319,114**	**1,165,956**	**24,485,070**
Student Support						
New Student Activities Bldg Renovation. Completion project.		Project currently funded at $8,700,000 and under construction - additional amount is needed to overcome cost overruns. Cost inflation/proj mgmt factor not applied.		2,500,000		2,500,000
Subtotal Student Support				**2,500,000**		**2,500,000**
Sub-Total: Renovations, Modernization & Replacements				*25,819,114*	*1,165,956*	*26,985,070*
B. Building Capacity :						
Residential Facility (126 beds)		NCSA indicates cannot do self-liquidating.	31,500	2,998,800	149,940	3,148,740
Sub-Total: Building Capacity				*2,998,800*	*149,940*	*3,148,740*
C. Other Building Needs:						
Roanoke Island Music & Theatrical Complex. To provide facility for exansion of NCSA's programs at Roanoke Island.		Cost estimate. Space program to be developed.		10,000,000	500,000	10,500,000
Sub-Total: Other Building Needs				*10,000,000*	*500,000*	*10,500,000*
Sub-Total: Buildings				**38,817,914**	**1,815,896**	**40,633,810**
II. OTHER CAMPUS REQUIREMENTS						
A. General Campus:						
Landscaping. Plan and execute a program to achieve the basic criteria above, Phases I and 2		Important for General Campus development to meet new criteria. Should proceed after Master Plan is updated.		1,000,000	50,000	1,050,000
Sub-Total: General Campus				*1,000,000*	*50,000*	*1,050,000*
B. Infrastructure:						
Technology Infrastructure Expansion		Technology Initiative		1,773,630	88,682	1,862,312
Technology Infrastructure Expansion		Residence Halls Share		1,064,768	53,238	1,118,006
Sub-Total: Infrastructure				*2,838,398*	*141,920*	*2,980,318*
C. Land Acquisition:						
Land Acquisition. Acquisition of 30 parcels, in part required for Basic Education Complex.				2,650,000		2,650,000
Sub-Total: Land Acquisition				*2,650,000*		*2,650,000*

North Carolina School of the Arts

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est. $ Project Cost	Plus 5% Cost Inflation & Project Mgmt	Est. Total $ Project Cost
Sub-Total: Other Campus Requirements				6,488,398	191,920	6,680,318
TOTAL PHASE I NEEDS: 1999-2003				45,306,312	2,007,816	47,314,128

NORTH CAROLINA STATE UNIVERSITY

The University of North Carolina
10-Year Capital Needs/Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Proposed Priorities
NC State University

PROJECT NAME AND DESCRIPTION	TOTAL EST. PROJECT COST	RECOMMENDED ALLOCATION
I. BUILDINGS		
A. Renovation, Modernization, & Replacements :		
Classroom/Office Space		
Renovation and modernization of 8 buildings.	85,904,950	91,312,249
Laboratory Space		
Renovation and modernization of 6 buildings.	82,884,813	49,000,000
Student Support Space		
Renovation and Modernization of 1 building and fire safety improvements.	10,811,115	2,070,000
Sub-Total: Renovation, Modernization, & Replacements	*179,600,878*	*142,382,249*
B. Building Capacity :		
Construction of College of Engineering Complex Phase I and Phase II. Undergraduate Science Teaching Lab Phase I and Phase II, Jordan Hall Addition; Gymnasium; Library Space; Student Services Space; and David-Clark Laboratory Renovation and Addition.	279,419,810	149,978,194
Sub-Total: Building Capacity	*279,419,810*	*149,978,194*
C. Other Building Needs:		
Construction of Administrative Services Center II; Extension Facilities; Field Research Laboratories and Outlying Research, Phase I: Research Laboratory Space, Phase I; Hazardous Materials Facility; Partners Building V; and College of Veterinary Medicine Research Addition and Renovations, Physical Sciences Research, Genomic Sciences Research, Services Buildings at Sullivan Site and Centennial Campus.	320,532,356	43,960,952
Sub-Total: Other Building Needs	*320,532,356*	*43,960,952*
Sub-Total: Buildings	**779,553,044**	**336,321,395**
II. OTHER CAMPUS REQUIREMENTS		
A. General Campus:		
University Wayfinding and Identification Signage; Pedestrian Tunnel; Security CardAccess; and Public Safety Facility.	21,833,805	15,579,475
Sub-Total: General Campus	*21,833,805*	*15,579,475*
B. Infrastructure:		
Construction of Chilled Water Plant; Potable Water Building Backflow Preventers; College of Veterinary Medicine Indoor Air Quality Upgrade; North Campus Chiller Service; Brickyard Loop Chilled Water Extension and Cooling Tower; Infrastructure for Centennial Campus Partnership; Infrastructure for Veterinary Medicine Private/Public Partnership; and Steam Distribution and Capacity Improvements.	116,138,197	92,999,130
Technology Infrastructure Expansion	2,308,681	2,308,681
Sub-Total: Infrastructure	*118,446,878*	*95,307,811*
C. Land Acquisition:		
Acquisition of Crump Road Properties for Centennial Campus Development; Centennial Campus Entrance Property; Western Blvd. -Dan Allen Property; and Western Avenue-Advent Ferry Property.	4,600,000	2,100,000
Sub-Total: Land Acquisition	*4,600,000*	*2,100,000*
Subtotal: Other Campus Requirements	**144,880,683**	**112,987,286**
TOTAL PHASE I NEEDS RELEVANT FOR STATE FUNDS: 1999-	**924,433,727**	**449,308,681**

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

North Carolina State University

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est. $ Project Cost	Plus 5% Project Mgmt Cost	Est. Total $ Project Cost
PART I: PHASE I NEEDS: 1999-2003						
I. BUILDINGS						
A. Renovation, Modernization, & Replacements :						
Classroom/Office Space						
Bldg 67-Gardner Hall Replacement	1.06	Demolish "old" Gardner and build replacement space. Retain Gardner Addition (South Gardner), reduce square footage and $ amount.	103,500	14,490,000	724,500	15,214,500
1911 Building		Complete renovation for reallocation.		6,640,000	332,000	6,972,000
Withers Hall. Renovation.			67,500	10,933,700	546,685	11,480,385
Park Shops Renovation/Replacement		Complete renovation of facility vacated by Engineering. Reallocation of exisitn g space. Facility may be reoalced in lieu of renovations in light iof timber frame construction.		6,010,200	300,510	6,310,710
Riddick Lab Renovation		Complete renovation of facility vactaed by Engineering.		24,781,770	1,239,089	26,020,859
Bldg 56-Harrelson Hall. Renovation and modernization.	0.57		136,235	12,960,482	648,024	13,608,506
Bldg 45-Ricks Hall. Renovation and modernization	0.53		51,143	4,498,086	224,904	4,722,990
Renovations to Ricks Hall		Does not duplicate, changes for specific program.		1,500,000	75,000	1,575,000
Subtotal Classroom/Office				81,814,238	4,090,712	85,904,950
Dormitory						
HVAC Renovationsfor Six Buildings. (Kilgore, Gardner, South Gardner, Peele, DH Hill, Leazar)				2,600,000	130,000	2,730,000
Fire Suppression Upgrades		Sprinklers not part of qualitative evaluation.		4,441,600	222,080	4,663,680
Removal of Environmental Hazards		Asbestos in utility infrastructure not part of building renovations.		2,172,100	108,605	2,280,705
Bldg 127P-King Vill Beaufort. Renovation and modernization	1.06		27,438	2,954,401	147,720	3,102,121
Bldg 109-Bagwell Hall. Renovation and modernization	0.67		30,744	2,073,205	103,660	2,176,865
Subtotal Dormitory				14,241,306	712,065	14,953,371
High Intensity Laboratory						
Bldg 120-Schaub Food Science Building. Renovation and modernization.	0.40		96,303	10,014,723	500,736	10,515,459
Subtotal High Intensity Laboratory				10,014,723	500,736	10,515,459
Medium Intensity Laboratory						
Bldg. 51 Broughton Hall. Renovation and modernization.	0.83		90,422	17,881,746	894,087	18,775,833
Bldg 62-Williams Hall. Renovation and modernization.	0.68		131,579	21,252,273	1,062,614	22,314,887
Bldg 50-Polk Hall. Renovation and modernization.	0.58		103,713	14,336,219	716,811	15,053,030
Subtotal Medium Intensity Laboratory				53,470,238	2,673,512	56,143,750
Low Intensity Laboratory						
Bldg 18-Leazar Hall. Renovation and modernization.	0.56		66,206	7,962,956	398,148	8,361,104
Bldg 38-Daniels Hall, Phase I. Renovation and modernization.	0.34		133,349	7,490,000	374,500	7,864,500
Subtotal Low Intensity Laboratory				15,452,956	772,648	16,225,604

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

North Carolina State University

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est. $ Project Cost	Plus 5% Project Mgmt Cost	Est. Total $ Project Cost
Student Support Space						
East Campus Dining Hall. Renovation and modernization.				4,909,600	245,480	5,155,080
Clark Infirmary Reoccupancy, Phase I. Renovation and modernization.				2,300,000	115,000	2,415,000
Fire Safety		Sprinklers not part of qualitative quality evlauation.		7,996,300	399,815	8,396,115
Subtotal Student Support				**15,205,900**	**760,295**	**15,966,195**
Sub-Total: Renovation, Modernization, & Replacements				*190,199,361*	*9,509,968*	*199,709,329*
B. Building Capacity :						
David Clark Laboratory. Renovation and Addition		Square footage shown is for addition only	18,368	11,005,500	550,275	11,555,775
College of Engineering Complex, Phase I.		Classrooms and laboratories at Centennial Campus. $5MM currently funded.	132,000	31,244,300	1,562,215	32,806,515
College of Engineering Complex, Phase II.		Classrooms, offices, and laboratories at Centennial Campus.		44,347,770	2,217,389	46,565,159
Undergraduate Science Teaching Lab Phase 1			48,350	20,482,400	1,024,120	21,506,520
Undergraduate Science Teaching Lab Phase 2			45,000	11,616,200	580,810	12,197,010
ordan Hall Addition.		Third wing adds classrooms, lecture halls, distance learning facility.	40,000	12,907,900	645,395	13,553,295
Gymnasium			100,000	14,000,000	700,000	14,700,000
Library Space. Provides 280,400 ASF to meet additional library space requirements for enrollment growth.			431,385	67,641,116	3,382,056	71,023,172
Student Services. Provides 262,000 ASF to meet additional space requirements for enrollment growth.		Actual projects may be in several locations, phased over time.	373,653	62,773,680	3,138,684	65,912,364
Student Housing 900 beds				30,314,033	1,515,702	31,829,735
Sub-Total: Building Capacity				*306,332,899*	*15,316,645*	*321,649,544*
C. Other Building Needs:						
Administrative Services Center, II. Will provide space for administrative support activities that are currently located throughout the main academic campus. This project will play a significant role in providing for the razing of Ridick Stadium.			51,500	9,843,600	492,180	10,335,780
Extension Facilities			9,550	13,377,000	668,850	14,045,850
Field Research Laboratories and Outlying Research, Phase I.		Incorporates needs at Mtn. Horticulture Crops Station at Fletcher, NC.	98,950	5,380,737	269,037	5,649,774
Research Laboratory Space, Phase I. Provides an additional 432,000 ASF of space for research growth.		Final projects will occur at several locations and be phased in over numerous time periods.	664,616	132,923,200	6,646,160	139,569,360
Physical Sciences Research Building.		New Physical and Mathematical Sciences research facility.		47,102,000	2,355,100	49,457,100
Genomic Sciences Research Building		New facility for research.		30,769,200	1,538,460	32,307,660
Hazardous Materials Facility			42,418	5,938,473	296,924	6,235,397
Academic and Practice Facility. Study and training areas for student athletes.		Includes Case Athletic Center changes.	187,000	22,185,400	1,109,270	23,294,670

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

North Carolina State University

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	**FCQI**	**Comments**	**GSF**	**Est. $ Project Cost**	**Plus 5% Project Mgmt Cost**	**Est. Total $ Project Cost**
Central Stores Surplus Warehouse Expansion. Addition to existing warehouse		Advanced planning has been authorized as a self-liquidating project.	60,000	4,185,400	209,270	4,394,670
Carter-Finley Stadium, New Field House and North End Zone Development				19,399,700	969,985	20,369,685
Partners Building V				16,404,500	820,225	17,224,725
College of Veterinary Medicine, Research Addition and Renovations. Laboratories, conference space,			75,000	19,219,000	960,950	20,179,950
Services Building - Sullivan Site		Provides support space for facilities to completely evacuate Park Shops, Riddick Stadium.		2,957,500	147,875	3,105,375
Visitor's Center		New space to serve visitors at campus perimeter.		4,000,000	200,000	4,200,000
Services Building- Centenial Campus		New space for facilities support functions at Centennial Campus.		3,466,200	173,310	3,639,510
Arboretum Education & Visitor's Center		$2.2MM Advance planning funding already provided.		1,272,700	63,635	1,336,335
McKimmon Center Addition.				2,429,400	121,470	2,550,870
Minerals Research Lab - Asheville		Replacement of existing space which is in poor condition.		6,000,000	300,000	6,300,000
Sub-Total: Other Building Needs				*346,854,010*	*17,342,701*	*364,196,711*
Sub-Total: Buildings				**843,386,270**	**42,169,314**	**885,555,584**
II. OTHER CAMPUS REQUIREMENTS						
A. General Campus:						
Stinson Mall: Replace asphalt with wide brick pedestrain tree-lined promenade, provide for pedestrain amenities.				1,194,600	59,730	1,254,330
University Wayfinding and Identification Signage				2,119,500	105,975	2,225,475
Pedestrian Tunnel: Accessible, bicycle friendly tunnel connection North and Central Campuses:				3,000,000	150,000	3,150,000
Security Card Access: Install card control access to appropriate buildings campus wide				10,000,000	500,000	10,500,000
Public Safety Facility: Construct new Public Safety facility				4,480,000	224,000	4,704,000
Surface and Structured Parking (1750 spaces)				17,500,000	875,000	18,375,000
Sub-Total: General Campus				*38,294,100*	*1,914,705*	*40,208,805*
B. Infrastructure:						
Chilled Water Plant. Provides a central chillier plant.				11,700,000	585,000	12,285,000
Potable Water Building Backflow Preventers: Install backflow preventers at building-level campuswide				1,980,000	99,000	2,079,000
CVM Interior Air Quality: Upgrade existing service to support 100% fresh air exchange in hospital/lab areas, resolve mold/contaminant problems within the system, provide appropriate temperature and humidity control.				20,000,000	1,000,000	21,000,000

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

North Carolina State University

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	**FCQI**	**Comments**	**GSF**	**Est. $ Project Cost**	**Plus 5% Project Mgmt Cost**	**Est. Total $ Project Cost**
North Campus Chiller Service: Buildout chiller serivce to support existing facilities				28,080,000	1,404,000	29,484,000
Technology Infrastructure Expansion		UNC Technology Initiative		2,308,681	115,434	2,424,115
Technology Infrastructure Expansion		Residence Halls Share		2,728,526	136,426	2,864,952
Chilled Water and Cooling Tower (Brickyard Loop Extension)				2,775,000	138,750	2,913,750
Infrastructure for Centennial Campus Partnership. Provides roads, water & sewer, and relocation of overhead high voltage lines.				14,946,000	747,300	15,693,300
Infrastructure for Veterinary Medicine Private/Public Partnership. Provides roads, water & sewer, steam distribution, storm water mngt., etc.				6,000,000	300,000	6,300,000
Steam Distribution and Capacity Improvements. Sullivan Drive area				3,089,600	154,480	3,244,080
Centennial Campus Infrastructure. Central Chiller plant, steam plant, distribution and electrical substation upgrades to support proposed development.		Proposed phasing requires more infrastructure than shown in earlier Part IV submission.		17,000,000	850,000	17,850,000
Sub-Total: Infrastructure				*110,607,807*	*5,530,390*	*116,138,197*
C. Land Acquisition:						
Acquisition of Crump Road Properties for Centennial Campus Development				2,500,000		2,500,000
Centennial Campus Entrance Property: Acquire remaining small lots near entrance at Avent Ferry.				1,100,000		1,100,000
Western Blvd-Dan Allen: Acquire property at corner of Western Blvd.and Dan Allen.				500,000		500,000
Western Blvd-Avent Ferry: Acquire property at corner of Western Blvd and Avent Ferry to complete Avent Ferry Complex.				500,000		500,000
Sub-Total: Land Acquisition				*4,600,000*		*4,600,000*
Sub-Total: Other Campus Requirements				**153,501,907**	**7,445,095**	**160,947,002**
TOTAL PHASE I NEEDS: 1999-2003				**996,888,177**	**49,614,409**	**1,046,502,586**

THE UNIVERSITY OF NORTH CAROLINA AT ASHEVILLE

The University of North Carolina
10-Year Capital Needs/Plan
Phase I Five-Year Plan: 1999-2003 Proposed Priorities
UNC-Asheville

PROJECT NAME AND DESCRIPTION	COMMENTS	EST COST Base + 5%
New Math/Science Building. Replacement for Rhoades & Robinson science facilities.	Deficit of labs for 2003/2008 = approx. 6,000 SF. Replaces about 100,000 SF of space in Robinson & Rhoades.	22,203,195
Highsmith Center Renovation and Addition. Includes 41,400 sq. ft. of new space and renovation of 34,000 sq. ft. of the student union facility.	$3.5 mm has been appropriated for this project of $12,522,000. Student service space deficit for 2003/2008 = approx 13,000 SF. Project might be downsized to reduce new SF portion.	9,473,100
New Physical Plant Building. Replaces inadequate building built in 1963. Existing physical plant building to be demolished.		6,318,900
Bldg 2-Carmichael Hall. Renovation and modernization.		3,912,805
Bldg 20-Zaiger Hall. Renovation and modernization.		3,524,624
General Campus Improvements. Circulation, landscaping, lighting, walks, etc.		3,728,550
Technology Infrastructure Expansion	UNC Technology Initative	751,235
TOTAL UNC-Asheville		**49,912,409**

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

The University of North Carolina-Asheville

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	**FCQI**	**Comments**	**GSF**	**Est. $ Project Cost**	**Plus 5% Project Mgmt Costs**	**Est. Total $ Project Cost**
PART I: PHASE I NEEDS: 1999-2003						
I. BUILDINGS						
A. Renovation, Modernization, & Replacements:						
Classroom/Office						
Bldg 4-Phillips Hall. Renovation and modernization.	0.58	Campus might convert Phillips to student services building if administrative offices are relocated, e.g. to Robinson. Reduced VFA estimate by $210,900 per item below.	18,574	1,576,578	78,829	1,655,407
Bldg 2-Carmichael Hall. Renovation and modernization.	0.71		31,441	3,726,481	186,324	3,912,805
Bldg 20-Zaiger Hall. Renovation and modernization.	0.65		30,863	3,356,785	167,839	3,524,624
Bldg 6-Lipinsky Hall. Renovation and modernization.	0.60		38,173	3,813,279	190,664	4,003,943
Sub-Total: Classroom/Office				**12,473,123**	**623,656**	**13,096,779**
Medium Intensity Lab						
New Math/Science Building. Replacement for Rhoades & Robinson science facilities.		Deficit of labs for 2003/2008 = approx. 6,000 SF. Replaces about 100,000 SF of space in Robinson & Rhoades.	92,000	21,145,900	1,057,295	22,203,195
Bldg 21-Carol Belk Theatre. Renovation and modernization.	0.60		10,715	1,152,859	57,643	1,210,502
Sub-Total: Medium Intensity Lab				**22,298,759**	**1,114,938**	**23,413,697**
Dormitory						
Residence Hall for 100 Students. Replaces seven residence halls built before 1950.		1999 Self-Liq Bill. Includes demolition costs.		5,699,700	284,985	5,984,685
Residence Hall for 85 Students. Replaces residence halls built prior to 1960.		6-Year Self-Liq Plan. Includes demolition costs.		5,699,700	284,985	5,984,685
Sub-Total: Dormitory				**11,399,400**	**569,970**	**11,969,370**
Sub-Total: Renovations, Modernization & Replacements				*46,171,282*	*2,308,564*	*48,479,846*
B. Building Capacity :						
Highsmith Center Renovation and Addition. Includes 41,400 sq. ft. of new space and renovation of 34,000 sq. ft. of the student union facility.		$3.5 mm has been appropriated for this project of $12,522,000. Student service space deficit for 2003/2008 = approx 13,000 SF. Project might be downsized to reduce new SF portion.	41,400	9,022,000	451,100	9,473,100
Sub-Total: Building Capacity				*9,022,000*	*451,100*	*9,473,100*
C. Other Building Needs:						
North Carolina Center for Creative Retirement. Provides class, office and meeting space for lifelong learning activities.		$1.5 million in private funds secured. Balance also will be private funding.	16,800	3,471,600	173,580	3,645,180
New Physical Plant Building. Replaces inadequate building built in 1963. Existing physical plant building to be demolished.				6,018,000	300,900	6,318,900
Renovations to Warehouses				833,200	41,660	874,860
Sub-Total: Other Building Needs				*10,322,800*	*516,140*	*10,838,940*
Sub-Total: Buildings				**65,516,082**	**3,275,804**	**68,791,886**

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

The University of North Carolina-Asheville

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est. $ Project Cost	Plus 5% Project Mgmt Costs	Est. Total $ Project Cost
II. OTHER CAMPUS REQUIREMENTS						
A. General Campus:						
Outdoor Instructional and Recreational Facilities. Resurfacing, new lighting, and general renovations.				805,100	40,255	845,355
New Instuctional/Intramural Recreational Facilities. Soccer, tennis courts and other new improvements.				2,542,000	127,100	2,669,100
Repair and Resurface Sidewalks. Locations not included in specific other projects listed.				419,200	20,960	440,160
Repairs to Campus Roads, Walks and Drives. For Campus Loop Road.				900,800	45,040	945,840
Emergency Telephone System. Provides a campus-wide system for public safety.				350,000	17,500	367,500
Vehicular & Pedestrian Circulation System, Phase I. Provides additional parking structures, new bicycle paths and pedestrian walkways.				3,700,000	185,000	3,885,000
Informal Quadrangle Improvements. Provides for development of seating areas, focal points, outdoor classroom and performance space, new walkways, and additional landscaping to enhance the space				880,300	44,015	924,315
University Directional & Entrance Signage. Establishes directional signage and "front doors" for several bldgs.				375,000	18,750	393,750
Campus Perimeter Control. Provides fencing for a portion of the campus perimeter to control access to campus through wooded areas, and automatic gates to control access and increase security at the University's several entrances.				650,000	32,500	682,500
Landscaping, Sidewalks and Lighting. Provides for replacement of sidewalks, landscaping and lighting in the area between Carmichael Hall, Zaiger Hall, Belk Theatre, and Ramsey Library to improve handicap accessibility area and improve student safety.				350,000	17,500	367,500
Develop Division Street. Project will provide a new entrance to campus from Broadway/future interstate US-26 connection to the north side of campus.				950,000	47,500	997,500
New Entrance. Project will provide a new entrance to campus from W.T. Weaver Blvd.				1,250,000	62,500	1,312,500
Parking Structure for 300 Cars. To provide parking on the north side of campus.				3,300,000	165,000	3,465,000
Parking Structure for 300 Cars				4,109,100	205,455	4,314,555
Parking Structure for 200 Cars				2,444,200	122,210	2,566,410
Sub-Total: General Campus				*23,025,700*	*1,151,285*	*24,176,985*
B. Infrastructure:						
Storm Drainage System. This project replaces or provides campus storm drainage in University Heights areas where drainage is inadequate or non-existent, and where surface drainage ditches are dangerous to pedestrians. This project provides new culverts and drainage basins, roadway inlets connected to existing drainage, and repairs areas damaged by erosion caused by inadequate drainage systems.				295,000	14,750	309,750
Electrical Power Thermal Storage. Provides central thermal storage for multiple facilities.				750,000	37,500	787,500

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

The University of North Carolina-Asheville

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est. $ Project Cost	Plus 5% Project Mgmt Costs	Est. Total $ Project Cost
Replace Building Electrical Transformers. Replace unique 12,470 KVA transformers with standard 23,000 KVA units more easily replaced and maintained by utility companies and local electrical companies. Project would be phased with the replacement of the electrical underground feeders.				575,000	28,750	603,750
Renovate Campus Primary Electrical Distribution System				879,800	43,990	923,790
Technology Infrastructure Expansion		UNC Technology Initiative		715,462	35,773	751,235
Technology Infrastructure Expansion		Residence Hall Share		527,292	26,365	553,657
Sub-Total: Infrastructure				*3,742,554*	*187,128*	*3,929,682*
C. Land Acquisition:		None				
Sub-Total: Land Acquisition				*0*		*0*
Sub-Total: Other Campus Requirements				**26,768,254**	**1,338,413**	**28,106,667**
TOTAL PHASE I NEEDS: 1999-2003				**92,284,336**	**4,614,217**	**96,898,553**

THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL

The University of North Carolina
10-Year Capital Needs/Plan
Phase I Five-Year Plan: 1999-2003 Proposed Priorities
UNC-Chapel Hill

PROJECT NAME AND DESCRIPTION	TOTAL EST. PROJECT COST	RECOMMENDED ALLOCATION
I. BUILDINGS		
A. Renovation, Modernization, & Replacements :		
Classroom/Office Space		
Renovation and modernization of 13 buildings.	104,861,491	104,861,491
Laboratory Space		
Renovation and modernization of 14 buildings.	178,125,844	93,531,460
Sub-Total: Renovation, Modernization, & Replacements	*282,987,335*	*198,392,951*
B. Building Capacity :		
Construction of Multidisciplinary Environmental Studies Building; Addition to Carrington Hall - School of Nursing; Teaching Research Bldg - School of Public Health; and Interdisciplinary Physical Science Bldg.	155,299,200	87,465,000
Sub-Total: Building Capacity	*155,299,200*	*87,465,000*
C. Other Building Needs:		
Construction of Health Affairs Biomolecular Research Bldg., Phase I; Health Affairs Frank Porter Graham Child Development Center; Health Affairs Institute on Aging Bldg.; Center for Global and International Education; Digital Multimedia Instructional Center; Medical School Office Bldg. No. 1; Sports Medicine Facility; Ackland Art Museum Renovation and Expansion; Relocate Physical Plant Grounds Dept; Administration Office Bldg; Chapel Hill North; Campus Mail Center; and Physical Plant Maintenance Shops Addition.	192,513,510	48,000,000
Sub-Total: Other Building Needs	*192,513,510*	*48,000,000*
Sub-Total: Buildings	**630,800,045**	**333,857,951**
II. OTHER CAMPUS REQUIREMENTS		
A. General Campus:		
Campus Signage System	2,100,000	2,100,000
Sub-Total: General Campus	*2,100,000*	*2,100,000*
B. Infrastructure:		
Construction of Storm Drainage Replacement; Heating Line Installation; Cogeneration Facility Turbine Generator; Gilksulate Replacement; Steam Line Installation; East and South Chiller Plant Expansion; North and South Chiller Plant Replacements; Energy Management & Control System Upgrade; Campus Fiber Optics Network; Horace Williams Infrastructure, Phase I; Main Campus Infrastructure Expansion, Phase I; Chilled Water Air Conditioning Systems in Classroom Bldgs; and Coal Silo Replacement.	154,041,090	154,041,090
Technology Infrastructure Expansion	1,287,051	1,287,051
Sub-Total: Infrastructure	*155,328,141*	*155,328,141*
C. Land Acquisition:		
Land Acquisition - South Campus Expansion	8,000,000	8,000,000
Sub-Total: Land Acquisition	*8,000,000*	*8,000,000*
Subtotal: Other Campus Requirements	**165,428,141**	**165,428,141**
TOTAL PHASE I NEEDS RELEVANT FOR STATE FUNDS: 1999-2003	**796,228,186**	**499,286,092**

The University of North Carolina-Chapel Hill

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Estimated $ Project Cost	Plus 5% Cost Inflation & Project Mgmt	Est. Total $ Project Cost
PART I: PHASE I NEEDS: 1999-2003						
I. BUILDINGS						
A. Renovation, Modernization, & Replacements :						
Classroom/Office Space						
Bldg 30-Murphey. Renovation and modernization	1.38	Historic bldg	27,840	6,403,317	320,166	6,723,483
Bldg 206-Health Affairs-Medical Research. Renovation and modernization	1.34		55,047	12,281,027	614,051	12,895,078
Bldg 21-Howell. Renovation and modernization.	1.21	Historic Bldg	25,892	5,208,198	260,410	5,468,608
Bldg 35-New West Renovation and modernization	1.06	Historic Bldg	14,058	2,489,017	124,451	2,613,468
Bldg 50-Steele Renovation and modernization	1.06		18,564	3,265,354	163,268	3,428,622
Bldg 454-440 W. Franklin St. Renovation and modernization	1.05		55,287	9,685,834	484,292	10,170,126
Bldg 2-Abernethy Replacement	0.92		17,077	2,609,681	130,484	2,740,165
Bldg 43-Saunders Renovation and modernization	0.86		27,948	3,994,422	199,721	4,194,143
Bldg 214-Health Affairs - Carrington Hall Renovation and modernization	0.85		72,610	10,245,017	512,251	10,757,268
Bldg 37-Peabody Renovation and modernization	0.80		79,269	10,554,844	527,742	11,082,586
Bldg 20-Hill Hall Renovation and modernization	0.65		52,644	5,739,738	286,987	6,026,725
Bldg 45-Venable. Replacement	0.63		143,236	21,551,709	1,077,585	22,629,294
Bldg 223-Health Affairs - Health Sciences Library novation and modernization	0.40		87,283	5,839,929	291,996	6,131,925
ubtotal Classroom/Offices				99,868,087	4,993,404	104,861,491
Dormitory						
Bldg 106-Everett Renovation and modernization	1.98		18,660	3,732,134	186,607	3,918,741
Bldg 126-McIver Renovation and modernization	1.36		24,864	3,412,335	170,617	3,582,952
Bldg 125-Kenan Renovation and modernization	1.19		33,054	3,991,020	199,551	4,190,571
Bldg 129-Spencer Renovation and modernization	0.99		40,492	4,064,272	203,214	4,267,486
Bldg 121-Alderman Renovation and modernization	1.06		26,352	2,826,108	141,305	2,967,413
Bldg 130-Whitehead Renovation and modernization	0.95		23,635	2,281,130	114,057	2,395,187
Bldg 110-Lewis Renovation and modernization	0.69		18,660	1,301,332	65,067	1,366,399
Bldg 100-Alexander Renovation and modernization	0.80		23,327	1,887,037	94,352	1,981,389
Bldg 131-Winston Renovation and modernization	0.79		41,629	3,318,264	165,913	3,484,177
Bldg 124-Joyner Renovation and modernization	0.68		41,412	2,867,522	143,376	3,010,898
Bldg 122-Cobb Renovation and modernization	0.63		101,654	6,488,669	324,433	6,813,102
Bldg 116-Parker Renovation and modernization	0.65		45,224	2,954,217	147,711	3,101,928
Bldg 119-Teague Renovation and modernization	0.60		51,496	3,135,598	156,780	3,292,378
Bldg 101-Avery Renovation and modernization	0.56		64,485	3,660,858	183,043	3,843,901
Subtotal Dormitory				45,920,496	2,296,025	48,216,521
High Intensity Lab						
Bldg 46-Wilson Renovation and modernization	0.38		96,078	9,458,835	472,942	9,931,777
Bldg 10-Coker Renovation and modernization	0.39		69,549	6,454,027	322,701	6,776,728
Bldg 29-Mitchell Renovation and modernization	0.29		58,250	4,032,633	201,632	4,234,265
Institute of Marine Sciences Renovation and modernization				1,746,000	87,300	1,833,300
Bldg 209-School of Dentistry Renovation and modernization	0.84		58,414	11,742,332	587,117	12,329,449
Bldg 201-Rosennau Hall Renovation and modernization	0.62		121,352	18,037,687	901,884	18,939,571
Bldg 211-Brauer Hall Renovation and modernization	0.61		103,818	15,067,195	753,360	15,820,555
dg 229-Health Affairs - Burnett-Womack Renovation nd modernization	0.32		170,583	25,839,982	1,291,999	27,131,981
Bldg 228-Health Affairs - Brinkhous-Bullitt Renovation and modernization	0.26		116,344	14,502,794	725,140	15,227,934

The University of North Carolina-Chapel Hill

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	**FCQI**	**Comments**	**GSF**	**Estimated $ Project Cost**	**Plus 5% Cost Inflation & Project Mgmt**	**Est. Total $ Project Cost**
Bldg 219-Health Affairs - Berryhill Hall Renovation and modernization	0.20		128,372	12,193,984	609,699	12,803,683
Subtotal High Intensity Lab				**119,075,469**	**5,953,773**	**125,029,242**
Low Intensity Lab						
Memorial Hall Additions and Renovations. Provides space for a new box office, checkroom, ADA-complianat restroom facilities, a new stage, dressing rooms, a loading dock, and a storage area. Renovations include air-conditioning.		Estimated cost is $12 million, of which $1,000,000 has previously been appropriated.	32,000	11,000,000	550,000	11,550,000
Bldg 42-Playmakers Theater Renovation and modernization	1.57	Historic Bldg	6,301	1,766,872	88,344	1,855,216
Bldg 151-YMCA Renovation and modernization	1.23	Historic Bldg	12,740	2,801,320	140,066	2,941,386
Academic Facilities Renovations				35,000,000	1,750,000	36,750,000
Subtotal Low Intensity Lab				50,568,192	2,528,410	53,096,602
Sub-Total: Renovations, Modernization & Replacements				*315,432,244*	*15,771,612*	*331,203,856*
B. Building Capacity :						
Multidisciplinary Environmental Studies Bldg. Consolidates departments of Physics, Astronomy, Chemistry, and Mathematics. Includes a library, auditorium, science theaters, classrooms, computer labs, an astronomy observation deck, and storage facility.			220,000	67,000,000	3,350,000	70,350,000
Residence Halls for 1,000 Students. Several low-rise buildings of 300 to 400 students.				42,067,500	2,103,375	44,170,875
Student Family Housing for 500				50,000,000	2,500,000	52,500,000
Residence Halls for 2000 Students				84,000,000	4,200,000	88,200,000
South Campus Student Dining/Retail				14,500,000	725,000	15,225,000
Addition to Carrington Hall - School of Nursing. Expansion of teaching and research space			39,000	7,904,000	395,200	8,299,200
Teaching Research Building - School of Public Health. Construct state-of-the-art laboratory, office, and teaching space.			118,000	38,900,000	1,945,000	40,845,000
Interdisciplinary Physical Science Bldg.			80,400	34,100,000	1,705,000	35,805,000
Sub-Total: Building Capacity				*338,471,500*	*16,923,575*	*355,395,075*
C. Other Building Needs:						
Health Affairs Medical Biomolecular Research Building, Phase I. Will house basic research components and allow for the initiation and development of new programs that incorporate the tools of cellular and molecular biology.		Total cost of $64,763,500. University seeking $33,718,000 in State Funds, of which $7,000,000 has previously been appropriated. Phase II authorized by the General Assembly $30,045,500, financed from nonappropriated funds as yet not arranged.	125,000	26,718,000	1,335,900	28,053,900
Health Affairs Frank Porter Graham Child Development Center. Will support all activities of the Center, which is a multi-disciplinary center for the study of children and families.			105,000	18,470,900	923,545	19,394,445
Health Affairs-Institute on Aging Building				15,000,000	750,000	15,750,000
Center for Global and International Education				10,000,000	500,000	10,500,000
Digital Multimedia Instructional Center				12,000,000	600,000	12,600,000
Medical School Office Building No. 1. Offices and conference rooms to consolidate clinical faculty and staff.			150,000	33,677,000	1,683,850	35,360,850

The University of North Carolina-Chapel Hill

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Estimated $ Project Cost	Plus 5% Cost Inflation & Project Mgmt	Est. Total $ Project Cost
Health Affairs - Ambulatory Care Facility Addition				60,000,000	3,000,000	63,000,000
Sports Medicine Facility				15,000,000	750,000	15,750,000
North Carolina Botanical Garden Herbarium.				7,075,100	353,755	7,428,855
Ackland Art Museum Renovation and Expansion				12,000,000	600,000	12,600,000
Relocate Physical Plant Grounds Dept				2,500,000	125,000	2,625,000
Black Cultural Center		Deleted.				
Administration Office Building			60,000	7,005,200	350,260	7,355,460
Chapel Hill North			50,400	6,200,000	310,000	6,510,000
Physical Plant Campus Mail Center				2,700,000	135,000	2,835,000
Physical Plant Maintenance Shops Addition				5,000,000	250,000	5,250,000
Sub-Total: Other Building Needs				*233,346,200*	*11,667,310*	*245,013,510*
Sub-Total: Buildings				**887,249,944**	**44,362,497**	**931,612,441**
II. OTHER CAMPUS REQUIREMENTS						
A. General Campus:						
Grounds Campus Sign System: Provides comprehensive directional and identification signage.				2,000,000	100,000	2,100,000
Remote Surface Parking. (2,000 cars)				5,000,000	250,000	5,250,000
Parking Decks. (1500 cars)				34,550,000	1,727,500	36,277,500
Sub-Total: General Campus				*41,550,000*	*2,077,500*	*43,627,500*
B. Infrastructure:						
Storm Drainage Replacement. Replaces portions of the overloaded Central Campus system, which has major sections of piping network requiring replacement to meet current and future demand.				10,000,000	500,000	10,500,000
Heating Media Addition to the coal and sorbent storage and transport improvements.				2,000,000	100,000	2,100,000
Cogeneration Facility. Back pressure turbine generator.				2,500,000	125,000	2,625,000
Gilsulate Replacement: Gilsulate replacement at cogeneration facility				6,000,000	300,000	6,300,000
Heating Media: Install new 16 inch, 150 psig steam line (cogeneration to campus +/- 3,000 feet)				7,500,000	375,000	7,875,000
East Chiller Plant expansion-Phase 2: replace 2 existing 700 ton chillers with 1200 ton units				3,000,000	150,000	3,150,000
North Chiller Plant-chiller replacement: Replace chillers 1-6				8,000,000	400,000	8,400,000
South Chiller Plant Expansion-Phase 2: Install 2-2000 ton electric chillers				6,000,000	300,000	6,300,000
Upgrade Campus Energy Management & Control System (EMCS): This project will upgrade EMCS in 80 buildings on central campus.				3,507,200	175,360	3,682,560
Campus Fiber Optics Network: This project will extend fiber and wire 70 buildings on central campus				16,698,600	834,930	17,533,530
South Chiller Plant- chiller replacement: Replace chillers 1-4				5,000,000	250,000	5,250,000
Horace Williams Infrastructure, Phase I				10,000,000	500,000	10,500,000
Main Campus Infrastructure Expansion Phase I. Includes Phase I South Loop road project.				50,500,000	2,525,000	53,025,000
Chilled Water Air Conditioning Systems in Classroom Buildings				6,000,000	300,000	6,300,000
Technology Infrastructure Expansion		UNC Technology Initiative		1,225,763	61,288	1,287,051
Technology Infrastructure Expansion		Residence Hall Share		2,371,713	118,586	2,490,299

The University of North Carolina-Chapel Hill

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Estimated $ Project Cost	Plus 5% Cost Inflation & Project Mgmt	Est. Total $ Project Cost
Coal Silo Replacement				10,000,000	500,000	10,500,000
Sub-Total: Infrastructure				*150,303,276*	*7,515,164*	*157,818,440*
C. Land Acquisition:						
Land Acquisition-South Campus Expansion				8,000,000		8,000,000
Sub-Total: Land Acquisition				*8,000,000*		*8,000,000*
Sub-Total: Other Campus Requirements				199,853,276	9,592,664	209,445,940
TOTAL PHASE I NEEDS: 1999-2003				1,087,103,220	53,955,161	1,141,058,381

THE UNIVERSITY OF NORTH CAROLINA AT CHARLOTTE

The University of North Carolina
10-Year Capital Needs/Plan
Phase I Five-Year Plan: 1999-2003 Proposed Priorities
UNC-Charlotte

PROJECT NAME AND DESCRIPTION	Comments	EST COST Base + 5%
Academic Facilities-Humanities. Provides space to support Music, Dance and Theater, and other humanities departments. Includes classrooms, teaching studios, meeting rooms, offices and theater space.	Total project cost= $23,348,500 of which $13,780,000 has previously been appropriated.	10,046,925
Science and Technology Building. Provides space for departments and programs in the sciences and engineering, including the School of Information Technology and doctoral programs in Electrical Engineering, Mechanical Engineering, and Biology. Will provide classrooms, auditoriums, instructional laboratory facilities, computer laboratories, study rooms, seminar and conference space, and faculty and administrative offices.		35,707,035
Classroom and Office Building. Provides instructional space, laboratories,and academic support space to accommodate current students as well as anticipated growth. Will house several social science units and The Urban Institute.		26,102,475
College of Education Building. Includes approximately 52,000 ASF classroom, 7,000 ASF offices and 25,000 ASF labs.		24,654,476
College of Nursing and Health Professions. About 94,138 ASF.		34,125,000
Graduate Engineering Complex. About 64,000 ASF		14,700,000
Research Facility, Phase I: For interdisciplinary and doctoral programs, analytical chem. labs, env. sci., engineering, and info. tech.	No basis for EKA evaluation of this need and sizing. Could be funded from receipts, as self-liquidating, perhaps with some portion of State funds contribution, and/or downsized.	16,800,000
University Conference Center: Provides training & meeting rooms, offices, kitchen, parking for Continuing Ed. $21MM Project remainder of funds to be matching funds.	Possible private sector project and/or projected for mixed funding sources–public and private. Could consider partial funding, e.g. $5 million as "equity" with balance privately financed. Recommended for half.	10,500,000
Central Heating Plant Improvement: Upgrades and modernizes the heating plant to provide adequate capacity and compliance with air quality regulations.		2,625,000
Technology Infrastructure Expansion	Technology Initiative	3,345,507
Total UNC-Charlotte		**178,606,418**

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

The University of North Carolina - Charlotte

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est. $ Project Cost	Plus 5% Cost Inflation & Project Mgmt	Est. Total $ Project Cost
PART I : PHASE I NEEDS : 1999-2003						
I. BUILDINGS						
A. Renovation, Modernization, & Replacements						
Classroom/Office Space						
Bldg 36-Reese Administration Renovations and modernization	0.60		48,134	4,850,798	242,540	5,093,338
Bldg 3-Denny Building Renovations and modernization	0.53		33,872	2,993,532	149,677	3,143,209
Subtotal Classroom/Office				**7,844,330**	**392,217**	**8,236,547**
High Intensity Lab						
Bldg 41-Physical Sciences Renovations and modernization	0.34		103,572	9,310,562	465,528	9,776,090
Subtotal High Intensity Lab				**9,310,562**	**465,528**	**9,776,090**
Dormitory						
Fire Safety Improvements, Student Residence Halls				5,490,600	274,530	5,765,130
Residence Halls, Phase 7B: Renovations and modernization		Self-Liquidating	86,100	13,900,800	695,040	14,595,840
Residence Hall, Phase 8: Renovations and modernization		Self-Liquidating	200,000	29,970,900	1,498,545	31,469,445
Subtotal Dormitory				**49,362,300**	**2,468,115**	**51,830,415**
Student Support Services						
Cone Center: Renovation includes student govt offices, food court/cafeteria, and student lounge; larger windows; insulation; match ext. to adj. buildings; and correction of code and accessibility issues.		Advance planning in progress, self-liquidating	23,800	4,473,400	223,670	4,697,070
Subtotal Student Support Services				**4,473,400**	**223,670**	**4,697,070**
Sub-Total: Renovations, Modernization & Replacements				*70,990,592*	*3,549,530*	*74,540,122*
B. Building Capacity :						
Academic Facilities-Humanities. Provides space to support Music, Dance and Theater, and other humanities departments. Includes classrooms, teaching studios, meeting rooms, offices and theater space.		Total project cost= $23,348,500 of which $13,780,000 has previously been appropriated.	120,000	9,568,500	478,425	10,046,925
Science and Technology Building. Provides space for departments and programs in the sciences and engineering, including the School of Information Technology and doctoral programs in Electrical Engineering, Mechanical Engineering, and Biology. Will provide classrooms, auditoriums, instructional laboratory facilities, computer laboratories, study rooms, seminar and conference space, and faculty and administrative offices.			180,000	34,006,700	1,700,335	35,707,035
Classroom and Office Building. Provides instructional space, laboratories,and academic support space to accommodate current students as well as anticipated growth. Will house several social science units and The Urban Institute.			130,000	24,859,500	1,242,975	26,102,475
College of Education Building. Includes approximately 52,000 ASF classroom, 7,000 ASF offices and 25,000 ASF labs.			125,000	23,480,453	1,174,023	24,654,476
College of Nursing and Health Professions. About 94,138 ASF.			144,828	32,500,000	1,625,000	34,125,000

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

The University of North Carolina - Charlotte

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	**FCQI**	**Comments**	**GSF**	**Est. $ Project Cost**	**Plus 5% Cost Inflation & Project Mgmt**	**Est. Total $ Project Cost**
Graduate Engineering Complex. About 64,000 ASF			92,000	14,000,000	700,000	14,700,000
Barnhardt Student Activity Center Addition. Additional space for intercollegiate athletics.		Self liquidating and private funds.	29,200	5,772,800	288,640	6,061,440
Sub-Total: Building Capacity				*144,187,953*	*7,209,398*	*151,397,351*
C. Other Building Needs:						
Research Facility, Phase I: For interdisciplinary and doctoral programs, analytical chem. labs, env. sci., engineering, and info. tech.			80,000	16,000,000	800,000	16,800,000
Bookstore.		Project submitted to 1999 Legislature self liquidating	25,000	4,099,200	204,960	4,304,160
Brocker Health Center Addition and Renovation: Includes renovation of 8,900 sq.ft.as well as a 16,950 sq.ft. addition to provide space to University Counseling Center.			16,950	4,550,000	227,500	4,777,500
University Conference Center: Provides training & meeting rooms, offices, kitchen, parking for Continuing Ed.		Possible private sector project and/or projected for mixed funding sources--public and private. Could consider partial funding, as "equity" with balance privately financed.	150,000	20,000,000	1,000,000	21,000,000
Alumni Facility. Replacement of 2,800 SF existing facility to be demolished.		Private funding possibility?	3,200	890,000	44,500	934,500
Chancellor's Residence: Provides an on campus residence in the southwest quadrant of Toby Creek Rd.-Univ. Loop Rd. intersection.		Phase II?	6,200	850,000	42,500	892,500
Police/Parking Service		Phase II?	10,600	1,500,000	75,000	1,575,000
New Grounds Bldg: Provides work space, offices, restrooms, warehouse, tractor shed, and greenhouse.		Phase II?	11,000	950,000	47,500	997,500
New Receiving Warehouse: Provides warehouse, display area, and offices.		Phase II?	10,000	1,080,000	54,000	1,134,000
Physical Plant Building: Provides offices, shops, and a vehicle maintenance garage to consolidate facilities mgt. functions.		Phase II?	28,050	3,850,000	192,500	4,042,500
Sub-Total: Other Building Needs				*53,769,200*	*2,688,460*	*56,457,660*
Sub-Total: Buildings				**268,947,745**	**13,447,387**	**282,395,132**
II. OTHER CAMPUS REQUIREMENTS						
A. General Campus:						
Parking Deck 'F': Provides 800 spaces to meet current demand.		Project submitted to 1999 Legislature, self-liquidating		8,223,400	411,170	8,634,570
Parking Deck G: Provides 600 spaces for students, staff and faculty.		Self liquidating		8,297,700	414,885	8,712,585
Recreation Fields Phase 2: Expands two fields and adds two new fields.		Self liquidating		1,204,900	60,245	1,265,145
Sub-Total: General Campus				*17,726,000*	*886,300*	*18,612,300*
B. Infrastructure:						
Central Heating Plant Improvement: Upgrades and modernizes the heating plant to provide adequate capacity and compliance with air quality regulations.				2,500,000	125,000	2,625,000
Technology Infrastructure Expansion		Technology Initative		3,186,197	159,310	3,345,507
Technology Infrastructure Expansion		Residence Hall Share		2,522,284	126,114	2,648,398
Sub-Total: Infrastructure				*8,208,481*	*410,424*	*8,618,905*

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

The University of North Carolina - Charlotte

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est. $ Project Cost	Plus 5% Cost Inflation & Project Mgmt	Est. Total $ Project Cost
C. Land Acquisition:						
Sub-Total: Land Acquisition				*0*	*0*	*0*
Sub-Total: Other Campus Requirements				25,934,481	1,296,724	27,231,205
TOTAL PHASE I : NEEDS : 1999-2003				294,882,226	14,744,111	309,626,337

THE UNIVERSITY OF NORTH CAROLINA AT GREENSBORO

The University of North Carolina
10-Year Capital Needs/Plan
Phase I Five-Year Plan: 1999-2003 Proposed Priorities
UNC-Greensboro

PROJECT NAME AND DESCRIPTION	COMMENTS	EST COST Base + 5%
Science Instructional Building. Replacement for Petty Science. Provides classroom, laboratory, and office space for the Departments of Chemistry and Biology.	Total project cost of $45,933,000 of which $9,350,000 has been appropriated.	38,412,150
Roadways. Development of northeast quadrant of campus as part of 10 year master plan	Top Infrastructure Priority	6,825,000
Land Acquisition. For South Campus south of, and business properties fronting on Spring Garden St.	Urgent need.	7,350,000
Bldg 33-Brown. Renovation and modernization.	Historic Building, to remain. Minor paint and patch renovation planned for Year 2000, form R&R	6,493,859
Bldg 29-Petty Science Building. Renovation and modernization.	Renovate to keep campus character. OC-25 before current legislature.	16,272,270
Bldg 38-McIver Building. Renovation and modernization.	Evaluate for replacement. OC-25 before legislature.	21,636,510
Bldg 34-Aycock Auditorium. Renovation and modernization. Historical exterior restoration of building shell (including historical windows), as well as landscaping, lighting and egress.	Historic Building. Cost includes special needs in addition to quality criteria.	17,662,980
Bldg 31-Stone. Renovation and modernization.		8,930,354
Bldg 49-Heating Plant. Renovation, modernization, expansion of Capacity. Campus demand will exceed Central Boiler Plant capacity with the largest unit down in 2005. Adds additional "D" type package boiler with upgrades to plant auxillaries, piping and equipment. Increases backup fuel storage by 60,000 gal	Combined building renovation and equipment capacity expansion in one project.	4,851,288
Bldg 37-Forney Bldg. Renovation and modernization.	Historic Building	3,565,364
Bldg 57-McNutt Bldg. Renovation and modernization.		2,723,956
Research Space Phase I		5,250,000
4.4000 Electrical Power Electrical Distribution Upgrade, Phase IV (Circuit C): This project is Phase IV of 5 phases. It involves the recabling and upgrading of switching for the "C" Loop. Includes radial feeders to building transformers and the removal of U/G oil switches		555,919
Electrical Distribution Upgrade, Phase V (Substation and Circuit E): This project is Phase V of 5 phases. It involves the construction of a new 20 MVA substation on a new site. Includes switching, vaults, ducts and controls for a dual feed arrangement with Duke Power Co. It involves the installation of ductbanks, cable, etc.	Will be needed due to condition and new demand in Phase I.	3,535,119
McIver Chiller Plant: This project provides for the final build-out of the 6,000 ton plant. Three 1,500 ton chillers will be provided. Includes two 1,500 ton towers and associated pumps, piping, electrical and controls. Also includes CHS&R piping to buildings, valving, excavation.		8,373,750
Technology Infrastructure Expansion	UNC Technology Initiative	7,859,789
Total-UNC-Greensboro		**160,298,309**

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

The University of North Carolina - Greensboro

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est.$ Project Cost	Plus 5% Cost Inflation & Project Mgmt Cost	Est. Total $ Project Cost
PART I: PHASE I NEEDS: 1999-2003						
I. BUILDINGS						
A. Renovation, Modernization, & Replacements:						
Classroom/Office/Space						
Science Instructional Building. Replacement for Petty Science. Provides classroom, laboratory, and office space for the Departments of Chemistry and Biology.		Total project cost of $45,933,000 of which $9,350,000 has been appropriated.	171,300	36,583,000	1,829,150	38,412,150
Bldg 33-Brown. Renovation and modernization.	1.12	Historic Building, to remain. Minor paint and patch renovation planned for Year 2000, form R&R	33,262	6,184,628	309,231	6,493,859
Bldg 29-Petty Science Building. Renovation and modernization.		Renovate to keep campus character. OC-25 before current legislature.		15,497,400	774,870	16,272,270
Bldg 38-McIver Building. Renovation and modernization.		Evaluate for replacement. OC-25 before legislature.		20,606,200	1,030,310	21,636,510
Bldg 37-Forney Bldg. Renovation and modernization.	0.91	Historic Building	22,280	3,395,585	169,779	3,565,364
Bldg 49-Heating Plant. Renovation and modernization and Expansion of Capacity. Campus demand will exceed Central Boiler Plant capacity with the largest unit down in 2005. An additional "D" type package boiler will be added with upgrades to plant auxillaries, piping and equipment. Backup fuel storage will be increased by 60,000 gal	1.03	Combined building renovation and equipment capacity expansion in one project.	12,480	4,620,274	231,014	4,851,288
Bldg 57-McNutt Bldg. Renovation and modernization.	0.59		26,508	2,594,244	129,712	2,723,956
Bldg 30-320 McIver St. Replacement.	1.27	Demolition and replacement	4,530	634,200	31,710	665,910
Bldg 44-Foust Bldg. Renovation and modernization. Historical exterior restoration of of building shell (including historical windows), as well as landscaping, lighting, and egress.	1.18	On Historic Building Register.	31,100	7,923,421	396,171	8,319,592
Bldg 27-310 McIver Street. Renovation and modernization.	0.96		3,936	630,726	31,536	662,262
Bldg 32-Carmichael. Renovation and modernization.	0.81		10,100	1,355,172	67,759	1,422,931
Bldg 42-Alumni House. Renovation and modernization. Historical restoration of building shell (including historical windows), as well as landscaping, lighting, egress and slate roof.	0.80	Historic Building, to remain. Project includes special historic renovation costs, in addition to base quality renovation. Possible non-state funding?	17,888	3,483,494	174,175	3,657,669
Bldg 045A-Park Bldg. Renovation and modernization.	0.78		17,051	2,227,842	111,392	2,339,234
Sub-Total Classroom/Office				**105,736,186**	**5,286,809**	**111,022,995**
Low Intensity Lab						
Bldg 31-Stone. Renovation and modernization.	0.46		85,550	8,505,099	425,255	8,930,354
Sub-Total Low Intensity Lab				**8,505,099**	**425,255**	**8,930,354**
Medium Intensity Lab						
Bldg 63-Eberhart Bldg. Renovation and modernization.	0.68		118,946	19,157,828	957,891	20,115,719
Sub-Total Medium Intensity Lab				**19,157,828**	**957,891**	**20,115,719**
Dormitory						
Bldg 26-Mary Foust Residence Hall. Renovation and modernization.	1.89	Renovate to keep campus character.	35,205	6,724,057	336,203	7,060,260
Bldg 25-Guilford Residence Hall. Renovation and modernization.	1.85	Renovate to keep campus character.	35,205	6,590,813	329,541	6,920,354

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

The University of North Carolina - Greensboro

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	**FCQI**	**Comments**	**GSF**	**Est.$ Project Cost**	**Plus 5% Cost Inflation & Project Mgmt Cost**	**Est. Total $ Project Cost**
Bldg 41-Chancellors Residence. Renovation and modernization.	1.26		6,329	806,082	40,304	846,386
Bldg 18-Mendenhall Residence Hall. Renovation and modernization.	1.33	Renovate to keep campus character.	39,090	5,273,042	263,652	5,536,694
Bldg 17-Ragsdale Residence Hall. Renovation and modernization.	1.33	Renovate to keep campus character.	39,090	5,273,042	263,652	5,536,694
Bldg 12-Weil Residence Hall. Renovation and modernization.	1.33	Renovate to keep campus character, reduce amount by $1,150,000 due to electrical renovation currently before legislature. (2,833,600-19% / 2)	34,080	3,426,846	171,342	3,598,188
Bldg 11-Winfield Residence Hall. Renovation and modernization.	1.30	Renovate to keep campus character, reduce amount by $1,150,000 due to electrical renovation currently before legislature. (2,833,600-19% / 2)	41,280	4,297,445	214,872	4,512,317
Bldg 4-Shaw Residence Hall. Renovation and modernization.	1.30	Renovate to keep campus character.	26,550	3,479,054	173,953	3,653,007
Bldg 8-Cotten Residence Hall. Renovation and modernization.	1.18	Renovate to keep campus character.	30,990	3,698,237	184,912	3,883,149
Bldg 10-Coit Residence Hall. Renovation and modernization.	1.18	Renovate to keep campus character.	30,990	3,695,102	184,755	3,879,857
Bldg 5-Hinshaw Residence Hall. Renovation and modernization.	1.08	Renovate to keep campus character.	30,990	3,386,243	169,312	3,555,555
Bldg 7-Bailey Residence Hall. Renovation and modernization.	1.04	Renovate to keep campus character.	30,990	3,261,477	163,074	3,424,551
Bldg 9-Jamison Residence Hall. Renovation and modernization.	1.03	Renovate to keep campus character.	30,990	3,215,996	160,800	3,376,796
Bldg 6-Gray Residence Hall. Renovation and modernization.	1.01	Renovate to keep campus character.	30,990	3,180,470	159,024	3,339,494
Bldg 23-So Spencer Residence Hall. Renovation and modernization.	0.90		28,961	2,625,614	131,281	2,756,895
Sub-Total Dormitory				**58,933,520**	**2,946,676**	**61,880,196**
Student Support						
Bldg 34-Aycock Auditorium. Renovation and modernization. Historical exterior restoration of building shell (including historical windows), as well as landscaping, lighting and egress.	1.43	Historic Building. Cost includes special needs in addition to quality criteria.	57,467	16,821,886	841,094	17,662,980
Bldg 43-Faculty Center. Renovation and modernization.	1.13		4,392	888,493	44,425	932,918
Bldg 40-Elliott University Center Renovation and Addition. Renovates existing space and adds bookstore and food court.		Before current legislature.	170,700	22,000,000	1,100,000	23,100,000
Residence Hall Data Wiring. Provides full data and telephone wiring, dropped ceilings, and electrical wiring.		Reduce this project by $2,000,000 for the electrical renovation for Weil-Winfield (Buildings. Before current legislature.		2,525,000	126,250	2,651,250
High Rise Residence Hall Roof Renovation. Replacement of roof on three Buildings.		Before current legislature.	126,200	737,500	36,875	774,375
Guilford and Mary Foust Residence Halls. Provides for reroofing.		Have OC-25 for $761,400 (reduce to this amount)		761,400	38,070	799,470
Student Residence Halls. Fire Safety Improvements.		No duplications.		5,262,900	263,145	5,526,045
Sub-Total Student Support				**48,997,179**	**2,449,859**	**51,447,038**
Sub-Total: Renovations, Modernization & Replacements				*241,329,812*	*12,066,491*	*253,396,303*

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

The University of North Carolina - Greensboro

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est.$ Project Cost	Plus 5% Cost Inflation & Project Mgmt Cost	Est. Total $ Project Cost
B. Building Capacity :						
Parking Deck (800 car).		New project, results of 1999 Walker Parking Study. Parking Deck (800 car), $8,000,000. Project to be added to project list.		8,000,000	400,000	8,400,000
Sub-Total: Building Capacity				*8,000,000*	*400,000*	*8,400,000*
C. Other Building Needs:						
Research Space Phase I				5,000,000	250,000	5,250,000
Student Health Service Center Renovation		Utility connections included in cost Building 16, Gove Health.		3,446,969	172,348	3,619,317
Student Services			119,000	20,000,000	1,000,000	21,000,000
Athletics & Phys ED			125,000	21,000,000	1,050,000	22,050,000
Residential (325 beds)			81,000	8,000,000	400,000	8,400,000
Sub-Total: Other Building Needs				*57,446,969*	*2,872,348*	*60,319,317*
Sub-Total: Buildings				**306,776,781**	**15,338,839**	**322,115,620**
II. OTHER CAMPUS REQUIREMENTS						
A. General Campus:						
Roadways. Development of northeast quadrant of campus as part of 10 year master plan		Top Infrastructure Priority		6,500,000	325,000	6,825,000
Central Plaza Landscaping. Provides a landscaped plaza area on west side of Elliott University Center		Use R&R		750,000	37,500	787,500
Sub-Total: General Campus				*7,250,000*	*362,500*	*7,612,500*
B. Infrastructure:						
Central Steam Distribution System Renewal. Replaces and upgrades over 12,500 lf of distribution piping and conduit.				7,562,500	378,125	7,940,625
McIver Chiller Plant: This project provides for the final build-out of the 6,000 ton plant. Three 1,500 ton chillers will be provided. Includes two 1,500 ton towers and associated pumps, piping, electrical and controls. Also includes CHS&R piping to buildings, valving, excavation.				7,975,000	398,750	8,373,750
4.4000 Electrical Power Electrical Distribution Upgrade, Phase IV (Circuit C): This project is Phase IV of 5 phases. It involves the recabling and upgrading of switching for the "C" Loop. Includes radial feeders to building transformers and the removal of U/G oil switches				529,447	26,472	555,919
Electrical Distribution Upgrade, Phase V (Substation and Circuit E): This project is Phase V of 5 phases. It involves the construction of a new 20 MVA substation on a new site. Includes switching, vaults, ducts and controls for a dual feed arrangement with Duke Power Co. It involves the installation of ductbanks, cable,		Will be needed due to condition and new demand in Phase I.		3,366,780	168,339	3,535,119
Water distribution system-97-M021				875,000	43,750	918,750
Sewer lines-replace 97-M022				2,100,000	105,000	2,205,000
Steam system-repair 97-M020				4,560,000	228,000	4,788,000
Electrical Distribution extension to southwest quadrant				650,000	32,500	682,500
Steam Distribution extension to southwest buildings				1,150,000	57,500	1,207,500
Technology Infrastructure Expansion		UNC Technology Initiative		7,485,513	374,276	7,859,789

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

The University of North Carolina - Greensboro						
Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est.$ Project Cost	Plus 5% Cost Inflation & Project Mgmt Cost	Est. Total $ Project Cost
Technology Infrastructure Expansion		Residence Halls Share		4,382,998	219,150	4,602,148
Sub-Total: Infrastructure				*40,637,238*	*2,031,862*	*42,669,100*
C. Land Acquisition:						
Land Acquisition. For South Campus south of Spring Garden St., and business properties fronting on Spring Garden St.		Urgent need.		7,000,000		7,000,000
Land Acquisition. Purchase of properties along east side of McIver St.		Urgent need.		3,000,000		3,000,000
Sub-Total: Land Acquisition				*10,000,000*		*10,000,000*
Sub-Total: Other Campus Requirements				**57,887,238**	**2,394,362**	**60,281,600**
TOTAL PHASE I NEEDS: 1999-2003				**364,664,019**	**17,733,201**	**382,397,220**

THE UNIVERSITY OF NORTH CAROLINA AT PEMBROKE

The University of North Carolina
10-Year Capital Needs/Plan
Phase I Five-Year Plan: 1999-2003 Proposed Priorities
UNC Pembroke

PROJECT NAME AND DESCRIPTION	COMMENTS	EST COST BASE + 5%
Regional Center for Economic, Professional and Community Development. Provides research and assistance programs for businesses and entrepreneurs. Facility includes instructional rooms, conference rooms, auditoriums, offices, and dining hall.	Total cost of the project is $6,913,700, of which $2,400,000 has been provided by a federal grant and $700,000 has been previously appropriated. $3,3813,700 request listed elsewhere.	4,004,385
New Science Building: Provides modern laboratory space to replace current wet lab facilities in Bldg 7 - Oxendine Science Bldg	This project needs some further discussion for sizing and timing.	9,408,000
Chavis Center Expansion: Provides additional space for student activities and support.		3,221,400
Jones PE Building Renovation: a/c, etc. Renovations and modernization		8,925,000
Bldg 24-Business/Admin. Renovation and modernization.		2,140,762
ADA Renovations: Provides elevators in **Givens Performing Arts Center, Infirmary and Moore Hall.**		525,000
Bldg 5-Locklear. Renovation and modernization		2,464,319
Bldg 2-Moore Hall. Renovation and modernization.		2,464,661
Bldg 17-D.F. Lowery Building. Renovation and modernization.		2,680,528
Bldg 19-Jacobs Hall. Renovation and modernization.		4,155,525
Bldg 11-West Hall. Renovation and modernization.		4,961,580
Bldg 25-Belk Hall. Renovation and modernization.		3,055,985
Land Acquisition. Acquire adjacent land west of campus to assist implementation of master plan.		1,575,000
Bldg 18-Wellons Hall. Renovation and modernization.		4,323,382
Technology Infrastructure Expansion	UNC Technology Initiative	2,798,476
Total UNC Pembroke		**56,704,003**

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

UNC - Pembroke

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est. $ Project Cost	Plus 5% Cost Inflation & Project Mgmt Costs	Est. Total $ Project Cost
PART I: PHASE I NEEDS: 1999-2003						
I. BUILDINGS						
A. Renovation, Modernization, & Replacements :						
Classroom/Office Space						
Bldg 5-Locklear. Renovation and modernization	1.07		13,108	2,346,970	117,349	2,464,319
Bldg 2-Moore Hall. Renovation and modernization.	0.87		16,112	2,347,296	117,365	2,464,661
Bldg 17-D.F. Lowery Building. Renovation and modernization.	0.74		20,803	2,552,884	127,644	2,680,528
Bldg 24-Business/Admin. Renovation and modernization.	0.35		35,100	2,038,821	101,941	2,140,762
Subtotal Classroom/Office				**9,285,971**	**464,299**	**9,750,270**
Dormitory						
Bldg 18-Wellons Hall. Renovation and modernization.	2.19		18,560	4,117,507	205,875	4,323,382
Bldg 19-Jacobs Hall. Renovation and modernization.	1.59		24,584	3,957,643	197,882	4,155,525
Bldg 11-West Hall. Renovation and modernization.	1.18		39,724	4,725,314	236,266	4,961,580
Bldg 25-Belk Hall. Renovation and modernization.	0.73		39,571	2,910,462	145,523	3,055,985
Bldg 26-North Hall. Renovation and modernization.	0.30		39,571	1,194,408	59,720	1,254,128
Subtotal Dormitory				**16,905,334**	**845,267**	**17,750,601**
Low/High Intensity Labs						
New Science Building: Provides modern laboratory space to replace current wet lab facilities in Bldg 7 - Oxendine Science Bldg		UNC-P definitely needs new lab facilities. This project's sizing to be reviewed in light of the enrollment targets and the location of the building in relation to the current cience building for inclusion of classrooms and offices.	40,000	8,960,000	448,000	9,408,000
Bldg 7-Oxendine Science Bldg. Renovation and modernization.	0.60		59,227	7,650,048	382,502	8,032,550
Subtotal Low/High Intensity Lab				**16,610,048**	**830,502**	**17,440,550**
Student Support						
Infirmary. Renovation and modernization.			6,000	850,000	42,500	892,500
Jones PE Building Renovation: a/c, etc. Renovations and modernization			95,000	8,500,000	425,000	8,925,000
ADA Renovations: Provides elevators in Givens Performing Arts Center, Infirmary and Moore Hall.			6,000	500,000	25,000	525,000
Subtotal Student Support				**9,850,000**	**492,500**	**10,342,500**
Support Facilities						
Physical Plant Facility. Renovate for Central Stores relocation.			8,000	640,000	32,000	672,000
Subtotal Support Facilities				**640,000**	**32,000**	**672,000**
Sub-Total: Renovations, Modernization & Replacements				*53,291,353*	*2,664,568*	*55,955,921*
B. Building Capacity :						
Residential Facility (250 beds)			62,500	5,950,000	297,500	6,247,500
Sub-Total: Building Capacity				*5,950,000*	*297,500*	*6,247,500*
C. Other Building Needs:						

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

UNC - Pembroke

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est. $ Project Cost	Plus 5% Cost Inflation & Project Mgmt Costs	Est. Total $ Project Cost
Regional Center for Economic, Professional and Community Development. Provides research and assistance programs for businesses and entrepreneurs. Facility includes instructional rooms, conference rooms, auditoriums, offices, and dining hall.		Total cost of the project is $6,913,700, of which $2,400,000 has been provided by a federal grant and $700,000 has been previously appropriated. $3,3813,700 request listed elsewhere.	40,000	3,813,700	190,685	4,004,385
Peforming Arts Center: additional theatre and studio space			20,000	3,000,000	150,000	3,150,000
Chavis Center Expansion: Provides additional space for student activities andsupport.			16,000	3,068,000	153,400	3,221,400
New Campus Bookstore			24,000	2,880,000	144,000	3,024,000
New Softball Complex: Includes fields, bleachers, restrooms, and lighting.				1,400,000	70,000	1,470,000
WNCP TV Enhancements: Provides full PBS capability				5,180,000	259,000	5,439,000
Sub-Total: Other Building Needs				*19,341,700*	*967,085*	*20,308,785*
Sub-Total: Buildings				**78,583,053**	**3,929,153**	**82,512,206**
II. OTHER CAMPUS REQUIREMENTS						
A. General Campus:						
Campus Entrance and Parking Upgrade: Project will move the main campus entrance and alter fundamental circulation.				1,440,000	72,000	1,512,000
Pedestrian Mall. Project will close Faculty Row Road and create Pedestrian Mall.				1,841,000	92,050	1,933,050
Campus Lighting: Provides new lighting center and upgrades exterior lighting.				900,000	45,000	945,000
New Parking Lots: grade and pave old athletic fields for parking				1,200,000	60,000	1,260,000
Sub-Total: General Campus				*5,381,000*	*269,050*	*5,650,050*
B. Infrastructure:						
Campus Water Distribution Upgrades: Project will install new 10" water mains, and provide looped system				500,000	25,000	525,000
Primary Electrical Distribution Upgrade: Replace aging primary distribution cable				900,000	45,000	945,000
Technology Infrastructure Expansion		UNC Technology Initiative		2,665,215	133,261	2,798,476
Technology Infrastructure Expansion		Residence Halls Share		1,014,395	50,720	1,065,115
Sub-Total: Infrastructure				*5,079,610*	*253,981*	*5,333,591*
C. Land Acquisition:						
Land Acquisition. Acquire adjacent land west of campus to assist implementation of master plan.				1,500,000		1,500,000
Sub-Total: Land Acquisition				*1,500,000*		*1,500,000*
Sub-Total: Other Campus Requirements				**11,960,610**	**523,031**	**12,483,641**
TOTAL PHASE I NEEDS: 1999-2003				**90,543,663**	**4,452,183**	**94,995,846**

THE UNIVERSITY OF NORTH CAROLINA AT WILMINGTON

The University of North Carolina
10-Year Capital Needs/Plan
Phase I Five-Year Plan: 1999-2003 Proposed Priorities
UNC-Wilmington

PROJECT NAME AND DESCRIPTION	COMMENTS	EST COST Base + 5%
School of Education Building.	Total project cost of $16,739,400, of which $1,775,000 has been provided by the General Assembly.	17,576,370
Fine Arts Building/Concert Hall. Will house the Departments of Visual Arts, Theater and Dance, Music, and Speech Communications. Now includes City of Wilmington's Concert Hall, with City partnership for funding.	Project total revised due to new, special circumstance. As of June 1, UNC-W has an agreemtn with the City of Wilmington that the project will include a Concert Hall that would have been built elsewhere. New project total is $56,700,000. UNC-W's revised portion is $25,000,000. City/private funding will provide the balance.	26,250,000
General Classroom Building. Will provide general undergraduate and graduate instructional needs, as well as student and faculty research needs.		12,646,935
Bldg 61-Arnold K King Hall. Renovation and modernization.		2,697,442
Bldg 21-Hoggard Hall. Renovation and modernization.		3,550,430
Bldg 41-Alderman Admin. Renovation and modernization.		2,940,843
Bldg 131-Westside Hall. Renovation and modernization.		2,687,347
Bldg 31-Kenan Hall. Renovation and modernization.		3,056,633
Bldg 42-Hinton James Hall. Renovation and modernization.		1,843,981
Bldg 141-Main Lab-Office-CMSR		1,630,327
Bldg 51-Deloach Hall. Renovation and modernization.		5,193,585
Bldg 52-Friday Hall. Renovation and modernization.		7,693,351
Bldg 32-S G Kenan Auditorium. Renovation and modernization.		3,095,303
Marine Sciences Research Center Operations Facility. Provides space for servicing, repairing, and outfitting research vessels.		1,929,585
Computing Center		1,512,000
Print Shop		672,000
Warehouse Expansion		1,890,000
Aquire Property for Expansion of Marine Science Center		1,890,000
Acquire Property to Accommodate Visitors Center		315,000
Sprinkler Systems, Hoggard, Trask & Nixon		823,620
Miscellaneous HVAC Projects		1,027,320
Miscellaneous Electrical Projects		676,305
Facility Improvements for Energy Efficiency		747,390
Primary Electrical Distribution System. Replacement of equipment and feeders.		1,039,373
Storm Drainage Improvements. Close campus main drainage ditch from University Union to University Suites.		743,185
Primary Electrical Distribution System Improvements		1,198,785
Technology Infrastructure Expansion	UNC Technology Initiative	2,948,927
Total UNC-Wilmington		**108,276,036**

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

The University of North Carolina - Wilmington

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est. $ Project Cost	Plus 5% Cost Inflation & Project Mgmt	Total Est. $ Project Cost
PART I: PHASE I NEEDS: 1999-2003						
I. BUILDINGS						
A. Renovation, Modernization, & Replacements :						
Classroom/Office						
Bldg 61-Arnold K King Hall. Renovation and modernization.	0.69		22,296	2,568,992	128,450	2,697,442
Bldg 21-Hoggard Hall. Renovation and modernization.	0.66		30,600	3,381,362	169,068	3,550,430
Bldg 41-Alderman Admin. Renovation and modernization.	0.64		26,120	2,800,803	140,040	2,940,843
Bldg 131-Westside Hall. Renovation and modernization.	0.64		24,000	2,559,378	127,969	2,687,347
Bldg 31-Kenan Hall. Renovation and modernization.	0.64		27,300	2,911,079	145,554	3,056,633
Bldg 42-Hinton James Hall. Renovation and modernization.	0.62		17,000	1,756,172	87,809	1,843,981
Sprinkler Systems, Hoggard, Trask & Nixon				784,400	39,220	823,620
Miscellaneous HVAC Projects				978,400	48,920	1,027,320
Miscellaneous Electrical Projects				644,100	32,205	676,305
Facility Improvements for Energy Efficiency				711,800	35,590	747,390
Replacement of Auditorium Seating				645,800	32,290	678,090
Sub-Total Classroom/Office				**19,742,286**	**987,114**	**20,729,400**
Low Intensity Lab						
Bldg 141-Main Lab-Office-CMSR	0.81		9,000	1,552,692	77,635	1,630,327
Sub-Total Low Intensity Lab				**1,552,692**	**77,635**	**1,630,327**
Medium Intensity Lab						
Bldg 51-Deloach Hall. Renovation and modernization.	0.53		39,327	4,946,271	247,314	5,193,585
Bldg 52-Friday Hall. Renovation and modernization.	0.53		58,541	7,327,001	366,350	7,693,351
Sub-Total Medium Intensity Lab				**12,273,272**	**613,664**	**12,886,936**
Student Support						
Bldg 32-S G Kenan Auditorium. Renovation and modernization.	0.71		23,258	2,947,908	147,395	3,095,303
Sub-Total Student Support				**2,947,908**	**147,395**	**3,095,303**
Sub-Total: Renovation, Modernization & Replacements				*36,516,158*	*1,825,808*	*38,341,966*
B. Building Capacity						
School of Education Building.		Total project cost of $16,739,400, of which $1,775,000 has been provided by the General Assembly.	80,000	16,739,400	836,970	17,576,370
Fine Arts Building. Will house the Departments of Visual Arts, Theater and Dance, Music, and Speech Communications. With addition of City of Wilmington's requested Concert Hall.		Project total revised due to new, special circumstance. As of June 1, UNC-W has an agreemtn with the City of Wilmington that the project will include a Concert Hall that would have been built elsewhere. New project total is $56,700,000. UNC-W's revised portion is $25,000,000. City/private funding will provide the balance.	78,000	25,000,000	1,250,000	26,250,000
General Classroom Building. Will provide general undergraduate and graduate instructional needs, as well as student and faculty research needs.			60,000	12,044,700	602,235	12,646,935
200-Student Residence Hall			51,500	16,051,800	802,590	16,854,390
200-Student Residence Hall			51,500	8,043,900	402,195	8,446,095
200-Student Residence Hall			51,500	8,050,000	402,500	8,452,500
200-Student Residence Hall			51,500	8,050,000	402,500	8,452,500

The University of North Carolina - Wilmington

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	**FCQI**	**Comments**	**GSF**	**Est. $ Project Cost**	**Plus 5% Cost Inflation & Project Mgmt**	**Total Est. $ Project Cost**
200-Student Residence Hall			51,500	8,043,900	402,195	8,446,095
Student Services Space. Required to meet space needs for enrollment growth.			82,941	13,934,000	696,700	14,630,700
Athletics and Phys. Ed. Space. Required to meet space needs for enrollment growth.			95,217	15,996,000	799,800	16,795,800
Sub-Total: Building Capacity				*131,953,700*	*6,597,685*	*138,551,385*
C. Other Building Needs:						
Warehouse Expansion			20,000	1,800,000	90,000	1,890,000
Computing Center			8,000	1,440,000	72,000	1,512,000
Print Shop			5,000	640,000	32,000	672,000
Marine Sciences Research Center Operations Facility. Provides space for servicing, repairing, and outfitting research vessels.			8,200	1,837,700	91,885	1,929,585
Athletic Field Restroom Facility. Provides centrally-located facilities to serve intramural fields, soccer field, Boseman Field and Greene Track			6,000	793,000	39,650	832,650
Covered Storage. Provides a protected storage area to accommodate warehousing of operating stores			15,000	600,000	30,000	630,000
Sub-Total: Other Building Needs				*7,110,700*	*355,535*	*7,466,235*
Sub-Total: Buildings				**175,580,558**	**8,779,028**	**184,359,586**
II. OTHER CAMPUS REQUIREMENTS						
A. General Campus:						
Parking Deck-600 cars				6,780,000	339,000	7,119,000
Parking Deck-600 cars				6,780,000	339,000	7,119,000
Road and Sidewalk Expansion				1,810,000	90,500	1,900,500
Sub-Total: General Campus				*15,370,000*	*768,500*	*16,138,500*
B. Infrastructure						
Primary Electrical Distribution System. Replacement of equipment and feeders.				989,879	49,494	1,039,373
Storm Drainage Improvements. Close campus main drainage ditch from University Union to University Suites.				707,795	35,390	743,185
Primary Electrical Distribution System Improvements				1,141,700	57,085	1,198,785
Underground Storage Tank Removal				753,800	37,690	791,490
Expand Water Distribution System				750,000	37,500	787,500
Expand Fiber Optics Distribution System				2,800,000	140,000	2,940,000
Telecommuncation System Expansion				1,900,000	95,000	1,995,000
Sewage Pumping Station				685,000	34,250	719,250
Technology Infrastructure Expansion		UNC Technology Initiative		2,808,502	140,425	2,948,927
Technology Infrastructure Expansion		Residence Halls Share		1,806,592	90,330	1,896,922
Sub-Total: Infrastructure				*14,343,268*	*717,163*	*15,060,431*
C. Land Acquisition:						
Aquire Property for Expansion of Marine Science Center				1,800,000		1,800,000
Acquire Property to Accommodate Visitors Center				300,000		300,000
Sub-Total: Land Acquisition				*2,100,000*		*2,100,000*
Sub-Total: Other Campus Requirements				**31,813,268**	**1,485,663**	**33,298,931**

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

The University of North Carolina - Wilmington

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est. $ Project Cost	Plus 5% Cost Inflation & Project Mgmt	Total Est. $ Project Cost
TOTAL PHASE I NEEDS: 1999-2003				207,393,826	10,264,691	217,658,517

WESTERN CAROLINA UNIVERSITY

The University of North Carolina
10-Year Capital Needs/Plan
Phase I Five-Year Plan: 1999-2003 Proposed Priorities
Western Carolina University

PROJECT NAME AND DESCRIPTION	COMMENTS	EST COST BASE + 5%
Fine and Performing Arts Center.	$4.5 mm appropriated of total $29 mm requirement	25,805,745
Bldg 10-Stillwell. Renovation and modernization		15,057,541
Bldg 13-McKee		5,289,690
Bird Building. Renovation for new space for Student Health Center		1,836,450
Living-Learning Center. The Student Health Center will be renovated and converted to a residence hall and a 5000 sf addition will house the learning part of the facility.		1,887,113
Land Acquisition: Purchase of adjacent properties for protection from incompatible private development and space for future expansion (construction).		3,618,000
Bldg. 15-Breese. Renovation and modernization		1,161,332
Vehicular Traffic Relocation to perimeter		4,989,600
Indoor Recreation Facility. Tennis, jogging, volleyball, etc. in winter	Self-liquidating. Asking for 60% GF funding and rest to be self-liquidating. Total project = $10MM+	6,306,300
Bldg 47-Hinds University Center. Addition	Self-liquidating. Asking for 60% GF funding and rest to be self-liquidating.	4,158,000
New Single Unit Housing. Provides 300 beds in suites serving four students around shared living and bath space.	Proposed for state funding, as critical to enrollment growth strategies for WCU.	13,308,750
Chiller Replacement and CFC Retrofit		1,418,655
Replace deteriorated steam and condensate lines. HVAC 97-M012-		3,937,500
Upgrade Overhead Electrical Distribution System		883,995
Convert central campus to pedestrian only, corridor to link old and new campuses, link Ramsey Center to rest of campus, 2 entrance improvements.		1,386,000
Perimeter Parking Lots: see above		1,039,500
Steam Plant Improvements, Phase III		644,595
Automated Energy Management System Enhancements		700,455
Technology Infrastructure Expansion	UNC Technology Initiative. WCU may want to change to $5.9MM	5,018,607
Total Western Carolina University		**98,447,827**

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

Western Carolina University

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est. $ Project Cost	Plus 5% Project Mgmt Costs	Est. Total $ Project Cost
PART I: PHASE I NEEDS: 1999-2003						
I. BUILDINGS						
A. Renovation, Modernization, & Replacements :						
Classroom/Office Space		Threshold not met				
Bldg 13-McKee	0.65		49,559	5,037,800	251,890	5,289,690
Subtotal Classroom/Office				**5,037,800**	**251,890**	**5,289,690**
Dormitory						
Bldg 57-Harrill Residence. Renovation and modernization	0.72		71,072	5,179,289	258,964	5,438,253
Bldg 58-Walker Residence. Renovation and modernization	0.72		71,160	5,184,726	259,236	5,443,962
Bldg 8-Leatherwood. Renovation and modernization	0.63		80,144	5,144,512	257,226	5,401,738
Bldg 49-Scott Dormitory. Renovation and modernization	0.63		141,790	9,013,581	450,679	9,464,260
Bldg 7-Helder. Renovation and modernization	0.60		80,144	4,897,547	244,877	5,142,424
Subtotal Dormitory				**29,419,655**	**1,470,983**	**30,890,638**
Low Intensity Laboratory						
Bldg 10-Stillwell. Renovation and modernization	0.63		106,884	14,340,515	717,026	15,057,541
Subtotal Low Intensity Laboratory				**14,340,515**	**717,026**	**15,057,541**
Medium Intensity Laboratory						
Bldg 62-Natural Science Bldg. Renovation and modernization	0.50		73,273	8,684,740	434,237	9,118,977
Subtotal Medium Intensity Laboratory				**8,684,740**	**434,237**	**9,118,977**
Student Support Space						
Bird Building. Renovation for new space for Student Health Center				1,749,000	87,450	1,836,450
Living-Learning Center. The Student Health Center will be renovated and converted to a residence hall and a 5000 sf addition will house the learning part of the facility.			14,378	1,797,250	89,863	1,887,113
N.C. Center for Advancement of Teaching. Roof Replacements and Repairs				1,138,900	56,945	1,195,845
Bldg. 15-Breese. Renovation and modernization	0.30		20,526	1,106,030	55,302	1,161,332
Subtotal Student Support				**5,791,180**	**289,559**	**6,080,739**
Other						
Correct ADA Deficiencies, Phase I				828,500	41,425	869,925
Chiller Replacement/CFC Retrofit				1,351,100	67,555	1,418,655
Subtotal Other				**2,179,600**	**108,980**	**2,288,580**
Sub-Total: Renovations, Modernization & Replacements				*65,453,490*	*3,272,675*	*68,726,165*
B. Building Capacity :						
Bldg 47-Hinds University Center. Addition		Propose 60% state funds and balance as self-liquidating. Important for enrollment growth initiative.	44,300	6,600,000	330,000	6,930,000
Housing for Students with Families. (20 Apts.)		Self-liquidating.		1,476,300	73,815	1,550,115
New Single Unit Housing. Provides 300 beds in suites serving four students around shared living and bath space.		Propose state funding, as WCU has crisis with dorms needed for enrollment growth strategies.	96,300	12,675,000	633,750	13,308,750
New Single Student Housing. (250 Bed)		Self-liquidating.	80,000	10,529,600	526,480	11,056,080
New Single Student Housing. (250 Bed)		Self-liquidating.	80,000	10,529,600	526,480	11,056,080
New Single Student Housing. (250 Bed)		Self-liquidating.	80,000	10,529,600	526,480	11,056,080
Sub-Total: Building Capacity				*52,340,100*	*2,617,005*	*54,957,105*
C. Other Building Needs:						

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

Western Carolina University

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	**FCQI**	**Comments**	**GSF**	**Est. $ Project Cost**	**Plus 5% Project Mgmt Costs**	**Est. Total $ Project Cost**
Fine and Performing Arts Center.		$4.5 mm appropriated of total $29 mm requirement		24,576,900	1,228,845	25,805,745
Intramural Fields. 4 soccer, 1 softball-to meet increasing demands and future capacity				2,250,000	112,500	2,362,500
Indoor Recreation Facility. Tennis, jogging, volleyball, etc. in winter		Propose 60% state funds and balance as self-liquidating. Important for enrollment growth initiative.	65,000	10,010,000	500,500	10,510,500
Sub-Total: Other Building Needs				*36,836,900*	*1,841,845*	*38,678,745*
Sub-Total: Buildings				**154,630,490**	**7,731,525**	**162,362,015**
II. OTHER CAMPUS REQUIREMENTS						
A. General Campus:						
Renovate Physical Education Track Facility				814,900	40,745	855,645
Convert central campus to pedestrian only. Corridor to link old and new campuses, link Ramsey Center to rest of campus, 2 entrance improvements.				1,320,000	66,000	1,386,000
Landscaping. Enhance beauty of campus				1,000,000	50,000	1,050,000
Perimeter Parking Lots. See above				990,000	49,500	1,039,500
Vehicular Traffic Relocation. To penmeter				4,752,000	237,600	4,989,600
Sub-Total: General Campus				*8,876,900*	*443,845*	*9,320,745*
B. Infrastructure:						
Central Chiller Plant & distribution system				35,000,000	1,750,000	36,750,000
Chiller Replacement and CFC Retrofit		This is alternate, small-scale project, if total new chiller plant is not fundable.		1,418,655	70,933	1,489,588
Replace deteriorated steam and condensate lines. HVAC 97-M012-				3,750,000	187,500	3,937,500
Steam Plant Improvements, Phase III		From R&R. Review if duplicated with Steam Plant replacement project.		613,900	30,695	644,595
Electrical Power Upgrades. 97-E013-upgrade residential resale power distribution				3,212,000	160,600	3,372,600
Upgrade Overhead Electrical Distribution System				841,900	42,095	883,995
Automated Energy Management System Enhancements				667,100	33,355	700,455
Technology Infrastructure Expansion		UNC Technology Initiative		4,779,626	238,981	5,018,607
Technology Infrastructure Expansion		Residence Halls Share		2,594,999	129,750	2,724,749
Sub-Total: Infrastructure				*52,878,180*	*2,643,909*	*55,522,089*
C. Land Acquisition:						
Land Acquisition. Purchase of adjacent properties for protection from incompatible private development and space for future expansion (construction).				3,618,000		3,618,000
Sub-Total: Land Acquisition				*3,618,000*		*3,618,000*
Sub-Total: Other Campus Requirements				**65,373,080**	**3,087,754**	**68,460,834**
TOTAL PHASE I NEEDS: 1999-2003				**220,003,570**	**10,819,279**	**230,822,849**

WINSTON-SALEM STATE UNIVERSITY

The University of North Carolina
10-Year Capital Needs/Plan
Phase I Five-Year Plan: 1999-2003 Proposed Priorities
Winston-Salem State University

PROJECT NAME AND DESCRIPTION	COMMENTS	EST COST Base + 5%
Computer Science Facility. Will consolidate computer science activities currently housed in 3 separate buildings. The existing facility is is not large enough to support this quickly growing program, which is crucial to the University's overall growth. Further, the renovations required to support this level of new technology would greatly challenge the integrity of Carolina Hall, which is a 1925 structure.	Project is recommended because WSSU has been willing to forego other new facility requests. May be useful to do another review of potential for accommodation in an existing facility. If not feasible, then should be funded as new facility.	5,748,330
New Physical and Life Sciences Building-Phase I. Replacement facility for Hill Hall, with FCQI of 1.39. New classroom, laboratory, and office building for use by the departments of Physical Sciences and Life Sciences.	Project needed as replacement facility for life sciences and physical sciences programs since Hill Hall is requested to be demolished (See Hill Hall demolition in Phase II).	12,109,545
Bldg 37-Anderson School Building. Renovation and modernization and change of use. To renovate approximately 20,000 SF of space for the new need--Early Childhood/Gerontology Program.	WSSU has agreed to renovate Anderson for this new need instead of requesting a new facility.	6,917,905
Health Center Building and Bldg 10-Old Nursing Building. Renovation and modernization and re-use for new need. Renovate the Old Health Center and the connecting second floor of the Old Nursing Building to provide an adequate expanded and updated Health Center facility for this campus population and required related functions. SACS accreditation will be difficult to obtain without due to lack of existing facility.	WSSU has agreed to this combined renovation instead of requesting a new Health Center facility. This is combined estimate for Old Health Center and Old Nursing.	2,265,865
Bldg 1-Carolina Hall. Renovation and modernization.	Renovate facility for existing Mathematics program and relocate academic support services from Hauser building to this facility	4,270,688
Bldg 28-Hauser Union. Renovation and modernization and change of use. To house the Diggs Art Gallery, so that space can be freed up in Library.	WSSU has agreed to renovate Hauser to house the Diggs Art Gallery instead of requesting a new facility.	3,895,461
Bldg 16-Pegram Hall. Renovation and modernization.	Campus landmark. Renovate even though FCQI is high.	2,287,613
General Campus Improvements: Grounds, berms, pedestrian mall, recreation, etc.- Phase 1		3,104,640
Technology Infrastucture Expansion	UNC Technology Initiative	1,676,127
Total Winston-Salem State University		**42,276,174**

Winston Salem State University						
Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQI	Comments	GSF	Est $ Project Cost	Plus 5% Cost Inflation and Project Mgmt	Est. Total $ Project Cost
PART I: PHASE I NEEDS: 1999-2003						
I. BUILDINGS						
A. Renovation, Modernization, & Replacements:						
Classroom/Office Space						
Bldg 1-Carolina Hall. Renovation and modernization.	0.94	Renovate facility for existing Mathematics program and relocate academic support services from Hauser building to this facility	26,106	4,067,322	203,366	4,270,688
Bldg 3-Eller Hall. Renovation and modernization.	0.93		14,432	2,245,841	112,292	2,358,133
Bldg 13-Blair Administration. Renovation and modernization.	0.81		22,704	3,064,324	153,216	3,217,540
Bldg 37-Anderson School Building. Renovation and modernization and change of use. To renovate approximately 20,000 SF of space for the new need--Early Childhood/Gerontology Program.	0.33	WSSU has agreed to renovate Anderson for this new need instead of requesting a new facility.	91,213	6,588,481	329,424	6,917,905
Subtotal Classroom/Office				**15,965,968**	**798,298**	**16,764,266**
Dormitory						
Bldg 16-Pegram Hall. Renovation and modernization.	1.10	Campus landmark. Renovate even though FCQI is high.	19,650	2,178,679	108,934	2,287,613
Bldg 14-Brown Hall. Renovation and modernization.	0.61		50,234	3,104,352	155,218	3,259,570
Subtotal Dormitory				**5,283,031**	**264,152**	**5,547,183**
Medium Intensity Lab						
New Physical and Life Sciences Building-Phase I. Replacement facility for Hill Hall, with FCQI of 1.39. New classroom, laboratory, and office building for use by the departments of Physical Sciences and Life Sciences.		Project needed as replacement facility for life sciences and physical sciences programs since Hill Hall is requested to be demolished (See Hill Hall demolition in Phase II).	61,631	11,532,900	576,645	12,109,545
Subtotal Medium Intensity Lab				**11,532,900**	**576,645**	**12,109,545**
Student Support Space						
Health Center Building and Bldg 10-Old Nursing Building. Renovation and modernization and re-use for new need. Renovate the Old Health Center and the connecting second floor of the Old Nursing Building to provide an adequate expanded and updated Health Center facility for this campus population and required related functions. SACS accreditation will be difficult to obtain without due to lack of existing facility.	0.57	WSSU has agreed to this combined renovation instead of requesting a new Health Center facility. This is combined estimate for Old Health Center and Old Nursing.		2,157,967	107,898	2,265,865
Bldg 28-Hauser Union. Renovation and modernization and change of use. To house the Diggs Art Gallery, so that space can be freed up in Library.	0.40	WSSU has agreed to renovate Hauser to house the Diggs Art Gallery instead of requesting a new facility.	27,150	3,709,963	185,498	3,895,461
Subtotal Student Support				**5,867,930**	**293,397**	**6,161,327**
Sub-Total: Renovations, Modernization & Replacements				*38,649,829*	*1,932,491*	*40,582,320*
B. Building Capacity :						
Residential Facilities (220 beds)		Self-liquidating	55,000	5,236,000	261,800	5,497,800
Sub-Total: Building Capacity				*5,236,000*	*261,800*	*5,497,800*

Winston Salem State University

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	**FCQI**	**Comments**	**GSF**	**Est $ Project Cost**	**Plus 5% Cost Inflation and Project Mgmt**	**Est. Total $ Project Cost**
C. Other Building Needs:		None				
Computer Science Facility. Will consolidate computer science activities currently housed in 3 separate buildings. The existing facility is is not large enough to support this quickly growing program, which is crucial to the University's overall growth. Further, the renovations required to support this level of new technology would greatly challenge the integrity of Carolina Hall, which is a 1925 structure.		Project is recommended because WSSU has been willing to forego other new facility requests. May be useful to do another review of potential for accommodation in an existing facility. If not feasible, then should be funded as new facility.	40,000	5,474,600	273,730	5,748,330
Sub-Total: Other Building Needs				*5,474,600*	*273,730*	*5,748,330*
Sub-Total: Buildings				**49,360,429**	**2,468,021**	**51,828,450**
II. OTHER CAMPUS REQUIREMENTS						
A. General Campus:						
Grounds Buffers & Berms: Enhance visual curb appeal of the campus by concealling parking lots, mechanical equipt., dumpsters etc.				875,000	43,750	918,750
Grounds Campus Pedestrian Mall: Construction of pedestrian walkways, malls, and roads in accord with the University Master Plan. WSSU Clock Tower & Gardens: Create a focal point for the university within the proposed outdoor mall. Flowerbeds & brick paved areas would also be included.				2,956,800	147,840	3,104,640
Roadways Wilson & Atkins Halls Pedestrian Passageway: Construct two underground passage tunnels for pedestrian traffic from main campus to Wilson Dorm & Atkins Hall.				3,450,000	172,500	3,622,500
Support Facilities Recreational & Athletic Fields Improvements: Existing track, tennis, baseball, and practice fields need resurfacing and/or upgrading to meet current NCAA guidelines.				1,200,000	60,000	1,260,000
Sub-Total: General Campus				*8,481,800*	*424,090*	*8,905,890*
B. Infrastructure:						
Upgrade Underground Steam Piping. Replace underground hot water piping to eight buildings				1,190,000	59,500	1,249,500
Chilled Water Loop System. Installation of a PVC chilled water loop system to serve nine buildings				414,290	20,715	435,005
Technology Infrastucture Expansion		UNC Technology Initiative		1,596,311	79,816	1,676,127
Technology Infrastucture Expansion		Residence Halls Share		874,306	43,715	918,021
Sub-Total: Infrastructure				*4,074,907*	*203,745*	*4,278,652*
C. Land Acquisition:		None				
Sub-Total: Land Acquisition				*0*	*0*	*0*
Sub-Total: Other Campus Requirements				**12,556,707**	**627,835**	**13,184,542**
TOTAL PHASE I NEEDS: 1999-2003				**61,917,136**	**3,095,857**	**65,012,993**

CENTER FOR PUBLIC TELEVISION
N.C. SCHOOL OF SCIENCE AND MATHEMATICS
SPECIAL PURPOSE PROJECTS
GA/JOINT PROJECTS

The University of North Carolina
10-Year Capital Needs/Plan
Phase I Five-Year Plan: 1999-2003 Proposed Priorities
UNC-TV, NCSSM, Special Purpose Projects, and GA/Joint Projects

PROJECT NAME AND DESCRIPTION	COMMENTS	EST COST Base + 5%
UNC-TV, NCSSM, Special Purpose Projects		
Conversion to Digital TV. Phase 1	Mandate to complete by 2003.	64,995,000
Mobile Satellite Uplink		895,545
Renovation of Bryan Center. Renovation of 1954 former hospital facility to replace HVAC & systems and to create renovated space for Student Services Dept & recreation; offices, labs, and classrooms for the Physics Dept.		3,172,575
Renovation of Royall Outreach Center (Wyche House). General renovation of the interior of an 81-yr old, 17,000 SF former nurse's dormitory, to convert into a residence hall for 36 students. Includes site work, creation of student commons area.		1,990,380
NC Arboretum. Five projects for continued orderly development-listed following in priority order:	Fund approximately half of $16,630 in Phase 1 and half in Phase 2. Selection here made arbitrarily. Arboretum could	
Maintenance & Operations Facility		1,541,295
Entrance Gates and Gatehouses		785,610
Main Entrance Road Utility & Landscape Development		2,259,180
Demonstration Greenhouse		3,776,325
Bus Parking		969,255
NC Botanical Gardens. Herbarium Research Building-Research facility for plant research, including a reception hall	$350,000 in planning funds appropriated in 1997, toward total project cost of	7,061,355
NC Center for Advancement of Teaching. Residential Facility	Two story structure to house 60 students and related facilities. Includes property acquisition.	9,169,020
Total UNCTV, NCSSM, and SPECIAL PURPOSE		**96,615,540**
General Administration/Possible Joint Projects		
School Leadership Academy Facility	UNC-GA	2,266,845
GA Building Renovation	UNC-GA	2,887,500
Central Library Storage Facility. Possible project to provide for storage of infrequently used library volumes for all 16 universities, in order to reduce the amount of expansion stack space required at many campuses.	Concept needs to be tested, by inquiries as to potential for use and analysis of capital cost to construct a highly automated storage facility plus operating costs, including transport of books and staffing versus construction of additional stack space at multiple campuses. EKA proposes funding a feasibility study in Phase 1, which should be completed prior to initiation of any major library projects at UNC.	500,000
Central Records Storage/Retrieval or Archives. Possible project to provide for central storage of archival records for all 16 universities, in order to reduce need for records storage facilities at each campus. Could be part of Library Storage Facility.	Concept needs assessment for level of need, square footage requirements, costs and potential savings, including operating costs for delivery of records when needed.	
Total General Administration and Possible Joint Projects		**5,654,345**
TOTAL - All		**102,269,885**

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

UNC Public Television, NC School of Math and Science, Special Purpose Projects

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQIs	Comments	GSF	Estimated $ Project Cost	Plus 5% Cost Inflation & Project Mgmt	Est $ Total Cost
PART I: PHASE I NEEDS: 1999-2003						
UNC Public Television						
Conversion to Digital TV. Phase 1		Mandated completion by 2003.		61,900,000	3,095,000	64,995,000
Mobile Satellite Uplink				852,900	42,645	895,545
Sub-Total: UNC Public Television				**62,752,900**	**3,137,645**	**65,890,545**
NC School of Math and Science						
Renovation of Bryan Center. Renovation of 1954 former hospital facility to replace HVAC & systems and to create renovated space for Student Services Dept & recreation; offices, labs, and classrooms for the Physics Dept.				3,021,500	151,075	3,172,575
Renovation of Royall Outreach Center (Wyche House). General renovation of the interior of an 81-yr old, 17,000 SF former nurse's dormitory, to convert into a residence hall for 36 students. Includes site work, creation of student commons area.				1,895,600	94,780	1,990,380
Sub-Total: NC School of Math and Science				**4,917,100**	**245,855**	**5,162,955**
Special Purpose Facilities						
NC Arboretum. Projects for continued orderly development-listed following in priority order		Fund approximately half of $16,630 in Phase 1 and half in Phase 2. Selection here made arbitrarily. Arboretum should refine choices.				
Maintenance & Operations Facility			Need GSF	1,467,900	73,395	1,541,295
Entrance Gates and Gatehouses				748,200	37,410	785,610
Main Entrance Road Utility & Landscape Development				2,151,600	107,580	2,259,180
Demonstration Greenhouse			Need GSF	3,596,500	179,825	3,776,325
Bus Parking				923,100	46,155	969,255
Sub-Total-NC Arboretum				*8,887,300*	*444,365*	*9,331,665*
NC Botanical Gardens. Herbarium Research Building-Research facility for plant research, including a reception hall		$350,000 in planning funds appropriated in 1997, toward total project cost of $7,075,100.	36,500	6,725,100	336,255	7,061,355
Sub-Total-NC Botanical Gardens				*6,725,100*	*336,255*	*7,061,355*
Regional Center for Economic, Professional and Community Development. UNC-Pembroke		Listed in UNC-Pembroke plan with costs.		0	0	0
Sub-Total: Regional Center				*0*	*0*	*0*
NC Center for Advancement of Teaching. Residential Facility		Two story structure to house 60 students and related facilities. Includes property acquisition.	40,350	8,732,400	436,620	9,169,020
Sub-Total: NCAT				*8,732,400*	*436,620*	*9,169,020*
Sub-Total: Special Purpose				**24,344,800**	**1,217,240**	**25,562,040**
General Administration Projects						
School Leadership Academy Facility		UNC-GA		2,158,900	107,945	2,266,845
GA Building Renovation		UNC-GA		2,750,000	137,500	2,887,500
Sub-Total: GA Projects				*4,908,900*	*245,445*	*5,154,345*

The University of North Carolina
Capital Equity/Adequacy Study and Proposed 10-Year Capital Plan: 1999-2008
Phase I Five-Year Plan: 1999-2003 Total Needs

UNC Public Television, NC School of Math and Science, Special Purpose Projects

Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7
Project or Needs Title and Brief Description	FCQIs	Comments	GSF	Estimated $ Project Cost	Plus 5% Cost Inflation & Project Mgmt	Est $ Total Cost
Possible Other GA/Joint Projects						
Central Library Storage Facility. Possible project to provide for storage of infrequently used library volumes for all 16 universities, in order to reduce the amount of expansion stack space required at many campuses.		Concept needs to be tested, by inquiries as to potential for use and analysis of capital cost to construct a highly automated storage facility plus operating costs, including transport of books and staffing versus construction of additional stack space at multiple campuses. EKA proposes funding a feasibility study in Phase 1, which should be completed prior to initiation of any major library projects at UNC campuses. Include Central Records Storage/Retrieval/Archives in the Feasibility Study.		500,000		500,000
Central Records Storage/Retrieval or Archives. Possible project to provide for central storage of archival records for all 16 universities, in order to reduce need for records storage faciities at each campus.		Concept needs assessment for level of need, square footage requirements, costs and potential savings, including operating costs for delivery of records when needed. See $500,000 funding for Study above.				
Sub-Total-Possible Other GA/Joint Projects				*500,000*		*500,000*
Sub-Total: GA/Possible GA/Joint Projects				**5,408,900**	**245,445**	**5,654,345**
TOTAL PHASE I NEEDS: 1999-2003				**97,423,700**	**4,846,185**	**102,269,885**

/ -

VISITOR REGISTRATION SHEET

FINANCE
Name of Committee

6/29/99
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Joe Sanders	UNC General Administration
Barbara Baker	UNC A
Helen Morris	UNC Bd of Gov.
Patricia O'Sullivan	UNC Greensboro
Joyce White	UNC Greensboro (alumna Raleigh)
Valeria J Lee	N.C. Central University
Richard R. Eakin	East Carolina University
Austin W Barnes	East Carolina University
J.H. WOODWARD	UNC CHARLOTTE
Jim Mullen	UNC - Asheville
Edward Fort	NC. A&T St. Uni Chancellor
Ed Broadwell	UNC Bd of Governors
Edwin T. Samulski	UNC-CH (Chemistry)
Greg Forest	UNC-CH; Office of Dean, College of A&S
Bryan Ryan	NC Community College Faculty Assoc.
BENJAMIN SLOAN	NC COMMUNITY COLLEGE FACULTY ASSOC.
Richard (Pete) Andrews	UNC-CH - CHAIR OF FACULTY
Richard Stevens	UNC-CH. Chair - Bd of Trustees
NICHOLAS C. MIRISIS	UNC BOARD OF GOVERNORS → Students
Jeff Nieman	UNC Board of Governors → Students
Barbara S. Perry	UNC Board of Governors
Julius L Chambers	NC Central University
ANDREW M. PERICINS, JR.	NC A&T STATE UNIVERSITY
Bruce L. Thomas	NC Central University
Ray S. Farris	Board of Governors - Bd of Gov.
Bob Warwick	
Addison Bell	BOARD OF GOVERNORS
Sylvia Cooper	FINANCE - UNC - Gen. Admin.

VISITOR REGISTRATION SHEET

FINANCE — 6/29/99

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mickey L. Burnim	Elizabeth City State Univ.
Ran Coble	NC Center for Public Policy Research
Joanne Schaier	NC Center for Public Policy Research
Bill Rhoades	N.C. Community Colleges Faculty Assn (NCCCFA)
Jerry Monroe	Fayetteville State University
Lee Conner	UNC-Chapel Hill
George Jackson	UNC-Chapel Hill
Lindsey Ligeti	UNC-Chapel Hill
Monika Moore	UNC-Chapel Hill
Lerissa Rentas	UNC-Chapel Hill
Maurice Ku	OSBM
Ed Kizer	UNC Charlotte
Elizabeth Krawcheck	OSBM
Martha Glass	Deputy Admin.
Betty S. Speir	E.C.U.
DG Martin	UNCP
[illegible] Cameron	Board of Governors
Dick McCoy	Board of Governors
Dan Gerlach	NCBTC
Paul Gibbs	OSBM
Roz Fuse Hall	UNC-GA
Kevin MacNaughton	UNC-GA
Elmer Peacock	UNC-Chapel Hill
James Leutze	UNC-Wilmington
Keith Howell	UNCG and UNC Faculty Assembly
Nancy Clark Fogarty	UNCG and UNC Faculty Assembly
Don Wildman	North Carolina Community College Faculty Association

VISITOR REGISTRATION SHEET

House Finance — 4-29, 1999

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Prof. Jeff Dangl	Dept. of Biology, UNC-CH
Prof. Sarah Gragff	Dept of Biology UNC-CH
PROF. ALAN JONES	DEPT BIOL. UNC-CH
Don W. Stephenson	Johnston Community College
Chuck Fuller	North Carolina Citizens for a Sound Economy
Patricia Skinner	Carteret College Carteret CC
Rachel H. Bachman	N.C. State University
Prof George Lensing	Dept. of English - UNC-CH
Sarah Vogt	Institute of Government
Benjamin Sloan	Fayetteville Technical Comm. College
Prof Charles Lipkin	Alamance CC - Math
Carol C Burns	DSPBM
Tim Gardner	UNC Chapel Hill
Nic Heinke	UNC-Chapel Hill
Harriett Fuller	Edgecombe Community College
Herman Porter	St. Bd. Comm Colleges
Charles J. Callahander	Central Carolina CC - Bd. Chair
Tony Zeiss	Central Piedmont Comm College
Steve Bell	Southeastern Com. College
Sam Koonce	" " "
Doris L. Bees	" " "
H. James Owen	Piedmont Community College
Robert A. Miller	Vance Granville CC
John K Nelms	Vance Granville C.C.
JAMES D. EDWARDS	VANCE-GRANVILLE COMM COL
Helen Liverette	NC. Assoc. Community College Trustees
Ed Weller	" " " "
Reid Parnell	Nash Community College (Pres.)

VISITOR REGISTRATION SHEET

Name of Committee , 1999
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Luanne Gordon	NC STATE Board of Trustees
Stephen W. Woody	TRUSTEE - WESTERN CAROLINA UNIVERSITY
Adelaide Daniel Key	Trustee - Western Carolina University
Thomas M. Apodaca	Trustee. Western Carolina Univ.
Jim L. Moore	Trustee Chair WCU
Tom Howe	UNC-TV
Carl Davis	UNC-TV
Scott Bigelow	UNC - Pembroke.
Joseph Oxendine	UNC - Pembroke.

VISITOR REGISTRATION SHEET

FINANCE — Name of Committee

6/29/99 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lisa Duncan	CCA/WCSR
Lawrence Davis	CCA/WCS&R
Mac Currin	CCA/Rec Angler
Dick Brame	CCA
Bill Brown	CCA
W.A. Smith	CCA/Rec Angler
Preston Pate	NCDMF/Morehead City
J. Preston	N.C.C.A. House
Sandy Sanders	WCSR
David McLeod	NCDA&CS
Ed Regan	N.C.A.C.C.
Jerry O'Schill	NC Fisheries Assoc.
Andy Lane	WCSR
Matt Mead	CCNC
Sean	The Capital Group
Mark Benson	Capital Group

VISITOR REGISTRATION SHEET

Name of Committee , 1999
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Anne Coates	Chapel Hill
Jim Peacock	UNC-CH
GREG FOREST	UNC-CH
Carol Lesley	UNC Alumni Associations President

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Wednesday, June 30, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 507 - Cape Carteret Local Act - Rep. Smith
HB 519 - Henderson Fire Districts - Rep. Justus
HB 1084 - County Bonds for Landbanking - Rep. McMahan
HB 1289 - Limit Recycling Tax Incentives - Rep. Luebke
SB 55 - Revenue Laws Technical Changes - Sen. Cochrane
SB 290 - Lobbying Law Amendments - Sen. Miller
SB 625 - Durham Privilege License Technical - Sen. Lucas
SB 694 - Rimertown Incorporation - Sen. Hartsell
SB 708 - Affordable Housing - Sen. Odom
SB 799 - Physical Therapy Fees - Sen. Kerr
SB 817 - Real Property Tax Penalty - Sen. Ballance

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Wednesday, June 30, 1999

The House Committee on Finance met on Wednesday, June 30, 1999 in Room 544 of the Legislative Office Building at 7:30 a.m. The following members were present: Chairs Allen, Luebke, Miller; Vice Chairs Jarrell and Wood; Representatives Baddour, Bridgeman, Brown, Buchanan, Capps, Church, Cox, Creech, Cunningham, Decker, Dedmon, Earle, Eddins, Edwards, Gibson, Goodwin, Gray, Hackney, Hill, McComas, McCombs, Morris, Pope, Rayfield, Starnes, Tallent, Tucker, Wilson, and Womble. Staff including Cindy Avrette, Richard Bostic, George Givens, Jeff Hudson, Mary Shuping, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Luebke called the meeting to order to consider the following bills:

Rep. Justus was recognized to explain HB 519, A BILL TO BE ENTITLED AN ACT TO ALLOW HENDERSON COUNTY TO ADJUST THE BOUNDARIES OF CHAPTER 69 FIRE TAX DISTRICTS. Rep. Jarrell questioned Rep. Justus. Rep. Brown moved for a favorable report. The motion passed. A copy of the bill is included in these minutes.

Sen. Cochrane was recognized to explain SB 55, A BILL TO BE ENTITLED AN ACT TO CONFORM THE TAX BASE OF THE REGIONAL TRANSIT AUTHORITY VEHICLE RENTAL TAX TO THE TAX BASE OF THE ALTERNATE HIGHWAY USE TAX ON SHORT-TERM VEHICLE RENTALS, AND TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE REVENUE LAWS AND RELATED STATUTES. The Chair recognized Mr. Steve Nowsen of the Auto Association who commented on the bill. Rep. Rayfield moved to adopt the Proposed Committee Substitute for discussion only. Rep. Rayfield to give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. The motion passed. A copy of the bill, Proposed Committee Substitute, Bill Summary, and Fiscal Note are included in these minutes.

Sen. Hartsell was recognized to explain SB 694, A BILL TO BE ENTITLED AN ACT TO INCORPORATE THE TOWN OF RIMERTOWN SUBJECT TO A REFERENDUM. Reps. Hackney, Cox, Jarrell, and Edwards questioned Sen. Hartsell. Rep. Tallent moved for a favorable report. Rep. Hackney questioned Sen. Hartsell. Rep. Tallent's motion passed. A copy of the bill is included in these minutes.

Rep. McMahan was recognized to explain HB 1084, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE COUNTIES TO ISSUE BONDS TO PURCHASE LAND FOR MULTIPLE USE FOR COUNTY, COMMUNITY COLLEGE, AND PUBLIC SCHOOL PURPOSES. Rep. Rayfield moved to adopt the Proposed Committee Substitute for discussion only. Rep. Hackney questioned Rep. McMahan and Cindy Avrette. Rep. Luebke questioned Cindy Avrette. Rep. Goodwin

questioned Rep. McMahan, and Cindy Avrette also commented. Rep. Tucker questioned Cindy Avrette. Rep. Hackney questioned Cindy Avrette. Rep. Hackney sent forward an amendment. The amendment was adopted. Rep. Morris moved to roll the amendment into a Proposed Committee Substitute and then give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. Reps. Bridgeman and Hackney commented. Rep. Morris's motion passed. A copy of the bill, Proposed Committee Substitute, Bill Summary, and Fiscal Note are included in these minutes.

Rep. Church was recognized to explain HB 507, A BILL TO BE ENTITLED AN ACT CONCERNING ANNEXATIONS BY THE TOWNS OF CAPE CARTERET AND BOGUE. Rep. Hill moved for a favorable report. The motion passed. A copy of the bill is included in these minutes.

Rep. Luebke was recognized to explain Sen. Lucas's SB 625, A BILL TO BE ENTITLED AN ACT TO REPEAL AN OBSOLETE SECTION OF THE CHARTER OF THE CITY OF DURHAM REGARDING THE PRIVILEGE LICENSE TAX YEAR. Rep. Brown moved for a favorable report. Rep. Creech questioned Rep. Luebke. Rep. Brown's motion passed. A copy of the bill is included in these minutes.

Rep. Luebke was recognized to explain HB 1289, A BILL TO BE ENTITLED AN ACT TO REMOVE THE SPECIAL TAX TREATMENT FOR EQUIPMENT AND FACILITIES FOR RECYCLING, WASTE REDUCTION, OR RESOURCE RECOVERY WHEN ACQUIRED MORE THAN TWO YEARS PRIOR TO THE DATE OF APPLICATION FOR CERTIFICATION BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND TO LIMIT TO THREE YEARS THE CERTIFICATION FOR SPECIAL TAX TREATMENT FOR REAL PROPERTY USED FOR RECYCLING, WASTE REDUCTION, OR RESOURCE RECOVERY. This bill is the 1999 Fee bill. Rep. Hackney moved to adopt the Proposed Committee Substitute for discussion only. Rep. Allen moved to displace the bill temporarily for discussion later in the meeting. Rep. Luebke supported the motion. Motion carried.

Sen. Kerr was recognized to explain SB 799, A BILL TO BE ENTITLED AN ACT TO INCREASE THE FEES COLLECTED BY THE NORTH CAROLINA BOARD OF PHYSICAL THERAPY EXAMINERS. The Chair recognized Mr. William Potter of the N.C. Physical Therapy Association who supported the bill. The Chair recognized Mr. Ben Massey, Executive Director of the Licensure Board who answered Rep. Buchanan's questions. Rep. Jarrell questioned Mr. Massey. Richard Bostic explained the fiscal note. Rep. Hackney questioned Mr. Potter. Rep. Creech questioned Mr. Massey. Rep. Creech questioned Richard Bostic and Mary Shuping. Rep. Gibson and Rep. Baddour commented. Rep. Baddour moved to give the bill a favorable report. The motion passed. A copy of the bill, Bill Summary, and Fiscal Note is included in these minutes.

Sen. Ballance was recognized to explain SB 817, A BILL TO BE ENTITLED AN ACT TO PROVIDE AN EXCEPTION TO THE LATE LISTING PENALTY FOR CERTAIN REAL PROPERTY IN COUNTIES THAT HAVE NOT ADOPTED PERMANENT LISTING AND TO PHASE IN PERMANENT LISTING IN ALL COUNTIES. Rep. Wood moved to give the bill a favorable report. Rep. McCombs questioned Sen. Balance. Rep. Wood's motion passed. A copy of the bill, Bill Summary, and Fiscal Note is included in these minutes.

Sen. Odom was recognized to explain SB 708, A BILL TO BE ENTITLED AN ACT ALLOWING COUNTIES TO PROVIDE AFFORDABLE HOUSING FOR PERSONS OF LOW AND MODERATE INCOME. Rep. Allen sent forward an amendment and moved for its adoption. The amendment was adopted. Rep. Creech questioned Sen. Odom. Rep. Buchanan moved to roll the amendment into a Proposed Committee Substitute and then give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. Reps. Rayfield and Womble questioned Sen. Odom. Rep. Buchanan's motion passed. A copy of the bill, Proposed Committee Substitute, Amendment, Bill Summary, and Fiscal Note are included in these minutes.

Rep. Luebke was recognized again to explain HB 1289. Cindy Avrette explained the bill and amendments. Rep. Luebke sent forward two amendments and moved for their adoption. Both amendments were adopted. Rep. Luebke moved to roll the amendment into a Proposed Committee Substitute and then give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. Rep. Hackney questioned Rep. Luebke and Cindy Avrette. Rep. Womble questioned Rep. Luebke and Cindy Avrette. Rep. Womble questioned Linda Millsaps. Rep. Edwards commented. Rep. Decker asked to be recorded as voting nay against the bill. Rep. Luebke's motion passed. A copy of the bill, Proposed Committee Substitute, Amendments, Bill Summary, and Fiscal Note are included in these minutes.

Rep. Hackney was recognized to explain SB 290, A BILL TO BE ENTITLED AN ACT TO AMEND THE LOBBYING LAW. Cindy Avrette explained the bill. Rep. Buchanan moved to give the bill a favorable report. Linda Millsaps explained the fee aspect of the bill. Rep. Capps questioned Cindy Avrette. The Chair recognized Mr. Bernard Allen of the Secretary of State's office who answered questions. Rep. Eddins commented. The Chair recognized Ms. Sheila Pope, the legal counsel for the Secretary of State's office who answered Rep. Wood's questions. Reps. Gibson and Hackney questioned Mr. Bernard Allen. Reps. Gibson and Eddins commented. Rep. Buchanan questioned Cindy Avrette. Reps. Eddins and Luebke commented. Rep. Jarrell questioned Cindy Avrette. Reps. Decker, Rayfield, and Brown questioned Mr. Bernard Allen and Cindy Avrette. Rep. Eddins sent forward an amendment and moved for its adoption. Rep. Buchanan questioned Cindy. The amendment was adopted with 12 ayes, 10 nays. Rep. Buchanan moved to roll the amendment into a Proposed Committee Substitute and then give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. The motion passed. A copy of the bill, Proposed Committee Substitute, Amendment, Bill Summary, and Fiscal Note are included in these minutes.

There being no further business, the Chair adjourned the meeting at 9:30 am.

Respectfully submitted:

Representative Paul Luebke
Chair

/Kristen L. Crosson

Kristen L. Crosson
Assistant to the Committee

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 507 A BILL TO BE ENTITLED AN ACT CONCERNING ANNEXATIONS BY THE TOWNS OF CAPE CARTERET AND BOGUE.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 507
Committee Substitute Reported Without Prejudice 6/21/99

Short Title: Cape Carteret/Bogue Annexations. (Local)

Sponsors:

Referred to:

March 22, 1999

A BILL TO BE ENTITLED

AN ACT CONCERNING ANNEXATIONS BY THE TOWNS OF CAPE CARTERET AND BOGUE.

The General Assembly of North Carolina enacts:

Section 1. The following described property is added to the Town of Bogue:

Those properties bearing Carteret County tax parcel numbers 538519710111, 538519700935, 538519617136, 538519614172, 538519606934, 538519606843, 538519604475, 538519603441, and 538519601347 regardless of their inclusion in Town of Cape Carteret Annexation Ordinance 96-07-01.

Section 2. The following described property is added to the Town of Cape Carteret:

- Lots 1, 4 (and that unnumbered area north of Lot 4), 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, Section C, and the "Recreation Area" south of Lot 1, Section C, all according to the plat of Quail Wood Acres recorded in Map Book 23, Page 41, Carteret County Registry.
- Lots 1, 2, 3, and 23, Section A, Quail Wood Acres, as recorded in Map Book 15, Page 55, Carteret County Registry.
- That portion of Fox Drive north of a westward extension of the northern boundary line of Carteret County tax parcel number 538519710111.

Section 3. Except for those properties added to the Town of Bogue in Section 1 of this act, Town of Cape Carteret Annexation Ordinance No. 96-07-01 is

approved and shall become effective on July 1, 1999, or when this act becomes law, whichever occurs later.

Section 4. The Town of Cape Carteret and the Town of Bogue shall have the authority, prospectively or retroactively, to agree to the establishment of zoning buffers along their common city limit lines.

Section 5. This act is effective on July 1, 1999, or when it becomes law, whichever occurs later.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 519 A BILL TO BE ENTITLED AN ACT TO ALLOW HENDERSON COUNTY TO ADJUST THE BOUNDARIES OF CHAPTER 69 FIRE TAX DISTRICTS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 519
Committee Substitute Reported Without Prejudice 4/23/99

Short Title: Henderson Fire Districts. (Local)

Sponsors:

Referred to:

March 22, 1999

A BILL TO BE ENTITLED

AN ACT TO ALLOW HENDERSON COUNTY TO ADJUST THE BOUNDARIES OF CHAPTER 69 FIRE TAX DISTRICTS.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding G.S. 69-25.11, the boundaries of any fire protection district in Henderson County established under Article 3A of Chapter 69 of the General Statutes may be changed by resolution of the Board of Commissioners of Henderson County to follow the boundaries shown on the map in Attachment A to a resolution adopted by that board on March 17, 1999.

Section 2. This act is effective when it becomes law.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1084 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE COUNTIES TO ISSUE BONDS TO PURCHASE LAND FOR MULTIPLE USE FOR COUNTY, COMMUNITY COLLEGE, AND PUBLIC SCHOOL PURPOSES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#)~~, ☒ which changes the title, unfavorable as to ~~(~~original bill~~)~~ ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1084
PROPOSED COMMITTEE SUBSTITUTE
H1084-CSRBX-6/21

Short Title: County Bonds for Landbanking. (Public)

Sponsors:

Referred to: Finance.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE COUNTIES TO ISSUE BONDS TO PURCHASE LAND FOR MULTIPLE USE FOR PRESENT OR FUTURE COUNTY, COMMUNITY COLLEGE, AND PUBLIC SCHOOL PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159-48(c) reads as rewritten:

"(c) Each county is authorized to borrow money and issue its bonds under this Article in evidence of the debt for the purpose of, in the case of subdivisions (1) through ~~(4a)~~ (4b) of this subsection, paying any capital costs of any one or more of the purposes and, in the case of subdivision (5) of this subsection, to finance the cost of the purpose:

(1) Providing community college facilities, including without limitation buildings, plants, and other facilities, physical and vocational educational buildings and facilities, including in connection therewith classrooms, laboratories, libraries, auditoriums, administrative offices, student unions, dormitories, gymnasiums, athletic fields, cafeterias, utility plants, and garages.

(2) Providing courthouses, including without limitation offices, meeting rooms, court facilities and rooms, and detention facilities.
(3) Providing county homes for the indigent and infirm.
(4) Providing school facilities, including without limitation schoolhouses, buildings, plants and other facilities, physical and vocational educational buildings and facilities, including in connection therewith classrooms, laboratories, libraries, auditoriums, administrative offices, gymnasiums, athletic fields, lunchrooms, utility plants, garages, and school buses and other necessary vehicles.
(4a) Providing improvements to subdivision and residential streets pursuant to G.S. 153A-205.
(4b) Providing land for present or future corporate, community college, and school purposes.
(5) Providing for the octennial revaluation of real property for taxation."

Section 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1084

Short Title: County Bonds for Landbanking. (Public)

Sponsors: Representative McMahan.

Referred to: Finance.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE COUNTIES TO ISSUE BONDS TO PURCHASE LAND FOR MULTIPLE USE FOR COUNTY, COMMUNITY COLLEGE, AND PUBLIC SCHOOL PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159-48(c) reads as rewritten:

"(c) Each county is authorized to borrow money and issue its bonds under this Article in evidence of the debt for the purpose of, in the case of subdivisions (1) through ~~(4a)~~ (4b) of this subsection, paying any capital costs of any one or more of the purposes and, in the case of subdivision (5) of this subsection, to finance the cost of the purpose:

(1) Providing community college facilities, including without limitation buildings, plants, and other facilities, physical and vocational educational buildings and facilities, including in connection therewith classrooms, laboratories, libraries, auditoriums, administrative offices, student unions, dormitories, gymnasiums, athletic fields, cafeterias, utility plants, and garages.

(2) Providing courthouses, including without limitation offices, meeting rooms, court facilities and rooms, and detention facilities.

(3) Providing county homes for the indigent and infirm.

(4) Providing school facilities, including without limitation schoolhouses, buildings, plants and other facilities, physical and vocational educational buildings and facilities, including in connection therewith classrooms, laboratories, libraries,

auditoriums, administrative offices, gymnasiums, athletic fields, lunchrooms, utility plants, garages, and school buses and other necessary vehicles.

(4a) Providing improvements to subdivision and residential streets pursuant to G.S. 153A-205.

(4b) Providing land for corporate purposes, community college facilities, and school facilities.

(5) Providing for the octennial revaluation of real property for taxation."

Section 2. This act is effective when it becomes law.

HOUSE BILL 1084:
County Bonds for Landbanking

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. McMahan
Date:	June 30, 1999	**Summary by:**	Cindy Avrette
Version:	PCS for 1st Edition H1084-CSRBX-6/21		Committee Counsel

SUMMARY: ***House Bill 1084 clarifies that a county may issue general obligation bonds to purchase land, to use either immediately or in the future, for corporate, community college, and school purposes. The proposed committee substitute adds the phrase "present or future" on page 2, line 16 at the request of the bond attorneys to reflect the intended purpose of the bill.***

CURRENT LAW: The Local Government Bond Act lists the purposes for which a county may issue general obligation bonds. Those purposes include land for corporate purposes, providing for community college facilitates, providing for school facilities, and providing for any purpose for which it is authorized to appropriate money. For each of these purposes, the bond money can be used to pay capital costs. The term "capital costs" is defined to include the costs of all property useful for the purpose authorized.

Bonds issued to provide land for corporate purposes or to provide for a purpose for which a county may appropriate money must be approved by the voters. As a general rule, general obligation bonds issued for community college and school purposes are also subject to a vote of the people. The Constitution does provide that bonds issued for certain purposes, including community college and school purposes, may be issued without a vote of the people to the extent that the aggregate principal sum does not exceed two-thirds of the amount by which the outstanding indebtedness of the issuing county has been reduced during the next preceding fiscal year.

BILL ANALYSIS: While it is clear that current law allows a county to issue bonds to pay the costs of acquiring land for corporate, community college, and school purposes, it is not clear whether it can acquire the land for these purposes in the future. The current provision that authorizes the expenditure of bond proceeds to pay land costs is normally associated with the immediate use of the land for the purposes for which the bond itself was issued. The situation presented in this bill is slightly different. The primary purpose of the bonds being issued under the authority created by this bill is the purchase of the land itself.

While it can be inferred from current law that a county could issue bonds for the purpose of "landbanking" property for corporate, community college, or school purposes, it is not clear. This bill clarifies the matter by providing specific, clear statutory authorization for the issuance of bonds for this purpose.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1084 (House Finance Committee Substitute)

SHORT TITLE: County Bonds for Landbanking

SPONSOR(S): Representative McMahan

FISCAL IMPACT

Yes ( ) **No (X)** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: County governments

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: The bill authorizes counties to issue bonds to purchase land for multiple use for present or future county, community college, and public school purposes.

ASSUMPTIONS AND METHODOLOGY:
The bill clarifies the statutory authority of counties to issue General Obligation bonds to purchase land for multiple uses instead of issuing a General Obligation bond for each land use. Some bond attorneys have advised the State Treasurer that counties already have the authority for landbanking, but this bill clearly states county bond powers in order to avoid any court challenges.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY: Tom Covington

DATE: Monday, June 21, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1289 A BILL TO BE ENTITLED AN ACT TO REMOVE THE SPECIAL TAX TREATMENT FOR EQUIPMENT AND FACILITIES FOR RECYCLING, WASTE REDUCTION, OR RESOURCE RECOVERY WHEN ACQUIRED MORE THAN TWO YEARS PRIOR TO THE DATE OF APPLICATION FOR CERTIFICATION BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND TO LIMIT TO THREE YEARS THE CERTIFICATION FOR SPECIAL TAX TREATMENT FOR REAL POPERTY USED FOR RECYCLING, WASTE REDUCTION, OR RESOURCE RECOVERY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#)~~, ☒ which changes the title, unfavorable as to ~~(~~original bill~~)~~ ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on).~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1289 PCS DATE 6/30/99

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) [redacted]
Sen.)

moves to amend the bill on page 1, line 20

( ) WHICH CHANGES THE TITLE

by rewriting the line to read:

"seven percent (7%) for the 1999 calendar year."

and on page 3, line 8, by deleting "taxable" and substituting "calendar";

and on page 4, lines 40-42, by rewriting the lines to read:

"Section 6. Section 4 of this act becomes effective January 1, 2000, and applies to the insurance regulatory charge levied for the 2000 calendar year. The remainder of this act becomes effective when it becomes law.".

SIGNED [signature]

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1289
Proposed Committee Substitute H1289-PCSX8148-RB

Short Title: 1999 Fee Bill. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO SET THE PUBLIC UTILITY REGULATORY FEES, TO SET THE INSURANCE REGULATORY CHARGE, TO IMPOSE THE INSURANCE REGULATORY CHARGE ON SERVICE CORPORATIONS AND ON HEALTH MAINTENANCE ORGANIZATIONS IN THE YEAR 2000, AND TO ALLOW THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES TO IMPOSE FEES THAT REFLECT THE ACTUAL COST OF RENDERING THE SERVICE.

The General Assembly of North Carolina enacts:

Section 1. The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is nine-hundredths percent (0.09%) of each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 1999.

Section 2. The annual fee imposed on The North Carolina Electric Membership Corporation under G.S. 62-302(b1), as enacted by House Bill 476, 1999 General Assembly, S.L. 1999-180, for the 1999-2000 fiscal year is two hundred thousand dollars ($200,000).

Section 3. The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is seven percent (7%) for the 1999 calendar year.

Section 4. G.S. 58-6-25 reads as rewritten:

"**§ 58-6-25. Insurance regulatory charge.**

(a) Charge Levied. -- There is levied on each insurance company an annual charge for the purposes stated in subsection (d) of this section. ~~As used in this section, the term "insurance company" means a company that pays the gross premiums tax levied in G.S. 105-228.5 and G.S. 105-228.8, except a service corporation subject to Article 65 of this Chapter. A health maintenance organization subject to Article 67 of this Chapter is not subject to those taxes and is therefore not subject to the charge levied in this section.~~ The charge levied in this section is in addition to all other fees and taxes. The percentage rate of the charge is established pursuant to subsection (b) of this section. For each insurance company that is not an Article 65 corporation nor a health maintenance organization, the rate is applied to ~~charge shall be at a percentage rate of~~ the company's premium tax liability for the taxable year. For Article 65 corporations and health maintenance organizations, the rate is applied to a presumed premium tax liability for the taxable year calculated as if the corporation or organization were an insurer providing health insurance. In determining an insurance company's premium tax liability for a taxable year, the following shall be disregarded:

(1) Additional taxes imposed by G.S. 105-228.8.
(2) The additional local fire and lightning tax imposed by G.S. 105-228.5(d)(4).
(3) Any tax credits for guaranty or solvency fund assessments under G.S. 105-228.5A or G.S. 97-133(a).
(4) Any tax credits allowed under Chapter 105 of the General Statutes other than tax payments made by or on behalf of the taxpayer.

(b) Rates. -- The rate of the charge for ~~the 1991 taxable year shall be six and five-tenths percent (6.5%). For subsequent taxable years, the rate~~ each taxable year shall be the percentage rate established by the General Assembly. When the Department prepares its budget request for each upcoming fiscal year, the Department shall propose a percentage rate of the charge levied in this section. The Governor shall submit that proposed rate to the General Assembly each fiscal year. The General Assembly shall set by law the percentage rate of the charge levied in this section. The percentage rate may not exceed the rate necessary to generate funds sufficient to defray the estimated cost of the operations of the Department for each upcoming fiscal year, including a reasonable margin for a reserve fund. The amount of the reserve may not exceed one-third of the estimated cost of operating the Department for each upcoming fiscal year. In calculating the amount of the reserve, the General Assembly shall consider all relevant factors that may affect the cost of operating the Department or a possible unanticipated increase or decrease in North Carolina premiums or other charge revenue.

(c) Returns; When Payable. -- The charge levied on each health maintenance organization is payable March 15 following the end of each calendar year. The charge levied on each insurance company other than a health maintenance organization is payable at the time the insurance company remits its premium tax. If the insurance company is required to remit installment payments of premiums tax under G.S. 105-228.5 for a taxable year, it shall also remit installment payments of the

charge levied in this section for that taxable year at the same time and on the same basis as the premium tax installment payments. Each installment payment shall be equal to at least thirty-three and one-third percent (33.3%) of the insurance company's regulatory charge liability incurred in the immediately preceding taxable year.

Every insurance company shall, on or before the date the charge levied in this section is due, file a return on a form prescribed by the Secretary of Revenue. The return shall state the company's total North Carolina premiums or presumed premiums for the taxable year and shall be accompanied by any supporting documentation that the Secretary of Revenue may by rule require.

(d) Use of Proceeds. -- The Insurance Regulatory Fund is created in the State treasury, under the control of the Office of State Budget and Management. The proceeds of the charge levied in this section and all fees collected under Articles 69 through 71 of this Chapter and under Articles 9 and 9C of Chapter 143 of the General Statutes shall be credited to the Fund. The Fund shall be placed in an interest-bearing account and any interest or other income derived from the Fund shall be credited to the Fund. Moneys in the Fund may be spent only pursuant to appropriation by the General Assembly and in accordance with the line item budget enacted by the General Assembly. The Fund is subject to the provisions of the Executive Budget Act, except that no unexpended surplus of the Fund shall revert to the General Fund. All money credited to the Fund shall be used to reimburse the General Fund for the following:

(1) Money appropriated to the Department of Insurance to pay its expenses incurred in regulating the insurance industry and other industries in this State.

(2) Money appropriated to State agencies to pay the expenses incurred in regulating the insurance industry, in certifying statewide data processors under Article 11A of Chapter 131E of the General Statutes, and in purchasing reports of patient data from statewide data processors certified under that Article.

(3) Money appropriated to the Department of Revenue to pay the expenses incurred in collecting and administering the taxes on insurance companies levied in Article 8B of Chapter 105 of the General Statutes.

(e) Definitions. -- The following definitions apply in this section:

(1) Article 65 corporation. -- Defined in G.S. 105-228.3.

(2) Insurance company. -- A company that pays the gross premiums tax levied in G.S. 105-228.5 and G.S. 105-228.8 or a health maintenance organization.

(3) Insurer. -- Defined in G.S. 105-228.3."

Section 5. G.S. 106-6.1 reads as rewritten:

"**§ 106-6.1. ~~Fees not to exceed actual cost.~~ Fees.**

~~Fees or charges established by any board or commission within the Department of Agriculture and Consumer Services for services rendered or for duties performed~~

~~shall not exceed the actual cost to the Department of rendering such service or performing such duty. As used herein, "cost" shall mean expenses incurred for mileage, subsistence, postage, computer time, salaries, materials, supplies, or other similar expenses which are incurred as a direct result of rendering the service or performing the duty. As used herein, "cost" shall not include fixed overhead expenses such as buildings, equipment, machinery, or other similar expenses which are indirectly related to a particular service or duty.~~ A board or commission within the Department of Agriculture and Consumer Services may establish fees or charges for the services it provides. The Board of Agriculture, subject to the provisions of Chapter 146 of the General Statutes, may establish a rate schedule for the use of facilities operated by the Department of Agriculture and Consumer Services."

Section 6. Section 4 of this act becomes effective January 1, 2000, and applies to the insurance regulatory charge levied for the 2000 calendar year. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1289
PROPOSED COMMITTEE SUBSTITUTE
H1289-CSRBX-6/15

Short Title: 1999 Fee Bill. (Public)

Sponsors:

Referred to: Finance.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO SET THE PUBLIC UTILITY REGULATORY FEES, TO SET THE INSURANCE REGULATORY CHARGE, TO IMPOSE THE INSURANCE REGULATORY CHARGE ON SERVICE CORPORATIONS AND ON HEALTH MAINTENANCE ORGANIZATIONS, AND TO ALLOW THE DEPARTMENT OF AGRICULTURE TO IMPOSE FEES THAT REFLECT THE ACTUAL COST OF RENDERING THE SERVICE.

The General Assembly of North Carolina enacts:

Section 1. The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is nine-hundredths percent (0.09%) of each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 1999.

Section 2. The annual fee imposed on The North Carolina Electric Membership Corporation under G.S. 62-302(b1), as enacted by House Bill 476, 1999 General Assembly, S.L. 1999-____, for the 1999-2000 fiscal year is two hundred thousand dollars ($200,000).

Section 3. The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is six and one-half percent (6.5%) for the 1999 calendar year.

Section 4. G.S. 58-6-25 reads as rewritten:

"**§ 58-6-25. Insurance regulatory charge.**

(a) Charge Levied. -- There is levied on each insurance company an annual charge for the purposes stated in subsection (d) of this section. ~~As used in this section, the term "insurance company" means a company that pays the gross premiums tax levied in G.S. 105-228.5 and G.S. 105-228.8, except a service corporation subject to Article 65 of this Chapter. A health maintenance organization subject to Article 67 of this Chapter is not subject to those taxes and is therefore not subject to the charge levied in this section.~~ The charge levied in this section is in addition to all other fees and taxes. The percentage rate of the charge is established pursuant to subsection (b) of this section. Fore each insurance company that is not an Article 65 corporation nor a health maintenance organization, the rate is applied to ~~charge shall be at a percentage rate of~~ the company's premium tax liability for the taxable year. For Article 65 corporations and health maintenance organizations, the rate is applied to a presumed premium tax liability for the taxable year calculated as if the corporation or organization were an insurer providing health insurance. In determining an insurance company's premium tax liability for a taxable year, the following shall be disregarded:

(1) Additional taxes imposed by G.S. 105-228.8.
(2) The additional local fire and lightning tax imposed by G.S. 105-228.5(d)(4).
(3) Any tax credits for guaranty or solvency fund assessments under G.S. 105-228.5A or G.S. 97-133(a).
(4) Any tax credits allowed under Chapter 105 of the General Statutes other than tax payments made by or on behalf of the taxpayer.

(b) Rates. -- The rate of the charge for ~~the 1991 taxable year shall be six and five-tenths percent (6.5%). For subsequent taxable years, the rate~~ each taxable year shall be the percentage rate established by the General Assembly. When the Department prepares its budget request for each upcoming fiscal year, the Department shall propose a percentage rate of the charge levied in this section. The Governor shall submit that proposed rate to the General Assembly each fiscal year. The General Assembly shall set by law the percentage rate of the charge levied in this section. The percentage rate may not exceed the rate necessary to generate funds sufficient to defray the estimated cost of the operations of the Department for each upcoming fiscal year, including a reasonable margin for a reserve fund. The amount of the reserve may not exceed one-third of the estimated cost of

operating the Department for each upcoming fiscal year. In calculating the amount of the reserve, the General Assembly shall consider all relevant factors that may affect the cost of operating the Department or a possible unanticipated increase or decrease in North Carolina premiums or other charge revenue.

(c) Returns; When Payable. -- The charge levied on each health maintenance organization is payable March 15 following the end of each taxable year. The charge levied on each insurance company other than a health maintenance organization is payable at the time the insurance company remits its premium tax. If the insurance company is required to remit installment payments of premiums tax under G.S. 105-228.5 for a taxable year, it shall also remit installment payments of the charge levied in this section for that taxable year at the same time and on the same basis as the premium tax installment payments. Each installment payment shall be equal to at least thirty-three and one-third percent (33.3%) of the insurance company's regulatory charge liability incurred in the immediately preceding taxable year.

Every insurance company shall, on or before the date the charge levied in this section is due, file a return on a form prescribed by the Secretary of Revenue. The return shall state the company's total North Carolina premiums or presumed premiums for the taxable year and shall be accompanied by any supporting documentation that the Secretary of Revenue may by rule require.

(d) Use of Proceeds. -- The Insurance Regulatory Fund is created in the State treasury, under the control of the Office of State Budget and Management. The proceeds of the charge levied in this section and all fees collected under Articles 69 through 71 of this Chapter and under Articles 9 and 9C of Chapter 143 of the General Statutes shall be credited to the Fund. The Fund shall be placed in an interest-bearing account and any interest or other income derived from the Fund shall be credited to the Fund. Moneys in the Fund may be spent only pursuant to appropriation by the General Assembly and in accordance with the line item budget enacted by the General Assembly. The Fund is subject to the provisions of the Executive Budget Act, except that no unexpended surplus of the Fund shall revert to the General Fund. All money credited to the Fund shall be used to reimburse the General Fund for the following:

(1) Money appropriated to the Department of Insurance to pay its expenses incurred in regulating the insurance industry and other industries in this State.

(2) Money appropriated to State agencies to pay the expenses incurred in regulating the insurance industry, in certifying statewide data processors under Article 11A of Chapter 131E of the General Statutes, and in purchasing reports of patient data from statewide data processors certified under that Article.

(3) Money appropriated to the Department of Revenue to pay the expenses incurred in collecting and administering the taxes on insurance companies levied in Article 8B of Chapter 105 of the General Statutes.

(e) Definitions. -- The following definitions apply in this section:

(1) Article 65 corporation. -- Defined in G.S. 105-228.3.

(2) Insurance company. -- A company that pays the gross premiums tax levied in G.S. 105-228.5 and G.S. 105-228.8 or a health maintenance organization.

(3) Insurer. -- Defined in G.S. 105-228.3."

Section 5. G.S. 106-6.1 reads as rewritten:

"§ 106-6.1. ~~Fees not to exceed actual cost.~~ Fees.

~~Fees or charges established by any board or commission within the Department of Agriculture and Consumer Services for services rendered or for duties performed shall not exceed the actual cost to the Department of rendering such service or performing such duty. As used herein, "cost" shall mean expenses incurred for mileage, subsistence, postage, computer time, salaries, materials, supplies, or other similar expenses which are incurred as a direct result of rendering the service or performing the duty. As used herein, "cost" shall not include fixed overhead expenses such as buildings, equipment, machinery, or other similar expenses which are indirectly related to a particular service or duty.~~ A board or commission within the Department of Agriculture may establish fees or charges for the services it provides. The Board of Agriculture, subject to the provisions of Chapter 146 of the General Statutes, may establish a rate schedule for the use of facilities operated by the Department of Agriculture and Consumer Services."

Section 6. Sections 1 and 2 of this act become effective July 1, 1999. The remainder of this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1289

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1289-ARB-6/30 Page 1 of __

Date _____, 1999

Comm. Sub. [PROPOSED]
Amends Title []
H1289-CSRBX-6/15

Representative _____

moves to amend the bill on page 1, line 16, by rewriting the line to read:
"by House Bill 476, 1999 General Assembly, S.L. 1999-180, for the";

and on page 2, line 12, by deleting the word "Fore" and substituting the word "For";

and on page 4, line 35, by inserting the following immediately after the word "Agriculture": "and Consumer Services";

and on page 4, lines 40 and 41, by rewriting the lines to read:
"Section 6. This act is effective".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 1289:
Set Regulatory Fees/Expand Insurance Regulatory Fee

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Luebke
Date:	June 16, 1999	**Summary by:**	Cindy Avrette
Version:	PCS for 1st Edition H1289-CSRB-6/15		Committee Counsel

SUMMARY: ***The proposed committee substitute for House Bill 1289 sets the public utility regulatory fee at 0.09%, it sets the public utility regulatory fee on The North Carolina Electric Membership Corporation at $200,000, it sets the insurance regulatory charge at 6.5%, it imposes the insurance regulatory charge on HMOs, Blue Cross Blue Shield of NC, and Delta Dental of NC, and it allows the Department of Agriculture to consider indirect costs when establishing its fee schedule.***

PUBLIC UTILITY REGULATORY FEE: **Section 1** sets the public utility regulatory fee for fiscal year 1999-2000 at 0.09%. The rate maintains the current 0.09% rate set in fiscal year 1997-98. The utility regulatory fee was imposed in 1989. Its purpose is to defray the State's cost in regulating public utilities. The regulatory fee is imposed on all utilities that are subject to regulation by the North Carolina Utilities Commission. The fee is a percentage of the utility's North Carolina jurisdictional revenues. In general, jurisdictional revenue is revenue derived from providing utility service in North Carolina.

In addition to funding the State's cost in regulating public utilities, the money in the Utilities Commission and Public Staff Fund was used last biennium to finance the work of the Study Commission on the Future of Electric Service in North Carolina. Legislation has been introduced this session, House Bill 777 and Senate Bill 266, to continue funding this Commission with revenue from the Fund for the upcoming fiscal year. The General Assembly established the Commission in 1997. The purpose of the Commission is to examine the cost, adequacy, availability, and pricing of electric rates and service in North Carolina to determine whether legislation is necessary to assure an adequate and reliable source of electricity and an economical, fair, and equitable rates for all consumers of electricity in North Carolina.

Section 2 of the bill establishes the public utility regulatory fee to be paid by The North Carolina Electric Membership Corporation for the 1999-2000 fiscal year at $200,000. This section becomes effective if and only if House Bill 476 is enacted. The General Assembly ratified this bill on June 10. It has been presented to the Governor to sign. House Bill 476 authorizes electric membership corporations to form subsidiary corporations that may provide energy services and products, telecommunications services and products, and water and wastewater collection and treatment. The subsidiaries must fully compensate the electric membership corporation for its use of the corporation's personnel, services, equipment, and property. Under House Bill 476, the Utilities Commission is charged with regulating this aspect of the subsidiary's business. To pay for the cost of this regulation, the bill creates a flat regulatory fee to be paid The North Carolina Electric Membership Corporation to the Utilities Commission and Public Staff Fund. The General Assembly must establish the flat fee amount each year. This bill sets the fee amount at $200,000 for the 1999-2000 fiscal year.

INSURANCE REGULATORY CHARGE: **Section 3** increases the insurance regulatory charge from 6% to 6.5%. This charge was first imposed in 1991. Its purpose is to make the Department of

Insurance receipt-supported and thereby eliminate General Fund support of the Department. The regulatory fee is imposed on insurance companies that pay the gross premiums tax, other than service corporations such as Blue Cross Blue Shield and Delta Dental Corporation. Health maintenance organizations do not pay the regulatory charge because they do not pay the gross premiums tax. The charge is a percentage of the insurance company's premiums tax liability.

In 1995, the General Assembly eliminated the insurance audit and examination fees for insurance companies, HMOs, medical corporations, and guaranty associations. The revenue generated by these audit fees was an estimated $4.5 million annually. Consequently, the costs of the audits are now paid for by the insurance regulatory charge as part of the costs of regulating the insurance industry.

Section 4 of the bill imposes the regulatory charge on the HMOs and the medical corporations. The fee is levied on an imaginary amount of dollars the HMOs and medical corporations would owe if they paid the gross premiums tax at the 1.9% rate like other insurers. HMOs do not pay the gross premiums tax. Medical corporations pay the gross premiums tax at a rate of one-half of one percent (0.05%).

AGRICULTURAL FEES AND CHARGES: **Section 5** allows the Department of Agriculture to consider its indirect costs when establishing its fees and charges. Under current law, the term "costs" is defined for purposes of the fees and charges the Department may impose. Under the definition, the Department can consider expenses such as mileage, computer time, salaries, supplies, etc. It may not consider fixed overhead expenses such as buildings, equipment, machinery, or other similar expenses which are indirectly related to a particular service or duty. This limitation is troublesome when rental rates and fees are established for the use of agency facilities at fairs and agricultural centers because most of the Department's costs are in the form of fixed overhead expenses. The Appropriations Committee has indicated that a "break even" philosophy should be followed at fairs, agricultural centers, and farmers' markets. The revision of this statute is needed for the Department to be able to establish a "break even" rental rate for these types of facilities. The Department must continue to establish rental rates and fees under the provisions of the Administrative Procedures Act.

DRAFT/FRD

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1289 (House Finance Committee Substitute 2)

SHORT TITLE: Set Regulatory Fees/Expand Ins. Reg. Fee

SPONSOR (S):

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

($ Millions)

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Utilities Special Fund	$8.7	($0.36 million increase over FY 1998-99)			
(Regulatory Fee Revenue = $8.5)					
(NC EMC Fee = $0.2)					
Insurance Regulatory Fund	$21.7	($2.5 million increase over 1998)			
Department of Agriculture		* See Assumptions and Methodology *			

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: N.C. Department of Insurance, N.C. Utilities Commission/Public Staff, and N.C. Department of Agriculture.

EFFECTIVE DATE: Section 1 becomes effective July 1, 1999. The remainder becomes effective when it becomes law.

BILL SUMMARY: Each year the General Assembly must set the regulatory fees for the insurance industry and public utilities. The bill sets the public utility regulator fee at nine-hundredths percent (0.09%) of each public utility's North Carolina jurisdictional revenues. It also sets a flat fee of $200,000 to be assessed on the North Carolina Electric Membership Corporation. This funding is to cover the costs associated with the Commission's new oversight responsibilities as outlined in H.B. 486. The bill also sets the insurance regulatory fee at 6.5 percent of a company's premiums tax liability. The bill applies the insurance regulatory fee to Health Maintenance Organizations (HMO). The rate for HMOs is based on a "presumed premiums tax liability". This presumed liability is calculated on what these companies would have paid in premiums tax if they were liable for such a tax (the HMOs do not pay a premiums tax). The bill applies the fee to a presumed premiums tax liability of 1.9% of the company's premium base. The bill also presumes an Article 65 corporate tax liability of 1.9% of their premium base. (Their actual premiums tax rate is 0.5%). The HMO payment is due on March

15th of each year for the previous year's tax. All other companies remit the fee when they pay the premiums tax.

ASSUMPTIONS AND METHODOLOGY: The bill sets three fees - the public utilities regulatory fee, the electric membership corporation regulatory fee, and the insurance regulatory fee. The bill also authorizes the Department of Agriculture to charge fees that exceed the direct costs associated with an event. Currently the Department's fees for participation in fairs, festivals, and farmers markets can reflect only the direct cost of that involvement.

Public Utilities Regulatory Fee: The legislation sets the utilities regulatory fee at 0.09% of each public utilities' North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 1999. (This maintains the current 0.09% rate set in fiscal year 1998-99.) The revenue generated from this fee supports the operations of the North Carolina Utilities Commission and Public Staff.

G.S. 62-302(b)(2) states that the percentage rate established by the General Assembly and assessed by the Commission "may not exceed the amount necessary to generate funds sufficient to defray the estimated cost of the operations of the Commission and Public Staff for the upcoming fiscal year, including a reasonable margin for a reserve fund." The Utilities Commission estimates that combined operations of the Commission and the Public Staff in FY 1999-2000 will require expenditures of not less than $10,244,533. Revenues generated by the proposed utilities regulatory fee are estimated to be $8,500,000. The balance will be derived from other revenues generated by Commission fees and charges, or from the Accumulated Fee Margin Reserve Account.

The Utilities Commission indicates that the status of the Accumulated Fee Margin Reserve is as follows:

Balance as of 6/30/99	$ 7,414,519
Add: Estimated Collections and Interest for FY 1999-2000 using 0.09%	$ 9,400,000
Total Funds Available	$16,814,519
Less: Estimated FY 1999-2000 Expenditures Reimbursable from Fees	$(10,244,553)*
Estimated Margin Reserve for Period Ending 6/30/2000	$ 6,569,966

** The Utilities Commission indicates that potential costs incurred by the Legislative Study Commission on the Future of Electric Service in North Carolina are not included in FY 1999-2000 estimated expenditures. That cost, if any, is not estimated at this time. House Bill 777 and Senate Bill 26, both introduced this session, extend the authorization of study commission expenses from the reserve fund through FY 1999-2000. Both bills have been referred to their respective chambers' appropriations committees for consideration.*

Based on the projected Fee Margin Reserve, the fee of 0.09% should be sufficient to cover the operations of the Utilities Commission and Public Staff.

North Carolina Electric Membership Corporation (EMC) Regulatory Fee: House Bill 1289 PCS also establishes a regulatory fee to be paid by the North Carolina EMC totaling $200,000. This fee relates back to House Bill 476, which authorizes electric membership corporations to form subsidiary corporations to provide additional services beyond traditional electric services. House Bill 476 charges the Utilities Commission with regulating these new subsidiaries. The North Carolina EMC will now be required to remit an annual fee to the Utilities Special Fund to pay for the cost of this regulation. The Utilities Commission estimates that $200,000 will be sufficient to cover these anticipated costs in FY 1999-2000.

Insurance Regulatory Fee: This portion of the bill changes the existing law in three ways. First, the bill sets the insurance regulatory charge effective for calendar year 1999 at 6.5%. (This is an increase of 0.5% over the previous year). The charge is based on a percentage of a company's premiums tax liability for the taxable year. Every insurance company subject to the premiums tax levied under G.S. 105-228.5 is required to pay the insurance regulatory charge.

Companies that do not pay the premiums tax calculate what their premiums tax liability would be if they were liable for the tax. This is called the "presumed premiums tax". This presumed premiums tax is used to determine the regulatory fee liability.

G.S. 58-6-25(b) states that the percentage rate, set annually, cannot exceed the rate necessary to generate funds sufficient to defray the estimated cost of operating the Department of Insurance for the upcoming year including a reasonable margin for a reserve fund. The reserve fund should not exceed one-third of the estimated operating cost. The revenue collected from the charge is deposited into the Insurance Regulatory Fund invested with the State Treasurer and managed by the Office of State Budget and Management. Funds generated by the regulatory charge are used to reimburse the General Fund for the amount appropriated to the Department of Insurance.

The historic base against which the fee is charged, and the associated rate, is listed below.

	1997-98	1998-99
Estimated Gross Premiums Tax	$268 million	$281 million
Regulatory Rate	0.0875	0.06
Total Revenue	$23.45 million	$16.86 million

The historic base excludes Health Maintenance Organizations, and includes Article 65 companies (Blue Cross/Blue Shield and Delta Dental) at a reduced rate.

If the fee were levied only on companies in the existing base, and at the existing presumed premiums tax rate, the revenue for 1999-00 would be as follows:

	1999-00
Estimated Gross Premiums Tax	$295.05 million
Regulatory Rate	0.065
Total Revenue	$19.18 million

The bill also adds HMOs to the list of companies that are charged a regulatory fee. The Department of Insurance estimates that the HMOs will add approximately $34.2 million to the base against which the regulatory fee is charged. This is based on their presumed premiums tax liability. Applying the 6.5% regulatory fee to the $34.2 million creates an additional $2.2 million in regulatory fee revenue.

Finally, the bill increases the base associated with Blue Cross/Blue Shield and Delta Dental. These are Article 65 companies. Both of these companies pay premiums taxes at a reduced rate. While all other insurance companies with a premiums tax liability pay at the rate of 1.9%, these companies pay at a reduced 0.5% rate. The regulatory fee is charged on their reduced premiums tax amount. The bill increases the presumed rate for these companies to 1.9%. The Department of Insurance estimates that this will add $4.1 million to the base against which the regulatory fee is charged. As a result, this portion of the bill increases revenue by $286,450.

When totaled, the three changes to the insurance regulatory fee statutes create $21.7 million in revenue. However the Department estimates that $3.3 million in refunds will be made to companies that overpaid their surcharge in previous years. Thus, the net collections will be $18.4 million. The Department estimates that the operating expenditures for 1999-2000 will be approximately $21 million and that the reserve fund will have a beginning balance of $8.7 million. The total available from the reserve fund ($8.7 million) and the estimated net collections ($18.4 million) will be $27.1 million. The total available less the estimated operating expenditures of $21 million will leave a year-end reserve balance of $6.1 million, which is slightly less than one-third of the estimated operating expenditures.

Based on the above, the regulatory surcharge rate of 6.5% assessed against companies in the existing base, HMOs, and Article 65 companies is sufficient to defray the estimated cost of the operations of the Department including a reasonable reserve fund.

Agricultural Fees: Under current law the Department of Agriculture can charge fees for participation in fairs, festivals and farmers markets. Under current law the fee can only reflect the marginally cost associated with a particular participant or vendor. They can not use the fees to address the fixed costs of these events. This includes ongoing maintenance and repairs. This portion of the bill would allow the Department to increase their fees to include more than just the marginal costs. The Department has not established a new proposed fee schedule, and can not estimate how much additional revenue they hope to receive as a result of the bill. As a result, no fiscal estimate is possible on this portion of the bill.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Jennifer Herrera, Marilyn Chism, and Linda Struyk Millsaps

APPROVED BY:

DATE:

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☒ Senate Committee Substitute for
S.B. 55 A BILL TO BE ENTITLED AN ACT TO CONFORM THE TAX BASE OF THE REGIONAL TRANSIT AUTHORITY VEHICLE RENTAL TAX TO THE TAX BASE OF THE ALTERNATE HIGHWAY USE TAX ON SHORT-TERM VEHICLE RENTALS, AND TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE REVENUE LAWS AND RELATED STATUTES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill ~~(#)~~, ☒ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 55
Finance Committee Substitute Adopted 6/2/99
Third Edition Engrossed 6/7/99
Proposed House Committee Substitute S55-PCS3845-RB

Short Title: Revenue Laws Technical Changes. (Public)

Sponsors:

Referred to:

February 9, 1999

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE REVENUE LAWS AND RELATED STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Section 7 of S.L. 1998-158 reads as rewritten:

"Section 7. ~~Section 5 of this act is effective for taxable years beginning on or after October 1, 1998. The remainder of this~~ This act is effective when it becomes law."

Section 2. G.S. 1C-1601(a)(9) reads as rewritten:

"(a) Exempt property. -- Each individual, resident of this State, who is a debtor is entitled to retain free of the enforcement of the claims of ~~his~~ creditors:

. . .

(9) Individual retirement ~~accounts as described in Section 408(a) of the Internal Revenue Code, individual retirement annuities as described in Section 408(b) of the Internal Revenue Code, and accounts established as part of a trust described in Section 408(c) of~~ plans as defined in the Internal Revenue Code and any plan treated in the same manner as an individual retirement plan under the Internal Revenue Code. For purposes of this subdivision, 'Internal Revenue Code' means Code as defined in G.S. 105-228.90."

Section 3.(a) G.S. 10A-4(b) reads as rewritten:

"(b) A person qualified for a notarial commission shall meet all of the following requirements:

(1) Be at least 18 years of age.

(2) Reside or work in this State.

(3) Satisfactorily complete a course of study that is approved by the Secretary and consists of not less than three hours nor more than six hours of classroom instruction provided by community colleges throughout the State, unless the person is a licensed member of the Bar of this State.

(4) Purchase and keep as a reference a manual approved by the Secretary that describes the duties, authority, and ethical responsibilities of notaries public.

(5) Submit an application containing no significant misstatement or omission of fact. The application form shall be provided by the Secretary and be available at the register of deeds office in each county. Every application shall bear the signature of the applicant written with pen and ink, and the signature shall be acknowledged by the applicant before a person authorized to administer oaths. The applicant shall also obtain the recommendation of one publicly elected official in North Carolina whose recommendation shall be contained on the application.

(6) Pay a nonrefundable fee of ~~twenty-five dollars ($25.00).~~ thirty dollars ($30.00)."

Section 3.(b) G.S. 10A-7(a) reads as rewritten:

"(a) The course of study required by G.S. 10A-4(b) shall be taught by an instructor certified in accordance with rules adopted by the Secretary. An instructor must meet the following requirements to be certified to teach a course of study for notaries public:

(1) Complete and pass a six-hour instructor's course taught by the Director or other person approved by the Secretary.

(2) Have six months of active experience as a notary public.

(3) Maintain a current commission as a notary public.

(4) Purchase the current notary public guidebook.

(5) Pay a nonrefundable fee of fifty dollars ($50.00).

~~thirty dollars ($30.00) thirty dollars ($30.00)~~"

Section 4. G.S. 28A-21-2(a) reads as rewritten:

"(a) Unless the time for filing the final account has been extended by the clerk of superior court, the personal representative or collector must file ~~his~~ the final account for settlement within one year ~~of his qualification~~ after qualifying or within six months after ~~his receipt of the State~~ receiving a State estate or inheritance tax release, whichever is later. If no estate or inheritance tax return was required to be filed for the ~~estate under G.S. 105-23 because the estate met the requirements of subsection (b) of that section,~~ estate, the personal representative or collector shall so certify in the final account filed with the clerk of superior court. Such certification shall list the

amount and value of all of the decedent's property, and with respect to real estate, its particular location within or outside the State, including any property transferred by the decedent over which ~~he~~ the decedent had retained any ~~interest as described in G.S. 105-2(a)(3),~~ interest, or any property transferred within three years prior to the date of the decedent's death, and after being filed and accepted by the clerk of the superior court shall be prima facie evidence that such property is free of any State inheritance or State estate tax liability. The personal representative or collector shall produce vouchers for all payments or verified proof for all payments in lieu of vouchers. With the approval of the clerk of superior court, such account may be filed voluntarily at any time. In all cases, the accounting shall be reviewed, audited and recorded by the clerk of superior court in the manner prescribed in G.S. 28A-21-1."

Section 5. G.S. 29-13 reads as rewritten:

"**§ 29-13. Descent and distribution upon intestacy.**

All the estate of a person dying intestate shall descend and be distributed, subject to the payment of costs of administration and other lawful claims against the estate, and subject to the payment ~~by the recipient~~ of State inheritance or estate taxes, as provided in this Chapter."

Section 6. G.S. 29-20 reads as rewritten:

"**§ 29-20. Descent and distribution upon intestacy of illegitimate children.**

All the estate of a person dying illegitimate and intestate shall descend and be distributed, subject to the payment of costs of administration and other lawful claims against ~~his~~ the estate, and subject to the payment ~~by the recipient~~ of State inheritance or estate taxes, as provided in this Article."

Section 7. G.S. 36A-100(c) reads as rewritten:

"(c) A person having the right to designate the beneficiary under a life insurance policy, employee benefit plan or group life insurance policy described in subsection (a) or (b) of this section may designate as such beneficiary a trustee named or to be named in his will whether or not the will is in existence at the time of the designation. The proceeds received by the trustee shall be held and disposed of as part of the trust estate under the terms of the will as they exist at the death of the testator. If no qualified trustee makes claim to the proceeds within six months after the death of the decedent or if within that period it is established that no trustee can qualify to receive the proceeds, payments shall be made to the personal representative of the estate of the person making the designation unless it is otherwise provided by an alternative designation or by the policy or plan. The proceeds received by the trustee shall not be subject to claims against the estate of the decedent or to estate or inheritance taxes to any greater extent than if the proceeds were payable directly to the beneficiary or beneficiaries named in the trust. The proceeds may be commingled with any other assets which may properly become part of such trust, but the proceeds shall not become part of the decedent's estate for purposes of trust administration unless the will of the decedent expressly so provides."

Section 8. G.S. 36A-125(a) reads as rewritten:

"(a) If at any time the trustee of a noncharitable irrevocable trust determines in good faith that the value of the assets held in trust is ten thousand dollars ($10,000) or less, and the continuance of the trust pursuant to its terms in relation to the cost of its administration would defeat or substantially impair the accomplishment of the purposes of the trust, the trustee, without approval of the court, may, but is not required to, terminate the trust and distribute the trust property, including principal and undistributed income, to the beneficiaries in a manner which conforms as nearly as possible to the intention of the settlor as determined by the trustee from the trust agreement; provided, however, that the trust property, including principal and undistributed income, shall be distributed to the income beneficiary of the trust if the trust otherwise qualifies for the marital deduction for federal estate tax or North Carolina estate or inheritance tax purposes, or is a Qualified Subchapter S Trust as defined in the Internal Revenue Code. The trustee may enter into an agreement or make such other provisions that the trustee deems necessary or appropriate to protect the interests of the beneficiaries and to carry out the intent and purpose of the trust."

Section 9. G.S. 41-2.1(f) reads as rewritten:

"(f) This section does not repeal or modify any provisions of the law relating to estate or inheritance taxes."

Section 10. G.S. 41-2.2(d) reads as rewritten:

"(d) This section does not repeal or modify any provisions of the law relating to estate or inheritance taxes."

Section 11. G.S. 41-2.5(d) reads as rewritten:

"(d) ~~Nothing herein contained shall be construed to repeal or modify any of the provisions of Article 1 of Chapter 105 relating to the administration of the inheritance tax laws or any other provision of the law relating to~~ This section does not repeal or modify any provisions of the law relating to estate or inheritance taxes."

Section 12. G.S. 93B-15 reads as rewritten:

"§ 93B-15. Payment of license fees by members of the armed forces.

An individual who is serving in the armed forces of the United States and to whom G.S. 105-249.2 grants an extension of time to file a tax return is granted an extension of time to pay any license fee charged by an occupational licensing board ~~or~~ as a condition of retaining a license granted by the board. The extension is for the same period that would apply if the license fee were a tax."

Section 13. G.S. 105-32.8 reads as rewritten:

"§ 105-32.8. Federal determination that changes the amount of tax payable to the State.

If the federal government corrects or otherwise determines the amount of the maximum state death tax credit allowed an estate under section 6166 of the Code, the personal representative must, within two years after being notified of the correction or final determination by the federal government, file an estate tax return with the Secretary reflecting the correct amount of tax payable under this Article. If the federal government corrects or otherwise determines the amount of the maximum state generation-skipping transfer tax credit allowed under section 2604 of the Code, the person who made the transfer must, within two years after being notified of the

correction or final determination by the federal government, file a tax return with the Secretary reflecting the correct amount of tax payable under this Article.

The Secretary must assess and collect any additional tax due as provided in Article 9 of this Chapter and must refund any overpayment of tax as provided in Article 9 of this Chapter. A person who fails to report a federal correction or determination in accordance with this section ~~is subject to the penalties in G.S. 105-236 and~~ forfeits the right to any refund due by reason of the determination."

Section 14.(a) G.S. 105-37.1 reads as rewritten:

"~~§ 105-37.1. (Effective July 1, 1999) Amusements -- Forms of amusement not otherwise taxed.~~

~~(a) Every person engaged in the business of giving, offering, or managing any form of entertainment or amusement not otherwise taxed under this Article, for which an admission is charged, shall pay a tax upon the gross receipts of the business at the rate of three percent (3%). Reports shall be made to the Secretary within the first 10 days of each month covering all the gross receipts for the previous month, and the tax shall be paid monthly at the time the reports are made.~~

~~Every person giving, offering, or managing any dance or athletic contest of any kind, except high school and elementary school athletic contests, for which an admission fee in excess of fifty cents (50¢) is charged, shall pay a tax upon the gross receipts derived from admission charges at the rate of three percent (3%). The tax upon gross receipts shall be levied and collected as prescribed by the Secretary.~~

~~(b) Counties shall not levy any license tax on the business taxed under this section, but cities may levy a license tax not in excess of twenty-five dollars ($25.00).~~

~~(c), (d) Repealed by Session Laws 1998-95, s. 4, effective July 1, 1999.~~

"§ 105-37.1. (Effective July 1, 1999) Dances, athletic events, shows, exhibitions, and other entertainments.

(a) Scope. -- A privilege tax is imposed on the gross receipts of a person who is engaged in any of the following:

(1) Giving, offering, or managing a dance or an athletic contest for which an admission fee in excess of fifty cents (50¢) is charged.

(2) Giving, offering, or managing a form of amusement or entertainment that is not taxed by another provision of this Article and for which an admission fee is charged.

(3) Exhibiting a performance, show, or exhibition, such as a circus or dog show, that is not taxed by another provision of this Article.

(b) Rate and Payment. -- The rate of the privilege tax is three percent (3%) of the gross receipts from the activities described in subsection (a) of this section. The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the gross receipts received during the previous month.

(c) Advance Report. -- A person who owns or controls a performance, show, or exhibition subject to the tax imposed by this section and who plans to bring the performance to this State from outside the State must file a statement with the Secretary that lists the dates, times, and places of the performance, show, or

exhibition. The statement must be filed no less than five days before the first performance, show, or exhibition in this State.

(d) Local Taxes. -- Cities may levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section; however, the tax may not exceed twenty-five dollars ($25.00). Cities may levy a license tax on a person taxed under subdivision (a)(3) of this section; however, the tax may not exceed twenty-five dollars ($25.00) for each day or part of a day the performance, show, or exhibition is given at each location.

Counties may not levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section. Counties may levy a license tax on a person taxed under subdivision (a)(3) to the same extent as a city."

Section 14.(b) G.S. 105-38 is repealed.

Section 15.(a) G.S. 105-38.1 reads as rewritten:

"**§ 105-38.1. ~~Amusements~~ Motion picture shows.**

~~(a) Tax. --~~A privilege tax at the rate of one percent (1%) is imposed on the gross receipts of a person who is engaged in the business of operating a motion picture show for which an admission is charged. The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the gross receipts received during the previous month. If a person offers an entertainment or amusement that includes both a motion picture taxable under this section and an entertainment or amusement taxable under ~~G.S. 105-37.1 or G.S. 105-38;~~ G.S. 105-37.1, the tax in ~~G.S. 105-37.1 or G.S. 105-38, as appropriate,~~ that statute applies to the entire gross receipts and the tax levied in this section does not apply.

~~(b) Exemption. -- Gross receipts from a motion picture show promoted and managed by a qualifying corporation that operates a center for the performing and visual arts is exempt from the tax imposed under this section if the motion picture is shown at the center and if the showing of motion pictures is not the primary purpose of the center. As used in this subsection, "qualifying corporation" and "center for the performing and visual arts" have the same meaning as in G.S. 105-40.~~"

Section 15.(b) G.S. 105-40(7) reads as rewritten:

"(7) All ~~dances~~ dances, motion picture shows, and other amusements promoted and managed by a qualifying corporation that operates a center for the performing and visual arts if the dance or other amusement is held at the center. "Qualifying corporation" means a corporation that is exempt from income tax under G.S. 105-130.11(a)(3). "Center for the performing and visual arts" means a facility, having a fixed location, that provides space for dramatic performances, studios, classrooms, and similar accommodations to organized arts groups and individual artists. This exemption does not apply to athletic events."

Section 16. G.S. 105-109.1 is repealed.

Section 17. G.S. 105-113 is repealed.

Section 18. G.S. 105-113.27(c) reads as rewritten:

"(c) The possession of more than six hundred cigarettes ~~bearing the tax stamp of~~ on which tax has been paid to another state or country, by any person other than a licensed distributor, ~~shall be~~ is prima facie evidence that the cigarettes are possessed in violation of this Part."

Section 19. G.S. 105-113.106(4c) reads as rewritten:

"(4c) Low-street-value drug. -- Any of the following controlled substances:

a. An anabolic steroid as defined in G.S. 90-91(k).

b. A depressant described in ~~G.S. 90-89(d), 90-90(d),~~ G.S. 90-89(4), 90-90(4), 90-91(b), or 90-92(a).

c. A hallucinogenic substance described in ~~G.S. 90-89(c) or G.S. 90-90(c).~~ G.S. 90-89(3) or G.S. 90-90(5).

d. A stimulant described in ~~G.S. 90-89(c), 90-90(c),~~ G.S. 90-89(5), 90-90(3), 90-91(j), ~~90-92(d),~~ 90-92(a)(3), or ~~90-93(a)3.~~ 90-93(a)(3).

e. A controlled substance described in G.S. 90-91(c), (d), or (e), ~~90-92(c), (c), or (f),~~ 90-92(a)(3), or (a)(5), or 90-93(a)1."

Section 20. G.S. 105-114(b)(2) reads as rewritten:

"(b) Definitions. -- The following definitions apply in this Article:

. . .

(2) Corporation. -- A domestic corporation, a foreign corporation, an electric membership corporation organized under Chapter 117 of the General Statutes or doing business in this State, or an association that is organized for pecuniary gain, has capital stock represented by shares, whether with or without par value, and has privileges not possessed by individuals or partnerships. The term includes a mutual or capital stock savings and loan association or building and loan association chartered under the laws of any state or of the United States. The term does not include a limited liability company."

Section 21. G.S. 105-122(c)(1) reads as rewritten:

"(c) (1) After ascertaining and determining the amount of its capital stock, surplus and undivided profits, as provided herein, every corporation permitted to allocate and apportion its net income for income tax purposes under the provisions of Article 4 of this Chapter shall apportion said capital stock, surplus and undivided profits to this State through use of the fraction computed for apportionment of its business income under said Article. A corporation that is subject to franchise tax under this Article but is not subject to income tax under Article 4 of this Chapter must apportion its capital stock, surplus, and undivided profits to this State by using the apportionment formula that would apply to the corporation if it were subject to Article 4.

Provided, that although a corporation is authorized by the Tax Review Board to apportion its business income by use of an alternative formula or method, the corporation may not use such alternative formula or method for apportioning its capital stock, surplus and undivided profits unless specifically authorized to do so by order of the Tax Review Board.

Provided, further, that a corporation which is required to pay an income tax to this State on its entire net income shall apportion its entire capital stock, surplus and undivided profits to this State."

Section 22. G.S. 105-130.16 reads as rewritten:

"**§ 105-130.16. Returns.**

(a) Return. -- Every corporation doing business in this State ~~shall file with the Secretary of Revenue~~ must file with the Secretary an income tax return ~~under affirmation,~~ showing ~~therein~~ specifically the items of gross income and the deductions allowed by this ~~Part,~~ Part and ~~such other facts as the Secretary may require for the purpose of making~~ any other facts the Secretary requires to make any computation required by this Part. The return of a corporation ~~shall be signed by either~~ must be signed by its president, vice-president, treasurer, assistant treasurer, ~~secretary~~ secretary, or assistant secretary. ~~There shall be annexed to the return the affirmation of the officer signing the same, which shall be in the form prescribed in G.S. 105-130.17 of this Part, and the same penalties prescribed in G.S. 105-236 shall apply to any person making wilful misstatements in said returns.~~ The officer signing the return must furnish an affirmation verifying the return. The affirmation must be in the form required by the Secretary.

(b) Correction of Distortions. -- When the Secretary ~~of Revenue~~ has reason to believe that any corporation so conducts its trade or business in such manner as to either directly or indirectly distort its true net income and the net income properly attributable to the State, whether by the arbitrary shifting of income, through price fixing, charges for service, or otherwise, whereby the net income is arbitrarily assigned to one or another unit in a group of taxpayers carrying on business under a substantially common control, ~~he may require such facts as he deems~~ the Secretary may require any facts the Secretary considers necessary for the proper computation of the entire net income and the net income properly attributable to the State, and in determining ~~same the Secretary of Revenue shall~~ these computations, the Secretary must have regard to the fair profit ~~which~~ that would normally arise from the conduct of the trade or business.

(c) Other Corrections. -- When any corporation liable to taxation under this Part conducts its business in such a manner as to either directly or indirectly benefit the members or stockholders thereof or any person interested in ~~such~~ the business by selling its products or goods or commodities in which it deals at less than the fair price which might be obtained therefor, or ~~where~~ when a corporation, a substantial portion of whose capital stock is owned either directly or indirectly by another corporation, acquires and disposes of the products of the corporation so owning a

substantial portion of its stock in such a manner as to create a loss or improper net income for either of ~~said~~ the corporations, or ~~where~~ when a corporation, owning directly or indirectly a substantial portion of the stock of another corporation, acquires and disposes of the products of the corporation of which it so owns a substantial portion of the stock in such manner as to create a loss or improper net income for either of ~~said~~ the corporations, the Secretary ~~of Revenue~~ may determine the amount of taxable income of ~~any~~ the such corporations for the calendar or fiscal year, having due regard to the reasonable profits which, but for such arrangement or understanding, might or could have been obtained by the ~~corporation or~~ corporations liable to taxation under this Part from dealing in such products, goods or commodities."

Section 23. G.S. 105-130.33(a) reads as rewritten:

"(a) Any corporation that constructs or installs a hydroelectric generator with a capacity of at least three kilowatts (3KW) at an existing dam or free flowing stream located in this State shall be allowed a credit against the tax imposed by this Part equal to ten percent (10%) of the installation and equipment costs of the hydroelectric generator paid during the taxable year. The credit allowed under this section may not exceed five thousand dollars ($5,000) for any single installation. No credit is allowed, however, to the extent that any of the costs of the system were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the site at the time the hydroelectric generator is installed. The credit allowed by this section may not exceed the amount of the tax imposed by this Part for the taxable year reduced by the sum of all credits ~~allowable under this Part,~~ allowable, except payments of tax made by or on behalf of the taxpayer."

Section 24. G.S. 105-131.7(d) reads as rewritten:

"(d) The agreements required to be filed pursuant to subsection (c) of this section shall be filed at the following times:

(1) At the time the annual return is required to be filed for the first taxable period for which the S Corporation becomes subject to the provisions of this ~~Division; and~~ Part.

(2) At the time the annual return is required to be filed for any taxable period in which the corporation has a nonresident shareholder on whose behalf such an agreement has not been previously filed."

Section 25. G.S. 105-152(e) reads as rewritten:

"(e) Joint Returns. -- A husband and wife shall file a single income tax return jointly if (i) their federal taxable income is determined on a joint federal return and (ii) both spouses are residents of this State or both spouses have North Carolina taxable income. Except as otherwise provided in this Part, a wife and husband filing jointly are treated as one taxpayer for the purpose of determining the tax imposed by this Part. A husband and wife filing jointly are jointly and severally liable for the tax imposed by this Part reduced by the sum of all credits allowable including tax payments made by or on behalf of the husband and wife. However, if a spouse has

been relieved of liability for federal tax attributable to a substantial understatement by the other spouse pursuant to section ~~6013~~ 6015 of the Code, that spouse is not liable for the corresponding tax imposed by this Part attributable to the same substantial understatement by the other spouse. A wife and husband filing jointly have expressly agreed that if the amount of the payments made by them with respect to the taxes for which they are liable, including withheld and estimated taxes, exceeds the total of the taxes due, refund of the excess may be made payable to both spouses jointly or, if either is deceased, to the survivor alone."

Section 26. G.S. 105-154(c) reads as rewritten:

"(c) Information Returns of Partnerships. -- A partnership doing business in this State and required to file a return under the Code shall file an information return with the Secretary. A partnership that the Secretary believes to be doing business in this State and to be required to file a return under the Code shall file an information return when requested to do so by the Secretary. The information return shall contain all information required by the Secretary. It shall state specifically the items of the partnership's gross income, the deductions allowed under the Code, and the adjustments required by this Part. The information return shall also include the name and address of each person who would be entitled to share in the partnership's net income, if distributable, and the amount each person's distributive share would be. The information return shall specify the part of each person's distributive share of the net income that represents corporation dividends. The information return shall be signed by one of the partners under affirmation in the form ~~prescribed in G.S. 105-155.~~ required by the Secretary.

A partnership that files an information return under this subsection shall furnish to each person who would be entitled to share in the partnership's net income, if distributable, any information necessary for that person to properly file a State income tax return. The information shall be in the form prescribed by the Secretary and must be furnished on or before the due date of the information return."

Section 27. G.S. 105-163.011 reads as rewritten:

"**§ 105-163.011. (Repealed effective for investments made on or after January 1, 2003) Tax credits allowed.**

(a) No Credit for Brokered Investments. -- No credit is allowed under this section for a purchase of equity securities or subordinated debt if a broker's fee or commission or other similar remuneration is paid or given directly or indirectly for soliciting the purchase.

(b) Individuals. -- Subject to the limitations contained in G.S. 105-163.012, an individual who purchases the equity securities or subordinated debt of a qualified business venture or a qualified grantee business directly from that business is allowed as a credit against the tax imposed by Part 2 of this Article for the taxable year an amount equal to twenty-five percent (25%) of the amount invested. The aggregate amount of credit allowed an individual for one or more investments in a single taxable year under this ~~Division,~~ Part, whether directly or indirectly as owner of a pass-through entity, may not exceed fifty thousand dollars ($50,000). The credit may not be taken for the year in which the investment is made but shall be taken for the

taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in subsection (c) of this section.

(b1) Pass-Through Entities. -- This subsection does not apply to a pass-through entity that has committed capital under management in excess of five million dollars ($5,000,000) or to a pass-through entity that is a qualified grantee business, a qualified business venture, or a North Carolina Enterprise Corporation. Subject to the limitations provided in G.S. 105-163.012, a pass-through entity that purchases the equity securities or subordinated debt of a qualified grantee business or a qualified business venture directly from the business is eligible for a tax credit equal to twenty-five percent (25%) of the amount invested. The aggregate amount of credit allowed a pass-through entity for one or more investments in a single taxable year under this ~~Division,~~ Part, whether directly or indirectly as owner of another pass-through entity, may not exceed seven hundred fifty thousand dollars ($750,000). The pass-through entity is not eligible for the credit for the year in which the investment by the pass-through entity is made but shall be eligible for the credit for the taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in subsection (c) of this section.

Each individual who is an owner of a pass-through entity is allowed as a credit against the tax imposed by Part 2 of this Article for the taxable year an amount equal to the owner's allocated share of the credits for which the pass-through entity is eligible under this subsection. The aggregate amount of credit allowed an individual for one or more investments in a single taxable year under this ~~Division,~~ Part, whether directly or indirectly as owner of a pass-through entity, may not exceed fifty thousand dollars ($50,000).

If an owner's share of the pass-through entity's credit is limited due to the maximum allowable credit under this section for a taxable year, the pass-through entity and its owners may not reallocate the unused credit among the other owners.

(c) Application. -- To be eligible for the tax credit provided in this section, the taxpayer must file an application for the credit with the Secretary on or before April 15 of the year following the calendar year in which the investment was made. The Secretary may grant extensions of this deadline, as the Secretary finds appropriate, upon the request of the taxpayer, except that the application may not be filed after September 15 of the year following the calendar year in which the investment was made. An application is effective for the year in which it is timely filed. The application shall be on a form prescribed by the Secretary and shall include any supporting documentation that the Secretary may require. If an investment for which a credit is applied for was paid for other than in money, the taxpayer shall include with the application a certified appraisal of the value of the property used to pay for the investment. The application for a credit for an investment made by a pass-through entity must be filed by the pass-through entity.

(d) Penalties. -- The penalties provided in G.S. 105-236 apply in this ~~Division.~~ Part."

Section 28.(a) G.S. 105-164.3(8b) is recodified as G.S. 105-164.3(8c) and reads as rewritten:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article, except when the context clearly indicates a different meaning:

. . .

~~(8b)~~ (8c) "Motor vehicle" means a vehicle that is designed primarily for use upon the highways and is either self-propelled or propelled by a self-propelled vehicle, but does not include:

a. A ~~moped as defined in G.S. 20-4.01(27) (d1).~~ moped.

b. Special mobile ~~equipment as defined in G.S. 20-4.01(44).~~ equipment.

c. A tow dolly that is exempt from motor vehicle title and registration requirements under G.S. 20-51(10) or (11).

d. A farm tractor or other implement of husbandry.

e. A manufactured home, a mobile office, or a mobile classroom.

f. Road construction or road maintenance machinery or equipment."

Section 28.(b) G.S. 105-164.3 is amended by adding the following new subdivisions in the appropriate alphabetical order:

"(8b) Moped. -- A vehicle that has two or three wheels, no external shifting device, and a motor that does not exceed 50 cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than 20 miles per hour on a level surface.

. . .

(16b) Special mobile equipment. -- Any of the following:

a. A vehicle that has a permanently attached crane, mill, well-boring apparatus, ditch-digging apparatus, air compressor, electric welder, feed mixer, grinder, or other similar apparatus is driven on the highway only to get to and from a nonhighway job and is not designed or used primarily for the transportation of persons or property.

b. A vehicle that has permanently attached special equipment and is used only for parade purposes.

c. A vehicle that is privately owned, has permanently attached fire-fighting equipment, and is used only for fire-fighting purposes.

d. A vehicle that has permanently attached playground equipment and is used only for playground purposes."

Section 28.(c) G.S. 20-4.01(21a) reads as rewritten:

"(21a) Moped. -- A type of passenger vehicle as defined in ~~G.S. 20-4.01(27).~~ G.S. 105-164.3."

Section 28.(d) G.S. 20-4.01(27)d1. reads as rewritten:

"d1. Moped. -- ~~A vehicle that has two or three wheels, no external shifting device, and a motor that does not exceed~~

~~50 cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than 20 miles per hour on a level surface.~~ Defined in G.S. 105-164.3."

Section 28.(e) G.S. 20-4.01(44) reads as rewritten:

"(44) Special Mobile Equipment. -- ~~Any of the following:~~

~~a. A vehicle that has a permanently attached crane, mill, well-boring apparatus, ditch-digging apparatus, air compressor, electric welder, feed mixer, grinder, or other similar apparatus, is driven on the highway only to get to and from a nonhighway job, and is not designed or used primarily for the transportation of persons or property.~~

~~b. A vehicle that has permanently attached special equipment and is used only for parade purposes.~~

~~c. A vehicle that is privately owned, has permanently attached fire-fighting equipment, and is used only for fire-fighting purposes.~~

~~d. A vehicle that has permanently attached playground equipment and is used only for playground purposes.~~ Defined in G.S. 105-164.3."

Section 29. G.S. 105-164.4(a)(4) reads as rewritten:

"**§ 105-164.4. Tax imposed on retailers.**

(a) **(Effective July 1, 1999)** A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four percent (4%).

. . .

(4) Every person engaged in the business of operating a dry cleaning, pressing, or hat-blocking establishment, a laundry, or any similar business, engaged in the business of renting clean linen or towels or wearing apparel, or any similar business, or engaged in the business of soliciting cleaning, pressing, hat blocking, laundering or linen rental business for any of these businesses, is considered a retailer under this Article. A tax at the general rate of tax is levied on the gross receipts derived by these retailers from services rendered in engaging in any of the occupations or businesses named in this subdivision. The tax imposed by this subdivision does not apply to receipts derived from ~~coin-or-token-operated~~ coin, token, or card-operated washing machines, extractors, and dryers. The tax imposed by this subdivision does not apply to gross receipts derived from services performed for resale by a retailer that pays the tax on the total gross receipts derived from the services."

Section 30. G.S. 105-164.4(c) reads as rewritten:

"(c) Certificate of Registration. -- Before a person may engage in business as a retailer or a wholesale merchant, the person must obtain a certificate of registration

from the Department. To obtain a certificate of registration, a person must register with the Department and pay fifteen dollars ($15.00).

A certificate of registration is valid unless it is revoked for failure to comply with the provisions of this Article or becomes void. A certificate issued to a retailer who makes taxable sales becomes void if, for a period of 18 months, the retailer files no returns or files returns showing no sales."

Section 31. G.S. 105-164.13(4d) reads as rewritten:

"(4d) The lease or rental of ~~burlap~~ tobacco sheets used in handling tobacco in the warehouse and transporting tobacco to and from the warehouse."

Section 32.(a) G.S. 105-187.43 reads as rewritten:

"**§ 105-187.43. (Effective July 1, 1999) Payment of the tax.**

(a) ~~Monthly Return.~~ Payment. -- The tax imposed by this Article is payable monthly to the Secretary. A monthly tax payment is due by the last day of the month that follows the month in which the tax accrues. The tax imposed by this Article on piped natural gas delivered to a sales or transportation customer accrues when the gas is delivered. The tax payable on piped natural gas received by a person who has direct access to an interstate pipeline for consumption by that person accrues when the gas is received.

(b) Small Underpayments. -- A person is not subject to interest on or penalties for an underpayment of a monthly amount due if the person timely pays at least ninety-five percent (95%) of the amount due and includes the underpayment with the next return the person files.

(c) Return. -- A return is due quarterly. A quarterly return covers a calendar quarter and is due by the last day of the month that follows the quarter covered by the return."

Section 32.(b) G.S. 105-187.44 reads as rewritten:

"**§ 105-187.44. (Effective July 1, 1999) Distribution of part of tax proceeds to cities.**

(a) City Information. -- A ~~monthly~~ quarterly return filed under this Article must indicate the amount of tax attributable to the following:

(1) Piped natural gas delivered during the ~~month~~ quarter to sales or transportation customers in each city in the State.

(2) Piped natural gas received during the ~~month~~ quarter in each city in the State by persons who have direct access to an interstate gas pipeline and who receive the gas for their own consumption.

If a tax return does not state this information, the Secretary must determine how much of the tax proceeds are to be attributed to each city.

(b) Distribution. -- Within 75 days after the end of each calendar quarter, the Secretary must distribute to the cities part of the tax proceeds collected under this Article during that quarter. The amount to be distributed to a city is one-half of the amount of tax attributable to that city for that quarter under subsection (a) of this section."

Section 33. G.S. 105-194 reads as rewritten:

"**§ 105-194. Death of donor within three years; time of assessment.**

~~Where~~ If a donor dies within three years after filing a return, gift taxes may be assessed at any time within ~~said~~ those three years, or on or before the date of final settlement of the donor's State estate or inheritance taxes, whichever is later."

Section 34. G.S. 105-253(a) reads as rewritten:

"(a) Any officer, trustee, or receiver of any corporation or limited liability company required to file a report with the Secretary who has custody of funds of the corporation or company and who allows the funds to be paid out or distributed to the stockholders of the corporation or to the members of the company without having remitted to the Secretary any State taxes that are due is personally liable for the payment of the tax."

Section 35.(a) G.S. 105-275 is amended by adding a new subdivision to read:

"(41) Objects of art held by the North Carolina Art Society, Incorporated."

Section 35.(b) G.S. 140-15 reads as rewritten:

"~~**§ 140-15. Exemption from taxes.**~~

~~All gifts made to the North Carolina State Art Society, Incorporated, shall be exempt from State gift and inheritance taxes, and objects of art held by the Society shall be exempt from ad valorem taxes.~~"

Section 36. G.S. 105-449.37(a)(1a) reads as rewritten:

"**§ 105-449.37. Definitions; tax liability.**

(a) Definitions. -- The following definitions apply in this Article:

. . .

(1a) Motor vehicle. -- A motor vehicle as defined in ~~G.S. 20-4.01(23),~~ G.S. 105-164.3(8c), other than special mobile equipment as defined in ~~G.S. 20-4.01(44).~~ G.S. 105-164.3(16b)."

Section 37. G.S. 105-449.39 reads as rewritten:

"**§ 105-449.39. Credit for payment of motor fuel tax.**

Every motor carrier subject to the tax levied by this Article is entitled to a credit on its quarterly report for tax paid by the carrier on fuel purchased in the State. ~~A motor carrier who files a quarterly report is entitled to a credit at a rate equal to~~ The amount of the credit is determined using the flat cents-per-gallon rate plus the variable cents-per-gallon rate of tax in effect during the quarter ~~for which the credit is claimed. A motor carrier who files an annual report is entitled to a credit at a rate equal to the flat cents-per-gallon rate plus the average of the two variable cents-per-gallon rates of tax in effect during the year for which the credit is claimed.~~ covered by the report. To obtain a credit, the motor carrier must furnish evidence satisfactory to the Secretary that the tax for which the credit is claimed has been paid.

If the amount of a credit to which a motor carrier is entitled for a ~~reporting period~~ quarter exceeds the motor carrier's liability for that ~~reporting period,~~ quarter, the Secretary must refund the excess to the motor carrier."

Section 38. G.S. 105-449.42 reads as rewritten:

"**§ 105-449.42. Payment of tax.**

The tax levied by this Article is due when a motor carrier files a quarterly ~~or an annual~~ report under G.S. 105-449.45. The amount of tax due ~~shall be~~ is calculated ~~upon~~ on the amount of ~~gasoline or other~~ motor fuel or alternative fuel used by the motor carrier in its operations within this State during the ~~reporting period~~ quarter covered by the report."

Section 39. G.S. 105-449.44(a) reads as rewritten:

"(a) Calculation. -- The amount of ~~gasoline or other~~ motor fuel ~~used in the operations of any motor carrier within this State shall be such proportion of the total amount of such gasoline or other motor fuel used in its entire operations within and without this State as the total number of miles traveled within this State bears to the total number of miles traveled within and without this State.~~ or alternative fuel a motor carrier carries in its operations in this State for a reporting period is the ratio of the number of miles the motor carrier travels in this State during that period to the total number of miles the motor carrier travels inside and outside this State during that period, multiplied by the total amount of fuel the motor carrier uses in its operations inside and outside the State during that period."

Section 40. G.S. 105-449.45 reads as rewritten:

"**§ 105-449.45. Reports of carriers.**

(a) ~~Quarterly~~ Report. -- A motor carrier ~~shall~~ must report its operations to the Secretary on a quarterly basis unless ~~this subsection~~ subsection (b) of this section exempts the motor carrier from this ~~requirement or permits the motor carrier to report on a different basis. A motor carrier is not required to file a quarterly report if:~~

~~(1) All the motor carrier's operations during the quarter were made under a temporary permit issued under G.S. 105-449.49.~~

~~(2) The motor carrier is an intrastate motor carrier, as indicated on the motor carrier's application for registration with the Secretary.~~

~~(3) The motor carrier has been granted permission to file an annual report under subsection (b).~~

requirement. A quarterly report covers a calendar quarter and is due by the last day in April, July, October, and January.

(b) Exemptions. -- A motor carrier is not required to file a quarterly report if any of the following applies:

(1) All the motor carrier's operations during the quarter were made under a temporary permit issued under G.S. 105-449.49.

(2) The motor carrier is an intrastate motor carrier, as indicated on the motor carrier's application for registration with the Secretary.

~~Annual Report. -- The Secretary may authorize a motor carrier whose estimated annual tax liability under this Article does not exceed two hundred dollars ($200.00) to file an annual report of its operations. The tax liability of a motor carrier that files an annual report shall be computed at a rate equal to the flat cents-per-gallon rate plus the average of the two cents-per-gallon rates in effect during the year for which the liability is computed.~~

~~An annual report covers a fiscal year beginning on July 1 and ending on the following June 30 and is due by July 31 after the end of a fiscal year. To file an~~

~~annual report, a motor carrier must apply to the Secretary for permission to file on an annual basis. An application must be submitted by the date set by the Secretary. Once granted permission, a motor carrier may continue to file an annual report until notified by the Secretary to file a quarterly report.~~

(c) Other Reports. -- A motor carrier ~~shall~~ must file with the Secretary other reports concerning its operations that the Secretary requires.

(d) Penalties. -- A motor carrier that fails to file a report under this section by the required date is subject to a penalty of fifty dollars ($50.00)."

Section 41. G.S. 105-449.47 reads as rewritten:

"**§ 105-449.47. Registration of vehicles.**

(a) Requirement. -- A motor carrier that is subject to the International Fuel Tax Agreement may not operate or cause to be operated in this State any vehicle listed in the definition of motor vehicle unless both the motor carrier and the motor vehicle are registered with the motor carrier's base state jurisdiction. A motor carrier that is not subject to the International Fuel Tax Agreement may not operate or cause to be operated in this State any vehicle listed in the definition of motor ~~carrier~~ vehicle unless both the motor carrier and the motor vehicle are registered with the Secretary for purposes of the tax imposed by this Article.

~~Upon application,~~ When the Secretary ~~shall register~~ registers a motor ~~carrier and shall~~ carrier, the Secretary must issue at least one identification marker for each motor vehicle operated by the motor carrier. Registrations and identification markers issued by the Secretary are for a calendar year. The Secretary may renew a registration or an identification marker without issuing a new registration or identification marker. All identification markers issued by the Secretary remain the property of the State. The Secretary may withhold or revoke a registration or an identification marker when a motor carrier fails to comply with this Article, former Article 36 or 36A of this Subchapter, or Article 36C or 36D of this Subchapter.

A motor carrier must carry a copy of ~~the~~ its registration ~~of a motor carrier shall be carried~~ in each motor vehicle operated by the motor carrier when the vehicle is in this State. ~~An identification marker shall be clearly displayed at all times and shall~~ A motor vehicle must clearly display an identification marker at all times. The identification marker must be affixed to the vehicle for which it was issued in the place and manner designated by the ~~Secretary.~~ authority that issued it. ~~Registrations and identification markers required by this section shall be issued on a calendar year basis. The Secretary may renew a registration or an identification marker without issuing a new registration or identification marker. All identification markers issued by the Secretary remain the property of the State. The Secretary may withhold or revoke a registration or an identification marker when a motor carrier fails to comply with this Article or Article 36C or 36D of this Subchapter.~~

(b) Exemption. -- This section does not apply to the operation of a vehicle that is registered in another state and is operated temporarily in this State by a public utility, a governmental or cooperative provider of utility services, or a contractor for one of these entities for the purpose of restoring utility services in an emergency outage."

Section 42. G.S. 105-449.57 reads as rewritten:

"**§ 105-449.57. Cooperative agreements between jurisdictions.**

(a) Authority. -- The Secretary may enter into cooperative agreements with other jurisdictions for exchange of information in administering the tax imposed by this Article. No agreement, arrangement, declaration, or amendment to an agreement is effective until stated in writing and approved by the Secretary.

(b) Content. -- An agreement may provide for determining the base state for motor carriers, records requirements, audit procedures, exchange of information, persons eligible for tax licensing, defining qualified motor vehicles, determining if bonding is required, specifying reporting requirements and periods, including defining uniform penalty and interest rates for late reporting, determining methods for collecting and forwarding of ~~gasoline or other~~ motor ~~fuel~~ carrier taxes and penalties to another jurisdiction, and ~~such~~ any other provisions ~~as~~ that will facilitate the administration of the agreement.

(c) Disclosure. -- In accordance with G.S. 105-259, the Secretary may, as required by the terms of an agreement, forward to officials of another jurisdiction any information in the Department's possession relative to the use of ~~gasoline or other motor fuels~~ motor fuel or alternative fuel by any motor carrier. The Secretary may disclose to officials of another jurisdiction the location of offices, motor vehicles, and other real and personal property of motor carriers.

(d) Audits. -- An agreement may provide for each jurisdiction to audit the records of motor carriers based in the jurisdiction to determine if the ~~gasoline or other motor fuel~~ taxes due each jurisdiction are properly reported and paid. Each jurisdiction ~~shall~~ must forward the findings of the audits performed on motor carriers based in the jurisdiction to each jurisdiction in which the carrier has taxable use of ~~gasoline or other motor fuels.~~ motor fuel or alternative fuel. For motor carriers not based in this ~~State who have taxable use of gasoline or other motor fuels in this~~ State, the Secretary may utilize the audit findings received from another jurisdiction as the basis upon which to propose assessments of ~~gasoline or other motor fuel~~ taxes against the carrier as though the audit had been conducted by the Secretary. Penalties and interest ~~shall~~ must be assessed at the rates provided in the agreement.

No agreement entered into pursuant to this section may preclude the Department from auditing the records of any motor carrier covered by this Chapter.

The provisions of Article 9 of this Chapter apply to any assessment or order made under this section.

(e) Restriction. -- The Secretary may not enter into any agreement that would increase or decrease taxes and fees imposed under Subchapter V of Chapter 105 of the General ~~Statutes,~~ Statutes. ~~and any~~ Any provision to the contrary is void."

Section 43. G.S. 105-449.52(b) reads as rewritten:

"(b) Hearing. -- ~~Any person denying liability for a penalty imposed under this section must pay the penalty under protest and apply to the Department of Revenue for a hearing. Upon receiving a request for a hearing, the Secretary shall schedule a hearing before a duly designated employee or agent of the Department within 30 days after receipt of the request. If after the hearing the Department determines that the person was not liable for the penalty, the amount collected shall be refunded. If after~~

~~the hearing the Department determines that the person was liable for the penalty, the person paying the penalty may bring an action in the Superior Court of Wake County against the Secretary of Revenue for refund of the penalty. No restraining order or injunction shall issue from any court of the State to restrain or enjoin the collection of the penalty or to permit the operation of the vehicle without payment of the penalty.~~ The procedure set out in G.S. 105-449.119 for protesting a penalty imposed under Article 36C, Part 6, of this Chapter applies to a penalty imposed under this section."

Section 44. G.S. 105-449.119 reads as rewritten:

"**§ 105-449.119. Hearing on civil penalty assessment.**

A person who denies liability for a penalty imposed under this Part must pay the penalty under protest and make a written demand to the Department of Revenue for a refund. The written demand must be made within 30 days after the penalty is ~~imposed.~~ imposed and must explain why the person is not liable for the penalty. Upon receiving a demand for a refund, the Secretary ~~shall~~ must schedule a hearing on the matter before an employee or an agent of the Department. The hearing must be held within 30 days after receiving the written demand for a refund. If, after the hearing, the Department determines that the person was not liable for the penalty, the amount collected ~~shall~~ must be refunded. ~~If~~ If, after the ~~hearing~~ hearing, the Department determines that the person was liable for the penalty, the person paying the penalty may appeal the imposition of the penalty in accordance with G.S. 105-241.2, 105-241.3, and 105-241.4."

Section 45. G.S. 160A-31(e2), as enacted by S.L. 1999-19, as it applies to the Town of Huntersville, reads as rewritten:

"(e2) Annexation of property subject to annexation under subsection (e1) of this section shall become effective as to each tract of such property or such part thereof on the last day of the month in which that tract or part thereof becomes ineligible for classification pursuant to ~~G.S. 105-227.4~~ G.S. 105-277.4 and no longer meets the requirements of subdivision (e1)(2) of this section. Until annexation of a tract or a part of a tract becomes effective pursuant to this subsection, the tract or part of a tract is not subject to taxation by the city under Article 12 of Chapter 105 of the General Statutes, nor is the tract or part of the tract entitled to services provided by the city. When annexation becomes effective pursuant to this subsection as to a tract or part of a tract, the city shall provide all required services upon payment of city taxes."

Section 46. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

Section 47. Except as otherwise provided in this act, this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 3

SENATE BILL 55
Finance Committee Substitute Adopted 6/2/99
Third Edition Engrossed 6/7/99

Short Title: Revenue Laws Technical Changes. (Public)

Sponsors:

Referred to:

February 9, 1999

A BILL TO BE ENTITLED

AN ACT TO CONFORM THE TAX BASE OF THE REGIONAL TRANSIT AUTHORITY VEHICLE RENTAL TAX TO THE TAX BASE OF THE ALTERNATE HIGHWAY USE TAX ON SHORT-TERM VEHICLE RENTALS, AND TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE REVENUE LAWS AND RELATED STATUTES.

The General Assembly of North Carolina enacts:

PART I. MODIFICATION OF THE VEHICLE RENTAL TAX.

Section 1. G.S. 105-550 reads as rewritten:

"**§ 105-550. Definitions.**

The definitions in G.S. 105-164.3 and the following definitions apply in this Article:

(1) Authority. -- A regional public transportation authority or a regional transportation authority created pursuant to Article 26 or Article 27 of Chapter 160A of the General Statutes.

(2) Long-term lease or rental. -- Defined in G.S. 105-187.1.

(2a) Motor vehicle. -- Defined in G.S. 105-164.3.

(3) Motorcycle. -- Defined in G.S. 20-4.01.

(4) Repealed by Session Laws 1998-98, s. 33.

(5) Public transportation system. -- Any combination of real and personal property established for purposes of public transportation. The systems may include one or more of the following: structures,

improvements, buildings, equipment, vehicle parking or passenger transfer facilities, railroads and railroad rights-of-way, rights-of-way, bus services, shared-ride services, high-occupancy vehicle facilities, carpool and vanpool programs, voucher programs, telecommunications and information systems, integrated fare systems, bus lanes, and busways. The term does not include, however, streets, roads, or highways except to the extent they are dedicated to public transportation vehicles or to the extent they are necessary for access to vehicle parking or passenger transfer facilities.

(6) Short-term lease or rental. -- A lease or rental that is not a long-term lease or rental.

~~(7) U-drive-it passenger vehicle. -- Defined in G.S. 20-4.01.~~"

Section 2. G.S. 105-551(a) reads as rewritten:

"(a) Tax. -- The board of trustees of an Authority may levy a privilege tax on a retailer who is engaged in the business of leasing or renting ~~U-drive-it passenger vehicles or motorcycles~~ motor vehicles based on the gross receipts derived by the retailer from the short-term lease or rental of these vehicles. The tax rate must be a percentage and may not exceed five percent (5%). A tax levied under this section applies to short-term leases or rentals made by a retailer whose place of business or inventory is located within the territorial jurisdiction of the Authority. This tax is in addition to all other taxes."

Section 3. G.S. 105-552(b) reads as rewritten:

"(b) Collection. -- A tax levied by an Authority under this Article shall be collected by the Authority but shall otherwise be administered in the same manner as the optional gross receipts tax levied by G.S. 105-187.5. Like the optional gross receipts tax, a tax levied under this Article is to be added to the lease or rental price of a ~~U-drive-it passenger vehicle or motorcycle~~ motor vehicle and thereby be paid by the person to whom it is leased or rented.

A tax levied under this Article applies regardless of whether the retailer who leases or rents the ~~U-drive-it passenger vehicle or motorcycle~~ motor vehicle has elected to pay the optional gross receipts tax on the lease or rental receipts from the vehicle. A tax levied under this Article must be paid to the Authority that levied the tax by the date an optional gross receipts tax would be payable to the Secretary of Revenue under G.S. 105-187.5 if the retailer who leases or rents the ~~U-drive-it passenger vehicle or motorcycle~~ motor vehicle had elected to pay the optional gross receipts tax."

Section 4. This Part becomes effective July 1, 1999, and applies to contracts entered into on or after that date.

PART II. REVENUE LAWS TECHNICAL CHANGES.

Section 5. Section 7 of S.L. 1998-158 reads as rewritten:

"Section 7. ~~Section 5 of this act is effective for taxable years beginning on or after October 1, 1998. The remainder of this~~ This act is effective when it becomes law."

Section 6. G.S. 1C-1601(a)(9) reads as rewritten:

"(a) Exempt property. -- Each individual, resident of this State, who is a debtor is entitled to retain free of the enforcement of the claims of ~~his~~ creditors:

. . .

(9) Individual retirement ~~accounts as described in Section 408(a) of the Internal Revenue Code, individual retirement annuities as described in Section 408(b) of the Internal Revenue Code, and accounts established as part of a trust described in Section 408(c) of~~ plans as defined in the Internal Revenue Code and any plan treated in the same manner as an individual retirement plan under the Internal Revenue Code. For purposes of this subdivision, 'Internal Revenue Code' means Code as defined in G.S. 105-228.90."

Section 7.(a) G.S. 10A-4(b) reads as rewritten:

"(b) A person qualified for a notarial commission shall meet all of the following requirements:

(1) Be at least 18 years of age.

(2) Reside or work in this State.

(3) Satisfactorily complete a course of study that is approved by the Secretary and consists of not less than three hours nor more than six hours of classroom instruction provided by community colleges throughout the State, unless the person is a licensed member of the Bar of this State.

(4) Purchase and keep as a reference a manual approved by the Secretary that describes the duties, authority, and ethical responsibilities of notaries public.

(5) Submit an application containing no significant misstatement or omission of fact. The application form shall be provided by the Secretary and be available at the register of deeds office in each county. Every application shall bear the signature of the applicant written with pen and ink, and the signature shall be acknowledged by the applicant before a person authorized to administer oaths. The applicant shall also obtain the recommendation of one publicly elected official in North Carolina whose recommendation shall be contained on the application.

(6) Pay a nonrefundable fee of ~~twenty-five dollars ($25.00).~~ thirty dollars ($30.00)."

Section 7.(b) G.S. 10A-7(a) reads as rewritten:

"(a) The course of study required by G.S. 10A-4(b) shall be taught by an instructor certified in accordance with rules adopted by the Secretary. An instructor must meet the following requirements to be certified to teach a course of study for notaries public:

(1) Complete and pass a six-hour instructor's course taught by the Director or other person approved by the Secretary.

(2) Have six months of active experience as a notary public.

(3) Maintain a current commission as a notary public.
(4) Purchase the current notary public guidebook.
(5) Pay a nonrefundable fee of fifty dollars ($50.00).

~~thirty dollars ($30.00) thirty dollars ($30.00)~~"

Section 7.(c) This section becomes effective July 1, 1999.

Section 8. G.S. 28A-21-2(a) reads as rewritten:

"(a) Unless the time for filing the final account has been extended by the clerk of superior court, the personal representative or collector must file ~~his~~ the final account for settlement within one year ~~of his qualification~~ after qualifying or within six months after ~~his receipt of the State~~ receiving a State estate or inheritance tax release, whichever is later. If no estate or inheritance tax return was required to be filed for the ~~estate under G.S. 105-23 because the estate met the requirements of subsection (b) of that section,~~ estate, the personal representative or collector shall so certify in the final account filed with the clerk of superior court. Such certification shall list the amount and value of all of the decedent's property, and with respect to real estate, its particular location within or outside the State, including any property transferred by the decedent over which ~~he~~ the decedent had retained any ~~interest as described in G.S. 105-2(a)(3),~~ interest, or any property transferred within three years prior to the date of the decedent's death, and after being filed and accepted by the clerk of the superior court shall be prima facie evidence that such property is free of any State inheritance or State estate tax liability. The personal representative or collector shall produce vouchers for all payments or verified proof for all payments in lieu of vouchers. With the approval of the clerk of superior court, such account may be filed voluntarily at any time. In all cases, the accounting shall be reviewed, audited and recorded by the clerk of superior court in the manner prescribed in G.S. 28A-21-1."

Section 9. G.S. 29-13 reads as rewritten:

"**§ 29-13. Descent and distribution upon intestacy.**

All the estate of a person dying intestate shall descend and be distributed, subject to the payment of costs of administration and other lawful claims against the estate, and subject to the payment ~~by the recipient~~ of State inheritance or estate taxes, as provided in this Chapter."

Section 10. G.S. 29-20 reads as rewritten:

"**§ 29-20. Descent and distribution upon intestacy of illegitimate children.**

All the estate of a person dying illegitimate and intestate shall descend and be distributed, subject to the payment of costs of administration and other lawful claims against ~~his~~ the estate, and subject to the payment ~~by the recipient~~ of State inheritance or estate taxes, as provided in this Article."

Section 11. G.S. 36A-100(c) reads as rewritten:

"(c) A person having the right to designate the beneficiary under a life insurance policy, employee benefit plan or group life insurance policy described in subsection (a) or (b) of this section may designate as such beneficiary a trustee named or to be named in his will whether or not the will is in existence at the time of the designation. The proceeds received by the trustee shall be held and disposed of as part of the trust estate under the terms of the will as they exist at the death of the

testator. If no qualified trustee makes claim to the proceeds within six months after the death of the decedent or if within that period it is established that no trustee can qualify to receive the proceeds, payments shall be made to the personal representative of the estate of the person making the designation unless it is otherwise provided by an alternative designation or by the policy or plan. The proceeds received by the trustee shall not be subject to claims against the estate of the decedent or to estate or inheritance taxes to any greater extent than if the proceeds were payable directly to the beneficiary or beneficiaries named in the trust. The proceeds may be commingled with any other assets which may properly become part of such trust, but the proceeds shall not become part of the decedent's estate for purposes of trust administration unless the will of the decedent expressly so provides."

Section 12. G.S. 36A-125(a) reads as rewritten:

"(a) If at any time the trustee of a noncharitable irrevocable trust determines in good faith that the value of the assets held in trust is ten thousand dollars ($10,000) or less, and the continuance of the trust pursuant to its terms in relation to the cost of its administration would defeat or substantially impair the accomplishment of the purposes of the trust, the trustee, without approval of the court, may, but is not required to, terminate the trust and distribute the trust property, including principal and undistributed income, to the beneficiaries in a manner which conforms as nearly as possible to the intention of the settlor as determined by the trustee from the trust agreement; provided, however, that the trust property, including principal and undistributed income, shall be distributed to the income beneficiary of the trust if the trust otherwise qualifies for the marital deduction for federal estate tax or North Carolina estate or inheritance tax purposes, or is a Qualified Subchapter S Trust as defined in the Internal Revenue Code. The trustee may enter into an agreement or make such other provisions that the trustee deems necessary or appropriate to protect the interests of the beneficiaries and to carry out the intent and purpose of the trust."

Section 13. G.S. 41-2.1(f) reads as rewritten:

"(f) This section does not repeal or modify any provisions of the law relating to estate or inheritance taxes."

Section 14. G.S. 41-2.2(d) reads as rewritten:

"(d) This section does not repeal or modify any provisions of the law relating to estate or inheritance taxes."

Section 15. G.S. 41-2.5(d) reads as rewritten:

"(d) ~~Nothing herein contained shall be construed to repeal or modify any of the provisions of Article 1 of Chapter 105 relating to the administration of the inheritance tax laws or any other provision of the law relating to~~ This section does not repeal or modify any provisions of the law relating to estate or inheritance taxes."

Section 16. G.S. 93B-15 reads as rewritten:

"**§ 93B-15. Payment of license fees by members of the armed forces.**

An individual who is serving in the armed forces of the United States and to whom G.S. 105-249.2 grants an extension of time to file a tax return is granted an extension of time to pay any license fee charged by an occupational licensing board

~~or~~ as a condition of retaining a license granted by the board. The extension is for the same period that would apply if the license fee were a tax."

Section 17. G.S. 105-32.8 reads as rewritten:

"**§ 105-32.8. Federal determination that changes the amount of tax payable to the State.**

If the federal government corrects or otherwise determines the amount of the maximum state death tax credit allowed an estate under section 6166 of the Code, the personal representative must, within two years after being notified of the correction or final determination by the federal government, file an estate tax return with the Secretary reflecting the correct amount of tax payable under this Article. If the federal government corrects or otherwise determines the amount of the maximum state generation-skipping transfer tax credit allowed under section 2604 of the Code, the person who made the transfer must, within two years after being notified of the correction or final determination by the federal government, file a tax return with the Secretary reflecting the correct amount of tax payable under this Article.

The Secretary must assess and collect any additional tax due as provided in Article 9 of this Chapter and must refund any overpayment of tax as provided in Article 9 of this Chapter. A person who fails to report a federal correction or determination in accordance with this section ~~is subject to the penalties in G.S. 105-236 and~~ forfeits the right to any refund due by reason of the determination."

Section 18.(a) G.S. 105-37.1 reads as rewritten:

"~~**§ 105-37.1. (Effective July 1, 1999) Amusements -- Forms of amusement not otherwise taxed.**~~

~~(a) Every person engaged in the business of giving, offering, or managing any form of entertainment or amusement not otherwise taxed under this Article, for which an admission is charged, shall pay a tax upon the gross receipts of the business at the rate of three percent (3%). Reports shall be made to the Secretary within the first 10 days of each month covering all the gross receipts for the previous month, and the tax shall be paid monthly at the time the reports are made.~~

~~Every person giving, offering, or managing any dance or athletic contest of any kind, except high school and elementary school athletic contests, for which an admission fee in excess of fifty cents (50¢) is charged, shall pay a tax upon the gross receipts derived from admission charges at the rate of three percent (3%). The tax upon gross receipts shall be levied and collected as prescribed by the Secretary.~~

~~(b) Counties shall not levy any license tax on the business taxed under this section, but cities may levy a license tax not in excess of twenty-five dollars ($25.00).~~

~~(c), (d) Repealed by Session Laws 1998-95, s. 4, effective July 1, 1999.~~

§ 105-37.1. (Effective July 1, 1999) Dances, athletic events, shows, exhibitions, and other entertainments.

(a) Scope. -- A privilege tax is imposed on the gross receipts of a person who is engaged in any of the following:

(1) Giving, offering, or managing a dance or an athletic contest for which an admission fee in excess of fifty cents (50¢) is charged.

(2) Giving, offering, or managing a form of amusement or entertainment that is not taxed by another provision of this Article and for which an admission fee is charged.

(3) Exhibiting a performance, show, or exhibition, such as a circus or dog show, that is not taxed by another provision of this Article.

(b) Rate and Payment. -- The rate of the privilege tax is three percent (3%) of the gross receipts from the activities described in subsection (a) of this section. The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the gross receipts received during the previous month.

(c) Advance Report. -- A person who owns or controls a performance, show, or exhibition subject to the tax imposed by this section and who plans to bring the performance to this State from outside the State must file a statement with the Secretary that lists the dates, times, and places of the performance, show, or exhibition. The statement must be filed no less than five days before the first performance, show, or exhibition in this State.

(d) Local Taxes. -- Cities may levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section; however, the tax may not exceed twenty-five dollars ($25.00). Cities may levy a license tax on a person taxed under subdivision (a)(3) of this section; however, the tax may not exceed twenty-five dollars ($25.00) for each day or part of a day the performance, show, or exhibition is given at each location.

Counties may not levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section. Counties may levy a license tax on a person taxed under subdivision (a)(3) to the same extent as a city."

Section 18.(b) G.S. 105-38 is repealed.

Section 18.(c) This section becomes effective July 1, 1999.

Section 19.(a) G.S. 105-38.1 reads as rewritten:

"**§ 105-38.1. ~~Amusements~~ Motion picture shows.**

~~(a) Tax.~~ A privilege tax at the rate of one percent (1%) is imposed on the gross receipts of a person who is engaged in the business of operating a motion picture show for which an admission is charged. The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the gross receipts received during the previous month. If a person offers an entertainment or amusement that includes both a motion picture taxable under this section and an entertainment or amusement taxable under ~~G.S. 105-37.1 or G.S. 105-38,~~ G.S. 105-37.1, the tax in ~~G.S. 105-37.1 or G.S. 105-38, as appropriate,~~ that statute applies to the entire gross receipts and the tax levied in this section does not apply.

~~(b) Exemption. -- Gross receipts from a motion picture show promoted and managed by a qualifying corporation that operates a center for the performing and visual arts is exempt from the tax imposed under this section if the motion picture is shown at the center and if the showing of motion pictures is not the primary purpose of the center. As used in this subsection, "qualifying corporation" and "center for the performing and visual arts" have the same meaning as in G.S. 105-40.~~"

Section 19.(b) G.S. 105-40(7) reads as rewritten:

"(7) All ~~dances~~ dances, motion picture shows, and other amusements promoted and managed by a qualifying corporation that operates a center for the performing and visual arts if the dance or other amusement is held at the center. "Qualifying corporation" means a corporation that is exempt from income tax under G.S. 105-130.11(a)(3). "Center for the performing and visual arts" means a facility, having a fixed location, that provides space for dramatic performances, studios, classrooms, and similar accommodations to organized arts groups and individual artists. This exemption does not apply to athletic events."

Section 19.(c) This section becomes effective July 1, 1999.

Section 20. G.S. 105-109.1 is repealed.

Section 21. G.S. 105-113 is repealed.

Section 22. G.S. 105-113.27(c) reads as rewritten:

"(c) The possession of more than six hundred cigarettes ~~bearing the tax stamp of~~ on which tax has been paid to another state or country, by any person other than a licensed distributor, ~~shall be~~ is prima facie evidence that the cigarettes are possessed in violation of this Part."

Section 23. G.S. 105-114(b)(2) reads as rewritten:

"(b) Definitions. -- The following definitions apply in this Article:

. . .

(2) Corporation. -- A domestic corporation, a foreign corporation, an electric membership corporation organized under Chapter 117 of the General Statutes or doing business in this State, or an association that is organized for pecuniary gain, has capital stock represented by shares, whether with or without par value, and has privileges not possessed by individuals or partnerships. The term includes a mutual or capital stock savings and loan association or building and loan association chartered under the laws of any state or of the United States. The term does not include a limited liability company."

Section 24. G.S. 105-122(c)(1) reads as rewritten:

"(c) (1) After ascertaining and determining the amount of its capital stock, surplus and undivided profits, as provided herein, every corporation permitted to allocate and apportion its net income for income tax purposes under the provisions of Article 4 of this Chapter shall apportion said capital stock, surplus and undivided profits to this State through use of the fraction computed for apportionment of its business income under said Article. A corporation that is subject to franchise tax under this Article but is not subject to income tax under Article 4 of this Chapter must apportion its capital stock, surplus, and undivided profits to this State by using the apportionment formula that would apply to the corporation if it were subject to Article 4.

Provided, that although a corporation is authorized by the Tax Review Board to apportion its business income by use of an alternative formula or method, the corporation may not use such alternative formula or method for apportioning its capital stock, surplus and undivided profits unless specifically authorized to do so by order of the Tax Review Board.

Provided, further, that a corporation which is required to pay an income tax to this State on its entire net income shall apportion its entire capital stock, surplus and undivided profits to this State."

Section 25. G.S. 105-130.16 reads as rewritten:

"**§ 105-130.16. Returns.**

(a) Return. -- Every corporation doing business in this State ~~shall file with the Secretary of Revenue~~ must file with the Secretary an income tax return ~~under affirmation,~~ showing ~~therein~~ specifically the items of gross income and the deductions allowed by this ~~Part,~~ Part and ~~such other facts as the Secretary may require for the purpose of making~~ any other facts the Secretary requires to make any computation required by this Part. The return of a corporation ~~shall be signed by either~~ must be signed by its president, vice-president, treasurer, assistant treasurer, ~~secretary~~ secretary, or assistant secretary. ~~There shall be annexed to the return the affirmation of the officer signing the same, which shall be in the form prescribed in G.S. 105-130.17 of this Part, and the same penalties prescribed in G.S. 105-236 shall apply to any person making wilful misstatements in said returns.~~ The officer signing the return must furnish an affirmation verifying the return. The affirmation must be in the form required by the Secretary.

(b) Correction of Distortions. -- When the Secretary ~~of Revenue~~ has reason to believe that any corporation so conducts its trade or business in such manner as to either directly or indirectly distort its true net income and the net income properly attributable to the State, whether by the arbitrary shifting of income, through price fixing, charges for service, or otherwise, whereby the net income is arbitrarily assigned to one or another unit in a group of taxpayers carrying on business under a substantially common control, ~~he may require such facts as he deems~~ the Secretary may require any facts the Secretary considers necessary for the proper computation of the entire net income and the net income properly attributable to the State, and in determining ~~same the Secretary of Revenue shall~~ these computations, the Secretary must have regard to the fair profit ~~which~~ that would normally arise from the conduct of the trade or business.

(c) Other Corrections. -- When any corporation liable to taxation under this Part conducts its business in such a manner as to either directly or indirectly benefit the members or stockholders thereof or any person interested in ~~such~~ the business by selling its products or goods or commodities in which it deals at less than the fair price which might be obtained therefor, or ~~where~~ when a corporation, a substantial portion of whose capital stock is owned either directly or indirectly by another corporation, acquires and disposes of the products of the corporation so owning a

substantial portion of its stock in such a manner as to create a loss or improper net income for either of ~~said~~ the corporations, or ~~where~~ when a corporation, owning directly or indirectly a substantial portion of the stock of another corporation, acquires and disposes of the products of the corporation of which it so owns a substantial portion of the stock in such manner as to create a loss or improper net income for either of ~~said~~ the corporations, the Secretary ~~of Revenue~~ may determine the amount of taxable income of ~~any~~ the such corporations for the calendar or fiscal year, having due regard to the reasonable profits which, but for such arrangement or understanding, might or could have been obtained by the ~~corporation or~~ corporations liable to taxation under this Part from dealing in such products, goods or commodities."

Section 26. G.S. 105-130.33(a) reads as rewritten:

"(a) Any corporation that constructs or installs a hydroelectric generator with a capacity of at least three kilowatts (3KW) at an existing dam or free flowing stream located in this State shall be allowed a credit against the tax imposed by this Part equal to ten percent (10%) of the installation and equipment costs of the hydroelectric generator paid during the taxable year. The credit allowed under this section may not exceed five thousand dollars ($5,000) for any single installation. No credit is allowed, however, to the extent that any of the costs of the system were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the site at the time the hydroelectric generator is installed. The credit allowed by this section may not exceed the amount of the tax imposed by this Part for the taxable year reduced by the sum of all credits ~~allowable under this Part,~~ allowable, except payments of tax made by or on behalf of the taxpayer."

Section 27. G.S. 105-131.7(d) reads as rewritten:

"(d) The agreements required to be filed pursuant to subsection (c) of this section shall be filed at the following times:

(1) At the time the annual return is required to be filed for the first taxable period for which the S Corporation becomes subject to the provisions of this ~~Division; and~~ Part.

(2) At the time the annual return is required to be filed for any taxable period in which the corporation has a nonresident shareholder on whose behalf such an agreement has not been previously filed."

Section 28. G.S. 105-152(e) reads as rewritten:

"(e) Joint Returns. -- A husband and wife shall file a single income tax return jointly if (i) their federal taxable income is determined on a joint federal return and (ii) both spouses are residents of this State or both spouses have North Carolina taxable income. Except as otherwise provided in this Part, a wife and husband filing jointly are treated as one taxpayer for the purpose of determining the tax imposed by this Part. A husband and wife filing jointly are jointly and severally liable for the tax imposed by this Part reduced by the sum of all credits allowable including tax payments made by or on behalf of the husband and wife. However, if a spouse has

been relieved of liability for federal tax attributable to a substantial understatement by the other spouse pursuant to section ~~6013~~ 6015 of the Code, that spouse is not liable for the corresponding tax imposed by this Part attributable to the same substantial understatement by the other spouse. A wife and husband filing jointly have expressly agreed that if the amount of the payments made by them with respect to the taxes for which they are liable, including withheld and estimated taxes, exceeds the total of the taxes due, refund of the excess may be made payable to both spouses jointly or, if either is deceased, to the survivor alone."

Section 29. G.S. 105-154(c) reads as rewritten:

"(c) Information Returns of Partnerships. -- A partnership doing business in this State and required to file a return under the Code shall file an information return with the Secretary. A partnership that the Secretary believes to be doing business in this State and to be required to file a return under the Code shall file an information return when requested to do so by the Secretary. The information return shall contain all information required by the Secretary. It shall state specifically the items of the partnership's gross income, the deductions allowed under the Code, and the adjustments required by this Part. The information return shall also include the name and address of each person who would be entitled to share in the partnership's net income, if distributable, and the amount each person's distributive share would be. The information return shall specify the part of each person's distributive share of the net income that represents corporation dividends. The information return shall be signed by one of the partners under affirmation in the form ~~prescribed in G.S. 105-155.~~ required by the Secretary.

A partnership that files an information return under this subsection shall furnish to each person who would be entitled to share in the partnership's net income, if distributable, any information necessary for that person to properly file a State income tax return. The information shall be in the form prescribed by the Secretary and must be furnished on or before the due date of the information return."

Section 30. G.S. 105-163.011 reads as rewritten:

"**§ 105-163.011. (Repealed effective for investments made on or after January 1, 2003) Tax credits allowed.**

(a) No Credit for Brokered Investments. -- No credit is allowed under this section for a purchase of equity securities or subordinated debt if a broker's fee or commission or other similar remuneration is paid or given directly or indirectly for soliciting the purchase.

(b) Individuals. -- Subject to the limitations contained in G.S. 105-163.012, an individual who purchases the equity securities or subordinated debt of a qualified business venture or a qualified grantee business directly from that business is allowed as a credit against the tax imposed by Part 2 of this Article for the taxable year an amount equal to twenty-five percent (25%) of the amount invested. The aggregate amount of credit allowed an individual for one or more investments in a single taxable year under this ~~Division,~~ Part, whether directly or indirectly as owner of a pass-through entity, may not exceed fifty thousand dollars ($50,000). The credit may not be taken for the year in which the investment is made but shall be taken for the

taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in subsection (c) of this section.

(b1) Pass-Through Entities. -- This subsection does not apply to a pass-through entity that has committed capital under management in excess of five million dollars ($5,000,000) or to a pass-through entity that is a qualified grantee business, a qualified business venture, or a North Carolina Enterprise Corporation. Subject to the limitations provided in G.S. 105-163.012, a pass-through entity that purchases the equity securities or subordinated debt of a qualified grantee business or a qualified business venture directly from the business is eligible for a tax credit equal to twenty-five percent (25%) of the amount invested. The aggregate amount of credit allowed a pass-through entity for one or more investments in a single taxable year under this ~~Division,~~ Part, whether directly or indirectly as owner of another pass-through entity, may not exceed seven hundred fifty thousand dollars ($750,000). The pass-through entity is not eligible for the credit for the year in which the investment by the pass-through entity is made but shall be eligible for the credit for the taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in subsection (c) of this section.

Each individual who is an owner of a pass-through entity is allowed as a credit against the tax imposed by Part 2 of this Article for the taxable year an amount equal to the owner's allocated share of the credits for which the pass-through entity is eligible under this subsection. The aggregate amount of credit allowed an individual for one or more investments in a single taxable year under this ~~Division,~~ Part, whether directly or indirectly as owner of a pass-through entity, may not exceed fifty thousand dollars ($50,000).

If an owner's share of the pass-through entity's credit is limited due to the maximum allowable credit under this section for a taxable year, the pass-through entity and its owners may not reallocate the unused credit among the other owners.

(c) Application. -- To be eligible for the tax credit provided in this section, the taxpayer must file an application for the credit with the Secretary on or before April 15 of the year following the calendar year in which the investment was made. The Secretary may grant extensions of this deadline, as the Secretary finds appropriate, upon the request of the taxpayer, except that the application may not be filed after September 15 of the year following the calendar year in which the investment was made. An application is effective for the year in which it is timely filed. The application shall be on a form prescribed by the Secretary and shall include any supporting documentation that the Secretary may require. If an investment for which a credit is applied for was paid for other than in money, the taxpayer shall include with the application a certified appraisal of the value of the property used to pay for the investment. The application for a credit for an investment made by a pass-through entity must be filed by the pass-through entity.

(d) Penalties. -- The penalties provided in G.S. 105-236 apply in this ~~Division.~~ Part."

Section 31.(a) G.S. 105-164.3(8b) is recodified as G.S. 105-164.3(8c) and reads as rewritten:

"§ 105-164.3. Definitions.

The following definitions apply in this Article, except when the context clearly indicates a different meaning:

. . .

~~(8b)~~ (8c) "Motor vehicle" means a vehicle that is designed primarily for use upon the highways and is either self-propelled or propelled by a self-propelled vehicle, but does not include:

a. A ~~moped as defined in G.S. 20-4.01(27) (d1).~~ moped.

b. Special mobile ~~equipment as defined in G.S. 20-4.01(44).~~ equipment.

c. A tow dolly that is exempt from motor vehicle title and registration requirements under G.S. 20-51(10) or (11).

d. A farm tractor or other implement of husbandry.

e. A manufactured home, a mobile office, or a mobile classroom.

f. Road construction or road maintenance machinery or equipment."

Section 31.(b) G.S. 105-164.3 is amended by adding the following new subdivisions in the appropriate alphabetical order:

"(8b) Moped. -- A vehicle that has two or three wheels, no external shifting device, and a motor that does not exceed 50 cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than 20 miles per hour on a level surface.

. . .

(16b) Special mobile equipment. -- Any of the following:

a. A vehicle that has a permanently attached crane, mill, well-boring apparatus, ditch-digging apparatus, air compressor, electric welder, feed mixer, grinder, or other similar apparatus is driven on the highway only to get to and from a nonhighway job and is not designed or used primarily for the transportation of persons or property.

b. A vehicle that has permanently attached special equipment and is used only for parade purposes.

c. A vehicle that is privately owned, has permanently attached fire-fighting equipment, and is used only for fire-fighting purposes.

d. A vehicle that has permanently attached playground equipment and is used only for playground purposes."

Section 31.(c) G.S. 20-4.01(21a) reads as rewritten:

"(21a) Moped. -- A type of passenger vehicle as defined in ~~G.S. 20-4.01(27).~~ G.S. 105-164.3."

Section 31.(d) G.S. 20-4.01(27)d1. reads as rewritten:

"d1. Moped. -- ~~A vehicle that has two or three wheels, no external shifting device, and a motor that does not exceed 50 cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than 20 miles per hour on a level surface.~~ Defined in G.S. 105-164.3."

Section 31.(e) G.S. 20-4.01(44) reads as rewritten:

"(44) Special Mobile Equipment. -- ~~Any of the following:~~

~~a. A vehicle that has a permanently attached crane, mill, well-boring apparatus, ditch-digging apparatus, air compressor, electric welder, feed mixer, grinder, or other similar apparatus, is driven on the highway only to get to and from a nonhighway job, and is not designed or used primarily for the transportation of persons or property.~~

~~b. A vehicle that has permanently attached special equipment and is used only for parade purposes.~~

~~c. A vehicle that is privately owned, has permanently attached fire-fighting equipment, and is used only for fire-fighting purposes.~~

~~d. A vehicle that has permanently attached playground equipment and is used only for playground purposes.~~ Defined in G.S. 105-164.3."

Section 32. G.S. 105-164.4(a)(4) reads as rewritten:

"**§ 105-164.4. Tax imposed on retailers.**

(a) **(Effective July 1, 1999)** A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four percent (4%).

. . .

(4) Every person engaged in the business of operating a dry cleaning, pressing, or hat-blocking establishment, a laundry, or any similar business, engaged in the business of renting clean linen or towels or wearing apparel, or any similar business, or engaged in the business of soliciting cleaning, pressing, hat blocking, laundering or linen rental business for any of these businesses, is considered a retailer under this Article. A tax at the general rate of tax is levied on the gross receipts derived by these retailers from services rendered in engaging in any of the occupations or businesses named in this subdivision. The tax imposed by this subdivision does not apply to receipts derived from ~~coin or token-operated~~ coin, token, or card-operated washing machines, extractors, and dryers. The tax imposed by this subdivision does not apply to gross receipts derived from services performed for resale by a retailer that pays the tax on the total gross receipts derived from the services."

Section 33. G.S. 105-164.4(c) reads as rewritten:

"(c) Certificate of Registration. -- Before a person may engage in business as a retailer or a wholesale merchant, the person must obtain a certificate of registration from the Department. To obtain a certificate of registration, a person must register with the Department and pay fifteen dollars ($15.00).

A certificate of registration is valid unless it is revoked for failure to comply with the provisions of this Article or becomes void. A certificate ~~issued to a retailer~~ becomes void if, for a period of 18 months, the retailer or wholesale merchant to whom it was issued files no returns or files returns showing no sales."

Section 34. G.S. 105-164.13(4d) reads as rewritten:

"(4d) The lease or rental of ~~burlap~~ tobacco sheets used in handling tobacco in the warehouse and transporting tobacco to and from the warehouse."

Section 35.(a) G.S. 105-187.43 reads as rewritten:

"§ 105-187.43. (Effective July 1, 1999) Payment of the tax.

(a) ~~Monthly Return.~~ Payment. -- The tax imposed by this Article is payable monthly to the Secretary. A monthly tax payment is due by the last day of the month that follows the month in which the tax accrues. The tax imposed by this Article on piped natural gas delivered to a sales or transportation customer accrues when the gas is delivered. The tax payable on piped natural gas received by a person who has direct access to an interstate pipeline for consumption by that person accrues when the gas is received.

(b) Small Underpayments. -- A person is not subject to interest on or penalties for an underpayment of a monthly amount due if the person timely pays at least ninety-five percent (95%) of the amount due and includes the underpayment with the next return the person files.

(c) Return. -- A return is due quarterly. A quarterly return covers a calendar quarter and is due by the last day of the month that follows the quarter covered by the return."

Section 35.(b) G.S. 105-187.44 reads as rewritten:

"§ 105-187.44. (Effective July 1, 1999) Distribution of part of tax proceeds to cities.

(a) City Information. -- A ~~monthly~~ quarterly return filed under this Article must indicate the amount of tax attributable to the following:

(1) Piped natural gas delivered during the ~~month~~ quarter to sales or transportation customers in each city in the State.

(2) Piped natural gas received during the ~~month~~ quarter in each city in the State by persons who have direct access to an interstate gas pipeline and who receive the gas for their own consumption.

If a tax return does not state this information, the Secretary must determine how much of the tax proceeds are to be attributed to each city.

(b) Distribution. -- Within 75 days after the end of each calendar quarter, the Secretary must distribute to the cities part of the tax proceeds collected under this Article during that quarter. The amount to be distributed to a city is one-half of the amount of tax attributable to that city for that quarter under subsection (a) of this section."

Section 36. G.S. 105-194 reads as rewritten:

"**§ 105-194. Death of donor within three years; time of assessment.**

~~Where~~ If a donor dies within three years after filing a return, gift taxes may be assessed at any time within ~~said~~ those three years, or on or before the date of final settlement of the donor's State estate or inheritance taxes, whichever is later."

Section 37. G.S. 105-253(a) reads as rewritten:

"(a) Any officer, trustee, or receiver of any corporation or limited liability company required to file a report with the Secretary who has custody of funds of the corporation or company and who allows the funds to be paid out or distributed to the stockholders of the corporation or company without having remitted to the Secretary any State taxes that are due is personally liable for the payment of the tax."

Section 38.(a) G.S. 105-275 is amended by adding a new subdivision to read:

"(41) Objects of art held by the North Carolina State Art Society, Incorporated."

Section 38.(b) G.S. 140-15 reads as rewritten:

"~~**§ 140-15. Exemption from taxes.**~~

~~All gifts made to the North Carolina State Art Society, Incorporated, shall be exempt from State gift and inheritance taxes, and objects of art held by the Society shall be exempt from ad valorem taxes.~~"

Section 39. G.S. 160A-31(e2), as enacted by S.L. 1999-19, as it applies to the Town of Huntersville, reads as rewritten:

"(e2) Annexation of property subject to annexation under subsection (e1) of this section shall become effective as to each tract of such property or such part thereof on the last day of the month in which that tract or part thereof becomes ineligible for classification pursuant to ~~G.S. 105-227.4~~ G.S. 105-277.4 and no longer meets the requirements of subdivision (e1)(2) of this section. Until annexation of a tract or a part of a tract becomes effective pursuant to this subsection, the tract or part of a tract is not subject to taxation by the city under Article 12 of Chapter 105 of the General Statutes, nor is the tract or part of the tract entitled to services provided by the city. When annexation becomes effective pursuant to this subsection as to a tract or part of a tract, the city shall provide all required services upon payment of city taxes."

Section 40. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

Section 41. Except as otherwise provided in this act, this act is effective when it becomes law.

SENATE BILL 55:
Revenue Laws Technical Changes

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Cochrane
Date:	June 24, 1999	**Summary by:**	Martha Walston & Martha Harris, Staff Attorneys, and Mary Shuping, Research Assistant.
Version:	PCS for 3rd Edition *S55-PCSSC-001*		

SUMMARY: ***Senate Bill 55 makes a number of technical and clarifying changes to various revenue laws and related statutes and makes one substantive change. The substantive change in Part I of the bill broadens the scope of the transit authority vehicle leasing tax to include more types of vehicles. Part II of the bill makes technical and clarifying changes, and was originally recommended by the Revenue Laws Study Commission.***

BILL ANALYSIS: **Part I of Senate Bill 55,** in sections 1 through 4, broadens the scope of the transit authority vehicle leasing tax to include more vehicles, effective July 1, 1999. Under current law, a regional public transportation authority or a regional transportation authority may levy a privilege tax on a retailer who leases or rents U-drive-it passenger vehicles or motorcycles. The tax rate may not exceed 5% of the gross receipts derived from the short-term (less than 365 continuous days) lease or rental of these vehicles. This tax is added to the lease or rental price and paid by the lessee. Senate Bill 55 broadens the scope of this tax to apply to all motor vehicles as defined in G.S. 105-164.3.

"Motor vehicle" means a vehicle that is designed primarily for use upon the highways and is either self-propelled or propelled by a self-propelled vehicle. Motor vehicle does not include the following: a moped, special mobile equipment, tow dolly exempt from title and registration requirements, implements of husbandry, a manufactured home, mobile office, or a mobile classroom, and road construction or road maintenance machinery or equipment.

"U-drive-it passenger vehicles" are passenger vehicles rented or leased and to be operated by the lessee. They do not include vehicles leased or rented to public school authorities for driver-training instruction. Passenger vehicles also do not include pickup trucks and other property hauling vehicles.

Part II. of Senate Bill 55 makes numerous technical and clarifying changes to the revenue laws and related statutes. The following table provides a section-by-section analysis of the proposed changes.

Section	Explanation
5	Corrects an incorrect effective date for the income tax treatment of enhanced wireless 911 fees.
6	Updates list of debtors' property that is retained free of creditors' claims, to add Roth IRAs to regular IRAs and to update terminology for regular IRAs.
7	Reinstates increase in notary commission fee from $25 to $30 that was enacted in the 1998 budget bill but was deleted inadvertently by another 1998 bill. This fee increase would become effective July 1, 1999.
8 – 15	Changes references to the inheritance tax, which was replaced with an estate tax effective for the estates of decedents dying on or after January 1, 1999.

16 Corrects a grammatical error by deleting the word "or" in G.S. 93B-15.

17 Deletes language in G.S. 105-32.8 that a person "is subject to the penalties in G.S. 105-236" when that person fails to report a federal correction or determination of the maximum state death tax credit allowed an estate or of the maximum state generation-skipping transfer tax credit allowed. Failure to report to the Secretary of Revenue would still result in forfeiture of the right to any refund due by reason of the determination. Since repeal of the inheritance tax laws, there are no penalties in G.S. 105-236 that apply to this section.

18 Combines G.S. 105-37.1(Amusements) and G.S. 105-38 (Amusements-Circuses and other traveling amusements) into one statute. These are the amusements subject to 3% gross receipts tax.

19 Clarifies that tax on motion picture shows is an admissions tax. This tax is imposed at the rate of 1% on gross receipts. Also moves the exemption language for certain motion pictures to the list of exemptions in G.S. 104-40 (Amusements exempt from tax).

20 Repeals G.S. 105-109.1 because it is no longer needed. This statute provides that interest will be assessed on the taxes on gross receipts levied on amusements in G.S. 105-37.1 and G.S. 105-38, the tax on installment paper dealers, and the tax on publishers of newsprint publications. This interest runs from the time these taxes were due until paid. This statute is no longer needed now that Article 9 (General Administration; Penalties and Remedies) applies to the privilege license statutes. This repeal also clarifies that interest applies to late payments of the 1% gross receipts tax on movies.

21 Repeals G.S. 105-113 because it is obsolete. This statute requires the sheriff of each county and clerk of the board of alderman of each city to make an annual report to the Secretary of Revenue containing the name and business of every person in his county or city required to obtain a State license under Article 2 of Chapter 105 of the General Statutes.

22 Clarifies that the possession of more than six hundred cigarettes <u>on which tax has been paid to</u> (was "bearing the tax stamp of") another state or country, by any person other than a licensed distributor, is prima facie evidence that the cigarettes are possessed in violation of the Article governing the tobacco products tax. The underlined language clarifies how the Department currently administers this Article. This change is needed because there are states that do not use stamps.

23 Updates the statutory cross-references in the Unauthorized Substance tax law.

24 Clarifies scope of franchise tax to include savings and loan associations, as enacted in 1998.

25 Clarifies that a corporation that owes franchise tax but not income tax must apportion its franchise tax using the apportionment formula that would apply to income tax if the corporation were subject to that tax. The law is silent on this issue, and this new language sets out the Department's position.

26 Removes references to repealed statutes and modernizes statutory language.

27 Restores the word "generator" which was inadvertently deleted in 1998.

28 Changes "Division" to "Part" to conform to new terms enacted in 1998.

29 Changes the reference to the Code section in G.S. 105-152(e). This statute concerns joint tax liability and the innocent spouse. In the IRS Restructuring Act of 1998, the Code section 6013(e) was deleted and substituted in section 6015.

30 Removes reference to repealed statute.

31 Changes "Division" to "Part" to conform to new terms enacted in 1998.

32 Transfers the definitions of "moped" and "special mobile equipment" from Chapter 20 to the sales tax statute in Chapter 105, and then places a cross-reference to the sales tax statute in Chapter 20. These items are subject to sales tax. The Department of Revenue, rather than the DMV, administers the sales tax on special mobile equipment.

33 Adds the term "card-operated" to the sales tax exemption from receipts derived from coin or token-operated washing machines, extractors, and dryers. New technology permits the use of credit and debit cards on this equipment, and the Department has administratively allowed the sales tax exclusion for equipment operated with cards.

34 Clarifies that the certificate of registration filed with the Department by a retailer who makes taxable sales is void if for a period of 18 months the retailer files no returns or files returns showing no sales. Some retailers make only wholesale sales or exempt sales. Those retailers do not need to file sales tax returns and their certificate should not be void because they fail to file a return for a period of 18 months. There was a similar provision in the law prior to its rewrite last session.

35 Deletes the word "burlap" from the reference to the sales tax exemption for the lease or rental of burlap tobacco sheets used in handling tobacco in the warehouse and transporting tobacco to and from the warehouse. This change is necessary because tobacco sheets are now made of other material.

36 Clarifies the filing requirement for the excise tax on piped natural gas. Payment is required monthly and a return is required quarterly. The Department is currently administering the filing requirement this way.

37 Changes references to the inheritance tax, which was replaced with an estate tax effective for the estates of decedents dying on or after January 1, 1999.

38 Adds reference to limited liability companies to conform to remainder of statute.

39 Revises and recodifies a statute that included redundant references to the taxability of property transferred to a tax-exempt nonprofit corporation.

40-46 Deletes references to "annual filing" of motor carrier reports and makes conforming changes to reflect quarterly reports to conform to administrative practice. The Department of Revenue does not allow annual filing because of International Fuel Tax Agreement requirements.

Changes are also made to the reference for gasoline and other motor fuel to "motor fuel and alternative fuel". These references were not changed when tax at the rack was enacted and need to be updated. Section 45 also conforms the registration of motor carriers with the current administrative practice.

47-48	Conforms motor fuel penalty hearing statute to other hearing procedure statutes. Also clarifies that a request for a hearing must explain why the person is not liable for the penalty.
49	Corrects an incorrect statute reference.
50	Savings clause
51	Effective date

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 55 (Senate Finance Committee Substitute)

SHORT TITLE: Revenue Laws Technical Changes

SPONSOR(S): Senators Cochrane, et al.

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Triangle Transit Authority	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000
General Fund Notary Fee	(See Assumptions and Methodology)				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of the Secretary of State, Department of Revenue, Triangle Transit Authority

EFFECTIVE DATE: Part I (Triangle Transit Authority) is effective July 1, 1999 and applies to contracts entered into on or after that date. Part II, section 7 (notary fee) becomes effective July 1, 1999. All remaining sections become effective when it becomes law.

BILL SUMMARY: Part one of the bill broadens the tax base for the Triangle Transit Authority's 5% gross receipts tax on rental vehicles. Part two of the bill makes numerous technical and conforming changes to the Revenue Laws and related statutes.

ASSUMPTIONS AND METHODOLOGY:

Part One – Triangle Transit Authority

Part one of the bill allows the Triangle Transit Authority to begin taxing the short-term rental of heavy trucks and trailers. G.S. 105 – 551 permits a regional public transportation authority or a regional transportation authority to levy a privilege tax of up to 5% on businesses leasing or renting U-drive-it passenger vehicles or motorcycles. This bill broadens the tax base for these authorities by striking the words "U-drive-it passenger vehicles or motorcycles" and replacing

them with the term "motor vehicles". A motor vehicles is defined in GS 105-164.3 as a vehicle "designed primarily for use upon the highways and is either self propelled or propelled by a self-propelled vehicle". A motor vehicle does not include a moped, special mobile equipment, tow dolly, farm tractor, or road construction equipment.

The Department of Revenue's Tax Research Division has determined that a 5% tax on the gross receipts of heavy truck and trailer rental businesses in Durham, Orange, and Wake counties will generate an additional $1 million in revenue each year for the Triangle Transit Authority. This estimate is based on highway use tax returns from four major truck and/or trailer leasing companies in the state that account for 75% of the business in this market. The tax returns are for the 8% gross receipts tax on short-term rentals these businesses pay to the state. Since Durham, Orange, and Wake counties have 12% of the population and motor vehicle registrations in North Carolina, it was assumed that 12% of the truck and trailer leasing business in the state is done in these three counties.

Part Two – Revenue Laws Technical Changes

Except for Section 7, the changes in this bill have no fiscal impact on the General Fund. Section 7 reinstates a $5 increase in the notary commission fee that was enacted by the 1998 General Assembly in SB 1366 (Chapter 212). Section 29A.9 of SB 1366 increased the nonrefundable fee for notarial commissions from $25 to $30. Unfortunately, SB 1552 (Chapter 228) was also enacted to make changes in the Notary Act and it did not increase the fee. When statute 10A-7 was codified, it was determined that the fee would remain $25 despite legislative intent to increase the fee.

The $5 notarial fee increase is estimated to generate the following revenue:

1999-2000	$74,635
2000-2001	76,665
2001-2002	78,750
2002-2003	80,890

Since this estimate was included in the budgeted revenues for 1998-99 and in future year projections, these revenues will not increase the budget. However, failure to pass this bill will result in the reduction of estimated General Fund revenues.

FISCAL RESEARCH DIVISION
733-4910
PREPARED BY: Richard Bostic

APPROVED BY: Tom Covington

DATE: Friday, June 04, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 290 A BILL TO BE ENTITLED AN ACT TO AMEND THE LOBBYING LAW.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill (# 2), ☐ ~~which changes the title~~, unfavorable as to ~~(original bill)~~ Committee Substitute Bill # 1), ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 6/30/99

S. B. No. 290 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) Eddins
Sen.)

moves to amend the bill on page 1, line s 9-11

( ) WHICH CHANGES THE TITLE

by rewriting the lines to read:

"the required report and an additional late filing fee of ~~ten dollars ($10.00)~~ in an amount equal to the late filing fee under G.S. 163-278.34(a)(2). ";

and on page 1, line 23 through page 2, line 2, by rewriting the lines to read:

"~~ten dollars ($10.00)~~. in an amount equal to the late filing fee under G.S. 163-278.34(a)(2)."

and on page 1, line 22, by striking through the word "of".

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 290
House Committee Substitute Favorable 6/23/99

Short Title: Lobbying Law Amendments. (Public)

Sponsors:

Referred to:

March 8, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LOBBYING LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 120-47.6(d) reads as rewritten:

"(d) When a lobbyist fails to file a lobbying expense report as required herein, the Secretary of State shall send a certified or registered letter advising the lobbyist of the delinquency and the penalties provided by law. Within 20 days of the receipt of the letter, the lobbyist shall deliver or post by United States mail to the Secretary of State the required report and an additional late filing fee of ten dollars ~~($10.00).~~ ($10.00) per day for the first 30 days the report is late and fifty dollars ($50.00) per day thereafter, not to exceed a total of one thousand dollars ($1,000).

Filing of the required report and payment of the additional fee within the time extended shall constitute compliance with this section. Failure to file an expense report in one of the manners prescribed herein shall result in revocation of any and all registrations of a lobbyist under this Article. No lobbyist may register or reregister under this Article until he has fully complied with this section."

Section 2. G.S. 120-47.7(d) reads as rewritten:

"(d) When a lobbyist's principal fails to file a lobbying expense report as required herein, the Secretary of State shall send a certified or registered letter advising the lobbyist's principal of the delinquency and the penalties provided by law. Within 20 days of the receipt of the letter, the lobbyist's principal shall deliver or post by United States mail to the Secretary of State the required report and a late filing fee of ten dollars ~~($10.00).~~ ($10.00) per day for the first 30 days the report is late and fifty

dollars ($50.00) per day thereafter, not to exceed a total of one thousand dollars ($1,000).

Filing of the required report and payment of the late fee within the time extended shall constitute compliance with this section."

Section 3. This act becomes effective January 1, 2000.

SENATE BILL 290:
Lobbying Law Amendments

BILL ANALYSIS

Committee: House Finance
Date: June30, 1999
Version: 2nd Edition

Introduced by: Senator Brad Miller
Summary by: Jeffrey Hudson
Staff Attorney &
Mary Shuping, Research Asst.

SUMMARY: Senate Bill 290 increases the amounts of two late filing fees that apply to the expense reports of lobbyists and lobbyists' principals.

CURRENT LAW: Current law requires each lobbyist and lobbyist's principal to file two expense reports each year with the Secretary of State's Office. (A "lobbyist's principal" is the entity on whose behalf the lobbyist influences or attempts to influence legislative action.) One report covers activities from January 1 until the last day of the regular session, and the other report covers the period from the last day of the session until the end of the calendar year. The first report must be filed within 60 days after the end of the regular session, and the second report must be filed by February 28 after the end of the calendar year. A report that is not filed within these time limits is late and is subject to a $10.00 late penalty. A report must be filed even if there were no expenditures made during the reporting period.

The reports must list amounts paid, the person who was paid, and the legislators who benefited in six categories: transportation, lodging, entertainment, food, other items over $25.00, and contributions. A principal's report must also list compensation paid to lobbyists.

BILL ANALYSIS: Senate Bill 290 changes the late filing fee to $10.00 per day for the first 30 days a report is late and then $50.00 per day for each day after the first 30 days, not to exceed $1,000.

EFFECTIVE DATE: This act is effective January 1, 2000.

Martha Walston, Fiscal Research Division, contributed to the preparation of this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: S.B. 290

SHORT TITLE: Lobbying Law Amendments

SPONSOR(S): Senator Miller

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES	0	May result in a $600 - $9000 revenue increase			

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Secretary of State.

EFFECTIVE DATE: January 1, 2000.

BILL SUMMARY: This bill will increase the penalty for filing a late lobbying expense report with the Secretary of State's office. Currently there is a one time late fee of $10.00. The bill increases the late fee to $10.00 per day for the first $30.00 days, and $50.00 per day thereafter. The maximum total fine is $1000.00. It also increases the penalty for non-compliance with the requirement, moving it to a Class A1 misdemeanor. Under current law the non-compliance is a Class 1 misdemeanor.

ASSUMPTIONS AND METHODOLOGY: According to the Secretary of State's office, there are 429 lobbyists and 527 principals for the 1999 session.

The same source reports that there were 610 lobbyists and 656 principals for the 1997-8 biennium legislative sessions (1266 total). End of session reports were due to that office by October 27, 1997. One hundred sixty (160) lobbyists and principals did not file their reports by that date. Thus, 13% of lobbyists and principals were late filers. The Secretary of State reports that reporting late fees created $950 in revenue in 1997. The average number of late filers for all four reporting periods (two post session expense reports and two supplemental reports) in the

1997-98 biennium was 147. The lobbyist average is 65. The average number of late filing principals is 90.

During the 1996 session, North Carolina had 584 lobbyists and 636 principals (1220 total). Of these principals and lobbyists, 278 submitted late reports. Therefore, in 1996, approximately 22.8% of the lobbyists and principals were late reporters. Late reporting fee estimates are not available for the 1996 session.

The Secretary of State's office believes that the number of late filers declined from 1995-96 to 1997-98 as a result of their increased efforts to contact lobbyists and principals about their reporting requirements.

North Carolina is one of only four states that link their reporting to the legislative calendar. Two of these states tie their reporting dates exclusively to the legislative calendar. North Carolina and West Virginia link their reporting period to the legislative session and annual dates. Of the states with a similar reporting calendar, one does not access a dollar penalty, and another addresses the issue only when the late reporting is "willful and intentional" requiring court action. Neither drew revenue from penalties in 1997. The third state, New Mexico, charges a penalty of $50 per day, to a maximum of $5000. New Mexico revenue data is not available.

In surrounding states, only Georgia does not have a penalty. The average total late fee collections from the two states that provided revenue information, South Carolina and Florida, is $4,275. In both states approximately 4% of lobbyists and principals were diligent in the 1997. Both have a progressive penalty system somewhat similar to the bill. Florida's penalty structure is most similar, with a $50 per day fee and no maximum.

Assuming the 4% experience in Florida and South Carolina applied, under the bill North Carolina could expect approximately 50 individuals to be delinquent under the new system (1995-96 biennium and 1997-8 biennium average number of lobbyist and principals, times 4%). Given the experiences of Florida and South Carolina, these individuals would likely pay between $25 and $100 in fines, for potential revenue of $1250 to $5000 each filing period. This would be a revenue increase of $300 to $4050 after each legislative session, and a similar increase at the close of each calendar year. (1999-00 numbers are not used in this analysis because the current date is less than half way through the biennium. Therefore, these numbers are likely to increase next year). Since filings are required twice a year, the annual potential revenue increase is $600 - $9,000.

Judicial Branch

According to the Administrative Office of the Courts (AOC), their database does not have an offense code for G.S. 120-47.9. Therefore they have no information on how often lobbyists may be charged with this offense. However, they do not expect a significant fiscal impact from the increase in the penalty from a Class 1 to a Class A1 misdemeanor. In order to be charged with the misdemeanor, a lobbyist must not have filed on time, or filed late and paid the late filing fee. They also must not have taken advantage of a filing extension. The Fiscal Research

Division believes that the minimal fiscal impact of the bill could be absorbed within existing resources.

Because the revenue portion of the bill does not go into effect until January 1, 2000, and the reports are not due until 60 days after the close of the legislative session, there is no FY 1999-00 impact.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY: Tom Covington

DATE : April 22, 1999

SURVEY OF STATE LOBBYIST AND PRINCIPAL PENALTIES FOR LATE REPORTS

SURROUNDING STATES

	Penalty	Grace Period	Initial Fee	Before 30 Days	After 30 Days	Maximum	Number Accessed	Total Revenue
South Carolina (802)	yes	10 days	$100	10/day	n/a	$600	35	$3,500
Virginia	yes	no	$50	50/day after 10	n/a	n/a	?	?
Tennessee	yes	5 days	$0	25/day	n/a	$750	?	?
Kentucky	yes	no	$0	100	n/a	$1,000	0	$0
Georgia	no	n/a	$50	one time 25	n/a	$75	0	$0
Florida (5124**)	yes	no	$0	50/day	n/a	n/a	206	$5,050
North Carolina (1220)	yes	no	$10		n/a	$10	278	$2,780

STATES WITH SIMILAR REPORTING TIMELINES

New Mexico	yes	no	n/a	50/day	n/a	$5,000	?	?
South Dakota	no	n/a	n/a	n/a	n/a	n/a	n/a	n/a
West Virginia	willfully & intentional		n/a	n/a	n/a	n/a	n/a	n/a

* While the statutes impose the above fines, they are not enforced as a result of a court order.

States with similar reporting timelines are those states whose filing deadline is after a legislative session.

Thursday, April 22, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 625 A BILL TO BE ENTITLED AN ACT TO REPEAL AN OBSOLETE SECTION OF THE CHARTER OF THE CITY OF DURHAM REGARDING THE PRIVILEGE LICENSE TAX YEAR.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 625

Short Title: Durham Privilege License Technical. (Local)

Sponsors: Senators Lucas; and Gulley.

Referred to: State and Local Government.

March 30, 1999

A BILL TO BE ENTITLED

AN ACT TO REPEAL AN OBSOLETE SECTION OF THE CHARTER OF THE CITY OF DURHAM REGARDING THE PRIVILEGE LICENSE TAX YEAR.

The General Assembly of North Carolina enacts:

Section 1. Section 47 of the Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, is repealed.

Section 2. This act is effective when it becomes law.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 694 A BILL TO BE ENTITLED AN ACT TO INCORPORATE THE TOWN OF RIMERTOWN SUBJECT TO A REFERENDUM.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 694

Short Title: Rimertown Incorporation. (Local)

Sponsors: Senator Hartsell.

Referred to: Rules and Operations of the Senate.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE TOWN OF RIMERTOWN SUBJECT TO A REFERENDUM.

The General Assembly of North Carolina enacts:

Section 1. A Charter for the Town of Rimertown is enacted to read:

"CHARTER OF THE TOWN OF RIMERTOWN.

"CHAPTER I.

"INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Rimertown are a body corporate and politic under the name 'Town of Rimertown'. Under that name they shall have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"CHAPTER II.

"CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with the law, the corporate boundaries of the Town of Rimertown are as follows:

BEGINNING in Cabarrus County at a point in the centerline of Gold Hill Road (SR 2408) due south of the centerline of Rimer Road (SR 2429), thence in a east-northeast direction to the intersection of the centerline of Gold Hill Road (SR 2408) and Cline School Road (SR 2427), thence in a northeasterly direction to a point approximately 697 feet northeast of the centerline of Jennie Wolfe Creek, being the

northeast corner of property described by Cabarrus County Tax Maps as Map/PIN 5662-47-1320.

Continuing in a northwest direction along the northern property line of Map/PIN 5662-47-1320 for approximately 815.83 feet, crossing Jennie Wolfe Creek at approximately 500 feet, thence in a northeasterly direction for approximately 300 feet to the centerline of Jennie Wolfe Creek. Thence continuing in a west-northwest direction along Jennie Wolfe Creek, the creek being showed property lines with the following Map/PINs 5662-37-0824 and 5662-38-8375, 5662-29-9245 and 5662-48-2832 and 5662-49-6146, 5663-21-5019 and 5662-49-6146, 5662-49-8551, to the northernmost point in Map/PIN 5662-59-2563 in the centerline of Jennie Wolfe Creek, thence in a southeast direction to the southernmost point in Map/PIN 5663-32-4457. Thence in a northeast direction along the eastern boundaries of Map/PINs 5663-32-4457, 5663-23-6175, 5663-34-2252 and 5663-26-4073 to the southeast corner of Map/PIN 5663-26-4073, thence in a northwest direction from that corner to a point in the centerline of Jennie Wolfe Creek, continuing with the centerline of Jennie Wolfe Creek in a northeast direction to the centerline of Kluttz Road (SR 2435).

Continuing in a southwest direction with Kluttz Road (SR 2435) for approximately 100 feet to the southeast corner of Map/Pin 5663-46-6452, thence in a northerly direction to the northeast corner of Map/PIN 5663-46-6452. Thence in a northwest direction to the northernmost corner of Map/PIN 5663-46-0501, thence in a southerly direction along the western line of Map/PIN 5663-46-0501 to a point in the centerline of Kluttz Road (SR 2435), thence with the centerline of Kluttz Road (SR 2435) for a distance of approximately 513 feet to a 15-foot-wide portion of Map/PIN 5663-45-2340, crossing that portion to the corner of a portion of Map/PIN 5663-26-8734, thence in a line parallel to the 15-foot-wide portion of Map/PIN 5663-26-8734 for a length of approximately 200 feet in a southeasterly direction, thence in a southwesterly direction for a distance of approximately 200 feet, thence in a northwesterly direction for approximately 220 feet to the centerline of Kluttz Road (SR 2435).

Continuing from that point in the centerline of Kluttz Road (SR 2435) in a northwesterly direction along the northeast property line of Map/PIN 5663-26-4073, passing through a line shared with Map/PIN 5663-16-9741 to a point in the eastern property line of Map/PIN 5663-07-9409, thence in a northeasterly direction with the property line of Map/PIN 5663-07-9409 to a point in the property line of Map/PIN 5663-19-7038. Thence with a line shared by Map/PINs 5663-19-7038, 5663-26-8734, 5663-39-3485, 5663-26-8734, and 5663-28-9179 to the point of Map/PIN 5663-28-9179 in Sisk-Carter Road (SR 2434), thence in a southwesterly direction following the eastern line of a portion of Map/PIN 5663-93-3485 south of Sisk-Carter Road (SR 2434) for approximately 500 feet, thence with the southern line of Map/PIN 5663-93-3485 to the easternmost corner of Map/PIN 5663-58-1098 south of Sisk-Carter Road (SR 2434), thence in a northeasterly direction along the eastern line of Map/PIN

5663-49-4299 for approximately 392 feet to the center of Sisk-Carter Road (SR 2434), continuing in that northeasterly direction 863 feet to the northeast corner of Map/PIN 5663-49-4299.

From that point continuing along a northwest line along the rear property lines of Map/PINs 5663-49-4299 and 5663-49-1428 to a point in Map/PIN 5663-39-9608 approximately 20 feet northwest of the corner shared by Map/PINs 5663-49-1428 and 5663-39-9608, thence in a northerly direction to the northeast corner of Map/PIN 5663-39-9608, thence in an easterly direction with a line shared by Map/PINs 5663-39-9608, 5663-39-4931, 5664-20-6147 and 5664-20-0783 to the centerline of an unnamed dirt road, thence following the northern line of Map/PINs 5664-20-2270, 5664-10-5149 and 5664-00-7187 to the centerline of Rimer Road (SR 2429).

Continuing with the centerline of Rimer Road (SR 2429) in a southerly direction to the western edge of Map/PIN 5653-99-9111, thence in a line shared by Map/PINs 5653-99-9111 and 5653-98-7998 to the northernmost point of Map/PIN 5653-98-7998, thence with the line of Map/PIN 5653-98-7998 for 5 calls to the centerline of Rimer Road (SR 2429), thence with the center of Rimer Road (SR 2429) to the easternmost point of Map/PIN 5653-98-4817, thence with the line of Map/PIN 5653-98-4817 in a northwesterly direction to the eastern line of Map/PIN 5653-88-7937, thence in a northeasterly line of Map/PIN 5653-88-7937 to the easternmost corner of the property, thence in a northwestern direction within the northern lines of Map/PINs 5653-88-7937 and 5653-89-4038 to the northwest corner of Map/PIN 5653-89-4038, thence in a southwestern direction with the line shared by Map/PINs 5653-89-4038 and 5653-79-2735 to the northeast corner of Map/PIN 5653-89-1039, thence in a northeastern direction along the northern lines of Map/PINs 5653-89-1039 and 5653-79-7047 to the northwest corner of Map/PIN 5653-79-7047, thence in a southwesterly direction with the western line of Map/PIN 5653-79-7047 to the centerline of Phaniels Church Road (SR 2433).

Thence with the centerline of Phaniels Church Road (SR 2433) to a point where a 45' private right-of-way adjoins Phaniels Church Road (SR 2433) on the southern side of the road, thence with the 45' private right-of-way in a southern and western direction to the southwest corner of Map/PIN 5653-59-8350, thence in a northeasterly direction with the eastern line of Map/PIN 5653-59-8350 for a distance of approximately 398 feet to the centerline of Phaniels Church Road (SR 2433), thence returning in a southeasterly direction with the centerline of Phaniels Church Road (SR 2433) to the southeast corner of Map/PIN 5653-69-3781, thence in a northeastern direction to the northeast corner of Map/PIN 5653-69-3781, thence in a northwestern direction with the northern line of Map/PIN 5653-69-3781 to the eastern line of Map/PIN 5654-80-0109, thence in a northwestern direction with the line of Map/PIN 5654-80-0109 to the northeast corner of Map/PIN 5654-80-0109, thence in a northwestern direction to the northwest corner of Map/PIN 5654-80-0109, thence in a northeast direction with the line of Map/PIN 5654-50-6844 to the Rowan/Cabarrus

County line, thence with the Rowan/Cabarrus County line to the centerline of Phaniels Church Road (SR 2433), continuing with the Rowan/Cabarrus County line to the northwest corner of Map/PIN 5654-40-2963, thence with the line shared by Map/PINs 5654-40-2963 and 5654-40-8423 to the southwest corner of Map/PIN 5654-40-8423, thence with the western line of Map/PIN 5653-27-1609 for a distance of approximately 370 feet, thence in a southwestern direction on a line shared by Map/PINs 5653-39-9318 and 5653-39-6273 for approximately 915 feet to the northeast corner of Map/PIN 5653-39-6273, thence in a southeasterly direction for approximately 109 feet to a point in Map/PIN 5653-39-6273, thence in a southwesterly direction with the western lines of Map/PINs 5653-39-6273 and 5653-38-3602 to the centerline of Pless Road (SR 2432).

Continuing in an easterly direction with the centerline of Pless Road (SR 2432) to the western edge of Map/PIN 5653-37-6074, thence with the property line of Map/PIN 5653-37-6074 three different lines to the easternmost point of Map/PIN 5653-37-3965, thence in a westerly line with the southern line of Map/PIN 5653-37-6074 in a westerly direction to the westernmost part of Map/PIN 5653-37-6074, thence in a southeasterly direction with the line of Map/PIN 5653-37-6074 for approximately 100 feet to the northwestern corner of Map/PIN 5653-35-9469, thence in a southerly direction with the line of Map/PIN 5653-35-9469 to the centerline of Dutch Buffalo Creek, thence with the centerline of Dutch Buffalo Creek in a southerly direction with the centerline of Dutch Buffalo Creek being the western property lines with these Map/PINs 5653-35-9469, 5653-34-4556, 5653-32-4327, 5653-41-4938, 5653-40-5907, 5653-30-5169, 5652-39-6735, 5652-39-6374, 5652-39-6060, and 5652-37-6977 to the southeast corner of Map/PIN 5652-37-6977, thence with the southern line of Map/PIN 5652-37-6977 for a distance of approximately 1713 feet to a corner shared by Map/PIN 5652-37-6977 and Map/PIN 5652-46-2268.

Continuing in a southeasterly direction with the line shared by Map/PINs 5652-46-2268 and 5652-65-1952 to the easternmost point of Map/PIN 5652-46-2268, thence in a westerly direction with the line of Map/PIN 5652-46-2268 to a point shared by the southwest corner of Map/PIN 5652-46-2268 and the southwest corner of Map/PIN 5652-56-3192, thence in an easterly direction with the northern line of Map/PIN 5652-44-5766 to the northeast corner of Map/PIN 5652-44-5766, thence in a southwesterly direction with the western property lines of Map/PINs 5652-55-2303, 5652-43-9631, and 5652-54-3175 to the centerline of Gold Hill Road (SR 2408) to the point of BEGINNING.

"CHAPTER III.

"GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Rimertown shall be the Town Council, which shall have four members, and the Mayor.

"Section 3.2. **Temporary Officers.** Until the initial elections of 1999 provided for by Section 4.1 of this Charter, Terry D. Barbee, Clyde M. Drye, Jr., and Steve R.

Love are hereby appointed members of the interim Town Council. They shall jointly exercise the powers granted to the governing body until their successors are elected or appointed and qualified pursuant to this Charter.

"Section 3.3. **Manner of Electing Town Council; Term of Office.** The qualified voters of the entire Town shall elect the members of the Town Council and, except as provided in this section, they shall serve four-year terms. In 1999, the two candidates receiving the highest number of votes shall be elected to four- year terms and the two candidates receiving the next highest number of votes shall be elected to two-year terms. In 2001 and biennially thereafter, two members shall be elected to four- year terms.

"Section 3.4. **Manner of Electing Mayor; Term of Office.** The qualified voters of the entire Town shall elect the Mayor. In 1999 and quadrennially thereafter, the Mayor shall be elected for a term of four years.

"CHAPTER IV.

"ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and results determined by a plurality as provided in G.S. 163-292.

"CHAPTER V.

"ADMINISTRATION.

"Section 5.1. **Town to Operate Under Mayor-Council Plan.** The Town of Rimertown shall operate under the Mayor-Council form of government as provided in Part 3 of Article 7 of Chapter 160A of the North Carolina General Statutes."

Section 2. From and after the effective date of this act, the citizens and property in the Town of Rimertown shall be subject to municipal taxes levied for the year beginning July 1, 1999. For that purpose the Town shall obtain from Cabarrus County a record of property in the area herein incorporated which was listed for taxes as of January 1, 1999. The Town may adopt a budget ordinance for fiscal year 1999-2000 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 1999-2000, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in N.C.G.S. 105-360. If this act is approved under Sections 3 and 4 of this act before July 1, 1999, the Town may adopt a budget ordinance for fiscal year 1998-99 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical.

Section 3. The Cabarrus County Board of Elections shall conduct an election on a date set by the Board, to be not less than 60 nor more than 120 days after this act becomes law, for the purpose of submission to the qualified voters of the area described in Section 2.1 of the Charter of the Town of Rimertown the question of whether or not the area shall be incorporated as the Town of Rimertown. Registration for the election shall be conducted in accordance with G.S. 163-288.2.

Section 4. In the election, the question on the ballot shall be:

"[ ]FOR [ ]AGAINST

Incorporation of the Town of Rimertown."

Section 5. In the election, if a majority of the votes are cast "For incorporation of the Town of Rimertown", Sections 1 through 2 of this act shall become effective on the date that the Cabarrus County Board of Elections certifies the results of the election. Otherwise, those sections shall have no force and effect.

Section 6. This act is effective when it becomes law.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☒ ~~Senate Committee Substitute~~ for
S.B. 708 A BILL TO BE ENTITLED AN ACT ALLOWING COUNTIES TO PROVIDE AFFORDABLE HOUSING FOR PERSONS OF LOW AND MODERATE INCOME.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill ~~(#)~~, ☐ ~~which changes the title,~~ unfavorable as to ~~Senate committee substitute~~ bill.
engrossed

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 708

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S708-ALM-1 Page 1 of __

Date June 30 ,1999

Comm. Sub. []
Amends Title []
Second Edition

Allen
~~Senator Odom~~

1 moves to amend the bill on page 3, line 7,
2 by deleting "twenty percent (20%)" and substituting "forty percent
3 (40%)".

SIGNED S Allen
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 708
Second Edition Engrossed 4/28/99
Proposed House Committee Substitute S708-PCS7703-RB

Short Title: Affordable Housing. (Public)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT ALLOWING COUNTIES TO PROVIDE AFFORDABLE HOUSING FOR PERSONS OF LOW AND MODERATE INCOME.

The General Assembly of North Carolina enacts:

Section 1. The General Assembly finds and declares that the purpose of this act is to provide authority for counties in North Carolina to provide funds for residential housing construction, new or rehabilitated, and to provide for the sale or rental of housing to persons and families of low and moderate income. The General Assembly finds and declares that there exists in counties in the State a serious shortage of decent, safe, and sanitary residential housing available at low prices or rentals to persons and families of low and moderate income. This shortage is inimical to the health, safety, welfare, and prosperity of all residents of the State and to the sound growth of North Carolina communities.

Section 2. Part 5 of Article 18 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-378. Low- and moderate-income housing programs.**

In addition to the powers granted by G.S. 153A-376 and G.S. 153A-377, any county is authorized to exercise the following powers:

(1) To engage in and to appropriate and expend funds for residential housing construction, new or rehabilitated, for sale or rental to persons and families of low and moderate income. Any board of

commissioners may contract with any person, association, or corporation to implement the provisions of this subdivision.

(2) To acquire real property by voluntary purchase from the owners to be developed by the county or to be used by the county to provide affordable housing to persons of low and moderate income.

(3) Under procedures and standards established by the county, to convey property by private sale to any public or private entity that provides affordable housing to persons of low or moderate income. The county shall include as part of any such conveyance covenants or conditions that assure the property will be developed by the entity for sale or lease to persons of low or moderate income.

(4) Under procedures and standards established by the county, to convey residential property by private sale to persons of low or moderate income in accordance with G.S. 160A-267 and any terms and conditions that the board of commissioners may determine."

Section 3. G.S. 153A-149(c) is amended by adding a new subdivision to read:

"(15b) Housing. -- To undertake housing programs for low- and moderate-income persons as provided in G.S. 153A-378."

Section 4. G.S. 159-48(c) reads as rewritten:

"(c) Each county is authorized to borrow money and issue its bonds under this Article in evidence of the debt for the purpose of, in the case of subdivisions (1) through (4a) of this subsection, paying any capital costs of any one or more of the purposes and, in the case of ~~subdivision (5)~~ subdivisions (5) and (6) of this subsection, to finance the cost of the purpose:

(1) Providing community college facilities, including without limitation buildings, plants, and other facilities, physical and vocational educational buildings and facilities, including in connection therewith classrooms, laboratories, libraries, auditoriums, administrative offices, student unions, dormitories, gymnasiums, athletic fields, cafeterias, utility plants, and garages.

(2) Providing courthouses, including without limitation offices, meeting rooms, court facilities and rooms, and detention facilities.

(3) Providing county homes for the indigent and infirm.

(4) Providing school facilities, including without limitation schoolhouses, buildings, plants and other facilities, physical and vocational educational buildings and facilities, including in connection therewith classrooms, laboratories, libraries, auditoriums, administrative offices, gymnasiums, athletic fields, lunchrooms, utility plants, garages, and school buses and other necessary vehicles.

(4a) Providing improvements to subdivision and residential streets pursuant to G.S. 153A-205.

(5) Providing for the octennial revaluation of real property for taxation.

(6) Providing housing projects for persons of low or moderate income, including construction or acquisition of projects to be owned by a county, redevelopment commission, or housing authority and the provision of loans, grants, interest supplements, and other programs of financial assistance to such persons. A housing project may provide housing for persons of other than low or moderate income if at least forty percent (40%) of the units in the project are exclusively reserved for persons of low or moderate income. No rent subsidy may be paid from bond proceeds."

Section 5. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 708
Second Edition Engrossed 4/28/99

Short Title: Affordable Housing. (Public)

Sponsors: Senator Odom.

Referred to: State and Local Government.

April 1, 1999

A BILL TO BE ENTITLED

AN ACT ALLOWING COUNTIES TO PROVIDE AFFORDABLE HOUSING FOR PERSONS OF LOW AND MODERATE INCOME.

The General Assembly of North Carolina enacts:

Section 1. The General Assembly finds and declares that the purpose of this act is to provide authority for counties in North Carolina to provide funds for residential housing construction, new or rehabilitated, and to provide for the sale or rental of housing to persons and families of low and moderate income. The General Assembly finds and declares that there exists in counties in the State a serious shortage of decent, safe, and sanitary residential housing available at low prices or rentals to persons and families of low and moderate income. This shortage is inimical to the health, safety, welfare, and prosperity of all residents of the State and to the sound growth of North Carolina communities.

Section 2. Part 5 of Article 18 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-378. Low- and moderate-income housing programs.**

In addition to the powers granted by G.S. 153A-376 and G.S. 153A-377, any county is authorized to exercise the following powers:

(1) To engage in and to appropriate and expend funds for residential housing construction, new or rehabilitated, for sale or rental to persons and families of low and moderate income. Any board of commissioners may contract with any person, association, or corporation to implement the provisions of this subdivision.

(2) To acquire real property by voluntary purchase from the owners to be developed by the county or to be used by the county to provide affordable housing to persons of low and moderate income.

(3) Under procedures and standards established by the county, to convey property by private sale to any public or private entity that provides affordable housing to persons of low or moderate income. The county shall include as part of any such conveyance covenants or conditions that assure the property will be developed by the entity for sale or lease to persons of low or moderate income.

(4) Under procedures and standards established by the county, to convey residential property by private sale to persons of low or moderate income in accordance with G.S. 160A-267 and any terms and conditions that the board of commissioners may determine."

Section 3. G.S. 153A-149(c) is amended by adding a new subdivision to read:

"(15b) Housing. -- To undertake housing programs for low- and moderate-income persons as provided in G.S. 153A-378."

Section 4. G.S. 159-48(c) reads as rewritten:

"(c) Each county is authorized to borrow money and issue its bonds under this Article in evidence of the debt for the purpose of, in the case of subdivisions (1) through (4a) of this subsection, paying any capital costs of any one or more of the purposes and, in the case of ~~subdivision (5)~~ subdivisions (5) and (6) of this subsection, to finance the cost of the purpose:

(1) Providing community college facilities, including without limitation buildings, plants, and other facilities, physical and vocational educational buildings and facilities, including in connection therewith classrooms, laboratories, libraries, auditoriums, administrative offices, student unions, dormitories, gymnasiums, athletic fields, cafeterias, utility plants, and garages.

(2) Providing courthouses, including without limitation offices, meeting rooms, court facilities and rooms, and detention facilities.

(3) Providing county homes for the indigent and infirm.

(4) Providing school facilities, including without limitation schoolhouses, buildings, plants and other facilities, physical and vocational educational buildings and facilities, including in connection therewith classrooms, laboratories, libraries, auditoriums, administrative offices, gymnasiums, athletic fields, lunchrooms, utility plants, garages, and school buses and other necessary vehicles.

(4a) Providing improvements to subdivision and residential streets pursuant to G.S. 153A-205.

(5) Providing for the octennial revaluation of real property for taxation.

(6) Providing housing projects for persons of low or moderate income, including construction or acquisition of projects to be owned by a county, redevelopment commission, or housing authority and the provision of loans, grants, interest supplements, and other programs of financial assistance to such persons. A housing project may provide housing for persons of other than low or moderate income if at least twenty percent (20%) of the units in the project are exclusively reserved for persons of low or moderate income. No rent subsidy may be paid from bond proceeds."

Section 5. This act is effective when it becomes law.

SENATE BILL 708:
Affordable Housing

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Odom
Date:	June 30, 1999	**Summary by:**	Mary Shuping
Version:	2nd Edition		Research Assistant

SUMMARY: ***Senate Bill 708 authorizes counties to exercise various powers designed to provide affordable housing to persons of low and moderate income. The 2nd edition of SB 708 is identical to HB 970 (Representative McMahan), except SB 708 applies to all counties, and HB 970 applies only to those counties having a population in excess of 500,000.***

CURRENT LAW & BILL ANALYSIS:

Section 1 of SB 708 contains the findings of the General Assembly and the purpose of the act.

Section 2 amends the community development authority of counties by adding a new section regarding low and moderate income housing programs. Specifically, counties will be authorized to

- Appropriate and expend funds for residential housing construction, either new or rehabilitated, for sale or rental to persons and families of low and moderate income.
- Acquire real property by voluntary purchase to be used for affordable housing.
- Convey real property by private sale to any public or private entity that provides affordable housing.
- Convey residential property by private sale to persons of low or moderate income.

Section 3 amends authorizes counties to levy property taxes for the purpose of undertaking housing programs for low and moderate income persons.

Section 4 authorizes counties to borrow money and issue bonds to finance the cost of providing housing projects for persons of low or moderate income. The housing project must reserve at least 20% (40% under the proposed amendment) for persons of low or moderate income.

EFFECTIVE DATE: The act is effective when it becomes law.

Karen Cochrane-Brown, Counsel, House Economic Growth & Community Development Committee, contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 708 Affordable Housing

SHORT TITLE: Affordable Housing

SPONSOR(S): Senator Odom

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
EXPENDITURES	No Estimate Available				
POSITIONS:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina counties having a population in excess of 500,000.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: S 708. AFFORDABLE HOUSING. *ALLOWING COUNTIES HAVING A POPULATION IN EXCESS OF 500,000 TO PROVIDE AFFORDABLE HOUSING FOR PERSONS OF LOW AND MODERATE INCOME.* Adds new GS 153A-378 authorizing counties above 500,000 in population to appropriate and expend funds for residential housing construction (new and rehabilitated) for sale or rental to persons and families of low and moderate income. Board may acquire real property, contract for improvements, and sell the property by private sale to persons of low or moderate income or to public or private entities that provide housing to persons of low or moderate income. Amends GS 153A-149(c) to allow counties to levy property taxes for the purpose and GS 153A-48(c) to permit borrowing money for the purpose. New GS 153A-48(c)(6) provides that a housing project may provide housing for persons other than those of low or moderate income if at least 20% of the units in the project are exclusively reserved for those of low or moderate income. Bond proceeds may not be used for rent subsidies.[1]

[1] Daily Bulletin, Institute of Government, UNC-Chapel Hill, Vol. 1999, April 1, 1999.

ASSUMPTIONS AND METHODOLOGY: Senate Bill 708 provides authorizing legislation to North Carolina counties for the purpose of providing affordable housing opportunities for persons of low and moderate income. The bill applies only to counties with a population in excess of 500,000. According to the Office of State Planning's *1997 Certified County Population Estimates*, Wake and Mecklenburg counties would qualify under this designation.

There is no reliable manner in which to estimate the number of instances in which counties would choose to exercise the new powers added under G.S. 153A-378, nor is there a reliable estimate of the costs the counties would subsequently incur. The bill addresses project costs by amending current law [G.S. 153A-149(c)], allowing counties to levy property taxes in order to provide affordable housing, and permits counties to borrow funds for those same purposes [(G.S. 159-48(c)]. Senate Bill 708 is permissive and does not require counties with populations in excess of 500,000 to exercise this option.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Jennifer L. Herrera

APPROVED BY: Tom Covington

DATE: Monday, April 12, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 799 A BILL TO BE ENTITLED AN ACT TO INCREASE THE FEES COLLECTED BY THE NORTH CAROLINA BOARD OF PHYSICAL THERAPY EXAMINERS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 799

Short Title: Physical Therapy Fees. (Public)

Sponsors: Senator Kerr.

Referred to: Finance.

April 12, 1999

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE FEES COLLECTED BY THE NORTH CAROLINA BOARD OF PHYSICAL THERAPY EXAMINERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-270.33 reads as rewritten:

"**§ 90-270.33. Fees.**

The Board may collect fees established by its rules, but those fees shall not exceed the following schedule for the specified items:

(1)	Each application for licensure	~~$100.00~~	$200.00
(2)	License renewal	~~40.00~~	$150.00
(3)	Transfer/verification/replace certificate	~~15.00~~	$45.00
(4)	Examination retake	~~30.00~~	$100.00
(5)	Late renewal		$20.00
(6)	Licensure revival (in addition to renewal)	~~25.00~~	$75.00
(7)	Directory	~~5.00~~	$25.00
(8)	Licensee ~~lists:~~ lists: labels	~~60.00~~	$250.00
	computer diskette		$450.00

In all instances where the Board uses the services of a national testing service for preparation, administration, or grading of examinations, the Board may charge the applicant the actual cost of the examination services, in addition to its other fees."

Section 2. This act is effective when it becomes law.

SENATE BILL 799:
Physical Therapy Fees

BILL ANALYSIS

Committee: House Finance
Date: June 30, 1999
Version: 1st Edition

Introduced by: Senator Kerr
Summary by: Mary Shuping
Research Assistant

SUMMARY: ***Senate Bill 799 increases the maximum fees that the North Carolina Board of Physical Therapy Examiners may charge.***

BACKGROUND: The North Carolina Board of Physical Therapy Examiners has the authority to determine the qualifications for licensure and to issue, deny, suspend, or revoke the licenses of physical therapists and physical therapist assistants.

Licensed physical therapists evaluate and treat patients using various rehabilitative procedures. Licensed physical therapist assistants work under the supervision of a licensed physical therapist. Persons who wish to become either licensed physical therapists or physical therapy assistants must have graduated from an accredited program.

CURRENT LAW & BILL ANALYSIS: Senate Bill 799 would raise the maximum fees that could be charged by the Board. These fees have not been increased since 1985. The current and proposed fee structure is as follows:

TYPE OF FEE*	CURRENT MAXIMUM FEE	PROPOSED MAXIMUM FEE
Each application for licensure	$100.00	$200.00
License renewal (all licenses are renewed annually)	$40.00	$150.00
Transfer/verification/ replacement certificate	$15.00	$45.00
Examination retake	$30.00	$100.00
Late renewal	$20.00	No change
Licensure revival (in addition to renewal)	$25.00	$75.00
Directory	$5.00	$25.00
Licensee lists; labels	$60.00	$250.00
Computer diskette	N/A	$450.00

* Includes fees for both physical therapists and physical therapist assistants.

EFFECTIVE DATE: SB 799 is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 799 (First Edition)

SHORT TITLE: Physical Therapy Fees

SPONSOR(S): Senator Kerr

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Bd. Operating Fund*	$148,509	$155,668	$163,185	$171,079	$179,367

* Board proposed rate, not statutory maximum

EXPENDITURES To be determined by the Board.

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Board of Physical Therapy Examiners

EFFECTIVE DATE: The act is effective when it becomes law.

BILL SUMMARY: The bill increases the maximum fee amounts that can be charged by the North Carolina Board of Physical Therapy Examiners.

ASSUMPTIONS AND METHODOLOGY:
The North Carolina Board of Physical Therapy Examiners' statutory fee structure has not changed since 1985. The Board is now charging the highest fees allowed by statute. SB 799 increases the maximum statutory fees, but the Board plans to gradually increase fees to the statutory maximum. The chart on page two of this fiscal note shows the fee amounts and revenue from the current Board fees, the fees proposed by the Board if the law is enacted, and the maximum fees allowed by SB 799. Based on 1998 licenses, the Board would earn an additional $156,330 a year on the fees it intends to charge in the year 2000. If the Board charged the maximum fees allowed, it would earn an additional $807,310 a year.

	1998 Applicants	Current Board Fees	Current Revenues	Board Proposed Fee In 99-00	Board Revenue In 99-00	SB 799 Maximum Fees	SB 799 Maximum Revenue
Application Fees	992	$100	$99,200	$120	$119,040	$200	$198,400
License Renewal	5,877	$40	$235,080	$60	$352,620	$150	$881,550
Transfer/ Verify/ Replace Certificate	976	$15	$14,640	$25	$24,400	$45	$43,920
Exam Retake	146	$30	$4,380	$50	$7,300	$100	$14,600
Late Renewal	0	$20	0	$20	0	$20	0
Licensure Revival	54	$25	$1,350	$35	$1,890	$75	$4,050
Directory	41	$5	$205	$15	$615	$25	$1,025
License Lists - Labels	38	$60	$2,280	$150	$5,700	$250	$9,500
- Computer Diskette*	38	$150	$5,700	$200	$7,600	$450	$17,100
			$362,835		**$519,165**		**$1,170,145**

* No statutory authority for diskette sale

The Board of Physical Therapy Examiners projects a 5% annual growth rate for all the above categories except license lists. This 5% growth rate was applied to the base year 1998 and used to increase each category annually until 2004. (see chart below) Instead of the maximum allowed by SB 799, this fiscal note assumes the Board recommended rates until the year 2005.

	1998	1999	2000	2001	2002	2003	2004
Application Fees	992	1042	1094	1148	1206	1266	1329
License Renewal	5877	6171	6479	6803	7144	7501	7876
Transfer	976	1025	1076	1130	1186	1246	1308
Exam Retake	146	153	161	169	177	186	196
Late Renewal	0						
Licensure Revival	54	57	60	63	66	69	72
Directory	41	43	45	47	50	52	55
License Lists	38	38	38	38	38	38	38
	38	38	38	38	38	38	38
	8,162	8,566	8,991	9,437	9,905	10,396	10,912

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY: Tom Covington

DATE: Monday, April 26, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☒ Senate Committee Substitute for
S.B. 817 A BILL TO BE ENTITLED AN ACT TO PROVIDE AN EXCEPTION TO THE LATE LISTING PENALTY FOR CERTAIN REAL PROPERTY IN COUNTIES THAT HAVE NOT ADOPTED PERMANENT LISTING AND TO PHASE IN PERMANENT LISTING IN ALL COUNTIES.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 817
Finance Committee Substitute Adopted 5/19/99

Short Title: Real Property Tax Penalty. (Public)

Sponsors:

Referred to:

April 12, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE AN EXCEPTION TO THE LATE LISTING PENALTY FOR CERTAIN REAL PROPERTY IN COUNTIES THAT HAVE NOT ADOPTED PERMANENT LISTING AND TO PHASE IN PERMANENT LISTING IN ALL COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. It is the intent of the General Assembly to encourage all counties to adopt a permanent property tax listing system in accordance with G.S. 105-303(b). The General Assembly finds that permanent listing is more convenient for taxpayers and more efficient for counties. To encourage counties to adopt permanent listing in the next few years, Section 2 of this act prohibits counties that have not adopted such a system from charging late listing penalties in certain circumstances. Section 3 of this act requires all counties to adopt permanent listing systems by the 2004 tax year.

Section 2. G.S. 105-312(h) reads as rewritten:

"(h) Computation of Penalties. -- Having computed each year's taxes separately as provided in subsection ~~(g), above,~~ (g) of this section, there shall be added a penalty of ten percent (10%) of the amount of the tax for the earliest year in which the property was not listed, plus an additional ten percent (10%) of the same amount for each subsequent listing period that elapsed before the property was discovered. This penalty shall be computed separately for each year in which a failure to list occurred; and the year, the amount of the tax for that year, and the total of penalties for failure to list in that year shall be shown separately on the tax records; but the taxes and

penalties for all years in which there was a failure to list shall be then totalled on a single tax receipt. The penalty provided in this section does not apply to real property if there have been no improvements to the property since it was last listed and there has been no change in ownership since it was last listed."

Section 3. Effective for taxes imposed for taxable years beginning on or after July 1, 2004, G.S. 105-303(b) reads as rewritten:

"(b) ~~With the approval of the Department of Revenue, the board of county commissioners may install a permanent listing system. (The Department's approval shall not, however, be required for any such system installed prior to April 3, 1939.)~~ The board of commissioners of each county must install a permanent listing system. Each county must obtain the approval of the Department of Revenue for its permanent listing system. Under such a system the provisions of subdivisions (b)(1) through ~~(b)(4), below, shall~~ (b)(4) of this subsection apply.

(1) The assessor ~~shall be~~ is responsible for listing all real property on the abstracts and tax records each year in the name of the owner of record as of the day as of which property is to be listed under G.S. 105-285.

(2) Persons whose duty it is to list real property under the provisions of G.S. 105-302 ~~shall be~~ are relieved of that duty, but annually, during the listing period established by G.S. 105-307, ~~such persons shall~~ these persons must furnish the assessor with the information concerning improvements on and separate rights in real property required by G.S. 105-309(c)(3) through (c)(5).

(3) The penalties imposed by G.S. 105-308 and 105-312 ~~shall not be imposed for~~ do not apply to failure to list real property for taxation, but they ~~shall be imposed for~~ apply to failure to comply with the provisions of subdivision ~~(b)(2), above,~~ (b)(2) of this subsection with respect to reporting the construction or acquisition of improvements on and separate rights in real property. In such a case, the penalty prescribed by G.S. 105-312 shall be computed on the basis of the tax imposed on the improvements and separate rights.

(4) The Department of Revenue may authorize the board of county commissioners to make additional modifications of the listing requirements of this Subchapter, ~~but no such modification shall conflict with the provisions of~~ as long as the modifications do not conflict with subdivisions (b)(1) through ~~(b)(3), above.~~ (b)(3) of this subsection."

Section 4. Section 3 of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2004. The remainder of this act is effective for taxes imposed for taxable years beginning on or after July 1, 1999. Section 2 of this act is repealed effective for taxes imposed for taxable years beginning on or after July 1, 2004.

SENATE BILL 817:
Real Property Tax Penalty

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Ballance
Date:	June 30, 1999	**Summary by:**	Cindy Avrette
Version:	2nd Edition		Committee Counsel

SUMMARY: Senate Bill 817 requires each county to install a permanent listing system effective for taxable years beginning on or after July 1, 2004. For taxable years until 2004, the 10% late listing penalty will not apply to property that has not been improved or transferred since it was last listed.

CURRENT LAW: Ninety-four counties have implemented a permanent listing system for property tax purposes. Under a permanent listing system, the assessor is responsible for listing all real property for property tax purposes instead of the owner. The owner of the property does not need to respond to the listing form unless the property has been improved or transferred since the last listing. The 10% late listing penalty does not to property listed under a permanent listing system. However, the penalty does apply if the taxpayer fails to furnish the assessor with information concerning improvements to the property not reflected on the listing form.

The late listing penalty applies to property that should have been listed for tax purposes but is not. When the property is "discovered", the property is taxed for the year it was discovered and the preceding five years it escaped taxation. Each year's taxes are computed separately. A late listing penalty equal to 10% of the amount of the tax for the earliest year the property was not listed is added to the amount of tax due. The penalty is computed separately for each year the failure to list occurred.

BILL ANALYSIS: Section 1 states the intent of the General Assembly to encourage all counties to adopt a permanent property tax listing system. There are only six counties that have not adopted a system: Clay, Graham, Swain, Vance, Warren, and Yancey.

Section 2 provides that the 10% penalty on discovered property does not apply to real property if there have been no improvements to the property since it was last listed and there has been no change in ownership since it was last listed. This section is repealed effective for taxes imposed for taxable years beginning on or after July 1, 2004.

Section 3 requires the board of commissioners of each county to install a permanent listing system. This section is effective for taxes imposed for taxable years beginning on or after July 1, 2004.

Martha Walston, counsel to the Senate Finance Committee, contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: S.B. 817

SHORT TITLE: Real Property Tax Penalty

SPONSOR(S): Sen. Ballance

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available (X)**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
General Fund			*** No General Fund Impact ***		
Local Government			* See Assumptions and Methodology *		

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: County and municipal governments, the North Carolina Department of Revenue, Property Tax Division.

EFFECTIVE DATE: Section 3 of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2004. The remainder of this act is effective for taxes imposed for taxable years beginning on or after July 1, 1999. Section 2 of this act is repealed effective for taxes imposed for taxable years beginning on or after July 1, 2004.

BILL SUMMARY: The legislation makes two changes to real property tax law. First, it provides an exception to the late listing penalty for property that has not been improved or transferred since it was last listed. This is generally referred to as unimproved discovered property. This applies only in counties were there is no permanent listing system. Second, it requires that each county install a permanent listing system. This system must be approved by the Department of Revenue, and implemented by the 2004 tax year.

ASSUMPTIONS AND METHODOLOGY: According to the Department of Revenue, as of January 1, 1999 there were six counties without a permanent listing system. These counties are Clay, Graham, Swain, Vance, Warren, and Yancey. All of the remaining 94 counties have some version of a permanent listing system.

Under a permanent listing system, real property is assumed to remain the same, unless the county has reason to believe otherwise. In counties without a permanent system, the assessor requires property owners to listing their real property each year. According to the Department of Revenue, many counties have a permanent system, but also use a post card reminder system to give property owners a convenient opportunity to declare any significant modifications or

unrecorded transfers. In the case of residential property, a significant modification would include building a deck or garage, or increasing the overall footprint of the home. When a permanent listing system is used, assessors often depend on inspection and permit officials for much of their information on property improvements.

According to the Department of Revenue, the amount of discovered property in a county is generally very insignificant each year, unless the county performs an audit. Counties are only required to audit one-eighth of their exempt property each year. There are no requirements to audit property that produces income for the county. Because there is no data available on the amount of discovered property, the associated penalty amounts, or how much of that property is held by the same owner and unimproved, no fiscal estimate is possible on this portion of the bill. However, the bill has the potential to decrease penalty income in the six counties that do not have a permanent listing system. Since provision of the bill expires in 2004, there will be no fiscal impact after that date.

The requirement that all counties have a permanent listing system by 2004 could have a fiscal impact on the six counties without such a system. No information is available at this time on the cost of developing a permanent system.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY:

DATE:

VISITOR REGISTRATION SHEET

FINANCE — 6-30, 1999

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
PAUL MCHANEY	NCANP
Bob Hillam	Public Staff - NCUC
Peggy Kinsey	Public Staff
Rebecca Mabry	N.C. Utilities Commission
Ben E Massey J	NC Board of PT Examiners
WE Potter	NCPTA
J W Reed	OSBM
Jim Newcel	"
Robert Powell	"
CHUCK Hoell	NC DOI Ins
Starla McKeaney	NC DOT
Mary Carnilia	Mecklenburg County
Pam Miles	Barlow & Brown LLP
Brad Adcock	BCBSNC
Bob Prim	Jordan Price Wall
Jennie Doutt	NC AHP
Steve Nouse	TRALA
DAN FERLACH	NCBTC
Paul Gibson	OSBM
Doug Bullock	SCO
Ed Rees	N.C.A.C.C.
[illegible]	Nexsen Van Allen
HUGH TILSON	NCHA
Susan Williams	NACCOC
Deborah Valenti	National
Lori Thomas	BCBSNC
Harry Kaplan	
Cathy Meeler	NACM

VISITOR REGISTRATION SHEET

FINANCE — Name of Committee

6/30, 1999 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sheila Rose	SOS
Byron Saintsing	Smith Helms Mullis Moore Stone & Hyde
Kelli Kukura	DuPont
John O. Parsons	NC Attn General Office
Bernard Allen	SOS
Mia Brandon	Electricities
Jim Blackburn	Finance Committee groupie
Katherine Cairns	Electricities
Hal Miller	NCACCT

THE AFTER SESSION MEETING HAS BEEN CANCELLED.

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Wednesday, June 30, 1999**

TIME: **AFTER SESSION HAS BEEN CANCELLED.**

LOCATION: **544 LOB**

The following bills will be considered (Bill # & Short Title):

Respectfully,

Representatives Miller. Luebke, Allen
Co-Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **11:00 a.m.** on **June 30, 1999**.

___Principal Clerk
___Reading Clerk - House Chamber

Kristen Crosson (Committee Clerk)

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Thursday, July 1, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 133 - Exempt Disabled Veteran Vehicles - Rep. Rogers
HB 781 - Catawba Annexations - Rep. Setzer
HB 1010 - Cotton Gins, Warehouses, Merchants - Rep. Hill
HB 1120 - Authorize Public Hospital Debt - Rep. Wright
HB 1177 - Locksmith Licensure/2 - Rep. Ellis
HB 1254 - Homebuilder Responsibility - Rep. Earle
HB 1326 - Dry-Cleaning Solvent Cleanup Amends - Rep. Gibson
SB 297 - Limited Partnership Law Changes - Sen. Clodfelter
SB 796 - General Contractors Property - Sen. Hoyle
SB 835 - Revise Law Governing Mergers - Sen. Clodfelter

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Thursday, July 1, 1999

The House Committee on Finance on Thursday, July 1, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke, Miller; Vice Chairs Jarrell; Representatives Baddour, Braswell, Bridgeman, Brown, Buchanan, Capps, Church, Creech, Cunningham, Decker, Dedmon, Eddins, Goodwin, Hackney, Hill, McComas, McCombs, Pope, Rayfield, Tucker, Wilson, and Womble. Staff including Cindy Avrette, Richard Bostic, Martha Harris, Mary Shuping, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Allen called the meeting to order to consider the following bills:

Rep. Setzer was recognized to explain HB 781, A BILL TO BE ENTITLED AN ACT AUTHORIZING THE TOWN OF CATAWBA TO ANNEX PROPERTY ENCLOSED BY THE CORPORATE BOUNDARIES OF THE TOWN. Rep. Brown moved to give the bill a favorable report. The motion passed. A copy of the bill is included in these minutes.

Rep. Rogers was recognized to explain HB 133, A BILL TO BE ENTITLED AN ACT TO EXEMPT FROM PROPERTY TAX MODIFIED MOTOR VEHICLES OWNED BY DISABLED VETERANS WHO ARE ELIGIBLE FOR FEDERAL SPECIAL EQUIPMENT ALLOWANCES. Rep. Tucker questioned Rep. Rogers. Rep. Hill moved to give the bill a favorable report. The motion passed. A copy of the bill, Bill Summary, and Fiscal Note is included in these minutes.

Rep. Hill was recognized to explain HB 1010, A BILL TO BE ENTITLED AN ACT TO REGULATE COTTON GINS, COTTON WAREHOUSES, AND COTTON MERCHANTS. Rep. Brown moved to give the bill a favorable report. Rep. Hill sent forward an amendment and moved for its adoption. The amendment was adopted. Rep. Brown moved to roll the amendment into a Proposed Committee Substitute and then give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. The motion passed. A copy of the bill, Proposed Committee Substitute, Bill Summary, and Fiscal Note are included in these minutes.

Rep. Ellis was recognized to explain HB 1177, A BILL TO BE ENTITLED AN ACT TO ESTABLISH THE LOCKSMITH LICENSING ACT. Rep. Tallent moved to adopt the Proposed Committee Substitute for discussion only. Rep. Hackney questioned Rep. Ellis. Rep. Tallent moved to give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. Rep. Jarrell questioned Rep. Ellis. Rep. Goodwin questioned Richard Bostic. Rep. Hackney questioned Rep. Ellis. Rep. Tallent's motion passed. A copy of the bill, Proposed Committee Substitute, Bill Summary, and Fiscal Note are included in these minutes.

Rep. Earle was recognized to explain HB 1254, A BILL TO BE ENTITLED AN ACT TO STRENGTHEN THE LAWS REGULATING GENERAL CONTRACTORS AND TO INCREASE THE LICENSURE REQUIREMENTS FOR RESIDENTIAL BUILDING CONTRACTORS. Rep. Earle moved for adoption of the Proposed Committee Substitute for discussion only. Mary Shuping explained the bill. The Chair recognized Mr. Mike Carpenter, Director of the N.C. Homebuilders Association. Reps. Hackney and Womble questioned Mr. Carpenter. Rep. Jarrell questioned Mr. Carpenter and Rep. Earle. Rep. Capps questioned Mary Shuping. Rep. Rayfield questioned Rep. Earle and Mr. Carpenter. Rep. Capps sent forward and amendment and moved for its adoption. Rep. Bridgeman questioned Rep. Capps on amendment. The Chair recognized Mr. Allen Miles, legal counsel to the Licensing Board of General Contractors. Reps. Cox, Hackney, Starnes, and Luebke questioned Mr. Miles. Rep. Hill questioned Mr. Carpenter. Rep. Capps moved for adoption of his amendment. The amendment was adopted. Rep. Brown stated he supported Rep. Capps' amendment. Rep. Starnes stated he does not support the bill. Rep. Earle commented. Rep. Creech stated he does not support the bill. Rep. Buchanan questioned Rep. Earle. Rep. Braswell moved to give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. Rep. Capps sent forward a second technical amendment and moved for its adoption. The amendment was adopted. Rep. Braswell's motion to give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill failed with a vote of 13 ayes, 14 nays. Rep. Starnes moved to give HB 1254 an unfavorable report. Rep. Gibson asked Rep. Starnes to remove that motion, and Starnes removed the motion. A copy of the bill, Proposed Committee Substitute, Amendments, Bill Summary, Fiscal Note, and Rep. Earle's handout are included in these minutes.

Rep. Luebke replaced Rep. Allen as Chair.

Sen. Clodfelter was recognized to explain Sen. Hoyle's SB 796, A BILL TO BE ENTITLED AN ACT AUTHORIZING THE STATE LICENSING BOARD FOR GENERAL CONTRACTORS TO OWN REAL PROPERTY AND TO PURCHASE EQUIPMENT AND LIABILITY INSURANCE. Rep. Brown moved to give the bill a favorable report. Rep. Rayfiel questioned Mr. Allen Miles, legal counsel to the Licensing Board of General Contractors. Rep. Brown's motion passed. A copy of the bill is included in these minutes.

Sen. Clodfelter was recognized to explain SB 297, A BILL TO BE ENTITLED AN ACT TO MAKE TECHNICAL AND OTHER CHANGES REGARDING LIMITED PARTNERSHIPS AND THE NORTH CAROLINA REVISED UNIFORM LIMITED PARTNERSHIP ACT, TO CLARIFY THE LIMIT OF LIABILITY IN PROFESSIONAL ORGANIZATIONS, TO PROVIDE FOR THE REGISTRATION OF FOREIGN LIMITED LIABILITY PARTNERSHIPS, AND TO REQUIRE ANNUAL REPORTS BY LIMITED LIABILITY PARTNERSHIPS. Rep. Wilson sent forward an amendment and moved for its adoption. The amendment was adopted. Rep. Goodwin moved to give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. The motion passed. A copy of the bill, Proposed Committee Substitute, Amendment, and Fiscal Note are included in these minutes.

Sen. Clodfelter was recognized to explain SB 835, A BILL TO BE ENTITLED AN ACT TO REVISE THE LAW GOVERNING MERGERS, CONSOLIDATIONS, AND CONVERSIONS AMONG BUSINESS CORPORATIONS, NONPROFIT CORPORATIONS, AND UNINCORPORATED ENTITIES, INCLUDING LIMITED LIABILITY COMPANIES AND PARTNERSHIPS, FOR THE PURPOSE OF CONFORMING THE LAWS WITH THOSE OF OTHER STATES AND MODERN BUSINESS PRACTICES; TO ALLOW CONVERSION OF A MUTUAL INSURANCE COMPANY TO A STOCK INSURANCE COMPANY; AND TO PERMIT HOMEOWNER ASSOCIATIONS TO DISTRIBUTE SURPLUS FUNDS. Rep. Wilson sent forward an amendment and moved for its adoption. The amendment was adopted. Rep. Goodwin moved to roll the amendment into a Proposed Committee Substitute and then give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. Reps. Brown, Capps, Eddins, Decker, and Rayfield questioned Sen. Clodfelter. Rep. Creech questioned Cindy Avrette. Rep. Goodwin's motion passed. A copy of the bill, Proposed Committee Substitute, Amendment, Bill Summary, and Fiscal Note are included in these minutes.

Rep. Wright was recognized to explain HB 1120, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE PUBLIC HOSPITALS TO ENGAGE IN INSTALLMENT PURCHASE FINANCING AND TO ISSUE REVENUE ANTICIPATION NOTES. The Chair recognized Mr. Hugh Tilson of the N.C. Hospital Association. Reps. Brown and Jarrell questioned Mr. Tilson. Rep. Womble questioned staff. Rep. Womble moved to give the bill a favorable report. The motion passed. A copy of the bill, Bill Summary, and Fiscal Note are included in these minutes.

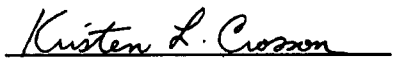
Rep. Gibson was recognized to explain HB 1326, A BILL TO BE ENTITLED AN ACT TO REPEAL THE REQUIREMENT THAT OWNERS AND OPERATORS OF DRY-CLEANING FACILITIES ESTABLISH AND MAINTAIN FINANCIAL RESPONSIBILITY FOR LEGAL LIABILITY FOR CONTAMINATION, TO PHASE IN A PRIVILEGE TAX ON DRY-CLEANING AND LAUNDRY BUSINESSES BASED ON GROSS RECEIPTS, TO PHASE OUT STATE AND LOCAL SALES TAXES ON DRY-CLEANING SERVICES, AND TO MAKE OTHER AMENDMENTS TO THE DRY-CLEANING SOLVENT CLEANUP ACT OF 1997. Cindy Avrette explained the bill. Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion only. Rick Zechini of Research staff explained the environmental aspect of the bill. Rep. Gibson commented. Rep. Womble commented. The Chair recognized Mr. Chris Edwards of he N.C. Association of Launderers and Cleaners who answered Rep. Starnes' question. The Chair recognized Mr. Don McLawhorn of the Department of Environment and Natural Resources who commented. Reps. Hill and Brown questioned Rick Zechini and Mr. McLawhorn. Rep. Cox moved to give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. Rep. Starnes questioned Rick Zechini and Rep. Gibson. Th Chair recognized Mr. Sam Taylor, legal cousnel for the N.C. Association of Launderers and Cleaners. Rep. Womble questioned Mr. Taylor.
The Chair decided to reschedule HB 1326 for July 6, 1999 as the meeting time ran out.

The Chair adjourned at 9:50 a.m.

Respectfully submitted:

Representative Gordon Allen
Chair

Representative Paul Luebke
Chair



Kristen L. Crosson
Assistant to the Committee

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 133 A BILL TO BE ENTITLED AN ACT TO EXEMPT FROM PROPERTY TAX MODIFIED MOTOR VEHICLES OWNED BY DISABLED VETERANS WHO ARE ELIGIBLE FOR FEDERAL SPECIAL EQUIPMENT ALLOWANCES.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

7/1/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 133*
Committee Substitute Favorable 6/24/99

Short Title: Exempt Disabled Veteran Vehicles. (Public)

Sponsors:

Referred to:

February 23, 1999

A BILL TO BE ENTITLED

AN ACT TO EXEMPT FROM PROPERTY TAX MODIFIED MOTOR VEHICLES OWNED BY DISABLED VETERANS WHO ARE ELIGIBLE FOR FEDERAL SPECIAL EQUIPMENT ALLOWANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-275 is amended by adding a new subdivision to read:

"(5a) A motor vehicle owned by a disabled veteran that is altered with special equipment to accommodate a service-connected disability. As used in this section, disabled veteran means a person as defined in 38 U.S.C. § 101(2) who is entitled to special automotive equipment for a service-connected disability, as provided in 38 U.S.C. § 3901."

Section 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 1999.

HOUSE BILL 133
Exempt Disabled Veteran Vehicles

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Rogers
Date:	June 30, 1999	**Analysis by:**	Martha H. Harris
Version:	Second Edition		Staff Attorney

SUMMARY: ***Exempts from property tax motor vehicles (1) owned by veterans with certain service-related disabilities and (2) altered with special equipment to accommodate the service-related disability, effective for tax years beginning July 1999. Because motor vehicles are taxed on a staggered schedule, it is not too late for the exemption to take effect at this time. To receive the exemption, the vehicle owner must first file an application with the county assessor.***

This bill is a transportation committee substitute for the original bill. The original bill exempted from property tax all motor vehicles owned by veterans with combat-related total disabilities, and provided for the State to reimburse counties for their resulting revenue losses. The original bill was estimated to cost the State nearly $300,000 a year. The transportation committee substitute changed the exemption to one that applies to vehicles altered to accommodate veterans with certain service-related disabilities, and removed the reimbursement provision. This change resulted in a smaller estimated loss, less than $130,000 a year, and shifted the impact of the loss from the State to local governments.

Under federal law, veterans with certain service-related disabilities qualify for an allowance for equipment to adapt a vehicle to accommodate the disability. Vehicles owned by those veterans and so altered would be eligible for this property tax exemption. The service-related disabilities that qualify a veteran are loss of one or both hands or feet, permanent loss of use of one or both hands or feet, or permanent impairment of vision of both eyes. The veteran must file an application to receive the exemption. Once an approved exemption is on file, it remains in effect and the vehicle is omitted from the tax rolls. The application need not be renewed each year.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 133 (Transportation Committee Substitute)

SHORT TITLE: Exempt Disabled Veteran Vehicles

SPONSOR(S): Representative Rogers

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
EXPENDITURES					
Local Governments	($119,059)	($120,604)	($122,538)	($124,987)	($127,109)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: Effective for taxable years beginning on or after July 1, 1999.

BILL SUMMARY:
The proposed bill exempts from property tax those motor vehicles owned by disabled veterans who are eligible for federal special equipment allowances.

BACKGROUND:
Veterans who have a service-connected loss of one or both hands or feet, a permanent loss of use of one or both hands or feet, or permanent impairment of vision of both eyes qualify for federal automobile assistance. The United States Department of Veterans Affairs (VA) offers a one-time payment of up to $8,000 toward the purchase of an automobile. The VA will also pay for adaptive equipment and for the repair, replacement, or reinstallation of adaptive equipment.

ASSUMPTIONS AND METHODOLOGY:
The North Carolina Division of Veterans Affairs in the Department of Administration reports that 1,560 veterans living in North Carolina are entitled to a federal automobile grant or adaptive equipment allowance for service-connected disabilities. For this fiscal note, it is assumed that each veteran will claim the property tax exemption for one vehicle. The average value of a vehicle in North Carolina is $7,632 in 1999. This vehicle value is the average of vehicle valuations taken from Cabarrus, Orange, Haywood, Surry, Halifax, and Sampson counties. A

company that provides vehicle tax values to county tax assessors statewide provided the data for 1999 vehicle values.

Since it is difficult to predict whether this veteran population will trade, buy, or retain their vehicles in the next five years, the average vehicle price is adjusted by a national inflation rate for light vehicles. A Standard & Poor's DRI national forecast for light vehicles (cars and trucks) in January 1999 predicted an increase in car values as follows:

1999 1%
2000 1.3%
2001 1.6%
2002 2.0%
2003 1.7%

Without a printout of addresses for disabled veterans, a statewide tax rate is used to estimate the fiscal impact of this bill. The unified property tax rate for all government jurisdictions in North Carolina has fluctuated from .994 per $100 of assessed valuation in 1993-94 to .968 per $100 in 1997-98. Due to pressures in many counties to build schools and provide other services, an estimated rate of $1.00 per $100 of assessed value is used in this note.

Using the variables mentioned above, the revenue impact is calculated as follows:

	Average Car Values	DRI Inflation est.	Disabled Veterans	Value of Exempted Property	Unified Property Tax Rate	Property Tax Exempted
1999-00	$7,632	1.0%	1,560	$11,905,920	$1.00	$119,059
2000-01	$7,731	1.3%	1,560	$12,060,360	$1.00	$120,604
2001-02	$7,855	1.6%	1,560	$12,253,800	$1.00	$122,538
2002-03	$8,012	2.0%	1,560	$12,498,720	$1.00	$124,987
2003-04	$8,148	1.7%	1,560	$12,710,880	$1.00	$127,109

FISCAL RESEARCH DIVISION
733-4910
PREPARED BY: Richard Bostic

APPROVED BY: Tom Covington

DATE: Friday, June 25, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 781 A BILL TO BE ENTITLED AN ACT AUTHORIZING THE TOWN OF CATAWBA TO ANNEX PROPERTY ENCLOSED BY THE CORPORATE BOUNDARIES OF THE TOWN.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 781

Short Title: Catawba Annexations. (Local)

Sponsors: Representative Setzer.

Referred to: Local Government I.

March 31, 1999

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE TOWN OF CATAWBA TO ANNEX PROPERTY ENCLOSED BY THE CORPORATE BOUNDARIES OF THE TOWN.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 160A-36, the Town of Catawba may adopt ordinances annexing property that, on January 1, 1999, was completely enclosed by the corporate limits of the Town, if the Town does the following:

(1) Fixes a date for a public hearing on the annexation and publishes notice of the public hearing at least 10 days before the date of the hearing.

(2) Makes a finding based upon circumstances and evidence satisfactory to the Town Council that the annexation is necessary for the orderly growth and development of the Town.

Section 2. The procedure for recording any annexation under this act shall be as provided in G.S. 160A-39.

Section 3. Any annexation ordinance adopted by the Town Council under this act shall be adopted before December 31, 1999.

Section 4. This act is effective when it becomes law.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 1010 A BILL TO BE ENTITLED AN ACT TO REGULATE COTTON GINS, COTTON WAREHOUSES, AND COTTON MERCHANTS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill (# 2), ~~☐ which changes the title,~~ unfavorable as to ~~(original bill)~~ (Committee Substitute Bill # 1), ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1010*
Committee Substitute Favorable 6/1/99
Proposed Committee Substitute H1010-PCS4275-SC

Short Title: Cotton Gins, Warehouses, Merchants. (Public)

Sponsors:

Referred to:

April 13, 1999

A BILL TO BE ENTITLED

AN ACT TO REGULATE COTTON GINS, COTTON WAREHOUSES, AND COTTON MERCHANTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 106 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 38B.

"Cotton Gins, Warehouses, Merchants.

"**§ 106-451.40. Definitions.**

(1) "Cotton gin" means any cotton gin.

(2) "Cotton merchant" means any person who buys cotton from the producer for the purpose of resale, or acts as a broker or agent for the producer in arranging the sale of cotton. It does not include a person who buys cotton for his own use.

(3) "Cotton warehouse" means any enclosure in which producer-owned cotton is stored or held for longer than 48 hours.

"**§ 106-451.41. Registration required.**

No person shall engage in business as a cotton gin, cotton warehouse, or cotton merchant without first having registered with the Commissioner of Agriculture. This shall include a cotton marketing cooperative or association that performs any of these functions.

"**§ 106-451.42. Application; bond; display of certificate of registration.**

(a) A cotton gin, cotton warehouse, cotton merchant, or cotton marketing cooperative or association shall, on or before July 1 of each year, file an application for registration on a form provided by the Commissioner of Agriculture. A fee of twenty-five dollars ($25.00) shall be submitted with each application.

(b) An application for registration as a cotton warehouse shall also be accompanied by a bond in the amount of three hundred thousand dollars ($300,000) issued by a company authorized to issue surety bonds in North Carolina and shall be conditioned upon fulfillment of contractual obligations related to the purchase or storage of cotton. A bond shall not be required for a person who is licensed and bonded under the U.S. Warehouse Act.

(c) The registration certificate shall be conspicuously displayed at the place of business.

"**§ 106-451.43. Records; receipts; other duties; denial of registration.**

(a) Cotton gins, cotton warehouses, cotton merchants, and cotton cooperatives or associations shall keep records of producer-owned cotton transactions for seven years, showing the producer's name, bale number, and bale weight.

(b) Cotton gins shall, within 48 hours of ginning, make available to the person from whom cotton was received, a paper document showing the bale number and weight for each bale of cotton ginned.

(c) Cotton gins, cotton warehouses, cotton merchants, and cotton cooperatives or associations shall not market, obligate for sale, or otherwise dispose of producer-owned cotton without written consent from the producer.

(d) Cotton gins, cotton warehouses, cotton merchants, and cotton cooperatives or associations shall assist the Commissioner of Agriculture or his agents in inspecting records of producer-owned cotton transactions. Cotton gins, cotton warehouses, cotton merchants, and cotton cooperatives or associations shall assist the Commissioner or his agents in weighing or reweighing a representative sample of cotton bales stored or held at their premises, using sampling procedures approved by the Board of Agriculture.

(e) Violation of any of the requirements of this section shall be grounds for denial, suspension, or revocation of registration under G.S. 106-451.41.

"**§ 106-451.44. Operation without registration unlawful; injunction.**

Engaging in business as a cotton gin, cotton warehouse, or cotton merchant without being registered under G.S. 106-451.41 is punishable as a Class 2 misdemeanor. In addition, the Commissioner of Agriculture may apply to any court of competent jurisdiction to obtain injunctive relief to prevent violations of this act."

Section 2. This act becomes effective January 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 1010*
Committee Substitute Favorable 6/1/99

Short Title: Cotton Gins, Warehouses, Merchants. (Public)

Sponsors:

Referred to:

April 13, 1999

A BILL TO BE ENTITLED

AN ACT TO REGULATE COTTON GINS, COTTON WAREHOUSES, AND COTTON MERCHANTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 106 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 38B.

"Cotton Gins, Warehouses, Merchants.

"§ 106-451.40. Definitions.

(1) "Cotton gin" means any cotton gin.

(2) "Cotton merchant" means any person who buys cotton from the producer for the purpose of resale, or acts as a broker or agent for the producer in arranging the sale of cotton. It does not include a person who buys cotton for his own use.

(3) "Cotton warehouse" means any enclosure in which producer-owned cotton is stored or held for longer than 48 hours.

"§ 106-451.41. Registration required.

No person shall engage in business as a cotton gin, cotton warehouse, or cotton merchant without first having registered with the Commissioner of Agriculture. This shall include a cottom marketing cooperative or association that performs any of these functions.

"§ 106-451.42. Application; bond; display of certificate of registration.

(a) A cotton gin, cotton warehouse, cotton merchant, or cotton marketing cooperative or association shall, on or before July 1 of each year, file an application for registration on a form provided by the Commissioner of Agriculture. A fee of twenty-five dollars ($25.00) shall be submitted with each application.

(b) An application for registration as a cotton warehouse shall also be accompanied by a bond in the amount of three hundred thousand dollars ($300,000) issued by a company authorized to issue surety bonds in North Carolina and shall be conditioned upon fulfillment of contractual obligations related to the purchase or storage of cotton. A bond shall not be required for a person who is licensed and bonded under the U.S. Warehouse Act.

(c) The registration certificate shall be conspicuously displayed at the place of business.

"**§ 106-451.43. Records; receipts; other duties; denial of registration.**

(a) Cotton gins, cotton warehouses, cotton merchants, and cotton cooperatives or associations shall keep records of producer-owned cotton transactions for seven years, showing the producer's name, bale number, and bale weight.

(b) Cotton gins shall, within 48 hours of ginning, make available to the person from whom cotton was received, a paper document showing the bale number and weight for each bale of cotton ginned.

(c) Cotton gins, cotton warehouses, cotton merchants, and cotton cooperatives or associations shall not market, obligate for sale, or otherwise dispose of producer-owned cotton without written consent from the producer.

(d) Cotton gins, cotton warehouses, cotton merchants, and cotton cooperatives or associations shall assist the Commissioner of Agriculture or his agents in inspecting records of producer-owned cotton transactions. Cotton gins, cotton warehouses, cotton merchants, and cotton cooperatives or associations shall assist the Commissioner or his agents in weighing or reweighing a representative sample of cotton bales stored or held at their premises, using sampling procedures approved by the Board of Agriculture.

(e) Violation of any of the requirements of this section shall be grounds for denial, suspension, or revocation of registration under G.S. 106-451.41.

"**§ 106-451.44. Operation without registration unlawful; injunction.**

Engaging in business as a cotton gin, cotton warehouse, or cotton merchant without being registered under G.S. 106-451.41 is punishable as a Class 2 misdemeanor. In addition, the Commissioner of Agriculture may apply to any court of competent jurisdiction to obtain injunctive relief to prevent violations of this act."

Section 2. This act becomes effective January 1, 2000.

HOUSE BILL 1010:
Cotton Gins, Warehouses, Merchants

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Representative Hill
Date:	July 1, 1999	**Summary by:**	Mary Shuping
Version:	2nd Edition		Research Assistant

SUMMARY: ***House Bill 1010 requires all cotton gins, cotton warehouses, and cotton merchants to be registered. The bill also establishes the registration fee and bond requirements and provides that operation without registration is a Class 2 misdemeanor.***

CURRENT LAW & BILL ANALYSIS: Under current law, there is no requirement that cotton gins, warehouses, or merchants be registered.

House Bill 1010 would regulate cotton gins, warehouses, and merchants, as follows:

Cotton Gins, Cotton Warehouses, and Cotton Merchants would be required to register with the Commissioner of Agriculture before engaging in business. A "cotton warehouse" is an enclosure in which producer-owned cotton is stored or held for longer than 48 hours. A "cotton merchant" is a person who buys cotton for the purpose of resale, or acts as a broker or agent for the producer. The term does not include someone who buys cotton for his own use.

Registration Fee; Bond. Cotton gins, cotton merchants, and cotton warehouses would be required to register with the Department of Agriculture by July 1 of each year. The annual fee for registration is $25.00. In addition, cotton warehouses that are not licensed and bonded under the U.S. Warehouse Act must submit a bond in the amount of $300,000.

Records; Receipts; Denial of Registration. Cotton gins, cotton warehouses, cotton merchants, and cotton cooperatives or associations are required to keep records of producer-owned cotton transactions for 7 years and cannot dispose of the cotton without consent from the producer. Gins are required to give a document showing the bale number and weight for each bale to the grower within 48 hours. Finally, these entities are required to assist agents of the NC Department of Agriculture in inspection of records and weighing or re-weighing cotton bales samples. Violations of these requirements are grounds for denial, suspension, or revocation of registration.

Operation Without Registration is punishable as a Class 2 misdemeanor.

EFFECTIVE DATE: The act is effective January 1, 2000.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: H.B. 1010 – Agriculture Committee Substitute Cotton Gins, Warehouses, Merchants.

SHORT TITLE: Cotton Gins, Warehouses, Merchants.

SPONSOR(S):

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES	$2,400	$2,400	$2,400	$2,400	$2,400
EXPENDITURES Dept. of Agriculture	* See Assumptions and Methodology *				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Department of Agriculture.

EFFECTIVE DATE: January 1, 2000.

BILL SUMMARY: The legislation requires that all cotton gins, cotton merchants, cotton warehouses and cotton marketing cooperative associations that gin, sell, or warehouse cotton register with the state. They must also pay a $25.00 annual fee. The fee is due on July 1 of each year. The registration must be conspicuously displayed at the place of business. The bill also requires that registration applications for cotton warehouses also include a bond of $300,000. No bond is required if the person involved is licensed and bonded under the U.S. Warehouse Act. Additionally the bill directs that gins, merchants, warehouses and cooperative associations maintain transaction records for seven years. Cotton gins must also, within 48 hours of ginning, make documents available to those who provided the cotton, showing the bale number and weight for each bale ginned. The bill also requires that gins, merchants, warehouses and cooperative associations get written consent from the producer before the product is sold or committed. The same organizations must also assist the Agriculture Commissioner and his agents when inspecting records or weighing cotton bales. Violation of any of the recording, sale, or assistance provisions is grounds for denial, suspension, or revocation of registration. Engaging in this business without the appropriate registration is punishable as a Class 2 misdemeanor. The Commission is authorized to apply for an injunction to prevent violations of the act.

ASSUMPTIONS AND METHODOLOGY: Under the legislation, each cotton gin, warehouse, merchant, and cooperative engaged in one or more of these businesses must register and pay a $25.00 annual fee. The Department of Agriculture reports that there where 48 cotton gins, 28 cotton warehouses, and 20 cotton merchants in 1997. Assuming each paid the $25.00 annual fee, the potential revenue is as follows:

	Number	Potential Revenue
Cotton Gins	48	1,200
Cotton Warehouses	28	700
Cotton Merchants	20	500
TOTAL	**96**	**2,400**

The fiscal note assumes no significant growth in the number of gins, warehouses, or merchants in the next five years.

The bill also makes operating a gin, warehouse or merchant without a registration a Class 2 misdemeanor. Because the maximum prison time associated with a Class 2 misdemeanor is 60 days, and the number of violations is expected to be extremely low, Fiscal Research does not anticipate the bill will create a cost to the prison system.

The Department of Agriculture reports that the registration and inspection processes outlined in the bill can be handled by existing staff.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY: Tom Covington

DATE: Tuesday, June 29, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☒ Committee Substitute for
H.B. 1120 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE PUBLIC HOSPITALS TO ENGAGE IN INSTALLMENT PURCHASE FINANCING AND TO ISSUE REVENUE ANTICIPATION NOTES.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 1120*
Committee Substitute Favorable 6/23/99

Short Title: Authorize Public Hospital Debt. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE PUBLIC HOSPITALS TO ENGAGE IN INSTALLMENT PURCHASE FINANCING AND TO ISSUE REVENUE ANTICIPATION NOTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-20(h) is amended by adding a new subdivision to read:

"(h) As used in this section, the term 'unit of local government' means any of the following:

. . .

(12) A nonprofit corporation or association operating or leasing a public hospital as defined in G.S. 159-39."

Section 2. G.S. 160A-20 is amended by adding a new subsection to read:

"(e1) A nonprofit corporation or association operating or leasing a public hospital may only enter into a contract pursuant to this section if the nonprofit corporation or association will have an ownership interest in the property being financed, including a leasehold interest, and the security interest granted in such property being financed shall only be to the extent of such property interest. In addition, any contract entered into by a nonprofit corporation or association operating or leasing a public hospital pursuant to this section is subject to the approval of the city, county, hospital district, or hospital authority which owns such hospital. Approval of the city, county, hospital district, or hospital authority may be withheld only under one or more of the following circumstances:

(1) The contract would cause the city, county, hospital district, or hospital authority to breach or violate any covenant in an existing financing instrument entered into by such entity.

(2) The contract would restrict the ability of the city, county, hospital district, or hospital authority to incur anticipated bank eligible indebtedness under federal tax laws.

(3) The entering into of the contract would have a material adverse impact on the credit ratings of the city, county, hospital district, or hospital authority or otherwise materially interfere with an anticipated financing by such entity."

Section 3. G.S. 159-170 reads as rewritten:

"**§ 159-170. Revenue anticipation notes.**

(a) Authorization; Term. -- A unit of local government or a nonprofit corporation or association operating or leasing a public hospital as defined in G.S. 159-39, is authorized to borrow money for the purpose of paying appropriations made or expenses budgeted or incurred for the current fiscal year in anticipation of the receipt of revenues, other than taxes, estimated in its budget to be realized or collected in cash during the fiscal year, and to issue its negotiable notes in evidence thereof. A nonprofit corporation or association operating or leasing a public hospital may only borrow money pursuant to this section if it is legally entitled to collect and pledge such revenues to the payment of the noted as provided in this section. A revenue anticipation note shall mature not later than 30 days after the close of the fiscal year in which it is issued, and may not be renewed beyond that time.

(b) Limit on Amount; Disclosure. -- No revenue anticipation loan shall be made if the amount thereof, together with the amount of all revenue anticipation notes authorized or outstanding on the date the loan is authorized, would exceed eighty percent (80%) of the revenues of the issuing ~~unit,~~ unit or the nonprofit corporation or association operating or leasing a public hospital, other than taxes, estimated in its budget to be realized or collected in cash during the fiscal year. Each revenue anticipation note shall bear on its face a statement to the effect that it is payable solely from budgeted nontax revenues of the issuing unit ~~and~~ or the nonprofit corporation or association operating or leasing a public hospital and that the faith and credit of the issuing unit or, in the case of revenue anticipation notes issued by a nonprofit corporation or association operating or leasing a public hospital, the local government unit that owns the public hospital are not pledged for the payment of the ~~note, and~~ note. Each note shall also bear on its face or reverse the following certificate signed by the finance officer: 'This note and all other revenue anticipation notes of ~~(issuing unit)~~ (issuer) authorized or outstanding as of (date) amount to eighty percent (80%) or less of the budgeted nontax revenues for the current fiscal year as of the above date.' No revenue anticipation note shall be valid without this certificate.

(c) Faith and Credit Not Pledged. -- Revenue anticipation notes issued under this section shall be special obligations of the issuing ~~unit.~~ unit or the nonprofit corporation or association operating or leasing a public hospital. Neither the credit

nor the taxing power of the issuing ~~unit~~ unit or, in the case of revenue anticipation notes issued by a nonprofit corporation or association operating or leasing a public hospital, the local government unit that owns the public hospital may be pledged for the payment of revenue anticipation ~~notes, and no~~ notes. No holder of a revenue anticipation note shall have the right to compel the exercise of the taxing power by the issuing unit or, in the case of revenue anticipation notes issued by a nonprofit corporation or association operating or leasing a public hospital, the local government unit that owns the public hospital or the forfeiture of any of its property in connection with any default thereon.

(d) Any revenue anticipation notes issued by a nonprofit corporation or association operating or leasing a public hospital pursuant to this section are subject to the approval of the city, county, hospital district, or hospital authority which owns the hospital. Approval of the city, county, hospital district, or hospital authority may be withheld only under one or more of the following circumstances:

(1) The contract would cause the city, county, hospital district, or hospital authority to breach or violate any covenant in an existing financing instrument entered into by such entity.

(2) The contract would restrict the ability of the city, county, hospital district, or hospital authority to incur anticipated bank eligible indebtedness under federal tax laws.

(3) The entering into of the contract would have a material adverse impact on the credit ratings of the city, county, hospital district, or hospital authority or otherwise materially interfere with an anticipated financing by such entity."

Section 4. This act is effective when it becomes law.

HOUSE BILL 1120:
Authorize Public Hospital Debt

BILL ANALYSIS

Committee: House Finance
Date: July 1, 1999
Version: 2nd Edition

Introduced by: Rep. Wright
Summary by: Cindy Avrette
Committee Counsel

SUMMARY: House Bill 1120 authorizes public hospitals to engage in installment purchase financing and to issue revenue anticipation bonds. The bill becomes effective when it becomes law.

CURRENT LAW: A public hospital is a hospital that meets one of the following conditions:

- Is operated by a county, city, hospital district, or hospital authority.
- Is owned by a county, city, hospital district, or hospital authority and operated by a nonprofit corporation or assocation, a majority of whose board of directors or trustees are appointed by the governing body of a county, city, hospital district, or hospital authority.
- Is a hospital on whose behalf a county or city has issued and has outstanding general obligation or revenue bonds, or to which a county or city makes current appropriations.

A public hospital has exclusive control of its own budgeting and accounting, without supervision from the county, city, or the Local Government Commission (LGC). However, financing capital debt is more restricted. Public hospitals may issue revenue bonds, subject to the approval and conditions of the LGC. Counties and cities may issue general obligation bonds to provide hospital facilities and services.

BILL ANALYSIS: **House Bill 1120** authorizes two additional forms of capital financing for public hospitals: installment purchase financing and revenue anticipation bonds.

Sections 1 and 2 of the bill expand the use of installment purchase financing to public hospitals. The public hospitals hope that installment financing will enable them to respond more rapidly to their capital financing needs, such as equipment, land, and facilities. Section 1 expands the definition of "unit of local government" to include "public hospitals". As a unit of local government, public hospitals will be able to finance the purchase of real or personal property by installment contracts that create in the property purchsed a security interest to secure payment of the urchase price to the person or entity financing the purchase. One type of installment financing is certificates of participation. A certificate of participation is similar to a bond, but is less costly than holding abond referendum and issuing bonds. Section 2 requires the the county or city that owns the hospitl to approve of any installment financing contract that a public hospital signs. The county or city must approve the contract unless it determines that the contract would adversely affect its credit worthiness, an anticipated bond issuance, or an existing bond order.

Section 3 would allow public hospitals to issue revenue anticipation bonds. A revenue anticipation bond would allow a public hospital to borrow money to pay expenses in the current fiscal year, to be repaid from the receipt of nontax revenues to be collected later in the fiscal year. A public hospital may not

issue revenue anticipation bonds unless the local government unit that owns the facility and the LGC approve the issuance. The public hospitals desire this legislation as a means of obtaining a line of credit from financial institutions to secure a means of revenue in case insurers or the hospital cannot process claims in the year 2000.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1120 DRAFT NOTE

SHORT TITLE: Authorize Public Hospital Debt

SPONSOR(S): Rep. Wright

FISCAL IMPACT

Yes ( ) **No (X)** **No Estimate Available (X)**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES		*** See Assumptions and Methodology ***			

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Public Hospitals and Local Governments that lease or contract for public hospital services.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: G.S. 160A-20(h) allows counties, cities and specifically named local authorities to use installment financing for capital projects. The bill adds non-profit corporations or associations that are operating or leasing a public hospital to this list. It also authorizes pubic hospitals and the non-profit corporations or associations that operate or lease public hospitals to issue revenue anticipation notes. The bill requires that the unit of local government that owns the hospital approve these contracts and notes. The legislation also outlines under what circumstances the local government can reject the request.

ASSUMPTIONS AND METHODOLOGY: Under G.S. 160A-20, units of local government have the ability to finance the purchase of property through installment contracts. The term "local unit of government," as defined in subpart (h), currently includes counties, cities, water and sewer authorities, certain airport authorities, area mental health and substance abuse authorities, and certain school districts with independent taxing authority. The bill adds nonprofit corporations or associations operating or leasing a public hospital to the list. There is no direct impact on state or local revenues from these additions because the bill only gives them an additional financing tool.

Under G.S. 159-170 units of local government are authorized to borrow money to pay current year expenses. The notes are held in anticipation of future revenues. The legislation authorizes nonprofit organizations or associations that operate or lease public hospitals to take advantage of this financing option, under certain circumstances. There is no direct impact on state or local revenues from these additions because the bill only gives them an additional financing tool.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY:

DATE:

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1177 A BILL TO BE ENTITLED AN ACT TO ESTABLISH THE LOCKSMITH LICENSING ACT.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#), ☐ which changes the title,~~ unfavorable as to original bill ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on)~~.

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1177
Proposed Committee Substitute H1177-PCS8151-SC

Short Title: Locksmith Licensure. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE LOCKSMITH LICENSING ACT.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 74F.

"Locksmith Licensing Act.

"§ 74F-1. Short title.

This act shall be known as the North Carolina Locksmith Licensing Act.

"§ 74F-2. Purpose.

Locksmiths have the knowledge and tools to bypass or neutralize security devices in vehicles, homes, and businesses. The laws of this State do not protect citizens from the unscrupulous use and abuse of this knowledge and these tools by persons who are untrained or have criminal intent. Therefore, the licensing of locksmiths is necessary to protect public health, safety, and welfare.

"§ 74F-3. Licenses required.

(a) No person shall perform or offer to perform locksmith services in this State unless the person has been licensed under the provisions of this Chapter.

(b) It shall be unlawful for any person who is not licensed under this Chapter to possess any locksmith tools, safe opening tools, or code books for the purpose of violating the laws of this State. A violation of this subsection is a Class 3 misdemeanor.

"§ 74F-4. Definitions.

The following definitions apply in this Chapter:

(1) Board. -- The North Carolina Locksmith Licensing Board.

(2) Code book. -- A compilation, in any form, of key codes and combinations.

(3) License. -- A certificate issued by the Board recognizing the person named therein as having met the requirements to perform locksmith services as defined in this Chapter.

(4) Locksmith. -- A person who has been issued a license by the Board.

(5) Locksmith services. -- Repairing, rebuilding, rekeying, repinning, servicing, adjusting, or installing locks, mechanical or electronic locking devices, access control devices, egress control devices, safes, vaults, and safe deposit boxes.

(6) Locksmith tools. -- Any tools that are designed or used to open a mechanical or electrical locking device in a way other than that which was intended by the manufacturer.

"**§ 74F-5. North Carolina Locksmith Licensing Board.**

(a) Composition and Terms. -- The Board shall consist of nine members who shall serve staggered terms. Three members shall represent the public. The initial Board members shall be appointed on or before January 1, 2001, as follows:

(1) The General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint three locksmiths, two of whom shall serve terms of four years and one of whom shall serve a term of three years. At least one of the locksmiths shall represent a recognized locksmith organization in the State.

(2) The General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint three locksmiths, one of whom shall serve a term of four years, one of whom shall serve a term of three years, and one of whom shall serve a term of two years. At least one of the locksmiths shall represent a recognized locksmith organization in the State.

(3) The Governor shall appoint three public members, one of whom shall serve a term of three years, and two of whom shall serve terms of two years.

Upon the expiration of the terms of the initial Board members, each member shall be appointed for a term of three years and shall serve until a successor is appointed. No member may serve more than two consecutive terms.

(b) Qualifications. -- The locksmith members shall have at least five years' experience in locksmith services and shall be engaged in that business for the duration of their term on the Board. The locksmith members initially appointed to the Board shall immediately become licensed as locksmiths by complying with the provisions of this Chapter. Public members of the Board shall not be trained or experienced in locksmith services, have a financial interest in a locksmith business, or be the spouse of a person who is so trained or experienced or has such an interest.

All members of the Board shall reside in this State and shall represent various geographical areas of the State.

(c) Vacancies. -- A vacancy shall be filled in the same manner as the original appointment, except that all unexpired terms in seats appointed by the General Assembly shall be filled in accordance with G.S. 120-122. Appointees to fill vacancies shall serve the remainder of the unexpired term and until their successors have been duly appointed and qualified.

(d) Removal. -- The Board may remove any of its members for neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary proceedings as a licensee shall be disqualified from participating in the official business of the Board until the charges have been resolved.

(e) Compensation. -- Each member of the Board shall receive per diem and reimbursement for travel and subsistence as provided in G.S. 93B-5.

(f) Officers. -- The officers of the Board shall be a chair, a vice-chair, and other officers deemed necessary by the Board to carry out the purposes of this Chapter. All officers shall be elected annually by the Board for one-year terms and shall serve until their successors are elected and qualified.

(g) Meetings. -- The Board shall hold at least two meetings each year to conduct business and to review the standards and rules for issuing licenses under this Chapter. The Board shall adopt rules governing the calling, holding, and conducting of regular and special meetings. A majority of Board members shall constitute a quorum.

"**§ 74F-6. Powers of the Board.**

The Board shall have the power and duty to:

(1) Administer and enforce the provisions of this Chapter.

(2) Adopt rules as may be necessary to carry out the provisions of this Chapter.

(3) Examine and determine the qualifications and fitness of applicants for licensure and renewal of licensure.

(4) Issue, renew, deny, suspend, or revoke licenses and conduct any disciplinary actions authorized by this Chapter.

(5) Set fees for licensure, licensure renewal, and other services deemed necessary to carry out the provisions of this Chapter.

(6) Establish and approve continuing education requirements for persons licensed under this Chapter.

(7) Receive and investigate complaints from members of the public.

(8) Conduct investigations for the purpose of determining whether violations of this Chapter or grounds for disciplining licensees exist.

(9) Conduct administrative hearings in accordance with Article 3A of Chapter 150B of the General Statutes.

(10) Maintain a record of all proceedings conducted by the Board and make available to licensees and other concerned parties an annual report of all Board action.

(11) Maintain a list of the names and addresses of all persons licensed by the Board.
(12) Employ and fix the compensation of personnel that the Board determines is necessary to carry out the provisions of this Chapter and incur other expenses necessary to perform the duties of the Board.
(13) Adopt and publish a code of ethics.
(14) Adopt a seal containing the name of the Board for use on all licenses and official reports issued by the Board.

"§ 74F-7. Qualifications for license.

An applicant shall be licensed as a locksmith if the applicant meets all of the following qualifications:

(1) Is of good moral and ethical character.
(2) Is at least 18 years old.
(3) Successfully completes an examination administered by the Board.
(4) Pays the required fee under G.S. 74F-9.

"§ 74F-8. Licensure based on experience; licensure of nonresident; reciprocity.

(a) The Board may grant, upon application and payment of proper fees, a license to a person who resides in this State and has at least three years' experience as a licensed locksmith in another state whose standards of competency are substantially equivalent to those provided in this Chapter.

(b) The Board may grant, upon application and payment of proper fees, a license to a nonresident if the person meets the requirements of this Chapter or the person resides in a state that recognizes licenses issued by the Board.

"§ 74F-9. Fees.

The Board shall establish fees not exceeding the following amounts:

(1)	Issuance of a license	$100.00
(2)	Renewal of a license	$100.00
(3)	Examination	$200.00
(4)	Reinstatement	$150.00
(5)	Late fees	$150.00

"§ 74F-10. Issuance, renewal, replacement, and transfer of licenses.

(a) The Board shall issue a license, upon payment of the license fee, to any applicant who has satisfactorily met the requirements of this Chapter as administered by the Board. Licenses shall show the full name of the person and an identification number, and shall be signed by the chair and one other officer of the Board.

(b) All licenses shall expire three years after the date they were issued unless renewed. All applications for renewal shall be filed with the Board and shall be accompanied by the renewal fee as required by G.S. 74F-9. A license that has expired for failure to renew may be reinstated after the applicant pays the late and reinstatement fees as required by G.S. 74F-9.

(c) The Board shall replace any license that is lost, destroyed, or mutilated subject to rules established by the Board.

(d) A license may not be transferred or assigned.

"**§ 74F-11. Photo identification.**

Every person licensed under this Chapter shall be issued a photo identification card by the Board. The card shall display a current photograph of the person, the person's name, address, and telephone number. The licensee shall have the photograph identification card available for inspection while performing locksmith services.

"**§ 74F-12. Posting licenses; advertisements.**

(a) Every locksmith issued a license under this Chapter shall display the license prominently in the locksmith's place of business.

(b) Every person advertising locksmith services performed by the person shall include in the advertisement the identification number that is printed on the license issued by the Board.

"**§ 74F-13. Responsibilities of employers.**

Every licensee under this Chapter shall provide to the Board the names of each person employed by the licensee who either performs locksmith services or has access to locksmith tools. The licensee shall notify the Board within 30 days of any change in the information provided pursuant to this section.

"**§ 74F-14. Customer identification.**

When opening a locked door to any vehicle or residential or commercial property, a licensee shall make a reasonable effort to verify that the customer is the legal owner of the vehicle or property or is authorized by the legal owner to gain access to the vehicle or property.

"**§ 74F-15. Disciplinary procedures.**

The Board may deny or refuse to renew, suspend, or revoke a license if the licensee or applicant:

(1) Gives false information to or withholds information from the Board in procuring or attempting to procure a license.

(2) Has been convicted of or pled guilty or no contest to a crime that indicates that the person is unfit or incompetent to perform locksmith services or that indicates the person has deceived or defrauded the public.

(3) Has demonstrated gross negligence, incompetency, or misconduct in performing locksmith services.

(4) Has willfully violated any of the provisions of this Chapter.

"**§ 74F-16. Exemptions.**

The provisions of this Chapter do not apply to:

(1) An employee of a licensed locksmith.

(2) A person working as an apprentice under the supervision of a licensed locksmith while fulfilling the requirements for licensure.

(3) A person or business required to be licensed or registered by the North Carolina Alarm Systems Licensing Board pursuant to Chapter 74D of the General Statutes.

(4) An employee of a towing service, a repossessor, or motor club as defined in G.S. 58-69-1 who opens automotive locks in the normal

course of their duties so long as the employee does not represent himself or herself as a locksmith.

(5) A property owner, or the owner's employee who provides services for the maintenance of the property so long as the owner or employee does not represent himself or herself as a locksmith. For purposes of this subsection, 'property' means, but is not limited to, a hotel, motel, apartment, condominium, commercial rental property, and residential rental property.

(6) A merchant, or retail or hardware store that lawfully duplicates keys, or installs, services, repairs, rebuilds, reprograms, or maintains locks, so long as the merchant or store does not represent itself as a locksmith.

(7) A member of the police or fire department or other government agency who, in the course of his or her employment, opens locked doors to vehicles, homes, or businesses.

(8) A salesperson demonstrating the use of locksmith tools to persons licensed under this Chapter.

"**§ 74F-17. Injunctions.**

The Board may apply to the superior court for an order enjoining violations of this Chapter. Upon a showing by the Board that any person has violated this Chapter, the court may grant injunctive relief."

Section 2. Any person who submits proof to the Board that he or she has been actively engaged as a locksmith in this State for two consecutive years prior to the effective date of this act and pays the required fee for the issuance of a license under G.S. 74F-9, enacted by Section 1 of this act, shall be licensed without having to satisfy the requirements of G.S. 74F-7, enacted by Section 1 of this act. All persons who do not make application to the Board within one year of the effective date of this act shall be required to complete all requirements prescribed by the Board and to otherwise comply with the provisions of Chapter 74F, enacted by Section 1 of this act.

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1177
PROPOSED COMMITTEE SUBSTITUTE
H1177-PCSSC-001

30-JUN-99/18:06:42

ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION.

Short Title: Locksmith Licensure. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE LOCKSMITH LICENSING ACT.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 74F.

"Locksmith Licensing Act.

"§ 74F-1. Short title.

This act shall be known as the North Carolina Locksmith Licensing Act.

"§ 74F-2. Purpose.

Locksmiths have the knowledge and tools to bypass or neutralize security devices in vehicles, homes, and businesses. The laws of this State do not protect citizens from the unscrupulous use and abuse of this knowledge and these tools by persons who are untrained or have criminal intent. Therefore, the licensing of locksmiths is necessary to protect public health, safety, and welfare.

"§ 74F-3. Licenses required.

(a) No person shall perform or offer to perform locksmith services in this State unless the person has been licensed under the provisions of this Chapter.

(b) It shall be unlawful for any person who is not licensed under this Chapter to possess any locksmith tools, safe opening tools, or code books for the purpose of violating the laws of this State. A violation of this subsection is a Class 3 misdemeanor.

"§ 74F-4. Definitions.

The following definitions apply in this Chapter:

(1) Board. -- The North Carolina Locksmith Licensing Board.

(2) Code book. -- A compilation, in any form, of key codes and combinations.

(3) License. -- A certificate issued by the Board recognizing the person named therein as having met the requirements to perform locksmith services as defined in this Chapter.

(4) Locksmith. -- A person who has been issued a license by the Board.

(5) Locksmith services. -- Repairing, rebuilding, rekeying, repinning, servicing, adjusting, or installing locks, mechanical or electronic locking devices, access control devices, egress control devices, safes, vaults, and safe deposit boxes.

(6) Locksmith tools. -- Any tools that are designed or used to open a mechanical or electrical locking device in a way other than that which was intended by the manufacturer.

"§ 74F-5. North Carolina Locksmith Licensing Board.

(a) Composition and Terms. -- The Board shall consist of nine members who shall serve staggered terms. Three members shall represent the public. The initial Board members shall be appointed on or before January 1, 2001, as follows:

(1) The General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint three locksmiths, two of whom shall serve terms of four years and one of whom shall serve a term of three years. At least one of the locksmiths shall represent a recognized locksmith organization in the State.

(2) The General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall

appoint three locksmiths, one of whom shall serve a term of four years, one of whom shall serve a term of three years, and one of whom shall serve a term of two years. At least one of the locksmiths shall represent a recognized locksmith organization in the State.

(3) The Governor shall appoint three public members, one of whom shall serve a term of three years, and two of whom shall serve terms of two years.

Upon the expiration of the terms of the initial Board members, each member shall be appointed for a term of three years and shall serve until a successor is appointed. No member may serve more than two consecutive terms.

(b) Qualifications. -- The locksmith members shall have at least five years' experience in locksmith services and shall be engaged in that business for the duration of their term on the Board. The locksmith members initially appointed to the Board shall immediately become licensed as locksmiths by complying with the provisions of this Chapter. Public members of the Board shall not be trained or experienced in locksmith services, have a financial interest in a locksmith business, or be the spouse of a person who is so trained or experienced or has such an interest. All members of the Board shall reside in this State and shall represent various geographical areas of the State.

(c) Vacancies. -- A vacancy shall be filled in the same manner as the original appointment, except that all unexpired terms in seats appointed by the General Assembly shall be filled in accordance with G.S. 120-122. Appointees to fill vacancies shall serve the remainder of the unexpired term and until their successors have been duly appointed and qualified.

(d) Removal. -- The Board may remove any of its members for neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary proceedings as a licensee shall be disqualified from participating in the official business of the Board until the charges have been resolved.

(e) Compensation. -- Each member of the Board shall receive per diem and reimbursement for travel and subsistence as provided in G.S. 93B-5.

(f) Officers. -- The officers of the Board shall be a chair, a vice-chair, and other officers deemed necessary by the Board to carry out the purposes of this Chapter. All officers shall be elected annually by the Board for one-year terms and shall serve until their successors are elected and qualified.

(g) Meetings. -- The Board shall hold at least two meetings each year to conduct business and to review the standards and rules for issuing licenses under this Chapter. The Board shall adopt rules governing the calling, holding, and conducting of regular and special meetings. A majority of Board members shall constitute a quorum.

"**§ 74F-6. Powers of the Board.**

The Board shall have the power and duty to:

(1) Administer and enforce the provisions of this Chapter.

(2) Adopt rules as may be necessary to carry out the provisions of this Chapter.

(3) Examine and determine the qualifications and fitness of applicants for licensure and renewal of licensure.

(4) Issue, renew, deny, suspend, or revoke licenses and conduct any disciplinary actions authorized by this Chapter.

(5) Set fees for licensure, licensure renewal, and other services deemed necessary to carry out the provisions of this Chapter.

(6) Establish and approve continuing education requirements for persons licensed under this Chapter.

(7) Receive and investigate complaints from members of the public.

(8) Conduct investigations for the purpose of determining whether violations of this Chapter or grounds for disciplining licensees exist.

(9) Conduct administrative hearings in accordance with Article 3A of Chapter 150B of the General Statutes.

(10) Maintain a record of all proceedings conducted by the Board and make available to licensees and other concerned parties an annual report of all Board action.

(11) Maintain a list of the names and addresses of all persons licensed by the Board.

(12) Employ and fix the compensation of personnel that the Board determines is necessary to carry out the provisions of this Chapter and incur other expenses necessary to perform the duties of the Board.

(13) Adopt and publish a code of ethics.

(14) Adopt a seal containing the name of the Board for use on all licenses and official reports issued by the Board.

"§ 74F-7. Qualifications for license.

An applicant shall be licensed as a locksmith if the applicant meets all of the following qualifications:

(1) Is of good moral and ethical character.

(2) Is at least 18 years old.

(3) Successfully completes an examination administered by the Board.

(4) Pays the required fee under G.S. 74F-9.

"§ 74F-8. Licensure based on experience; licensure of nonresident; reciprocity.

(a) The Board may grant, upon application and payment of proper fees, a license to a person who resides in this State and has at least three years' experience as a licensed locksmith in another state whose standards of competency are substantially equivalent to those provided in this Chapter.

(b) The Board may grant, upon application and payment of proper fees, a license to a nonresident if the person meets the requirements of this Chapter or the person resides in a state that recognizes licenses issued by the Board.

"§ 74F-9. Fees.

The Board shall establish fees not exceeding the following amounts:

(1)	Issuance of a license	$100.00
(2)	Renewal of a license	$100.00
(3)	Examination	$200.00
(4)	Reinstatement	$150.00
(5)	Late fees	$150.00

"§ 74F-10. Issuance, renewal, replacement, and transfer of licenses.

(a) The Board shall issue a license, upon payment of the license fee, to any applicant who has satisfactorily met the requirements of this Chapter as administered by the Board. Licenses shall show the full name of the person and an identification number, and shall be signed by the chair and one other officer of the Board.

(b) All licenses shall expire three years after the date they were issued unless renewed. All applications for renewal shall be filed with the Board and shall be accompanied by the renewal fee as required by G.S. 74F-9. A license that has expired for failure to renew may be reinstated after the applicant pays the late and reinstatement fees as required by G.S. 74F-9.

(c) The Board shall replace any license that is lost, destroyed, or mutilated subject to rules established by the Board.

(d) A license may not be transferred or assigned.

"**§ 74F-11. Photo identification.**

Every person licensed under this Chapter shall be issued a photo identification card by the Board. The card shall display a current photograph of the person, the person's name, address, and telephone number. The licensee shall have the photograph identification card available for inspection while performing locksmith services.

"**§ 74F-12. Posting licenses; advertisements.**

(a) Every locksmith issued a license under this Chapter shall display the license prominently in the locksmith's place of business.

(b) Every person advertising locksmith services performed by the person shall include in the advertisement the identification number that is printed on the license issued by the Board.

"**§ 74F-13. Responsibilities of employers.**

Every licensee under this Chapter shall provide to the Board the names of each person employed by the licensee who either performs locksmith services or has access to locksmith tools. The licensee shall notify the Board within 30 days of any change in the information provided pursuant to this section.

"**§ 74F-14. Customer identification.**

When opening a locked door to any vehicle or residential or commercial property, a licensee shall make a reasonable effort to verify that the customer is the legal owner of the vehicle or property or is authorized by the legal owner to gain access to the vehicle or property.

"**§ 74F-15. Disciplinary procedures.**

The Board may deny or refuse to renew a license, suspend, or revoke a license if the licensee or applicant:

(1) Gives false information to or withholds information from the Board in procuring or attempting to procure a license.

(2) Has been convicted of or pled guilty or no contest to a crime that indicates that the person is unfit or incompetent to perform locksmith services or that indicates the person has deceived or defrauded the public.

(3) Has demonstrated gross negligence, incompetency, or misconduct in performing locksmith services.

(4) Has willfully violated any of the provisions of this Chapter.

"§ 74F-16. Exemptions.

The provisions of this Chapter do not apply to:

(1) An employee of a licensed locksmith.

(2) A person working as an apprentice under the supervision of a licensed locksmith while fulfilling the requirements for licensure.

(3) A person or business required to be licensed or registered by the North Carolina Alarm Systems Licensing Board pursuant to Chapter 74D of the General Statutes.

(4) An employee of a towing service, a repossessor, or motor club as defined in G.S. 58-69-1 who opens automotive locks in the normal course of their duties so long as the employee does not represent himself or herself as a locksmith.

(5) A property owner, or the owner's employee who provides services for the maintenance of the property so long as the owner or employee does not represent himself or herself as a locksmith. For purposes of this subsection, "property" means, but is not limited to, a hotel, a motel, apartment, condominium, commercial rental property, and residential rental property.

(6) A merchant, or retail or hardware store that lawfully duplicates keys, or installs, services, repairs, rebuilds, reprograms, or maintains locks, so long as the merchant or store does not represent itself as a locksmith.

(7) A member of the police or fire department or other government agency who, in the course of their employment, open locked doors to vehicles, homes, or businesses.

(8) A salesperson demonstrating the use of locksmith tools to persons licensed under this Chapter.

"§ 74F-17. Injunctions.

The Board may apply to the superior court for an order enjoining violations of this Chapter. Upon a showing by the Board that any person has violated this Chapter, the court may grant injunctive relief."

Section 2. Any person who submits proof to the Board that he or she has been actively engaged as a locksmith in this State for two consecutive years prior to the effective date of

this act and pays the required fee for the issuance of a license under G.S. 74F-9, enacted by Section 1 of this act, shall be licensed without having to satisfy the requirements of G.S. 74F-7, enacted by Section 1 of this act. All persons who do not make application to the Board within one year of the effective date of this act shall be required to complete all requirements prescribed by the Board and to otherwise comply with the provisions of Chapter 74F, enacted by Section 1 of this act.

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1177

Short Title: Locksmith Licensure. (Public)

Sponsors: Representatives Ellis, Mosley; Allred, Barefoot, Crawford, Hurley, Kiser, and Smith.

Referred to: Finance.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE LOCKSMITH LICENSING ACT.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 74F.

"Locksmith Licensing Act.

"§ 74F-1. Short title.

This act shall be known as the North Carolina Locksmith Licensing Act.

"§ 74F-2. Purpose.

Locksmiths have the knowledge and tools to bypass or neutralize security devices in vehicles, homes, and businesses. The laws of this State do not protect citizens from the unscrupulous use and abuse of this knowledge and these tools by persons who are untrained or have criminal intent. Therefore, the licensing of locksmiths is necessary to protect public health, safety, and welfare.

"§ 74F-3. Licenses required.

(a) No person shall perform or offer to perform locksmith services in this State unless the person has been licensed under the provisions of this Chapter.

(b) It shall be unlawful for any person who is not licensed under this Chapter to obtain through any means or to possess any locksmith tools, safe opening tools, or code books. A violation of this subsection is a Class 3 misdemeanor.

"§ 74F-4. Definitions.

The following definitions apply in this Chapter:

(1) Board. -- The North Carolina Locksmith Licensing Board.

(2) Code book. -- A compilation, in any form, of key codes and combinations.

(3) License. -- A certificate issued by the Board recognizing the person named therein as having met the requirements to perform locksmith services as defined in this Chapter.

(4) Locksmith. -- A person who has been issued a license by the Board.

(5) Locksmith services. -- Repairing, rebuilding, rekeying, repinning, servicing, adjusting, or installing locks, mechanical or electronic security devices, access control devices, egress control devices, safes, vaults, and safe deposit boxes.

(6) Locksmith tools. -- Any tools that are designed or used to open a mechanical or electrical locking device in a way other than that which was intended by the manufacturer.

"**§ 74F-5. North Carolina Locksmith Licensing Board.**

(a) Composition and Terms. -- The Board shall consist of nine members who shall serve staggered terms. Three members shall represent the public. The initial Board members shall be appointed on or before January 1, 2001, as follows:

(1) The General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint three locksmiths, two of whom shall serve terms of four years and one of whom shall serve a term of three years. At least one of the locksmiths shall represent a recognized locksmith organization in the State.

(2) The General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint three locksmiths, one of whom shall serve a term of four years, one of whom shall serve a term of three years, and one of whom shall serve a term of two years. At least one of the locksmiths shall represent a recognized locksmith organization in the State.

(3) The Governor shall appoint three public members, one of whom shall serve a term of three years, and two of whom shall serve terms of two years.

Upon the expiration of the terms of the initial Board members, each member shall be appointed for a term of three years and shall serve until a successor is appointed. No member may serve more than two consecutive terms.

(b) Qualifications. -- The locksmith members shall have at least five years' experience in locksmith services and shall be engaged in that business for the duration of their term on the Board. The locksmith members initially appointed to the Board shall immediately become licensed as locksmiths by complying with the provisions of this Chapter. Public members of the Board shall not be trained or experienced in locksmith services, have a financial interest in a locksmith business, or be the spouse of a person who is so trained or experienced or has such an interest.

All members of the Board shall reside in this State and shall represent various geographical areas of the State.

(c) Vacancies. -- A vacancy shall be filled in the same manner as the original appointment, except that all unexpired terms in seats appointed by the General Assembly shall be filled in accordance with G.S. 120-122. Appointees to fill vacancies shall serve the remainder of the unexpired term and until their successors have been duly appointed and qualified.

(d) Removal. -- The Board may remove any of its members for neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary proceedings as a licensee shall be disqualified from participating in the official business of the Board until the charges have been resolved.

(e) Compensation. -- Each member of the Board shall receive per diem and reimbursement for travel and subsistence as provided in G.S. 93B-5.

(f) Officers. -- The officers of the Board shall be a chair, a vice-chair, and other officers deemed necessary by the Board to carry out the purposes of this Chapter. All officers shall be elected annually by the Board for one-year terms and shall serve until their successors are elected and qualified.

(g) Meetings. -- The Board shall hold at least two meetings each year to conduct business and to review the standards and rules for issuing licenses under this Chapter. The Board shall adopt rules governing the calling, holding, and conducting of regular and special meetings. A majority of Board members shall constitute a quorum.

"§ 74F-6. Powers of the Board.

The Board shall have the power and duty to:

(1) Administer and enforce the provisions of this Chapter.

(2) Adopt, amend, or repeal rules as may be necessary to carry out the provisions of this Chapter.

(3) Examine and determine the qualifications and fitness of applicants for licensure and renewal of licensure.

(4) Issue, renew, deny, suspend, or revoke licenses and conduct any disciplinary actions authorized by this Chapter.

(5) Set fees for licensure, licensure renewal, and other services deemed necessary to carry out the provisions of this Chapter.

(6) Establish and approve continuing education requirements for persons licensed under this Chapter.

(7) Receive and investigate complaints from members of the public.

(8) Conduct investigations for the purpose of determining whether violations of this Chapter or grounds for disciplining licensees exist.

(9) Conduct administrative hearings in accordance with Article 3 of Chapter 150B of the General Statutes.

(10) Maintain a record of all proceedings conducted by the Board and make available to licensees and other concerned parties an annual report of all Board action.

(11) Maintain a list of the names and addresses of all persons licensed by the Board.
(12) Employ and fix the compensation of personnel that the Board determines is necessary to carry out the provisions of this Chapter and incur other expenses necessary to perform the duties of the Board.
(13) Adopt and publish a code of ethics.
(14) Adopt a seal containing the name of the Board for use on all licenses and official reports issued by the Board.

"**§ 74F-7. Qualifications for license.**

An applicant shall be licensed as a locksmith if the applicant meets all of the following qualifications:

(1) Is of good moral and ethical character.
(2) Is at least 18 years old.
(3) Successfully completes an examination administered by the Board.
(4) Pays the required fee under G.S. 74F-9.

"**§ 74F-8. Licensure based on experience; licensure of nonresident; reciprocity.**

(a) The Board may grant, upon application and payment of proper fees, a license to a person who resides in this State and has at least three years' experience as a licensed locksmith in another state whose standards of competency are substantially equivalent to those provided in this Chapter.

(b) The Board may grant, upon application and payment of proper fees, a license to a nonresident if the person meets the requirements of this Chapter or the person resides in a state that recognizes licenses issued by the Board.

"**§ 74F-9. Fees.**

The Board shall establish fees not exceeding the following amounts:

(1)	Issuance of a license	$100.00
(2)	Renewal of a license	$100.00
(3)	Examination	$200.00
(4)	Reinstatement	$150.00
(5)	Late fees	$150.00

"**§ 74F-10. Issuance, renewal, replacement, and transfer of licenses.**

(a) The Board shall issue a license, upon payment of the license fee, to any applicant who has satisfactorily met the requirements of this Chapter as administered by the Board. Licenses shall show the full name of the person and an identification number, and shall be signed by the chair and one other officer of the Board.

(b) All licenses shall expire three years after the date they were issued unless renewed. All applications for renewal shall be filed with the Board and shall be accompanied by the renewal fee as required by G.S. 74F-9. A license that has expired for failure to renew may be reinstated after the applicant pays the late and reinstatement fees as required by G.S. 74F-9.

(c) The Board shall replace any license that is lost, destroyed, or mutilated subject to rules established by the Board.

(d) A license may not be transferred or assigned.

"**§ 74F-11. Photo identification.**

Every person licensed under this Chapter shall be issued a photo identification card by the Board. The card shall display a current photograph of the person, the person's name, address, and telephone number. The licensee shall have the photograph identification card available for inspection while performing locksmith services.

"**§ 74F-12. Posting licenses; advertisements.**

(a) Every locksmith issued a license under this Chapter shall display the license prominently in the locksmith's place of business.

(b) Every person advertising locksmith services performed by the person shall include in the advertisement the identification number that is printed on the license issued by the Board.

"**§ 74F-13. Responsibilities of employers.**

Every licensee under this Chapter shall provide to the Board the names of each person employed by the licensee who either performs locksmith services or has access to locksmith tools. The licensee shall notify the Board within 30 days of any change in the information provided pursuant to this section.

"**§ 74F-14. Customer identification.**

Before opening a locked door to any vehicle or residential or commercial property, a licensee shall make a reasonable effort to verify that the customer is the legal owner of the vehicle or property or is authorized by the legal owner to gain access to the vehicle or property.

"**§ 74F-15. Suspension, revocation, and refusal to renew a license.**

The Board may deny or refuse to renew a license, suspend, or revoke a license if the licensee or applicant:

(1) Gives false information to or withholds information from the Board in procuring or attempting to procure a license.

(2) Has been convicted of or pled guilty or no contest to a crime that indicates that the person is unfit or incompetent to perform locksmith services or that indicates the person has deceived or defrauded the public.

(3) Has demonstrated gross negligence, incompetency, or misconduct in performing locksmith services.

(4) Has willfully violated any of the provisions of this Chapter.

"**§ 74F-16. Exemptions.**

The provisions of this Chapter do not apply to:

(1) Members of the police or fire department or other government agencies who, in the course of their employment, open locked doors to vehicles, homes, or businesses.

(2) Salespersons demonstrating the use of locksmith tools to persons licensed under this Chapter.

"**§ 74F-17. Injunctions.**

The Board may apply to the superior court for an order enjoining violations of this Chapter. Upon a showing by the Board that any person has violated this Chapter, the court may grant injunctive relief."

Section 2. Any person who submits proof to the Board that he or she has been actively engaged as a locksmith in this State for two consecutive years prior to the effective date of this act and pays the required fee for the issuance of a license under G.S. 74F-9, enacted by Section 1 of this act, shall be licensed without having to satisfy the requirements of G.S. 74F-7, enacted by Section 1 of this act. All persons who do not make application to the Board within one year of the effective date of this act shall be required to complete all requirements prescribed by the Board and to otherwise comply with the provisions of Chapter 74F, enacted by Section 1 of this act.

Section 3. This act is effective when it becomes law.

HOUSE BILL 1177:
Locksmith Licensure

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Representatives Ellis & Mosley
Date:	July 1, 1999		
Version:	PCS for 1st Edition *H1177-PCSSC-001*	**Summary by:**	Mary Shuping Research Assistant

SUMMARY: ***House Bill 1177 establishes the Locksmith Licensing Board, requires all locksmiths in the State to be licensed, and establishes qualifications and a fee schedule for licensure. The bill also provides for grandfathering and reciprocity, and sets forth several exemptions from licensure.***

The proposed committee substitute makes several technical changes and adds several groups to the list of persons exempt from the licensure requirements.

HB 1177 was given a favorable assessment report by the Legislative Committee on New Licensing Boards.

CURRENT LAW: Under current law, locksmiths are not licensed or regulated. In North Carolina, the locksmith profession is represented by the North Carolina Locksmith Association (NCLA). There is also a national association – The Associated Locksmiths of America (ALOA). These organizations set ethical standards for their members; however, membership is voluntary. In addition, the ALOA offers a certification program to its members.

BILL ANALYSIS: House Bill 1177 establishes a new Chapter 74F in the General Statutes, entitled "Locksmith Licensing Act". Following is an explanation of the bill:

Licensure Required. HB 1177 requires locksmiths to be licensed in order to perform locksmith services. "Locksmith services" include repairing, rebuilding, re-keying, re-pinning, servicing, adjusting, or installing locks mechanical or electronic locking devices, access control devices, egress control devices, safes, vaults, and safe deposit boxes. Performing locksmith services without a license is punishable as a Class 3 misdemeanor.

Definitions. HB 1177 sets forth the definitions to be used in the Chapter, including the following:

- Locksmith – Person who is licensed by the Board.
- Locksmith Services – Repairing, rebuilding, rekeying, repinning, servicing, adjusting, or installing locks, mechanical or electronic locking devices, access control devices, egress control devices, safes, vaults, and safe deposit boxes.
- Locksmith Tools – Any tools that are designed or used to open a mechanical or electrical locking device in a way other than that which was intended by the manufacturer.
- Code Book – A compilation, in any form, of key codes and combinations.

North Carolina Locksmith Licensing Board.

Membership: The Board will consist of nine members, as follows:

- 3 locksmiths, at least one of whom must be a member of a recognized locksmith organization, appointed by the President Pro Tempore of the Senate.
- 3 locksmiths, at least one of whom must be a member of a recognized locksmith organization, appointed by the Speaker of the House.
- 3 public members appointed by the Governor.

The locksmith members of the Board must have at least five years experience in locksmith services and must continue to practice locksmith services while on the Board. Public members and their spouses are prohibited from being trained locksmiths, or having a financial interest in a locksmith business.

Powers of the Board. The Board's powers and duties include:

- Determining qualifications for licensure.
- Investigating complaints and conducting investigations.
- Issuing, denying, revoking, or suspending licenses, and conducting any disciplinary actions.
- Establishing and approving continuing education requirements.
- Setting fees, not to exceed statutory maximums, for licensure and licensure renewal.
- Employ necessary personnel.
- Adopt a code of ethics.

Qualifications for licensure. Individuals will be licensed as locksmiths by meeting all of the following:

- Be of good moral and ethical character.
- Be at least 18 years old.
- Successfully completes an exam administered by the Board.
- Pay all required fees.

Licensure Based on Experience; Licensure of Nonresidents; Reciprocity. Persons who reside in NC and have at least three years experience as a licensed locksmith in another state whose standards for licensure are substantially the same as in North Carolina may be granted a license.

Nonresidents may be licensed in North Carolina if the person meets the statutory requirements, or if the person resides in a state that recognizes licenses issued by North Carolina.

Fees. Fees established by the Board may not exceed the following amounts:

Type of License/Fee	Maximum Amount
• Issuance of license	$100.00
• Renewal of license (every 3 years)	$100.00
• Examination	$200.00
• Reinstatement	$150.00
• Late fees	$150.00

Additional Requirements. House Bill 1177 also requires the following:

Photo Identifications of Locksmiths. Licensees will be issued a photo identification card by the Board.

Posting of Licenses; Advertisements. Licenses must be posted, and all advertisements must contain the licensee's identification number.

Responsibilities of Employers. Employers must provide to the Board the names of

1. Persons employed by the licensee who perform locksmith services.
2. Persons who have access to locksmith tools.

Customer Identification. Licensees must make a reasonable effort to verify that a customer is the legal owner of the vehicle or property when opening the locked door.

Disciplinary Procedures. The Board may deny a license, refuse to renew a license, or suspend or revoke a license if the licensee or applicant:

- Gives false information or withholds information.
- Has been convicted of, or pled guilty or no contest to a crime that indicates the person is unfit or incompetent to perform locksmith services, or that indicates the person has deceived or defrauded the public.
- Has demonstrated gross negligence, incompetency, or misconduct in performing locksmith services.
- Has willfully violated any of the provisions of this Chapter.

Exemptions from Licensure. The following are exempt from licensure:

- Employees of licensed locksmiths.
- Apprentices working under the supervision of a licensed locksmith.
- Persons or businesses required to be licensed or registered under the Alarm Systems Licensing Act (Chapter 74D of the General Statutes).

- Employees of towing services, repossessors, or employees of motor clubs who open automotive locks in their normal course of business, provided that they do not hold themselves out as locksmiths.
- Property owners, or the owners' employees who provide maintenance for hotels, motels, apartments, condominiums, or residential or commercial rental property.
- Retail merchants that duplicate keys, or install, service, repair, rebuild, reprogram, or maintain locks as long as the store does not represent itself as providing locksmith services.
- Members of the police or fire department who open locked doors to vehicles, homes, or businesses.
- Salespersons demonstrating the use of locksmith tools to licensed locksmiths.

"Grandfathering". Any person who submits proof to the Locksmith Licensing Board that he or she has been actively engaged as a locksmith in NC for two consecutive years prior to the enactment of the bill will be licensed without meeting the initial qualifications for licensure. These persons must pay the required fee, and must apply to the Board within one year of the effective date of the law.

EFFECTIVE DATE: House Bill 1177 is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1177 (First Edition)

SHORT TITLE: Locksmith Licensure

SPONSOR(S): Representative Ellis, et al.

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Special Fund	$75,000	$18,000	$19,500	$96,000	$28,500
EXPENDITURES					
Special Fund			Not Yet Determined		

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Locksmith Licensing Board

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY:
The bill establishes the Locksmith Licensing Act. Locksmiths would be required to obtain a license, renewable every three years.

BACKGROUND:
The Legislative Committee on New Licensing Boards recommended the licensing of locksmiths in its report published on June 21, 1999. According to the Associated Locksmiths of America (ALOA), the following states license locksmiths: California, Nevada, Nebraska, Illinois, Louisiana, and New Jersey.

ASSUMPTIONS AND METHODOLOGY:
The North Carolina Locksmith Association (NCLA) has approximately 250 members and purports to represent one-third of the locksmiths in the state. If correct, then approximately 750 locksmiths will be subject to licensure in FY 1999-00 when HB 1177 is enacted. The NCLA believes the number of new locksmiths in the state will increase 8% to 10% each year over the next five years. This fiscal note will assume the lower growth rate of 8% for licensees as follows:

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
Licensees	750	810	875	945	1,020

New licensees will be taking an examination created by the North Carolina Locksmith Licensing Board and pay a $200 exam fee. Current and future locksmiths will pay a $100 license fee every three years. The following chart shows the projected revenue from the fees in this bill.

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
Current/Renewal	$75,000			$75,000	$6,000
New License		$6,000	$6,500	$7,000	$7,500
Exam		$12,000	$13,000	$14,000	$15,000
Total	$75,000	$18,000	$19,500	$96,000	$28,500

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY: Tom Covington

DATE: Tuesday, June 29, 1999

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1254 DATE 7/1/99

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) Sen.) Capps

1 moves to amend the bill on page 1, line 19

2 ( ) WHICH CHANGES THE TITLE

3 by ~~changing the title~~ striking through the word "~~plan~~"

4 and substituting the word "plant"."

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. H1254 - PCSA 156 - RF

H. B. No. 1254 DATE July 1, 1999

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Capps
Sen.)

1 moves to amend the bill on page 1, lines 13-14
2 ( ) WHICH CHANGES THE TITLE
3 by deleting the phrase "five thousand dollars ($5,000)"
4
5 and substituting "fifteen thousand dollars ($15,000)"
6
7
8
9
10
11
12
13
14
15
16
17
18
19

SIGNED by Rennee Capps

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1254
Proposed Committee Substitute H1254-PCSA156-RF

Short Title: Homebuilder Responsibility. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN THE LAWS REGULATING GENERAL CONTRACTORS AND TO INCREASE THE LICENSURE REQUIREMENTS FOR RESIDENTIAL BUILDING CONTRACTORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 87-1 reads as rewritten:

"**§ 87-1. 'General contractor' defined; exceptions.**

For the purpose of this Article any person or firm or corporation who for a fixed price, commission, fee, or wage, undertakes to bid upon or to construct or who undertakes to superintend or manage, on his own behalf or for any person, firm, or corporation that is not licensed as a general contractor pursuant to this Article, the construction of any building, highway, public utilities, grading or any improvement or structure where the cost of the undertaking is ~~thirty thousand dollars ($30,000)~~ five thousand dollars ($5,000) or more, or undertakes to erect a North Carolina labeled manufactured modular building meeting the North Carolina State Building Code, shall be deemed to be a 'general contractor' engaged in the business of general contracting in the State of North Carolina.

This section shall not apply to persons or firms or corporations furnishing or erecting industrial equipment, power plan equipment, radial brick chimneys, and monuments.

This section shall not apply to any person or firm or corporation who constructs or alters a building on land owned by that person, firm or corporation provided such building is intended solely for occupancy by that person and his family, firm, or

corporation after completion; and provided further that, if such building is not occupied solely by such person and his family, firm, or corporation for at least 12 months following completion, it shall be presumed that the person, firm, or corporation did not intend such building solely for occupancy by that person and his family, firm, or corporation.

This section shall not apply to any person engaged in the business of farming who constructs or alters a building on land owned by that person and used in the business of farming, when such building is intended for use by that person after completion."

Section 2. G.S. 87-11(a) reads as rewritten:

"(a) The Board shall have the power to ~~revoke~~ revoke, suspend, refuse to renew, or restrict the certificate of license of any general contractor licensed hereunder who is found guilty ~~of~~ of:

(1) ~~any~~ Any fraud or deceit in obtaining a ~~license, or~~ license.

(2) ~~gross~~ Gross negligence, incompetency or misconduct in the practice of his ~~profession, or~~ profession.

(3) Violation of the State Building Code that creates a substantial risk of personal injury or substantial property damage.

(4) Failure to take corrective action ordered by the Board. With the consent of the complainant, the Board may order a licensee to take corrective action in those cases involving residential construction where the Board finds, after notice and hearing as provided for in Chapter 150B of the General Statutes, a violation of subdivisions (2) or (3) above. Corrective action may not be ordered by the Board during the pendency of any civil action arising from the same facts or circumstances alleged in the notice of hearing. For purposes of this section, residential construction is defined as any construction activity required to conform to the residential building code adopted by the North Carolina State Building Code Council pursuant to G.S. 143-138.

(5) ~~willful~~ Willful violation of any provisions of this Article.

The Board shall also have the power to revoke, suspend, or restrict the ability of any person to act as a qualifying party for a license to practice general contracting, as provided in G.S. 87-10(c), for any copartnership, corporation, or any other organization or combination, if this person committed any act in violation of the provisions of this section, and the Board may take disciplinary action against the individual license held by that person.

Any person may prefer charges of such fraud, deceit, negligence or misconduct against any general contractor licensed hereunder; such charges shall be in writing and sworn to by the complainant and submitted to the Board. Such charges, unless dismissed without hearing by the Board as unfounded or trivial, shall be heard and determined by the Board in accordance with the provisions of Chapter 150B of the General Statutes."

Section 3. G.S. 87-15.5(6) reads as rewritten:

"(6) Reimbursable loss. -- A monetary loss that meets all of the following requirements:

a. Results from dishonest or incompetent conduct by a general contractor in constructing or altering a single-family residential dwelling unit.

b. Is not paid, in whole or in part, by or on behalf of the general contractor whose conduct caused the loss. For purposes of this subparagraph, a monetary loss is not paid in whole or in part where the applicant has recovered less than twenty-five percent (25%) of the judgement against the general contractor or the applicant's claim in bankruptcy.

c. Is not covered by a bond, a surety agreement, or an insurance contract."

Section 4. G.S. 87-15.6(b) reads as rewritten:

"(b) Whenever a general contractor applies for the issuance of a permit for the construction of any single-family residential dwelling unit or for the alteration of an existing single-family residential dwelling unit, a city or county building inspector shall collect from the general contractor a fee in the amount of ~~five~~ ten dollars ~~($5.00)~~ ($10.00) for each dwelling unit to be constructed or altered under the permit. The city or county inspector shall forward ~~four~~ eight dollars ~~($4.00)~~ ($8.00) of each fee collected to the Board on a quarterly basis and the city or county may retain ~~one dollar ($1.00)~~ two dollars ($2.00) of each fee collected. The Board shall deposit the fees received into the Fund. The Board may accept donations and appropriations to the Fund. G.S. 87-7 shall not apply to the Fund.

The Board may suspend collection of this fee for any year upon a determination that the amount in the Fund is sufficient to meet likely disbursements from the Fund for that year. The Board shall notify city and county building inspectors when it suspends collection of the fee."

Section 5. Chapter 87 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 1B.

"Homebuilder Responsibility Act.

"§ 87-15.13. Title, purpose.

The General Assembly finds that the outstanding natural and cultural resources, educational, employment, and recreational opportunities, and other values of the State have made it one of the most attractive places in the nation to live. The General Assembly finds that the present population growth and anticipated future growth of the State has created tremendous opportunities in the residential construction business. This growth also has placed pressure on existing resources, including trained labor, appropriate home sites, and governmental inspection agencies. The General Assembly finds that a home constitutes one of the largest purchases most consumers will ever make and that it is material to the general welfare and public interest that homes be constructed free from major construction defects and substantial building code violations. It is the purpose of this act,

therefore, to help protect homebuyers from the losses that result when general contractors and new home vendors engage in dishonest or incompetent conduct and to ensure that residential homes are constructed in a workmanlike manner and are free from major construction defects or substantial violations of the North Carolina State Building Code.

"**§ 87-15.14. Definitions.**

The following definitions apply to this Article:

(1) 'Board'. -- The State Licensing Board for General Contractors.

(2) 'Licensed contractor'. -- Any person required to obtain a license as a general contractor pursuant to Article 1 of Chapter 87 of the General Statutes.

(3) 'Residential construction'. -- Any construction activity required to conform to the residential building code adopted by the North Carolina State Building Code Council pursuant to G.S. 143-138.

"**§ 87-15.15. Additional licensing requirements; experience.**

The Board shall develop and implement rules establishing minimum experience requirements for persons applying for licensure to perform any type of residential construction for which a general contractor's license is required pursuant to Article 1 of this Chapter. In establishing the experience requirement the Board may consider both practical and management experience. The rules adopted by the Board may provide credit for a portion of any experience requirement for technical training or certification or for a bachelors or graduate degree in architecture, engineering, construction management, or related area. In no event shall the experience requirement exceed a total of four years. This section shall not apply to persons to whom the Board has issued a general contractor's license pursuant to G.S. 87-10(b) on or before January 1, 2000."

"**§ 87-15.16. Insurance.**

(a) Each licensed contractor performing residential construction shall at all times maintain at least the minimum commercial general liability insurance coverage established by the Board pursuant to subsection (b) of this section.

(b) The Board shall adopt rules establishing the amounts of commercial general liability insurance that a licensee performing residential construction shall be required to carry. In no event shall the Board require insurance coverage in excess of five hundred thousand dollars ($500,000) per occurrence. Verification of insurance coverage shall be made in a manner satisfactory to the Board.

"**§ 87-15.17. Homebuilders to list license number.**

Any person who undertakes to perform residential construction and who must be licensed as a general contractor pursuant to Article 1 of this Chapter, and who advertises their services in any publication, shall include in the publication in legible type the license number issued to them by the Board."

Section 7. State and local code enforcement officials inspecting existing residential buildings are encouraged to report to the State Licensing Board for General Contractors substantial violations of the North Carolina State Building Code found during the conduct of their inspections. For purposes of this section, a

residential building is one that is required to be constructed in accordance with the requirements of the residential building code adopted by the North Carolina State Building Code Council pursuant to G.S. 143-138.

Section 8. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. The State Licensing Board for General Contractors may adopt temporary rules to implement the provisions of this act.

Section 9. This act becomes effective January 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

H1254-CSRB-7/13
PROPOSED COMMITTEE SUBSTITUTE
House Bill 1254
THIS IS A DRAFT 13-JUL-99 17:39:38
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Homebuilder Responsibility. (Public)

Sponsors:

Referred to: Rules, Calendar and Operations of the House

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN THE LAWS REGULATING GENERAL CONTRACTORS AND TO INCREASE THE LICENSURE REQUIREMENTS FOR RESIDENTIAL BUILDING CONTRACTORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 87-1 reads as rewritten:

"**§ 87-1. "General contractor" defined; exceptions.**

For the purpose of this Article any person or firm or corporation who for a fixed price, commission, fee, or wage, undertakes to bid upon or to construct or who undertakes to superintend or manage, on his own behalf or for any person, firm, or corporation that is not licensed as a general contractor pursuant to this Article, the construction of any building, highway, public utilities, grading or any improvement or structure where the cost of the undertaking is ~~thirty thousand dollars ($30,000)~~ fifteen thousand dollars ($15,000) or more, or undertakes to erect a North Carolina labeled manufactured modular building meeting the North Carolina State Building Code, shall be deemed to be a "general contractor" engaged in the business of general contracting in the State of North Carolina.

This section shall not apply to persons or firms or corporations furnishing or erecting industrial equipment, power ~~plan~~ plant equipment, radial brick chimneys, and monuments.

This section shall not apply to any person or firm or corporation who constructs or alters a building on land owned by that person, firm or corporation provided such building is intended solely for occupancy by that person and his family, firm, or corporation after completion; and provided further that, if such building is not occupied solely by such person and his family, firm, or corporation for at least 12 months following completion, it shall be presumed that the person, firm, or corporation did not intend such building solely for occupancy by that person and his family, firm, or corporation.

This section shall not apply to any person engaged in the business of farming who constructs or alters a building on land owned by that person and used in the business of farming, when such building is intended for use by that person after completion."

Section 2. G.S. 87-11(a) reads as rewritten:

"(a) The Board shall have the power to ~~revoke~~ revoke, suspend, refuse to renew or restrict the certificate of license of any general contractor licensed hereunder who is found guilty ~~of~~ of:

(1) ~~any~~ Any fraud or deceit in obtaining a ~~license, or~~ license.

(2) ~~gross~~ Gross negligence, incompetency or misconduct in the practice of his ~~profession, or~~ profession.

(3) Violation of the State Building Code that creates a substantial risk of personal injury or substantial property damage.

(4) Failure to take corrective action ordered by the Board. With the consent of the complainant, the Board may order a licensee to take corrective action in those cases involving residential construction where the Board finds, after notice and hearing as provided for in Chapter 150B of the General Statutes, a violation of subdivisions (2) or (3) above. Corrective action may not be ordered by the Board during the pendency of any civil action arising from the same facts or circumstances alleged in the notice of hearing. For purposes of this section, residential construction is defined as any construction activity required to conform to the residential building code adopted by the North

Carolina State Building Code Council pursuant to G.S. 143-138.

(5) ~~willful~~ Willful violation of any provisions of this Article.

The Board shall also have the power to revoke, suspend, or restrict the ability of any person to act as a qualifying party for a license to practice general contracting, as provided in G.S. 87-10(c), for any copartnership, corporation, or any other organization or combination, if this person committed any act in violation of the provisions of this section and the Board may take disciplinary action against the individual license held by that person.

Any person may prefer charges of such fraud, deceit, negligence or misconduct against any general contractor licensed hereunder; such charges shall be in writing and sworn to by the complainant and submitted to the Board. Such charges, unless dismissed without hearing by the Board as unfounded or trivial, shall be heard and determined by the Board in accordance with the provisions of Chapter 150B of the General Statutes."

Section 3. G.S. 87-15.5(6) reads as rewritten:

"(6) Reimbursable loss. -- A monetary loss that meets all of the following requirements:

a. Results from dishonest or incompetent conduct by a general contractor in constructing or altering a single-family residential dwelling unit.

b. Is not paid, in whole or in part, by or on behalf of the general contractor whose conduct caused the loss. For purposes of this subparagraph, a monetary loss is not paid in whole or in part where the applicant has recovered less than ten percent (10%) of the judgement against the general contractor or the applicant's claim in bankruptcy.

c. Is not covered by a bond, a surety agreement, or an insurance contract."

Section 4. G.S. 87-15.6(b) reads as rewritten:

"(b) Whenever a general contractor applies for the issuance of a permit for the construction of any single-family residential dwelling unit or for the alteration of an existing single-family residential dwelling unit, a city or county building inspector shall collect from the general contractor a fee in the amount of ~~five~~ ten dollars ~~($5.00)~~ ($10.00) for each dwelling unit to be constructed or altered under the permit. The city or county inspector shall forward ~~four~~ eight dollars ~~($4.00)~~ ($8.00) of each fee collected to the Board on a quarterly basis and the city

or county may retain ~~one dollar ($1.00)~~ two dollars ($2.00) of each fee collected. The Board shall deposit the fees received into the Fund. The Board may accept donations and appropriations to the Fund. G.S. 87-7 shall not apply to the Fund.

The Board may suspend collection of this fee for any year upon a determination that the amount in the Fund is sufficient to meet likely disbursements from the Fund for that year. The Board shall notify city and county building inspectors when it suspends collection of the fee."

Section 5. Chapter 87 of the General Statutes is amended by adding a new Article 1B to read:

"ARTICLE 1B.

"Homebuilder Responsibility Act.

"**§ 87-15.13. Title, purpose.**

The General Assembly finds that the outstanding natural and cultural resources, educational, employment, and recreational opportunities, and other values of the State have made it one of the most attractive places in the nation to live. The General Assembly finds that the present population growth and anticipated future growth of the State has created tremendous opportunities in the residential construction business. This growth also has placed pressure on existing resources, including trained labor, appropriate home sites, and governmental inspection agencies. The General Assembly finds that a home constitutes one of the largest purchases most consumers will ever make and that it is material to the general welfare and public interest that homes be constructed free from major construction defects and substantial building code violations. It is the purpose of this act, therefore, to help protect homebuyers from the losses that result when general contractors and new home vendors engage in dishonest or incompetent conduct and to ensure that residential homes are constructed in a workmanlike manner and are free from major construction defects or substantial violations of the North Carolina State Building Code.

" **§ 87-15.14. Definitions.** The following definitions apply to this Article:

(1) Board. -- The State Licensing Board for General Contractors.

(2) Building contractor. -- Defined in G.S. 87-10.

(3) Licensed contractor.-- Any person required to obtain a license as a general contractor pursuant to Article 1 of Chapter 87 of the General Statutes.

(4) Residential construction. -- Any construction activity required to conform to the residential

building code adopted by the North Carolina State Building Code Council pursuant to G.S. 143-138.

(5) Residential contractor. -- Defined in G.S. 87-10.

"**§ 87-15.15. Additional licensing requirements; experience.**

The Board shall develop and implement rules establishing minimum experience requirements for persons applying for licensure as a building contractor or a residential contractor. In establishing the experience requirement the Board may consider both practical and management experience. The rules adopted by the Board may provide credit for a portion of any experience requirement for technical training or certification or for a bachelors or graduate degree in architecture, engineering, construction management or related area. In no event shall the experience requirement exceed a total of four years. This section shall not apply to persons to whom the Board has issued a general contractor's license pursuant to G.S.87-10(b) on or before January 1, 2000.

"**§ 87-15.16. Insurance.**

(a) Each contractor licensed as a building contractor or a residential contractor shall at all times maintain at least the minimum commercial general liability insurance coverage established by the Board pursuant to subsection (b) of this section.

(b) The Board shall adopt rules establishing the amounts commercial general liability insurance that a licensee performing residential construction shall be required to carry. In no event shall the Board require insurance coverage in excess of $500,000 per occurrence. Verification of insurance coverage shall be made in a manner satisfactory to the Board.

"**§ 87-15.17. Homebuilders to list license number.**

A contractor licensed as a building contractor or a residential contractor who advertises the contractor's services in a publication, shall include in the publication in legible type the license number issued to the contractor by the Board."

Section 6. State and local code enforcement officials inspecting existing residential buildings are encouraged to report to the State Licensing Board for General Contractors substantial violations of the North Carolina State Building Code found during the conduct of their inspections. For purposes of this subsection, a residential building is one that is required to be constructed in accordance with the requirements of the Residential Code of the North Carolina State Building Code."

Section 7. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. The State

Licensing Board for General Contractors may adopt temporary rules to implement the provisions of this act.

Section 8. This act becomes effective January 1, 2000.

HOUSE BILL 1254:
Homebuilder Responsibility

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Representative Earle
Date:	July 14, 1999	**Summary by:**	Mary Shuping
Version:	New PCS for 2nd Edition *H1254-CSRB-7/13*		Research Assistant

SUMMARY: ***House Bill 1254 lowers the dollar amount of structural improvements requiring a general contractor's license; expands the disciplinary authority of the General Contractors Licensing Board; amends the definition of "reimbursable loss" for the Homeowners Recovery Fund; increases the permit fee for single-family dwelling units, and increases the amount of the fee remitted to the Homeowners Recovery Fund; and establishes the Homebuilder Responsibility Act.***

The proposed committee substitute incorporates the amendments previously adopted by the House Finance Committee changing the cost of construction requiring a general contractors license from $5,000 in the 2nd edition of the bill to $15,000, and correcting a typographical error in existing law. The proposed committee substitute also makes several other changes. All changes are bolded in the bill summary.

CURRENT LAW & BILL ANALYSIS:

Section 1. Current law provides that any person, firm or corporation who, for a fixed price, commission, wage or fee, undertakes construction or the managing of construction projects where the cost is $30,000 or more is deemed a "general contractor." House Bill 1254 lowers the threshold for the construction cost from $30,000 to **$15,000** (was $5,000 under the 2nd edition of the bill).

Note: Under current law, the following persons are exempt from the general contractor licensure requirements:

- Persons, firms, or corporations who erect industrial equipment, power plant equipment, radial brick chimneys, and monuments.
- Persons who construct or alter dwellings on their own land, provided it is solely for the occupancy of that person and that person's family for at least 12 months following completion.
- Farmers who construct or alter buildings on their own land for use in farming.

Section 2 of the bill expands the powers of the General Contractors' Licensing Board (Board) to discipline general contractors. Current law allows only for the revocation of a license for fraud, deceit, gross negligence, incompetency, misconduct, or willful violation of the Article. In addition to revocation, House Bill 1254 allows the Board to suspend, refuse to renew, or restrict a license for any of these reasons and provides the Board with the additional authority to revoke, suspend, refuse to renew, or restrict licenses for:

- Violations of the State Building Code that create a substantial risk of personal injury or substantial property damage.

- Failure to take corrective action as ordered by the Board. In addition, with the consent of the complainant, the Board may order a contractor to take corrective action in cases involving residential construction if the Board finds that the contractor engaged in fraud or deceit, or was grossly negligent, or incompetent. However, the Board may not order corrective action when a civil action is pending.

Finally, this section also allows the Board to revoke, suspend, or restrict the ability of any person to act as a qualifying party for a license to practice general contracting for any co-partnership or corporation if the person committed any of the above violations.

Section 3 modifies the definition of "reimbursable loss" under the Homeowners Recovery Act. Current law provides that a reimbursable monetary loss 1) results from dishonest or incompetent conduct by a general contractor; 2) is not paid, in whole or in part, by the contractor who caused the loss; and 3) is not covered by a bond, surety agreement, or an insurance contract. HB 1254 provides that a monetary loss is not paid in whole or in part by the contractor when the person has recovered **less than 10% of the judgement against the contractor** (was less than 25% of the judgement in the 2nd edition of the bill).

Section 4 increases the permit fee for the construction or alteration of single family dwelling units from $5.00 to $10.00, and increases the amount of that fee placed in the Homeowners Recovery Fund from $4.00 to $8.00.

Section 5 establishes a new Article entitled the "Homebuilder Responsibility Act". **The PCS adds clarifying definitions for "Building contractor" and "Residential contractor" to conform with the current definitions in G.S. 87-10, and uses these terms throughout the Article.** The Board is required to implement rules establishing minimum experience requirements for persons applying for licensure as building contractors or residential contractors . In establishing the rules, the Board may consider both practical and management experience, and the Board may provide credit for a portion of any experience requirement for technical training, or a bachelors or graduate degree in architecture, engineering, construction management or a related area. The experience requirement cannot exceed four years. Finally, persons who have been issued a general contractor's license prior to January 1, 2000 are exempt from the additional licensing requirements.

The bill also requires the Board to mandate that building contractors and residential contractors maintain commercial general liability insurance coverage. The Board will set the amount of coverage; however, the maximum amount of insurance the Board may require is $500,000 per occurrence.

Finally, the bill requires building contractors and residential contractors to include their license number in all advertisements.

Section 6 encourages State and local code enforcement officials to report substantial violations of the residential building code to the Board.

Section 7 allows the Board to adopt temporary rules to implement the act.

EFFECTIVE DATE: The act becomes effective January 1, 2000.

HOUSE BILL 1254:
Homebuilder Responsibility

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Representative Earle
Date:	July 1, 1999	**Summary by:**	Mary Shuping
Version:	PCS for 1st Edition *H1254-PCSA156-RF*		Research Assistant

SUMMARY: ***House Bill 1254 lowers the dollar amount of structural improvements requiring a general contractor's license; expands the disciplinary authority of the General Contractors Licensing Board; amends the definition of "reimbursable loss" for the Homeowners Recovery Fund; increases the permit fee for single-family dwelling units, and increases the amount of the fee remitted to the Homeowners Recovery Fund; and establishes the Homebuilder Responsibility Act.***

CURRENT LAW & BILL ANALYSIS:

Section 1. Current law provides that any person, firm or corporation who, for a fixed price, commission, wage or fee, undertakes construction or the managing of construction projects where the cost is $30,000 or more is deemed a "general contractor." House Bill 1254 lowers the threshold for the construction cost from $30,000 to $5,000.

Note: Under current law, the following persons are exempt from the general contractor licensure requirements:

- Persons, firms, or corporations who erect industrial equipment, power plant equipment, radial brick chimneys, and monuments.
- Persons who construct or alter dwellings on their own land, provided it is solely for the occupancy of that person and that person's family for at least 12 months following completion.
- Farmers who construct or alter buildings on their own land for use in farming.

Section 2 of the bill expands the powers of the General Contractors' Licensing Board (Board) to discipline general contractors. Current law allows only for the revocation of a license for fraud, deceit, gross negligence, incompetency, misconduct, or willful violation of the Article. In addition to revocation, House Bill 1254 allows the Board to suspend, refuse to renew, or restrict a license for any of these reasons and provides the Board with the additional authority to revoke, suspend, refuse to renew, or restrict licenses for:

- Violations of the State Building Code that create a substantial risk of personal injury or substantial property damage.
- Failure to take corrective action as ordered by the Board. In addition, with the consent of the complainant, the Board may order a contractor to take corrective action in cases involving residential construction if the Board finds that the contractor engaged in fraud or deceit, or was grossly negligent, or incompetent. However, the Board may not order corrective action when a civil action is pending.

Finally, this section also allows the Board to revoke, suspend, or restrict the ability of any person to act as a qualifying party for a license to practice general contracting for any co-partnership or corporation if the person committed any of the above violations.

Section 3 modifies the definition of "reimbursable loss" under the Homeowners Recovery Act. Current law provides that a reimbursable monetary loss 1) results from dishonest or incompetent conduct by a general contractor; 2) is not paid, in whole or in part, by the contractor who caused the loss; and 3) is not covered by a bond, surety agreement, or an insurance contract. HB 1254 provides that a monetary loss is not paid in whole or in part by the contractor when the person has recovered less than 25% of the judgement against the contractor.

Section 4 increases the permit fee for the construction or alteration of single family dwelling units from $5.00 to $10.00, and increases the amount of that fee placed in the Homeowners Recovery Fund from $4.00 to $8.00.

Section 5 establishes a new Article entitled the "Homebuilder Responsibility Act". The Board is required to implement rules establishing minimum experience requirements for general contractors who perform residential construction. In establishing the rules, the Board may consider both practical and management experience, and the Board may provide credit for a portion of any experience requirement for technical training, or a bachelors or graduate degree in architecture, engineering, construction management or a related area. The experience requirement cannot exceed four years. Finally, persons who have been issued a general contractor's license prior to January 1, 2000 are exempt from the additional licensing requirements.

The bill also requires the Board to mandate that residential construction contractors maintain commercial general liability insurance coverage. The Board will set the amount of coverage; however, the maximum amount of insurance the Board may require is $500,000 per occurrence.

Finally, the bill requires that general contractors who perform residential construction must include their license number in all advertisements.

(There is no Section 6 in the bill.)

Section 7 encourages State and local code enforcement officials to report substantial violations of the residential building code to the Board.

Section 8 allows the Board to adopt temporary rules to implement the act.

EFFECTIVE DATE: The act becomes effective January 1, 2000.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1254 Proposed House Finance Committee Substitute DRAFT NOTE

SHORT TITLE: Homebuilder Responsibility

SPONSOR(S):

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
			$		
REVENUES					
General Fund		* No General Fund Impact *			
General Contractor Licensing Board	114,000	228,000	228,000	228,000	228,000
Local Governments	28,500	57,000	57,000	57,000	57,000

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: General Contractors Licensing Board and Local Governments.

EFFECTIVE DATE: January 1, 2000.

BILL SUMMARY: The bill makes several changes to the state's building laws. The legislation lowers the threshold value for structural improvements that trigger statutory general contractor status to $5,000. Under current law the trigger is $30,000. The bill expands the disciplinary sanctions the Board can impose to include suspensions, restrictions, or a refusal to renew. It also expands the grounds for which the Board can take disciplinary action. The bill modifies the definition of reimbursable monetary loss. It also increases the permit fee for single-family residential dwelling units, and the alteration of those units, to $10.00. Eight dollars ($8.00) of that amount is forward to the General Contractors Licensing Board for the Homeowner Recovery Fund, and local governments retain two dollars ($2.00). Under current law the permit fee is $5.00 and $4.00 of that amount is forwarded to the licensing board. The bill authorizes the board to develop minimum experience requirements for residential general contractors, and places some restrictions on those requirements. It also adds new insurance requirements for residential contractors. Finally, the bill requires that general contractor who advertise include their license number, in legible type, in the advertisement.

ASSUMPTIONS AND METHODOLOGY: The only potential fiscal impact of the bill relates to the permit fees. The North Carolina General Contractors Licensing Board reports FY 1998-permit revenue of $227,433. In FY 1997 the board collected $246,544. This was at the rate of four dollars ($4.00) per permit. Thus in FY 1998 these fees raised $56,858 per dollar of

permit fee. Because there is no clear trend in permit fees a flat annual amount of $57,000 is used to estimate future revenue. Under the bill the permit fee amount is increased to $10.00. Eight dollars of this amount is forwarded to the General Contractors Licensing Board. This is a four-dollar increase over what is currently sent to the licensing board. Therefore, the board will see an annual $228,000 increase (4 times $57,000). The local governments will also see a one-dollar increase (from one-dollar to two dollars) and an associated revenue increase of $57,000 annually. The 1999-00 estimate in the chart is adjusted to account for the effective date.

The permit funding forwarded to the licensing board must be deposited in the Homeowner Recovery Fund. This is a non-reverting fund.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY:

DATE:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1326*
PROPOSED COMMITTEE SUBSTITUTE
H1326-CSSG/RBX-003

Short Title: Dry-Cleaning Solvent Cleanup Amends. (Public)

Sponsors:

Referred to: Finance.

April 23, 1999

A BILL TO BE ENTITLED

AN ACT TO EARMARK THE STATE SALES TAX REVENUE FROM DRY-CLEANING AND LAUNDRY SERVICES FOR THE DRY-CLEANING SOLVENT CLEANUP FUND, AND TO AMEND THE DRY-CLEANING SOLVENT CLEANUP ACT OF 1997 TO REPEAL THE REQUIREMENT OF FINANCIAL RESPONSIBILITY FOR DRY-CLEANING FACILITIES AND WHOLESALE DRY-CLEANING SOLVENT DISTRIBUTION FACILITIES, TO ALLOW THE ENVIRONMENTAL MANAGEMENT COMMISSION TO ENTER INTO CONTRACTS WITH PRIVATE CONTRACTORS FOR ASSESSMENT AND REMEDIATION ACTIVITIES AT DRY-CLEANING FACILITIES AND WHOLESALE DRY-CLEANING SOLVENT DISTRIBUTION FACILITIES, TO ESTABLISH A STATE GOAL FOR THE REDUCTION OF THE USE OF PERCHLOROETHYLENE F-1,1,3 BY DRY-CLEANING FACILITIES, TO REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO REPORT TO THE ENVIRONMENTAL REVIEW COMMISSION ON THE PROGRESS IN ATTAINING THIS GOAL AND THE COST AND EFFECTIVENESS OF DRY-CLEANING TECHNOLOGIES AND CHEMICALS THAT OFFER AN ALTERNATIVE TO THE USE OF PERCHLOROETHYLENE F-1,1,3, AND TO MAKE OTHER CHANGES IN THE DRY CLEANING SOLVENT ACT. The General Assembly of North Carolina enacts:

Section 1. Chapter 105 of the General Statutes is amended to add a new section to read:

"§ 105-164.44E. Transfer to the Dry-Cleaning Solvent Cleanup Fund.

At the end of each quarter, the Secretary must transfer to the Dry-Cleaning Solvent Fund established under G.S. 143-215.104C a percentage of the net amount of State sales and use taxes collected under G.S. 105-164.4(a)(4), as determined by the Secretary based on available data. The percentage amount to be transferred is as follows:

Quarters in Fiscal Year	Percentage
2001-2002	15%
2002-2003	30%
2003-2004	45%
2004-2005 and thereafter	60%."

Section 2. G.S. 143-215.104C(b) reads as rewritten:

"(b) Sources of Revenue. -- The following revenue is credited to the Fund:

(1) Dry-cleaning solvent taxes collected under Article 5D of Chapter 105 of the General Statutes.

(2) Recoveries made pursuant to G.S. 143-215.104N and G.S. 143-215.104O.

(3) Gifts and grants made to the Fund.

(4) Revenues credited to the fund under G.S. 105-164.44E."

Section 3. G.S. 143-215.104B(b)(20), 143-215.104E, 143-215.104F(b)(3), 143-215.104F(d)(3), 143-215.104F(g), 143-215.104J(a)(5), 143-215.104P(a)(1), and Section 3 of S.L. 1997-392 are repealed.

Section 4. G.S. 143-215.104F(f) reads as rewritten:

"(f) Financial Responsibility Requirements. -- Each potentially responsible person who petitions the Commission to enter into a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement shall accept written responsibility in the amount specified in this section for the assessment or remediation of the dry-cleaning solvent contamination identified in the petition. If two or more potentially responsible persons petition the Commission jointly, the requirements below shall be the aggregate requirements for the financial responsibility of all potentially responsible persons who are party to the petition. Unless an alternative arrangement is agreed to by co-petitioners, the financial responsibility requirements of this section shall be apportioned equally among the co-petitioners. ~~The requirements in this subsection shall be in addition to any insurance or other~~

~~financial responsibility, including deductibles or retentions, established pursuant to G.S. 143-215.104E.~~

Facility or Abandoned Site Where Release Occurred	Costs
Dry-cleaning facilities owned by persons who employ fewer than five full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year	~~$5,000~~ $10,000
Dry-cleaning facilities owned by persons who employ at least five but fewer than 10 full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year	~~$10,000~~ $15,000
Dry-cleaning facilities owned by persons who employ 10 or more full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year	~~$15,000~~ $20,000
Wholesale distribution facilities	~~$25,000~~ $30,000
Abandoned dry-cleaning facility sites	$50,000."

Section 5. G.S. 143-215.104C reads as rewritten:

"**§ 143-215.104C. (Repealed effective January 1, 2012) Dry-Cleaning Solvent Cleanup Fund.**

(a) Creation. -- The Dry-Cleaning Solvent Cleanup Fund is established as a special revenue fund to be administered by the Commission. Accordingly, revenue in the Fund at the end of a fiscal year does not revert and interest and other investment income earned by the Fund must be credited to it. The Fund is created to provide revenue to implement this Part.

(b) Sources of Revenue. -- The following revenue is credited to the Fund:

(1) Dry-cleaning solvent taxes collected under Article 5D of Chapter 105 of the General Statutes.

(2) Recoveries made pursuant to G.S. 143-215.104N and G.S. 143-215.104O.

(3) Gifts and grants made to the Fund.

(c) Disbursements. -- A claim filed against the Fund may be paid only from monies in the Fund and only in accordance with the provisions of this Part. Any obligation to pay or reimburse claims against the Fund shall be expressly contingent upon availability of monies in the Fund. Neither the State nor any of

its agencies shall have any obligation to pay or reimburse any costs for which monies are not available in the Fund. The provisions of this Part shall not constitute a contract, either express or implied, to pay or reimburse costs in excess of the monies available in the Fund. In making disbursements from the Fund, the Commission shall ~~pay the claims with the highest priority before claims of lower priority, and claims of equal priority in the order in which the facility or abandoned site was certified~~ obligate monies to facilities or sites with higher priority before facilities or sites of lower priority, and facilities or sites with equal priority in the order in which the facilities or sites were prioritized until the revenue is exhausted. Consistent with the provisions of this Part, the Commission may disburse monies from the Fund to abate imminent hazards caused by dry-cleaning solvent contamination at abandoned dry-cleaning facility sites that have not been certified. Up to twenty percent (20%) of the amount of revenue credited to the Fund in a year may be used to defray costs incurred by the Department and the Attorney General's Office in connection with administration of the program described in this Part, including oversight of response activities.

Section 6. G.S. 143-215.104D(a) reads as rewritten:

"(a) Administrative Functions. -- The Commission may delegate any or all of the powers enumerated in this subsection to the ~~Department or engage a private contractor or contractors to carry out the activities enumerated in this subsection. If the Commission engages a private contractor to carry out the functions enumerated in subdivisions (1) through (6) of this subsection, no action of the contractor shall be effective until ratified by the Commission.~~ Department. The Commission shall:

(1) Accept petitions for certification and petitions to enter into dry-cleaning solvent assessment agreements or remediation agreements under this Part.

(2) Prioritize certified dry-cleaning facilities, certified wholesale distribution facilities, or certified abandoned dry-cleaning facility sites for the initiation of assessment or remediation activities that are reimbursable from the Fund.

(3) Develop forms to be used by persons applying for reimbursement of assessment or remediation costs.

(4) Schedule funding of assessment and remediation activities.

(5) Determine whether assessment or remediation is necessary at a site at which dry-cleaning solvent contamination has occurred.

(5a) Enter into contracts with private contractors for assessment and remediation activities at certified dry-cleaning facilities, certified wholesale distribution facilities, or certified abandoned dry-cleaning facility sites.

(6) Determine that all necessary assessment and remediation has been completed at a contamination site.

(7) Make payments from the Fund to reimburse the costs of assessment and remediation. ~~Any payments made by a private contractor engaged by the Commission shall be authorized by the Commission prior to disbursement.~~"

Section 7. G.S. 143-215.104F, as amended by Sections 3 and 4 of this act, reads as rewritten:

"**§ 143-215.104F. (Repealed effective January 1, 2012) Requirements for certification, assessment agreements, and remediation agreements.**

(a) Any person petitioning for certification of a facility or abandoned site pursuant to G.S. 143-215.104G, for a dry-cleaning solvent assessment agreement pursuant to G.S. 143-215.104H, or for a dry-cleaning solvent remediation agreement pursuant to G.S. 143-215.104I, shall meet the requirements set out in this section and any other applicable requirements of this Part.

(b) Requirements for Potentially Responsible Persons Generally. -- Every petitioner shall provide the Commission with:

(1) ~~Information necessary for the Commission to determine the priority ranking of~~ Any information that the petitioner possesses relating to the contamination at the facility or abandoned site described in the petition.

(2) Information necessary to demonstrate the person's ability to incur the response costs specified in subsection (f) of this section.

(4) Information necessary to demonstrate that the petitioner, and any parent, subsidiary, or other affiliate of the petitioner has substantially complied with:

a. The terms of any dry-cleaning solvent assessment agreement, dry-cleaning solvent remediation agreement, brownfields agreement,

or other similar agreement to which the petitioner or any parent, subsidiary, or other affiliate of the petitioner has been a party.

b. The requirements applicable to any remediation in which the petitioner has previously engaged.

c. Federal and state laws, regulations, and rules for the protection of the environment.

(5) Evidence demonstrating that a release of dry-cleaning solvent has occurred at the facility or abandoned site and that the release has resulted in dry-cleaning solvent contamination.

(c) Requirement for Property Owners. -- In addition to the information required by subsection (b) of this section, a petitioner who is the owner of the property on which the dry-cleaning solvent contamination identified in the petition is located shall provide the Commission a written agreement authorizing the Commission or its agent to have access to the property for purposes of conducting assessment or remediation activities or determining whether assessment or remediation activities are being conducted in compliance with this Part and any assessment agreement or remediation agreement.

(c1) Costs incurred by the petitioner for activities to obtain certification of a facility or site shall not be reimbursable from the Fund.

(d) The Commission shall reject any petition made pursuant to this Part in any of the following circumstances:

(1) The petitioner is an owner or operator of the facility described in the petition and the facility was not being operated in compliance with minimum management practices adopted by the Commission pursuant to G.S. 143-215.104D(b)(2) at the time the contamination was discovered.

(2) The petitioner is an owner or operator of the facility described in the petition and the petitioner owed delinquent taxes under Article 5D of Chapter 105 of the General Statutes at the time the dry-cleaning solvent contamination was discovered.

(e) The Commission may reject any petition made pursuant to this Part in any of the following circumstances:

(1) The petitioner fails to provide the information required by subsection (b) of this section.

(2) The petitioner falsified any information in its petition that was material to the determination of the priority ranking, the nature, scope and extent of contamination to be assessed or remediated, or the appropriate means to contain and remediate the contaminants.

(f) Financial Responsibility Requirements. -- Each potentially responsible person who petitions the Commission to ~~enter into a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement~~ certify a facility or abandoned site shall accept written responsibility in the amount specified in this section for the assessment or remediation of the dry-cleaning solvent contamination identified in the petition. If two or more potentially responsible persons petition the Commission jointly, the requirements below shall be the aggregate requirements for the financial responsibility of all potentially responsible persons who are party to the petition. Unless an alternative arrangement is agreed to by co-petitioners, the financial responsibility requirements of this section shall be apportioned equally among the co-petitioners.

Facility or Abandoned Site Where Release Occurred	Costs
Dry-cleaning facilities owned by persons who employ fewer than five full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year	$10,000
Dry-cleaning facilities owned by persons who employ at least five but fewer than 10 full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year	$15,000
Dry-cleaning facilities owned by persons who employ 10 or more full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year	$20,000
Wholesale distribution facilities	$30,000
Abandoned dry-cleaning facility sites	$50,000."

Section 8. G.S. 143-215.104G reads as rewritten:

"**§ 143-215.104G. (Effective January 1, 1999; repealed effective January 1, 2012) Certification of facilities and abandoned sites.**

(a) A potentially responsible party may petition the Commission to certify a facility or abandoned site where a release of dry-cleaning solvent ~~is believed to have~~ has occurred. The Commission shall certify the facility or abandoned site if

the petitioner meets the applicable requirements of G.S. 143-215.104F. Upon its decision to certify a facility or abandoned site, the Commission shall inform the petitioner of its decision and of the initial priority ranking of the facility or site.

~~(b) The Commission may change the initial priority rankings of any facility or abandoned site as additional facilities or abandoned sites are certified if the Commission, in its sole discretion, determines that additional facilities or sites pose a higher degree of harm or risk to public health and the environment. However, the Commission shall not change the priority ranking of a facility or an abandoned site that is set in a dry-cleaning solvent remediation agreement.~~

(c) A potentially responsible party who petitions for certification of a facility or abandoned site shall provide the Commission with either of the following:

(1) A ~~proposed dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement or an indication~~ written statement of the petitioner's intent to enter into an assessment agreement or remediation agreement.

(2) A written statement of the petitioner's intent to conduct assessment and remediation activities pursuant to subsection (d) of this section.

(d) A person who has access to property that is contaminated by dry-cleaning solvent and who has successfully petitioned for certification of the facility or abandoned site from which the contamination is believed to have resulted may undertake assessment or remediation of dry-cleaning solvent contamination located on the property consistent with the standards established by the Commission pursuant to G.S. 143-215.104D(b)(3) without first entering into a dry-cleaning solvent assessment agreement or a dry-cleaning solvent remediation agreement. No assessment or remediation activities undertaken pursuant to this subsection shall rely on standards that require the creation of land-use restrictions. A person who undertakes assessment or remediation activities pursuant to this subsection shall provide the Commission prior written notice of the activity. Costs associated with assessment or remediation activities undertaken pursuant to this subsection shall not be eligible for reimbursement from the Fund.

(e) The rejection of any petition filed pursuant to this section shall not affect the rights of any other petitioner, other than any parent, subsidiary, or other affiliate of the

petitioner, under this Part. The rejection of a petition or the decertification of a facility or abandoned site may be the basis for rejection of a petition by any parent, subsidiary, or other affiliate of the petitioner for the facility or abandoned site."

Section 9. G.S. 143-215.104H reads as rewritten:

"**§ 143-215.104H. (Effective January 1, 1999; repealed effective January 1, 2012) Dry-Cleaning Solvent Assessment Agreements.**

(a) Assessment Agreements. -- One or more potentially responsible parties may petition the Commission to enter into a dry-cleaning solvent assessment agreement regarding a facility or abandoned site that has been certified pursuant to G.S. 143-215.104G. The Commission may, in its discretion, enter into an assessment agreement with any potentially responsible party who satisfies the requirements of this section and the applicable requirements of G.S. 143-215.104F. If more than one potentially responsible party petitions the Commission, the Commission may enter into a single assessment agreement with one or more of the petitioners. The Commission shall not unreasonably refuse to enter into an assessment agreement pursuant to this section. ~~Petitioners shall~~ The Commission may require the petitioners to provide the Commission with any information necessary to ~~demonstrate that the:~~ demonstrate:

(1) ~~Priority~~ The priority ranking assigned to the facility or site is consistent with the rules adopted ~~by the Commission or the adjusted priority ranking that the petitioner agrees to accept is consistent with the rules adopted~~ by the Commission.

(2) ~~Projected~~ The projected schedule for funding of assessment ~~activities, including reimbursements from the Fund~~ activities is adequate.

(3) ~~Assessment~~ The assessment activities to be undertaken with respect to the dry-cleaning solvent contamination and any other contamination at the contamination site are adequate.

(4) ~~Person~~ The person who will be responsible for implementation of the activities is capable and qualified to conduct the assessment.

(4a) The amount of funds already expended by the petitioner for assessment or remediation of dry-cleaning solvent contamination at the facility or site.

(5) ~~Petitioner~~ The petitioner has and will continue to have available the financial resources necessary to

pay the costs of assessment activities and the share of response costs imposed on the petitioner by G.S. 143-215.104F.

(6) ~~Permits~~ The permits or other authorizations required to conduct the assessment activities and to lawfully dispose of any hazardous substances or wastes generated by the assessment activities have been or can be obtained.

(7) ~~Assessment~~ The assessment activities will not increase the existing level of public exposure to health or environmental hazards at the contamination site.

(8) ~~Costs~~ The costs to be incurred in connection with the assessment activities contemplated by the assessment agreement are reasonable and necessary.

(9) ~~Petitioner~~ The petitioner has obtained the consent of other property owners to enter into their property for the purpose of conducting assessment activities specified in the assessment agreement.

(b) The terms and conditions of an assessment agreement regarding dry-cleaning solvent contamination shall be guided by and consistent with the rules adopted by the Commission pursuant to G.S. 143-215.104D and the reimbursement authorities and limitations set out in this Part. An assessment agreement shall, subject to the availability of monies from the Fund:

~~(1) Specify the date on which remediation will begin.~~

(1a) Require that the petitioner shall be liable to the Fund for an amount equal to the difference, if any, between the applicable amount of financial responsibility established by G.S. 143-215.104F and the amount reasonably paid by the petitioner for assessment or remediation activities of the type specified in G.S. 143-215.104N(a)(1) through (7) and otherwise consistent with the requirements of this Part.

(2) Provide for the prompt reimbursement of response costs incurred in assessment activities that are found by the Commission to be consistent with the assessment agreement and this Part.

(c) The Commission may refuse to enter into a dry-cleaning solvent assessment agreement with any petitioner if:

(1) The petitioner will not accept financial responsibility for the share of the response costs required by G.S. 143-215.104F.

(2) The petitioner will not accept responsibility for conducting, supervising, or otherwise undertaking assessment activities required by the Commission.

(3) The petitioner fails to provide any information required by subsection (a) of this section.

(d) The refusal of the Commission to enter into a dry-cleaning solvent assessment agreement with any petitioner shall not affect the rights of any other petitioner under this Part, except that the refusal may be the basis for rejection of a petition by any parent, subsidiary or other affiliate of the petitioner for the facility or abandoned site.

(e) If the Commission determines from an assessment prepared pursuant to this Part that the degree of risk to public health or the environment resulting from dry-cleaning solvent contamination otherwise subject to assessment or remediation under this Part and Article 9 of Chapter 130A is acceptable in light of the criteria established pursuant to G.S. 143-215.104D(b)(3) and Article 9 of Chapter 130A, the Commission shall issue a written statement of its determination and notify the owner or operator of the facility or abandoned site responsible for the contamination that no cleanup, no further cleanup, or no further action is required in connection with the contamination.

(f) If the Commission determines that no remediation or further action is required in connection with dry-cleaning solvent contamination otherwise subject to assessment or remediation pursuant to this Part and Article 9 of Chapter 130A, the Commission shall not pay or reimburse any response costs otherwise payable or reimbursable under this Part from the Fund other than costs reasonable and necessary to conduct the risk assessment pursuant to this section and in compliance with a dry-cleaning solvent assessment agreement."

Section 10. G.S. 143-215.104I(a) reads as rewritten:

"(a) Upon the completion of assessment activities required by a dry-cleaning solvent assessment agreement, one or more potentially responsible parties may petition the Commission to enter into a dry-cleaning solvent remediation agreement for any contamination requiring remediation. The Commission may, in its discretion, enter into a remediation agreement with any petitioner who satisfies the requirements of this section and the applicable requirements of G.S. 143-215.104F. If more than one potentially responsible party petitions the Commission, the Commission may enter into a single remediation agreement with one or more of the petitioners. The Commission shall not unreasonably refuse to enter into a remediation agreement pursuant to this

section. The Commission may, in its discretion, enter into a remediation agreement that includes the assessment described in G.S. 143-215.104H. Petitioners shall provide the Commission with any information necessary to demonstrate that:

~~(1) The petitioner, and any parent, subsidiary, or other affiliate of the petitioner has substantially complied with:~~

~~a. The terms of any dry-cleaning solvent assessment agreement, dry-cleaning solvent remediation agreement, brownfields agreement, or other similar agreement to which the petitioner or any parent, subsidiary, or other affiliate of the petitioner has been a party.~~

~~b. The requirements applicable to any remediation in which the petitioner has previously engaged.~~

~~c. Federal and State laws, regulations, and rules for the protection of the environment.~~

(2) As a result of the remediation agreement, the contamination site will be suitable for the uses specified in the remediation agreement while fully protecting public health and the environment from dry-cleaning solvent contamination and any other contaminants included in the remediation agreement.

(3) There is a public benefit commensurate with the liability protection provided under this Part.

(4) The petitioner has or can obtain the financial, managerial, and technical means to fully implement the remediation agreement and assure the safe use of the contamination site.

(5) The petitioner has complied with or will comply with all applicable procedural requirements.

(6) The remediation agreement will not cause the Department to violate the terms and conditions under which the Department operates and administers remedial programs, including the programs established or operated pursuant to Article 9 of Chapter 130A of the General Statutes, by delegation or similar authorization from the United States or its departments or agencies, including the United States Environmental Protection Agency.

(7) The priority ranking assigned to the facility or site is consistent with the rules adopted by the Commission or the ~~adjusted~~ priority ranking that

the petitioner agrees to accept is consistent with the rules adopted by the Commission.

(8) The projected schedule for funding of remediation ~~activities, including reimbursements from the Fund.~~ activities.

(9) The petitioner will continue to have available the financial resources necessary to satisfy the share of response costs imposed on the petitioner by G.S. 143-215.104F.

(10) The expenditures eligible for reimbursement from the Fund and to be incurred in connection with the remediation agreement are reasonable and necessary.

(11) The consent of other property owners to enter into their property for purposes of conducting remediation activities specified in the remediation agreement."

Section 11. G.S. 143-215.104I(c)(6) reads as rewritten:

"(c) A dry-cleaning solvent remediation agreement shall contain a description of the contamination site that would be sufficient as a description of the property in an instrument of conveyance and, as applicable, a statement of:

. . .

(6) The ~~final~~ priority ranking of the facility or abandoned site."

Section 12. G.S. 143-215.104N(a) reads as rewritten:

"(a) Reimbursement. -- To the extent monies are available in the Fund for reimbursement of response costs, the Commission shall reimburse any ~~person~~ person, including a private contractor, responsible for implementing reasonable and necessary assessment and remediation activities at a contamination site associated with a certified facility or a certified abandoned site pursuant to a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement for the following assessment and remediation response ~~costs:~~ costs, for which appropriate documentation is submitted:

(1) Costs of assessment with respect to dry-cleaning solvent contamination.

(2) Costs of treatment or replacement of potable water supplies affected by the contamination.

(3) Costs of remediation of affected soil, groundwater, surface waters, bedrock or other rock formations, or buildings.

(4) Monitoring of the contamination.

(5) Inspection and supervision of activities described in this subsection.

(6) Reasonable costs of restoring property as nearly as practicable to the conditions that existed prior to activities associated with assessment and remediation conducted pursuant to this Part.

(7) Other activities reasonably required to protect public health and the environment."

Section 13. G.S. 143-215.104I(g) reads as rewritten:

"(g) The terms and conditions of a dry-cleaning solvent remediation agreement concerned with dry-cleaning solvent contamination shall be guided by and consistent with the rules adopted by the Commission pursuant to G.S. 143-215.104D and the reimbursement authorities and limitations set out in this Part. A remediation agreement shall provide, subject to availability of monies in the Fund, for prompt reimbursement of response costs incurred in assessment or remediation activities that are found by the Commission to be consistent with the remediation agreement and this Part. A remediation agreement may provide for the Commission to conduct assessment and remediation activities at the site."

Section 14. G.S. 143-215.104N(c) reads as rewritten:

"(c) The Commission shall not pay or reimburse any response costs arising from a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement until the petitioners who are party to the agreement have exhausted the financial resources made available under the agreement pursuant to ~~G.S. 143-215.104E and~~ G.S. 143-215.104F."

Section 15. G.S. 143-215.104O reads as rewritten:

"**§ 143-215.104O. (Repealed effective January 1, 2012) Remediation of uncertified sites.**

(a) In the event the owner or operator of a facility or the current owner of an abandoned site cannot be identified or located, unreasonably refuses to enter into either an assessment agreement or remediation agreement or cannot be made to comply with the provisions of an assessment agreement or remediation agreement between the petitioner and the Commission, the Commission may direct the Department or a private contractor engaged by the Commission to use staff, equipment, or materials under the control of the Department or contractor or provided by other cooperating federal, State, or local agencies to develop and implement a plan for abatement of an imminent hazard, or to provide interim alternative sources of drinking water to third parties affected by dry-cleaning solvent contamination resulting

from a release at the facility or abandoned site. The cost of any of these actions shall be paid from the Fund. The Department or private contractor shall keep a record of all expenses incurred for personnel and for the use of equipment and materials and all other expenses of developing and implementing the remediation plan.

(b) The Commission shall request the Attorney General to commence a civil action to secure reimbursement of costs incurred under this ~~subsection.~~ section.

(c) In the event a civil action is commenced pursuant to this Part to recover monies paid from the Fund, the Commission may recover, in addition to any amount due, the costs of the action, including reasonable attorneys' fees and investigation expenses. Any monies received or recovered as reimbursement shall be paid into the Fund or other source from which the expenditures were made."

Section 16. Section 5 of S.L. 1997-392 reads as rewritten:

"Section 5. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. The Environmental Management Commission may adopt temporary rules to implement this act until ~~1 January 1999.~~ 30 June 2000."

Section 17. Section 7 of S.L. 1997-392 reads as rewritten:

"Section 7. (a) Any person who undertakes assessment or remediation of dry-cleaning solvent contamination pursuant to ~~an~~ a notice of violation or enforcement action by the Department of ~~Environment, Health,~~ Environment and Natural Resources during the period beginning 1 October 1997 and ~~1 January 1999~~ ending 30 June 2000 may, on or after ~~1 January 1999~~ 30 June 2000 seek reimbursement from the Dry-Cleaning Solvent Cleanup Fund for any costs exceeding fifty thousand dollars ($50,000). The Commission shall reimburse costs if it finds that the costs incurred were (i) appropriately documented and reasonably necessary to assess or remediate the dry-cleaning solvent contamination; (ii) for any of the activities described in subdivisions (1) through (7) of G.S. 143-215.104N(a); (iii) not subject to any of the limitations in subdivisions (4) ~~or (5)~~ through (9) of G.S. 143-215.104N(b); and (iv) not reimbursable from pollution and remediation legal liability insurance; and (v) required by a notice of violation or a specific order of the Department of ~~Environment, Health,~~ Environment and Natural Resources issued on or after 30 June 1996. No reimbursement may be paid pursuant to this section for

dry-cleaning solvent contamination that did not result from operations at a dry-cleaning or wholesale distribution facility.

(b) Any person who, as of ~~1 January 1999,~~ 30 June 2000, is undertaking assessment or remediation of dry-cleaning solvent contamination shall be eligible to petition the Commission to enter into a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement with respect to the contamination. In calculating the required financial contribution of parties to any agreement, the Commission shall determine the reasonable cost of any necessary unreimbursed assessment or remediation activity undertaken by the parties with respect to the contamination site prior to ~~1 January 1999~~ 30 June 2000 and shall credit the amount toward any applicable financial responsibility limits established in G.S. 143-215.104F."

Section 18. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

Section 19. Article 21A of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.104V. Dry-cleaning solvent reduction goals.**

It shall be the goal of the State of North Carolina to reduce the use of Perchloroethylene F-1,1,3 (PERC) by dry-cleaning facilities in accordance with the following schedule:

Percent Reduction in PERC	Reduction Deadline
10%	1 July 2004
25%	1 July 2009
50%	1 July 2014
100%	1 July 2019."

Section 20. G.S. 143-215.104U reads as rewritten:

§ 143-215.104U. (Repealed effective January 1, 2012) Reporting requirements.

"(a) The Secretary shall present an annual report to the Environmental Review Commission that shall include at least the following:

(1) A list of all dry-cleaning solvent contamination reported to the Department.

(2) A list of all facilities and abandoned sites certified by the Commission and the status of contamination associated with each facility or abandoned site.

(3) An estimate of the cost of assessment and remediation required in connection with facilities

or abandoned sites certified by the Commission and an estimate of assessment and remediation costs expected to be paid from the Fund.

(4) A statement of receipts and disbursements for the Fund.

(5) A statement of all claims against the Fund, including claims paid, claims denied, pending claims, anticipated claims, and any other obligations.

(6) The adequacy of the Fund to carry out the purposes of this Part together with any recommendations as to measures that may be necessary to assure the continued solvency of the Fund.

(7) The progress of the State in attaining the goals of reducing the use of Perchloroethylene F-1,1,3 (PERC) as established in G.S. 143-215.104T.

(8) The cost and effectiveness of dry-cleaning technologies and chemicals that offer an alternative to the use of Perchloroethylene F-1,1,3 (PERC).

(b) The Secretary shall make the annual report required by this section on or before 1 October of each year."

Section 21. Sections 1 and 2 of this act are effective July 1, 2001. Sections 3 and 4 of this act are effective April 1, 1998. Sections 5 through 21 of this act are effective when this act becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1326*

Short Title: Dry-Cleaning Solvent Cleanup Amends. (Public)

Sponsors: Representatives Gibson; and Justus.

Referred to: Finance.

April 23, 1999

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE REQUIREMENT THAT OWNERS AND OPERATORS OF DRY-CLEANING FACILITIES ESTABLISH AND MAINTAIN FINANCIAL RESPONSIBILITY FOR LEGAL LIABILITY FOR CONTAMINATION, TO PHASE IN A PRIVILEGE TAX ON DRY-CLEANING AND LAUNDRY BUSINESSES BASED ON GROSS RECEIPTS, TO PHASE OUT STATE AND LOCAL SALES TAXES ON DRY-CLEANING SERVICES, AND TO MAKE OTHER AMENDMENTS TO THE DRY-CLEANING SOLVENT CLEANUP ACT OF 1997.

The General Assembly of North Carolina enacts:

PART I. REPEAL REQUIREMENT THAT OWNERS AND OPERATORS OF DRY-CLEANING FACILITIES ESTABLISH AND MAINTAIN FINANCIAL RESPONSIBILITY FOR LEGAL LIABILITY FOR CONTAMINATION

Section 1.1. G.S. 143-215.104B(b)(20), 143-215.104E, 143-215.104F(b)(3), 143-215.104F(d)(3), 143-215.104F(g), 143-215.104J(a)(5), 143-215.104P(a)(1), and Section 3 of S.L. 1997-392 are repealed.

Section 1.2. G.S. 143-215.104F(f) reads as rewritten:

"(f) Financial Responsibility Requirements. -- Each potentially responsible person who petitions the Commission to enter into a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement shall accept written responsibility in the amount specified in this section for the assessment or

remediation of the dry-cleaning solvent contamination identified in the petition. If two or more potentially responsible persons petition the Commission jointly, the requirements below shall be the aggregate requirements for the financial responsibility of all potentially responsible persons who are party to the petition. Unless an alternative arrangement is agreed to by co-petitioners, the financial responsibility requirements of this section shall be apportioned equally among the co-petitioners. ~~The requirements in this subsection shall be in addition to any insurance or other financial responsibility, including deductibles or retentions, established pursuant to G.S. 143-215.104E.~~

Facility or Abandoned Site Where Release Occurred	Costs
Dry-cleaning facilities owned by persons who employ fewer than five full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year	~~$5,000~~ $10,000
Dry-cleaning facilities owned by persons who employ at least five but fewer than 10 full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year	~~$10,000~~ $15,000
Dry-cleaning facilities owned by persons who employ 10 or more full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year	~~$15,000~~ $20,000
Wholesale distribution facilities	~~$25,000~~ $30,000
Abandoned dry-cleaning facility sites	$50,000."

PART II. PHASE IN OF PRIVILEGE TAX ON DRY-CLEANING AND LAUNDRY BUSINESSES BASED ON GROSS RECEIPTS; PHASE OUT OF STATE AND LOCAL SALES TAXES ON DRY-CLEANING SERVICES

Section 2.1. Chapter 105 of the General Statutes is amended to add a new Article to read:

"ARTICLE 5E.

"Privilege Tax on Dry-cleaning and Laundry Businesses.

"§ 105-187.50. Definitions.

The definitions set out in G.S. 105-164.3 apply to this Article, except that the term 'sale' does not include lease or rental.

"§ 105-187.51. Tax imposed.

(a) A privilege tax is imposed on every person engaged in the business of operating a dry-cleaning, pressing, or hat-blocking establishment, or laundry, or any similar business, or engaged in the business of soliciting cleaning, pressing, hat-blocking, or laundering business for any of these businesses at a rate of two percent (2%) of the gross receipts of the business.

(b) The tax imposed by this section does not apply to gross receipts derived from services performed for resale by a retailer that pays the tax on the total gross receipts derived from the services. The tax imposed by this section does not apply to receipts derived from coin or token operated washing machines, extractors, and dryers.

"**§ 105-187.52. Administration.**

Except as otherwise provided in this Article, the tax imposed by this Article shall be collected and administered in the same manner as the State sales tax imposed by Article 5 of this Chapter.

"**§ 105-187.53. Use of tax proceeds.**

The Secretary shall deposit the taxes collected under this Article, less the allowance to the Department of Revenue for their administrative expenses, in the Dry-Cleaning Solvent Cleanup Fund established by G.S. 143-215.104C. The Secretary may retain the cost of collection by the Department, not to exceed two hundred twenty-five thousand dollars ($225,000) a year as reimbursement to the Department."

Section 2.2. G.S. 105-187.51(a), as enacted by Section 2.1 of this act, reads as rewritten:

"(a) A privilege tax is imposed on every person engaged in the business of operating a dry-cleaning, pressing, or hat blocking establishment, or laundry, or any similar business, or engaged in the business of soliciting cleaning, pressing, hat blocking, or laundering business for any of these businesses at a rate of ~~two~~ three percent ~~(2%)~~ (3%) of the gross receipts of the business."

Section 2.3. G.S. 105-187.51(a), as enacted by Section 2.1 of this act and as amended by Section 2.2 of this act, reads as rewritten:

"(a) A privilege tax is imposed on every person engaged in the business of operating a dry-cleaning, pressing, or hat blocking establishment, or laundry, or any similar business, or engaged in the business of soliciting cleaning, pressing, hat blocking, or laundering business for any of these businesses at a rate of ~~three~~ four percent ~~(3%)~~ (4%) of the gross receipts of the business."

Section 2.4. G.S. 105-164.4(a)(4) reads as rewritten:

"(4) Every person engaged in the business of ~~operating a dry-cleaning, pressing, or hat-blocking establishment, a laundry, or any similar business, engaged in the business of~~ renting clean linen or towels or wearing apparel, or any similar business, or engaged in the business of soliciting ~~cleaning, pressing, hat blocking, laundering or linen rental~~ business for any of these businesses, is considered a retailer under this Article. A tax at the general rate of tax is levied on the gross receipts derived by these retailers from services rendered in engaging in any of the occupations or businesses

named in this subdivision. ~~The tax imposed by this subdivision does not apply to receipts derived from coin or token-operated washing machines, extractors, and dryers.~~ The tax imposed by this subdivision does not apply to gross receipts derived from services performed for resale by a retailer that pays the tax on the total gross receipts derived from the services."

Section 2.5. G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(4d) Every person engaged in the business of operating a dry-cleaning, pressing, or hat-blocking establishment, or laundry, or any similar business, or engaged in the business of soliciting cleaning, pressing, hat-blocking, or laundering for any of these businesses, is considered a retailer under this Article. A tax at a rate of three percent (3%) is levied on the gross receipts derived by these retailers from services rendered in engaging in any of the occupations or businesses named in this subdivision. The tax imposed by this subdivision does not apply to receipts derived from coin or token-operated washing machines, extractors, and dryers. The tax imposed by this subdivision does not apply to gross receipts derived from services performed for resale by a retailer that pays the tax on the total gross receipts derived from the services."

Section 2.6. G.S. 105-164.4(a)(4d), as enacted by Section 2.5 of this act, reads as rewritten:

"(4d) Every person engaged in the business of operating a dry-cleaning, pressing, or hat-blocking establishment, or laundry, or any similar business, or engaged in the business of soliciting cleaning, pressing, hat-blocking, or laundering for any of these businesses, is considered a retailer under this Article. A tax at a rate of ~~three~~ two percent ~~(3%)~~ (2%) is levied on the gross receipts derived by these retailers from services rendered in engaging in any of the occupations or businesses named in this subdivision. The tax imposed by this subdivision does not apply to receipts derived from coin or token-operated washing machines, extractors, and dryers. The tax imposed by this subdivision does not apply to gross receipts derived from services performed for resale by a retailer that pays the tax on the total gross receipts derived from the services."

Section 2.7. G.S. 105-164.4(a)(4d), as enacted by Section 2.5 of this act and as amended by Section 2.6 of this act, reads as rewritten:

"(4d) Every person engaged in the business of operating a dry-cleaning, pressing, or hat-blocking establishment, or laundry, or any similar business, or engaged in the business of soliciting cleaning, pressing, hat-blocking, or laundering for any of these businesses,

is considered a retailer under this Article. A tax at a rate of ~~two~~ one percent ~~(2%)~~ (1%) is levied on the gross receipts derived by these retailers from services rendered in engaging in any of the occupations or businesses named in this subdivision. The tax imposed by this subdivision does not apply to receipts derived from coin or token-operated washing machines, extractors, and dryers. The tax imposed by this subdivision does not apply to gross receipts derived from services performed for resale by a retailer that pays the tax on the total gross receipts derived from the services."

Section 2.8. G.S. 105-164.4(a)(1d)d. reads as rewritten:

"d. Sales to ~~commercial laundries or to pressing and dry cleaning~~ business establishments identified in G.S. 105-164.4(a)(4) of machinery used in the direct performance of the laundering or the pressing and cleaning service and of parts and accessories thereto."

Section 2.9. G.S. 105-164.13(10) reads as rewritten:

"(10) Sales to ~~commercial laundries or to pressing and dry cleaning establishments~~ business establishments identified in G.S. 105-164.4(a)(4) of articles or materials used for the identification of garments being laundered or dry cleaned, wrapping paper, bags, hangers, starch, soaps, detergents, cleaning fluids and other compounds or chemicals applied directly to the garments in the direct performance of the laundering or the pressing and cleaning service."

Section 2.10. G.S. 105-259(b)(20) reads as rewritten:

"(20) To furnish to the Environmental Management Commission information concerning whether a person who is requesting certification of a dry-cleaning facility or wholesale distribution facility from the Commission is liable for ~~privilege tax~~ delinquent taxes under Article 5D or Article 5F of this Chapter."

Section 2.11. G.S. 105-467 reads as rewritten:

"**§ 105-467. Scope of sales tax.**

(a) The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) of the following:

(1) The sales price of tangible personal property subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(1) and (a)(4b).

(2) The gross receipts derived from the lease or rental of tangible personal property when the lease or rental of the property is subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(2).

(3) The gross receipts derived from the rental of any room or other accommodations subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(3).

(4) The gross receipts derived from services rendered by ~~laundries, dry cleaners, and other businesses~~ business establishments subject to the ~~general rate of~~ sales tax imposed by the State under ~~G.S. 105-164.4(a)(4).~~ G.S. 105-164.4(a)(4) and G.S. 105-164.4(a)(4d).

(5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but would be exempt from the State sales and use tax pursuant to G.S. 105-164.13 if it were purchased under the Food Stamp Program, 7 U.S.C. § 51.

(b) The sales tax authorized by this Article does not apply to sales that are taxable by the State under G.S. 105-164.4 but are not specifically included in this section.

(c) The State exemptions and exclusions contained in G.S. 105-164.13 and the State refund provisions contained in G.S. 105-164.14 apply to the local sales and use tax authorized to be levied and imposed under this Article. A taxing county may not allow an exemption, exclusion, or refund that is not allowed under the State sales and use tax.

(d) The local sales tax authorized to be imposed and levied under this Article applies to taxable transactions by retailers whose place of business is located within the taxing county. For the purpose of this Article, the situs of a transaction is the location of the retailer's place of business."

Section 2.12. G.S. 105-467(a)(4), as amended by Section 2.11 of this act, reads as rewritten:

"(4) The gross receipts derived from services rendered by business establishments subject to the sales tax imposed by the State under ~~G.S. 105-164.4(a)(4) and G.S. 105-164.4(a)(4d).~~ G.S. 105-164.4(a)(4)."

Section 2.13. G.S. 143-215.104C(b) reads as rewritten:

"(b) Sources of Revenue. -- The following revenue is credited to the Fund:

(1) Dry-cleaning solvent taxes collected under Article 5D of Chapter 105 of the General Statutes.

(1a) Taxes collected pursuant to Article 5F of Chapter 105 of the General Statutes.

(2) Recoveries made pursuant to G.S. 143-215.104N and G.S. 143-215.104O.

(3) Gifts and grants made to the Fund."

Section 2.14. G.S. 143-215.104C(b), as amended by Section 2.13 of this act, reads as rewritten:

"(b) Sources of Revenue. -- The following revenue is credited to the Fund:

~~(1) Dry-cleaning solvent taxes collected under Article 5D of Chapter 105 of the General Statutes.~~

(1a) Taxes collected pursuant to Article 5F of Chapter 105 of the General Statutes.

(2) Recoveries made pursuant to G.S. 143-215.104N and G.S. 143-215.104O.
(3) Gifts and grants made to the Fund."

Section 2.15. G.S. 143-215.104C(b), as amended by Sections 2.13 and 2.14 of this act, reads as rewritten:

"(b) Sources of Revenue. -- The following revenue is credited to the Fund:
~~(1a) Taxes collected pursuant to Article 5F of Chapter 105 of the General Statutes.~~
(2) Recoveries made pursuant to G.S. 143-215.104N and G.S. 143-215.104O.
(3) Gifts and grants made to the Fund."

Section 2.16. G.S. 143-215.104F(d)(2) reads as rewritten:

"(2) The petitioner is an owner or operator of the facility described in the petition and the petitioner owed delinquent taxes under Article 5D or Article 5F of Chapter 105 of the General Statutes at the time the dry-cleaning solvent contamination was discovered."

Section 2.17. G.S. 143-215.104J(a)(4) reads as rewritten:

"(4) The payment of taxes assessed to the facility under Article 5D or Article 5F of Chapter 105 of the General Statutes is delinquent."

PART III. AMENDMENTS TO DRY-CLEANING SOLVENT CLEANUP ACT

Section 3.1. G.S. 143-215.104F, as amended by Sections 1.1, 1.2, and 2.16 of this act, reads as rewritten:

"**§ 143-215.104F. Requirements for certification, assessment agreements, and remediation agreements.**

(a) Any person petitioning for certification of a facility or abandoned site pursuant to G.S. 143-215.104G, for a dry-cleaning solvent assessment agreement pursuant to G.S. 143-215.104H, or for a dry-cleaning solvent remediation agreement pursuant to G.S. 143-215.104I, shall meet the requirements set out in this section and any other applicable requirements of this Part.

(b) Requirements for Potentially Responsible Persons Generally. -- Every petitioner shall provide the Commission with:
(1) Information necessary for the Commission to determine the priority ranking of the facility or abandoned site described in the petition.
(2) Information necessary to demonstrate the person's ability to incur the response costs specified in subsection (f) of this section.
(4) Information necessary to demonstrate that the petitioner, and any parent, subsidiary, or other affiliate of the petitioner has substantially complied with:
a. The terms of any dry-cleaning solvent assessment agreement, dry-cleaning solvent remediation agreement, brownfields agreement, or other similar agreement to which the

petitioner or any parent, subsidiary, or other affiliate of the petitioner has been a party.

b. The requirements applicable to any remediation in which the petitioner has previously engaged.

c. Federal and state laws, regulations, and rules for the protection of the environment.

(5) Evidence demonstrating that a release of dry-cleaning solvent has occurred at the facility or abandoned site and that the release has resulted in dry-cleaning solvent contamination.

(c) Requirement for Property Owners. -- In addition to the information required by subsection (b) of this section, a petitioner who is the owner of the property on which the dry-cleaning solvent contamination identified in the petition is located shall provide the Commission a written agreement authorizing the Commission or its agent to have access to the property for purposes of determining whether assessment or remediation activities are being conducted in compliance with this Part and any assessment agreement or remediation agreement.

(c1) The costs of providing information required by this section shall not be reimbursable from the Fund.

(d) The Commission shall reject any petition made pursuant to this Part in any of the following circumstances:

(1) The petitioner is an owner or operator of the facility described in the petition and the facility was not being operated in compliance with minimum management practices adopted by the Commission pursuant to G.S. 143-215.104D(b)(2) at the time the contamination was discovered.

(2) The petitioner is an owner or operator of the facility described in the petition and the petitioner owed delinquent taxes under Article 5D of Chapter 105 of the General Statutes at the time the dry-cleaning solvent contamination was discovered.

(e) The Commission may reject any petition made pursuant to this Part in any of the following circumstances:

(1) The petitioner fails to provide the information required by subsection (b) of this section.

(2) The petitioner falsified any information in its petition that was material to the determination of the priority ranking, the nature, scope and extent of contamination to be assessed or remediated, or the appropriate means to contain and remediate the contaminants.

(f) Financial Responsibility Requirements. -- Each potentially responsible person who petitions the Commission to enter into a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement shall accept written responsibility in the amount specified in this section for the assessment or remediation of the dry-cleaning solvent contamination identified in the petition. If two or more potentially responsible persons petition the Commission jointly, the requirements below shall be the aggregate requirements for the financial

responsibility of all potentially responsible persons who are party to the petition. Unless an alternative arrangement is agreed to by co-petitioners, the financial responsibility requirements of this section shall be apportioned equally among the co-petitioners.

Facility or Abandoned Site Where Release Occurred	Costs
Dry-cleaning facilities owned by persons who employ fewer than five full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year	$10,000
Dry-cleaning facilities owned by persons who employ at least five but fewer than 10 full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year	$15,000
Dry-cleaning facilities owned by persons who employ 10 or more full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year	$20,000
Wholesale distribution facilities	$30,000
Abandoned dry-cleaning facility sites	$50,000.

(h) The amounts specified in subsection (f) of this section shall be the total amount for which a petitioner or group of petitioners shall be required to accept written responsibility with respect to a single contamination site."

Section 3.2. G.S. 143-215.104I(a)(1) and G.S. 143-215.104H(b)(1) are repealed.

Section 3.3. G.S. 143-215.104N(a) reads as rewritten:

"(a) Reimbursement. -- To the extent monies are available in the Fund for reimbursement of response ~~costs,~~ costs and appropriate documentation has been submitted, the Commission shall reimburse any person responsible for implementing assessment and remediation activities at a contamination site associated with a certified facility or a certified abandoned site pursuant to a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement for the following assessment and remediation response costs:

(1) Costs of assessment with respect to dry-cleaning solvent contamination.
(2) Costs of treatment or replacement of potable water supplies affected by the contamination.
(3) Costs of remediation of affected soil, groundwater, surface waters, bedrock or other rock formations, or buildings.
(4) Monitoring of the contamination.
(5) Inspection and supervision of activities described in this subsection.

(6) Reasonable costs of restoring property as nearly as practicable to the conditions that existed prior to activities associated with assessment and remediation conducted pursuant to this Part.

(7) Other activities reasonably required to protect public health and the environment."

Section 3.4. G.S. 143-215.104O reads as rewritten:

"**§ 143-215.104O. Remediation of uncertified sites.**

(a) In the event the owner or operator of a facility or the current owner of an abandoned site cannot be identified or located, unreasonably refuses to enter into either an assessment agreement or remediation agreement or cannot be made to comply with the provisions of an assessment agreement or remediation agreement between the petitioner and the Commission, the Commission may direct the Department or a private contractor engaged by the Commission to use staff, equipment, or materials under the control of the Department or contractor or provided by other cooperating federal, State, or local agencies to develop and implement a plan for abatement of an imminent hazard, or to provide interim alternative sources of drinking water to third parties affected by dry-cleaning solvent contamination resulting from a release at the facility or abandoned site. The cost of any of these actions shall be paid from the Fund. The Department or private contractor shall keep a record of all expenses incurred for personnel and for the use of equipment and materials and all other expenses of developing and implementing the remediation plan.

(b) The Commission shall request the Attorney General to commence a civil action to secure reimbursement of costs incurred under this ~~subsection.~~ section.

(c) In the event a civil action is commenced pursuant to this Part to recover monies paid from the Fund, the Commission may recover, in addition to any amount due, the costs of the action, including reasonable attorneys' fees and investigation expenses. Any monies received or recovered as reimbursement shall be paid into the Fund or other source from which the expenditures were made."

Section 3.5. G.S. 143-215.104G(a) reads as rewritten:

"(a) A potentially responsible party may petition the Commission to certify a facility or abandoned site where a release of dry-cleaning solvent ~~is believed to have~~ has occurred. The Commission shall certify the facility or abandoned site if the petitioner meets the applicable requirements of G.S. 143-215.104F. Upon its decision to certify a facility or abandoned site, the Commission shall inform the petitioner of its decision and of the initial priority ranking of the facility or site."

Section 3.6. Section 7 of S.L. 1997-392 reads as rewritten:

"Section 7. (a) Any person who undertakes assessment or remediation of dry-cleaning solvent contamination pursuant to ~~an~~ a notice of violation or enforcement action by the Department of ~~Environment, Health,~~ Environment and Natural Resources during the period beginning 1 October 1997 and ~~1 January 1999~~ ending 30 June 2000 may, on or after ~~1 January 1999~~ 30 June 2000 seek reimbursement from the Dry-Cleaning Solvent Cleanup Fund for any costs exceeding fifty thousand dollars ($50,000). The Commission shall reimburse costs if it finds that

the costs incurred were (i) appropriately documented and reasonably necessary to assess or remediate the dry-cleaning solvent contamination; (ii) for any of the activities described in subdivisions (1) through (7) of G.S. 143-215.104N(a); (iii) not subject to any of the limitations in subdivisions (4) ~~or (5)~~ through (9) of G.S. 143-215.104N(b); and (iv) not reimbursable from pollution and remediation legal liability ~~insurance; and (v) required by a specific order of the Department of Environment, Health, and Natural Resources issued on or after 30 June 1996.~~ insurance. No reimbursement may be paid pursuant to this section for dry-cleaning solvent contamination that did not result from operations at a dry-cleaning or wholesale distribution facility.

(b) Any person who, as of ~~1 January 1999,~~ 30 June 2000, is undertaking assessment or remediation of dry-cleaning solvent contamination shall be eligible to petition the Commission to enter into a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement with respect to the contamination. In calculating the required financial contribution of parties to any agreement, the Commission shall determine the cost of any unreimbursed assessment or remediation activity undertaken by the parties with respect to the contamination site prior to ~~1 January 1999~~ 30 June 2000 and shall credit the amount toward any applicable financial responsibility limits established in G.S. 143-215.104F."

PART IV. MISCELLANEOUS PROVISIONS AND EFFECTIVE DATES

Section 4.1. Section 5 of S.L. 1997-392 reads as rewritten:

"Section 5. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. The Environmental Management Commission may adopt temporary rules to implement this act until ~~1 January 1999.~~ 30 June 2000."

Section 4.2. The headings to the Parts of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

Section 4.3. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

Section 4.4. The sections of this act become effective and expire on the dates specified in the following table:

Section	Effective Date	Expiration Date
Section 1.1	1 April 1998	
Section 1.2	1 April 1998	
Section 2.1	1 July 2000	
Section 2.2	1 July 2001	
Section 2.3	1 July 2002	1 July 2010
Section 2.4	1 July 2000	
Section 2.5	1 July 2000	
Section 2.6	1 July 2001	

1	Section 2.7	1 July 2002	1 July 2010
2	Section 2.8	1 July 2003	
3	Section 2.9	1 July 2003	
4	Section 2.10	1 July 2000	1 July 2010
5	Section 2.11	1 July 2000	
6	Section 2.12	1 July 2003	
7	Section 2.13	1 July 2000	
8	Section 2.14	1 January 2010	
9	Section 2.15	1 July 2010	
10	Section 2.16	1 July 2000	1 July 2010
11	Section 2.17	1 July 2000	1 July 2010
12	Section 3.1	When this act becomes law	
13	Section 3.2	When this act becomes law	
14	Section 3.3	When this act becomes law	
15	Section 3.4	When this act becomes law	
16	Section 3.5	When this act becomes law	
17	Section 3.6	When this act becomes law	
18	Section 4.1	When this act becomes law	
19	Section 4.2	When this act becomes law	
20	Section 4.3	When this act becomes law	
21	Section 4.4	When this act becomes law.	

at

FISCAL ANALYSIS MEMORANDUM

DATE: July 1, 1999

TO: House Finance Committee

FROM: Richard Bostic
Fiscal Research Division

RE: Dry-Cleaning Solvent Cleanup Amends.

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
General Fund - Sales Tax Transfer			($2,300,000)	($4,600,000)	($6,900,000)
Dry-Cleaning Solvent Cleanup Fund			$2,300,000	$4,600,000	$6,900,000

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue (DOR); Environmental Management Commission

EFFECTIVE DATE: Section 3 of the bill dealing with the transfer of sales tax is effective July 1, 2001.

BILL SUMMARY:
This fiscal memo looks only at the transfer of sales tax receipts from the General Fund to the Dry-Cleaning Solvent Cleanup Fund.

BACKGROUND:
A state sales tax of 4% and local sales tax of 2% is imposed on the gross receipts of businesses "operating a dry-cleaning, pressing, or hat blocking establishment, a laundry, or any similar business, engaged in the business of renting clean linen or towels or wearing apparel, or any similar business, or engaged in the business of soliciting cleaning, pressing, hat blocking, laundering or linen rental business for any of these businesses." A 1% sales tax with a $80 maximum is applied to sales of dry-cleaning and laundering machinery. Items used in the dry-

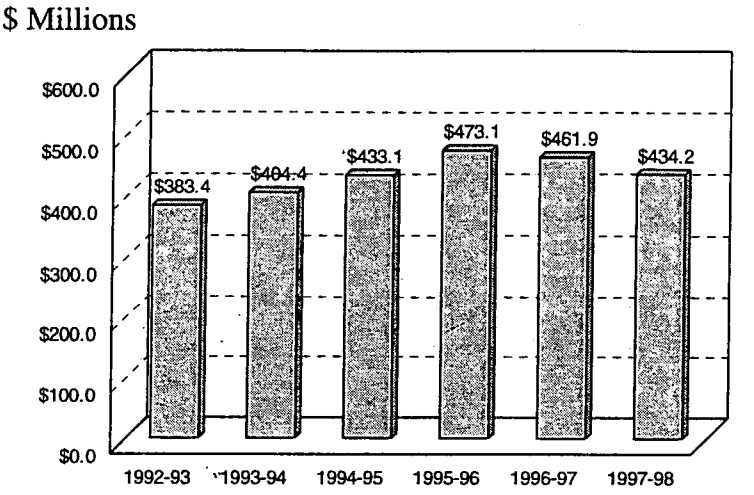
cleaning and laundering process such as starch, soap, cleaning fluids, hangers, and bags are exempted from sales and use tax.

ASSUMPTIONS AND METHODOLOGY:

REVENUE

The gross retail sales for laundries and dry cleaners have declined in recent years from a high of $473.1 million in 1995-96 to $434.3 million in 1997-98. Gross retail sales in the current fiscal year are on pace to finish at $431 million. This fiscal note will assume gross retail sales of $435 million a year with no growth.

GROSS RETAIL SALES FOR LAUNDRIES AND DRY CLEANERS



Gross retail sales includes both taxable and nontaxable sales reported on monthly and semimonthly sales and use tax returns. To estimate the impact of HB 1326, nontaxable sales must be removed from the equation. Dividing sales tax collection by 4%, then dividing that result by gross retail sales provides the percentage of taxable sales. From 1993 to 1999, the percentage of taxable sales ranged from 81.6% in FY 1996-97 to 90.3% in the first seven months of 1998-99 (see chart below). This fiscal memo will assume the midpoint of this range or 87.9%. If $435 million in gross retail sales of laundry and dry-cleaning services each year, then 87.9% or $382,365,000 in sales are taxable.

	Sales Tax Collected	Gross Retail Sales	Percent (%) Taxable
FY 1998-99	$ 9,075,796	$251,316,232	90.3%
FY 1997-98	$15,225,715	$434,290,844	87.6%
FY 1996-97	$15,085,579	$461,954,623	81.6%
FY 1995-96	$16,091,521	$473,132,389	85.0%
FY 1994-95	$15,234,188	$433,121,056	87.9%
FY 1993-94	$14,426,870	$404,433,777	89.2%
FY 1992-93	$13,689,558	$383,399,394	89.3%

A 4% state sales tax on $383.4 million in dry-cleaning, laundry and linen rental services is equal to $15.34 million. HB 1326 transfers a portion of these state sales tax receipts from dry cleaning and laundry services from the General Fund to the Dry-Cleaning Solvent Cleanup Fund as follows:

	% of Tax Transferred	Amount Transferred
FY 1999-00		
FY 2000-01		
FY 2001-02	15%	$2.3 million
FY 2002-03	30%	$4.6 million
FY 2003-04	45%	$6.9 million
FY 2004-05	60%	$9.2 million
FY 2005-06	60%	$9.2 million

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ House Committee Substitute for
S.B. 297 A BILL TO BE ENTITLED AN ACT TO MAKE TECHNICAL AND OTHER CHANGES REGARDING LIMITED PARTNERSHIPS AND THE NORTH CAROLINA REVISED UNIFORM LIMITED PARTNERSHIP ACT, TO CLARIFY THE LIMIT OF LIABILITY IN PROFESSIONAL ORGANIZATIONS, TO PROVIDE FOR THE REGISTRATION OF FOREIGN LIMITED LIABILITY PARTNERSHIPS, AND TO REQUIRE ANNUAL REPORTS BY LIMITED LIABILITY PARTNERSHIPS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to House committee substitute bill (# 2), ☐ ~~which changes the title~~, unfavorable as to ~~(original bill)~~ (House Committee Substitute Bill # 1), (~~and recommendation that the committee substitute bill #) be re-referred to the Committee on~~)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 297

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S297-ARB-6/30A

Date July 1 ,1999

Comm. Sub. [YES]
Amends Title []
Third Edition

Representative Wilson

moves to amend the bill on page 7, lines 10 and 11, by inserting a new subdivision between those lines to read:

"(5) The fiscal year end of the partnership.";

and on page 7, lines 21 through 24, by rewriting those lines to read:

"two hundred dollars ($200.00).";

and on page 9, lines 16 and 17, by inserting a new subdivision between those lines to read:

"(6) The fiscal year end of the partnership.";

and on page 21, lines 1 through 10, by rewriting the lines to read:

"Section 38. Sections 2, 3, and 5 become effective October 1, 1999, and apply to liabilities arising on or after that date. Section 4 becomes effective January 1, 2000. Sections 6, 7, and 8 become effective January 1, 2000, and apply to registered limited liability partnerships existing on or after that date. Section 9 becomes effective january 1, 2000, and applies to registered limited liability partnerships and foreign limited liability partnerships whose fiscal year ends on or after that date. Section 10 becomes effective January 1, 2000, and applies to foreign limited liability partnerships transacting business in this State on or after that date, except that any foreign limited liability partnership that, as of that effective date, was already registered with the Secretary of STate as a registered limited liability partnership shall not be required to register anew as a foreign limited liability partnership under G.S. 59-91. Section 27 becomes effective October 1, 1999, and

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 297

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S297-ARB-6/30A

applies to (i) any limited partnership formed before that date, only if validly adopted in writing by its partners or otherwise as a part of its partnership agreement, and (ii) all limited partnerships formed on or after that date. The remainder of this act becomes effective October 1, 1999."

SIGNED Connie Wilson
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 297
Judiciary I Committee Substitute Adopted 4/21/99
House Committee Substitute Favorable 6/16/99
Proposed House Committee Substitute S297-PCS1774-RB

Short Title: Ltd. Ptnersp./Prof. Liability Changes. (Public)

Sponsors:

Referred to:

March 8, 1999

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL AND OTHER CHANGES REGARDING LIMITED PARTNERSHIPS AND THE NORTH CAROLINA REVISED UNIFORM LIMITED PARTNERSHIP ACT, TO CLARIFY THE LIMIT OF LIABILITY IN PROFESSIONAL ORGANIZATIONS, TO PROVIDE FOR THE REGISTRATION OF FOREIGN LIMITED LIABILITY PARTNERSHIPS, AND TO REQUIRE ANNUAL REPORTS BY LIMITED LIABILITY PARTNERSHIPS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-79 reads as rewritten:

"**§ 1-79. Domestic ~~corporations.~~ corporations, limited partnerships, limited liability companies, and registered limited liability partnerships.**

(a) For the purpose of suing and being sued the residence of a domestic ~~corporation~~ corporation, limited partnership, limited liability company, or registered limited liability partnership is as follows:

(1) Where the registered or principal office of the ~~corporation~~ corporation, limited partnership, limited liability company, or registered limited liability partnership is located, or

(2) Where the ~~corporation~~ corporation, limited partnership, limited liability company, or registered limited liability partnership maintains a place of ~~business.~~ business, or

(3) If no registered or principal office is in existence, and no place of business is currently maintained or can reasonably be found, the term 'residence' shall include any place where the ~~corporation~~ corporation, limited partnership, limited liability company, or registered limited liability partnership is regularly engaged in carrying on business.

(b) For purposes of this section, the term 'domestic' when applied to an entity means:

(1) An entity formed under the laws of this State, or

(2) An entity that (i) is formed under the laws of any jurisdiction other than this State, and (ii) maintains a registered office in this State pursuant to a certificate of authority from the Secretary of State."

Section 2. G.S. 55B-9(b) reads as rewritten:

"(b) Liability. -- A shareholder, a director, or an officer of a professional corporation is not individually ~~liable~~ liable, directly or indirectly, including by indemnification, contribution, assessment, or otherwise, for the ~~debts and obligations~~ of debts, obligations, and liabilities of, or chargeable to, the professional corporation ~~arising~~ that arise from errors, omissions, negligence, malpractice, incompetence, or ~~malfeasance committed in the course of the professional corporation's business by another shareholder, director, or officer, or by a representative of the professional corporation not working under the supervision or direction of the first shareholder, director, or officer at the time the errors, omissions, negligence, incompetence, or malfeasance occurred, unless the first shareholder, director, or officer was directly involved in the specific activity in which the errors, omissions, negligence, incompetence, or malfeasance were committed by the other shareholder, director, or officer or by the representative.~~ malfeasance committed by another shareholder, director, or officer or by a representative of the professional corporation; provided, however, nothing in this Chapter shall affect the liability of a shareholder, director, or officer of a professional corporation for his or her own errors, omissions, negligence, malpractice, incompetence, or malfeasance committed in the rendering of professional services. This subsection does not affect the joint and several liability of a shareholder, a director, or an officer of a professional corporation for any taxes owed by the professional corporation under Chapter 105 of the General Statutes or Article 3 of Chapter 119 of the General Statutes."

Section 3. G.S. 57C-2-01(c) reads as rewritten:

"(c) Subsections (a) and (b) of this section to the contrary notwithstanding and except as set forth in this subsection, a domestic or foreign limited liability company shall engage in rendering professional services only to the extent that a professional corporation acting pursuant to Chapter 55B of the General Statutes or a corporation acting pursuant to Chapter 55 of the General Statutes may engage in rendering professional services under the conditions and limitations imposed by an applicable licensing statute. Chapter 55B of the General Statutes and each applicable licensing statute are deemed amended to provide that professionals licensed under the applicable licensing statute may render professional services through a domestic or

foreign limited liability company. For purposes of applying the provisions, conditions, and limitations of Chapter 55B of the General Statutes and the applicable licensing statute to domestic and foreign limited liability companies that engage in rendering professional services, (i) unless the context clearly requires otherwise, references to Chapter 55 of the General Statutes (the North Carolina Business Corporation Act) shall be treated as references to this Chapter, and references to a "corporation" or "foreign corporation" shall be treated as references to a limited liability company or foreign limited liability company, respectively, (ii) members shall be treated in the same manner as shareholders of a professional corporation, (iii) managers shall be treated in the same manner as directors of a professional corporation, (iv) the persons signing the articles of organization of a limited liability company shall be treated in the same manner as the incorporators of a professional corporation, and (v) the name of a domestic or foreign limited liability company so engaged shall comply with G.S. 57C-2-30 or G.S. 57C-7-06 and, in addition, shall contain the word "Professional" or the abbreviation "P.L.L.C." or "PLLC". For purposes of this subsection, "applicable licensing statute" shall mean those provisions of the General Statutes referred to in G.S. 55B-2(6).

Nothing in this Chapter shall be interpreted to abolish, modify, restrict, limit, or alter the law in this State applicable to the professional relationship and liabilities between the individual furnishing the professional services and the person receiving the professional services, ~~or~~ the standards of professional conduct applicable to the rendering of the ~~services.~~ services, or any ~~This Chapter does not relieve individuals of~~ responsibilities, obligations, or ~~the imposition of~~ sanctions imposed under applicable licensing ~~statutes, even if the sanctions are imposed for the conduct of other members of a limited liability company.~~ statutes. A member or manager of a professional limited liability company is not individually ~~liable for debts and obligations of~~ liable, directly or indirectly, including by indemnification, contribution, assessment, or otherwise, for debts, obligations, and liabilities of, or chargeable to, the professional limited liability company ~~arising~~ that arise from errors, omissions, negligence, malpractice, incompetence, or malfeasance committed ~~in the course of the professional limited liability company's business by another member or manager or a representative of the professional limited liability company not working under the supervision or direction of the first member or manager at the time the errors, omissions, negligence, incompetence, or malfeasance occurred, unless the first member or manager was directly involved in the specific activity in which the errors, omissions, negligence, incompetence, or malfeasance were committed by the other member or manager or representative.~~ by another member, manager, employee, agent, or other representative of the professional limited liability company; provided, however, nothing in this Chapter shall affect the liability of a member or manager of a professional limited liability company for his or her own errors, omissions, negligence, malpractice, incompetence, or malfeasance committed in the rendering of professional services."

Section 4. G.S. 59-32 reads as rewritten:

"**§ 59-32. Definition of terms.**

~~In this Article:~~ As used in this Chapter, except as otherwise defined in Article 5 of this Chapter for purposes of that Article, unless the context otherwise requires:

(1) 'Bankrupt' ~~includes~~ means bankrupt under the Federal Bankruptcy Act or insolvent under any State insolvent act.

(2) 'Business' ~~includes~~ means every trade, occupation, or profession.

(3) 'Conveyance' ~~includes~~ means every assignment, lease, mortgage, or encumbrance.

(4) 'Court' ~~includes~~ means every court and judge having jurisdiction in the case.

(4a) 'Foreign limited liability partnership' means a partnership that (i) is formed under laws other than the laws of this State, and (ii) has the status of a limited liability partnership or registered limited liability partnership under those laws.

(5) 'Person' ~~includes~~ means individuals, partnerships, corporations, limited liability companies, and other associations.

(6) 'Real property' ~~includes~~ means land and any interest or estate in land.

(7) 'Registered limited liability partnership' means a partnership that is registered under G.S. 59-84.2 and complies with G.S. 59-84.3."

Section 5. G. S. 59-45 reads as rewritten:

"**§ 59-45. Nature of partner's liability in ordinary partnerships and in registered limited liability partnerships.**

(a) Except as provided by ~~subsection~~ subsections (a1) and (b) of this section, all partners are jointly and severally liable for the acts and obligations of the partnership.

(a1) Except as provided in subsection (b) of this section, a partner in a registered limited liability partnership is not individually liable for debts and obligations of the partnership incurred while it is a registered limited liability partnership solely by reason of being a partner and does not become liable by participating, in whatever capacity, in the management or control of the business of the partnership.

(b) Nothing in this Chapter shall be interpreted to abolish, modify, restrict, limit, or alter the law in this State applicable to the professional relationship and liabilities between the individual furnishing the professional services and the person receiving the professional services, the standards of professional conduct applicable to the rendering of the services, or any responsibilities, obligations, or sanctions imposed under applicable licensing statutes. A partner in a registered limited liability partnership is not individually ~~liable~~ liable, directly or indirectly, including by indemnification, contribution, assessment, or otherwise, for ~~debts and obligations of~~ the debts, obligations, and liabilities of, or chargeable to, the registered limited liability partnership ~~arising~~ that arise from errors, omissions, negligence, malpractice, incompetence, or malfeasance committed by another partner or by an employee, agent, or other representative of the partnership; provided, however, nothing in this Chapter shall affect the liability of a partner of a professional registered limited liability partnership for his or her own errors, omissions, negligence, malpractice, incompetence, or malfeasance committed in the rendering of professional services.

~~committed in the course of the partnership business by another partner or representative of the partnership not working under the supervision or direction of the first partner at the time the errors, omissions, negligence, incompetence, or malfeasance occurred, unless the first partner was directly involved in the specific activity in which the errors, omissions, negligence, incompetence, or malfeasance were committed by the other partner or representative.~~

~~(c) Subsection (b) of this section does not affect any of the following:~~

~~(1) The joint and several liability of a partner for debts and obligations of the partnership arising from any cause other than those specified in subsection (b) of this section.~~

~~(2) The joint and several liability of a partner for any taxes owed by the partnership under Chapter 105 of the General Statutes or Article 3 of Chapter 119 of the General Statutes.~~

~~(3) The liability of partnership assets for partnership debts and obligations.~~

(d) A partner in a registered limited liability partnership is not a proper party to proceedings by or against a limited liability partnership, except where the object of the proceeding is to enforce a partner's right against or liability to the limited liability partnership.

(e) The liability of partners of a registered limited liability partnership formed and existing under this Chapter shall at all times be determined solely and exclusively by this Chapter and the laws of this State.

(f) If a conflict arises between the laws of this State and the laws of any other jurisdiction with regard to the liability of a partner of a registered limited liability partnership formed and existing under this Chapter for the debts, obligations, and liabilities of the registered limited liability partnership, this Chapter and the laws of this State shall govern in determining the liability."

Section 6. Chapter 59 of the General Statutes is amended by adding a new Article 3B to read as follows and to include current G.S. 59-84.2 and G.S. 59-84.3 as the first and second sections in Article 3B:

"ARTICLE 3B.

"Registered Limited Liability Partnerships."

Section 7. G.S. 59-84.2 reads as rewritten:

"**§ 59-84.2. Registered limited liability partnerships.**

(a) To become a registered limited liability partnership, a partnership must file with the Secretary of State an application ~~stating~~ stating:

(1) ~~the~~ The name of the ~~partnership,~~ partnership.

(2) ~~the~~ The street address of its principal ~~office;~~ office.

(3) The name and street address, and the mailing address if different from the street address, for the partnership's registered agent and registered office for service of process.

(4) The county in which the registered office is located.

(5) ~~the number of partners, and a~~ A brief statement of the business in which the partnership engages.

(6) A deferred effective date, if any.

(7) The fiscal year end of the partnership.

~~A registration as a registered limited liability partnership must be renewed annually.~~

(a1) The terms and conditions on which a partnership becomes a limited liability partnership must be approved by the vote necessary to amend the partnership agreement except, in the case of a partnership agreement that expressly considers obligations to contribute to the partnership, the vote necessary to amend those provisions.

(b) An application for registration as a registered limited liability partnership must be executed ~~by a majority in interest of the partners or~~ by one or more ~~partners authorized by a majority in interest of the~~ partners.

(c) An application for registration as a registered limited liability partnership ~~or for renewal of a registration~~ must be accompanied by a fee of one hundred twenty-five dollars ~~($100.00).~~ ($125.00).

(d) The Secretary of State shall register ~~or renew the registration of~~ a partnership that submits a completed application with the required fee.

(e) A registration is effective ~~for one year after~~ on the later of the date the registration is ~~filed,~~ filed or the date specified in the application for registration, unless it is voluntarily withdrawn ~~before then~~ by filing with the Secretary of State a written withdrawal notice executed by ~~a majority in interest of the partners or by~~ one or more ~~partners authorized by a majority in interest of the partners.~~ of the partners, or is revoked pursuant to G.S. 59-84.4(f).

(f) The Secretary of State may provide forms for applications for ~~registration or renewal of a~~ registration.

(g) The status of a registered limited liability partnership and the liability of its partners is not affected by errors or later changes in the information required to be contained in the application for registration.

(h) An amendment or withdrawal of a registration is effective on the later of the date it is filed or a deferred effective date specified in the amendment or withdrawal."

Section 8. G. S. 59-84.3 reads as rewritten:

"**§ 59-84.3. Name of registered limited liability partnerships.**

A registered limited liability partnership's name must contain the words 'registered limited liability partnership' or 'limited liability partnership' or the abbreviation ~~"L.L.P."~~ 'L.L.P.', 'R.L.L.P.', 'LLP' or 'RLLP' as the last words or letters of its name."

Section 9. Article 3B of Chapter 59, as created by Section 6 of this act, is amended by adding a new section to read:

"**§ 59-84.4. Annual report for Secretary of State.**

(a) Each registered limited liability partnership and each foreign limited liability partnership authorized to transact business in this State shall deliver to the Secretary of State for filing an annual report, in a form prescribed by the Secretary of State, that sets forth all of the following:

(1) The name of the registered limited liability partnership or foreign limited liability partnership and the state or country under whose law it is formed.
(2) The street address, and the mailing address if different from the street address, of the registered office, the county in which the registered office is located, and the name of its registered agent at that office in this State, and a statement of any change of the registered office or registered agent, or both.
(3) The street address and telephone number of its principal office.
(4) A brief description of the nature of its business.
(5) The fiscal year end of the partnership.

If the information contained in the most recently filed annual report has not changed, a certification to that effect may be made instead of setting forth the information required by subdivisions (2) through (4) of this subsection. The Secretary of State shall make available the form required to file an annual report.

(b) Information in the annual report must be current as of the date the annual report is executed on behalf of the registered limited liability partnership or the foreign limited liability partnership.

(c) The annual report shall be delivered to the Secretary of State by the fifteenth day of the fourth month following the close of the registered or foreign limited liability partnership's fiscal year. The annual report must be accompanied by a fee of two hundred dollars ($200.00).

(d) If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting registered or foreign limited liability partnership in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the Secretary of State within 30 days after the effective date of notice, it is deemed to be timely filed.

(e) Amendments to any previously filed annual report may be filed with the Secretary of State at any time for the purpose of correcting, updating, or augmenting the information contained in the annual report.

(f) The Secretary of State may revoke the registration of a registered limited liability partnership or foreign limited liability partnership if the Secretary of State determines that:

(1) The registered limited liability partnership or foreign limited liability partnership has not paid, within 60 days after they are due, any penalties, fees, or other payments due under this Chapter;
(2) The registered limited liability partnership or foreign limited liability partnership does not deliver its annual report to the Secretary of State on or before the date it is due;
(3) The registered limited liability partnership or foreign limited liability partnership has been without a registered agent or registered office in this State for 60 days or more; or

(4) The registered limited liability partnership or foreign limited liability partnership does not notify the Secretary of State within 60 days of the change, resignation, or discontinuance that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued.

(g) If the Secretary of State determines that one or more grounds exist under subsection (f) of this section for revoking the registration of the registered limited liability partnership or foreign limited liability partnership, the Secretary of State shall mail the registered limited liability partnership or foreign limited liability partnership written notice of that determination. If, within 60 days after the notice is mailed, the registered limited liability partnership or foreign limited liability partnership does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the Secretary of State that each ground does not exist, the Secretary of State shall revoke the registration of a registered limited liability partnership or foreign limited liability partnership by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The Secretary of State shall file the original certificate of revocation and mail a copy to the registered limited liability partnership or foreign limited liability partnership.

(h) A registered limited liability partnership or foreign limited liability partnership whose registration is revoked under this section may apply to the Secretary of State for reinstatement not later than five years after the effective date of the revocation. The procedures for reinstatement and for the appeal of any denial of the registered limited liability partnership or foreign limited liability partnership's application for reinstatement shall be the same procedures applicable to business corporations under G.S. 55-14-22, 55-14-23, and 55-14-24."

Section 10. Chapter 59 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 4A.

"Foreign Limited Liability Partnerships.

"§ 59-90. Law governing foreign limited liability partnership.

(a) The law of the state or jurisdiction under which a foreign limited liability partnership is formed governs relations among the partners and between the partners and the partnership and the liability of partners for obligations of the partnership.

(b) A foreign limited liability partnership may not be denied a statement of foreign registration by reason of any difference between the law under which the partnership was formed and the law of this State.

(c) A statement of foreign registration does not authorize a foreign limited liability partnership to engage in any business or exercise any power that a partnership may not engage in or exercise in this State as a registered limited liability partnership.

"§ 59-91. Statement of foreign registration.

(a) Before transacting business in this State, a foreign limited liability partnership must file an application for registration as a foreign limited liability partnership. The application must contain:

(1) The name of the foreign limited liability partnership that satisfies the requirements of the State or other jurisdiction under whose law it is formed and ends with the words "registered limited liability partnership" or "limited liability partnership" or the abbreviation "R.L.L.P.", "L.L.P.", "RLLP", or "LLP".
(2) The street address of the partnership's principal office.
(3) The name and street address, and the mailing address if different from the street address, for the partnership's registered agent and registered office for service of process, and the county in which the registered office is located.
(4) A brief statement of the business in which the partnership is engaged.
(5) A deferred effective date, if any.
(6) The fiscal year end of the partnership.

The foreign limited liability partnership shall deliver with the completed application a certificate of existence, or a document with similar import, duly authenticated by the secretary of state or other official having custody of the records of registered limited liability partnerships in the state or country under whose law it is registered.

(b) The registered agent of a foreign limited liability partnership for service of process must be (i) an individual who is a resident of this State and whose business office is identical with the registered office; (ii) a domestic corporation, nonprofit corporation, or limited liability company whose business office is identical with the registered office; or (iii) a foreign corporation, nonprofit corporation, or limited liability company authorized to transact business in this State whose business office is identical with the registered office. The sole duty of the registered agent to the foreign limited liability partnership is to forward to the foreign limited liability partnership at its last known address any notice, process, or demand that is served on the registered agent.

(c) An application for registration as a foreign limited liability partnership must be accompanied by a fee of one hundred twenty-five dollars ($125.00).

(d) The Secretary of State shall register a partnership that submits a completed application for registration as a foreign limited liability partnership with the required fee.

(e) The status of a partnership as a foreign limited liability partnership is effective on the later of the date the registration is filed or a date specified in the statement. The status remains effective, regardless of changes in the partnership, until it is voluntarily withdrawn by filing with the Secretary of State a written withdrawal notice executed by one or more partners or revoked pursuant to G.S. 59-84.4(f).

(f) An amendment or withdrawal of a registration is effective on the later of the date it is filed or a deferred effective date specified in the amendment or withdrawal.

(g) An application for registration as a foreign limited liability partnership must be executed by one or more partners.

(h) A foreign limited liability partnership authorized to transact business in this State shall be subject to the provisions of G.S. 59-84.4 regarding annual reports and revocation of registration.

"**§ 59-92. Effect of failure to register.**

(a) A foreign limited liability partnership transacting business in this State may not maintain an action or proceeding in this State unless it has in effect a registration as a foreign limited liability partnership.

(b) The failure of a foreign limited liability partnership to have in effect a registration as a foreign limited liability partnership does not impair the validity of a contract or act of the foreign limited liability partnership or preclude it from defending an action or proceeding in this State.

(c) A limitation on personal liability of a partner is not waived solely by transacting business in this State without a registration as a foreign limited liability partnership.

(d) A foreign limited liability partnership failing to register as a foreign limited liability partnership as required by this Article shall be liable to the State for the years or parts thereof during which it transacted business in this State without having registered in an amount equal to all fees and taxes which would have been imposed by law upon the foreign limited liability partnership had it duly applied for and received such permission, plus interest and all penalties imposed by law for failure to pay such fees and taxes. In addition, the foreign limited liability partnership shall be liable for a civil penalty of ten dollars ($10.00) for each day, but not to exceed a total of one thousand dollars ($1,000) for each year or part thereof, it transacts business in this State without having registered. The Attorney General may bring actions to recover all amounts due the State under the provisions of this subsection.

"**§ 59-93. Activities not constituting transacting business.**

(a) Without excluding other activities that may not constitute transacting business in this State, a foreign limited liability partnership shall not be considered to be transacting business in this State for the purposes of this Article by reason of carrying on in this State any one or more of the following activities:

(1) Maintaining or defending any action or suit or any administrative or arbitration proceeding or effecting the settlement thereof or the settlement of claims or disputes;

(2) Holding meetings of its partners or carrying on other activities concerning its internal affairs;

(3) Maintaining bank accounts or borrowing money in this State, with or without security, even if such borrowings are repeated and continuous transactions;

(4) Maintaining offices or agencies for the transfer, exchange, and registration of the partnership's own securities, or appointing and maintaining trustees or depositories with relation to those securities;

(5) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where the orders require acceptance without this State before becoming binding contracts;
(6) Making or investing in loans with or without security including servicing of mortgages or deeds of trust through independent agencies within the State, the conducting of foreclosure proceedings and sales, the acquiring of property at foreclosure sale, and the management and rental of such property for a reasonable time while liquidating its investment, provided no office or agency therefor is maintained in this State;
(7) Taking security for or collecting debts due to it or enforcing any rights in property securing the same;
(8) Transacting business in interstate commerce;
(9) Conducting an isolated transaction completed within a period of six months and not in the course of a number of repeated transactions of like nature;
(10) Selling through independent contractors; and
(11) Owning, without more, real or personal property.

(b) This section does not apply in determining the contacts or activities that may subject a foreign limited liability partnership to service of process, taxation, or regulation under any other law of this State.

"**§ 59-94. Action by Attorney General.**

The Attorney General may maintain an action to restrain a foreign limited liability partnership from transacting business in this State in violation of this Article."

Section 11. G.S. 59-102 reads as rewritten:

"**§ 59-102. Definitions.**

As used in this Article, unless the context otherwise requires:

(1) 'Business' means any lawful trade, investment, or other purpose or activity, whether or not the trade, investment, purpose, or activity is carried on for profit.
~~(1)~~ (1a) 'Certificate of limited partnership' means the certificate referred to in G.S. 59-201, and the certificate as amended.
(2) 'Conformed copy' shall include a photostatic or other photographic copy of the original document.
(3) 'Contribution' means any cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his capacity as a partner.
(4) 'Event of withdrawal of a general partner' means an event that causes a person to cease to be a general partner as provided in G.S. 59-402.
(5) 'Foreign limited partnership' means a partnership formed under the laws of any state, province, country, or other jurisdiction other

than this State and having as partners one or more general partners and one or more limited partners.

(6) 'General partner' means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and named in the certificate of limited partnership as a general partner.

(7) 'Limited partner' means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement.

(8) 'Limited partnership' and 'domestic limited partnership' mean a partnership formed by two or more persons under the laws of this State and having one or more general partners and one or more limited partners.

(9) 'Partner' means a limited or general partner.

(10) 'Partnership agreement' means any valid ~~agreement, written or oral,~~ agreement of the partners as to the affairs of a limited ~~partnership and~~ partnership, the conduct of its ~~business.~~ business, and the responsibilities and rights of its partners. The term 'partnership agreement' includes any written or oral agreement, whether or not the agreement is set forth in a document referred to by the partners as a 'partnership agreement', and includes any amendment agreed upon by the partners unanimously or in accordance with the terms of the agreement. The term also includes any agreement of the partners to waive or revise the terms of the partnership agreement in one or more specific instances and not necessarily on an ongoing or permanent basis.

(11) 'Partnership interest' means a partner's share of the allocations of income, gain, loss, deduction or credit of a limited partnership and the right to receive distributions of cash or other partnership assets.

(12) 'Person' means a natural person, partnership, limited partnership (domestic or foreign), trust, estate, association, or corporation.

(13) 'State' means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico."

Section 12. G.S. 59-106(a)(5) reads as rewritten:

"(5) ~~Unless contained in a written partnership agreement:~~ A written record that contains:

a. The amount of cash and a description and statement of the agreed value of the other property or services contracted by each partner and which each partner has agreed to contribute;

b. The times at which or events on the happening of which any additional contributions agreed to be made by each partner are to be made;

c. Any right of a partner to receive distribution of property, including cash from the limited partnership; and

d. Events upon the happening of which the limited partnership is to be dissolved and its affairs wound up.

The written record required pursuant to this subdivision may be part of a written partnership agreement or may be contained in one or more other documents or records."

Section 13. G.S. 59-107 reads as rewritten:

"**§ 59-107. Nature of business.**

A limited partnership may be formed for and carry on any lawful ~~business that a partnership without limited partners may carry on.~~ business."

Section 14. G.S. 59-205 reads as rewritten:

"**§ 59-205. ~~Amendment or cancellation~~ Execution by judicial act.**

If a person ~~required by G.S. 59-204 to execute a certificate of amendment or cancellation~~ fails or refuses to ~~do so,~~ execute a certificate pursuant to G.S. 59-204, any other ~~partner, and any assignee of a partnership interest,~~ person who is adversely affected by the failure or refusal, may petition the court for the county in which the partnership's registered office is located to direct the ~~amendment or cancellation.~~ execution of the certificate. If the court finds that ~~the amendment or cancellation is proper~~ it is proper for the certificate to be executed and that any person so designated has failed or refused to execute the certificate, it shall order an appropriate person to prepare, and the Secretary of State to ~~record~~ record, an appropriate ~~certificate of amendment or cancellation.~~ certificate."

Section 15. G.S. 59-206(a)(5) reads as rewritten:

"(5) The certificate required by subdivision (3a) of this ~~section~~ subsection shall be recorded by the register of deeds in the same manner as deeds, and for the same fees, but no formalities as to acknowledgement, probate, or approval by any other officer shall be required. The former name of the limited partnership holding title to the real property before the amendment shall appear in the 'Grantor' index, and the amended name of the limited partnership holding title to the real property by virtue of the amendment shall appear in the 'Grantee' index."

Section 16. G.S. 59-301 reads as rewritten:

"**§ 59-301. Admission of ~~additional~~ limited partners.**

(a) In connection with the formation of a limited partnership, a person is admitted as a limited partner upon the later to occur of:

(1) The formation of the limited partnership; or

(2) The time provided for becoming a limited partner pursuant to and upon compliance with the partnership agreement.

(b) After the ~~filing~~ formation of a ~~limited partnership's original certificate of~~ limited partnership, a person may be admitted as an additional limited partner:

(1) In the case of a person acquiring a partnership interest directly from the limited partnership, at the time provided pursuant to, and

upon the compliance ~~with~~ with, the partnership ~~agreement, or, if the partnership agreement does not so provide, upon the written consent of all partners;~~ agreement; and

(2) In the case of an assignee of a partnership interest of a partner who has the power, as provided in G.S. 59-704, to grant the assignee the right to become a limited partner, upon the exercise of that power and compliance with any conditions limiting the grant or exercise of the power."

Section 17. G.S. 59-302 reads as rewritten:

"**§ 59-302. Voting.**

~~Subject to G.S. 59-303, the~~ The partnership agreement may grant to all or a specified group of the limited partners the right to vote (on a per capita or other basis) upon any matter."

Section 18. G.S. 59-303 reads as rewritten:

"**§ 59-303. Liability to third parties.**

~~(a) Except as provided in subsection (d), a limited partner is not bound by the obligations of a limited partnership unless he is also a general partner or, in addition to the exercise of his rights and powers as a limited partner, he takes part in the control of the business. However, if the limited partner's participation in the control of the business is not substantially the same as the exercise of the powers of a general partner, he is liable only to persons who transact business with the limited partnership with actual knowledge of his participation in control.~~

~~(b) A limited partner does not participate in the control of the business within the meaning of subsection (a) solely by doing one or more of the following:~~

~~(1) Being a contractor for or an agent or employee of the limited partnership or of a general partner, or an officer, director, or shareholder of a corporate general partner;~~

~~(2) Consulting with and advising a general partner with respect to the business of the limited partnership;~~

~~(3) Acting as surety for the limited partnership;~~

~~(4) Proposing, approving or disapproving an amendment to the partnership agreement;~~

~~(5) Proposing or voting on one or more of the following matters:~~

~~a. The dissolution and winding up of the limited partnership;~~

~~b. The sale, exchange, lease, mortgage, pledge, or other transfer of all or substantially all of the assets of the limited partnership other than in the ordinary course of its business;~~

~~c. The incurrence of indebtedness by the limited partnership other than in the ordinary course of its business;~~

~~d. A change in the nature of the business; or~~

~~e. The addition, removal or substitution of general partners;~~

~~(6) Bringing an action in the right of a limited partnership to recover a judgment in its favor pursuant to Part 10 of this Article;~~

~~(7) Approving or disapproving a transaction involving an actual or potential conflict of interest between a general partner and the limited partnership; or~~

~~(8) Requesting or attending a meeting of partners.~~

~~(c) The enumeration in subsection (b) does not mean that the possession or exercise of any other powers by a limited partner constitutes participation by him in the control of the business of the limited partnership.~~

~~(d) A limited partner who knowingly permits his name to be used in the name of the limited partnership, except under circumstances permitted by G.S. 59-103(b)(i), is liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner.~~

A limited partner is not liable for the obligations of a limited partnership by reason of being a limited partner and does not become liable for the obligations of a limited partnership by participating in the management or control of the business of the limited partnership."

Section 19. G.S. 59-304 reads as rewritten:

"**§ 59-304. Person erroneously believing himself limited partner.**

(a) Except as provided in subsection (b), a person who makes a contribution to a business enterprise and erroneously but in good faith believes that ~~he~~ the person has become a limited partner in the enterprise is not a general partner in the enterprise and is not bound by its obligations by reason of making the contribution, receiving distributions from the enterprise, or exercising any rights of a limited partner, if, on ascertaining the mistake, he:

(1) Causes an appropriate certificate of limited partnership or certificate of amendment to be executed and filed; or

(2) Withdraws from future equity participation in the enterprise.

(b) A person who makes a contribution of the kind described in subsection (a) of this section is liable as a general partner to any third party who transacts business with the enterprise ~~(i) before the person withdraws from the enterprise, or (ii) before the person gives notice to the partnership of his withdrawal from future equity participation, but only if the third party actually believed in good faith that the person was a general partner at the time of the transaction.~~ in the case in which:

(1) The third party actually believed in good faith that the person was a general partner at the time of the transaction; and

(2) The third party transacted business with the enterprise before either:

a. An appropriate certificate has been filed pursuant to subsection (a) of this section to reflect that the person is not a general partner; or

b. The person has given notice to the partnership of withdrawal from future equity participation and before the withdrawal was effective."

Section 20. G.S. 59-305 reads as rewritten:

"**§ 59-305. Information.**

Each limited partner has the right to:

(1) Inspect and copy any of the partnership records required to be maintained by G.S. 59-106; and

(2) Obtain from the general partners from time to time upon reasonable demand (i) true and full information regarding the state of the business and financial condition of the limited partnership, (ii) promptly after becoming available, a copy of the limited partnership's federal, State, and local income tax returns for each year, and (iii) other information regarding the affairs of the limited partnership as is just and reasonable."

Section 21. G.S. 59-402(4) reads as rewritten:

"(4) Unless otherwise provided in writing in the partnership agreement, the general partner: (i) makes an assignment for the benefit of creditors; (ii) files a voluntary petition in bankruptcy; (iii) is adjudicated a bankrupt or insolvent; (iv) files a petition or answer seeking for himself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation; (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against ~~him~~ the general partner in any proceeding of this nature; or (vi) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of ~~his~~ the general partner's properties;".

Section 22. G.S. 59-402(5) reads as rewritten:

"(5) Unless otherwise provided in writing in the partnership agreement, 120 days after the commencement of any proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, the proceeding has not been dismissed, or if within 90 days after the appointment without ~~his~~ the general partner's consent or acquiescence of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of his properties, the appointment is not vacated or stayed, or within 90 days after the expiration of any such stay, the appointment is not vacated;".

Section 23. G.S. 59-502(a) reads as rewritten:

"(a) Except as provided in the ~~agreement of limited partnership,~~ partnership agreement, a partner is obligated to the limited partnership to perform any enforceable promise to contribute cash or property or to perform services, even if ~~he~~ the partner is unable to perform because of death, disability or any other reason. If a partner does not make the required contribution of property or services, ~~he~~ the partner is obligated at the option of the limited partnership to contribute cash equal to that portion of the agreed value of the stated contribution that has not been made. As used in this section, the term 'agreed value' means an amount or other measure of

value as (i) is provided in the partnership agreement, or (ii) if not provided in the partnership agreement, is required to be set forth in the written records required pursuant to G.S. 59-106."

Section 24. G.S. 59-503 reads as rewritten:

"**§ 59-503. Sharing income, gain, loss, deduction or credit.**

~~Allocation of the income,~~ Income, gain, loss, deduction or credit of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in the partnership agreement. ~~If the partnership agreement does not so provide in writing, items of income, gain, loss, deduction or credit shall be allocated on the basis of the value of the contributions made by each partner to the extent they have been received by the partnership and have not been returned.~~ To the extent the partnership agreement does not provide for the allocation of items of income, gain, loss, deduction, or credit, then those items shall be allocated on the basis of the agreed value of the contributions made by each partner to the extent they have been received by the partnership and have not been returned. As used in this section, the term 'agreed value' means an amount or other measure of value as (i) is provided in the partnership agreement, or (ii) if not provided in the partnership agreement, is required to be set forth in the written records required pursuant to G.S. 59-106."

Section 25. G.S. 59-504 reads as rewritten:

"**§ 59-504. Sharing of distributions.**

Distributions of cash or other assets of a limited partnership shall be made among the partners, and among classes of partners, in the manner provided in the partnership agreement. ~~If the partnership agreement does not so provide in writing, distributions shall be made on the basis of the value of the contributions made by each partner to the extent they have been received by the partnership and have not been returned.~~ To the extent the partnership agreement does not provide for the sharing of distributions among the partners, distributions shall be made among the partners on the basis of the agreed value of the contributions made by each partner to the extent they have been received by the partnership and have not been returned. As used in this section, the term 'agreed value' means an amount or other measure of value as (i) is provided in the partnership agreement, or (ii) if not provided in the partnership agreement, is required to be set forth in the written records required pursuant to G.S. 59-106."

Section 26. G.S. 59-602 reads as rewritten:

"**§ 59-602. Withdrawal of general partner.**

After filing of the original certificate of limited ~~partnership~~ partnership, a general partner may withdraw from a limited partnership at any time by giving written notice to the other partners, but if the withdrawal violates the partnership agreement, the limited partnership may recover from the withdrawing general partner, in addition to its other remedies, ~~and~~ any damages for breach of the partnership ~~agreement.~~ agreement and may offset the damages against the amount otherwise distributable or payable to the partner."

Section 27. G.S. 59-603 reads as rewritten:

"**§ 59-603. Withdrawal of limited partner.**

A limited partner may withdraw from a limited partnership only at the time or upon the happening of events specified in writing in and in accordance with the partnership ~~agreement.~~ agreement, including any amendment or addendum to the partnership agreement agreed upon by the partners unanimously or in accordance with the terms of the agreement and made in connection with any permitted withdrawal. If the partnership agreement does not specify in writing the time or the events upon the happening of which a limited partner may ~~withdraw~~ withdraw, a limited partner may not withdraw prior to the ~~or a definite~~ time for the dissolution and winding up of the limited ~~partnership, a limited partner may withdraw upon not less than six months prior written notice to each general partner at his address on the books of the limited partnership at its registered office in this State.~~ partnership."

Section 28. G.S. 59-604 reads as rewritten:

"**§ 59-604. Distribution upon withdrawal.**

Except as provided in this Article, upon withdrawal any withdrawing partner is entitled to receive any distribution to which ~~he~~ the partner is entitled under the partnership agreement and, if not otherwise provided in the agreement, ~~he~~ the partner is entitled to receive, within a reasonable time after withdrawal, the fair value of ~~his~~ the partner's partnership interest in the limited partnership as of the date of ~~withdrawal.~~ withdrawal, based upon the partner's right to share in distributions from the limited partnership."

Section 29. G.S. 59-606 reads as rewritten:

"**§ 59-606. Right to distribution.**

Subject to the other provisions of Part 6 of this Article, at the time a partner becomes entitled to receive a distribution, ~~he~~ the partner has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution."

Section 30. G.S. 59-608(c) reads as rewritten:

"(c) A partner receives a return of ~~his~~ the partner's contribution to the extent that a distribution to ~~him~~ the partner reduces ~~his~~ the partner's share of the fair value of the net assets of the limited partnership below the agreed value of ~~his~~ the partner's contribution which has not been distributed to ~~him.~~ the partner. As used in this section, the term 'agreed value' means an amount or other measure of value as (i) is provided in the partnership agreement, or (ii) if not provided in the partnership agreement, is required to be set forth in the written records required pursuant to G.S. 59-106."

Section 31. G.S. 59-702 reads as rewritten:

"**§ 59-702. Assignment of partnership interest.**

Except as provided in the partnership agreement, a partnership interest is assignable in whole or in part. Subject to G.S. 59-801(3) an assignment of a partnership interest does not dissolve a limited partnership or entitle the assignee to become or to exercise any rights of a partner. An assignment entitles the assignee to receive, to the extent assigned, only the allocation and distribution to which the assignor would be entitled. Except as provided in the partnership agreement, a

~~limited partner shall continue to be a limited partner after assignment of all or any part of his partnership interest. Except as provided in the partnership agreement, a general~~ partner ceases to be a ~~general~~ partner and to have the power to exercise any rights and powers of a partner upon assignment of all ~~his~~ of the partner's partnership interest. Except as provided in the partnership agreement, neither the pledge or granting of a security interest in any or all of the partnership interest of a partner nor the pledge or granting of a lien or other encumbrance against any or all of the partnership interest of a partner shall cause the partner to cease to be a partner or cease to have the power to exercise any rights or powers of a partner."

Section 32. G.S. 59-704(b) reads as rewritten:

"(b) An assignee who has become a limited partner has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a limited partner under the partnership agreement and this Article. An assignee who becomes a limited partner also is liable for the obligations of ~~his~~ the assignee's assignor to make and return contributions as provided in ~~Part~~ Parts 5 and 6 of this Article. However, the assignee is not obligated for liabilities that (i) are unknown to the assignee at the time ~~he~~ the assignee became a limited partner and ~~which~~ (ii) could not be ascertained from the written provisions of the partnership agreement."

Section 33. G.S. 59-801 reads as rewritten:

"**§ 59-801. Nonjudicial dissolution.**

(a) A limited partnership is dissolved and its affairs shall be wound up upon the happening of the first to occur of the following:

(1) At the time specified in the certificate of limited partnership or upon the happening of events specified in writing in the partnership agreement;

(2) Written consent of all partners;

(3) An event of withdrawal of a general partner ~~unless at~~ unless:

a. At the time there is at least one other general ~~partner and the written provisions of the partnership agreement permit~~ partner, in which case, unless otherwise provided in a written partnership agreement or agreed upon by all remaining partners, (i) the limited partnership is not dissolved, (ii) the limited partnership shall not be wound up, and (iii) the business of the limited partnership ~~to be carried on~~ shall be continued by the remaining general ~~partner and that partner does so, but the limited partnership is not dissolved and is not required to be wound up by reason of any event of withdrawal if, within~~ partners; or

b. Within 90 days after the withdrawal, all remaining ~~partners~~ partners, or a lesser number or portion of the partners provided in the partnership agreement, agree in writing to continue the business of the limited partnership and to the appointment of one or more additional general partners if necessary or ~~desired; or~~ desired, in which case the limited

partnership is not dissolved and is not required to be wound up by reason of the event of withdrawal;

(3a) Ninety days after the withdrawal of the limited partnership's last limited partner, unless the limited partnership admits at least one limited partner before the end of the 90 days; or

(4) Entry of a decree of judicial dissolution under G.S. 59-802.

(b) The causes of dissolution of a limited partnership shall be governed solely by this Article. Article 2 of this Chapter, which governs the causes of dissolution of a partnership without limited partners, does not apply and shall not govern the causes of dissolution of a limited partnership."

Section 34. G.S. 59-901 reads as rewritten:

§ 59-901. Law governing.

Subject to the Constitution of this State, ~~(1)~~ (i) the laws of the jurisdiction under which a foreign limited partnership is organized govern its organization and internal affairs and the liability of its ~~limited~~ partners, and ~~(2)~~ (ii) a foreign limited partnership may not be denied registration by reason of any difference between those laws and the laws of this State."

Section 35. G.S. 59-903 reads as rewritten:

"**§ 59-903. Issuance of registration.**

~~(a)~~ If the Secretary of State finds that an application satisfies the requirements of this Article, the Secretary shall, when all requisite fees have been tendered as in this Article prescribed:

(1) Endorse on the application the word 'filed', and the hour, day, month and year of the filing thereof;

(2) File in the office of the Secretary of State the application;

(3) Issue a certificate of authority to transact business in this State to which the Secretary shall affix the conformed copy of the application; and

(4) Send to the foreign limited partnership or its representative the certificate of authority, together with the conformed copy of the application affixed thereto."

Section 36. G.S. 59-907(e) reads as rewritten:

"(e) A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of the foreign limited partnership's having transacted business in this State without registration."

Section 37. G.S. 59-1002 reads as rewritten:

"**§ 59-1002. Proper plaintiff.**

In a derivative action, the plaintiff must be a partner at the time of bringing the action and ~~(1)~~ (i) must have been a partner at the time of the transaction ~~of which he complains~~ that is the subject of the complaint or ~~(2) his~~ (ii) the plaintiff's status as a partner ~~had~~ must have devolved upon ~~him~~ the partner by operation of law or pursuant to the terms of the partnership agreement from a person who was a partner at the time of the transaction."

Section 38. Sections 2, 3, and 5 become effective October 1, 1999, and apply to liabilities arising on or after that date. Section 4 becomes effective January 1, 2000. Sections 6, 7, and 8 become effective January 1, 2000, and apply to registered limited liability partnerships existing on or after that date. Section 9 becomes effective January 1, 2000, and applies to registered limited liability partnerships and foreign limited liability partnerships whose fiscal year ends on or after that date. Section 10 becomes effective January 1, 2000, and applies to foreign limited liability partnerships transacting business in this State on or after that date, except that any foreign limited liability partnership that, as of that effective date, was already registered with the Secretary of State as a registered limited liability partnership shall not be required to register anew as a foreign limited liability partnership under G.S. 59-91. Section 27 becomes effective October 1, 1999, and applies to (i) any limited partnership formed before that date, only if validly adopted in writing by its partners or otherwise as a part of its partnership agreement, and (ii) all limited partnerships formed on or after that date. The remainder of this act becomes effective October 1, 1999.

SENATE BILL 297
Judiciary I Committee Substitute Adopted 4/21/99
House Committee Substitute Favorable 6/16/99

Short Title: Ltd. Ptnersp./Prof. Liability Changes. (Public)

Sponsors:

Referred to:

March 8, 1999

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL AND OTHER CHANGES REGARDING LIMITED PARTNERSHIPS AND THE NORTH CAROLINA REVISED UNIFORM LIMITED PARTNERSHIP ACT, TO CLARIFY THE LIMIT OF LIABILITY IN PROFESSIONAL ORGANIZATIONS, TO PROVIDE FOR THE REGISTRATION OF FOREIGN LIMITED LIABILITY PARTNERSHIPS, AND TO REQUIRE ANNUAL REPORTS BY LIMITED LIABILITY PARTNERSHIPS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-79 reads as rewritten:

"**§ 1-79. Domestic ~~corporations.~~ corporations, limited partnerships, limited liability companies, and registered limited liability partnerships.**

(a) For the purpose of suing and being sued the residence of a domestic ~~corporation~~ corporation, limited partnership, limited liability company, or registered limited liability partnership is as follows:

(1) Where the registered or principal office of the ~~corporation~~ corporation, limited partnership, limited liability company, or registered limited liability partnership is located, or

(2) Where the ~~corporation~~ corporation, limited partnership, limited liability company, or registered limited liability partnership maintains a place of ~~business.~~ business, or

(3) If no registered or principal office is in existence, and no place of business is currently maintained or can reasonably be found, the term 'residence' shall include any place where the ~~corporation~~ corporation, limited partnership, limited liability company, or registered limited liability partnership is regularly engaged in carrying on business.

(b) For purposes of this section, the term 'domestic' when applied to an entity means:

(1) An entity formed under the laws of this State, or

(2) An entity that (i) is formed under the laws of any jurisdiction other than this State, and (ii) maintains a registered office in this State pursuant to a certificate of authority from the Secretary of State."

Section 2. G.S. 55B-9(b) reads as rewritten:

"(b) Liability. -- A shareholder, a director, or an officer of a professional corporation is not individually ~~liable~~ liable, directly or indirectly, including by indemnification, contribution, assessment, or otherwise, for the ~~debts and obligations~~ of debts, obligations, and liabilities of, or chargeable to, the professional corporation ~~arising~~ that arise from errors, omissions, negligence, malpractice, incompetence, or ~~malfeasance committed in the course of the professional corporation's business by another shareholder, director, or officer, or by a representative of the professional corporation not working under the supervision or direction of the first shareholder, director, or officer at the time the errors, omissions, negligence, incompetence, or malfeasance occurred, unless the first shareholder, director, or officer was directly involved in the specific activity in which the errors, omissions, negligence, incompetence, or malfeasance were committed by the other shareholder, director, or officer or by the representative.~~ malfeasance committed by another shareholder, director, or officer or by a representative of the professional corporation; provided, however, nothing in this Chapter shall affect the liability of a shareholder, director, or officer of a professional corporation for his or her own errors, omissions, negligence, malpractice, incompetence, or malfeasance committed in the rendering of professional services. This subsection does not affect the joint and several liability of a shareholder, a director, or an officer of a professional corporation for any taxes owed by the professional corporation under Chapter 105 of the General Statutes or Article 3 of Chapter 119 of the General Statutes."

Section 3. G.S. 57C-2-01(c) reads as rewritten:

"(c) Subsections (a) and (b) of this section to the contrary notwithstanding and except as set forth in this subsection, a domestic or foreign limited liability company shall engage in rendering professional services only to the extent that a professional corporation acting pursuant to Chapter 55B of the General Statutes or a corporation acting pursuant to Chapter 55 of the General Statutes may engage in rendering professional services under the conditions and limitations imposed by an applicable licensing statute. Chapter 55B of the General Statutes and each applicable licensing statute are deemed amended to provide that professionals licensed under the applicable licensing statute may render professional services through a domestic or

foreign limited liability company. For purposes of applying the provisions, conditions, and limitations of Chapter 55B of the General Statutes and the applicable licensing statute to domestic and foreign limited liability companies that engage in rendering professional services, (i) unless the context clearly requires otherwise, references to Chapter 55 of the General Statutes (the North Carolina Business Corporation Act) shall be treated as references to this Chapter, and references to a "corporation" or "foreign corporation" shall be treated as references to a limited liability company or foreign limited liability company, respectively, (ii) members shall be treated in the same manner as shareholders of a professional corporation, (iii) managers shall be treated in the same manner as directors of a professional corporation, (iv) the persons signing the articles of organization of a limited liability company shall be treated in the same manner as the incorporators of a professional corporation, and (v) the name of a domestic or foreign limited liability company so engaged shall comply with G.S. 57C-2-30 or G.S. 57C-7-06 and, in addition, shall contain the word "Professional" or the abbreviation "P.L.L.C." or "PLLC". For purposes of this subsection, "applicable licensing statute" shall mean those provisions of the General Statutes referred to in G.S. 55B-2(6).

Nothing in this Chapter shall be interpreted to abolish, modify, restrict, limit, or alter the law in this State applicable to the professional relationship and liabilities between the individual furnishing the professional services and the person receiving the professional services, ~~or~~ the standards of professional conduct applicable to the rendering of the ~~services.~~ services, or any ~~This Chapter does not relieve individuals of~~ responsibilities, obligations, or ~~the imposition of~~ sanctions imposed under applicable licensing ~~statutes, even if the sanctions are imposed for the conduct of other members of a limited liability company.~~ statutes. A member or manager of a professional limited liability company is not individually ~~liable for debts and obligations of~~ liable, directly or indirectly, including by indemnification, contribution, assessment, or otherwise, for debts, obligations, and liabilities of, or chargeable to, the professional limited liability company ~~arising~~ that arise from errors, omissions, negligence, malpractice, incompetence, or malfeasance committed ~~in the course of the professional limited liability company's business by another member or manager or a representative of the professional limited liability company not working under the supervision or direction of the first member or manager at the time the errors, omissions, negligence, incompetence, or malfeasance occurred, unless the first member or manager was directly involved in the specific activity in which the errors, omissions, negligence, incompetence, or malfeasance were committed by the other member or manager or representative.~~ by another member, manager, employee, agent, or other representative of the professional limited liability company; provided, however, nothing in this Chapter shall affect the liability of a member or manager of a professional limited liability company for his or her own errors, omissions, negligence, malpractice, incompetence, or malfeasance committed in the rendering of professional services."

Section 4. G.S. 59-32 reads as rewritten:

"**§ 59-32. Definition of terms.**

~~In this Article:~~ As used in this Chapter, except as otherwise defined in Article 5 of this Chapter for purposes of that Article, unless the context otherwise requires:

(1) 'Bankrupt' ~~includes~~ means bankrupt under the Federal Bankruptcy Act or insolvent under any State insolvent act.

(2) 'Business' ~~includes~~ means every trade, occupation, or profession.

(3) 'Conveyance' ~~includes~~ means every assignment, lease, mortgage, or encumbrance.

(4) 'Court' ~~includes~~ means every court and judge having jurisdiction in the case.

(4a) 'Foreign limited liability partnership' means a partnership that (i) is formed under laws other than the laws of this State, and (ii) has the status of a limited liability partnership or registered limited liability partnership under those laws.

(5) 'Person' ~~includes~~ means individuals, partnerships, corporations, limited liability companies, and other associations.

(6) 'Real property' ~~includes~~ means land and any interest or estate in land.

(7) 'Registered limited liability partnership' means a partnership that is registered under G.S. 59-84.2 and complies with G.S. 59-84.3."

Section 5. G. S. 59-45 reads as rewritten:

"**§ 59-45. Nature of partner's liability in ordinary partnerships and in registered limited liability partnerships.**

(a) Except as provided by ~~subsection~~ subsections (a1) and (b) of this section, all partners are jointly and severally liable for the acts and obligations of the partnership.

(a1) Except as provided in subsection (b) of this section, a partner in a registered limited liability partnership is not individually liable for debts and obligations of the partnership incurred while it is a registered limited liability partnership solely by reason of being a partner and does not become liable by participating, in whatever capacity, in the management or control of the business of the partnership.

(b) Nothing in this Chapter shall be interpreted to abolish, modify, restrict, limit, or alter the law in this State applicable to the professional relationship and liabilities between the individual furnishing the professional services and the person receiving the professional services, the standards of professional conduct applicable to the rendering of the services, or any responsibilities, obligations, or sanctions imposed under applicable licensing statutes. A partner in a registered limited liability partnership is not individually ~~liable~~ liable, directly or indirectly, including by indemnification, contribution, assessment, or otherwise, for ~~debts and obligations of~~ the debts, obligations, and liabilities of, or chargeable to, the registered limited liability partnership ~~arising~~ that arise from errors, omissions, negligence, malpractice, incompetence, or malfeasance committed by another partner or by an employee, agent, or other representative of the partnership; provided, however, nothing in this Chapter shall affect the liability of a partner of a professional registered limited liability partnership for his or her own errors, omissions, negligence, malpractice, incompetence, or malfeasance committed in the rendering of professional services.

~~committed in the course of the partnership business by another partner or representative of the partnership not working under the supervision or direction of the first partner at the time the errors, omissions, negligence, incompetence, or malfeasance occurred, unless the first partner was directly involved in the specific activity in which the errors, omissions, negligence, incompetence, or malfeasance were committed by the other partner or representative.~~

~~(c) Subsection (b) of this section does not affect any of the following:~~

~~(1) The joint and several liability of a partner for debts and obligations of the partnership arising from any cause other than those specified in subsection (b) of this section.~~

~~(2) The joint and several liability of a partner for any taxes owed by the partnership under Chapter 105 of the General Statutes or Article 3 of Chapter 119 of the General Statutes.~~

~~(3) The liability of partnership assets for partnership debts and obligations.~~

(d) A partner in a registered limited liability partnership is not a proper party to proceedings by or against a limited liability partnership, except where the object of the proceeding is to enforce a partner's right against or liability to the limited liability partnership.

(e) The liability of partners of a registered limited liability partnership formed and existing under this Chapter shall at all times be determined solely and exclusively by this Chapter and the laws of this State.

(f) If a conflict arises between the laws of this State and the laws of any other jurisdiction with regard to the liability of a partner of a registered limited liability partnership formed and existing under this Chapter for the debts, obligations, and liabilities of the registered limited liability partnership, this Chapter and the laws of this State shall govern in determining the liability."

Section 6. Chapter 59 of the General Statutes is amended by adding a new Article 3B to read as follows and to include current G.S. 59-84.2 and G.S. 59-84.3 as the first and second sections in Article 3B:

"ARTICLE 3B.

"Registered Limited Liability Partnerships."

Section 7. G.S. 59-84.2 reads as rewritten:

"**§ 59-84.2. Registered limited liability partnerships.**

(a) To become a registered limited liability partnership, a partnership must file with the Secretary of State an application ~~stating~~ stating:

(1) ~~the~~ The name of the ~~partnership;~~ partnership.

(2) ~~the~~ The street address of its principal ~~office;~~ office.

(3) The name and street address, and the mailing address if different from the street address, for the partnership's registered agent and registered office for service of process.

(4) The county in which the registered office is located.

(5) ~~the number of partners, and a~~ A brief statement of the business in which the partnership engages.

(6) A deferred effective date, if any.

(7) The fiscal year end of the partnership.

~~A registration as a registered limited liability partnership must be renewed annually.~~

(a1) The terms and conditions on which a partnership becomes a limited liability partnership must be approved by the vote necessary to amend the partnership agreement except, in the case of a partnership agreement that expressly considers obligations to contribute to the partnership, the vote necessary to amend those provisions.

(b) An application for registration as a registered limited liability partnership must be executed ~~by a majority in interest of the partners or~~ by one or more ~~partners authorized by a majority in interest of the~~ partners.

(c) An application for registration as a registered limited liability partnership ~~or for renewal of a registration~~ must be accompanied by a fee of one hundred twenty-five dollars ~~($100.00).~~ ($125.00).

(d) The Secretary of State shall register ~~or renew the registration of~~ a partnership that submits a completed application with the required fee.

(e) A registration is effective ~~for one year after~~ on the later of the date the registration is ~~filed,~~ filed or the date specified in the application for registration, unless it is voluntarily withdrawn ~~before then~~ by filing with the Secretary of State a written withdrawal notice executed by ~~a majority in interest of the partners or by~~ one or more ~~partners authorized by a majority in interest of the partners.~~ of the partners, or is revoked pursuant to G.S. 59-84.4(f).

(f) The Secretary of State may provide forms for applications for ~~registration or renewal of a~~ registration.

(g) The status of a registered limited liability partnership and the liability of its partners is not affected by errors or later changes in the information required to be contained in the application for registration.

(h) An amendment or withdrawal of a registration is effective on the later of the date it is filed or a deferred effective date specified in the amendment or withdrawal."

Section 8. G. S. 59-84.3 reads as rewritten:

"**§ 59-84.3. Name of registered limited liability partnerships.**

A registered limited liability partnership's name must contain the words 'registered limited liability partnership' or 'limited liability partnership' or the abbreviation ~~"L.L.P."~~ 'L.L.P.', 'R.L.L.P.', 'LLP' or 'RLLP' as the last words or letters of its name."

Section 9. Article 3B of Chapter 59, as created by Section 6 of this act, is amended by adding a new section to read:

"**§ 59-84.4. Annual report for Secretary of State.**

(a) Each registered limited liability partnership and each foreign limited liability partnership authorized to transact business in this State shall deliver to the Secretary of State for filing an annual report, in a form prescribed by the Secretary of State, that sets forth all of the following:

(1) The name of the registered limited liability partnership or foreign limited liability partnership and the state or country under whose law it is formed.

(2) The street address, and the mailing address if different from the street address, of the registered office, the county in which the registered office is located, and the name of its registered agent at that office in this State, and a statement of any change of the registered office or registered agent, or both.

(3) The street address and telephone number of its principal office.

(4) A brief description of the nature of its business.

If the information contained in the most recently filed annual report has not changed, a certification to that effect may be made instead of setting forth the information required by subdivisions (2) through (4) of this subsection. The Secretary of State shall make available the form required to file an annual report.

(b) Information in the annual report must be current as of the date the annual report is executed on behalf of the registered limited liability partnership or the foreign limited liability partnership.

(c) The annual report shall be delivered to the Secretary of State by the fifteenth day of the fourth month following the close of the registered or foreign limited liability partnership's fiscal year. The annual report must be accompanied by a fee of two hundred dollars ($200.00). This fee shall be retained by the Secretary of State for the purposes of administering of this Chapter, however, any funds not used for such purposes by the end of the fiscal year in which the funds were received shall revert to the General Fund.

(d) If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting registered or foreign limited liability partnership in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the Secretary of State within 30 days after the effective date of notice, it is deemed to be timely filed.

(e) Amendments to any previously filed annual report may be filed with the Secretary of State at any time for the purpose of correcting, updating, or augmenting the information contained in the annual report.

(f) The Secretary of State may revoke the registration of a registered limited liability partnership or foreign limited liability partnership if the Secretary of State determines that:

(1) The registered limited liability partnership or foreign limited liability partnership has not paid, within 60 days after they are due, any penalties, fees, or other payments due under this Chapter;

(2) The registered limited liability partnership or foreign limited liability partnership does not deliver its annual report to the Secretary of State on or before the date it is due;

(3) The registered limited liability partnership or foreign limited liability partnership has been without a registered agent or registered office in this State for 60 days or more; or

(4) The registered limited liability partnership or foreign limited liability partnership does not notify the Secretary of State within 60 days of the change, resignation, or discontinuance that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued.

(g) If the Secretary of State determines that one or more grounds exist under subsection (f) of this section for revoking the registration of the registered limited liability partnership or foreign limited liability partnership, the Secretary of State shall mail the registered limited liability partnership or foreign limited liability partnership written notice of that determination. If, within 60 days after the notice is mailed, the registered limited liability partnership or foreign limited liability partnership does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the Secretary of State that each ground does not exist, the Secretary of State shall revoke the registration of a registered limited liability partnership or foreign limited liability partnership by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The Secretary of State shall file the original certificate of revocation and mail a copy to the registered limited liability partnership or foreign limited liability partnership.

(h) A registered limited liability partnership or foreign limited liability partnership whose registration is revoked under this section may apply to the Secretary of State for reinstatement not later than five years after the effective date of the revocation. The procedures for reinstatement and for the appeal of any denial of the registered limited liability partnership or foreign limited liability partnership's application for reinstatement shall be the same procedures applicable to business corporations under G.S. 55-14-22, 55-14-23, and 55-14-24."

Section 10. Chapter 59 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 4A.

"Foreign Limited Liability Partnerships.

"§ 59-90. Law governing foreign limited liability partnership.

(a) The law of the state or jurisdiction under which a foreign limited liability partnership is formed governs relations among the partners and between the partners and the partnership and the liability of partners for obligations of the partnership.

(b) A foreign limited liability partnership may not be denied a statement of foreign registration by reason of any difference between the law under which the partnership was formed and the law of this State.

(c) A statement of foreign registration does not authorize a foreign limited liability partnership to engage in any business or exercise any power that a partnership may not engage in or exercise in this State as a registered limited liability partnership.

"§ 59-91. Statement of foreign registration.

(a) Before transacting business in this State, a foreign limited liability partnership must file an application for registration as a foreign limited liability partnership. The application must contain:

(1) The name of the foreign limited liability partnership that satisfies the requirements of the State or other jurisdiction under whose law it is formed and ends with the words "registered limited liability partnership" or "limited liability partnership" or the abbreviation "R.L.L.P.", "L.L.P.", "RLLP", or "LLP".

(2) The street address of the partnership's principal office.

(3) The name and street address, and the mailing address if different from the street address, for the partnership's registered agent and registered office for service of process, and the county in which the registered office is located.

(4) A brief statement of the business in which the partnership is engaged.

(5) A deferred effective date, if any.

The foreign limited liability partnership shall deliver with the completed application a certificate of existence, or a document with similar import, duly authenticated by the secretary of state or other official having custody of the records of registered limited liability partnerships in the state or country under whose law it is registered.

(b) The registered agent of a foreign limited liability partnership for service of process must be (i) an individual who is a resident of this State and whose business office is identical with the registered office; (ii) a domestic corporation, nonprofit corporation, or limited liability company whose business office is identical with the registered office; or (iii) a foreign corporation, nonprofit corporation, or limited liability company authorized to transact business in this State whose business office is identical with the registered office. The sole duty of the registered agent to the foreign limited liability partnership is to forward to the foreign limited liability partnership at its last known address any notice, process, or demand that is served on the registered agent.

(c) An application for registration as a foreign limited liability partnership must be accompanied by a fee of one hundred twenty-five dollars ($125.00).

(d) The Secretary of State shall register a partnership that submits a completed application for registration as a foreign limited liability partnership with the required fee.

(e) The status of a partnership as a foreign limited liability partnership is effective on the later of the date the registration is filed or a date specified in the statement. The status remains effective, regardless of changes in the partnership, until it is voluntarily withdrawn by filing with the Secretary of State a written withdrawal notice executed by one or more partners or revoked pursuant to G.S. 59-84.4(f).

(f) An amendment or withdrawal of a registration is effective on the later of the date it is filed or a deferred effective date specified in the amendment or withdrawal.

(g) An application for registration as a foreign limited liability partnership must be executed by one or more partners.

(h) A foreign limited liability partnership authorized to transact business in this State shall be subject to the provisions of G.S. 59-84.4 regarding annual reports and revocation of registration.

"**§ 59-92. Effect of failure to register.**

(a) A foreign limited liability partnership transacting business in this State may not maintain an action or proceeding in this State unless it has in effect a registration as a foreign limited liability partnership.

(b) The failure of a foreign limited liability partnership to have in effect a registration as a foreign limited liability partnership does not impair the validity of a contract or act of the foreign limited liability partnership or preclude it from defending an action or proceeding in this State.

(c) A limitation on personal liability of a partner is not waived solely by transacting business in this State without a registration as a foreign limited liability partnership.

(d) A foreign limited liability partnership failing to register as a foreign limited liability partnership as required by this Article shall be liable to the State for the years or parts thereof during which it transacted business in this State without having registered in an amount equal to all fees and taxes which would have been imposed by law upon the foreign limited liability partnership had it duly applied for and received such permission, plus interest and all penalties imposed by law for failure to pay such fees and taxes. In addition, the foreign limited liability partnership shall be liable for a civil penalty of ten dollars ($10.00) for each day, but not to exceed a total of one thousand dollars ($1,000) for each year or part thereof, it transacts business in this State without having registered. The Attorney General may bring actions to recover all amounts due the State under the provisions of this subsection.

"**§ 59-93. Activities not constituting transacting business.**

(a) Without excluding other activities that may not constitute transacting business in this State, a foreign limited liability partnership shall not be considered to be transacting business in this State for the purposes of this Article by reason of carrying on in this State any one or more of the following activities:

(1) Maintaining or defending any action or suit or any administrative or arbitration proceeding or effecting the settlement thereof or the settlement of claims or disputes;

(2) Holding meetings of its partners or carrying on other activities concerning its internal affairs;

(3) Maintaining bank accounts or borrowing money in this State, with or without security, even if such borrowings are repeated and continuous transactions;

(4) Maintaining offices or agencies for the transfer, exchange, and registration of the partnership's own securities, or appointing and maintaining trustees or depositories with relation to those securities;

(5) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where the orders require acceptance without this State before becoming binding contracts;

(6) Making or investing in loans with or without security including servicing of mortgages or deeds of trust through independent agencies within the State, the conducting of foreclosure proceedings and sales, the acquiring of property at foreclosure sale, and the management and rental of such property for a reasonable time while liquidating its investment, provided no office or agency therefor is maintained in this State;

(7) Taking security for or collecting debts due to it or enforcing any rights in property securing the same;

(8) Transacting business in interstate commerce;

(9) Conducting an isolated transaction completed within a period of six months and not in the course of a number of repeated transactions of like nature;

(10) Selling through independent contractors; and

(11) Owning, without more, real or personal property.

(b) This section does not apply in determining the contacts or activities that may subject a foreign limited liability partnership to service of process, taxation, or regulation under any other law of this State.

"§ 59-94. Action by Attorney General.

The Attorney General may maintain an action to restrain a foreign limited liability partnership from transacting business in this State in violation of this Article."

Section 11. G.S. 59-102 reads as rewritten:

"**§ 59-102. Definitions.**

As used in this Article, unless the context otherwise requires:

(1) 'Business' means any lawful trade, investment, or other purpose or activity, whether or not the trade, investment, purpose, or activity is carried on for profit.

~~(1)~~ (1a) 'Certificate of limited partnership' means the certificate referred to in G.S. 59-201, and the certificate as amended.

(2) 'Conformed copy' shall include a photostatic or other photographic copy of the original document.

(3) 'Contribution' means any cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his capacity as a partner.

(4) 'Event of withdrawal of a general partner' means an event that causes a person to cease to be a general partner as provided in G.S. 59-402.

(5) 'Foreign limited partnership' means a partnership formed under the laws of any state, province, country, or other jurisdiction other

than this State and having as partners one or more general partners and one or more limited partners.

(6) 'General partner' means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and named in the certificate of limited partnership as a general partner.

(7) 'Limited partner' means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement.

(8) 'Limited partnership' and 'domestic limited partnership' mean a partnership formed by two or more persons under the laws of this State and having one or more general partners and one or more limited partners.

(9) 'Partner' means a limited or general partner.

(10) 'Partnership agreement' means any valid ~~agreement, written or oral;~~ agreement of the partners as to the affairs of a limited ~~partnership and~~ partnership, the conduct of its ~~business.~~ business, and the responsibilities and rights of its partners. The term 'partnership agreement' includes any written or oral agreement, whether or not the agreement is set forth in a document referred to by the partners as a 'partnership agreement', and includes any amendment agreed upon by the partners unanimously or in accordance with the terms of the agreement. The term also includes any agreement of the partners to waive or revise the terms of the partnership agreement in one or more specific instances and not necessarily on an ongoing or permanent basis.

(11) 'Partnership interest' means a partner's share of the allocations of income, gain, loss, deduction or credit of a limited partnership and the right to receive distributions of cash or other partnership assets.

(12) 'Person' means a natural person, partnership, limited partnership (domestic or foreign), trust, estate, association, or corporation.

(13) 'State' means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico."

Section 12. G.S. 59-106(a)(5) reads as rewritten:

"(5) ~~Unless contained in a written partnership agreement:~~ A written record that contains:

a. The amount of cash and a description and statement of the agreed value of the other property or services contracted by each partner and which each partner has agreed to contribute;

b. The times at which or events on the happening of which any additional contributions agreed to be made by each partner are to be made;

c. Any right of a partner to receive distribution of property, including cash from the limited partnership; and

d. Events upon the happening of which the limited partnership is to be dissolved and its affairs wound up.

The written record required pursuant to this subdivision may be part of a written partnership agreement or may be contained in one or more other documents or records."

Section 13. G.S. 59-107 reads as rewritten:

"**§ 59-107. Nature of business.**

A limited partnership may be formed for and carry on any lawful ~~business that a partnership without limited partners may carry on.~~ business."

Section 14. G.S. 59-205 reads as rewritten:

"**§ 59-205. ~~Amendment or cancellation~~ Execution by judicial act.**

If a person ~~required by G.S. 59-204 to execute a certificate of amendment or cancellation~~ fails or refuses to ~~do so,~~ execute a certificate pursuant to G.S. 59-204, any other ~~partner, and any assignee of a partnership interest,~~ person who is adversely affected by the failure or refusal, may petition the court for the county in which the partnership's registered office is located to direct the ~~amendment or cancellation.~~ execution of the certificate. If the court finds that ~~the amendment or cancellation is proper~~ it is proper for the certificate to be executed and that any person so designated has failed or refused to execute the certificate, it shall order an appropriate person to prepare, and the Secretary of State to ~~record~~ record, an appropriate ~~certificate of amendment or cancellation.~~ certificate."

Section 15. G.S. 59-206(a)(5) reads as rewritten:

"(5) The certificate required by subdivision (3a) of this ~~section~~ subsection shall be recorded by the register of deeds in the same manner as deeds, and for the same fees, but no formalities as to acknowledgement, probate, or approval by any other officer shall be required. The former name of the limited partnership holding title to the real property before the amendment shall appear in the 'Grantor' index, and the amended name of the limited partnership holding title to the real property by virtue of the amendment shall appear in the 'Grantee' index."

Section 16. G.S. 59-301 reads as rewritten:

"**§ 59-301. Admission of ~~additional~~ limited partners.**

(a) In connection with the formation of a limited partnership, a person is admitted as a limited partner upon the later to occur of:

(1) The formation of the limited partnership; or

(2) The time provided for becoming a limited partner pursuant to and upon compliance with the partnership agreement.

(b) After the ~~filing~~ formation of a ~~limited partnership's original certificate of~~ limited partnership, a person may be admitted as an additional limited partner:

(1) In the case of a person acquiring a partnership interest directly from the limited partnership, at the time provided pursuant to, and

upon the compliance ~~with~~ with, the partnership ~~agreement, or, if the partnership agreement does not so provide, upon the written consent of all partners;~~ agreement; and

(2) In the case of an assignee of a partnership interest of a partner who has the power, as provided in G.S. 59-704, to grant the assignee the right to become a limited partner, upon the exercise of that power and compliance with any conditions limiting the grant or exercise of the power."

Section 17. G.S. 59-302 reads as rewritten:

"**§ 59-302. Voting.**

~~Subject to G.S. 59-303, the~~ The partnership agreement may grant to all or a specified group of the limited partners the right to vote (on a per capita or other basis) upon any matter."

Section 18. G.S. 59-303 reads as rewritten:

"**§ 59-303. Liability to third parties.**

~~(a) Except as provided in subsection (d), a limited partner is not bound by the obligations of a limited partnership unless he is also a general partner or, in addition to the exercise of his rights and powers as a limited partner, he takes part in the control of the business. However, if the limited partner's participation in the control of the business is not substantially the same as the exercise of the powers of a general partner, he is liable only to persons who transact business with the limited partnership with actual knowledge of his participation in control.~~

~~(b) A limited partner does not participate in the control of the business within the meaning of subsection (a) solely by doing one or more of the following:~~

~~(1) Being a contractor for or an agent or employee of the limited partnership or of a general partner, or an officer, director, or shareholder of a corporate general partner;~~

~~(2) Consulting with and advising a general partner with respect to the business of the limited partnership;~~

~~(3) Acting as surety for the limited partnership;~~

~~(4) Proposing, approving or disapproving an amendment to the partnership agreement;~~

~~(5) Proposing or voting on one or more of the following matters:~~

~~a. The dissolution and winding up of the limited partnership;~~

~~b. The sale, exchange, lease, mortgage, pledge, or other transfer of all or substantially all of the assets of the limited partnership other than in the ordinary course of its business;~~

~~c. The incurrence of indebtedness by the limited partnership other than in the ordinary course of its business;~~

~~d. A change in the nature of the business; or~~

~~e. The addition, removal or substitution of general partners;~~

~~(6) Bringing an action in the right of a limited partnership to recover a judgment in its favor pursuant to Part 10 of this Article;~~

~~(7) Approving or disapproving a transaction involving an actual or potential conflict of interest between a general partner and the limited partnership; or~~

~~(8) Requesting or attending a meeting of partners.~~

~~(c) The enumeration in subsection (b) does not mean that the possession or exercise of any other powers by a limited partner constitutes participation by him in the control of the business of the limited partnership.~~

~~(d) A limited partner who knowingly permits his name to be used in the name of the limited partnership, except under circumstances permitted by G.S. 59-103(b)(i), is liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner.~~

A limited partner is not liable for the obligations of a limited partnership by reason of being a limited partner and does not become liable for the obligations of a limited partnership by participating in the management or control of the business of the limited partnership."

Section 19. G.S. 59-304 reads as rewritten:

"**§ 59-304. Person erroneously believing himself limited partner.**

(a) Except as provided in subsection (b), a person who makes a contribution to a business enterprise and erroneously but in good faith believes that ~~he~~ the person has become a limited partner in the enterprise is not a general partner in the enterprise and is not bound by its obligations by reason of making the contribution, receiving distributions from the enterprise, or exercising any rights of a limited partner, if, on ascertaining the mistake, he:

(1) Causes an appropriate certificate of limited partnership or certificate of amendment to be executed and filed; or

(2) Withdraws from future equity participation in the enterprise.

(b) A person who makes a contribution of the kind described in subsection (a) of this section is liable as a general partner to any third party who transacts business with the enterprise ~~(i) before the person withdraws from the enterprise, or (ii) before the person gives notice to the partnership of his withdrawal from future equity participation, but only if the third party actually believed in good faith that the person was a general partner at the time of the transaction.~~ in the case in which:

(1) The third party actually believed in good faith that the person was a general partner at the time of the transaction; and

(2) The third party transacted business with the enterprise before either:

a. An appropriate certificate has been filed pursuant to subsection (a) of this section to reflect that the person is not a general partner; or

b. The person has given notice to the partnership of withdrawal from future equity participation and before the withdrawal was effective."

Section 20. G.S. 59-305 reads as rewritten:

"**§ 59-305. Information.**

Each limited partner has the right to:

(1) Inspect and copy any of the partnership records required to be maintained by G.S. 59-106; and

(2) Obtain from the general partners from time to time upon reasonable demand (i) true and full information regarding the state of the business and financial condition of the limited partnership, (ii) promptly after becoming available, a copy of the limited partnership's federal, State, and local income tax returns for each year, and (iii) other information regarding the affairs of the limited partnership as is just and reasonable."

Section 21. G.S. 59-402(4) reads as rewritten:

"(4) Unless otherwise provided in writing in the partnership agreement, the general partner: (i) makes an assignment for the benefit of creditors; (ii) files a voluntary petition in bankruptcy; (iii) is adjudicated a bankrupt or insolvent; (iv) files a petition or answer seeking for himself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation; (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against ~~him~~ the general partner in any proceeding of this nature; or (vi) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of ~~his~~ the general partner's properties;".

Section 22. G.S. 59-402(5) reads as rewritten:

"(5) Unless otherwise provided in writing in the partnership agreement, 120 days after the commencement of any proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, the proceeding has not been dismissed, or if within 90 days after the appointment without ~~his~~ the general partner's consent or acquiescence of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of his properties, the appointment is not vacated or stayed, or within 90 days after the expiration of any such stay, the appointment is not vacated;".

Section 23. G.S. 59-502(a) reads as rewritten:

"(a) Except as provided in the ~~agreement of limited partnership,~~ partnership agreement, a partner is obligated to the limited partnership to perform any enforceable promise to contribute cash or property or to perform services, even if ~~he~~ the partner is unable to perform because of death, disability or any other reason. If a partner does not make the required contribution of property or services, ~~he~~ the partner is obligated at the option of the limited partnership to contribute cash equal to that portion of the agreed value of the stated contribution that has not been made. As used in this section, the term 'agreed value' means an amount or other measure of

value as (i) is provided in the partnership agreement, or (ii) if not provided in the partnership agreement, is required to be set forth in the written records required pursuant to G.S. 59-106."

Section 24. G.S. 59-503 reads as rewritten:

"**§ 59-503. Sharing income, gain, loss, deduction or credit.**

~~Allocation of the income;~~ Income, gain, loss, deduction or credit of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in the partnership agreement. ~~If the partnership agreement does not so provide in writing, items of income, gain, loss, deduction or credit shall be allocated on the basis of the value of the contributions made by each partner to the extent they have been received by the partnership and have not been returned.~~ To the extent the partnership agreement does not provide for the allocation of items of income, gain, loss, deduction, or credit, then those items shall be allocated on the basis of the agreed value of the contributions made by each partner to the extent they have been received by the partnership and have not been returned. As used in this section, the term 'agreed value' means an amount or other measure of value as (i) is provided in the partnership agreement, or (ii) if not provided in the partnership agreement, is required to be set forth in the written records required pursuant to G.S. 59-106."

Section 25. G.S. 59-504 reads as rewritten:

"**§ 59-504. Sharing of distributions.**

Distributions of cash or other assets of a limited partnership shall be made among the partners, and among classes of partners, in the manner provided in the partnership agreement. ~~If the partnership agreement does not so provide in writing, distributions shall be made on the basis of the value of the contributions made by each partner to the extent they have been received by the partnership and have not been returned.~~ To the extent the partnership agreement does not provide for the sharing of distributions among the partners, distributions shall be made among the partners on the basis of the agreed value of the contributions made by each partner to the extent they have been received by the partnership and have not been returned. As used in this section, the term 'agreed value' means an amount or other measure of value as (i) is provided in the partnership agreement, or (ii) if not provided in the partnership agreement, is required to be set forth in the written records required pursuant to G.S. 59-106."

Section 26. G.S. 59-602 reads as rewritten:

"**§ 59-602. Withdrawal of general partner.**

After filing of the original certificate of limited ~~partnership~~ partnership, a general partner may withdraw from a limited partnership at any time by giving written notice to the other partners, but if the withdrawal violates the partnership agreement, the limited partnership may recover from the withdrawing general partner, in addition to its other remedies, ~~and~~ any damages for breach of the partnership ~~agreement.~~ agreement and may offset the damages against the amount otherwise distributable or payable to the partner."

Section 27. G.S. 59-603 reads as rewritten:

"**§ 59-603. Withdrawal of limited partner.**

A limited partner may withdraw from a limited partnership only at the time or upon the happening of events specified in writing in and in accordance with the partnership ~~agreement.~~ agreement, including any amendment or addendum to the partnership agreement agreed upon by the partners unanimously or in accordance with the terms of the agreement and made in connection with any permitted withdrawal. If the partnership agreement does not specify in writing the time or the events upon the happening of which a limited partner may ~~withdraw~~ withdraw, a limited partner may not withdraw prior to the ~~or a definite~~ time for the dissolution and winding up of the limited ~~partnership, a limited partner may withdraw upon not less than six months prior written notice to each general partner at his address on the books of the limited partnership at its registered office in this State.~~ partnership."

Section 28. G.S. 59-604 reads as rewritten:

"**§ 59-604. Distribution upon withdrawal.**

Except as provided in this Article, upon withdrawal any withdrawing partner is entitled to receive any distribution to which ~~he~~ the partner is entitled under the partnership agreement and, if not otherwise provided in the agreement, ~~he~~ the partner is entitled to receive, within a reasonable time after withdrawal, the fair value of ~~his~~ the partner's partnership interest in the limited partnership as of the date of ~~withdrawal.~~ withdrawal, based upon the partner's right to share in distributions from the limited partnership."

Section 29. G.S. 59-606 reads as rewritten:

"**§ 59-606. Right to distribution.**

Subject to the other provisions of Part 6 of this Article, at the time a partner becomes entitled to receive a distribution, ~~he~~ the partner has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution."

Section 30. G.S. 59-608(c) reads as rewritten:

"(c) A partner receives a return of ~~his~~ the partner's contribution to the extent that a distribution to ~~him~~ the partner reduces ~~his~~ the partner's share of the fair value of the net assets of the limited partnership below the agreed value of ~~his~~ the partner's contribution which has not been distributed to ~~him.~~ the partner. As used in this section, the term 'agreed value' means an amount or other measure of value as (i) is provided in the partnership agreement, or (ii) if not provided in the partnership agreement, is required to be set forth in the written records required pursuant to G.S. 59-106."

Section 31. G.S. 59-702 reads as rewritten:

"**§ 59-702. Assignment of partnership interest.**

Except as provided in the partnership agreement, a partnership interest is assignable in whole or in part. Subject to G.S. 59-801(3) an assignment of a partnership interest does not dissolve a limited partnership or entitle the assignee to become or to exercise any rights of a partner. An assignment entitles the assignee to receive, to the extent assigned, only the allocation and distribution to which the assignor would be entitled. Except as provided in the partnership agreement, a

~~limited partner shall continue to be a limited partner after assignment of all or any part of his partnership interest. Except as provided in the partnership agreement, a general~~ partner ceases to be a ~~general~~ partner and to have the power to exercise any rights and powers of a partner upon assignment of all ~~his~~ of the partner's partnership interest. Except as provided in the partnership agreement, neither the pledge or granting of a security interest in any or all of the partnership interest of a partner nor the pledge or granting of a lien or other encumbrance against any or all of the partnership interest of a partner shall cause the partner to cease to be a partner or cease to have the power to exercise any rights or powers of a partner."

Section 32. G.S. 59-704(b) reads as rewritten:

"(b) An assignee who has become a limited partner has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a limited partner under the partnership agreement and this Article. An assignee who becomes a limited partner also is liable for the obligations of ~~his~~ the assignee's assignor to make and return contributions as provided in ~~Part~~ Parts 5 and 6 of this Article. However, the assignee is not obligated for liabilities that (i) are unknown to the assignee at the time ~~he~~ the assignee became a limited partner and ~~which~~ (ii) could not be ascertained from the written provisions of the partnership agreement."

Section 33. G.S. 59-801 reads as rewritten:

"**§ 59-801. Nonjudicial dissolution.**

(a) A limited partnership is dissolved and its affairs shall be wound up upon the happening of the first to occur of the following:

(1) At the time specified in the certificate of limited partnership or upon the happening of events specified in writing in the partnership agreement;

(2) Written consent of all partners;

(3) An event of withdrawal of a general partner ~~unless at~~ unless:

a. At the time there is at least one other general ~~partner and the written provisions of the partnership agreement permit~~ partner, in which case, unless otherwise provided in a written partnership agreement or agreed upon by all remaining partners, (i) the limited partnership is not dissolved, (ii) the limited partnership shall not be wound up, and (iii) the business of the limited partnership ~~to be carried on~~ shall be continued by the remaining general ~~partner and that partner does so, but the limited partnership is not dissolved and is not required to be wound up by reason of any event of withdrawal if, within~~ partners; or

b. Within 90 days after the withdrawal, all remaining ~~partners~~ partners, or a lesser number or portion of the partners provided in the partnership agreement, agree in writing to continue the business of the limited partnership and to the appointment of one or more additional general partners if necessary or ~~desired, or~~ desired, in which case the limited

partnership is not dissolved and is not required to be wound up by reason of the event of withdrawal;

(3a) Ninety days after the withdrawal of the limited partnership's last limited partner, unless the limited partnership admits at least one limited partner before the end of the 90 days; or

(4) Entry of a decree of judicial dissolution under G.S. 59-802.

(b) The causes of dissolution of a limited partnership shall be governed solely by this Article. Article 2 of this Chapter, which governs the causes of dissolution of a partnership without limited partners, does not apply and shall not govern the causes of dissolution of a limited partnership."

Section 34. G.S. 59-901 reads as rewritten:

§ 59-901. Law governing.

Subject to the Constitution of this State, ~~(1)~~ (i) the laws of the jurisdiction under which a foreign limited partnership is organized govern its organization and internal affairs and the liability of its ~~limited~~ partners, and ~~(2)~~ (ii) a foreign limited partnership may not be denied registration by reason of any difference between those laws and the laws of this State."

Section 35. G.S. 59-903 reads as rewritten:

"**§ 59-903. Issuance of registration.**

~~(a)~~ If the Secretary of State finds that an application satisfies the requirements of this Article, the Secretary shall, when all requisite fees have been tendered as in this Article prescribed:

(1) Endorse on the application the word 'filed', and the hour, day, month and year of the filing thereof;

(2) File in the office of the Secretary of State the application;

(3) Issue a certificate of authority to transact business in this State to which the Secretary shall affix the conformed copy of the application; and

(4) Send to the foreign limited partnership or its representative the certificate of authority, together with the conformed copy of the application affixed thereto."

Section 36. G.S. 59-907(e) reads as rewritten:

"(e) A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of the foreign limited partnership's having transacted business in this State without registration."

Section 37. G.S. 59-1002 reads as rewritten:

"**§ 59-1002. Proper plaintiff.**

In a derivative action, the plaintiff must be a partner at the time of bringing the action and ~~(1)~~ (i) must have been a partner at the time of the transaction ~~of which he complains~~ that is the subject of the complaint or ~~(2) his~~ (ii) the plaintiff's status as a partner ~~had~~ must have devolved upon ~~him~~ the partner by operation of law or pursuant to the terms of the partnership agreement from a person who was a partner at the time of the transaction."

Section 38. Sections 2, 3, and 5 become effective October 1, 1999, and apply to liabilities arising on or after that date. Sections 4, 6, 7, 8, and 9 become effective January 1, 2000, and apply to registered limited liability partnerships formed on or after that date. Section 10 becomes effective January 1, 2000, and applies to foreign limited liability partnerships transacting business in this State on or after that date. Section 27 becomes effective October 1, 1999, and applies to (i) any limited partnership formed before that date, only if validly adopted in writing by its partners or otherwise as a part of its partnership agreement, and (ii) all limited partnerships formed on or after that date. The remainder of this act becomes effective October 1, 1999.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 297 Ltd. Partnership/Prof. Liability Changes

SHORT TITLE: Ltd. Partnership/Prof. Liability Changes

SPONSOR(S): Senators Clodfelter, Cooper, Hartsell, Kerr, B. Miller, and Odom

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES	$3,750				
EXPENDITURES	NR$66,000				
POSITIONS:	0				

Revenues and recurring expenditures are expected to increase in the out year based on the formation of additional limited liability partnerships. However, no estimate can be made until there is some indication of the impact this bill will have on the formation of those partnerships. Assuming the same level of activity, the revenue from the annual report fee and registration fee will increase by $150,000 and $7,500 annual. See the Assumptions and Methodology for more explanation.

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: **Secretary of State**

EFFECTIVE DATE: Sections 2, 3, and 5 become effective October 1, 1999, and apply to liabilities arising on or after that date. Sections 4, 6, 7, 8, and 9 become effective January 1, 2000, and apply to registered limited liability partnerships formed on or after that date. Section 10 becomes effective January 1, 2000, and applies to foreign limited liability partnerships transacting business in this State on or after that date. Section 27 becomes effective October 1, 1999, and applies to (i) any limited partnership formed before that date, only if validly adopted in writing by its partners or otherwise as a part of its partnership agreement, and (ii) all limited partnerships formed on or after that date. The remainder of this act becomes effective October 1, 1999.

BILL SUMMARY: ***(Adopted from the April 20, 1999 summary prepared by Senate Judiciary I Committee Co-Counsel.)***

The Proposed Committee Substitute for Senate Bill 297 will amend the law related to limited partnerships and will clarify the limit of liability of professionals in limited liability

companies, registered limited liability partnerships, and professional corporations. The bill also provides for registration of foreign limited liability partnerships and annual reports by registered limited liability partnerships and foreign limited liability partnerships. Specifically,

Section 1 of the bill provides that the legal residence of a limited partnership, a limited liability company, and a registered limited liability partnership are determined the same as for a corporation.

Sections 2 and 3 amend the Professional Corporation Act (Chapter 55B) and the Limited Liability Company Act (Chapter 57C), respectively, to clarify that a shareholder, director, or officer of a professional corporation, or a member of a limited liability company, is not individually liable for the professional malpractice of another person in the professional organization but would be personally liable for their own malpractice.

Section 4 adds the definition of a "foreign limited liability partnership" to the Uniform Partnership Act (Chapter 59).

Section 5 also amends the Uniform Partnership Act to clarify the liability of partners in a registered limited liability partnership (RLLP) generally, and to clarify that a partner in a RLLP is not individually liable for the professional malpractice of another partner in the RLLP but would be personally liable for their own malpractice.

Sections 6, 7, 8 create a new article for registered limited liability partnerships and makes other clarifying changes in this law for the creation, amendment, and designation of a RLLP.

Section 9 requires RLLP's and foreign limited liability partnerships to file annual reports with the Secretary of State in a fashion similar to the annual reports required of corporations, nonprofits, and limited liability companies.

Section 10 provides for the registration of a foreign limited liability partnership in a fashion similar to the registration of a foreign corporation, foreign nonprofit corporation, a foreign limited liability company, and a foreign limited partnership.

Sections 11 through 37 amend the Limited Partnership Act in Article 5 of Chapter 59 and makes numerous clarifying changes regarding limited partnerships. Section 18 deletes the liability of limited partners to third parties under certain circumstances and provides that the limited partner is not liable even if the limited partner participates in the management of the limited partnership. Section 27 allows for a limited partnership to amend the provisions for allowing a limited partner to withdraw and provides that in a limited partnership where no provisions are made for a limited partner to withdraw, the limited partner may not withdraw until the time for the dissolution and winding up of the limited partnership business.

Section 38 outlines the effective dates of the various sections of the bill.

ASSUMPTIONS AND METHODOLOGY: This bill amends and makes numerous clarifying changes to the Professional Corporation Act, the Limited Liability Company Act, the Uniform Partnership Act, and the Limited Partnership Act. It creates a new article for registered limited liability partnerships and makes other clarifying changes in this law for the creation, amendment, and designation of a registered limited liability partnership. It also creates a new article for the registration of foreign limited liability corporations. While most of the amendments and changes in sections 1-5 and sections 11-37 have no fiscal impact, amendments and clarifying changes in sections 6-10 have an impact on the Department of the Secretary of State's revenue and expenditures. These are noted below.

Under existing law, registered limited liability partnerships (RLLP) are required to apply for registration as such and pay a $100 fee. The registration is effective for one year and they must file an annual renewal statement along with a $100 fee. Sections 7 and 9 of this bill eliminate the one-year registration for RLLPs and instead require those RLLPs to file an annual report with the Secretary of State. The annual report fee is $200. The bill also increases the initial registration fee from $100 to $125.

Currently, there are 1,500 registered limited liability partnerships. The Secretary of State currently collects $150,000 (1,500 * $100 renewal fee) annually for the annual renewal fee. The bill would require these entities to submit a $200 fee annually when they submit their annual reports instead of the $100 annual renewal fee they currently must pay. With this change in law, the collections from these entities would increase by $150,000 (1500 RLLPs * $200 annual report fee- $100 annual renewal fee) annually. Please note however, that over 90% of the RLLPs will file their renewal statements by December 31, 1999, prior to the January 1, 2000 effective date of the change. Therefore they would not be required to submit an annual report until April 15, 2001 -- 4 months after the end of their fiscal year, assuming they operate on a calendar year. **Thus, this bill would not affect the revenue from existing RLLPs until Fiscal Year 2000-2001.**

Section 7 of this bill also increases the initial registration fee from $100 to $125. For calendar year 1998 there were 300 new filings. Assuming the same level of new filings, this change in law would generate an additional $3,750 ((300 new filings/2) * $25 registration fee increase) in Fiscal Year 1999-2000 and $7,500 annually thereafter. The filings during the year are fairly consistent from month to month. Thus, the first year estimate assumes that one-half of the entities would have applied for registration as an RLLP with the $100 fee between July 1, 1999 and December 31, 1999, prior to the effective date of the change.

The above estimates assume the same level of activity. However, other provisions in sections 5 of the bill clarify and expressly limit the individual liability of partners in limited liability partnerships. The Secretary of State believes these provisions make RLLPs a more attractive entity than general partnerships and as a result, they expect that there may be a surge in the formation of LLPs. (The Secretary of State noted that there has been a 59% increase in the formation of limited liability companies since the enactment of the Limited Liability Company Act.) If there is an increase in the number of RLLPs, the annual revenue from the registration fee and the annual report fee will be greater than the projected increase of $150,000 and $7,500 which are based on the current level of activity. At this time, neither the Secretary of State nor the Fiscal Research Division can estimate the number of additional RLLPs, if any, that may be formed as a result of this bill or the additional revenue that may be realized beyond fiscal year 1999-2000.

Section 4 of the bill defines a foreign limited liability partnership. Section 10 of the bill amends the law governing limited liability partnerships to give recognition to foreign limited liability partnerships and it requires them to register as such. Under existing law, there is no distinction between foreign and domestic limited liability partnerships. Also as noted in the above discussion on the bill's impact on the Department's revenue, the bill eliminates the requirement for RLLPs (both foreign and domestic) to file annual renewal statements. But it does require them to submit an annual report. These amendments would require substantial

modifications to the Secretary of State's automated system for tracking RLLPs. The modifications include the need to accommodate new foreign LLP registrations, the addition of annual report filing requirements for the domestic and foreign LLPs as well as the need for additional data storage space. The annual report requirement would require the Secretary of State to provide annual report forms, send notifications if the reports are non-compliant with the reporting requirements; send notifications of the intent to revoke registrations when appropriate, etc. The Secretary of State estimates the one-time cost of making those system changes to be $35,000. In addition to the one-time cost for modifying its computer system, the Secretary of State estimates that temporary funding would be needed for at least one additional processing assistant to help with the data entry and additional paperwork that will be generated from the annual report requirement. They cannot accurately estimate at this time the impact this bill would have on the Department's workload and the additional permanent staff that would be needed.

The Fiscal Research Division believes these estimates for the one-time cost of modifying the system are reasonable. We also believe, the limitation on the partners' individual liability will make RLLP a more attractive entity and that there will be more filings with the Secretary of State as a result. We note, however, that at least one year of experience implementing the changes of this bill is needed to determine the true level of staff required to accommodate the change in workload resulting from this bill. Therefore, we cannot estimate the cost for additional personnel and we believe the Department's estimate of $31,000 in temporary funding for one additional person is reasonable.

The Secretary of State also estimates that the bill will result in increased cost for printing and mailing new registration forms to comply with amendments to G.S. 59-84.2, annual report forms, new registration forms for foreign limited liability partnerships, and new forms to apply for reinstatement when the RLLP registration has been revoked. They also estimate that there will be additional computer costs related to additional data usage. However, the Secretary of State cannot estimate what these cost would be at this time.

TECHNICAL CONSIDERATIONS: Section 38 of the bill provides that sections 4, 6, 7, 8, and 9 become effective January 1, 2000 **and apply to registered limited liability partnerships formed on or after that date.** Among other changes, these provisions eliminate the one-year registration period for RLLPs and require RLLPs to submit an annual report with a $200 fee instead of an annual renewal statement with a $100 fee. This fiscal note assumes that these provisions apply to all RLLPs regardless of when they were formed and that RLLPs formed prior to January 1, 2000 would be required to submit an annual report with a $200 fee effective January 1, 2000 instead of an annual renewal statement.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Marilyn Chism

APPROVED BY: Tom Covington

DATE: Wednesday, June 30, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 796 A BILL TO BE ENTITLED AN ACT AUTHORIZING THE STATE LICENSING BOARD FOR GENERAL CONTRACTORS TO OWN REAL PROPERTY AND TO PURCHASE EQUIPMENT AND LIABILITY INSURANCE.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 796

Short Title: General Contractors Property. (Public)

Sponsors: Senator Hoyle.

Referred to: Commerce.

April 12, 1999

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE STATE LICENSING BOARD FOR GENERAL CONTRACTORS TO OWN REAL PROPERTY AND TO PURCHASE EQUIPMENT AND LIABILITY INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. Article 1 of Chapter 87 of the General Statutes is amended by adding a new section to read:

"**§ 87-9.1. Ownership of real property; equipment; liability insurance.**

(a) The Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State as to the acquisition, rental, encumbering, leasing, and sale of real property. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board.

(b) The Board may purchase or rent equipment and supplies and purchase liability insurance or other insurance to cover the activities of the Board, its operations, or its employees."

Section 2. This act is effective when it becomes law.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ House Committee Substitute for

S.B. 835 A BILL TO BE ENTITLED AN ACT TO REVISE THE LAW GOVERNING MERGERS, CONSOLIDATIONS, AND CONVERSIONS AMONG BUSINESS CORPORATIONS, NONPROFIT CORPORATIONS, AND UNINCORPORATED ENTITIES, INCLUDING LIMITED LIABILITY COMPANIES AND PARTNERSHIPS, FOR THE PURPOSE OF CONFORMING THE LAWS WITH THOSE OF OTHER STATES AND MODERN BUSINESS PRACTICES; TO ALLOW CONVERSION OF A MUTUAL INSURANCE COMPANY TO A STOCK INSURANCE COMPANY; AND TO PERMIT HOMEOWNER ASSOCIATIONS TO DISTRIBUTE SURPLUS FUNDS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to House committee substitute bill (# 2), ~~☐ which changes the title,~~ unfavorable as to ~~(original bill)~~ House Committee Substitute Bill # 1, ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 835

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S835-ARB-6/30

Date July 1 ,1999

Comm. Sub. [YES]
Amends Title []
Third Edition

Representative Wilson

moves to amend the bill on page 42, lines 1 through 13, by deleting those lines;

and on page 42, line 14, by deleting "**PART IX.**" and substituting "**PART VIII.**";

and on page 42, line 15, by deleting "Section 9." and substituting "Section 8.".

SIGNED Connie Wilson
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 835
Judiciary I Committee Substitute Adopted 4/26/99
House Committee Substitute Favorable 6/30/99
Proposed House Committee Substitute S835-PCS1773-RB

Short Title: Revise Law Governing Mergers. (Public)

Sponsors:

Referred to:

April 12, 1999

A BILL TO BE ENTITLED

AN ACT TO REVISE THE LAW GOVERNING MERGERS, CONSOLIDATIONS, AND CONVERSIONS AMONG BUSINESS CORPORATIONS, NONPROFIT CORPORATIONS, AND UNINCORPORATED ENTITIES, INCLUDING LIMITED LIABILITY COMPANIES AND PARTNERSHIPS, FOR THE PURPOSE OF CONFORMING THE LAWS WITH THOSE OF OTHER STATES AND MODERN BUSINESS PRACTICES; TO ALLOW CONVERSION OF A MUTUAL INSURANCE COMPANY TO A STOCK INSURANCE COMPANY; AND TO PERMIT HOMEOWNER ASSOCIATIONS TO DISTRIBUTE SURPLUS FUNDS.

The General Assembly of North Carolina enacts:

PART I. CORPORATIONS.

Section 1.1. G.S. 55-1-20(f) reads as rewritten:

"(f) ~~The~~ A document submitted by a domestic or foreign corporation or nonprofit corporation must be executed:

(1) By the chairman of the board of ~~directors of a domestic or foreign corporation,~~ directors, by its president, or by another of its officers;

(2) If directors have not been selected or the corporation has not been formed, by an incorporator; or

(3) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

A document submitted by an unincorporated entity must be executed by a person authorized to execute documents (i) pursuant to G.S. 57C-1-20(f) if the unincorporated entity is a domestic or foreign limited liability company, (ii) pursuant to G.S. 59-204 if the unincorporated entity is a domestic or foreign limited partnership, or (iii) pursuant to G.S. 59-73.7(a)(4) if the unincorporated entity is any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State."

Section 1.2. G.S. 55-1-40(9) reads as rewritten:

"(9) 'Entity' includes (without limiting the meaning of such term in Article 9) corporation and foreign corporation; nonprofit corporation; professional corporation; limited liability company; profit and nonprofit unincorporated association; business trust, estate, partnership, trust, and two or more persons having a joint or common economic interest; and state, United States, and foreign government."

Section 1.3. G.S. 55-1-40 is amended by adding the following new subdivision, to be placed by the Codifier of Statutes in the appropriate order, to read:

"(25a) 'Unincorporated entity' means a domestic or foreign limited liability company as defined in G.S. 57C-1-03, a domestic or foreign limited partnership as defined in G.S. 59-102, or any other partnership as defined in G.S. 59-36, whether or not formed under the laws of this State, including a registered limited liability partnership as defined in G.S. 59-32 and any other limited liability partnership formed under a law other than the laws of this State."

Section 1.4. G.S. 55-4-05 reads as rewritten:

"**§ 55-4-05. Real property records.**

(a) Whenever the name of any domestic or foreign corporation holding title to real property in this State is changed upon amendment to the articles of incorporation or whenever title to its real property in this State is ~~transferred~~ vested by operation of law in another entity upon ~~merger of two or more corporations,~~ merger, consolidation, or conversion of the corporation, a certificate reciting ~~such change or transfer~~ the name change, merger, consolidation, or conversion shall be recorded in the office of the register of deeds of the county where the property lies, or if the property is located in more than one county, then in each county where any portion of the property lies.

(b) The Secretary of State shall adopt uniform certificates to be furnished for registration in accordance with this section. In the case of a foreign corporation, a similar certificate by any competent authority of the jurisdiction of incorporation may be registered in accordance with this section.

(c) The certificate required by this section shall be recorded by the register of deeds in the same manner as deeds, and for the same fees, but no formalities as to acknowledgement, probate, or approval by any other officer shall be required. The former name of the corporation holding title to the real property before the ~~amendment or merger~~ name change, merger, consolidation, or conversion shall

appear in the 'Grantor' index, and the ~~amended~~ new name of the corporation or the name of the other entity holding title to the real property by virtue of the ~~amendment or merger~~ merger, consolidation, or conversion shall appear in the 'Grantee' index."

Section 1.5. G.S. 55-9-01(b)(1) reads as rewritten:

"(1) 'Business combination' includes any merger or consolidation of a corporation with or into any other ~~corporation,~~ corporation or any unincorporated entity, or the sale or lease of all or any substantial part of the corporation's assets to, or any payment, sale or lease to the corporation or any subsidiary thereof in exchange for securities of the corporation of any assets (except assets having an aggregate fair market value of less than five million dollars ($5,000,000)) of any other entity."

Section 1.6. G.S. 55-9-04(d) reads as rewritten:

"(d) Nothing contained in this Article shall be construed to relieve any other entity from any fiduciary obligation imposed by law. This Article shall be broadly construed so as to be applicable to any transaction reasonably calculated to avoid the application of the provisions hereof including, without limitation, any merger or other recapitalization, initiated by or for the benefit of an other entity that owns more than twenty percent (20%) of the voting shares, which would reincorporate a corporation under the laws of another ~~state.~~ state or which would reorganize a corporation as an unincorporated entity."

Section 1.7. G.S. 55-11-06(a)(4) reads as rewritten:

"(4) A proceeding pending by or against any corporation party to the merger may be continued as if the merger did not occur or the surviving corporation may be substituted in the proceeding for the corporation whose existence ceased;".

Section 1.8. Article 11 of Chapter 55 of the General Statutes is amended by adding a new section to read:

"**§ 55-11-10. Merger with unincorporated entity.**

(a) As used in this section, 'business entity' means a domestic corporation as defined in G.S. 55-1-40 (including a professional corporation as defined in G.S. 55B-2), a foreign corporation as defined in G.S. 55-1-40 (including a foreign professional corporation as defined in G.S. 55B-16), a domestic or foreign nonprofit corporation as defined in G.S. 55A-1-40, a domestic or foreign limited liability company as defined in G.S. 57C-1-03, a domestic or foreign limited partnership as defined in G.S. 59-102, and any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State (including a registered limited liability partnership as defined in G.S. 59-32 and any limited liability partnership formed under a law other than the laws of this State).

(b) One or more domestic corporations may merge with one or more unincorporated entities and, if desired, one or more foreign corporations, domestic nonprofit corporations, or foreign nonprofit corporations if:

(1) The merger is permitted by the laws of the state or country governing the organization and internal affairs of each other merging business entity; and

(2) Each merging domestic corporation and each other merging business entity comply with the requirements of this section and, to the extent applicable, the laws referred to in subdivision (1) of this subsection.

(c) Each merging domestic corporation and each other merging business entity shall approve a written plan of merger containing:

(1) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;

(2) The name of the merging business entity that shall survive the merger;

(3) The terms and conditions of the merger;

(4) The manner and basis for converting the interests in each merging business entity into interests, obligations, or securities of the surviving business entity or into cash or other property in whole or in part; and

(5) If the surviving business entity is a domestic corporation, any amendments to its articles of incorporation that are to be made in connection with the merger.

The plan of merger may contain other provisions relating to the merger.

In the case of a domestic corporation, approval of the plan of merger requires that the plan of merger be adopted by its board of directors as provided in G.S. 55-11-03 and, unless shareholder approval is not required under subsection (g) of G.S. 55-11-03, be approved by its shareholders as provided in G.S. 55-11-03. In the case of each other merging business entity, the plan of merger must be approved in accordance with the laws of the state or country governing the organization and internal affairs of that merging business entity.

After a plan of merger has been approved by a domestic corporation but before the articles of merger become effective, the plan of merger (i) may be amended as provided in the plan of merger, or (ii) may be abandoned (subject to any contractual rights) as provided in the plan of merger or, if there is no such provision, as determined by the board of directors without further shareholder action.

(d) After a plan of merger has been approved by each merging domestic corporation and each other merging business entity as provided in subsection (c) of this section, the surviving business entity shall deliver articles of merger to the Secretary of State for filing. The articles of merger shall set forth:

(1) The plan of merger;

(2) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;

(3) The name and address of the surviving business entity;

(4) A statement that the plan of merger has been approved by each merging business entity in the manner required by law; and

(5) The effective date and time of merger if it is not to be effective at the time of filing of the articles of merger.

If the plan of merger is amended or abandoned before the articles of merger become effective, the surviving business entity promptly shall deliver to the Secretary of State for filing an amendment to the articles of merger reflecting the amendment or abandonment of the plan of merger.

Certificates of merger shall also be registered as provided in G.S. 47-18.1.

(e) A merger takes effect when the articles of merger become effective. When a merger takes effect:

(1) Each other merging business entity merges into the surviving business entity and the separate existence of each merging business entity except the surviving business entity ceases;

(2) The title to all real estate and other property owned by each merging business entity is vested in the surviving business entity without reversion or impairment;

(3) The surviving business entity has all liabilities of each merging business entity;

(4) A proceeding pending by or against any merging business entity may be continued as if the merger did not occur, or the surviving business entity may be substituted in the proceeding for a merging business entity whose separate existence ceases in the merger;

(5) If a domestic corporation is the surviving business entity, its articles of incorporation shall be amended to the extent provided in the plan of merger;

(6) The interests in each merging business entity that are to be converted into interests, obligations, or securities of the surviving business entity or into the right to receive cash or other property are thereupon so converted, and the former holders of the interests are entitled only to the rights provided to them in the articles of merger or, in the case of former holders of shares in a domestic corporation, any rights they may have under Article 13 of this Chapter; and

(7) If the surviving business entity is not a domestic corporation, the surviving business entity is deemed to agree that it will promptly pay to the dissenting shareholders of any merging domestic corporation the amount, if any, to which they are entitled under Article 13 of this Chapter and otherwise to comply with the requirements of Article 13 as if it were a surviving domestic corporation in the merger.

The merger shall not affect the liability or absence of liability of any holder of an interest in a merging business entity for any acts, omissions, or obligations of any merging business entity made or incurred prior to the effectiveness of the merger.

The cessation of separate existence of a merging business entity in the merger shall not constitute a dissolution or termination of the merging business entity.

If the surviving business entity is not a domestic limited liability company, a domestic corporation, a domestic nonprofit corporation, or a domestic limited partnership, when the merger takes effect the surviving business entity is deemed:

(1) To agree that it may be served with process in this State in any proceeding for enforcement of (i) any obligation of any merging domestic limited liability company, domestic corporation, domestic nonprofit corporation, domestic limited partnership, or other partnership as defined in G.S. 59-36 that is formed under the laws of this State, (ii) the rights of dissenting shareholders of any merging domestic corporation under Article 13 of this Chapter, and (iii) any obligation of the surviving business entity arising from the merger; and

(2) If the surviving business entity does not have a registered agent in this State, to have appointed the Secretary of State as its registered agent for service of process in any such proceeding until such time as the surviving business entity appoints a registered agent in this State. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process. Upon receipt of service of process on behalf of a surviving business entity, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving business entity at its address shown in the articles of merger or, if an application for a certificate of withdrawal by reason of merger has been filed, at the address for service of process contained in that application.

(f) This section does not apply to a merger that does not include a merging unincorporated entity."

Section 1.9. G.S. 55-15-21 reads as rewritten:

"**§ 55-15-21. Withdrawal of foreign corporation by reason of a ~~merger.~~ merger, consolidation, or conversion.**

(a) Whenever ~~the separate existence of~~ a foreign corporation authorized to transact business in this State ceases its separate existence as a result of a statutory merger or consolidation permitted by the laws of the state or country under which it was incorporated, or converts into another entity as permitted by those laws, the surviving ~~corporation~~ or resulting entity shall apply for a certificate of withdrawal for the ~~merged~~ foreign corporation by delivering to the Secretary of State for filing a copy of the articles of merger, consolidation, or conversion or a certificate reciting the facts of the merger, consolidation, or conversion, duly authenticated by the Secretary of State or other official having custody of corporate records in the state or country under the laws of which such ~~statutory merger was effected.~~ foreign

corporation was incorporated. If the surviving ~~corporation~~ or resulting entity is not authorized to transact business in this State the articles ~~of merger~~ or certificate must be accompanied by an application which must set forth:

(1) The name of ~~each merged~~ the foreign corporation authorized to transact business in this ~~State and the~~ State, the type of entity and name of the surviving ~~corporation~~ or resulting entity, and a statement that the surviving ~~corporation~~ or resulting entity is not authorized to transact business in this State;

(2) ~~That~~ A statement that the surviving ~~corporation~~ or resulting entity consents that service of process based upon any cause of action arising in this State, or arising out of business transacted in this State, during the time ~~each merged~~ the foreign corporation was authorized to transact business in this State may thereafter be made ~~on such corporation~~ by service thereof on the Secretary of State;

(3) A mailing address to which the Secretary of State may mail a copy of any process served on him under subdivision (a)(2); and

(4) A commitment to notify the Secretary of State in the future of any change in its mailing address.

(b) If the Secretary of State finds that the articles ~~of merger~~ or certificate and the application for withdrawal, if required, ~~conforms~~ conform to law ~~he~~ the Secretary of State shall:

(1) Endorse on the articles ~~of merger~~ or certificate and the application for withdrawal, if required, the word 'filed' and the hour, day, month and year of the filing thereof;

(2) File the articles ~~of merger~~ or certificate and the application, if required;

(3) Issue a certificate of withdrawal; and

(4) Send to the ~~foreign corporation~~ surviving or resulting entity or its representative the certificate of withdrawal, together with the exact or conformed copy of the application, if required, affixed thereto."

PART II. NONPROFIT CORPORATIONS.

Section 2.1. G.S. 55A-1-20(f) reads as rewritten:

"(f) ~~The~~ A document submitted by a domestic or foreign corporation or business corporation shall be executed:

(1) By the presiding officer of the board of directors ~~of a domestic or foreign corporation,~~ by its president, or by another of its officers;

(2) If directors have not been selected or the corporation has not been formed, by an incorporator; or

(3) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

A document submitted by an unincorporated entity must be executed by a person authorized to execute documents (i) pursuant to G.S. 57C-1-20(f) if the unincorporated entity is a domestic or foreign limited liability company, (ii) pursuant

to G.S. 59-204 if the unincorporated entity is a domestic or foreign limited partnership, or (iii) pursuant to G.S. 59-73.7(a)(4) if the unincorporated entity is any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State."

Section 2.2. G.S. 55A-1-40 is amended by adding the following new subdivision to read:

"(25a) 'Unincorporated entity' means a domestic or foreign limited liability company as defined in G.S. 57C-1-03, a domestic or foreign limited partnership as defined in G.S. 59-102, or any other partnership as defined in G.S. 59-36, whether or not formed under the laws of this State, including a registered limited liability partnership as defined in G.S. 59-32 and any other limited liability partnership formed under a law other than the laws of this State."

Section 2.3. G.S. 55A-4-05 reads as rewritten:

"**§ 55A-4-05. Real property records.**

(a) Whenever the name of any domestic or foreign corporation holding title to real property in this State is changed upon amendment to the articles of incorporation or whenever title to its real property in this State is ~~transferred~~ vested by operation of law in another entity upon ~~merger of two or more corporations,~~ merger, consolidation, or conversion of the corporation, a certificate reciting the ~~change or transfer~~ name change, merger, consolidation, or conversion shall be recorded by the corporation or its successor in the office of the register of deeds of the county where the property lies, or if the property is located in more than one county, then in each county where any portion of the property lies.

(b) The Secretary of State shall adopt uniform certificates to be furnished for recording in accordance with this section. In the case of a foreign corporation, a similar certificate by any competent authority of the jurisdiction of incorporation may be recorded in accordance with this section.

(c) The certificate required by this section shall be recorded by the register of deeds in the same manner as deeds, and for the same fees, but no formalities as to acknowledgement, probate, or approval by any other officer shall be required. The former name of the corporation holding title to the real property before the ~~amendment or merger~~ name change, merger, consolidation, or conversion shall appear in the 'Grantor' index, and the ~~amended~~ new name of the corporation or the name of the other entity holding title to the real property by virtue of the ~~amendment or merger~~ merger, consolidation, or conversion shall appear in the 'Grantee' index."

Section 2.4. G.S. 55A-11-02 reads as rewritten:

"**§ 55A-11-02. Limitations on mergers by charitable or religious corporations.**

(a) Without the prior approval of the superior court in a proceeding in which the Attorney General has been given written notice, a charitable or religious corporation may merge only with:

(1) A charitable or religious corporation;

(2) A foreign corporation that would qualify under this Chapter as a charitable or religious corporation;

(3) A wholly owned foreign or domestic corporation (business or nonprofit) which is not a charitable or religious corporation, or an unincorporated entity, provided the charitable or religious corporation is the ~~surviving corporation~~ survivor in the merger and continues to be a charitable or religious corporation after the merger; or

(4) A business or nonprofit corporation (foreign or domestic) other than a charitable or religious corporation, or an unincorporated entity, provided that: (i) on or prior to the effective date of the merger, assets with a value equal to the greater of the fair market value of the net tangible and intangible assets (including goodwill) of the charitable or religious corporation or the fair market value of the charitable or religious corporation if it were to be operated as a business concern are transferred or conveyed to one or more persons who would have received its assets under G.S. 55A-14-03(a)(1) and (2) had it dissolved; (ii) it shall return, transfer or convey any assets held by it upon condition requiring return, transfer or conveyance, which condition occurs by reason of the merger, in accordance with such condition; and (iii) the merger is approved by a majority of directors of the charitable or religious corporation who are not and will not become ~~members~~ members, as 'member' is defined in G.S. 55A-1-40(16) or G.S. 57C-1-03, partners, limited partners, or shareholders in or directors, managers, officers, employees, agents, or consultants of the ~~surviving corporation.~~ survivor in the merger.

(b) At least 20 days before consummation of any merger of a charitable or religious corporation pursuant to subdivision (a)(4) of this section, notice, including a copy of the proposed plan of merger, shall be delivered to the Attorney General.

(c) Without the prior written consent of the Attorney General, or approval of the superior court in a proceeding in which the Attorney General has been given notice, no member of a charitable or religious corporation may receive or retain any property as a result of a merger other than ~~a membership~~ an interest as a member, as 'member' is defined in G.S. 55A-1-40(16), in the ~~surviving corporation.~~ survivor of the merger. The Attorney General may consent to the transaction, or the court shall approve the transaction, if it is fair and not contrary to the public interest."

Section 2.5. G.S. 55A-11-05(a)(4) reads as rewritten:

"(4) A proceeding pending by or against any corporation party to the merger may be continued as if the merger did not occur or the surviving corporation may be substituted in the proceeding for the corporation whose existence ceased; and".

Section 2.6. G.S. 55A-11-07 reads as rewritten:

"**§ 55A-11-07. Bequests, devises, and gifts.**

Any bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance, that is made to a constituent corporation

and that takes effect or remains payable after the merger, inures to the ~~surviving corporation~~ survivor in the merger unless the will or other instrument otherwise specifically provides."

Section 2.7. Article 11 of Chapter 55A of the General Statutes is amended by adding a new section to read:

"**§ 55A-11-09. Merger with unincorporated entity.**

(a) As used in this section, 'business entity' means a domestic corporation as defined in G.S. 55-1-40 (including a professional corporation as defined in G.S. 55B-2), a foreign corporation as defined in G.S. 55-1-40 (including a foreign professional corporation as defined in G.S. 55B-16), a domestic or foreign nonprofit corporation as defined in G.S. 55A-1-40, a domestic or foreign limited liability company as defined in G.S. 57C-1-03, a domestic or foreign limited partnership as defined in G.S. 59-102, and any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State (including a registered limited liability partnership as defined in G.S. 59-32 and any limited liability partnership formed under a law other than the laws of this State).

(b) One or more domestic nonprofit corporations may merge with one or more unincorporated entities and, if desired, one or more foreign nonprofit corporations, domestic business corporations, or foreign business corporations if:

(1) The merger is permitted by the laws of the state or country governing the organization and internal affairs of each of the other merging business entities;

(2) Each merging domestic nonprofit corporation and each other merging business entity comply with the requirements of this section and, to the extent applicable, the laws referred to in subdivision (1) of this subsection; and

(3) The merger complies with G.S. 55A-11-02, if applicable.

(c) Each merging domestic nonprofit corporation and each other merging business entity shall approve a written plan of merger containing:

(1) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;

(2) The name of the merging business entity that shall survive the merger;

(3) The terms and conditions of the merger;

(4) The manner and basis for converting the interests in each merging business entity into interests, obligations, or securities of the surviving business entity or into cash or other property in whole or in part; and

(5) If the surviving business entity is a domestic nonprofit corporation, any amendments to its articles of incorporation that are to be made in connection with the merger.

The plan of merger may contain other provisions relating to the merger.

In the case of a domestic nonprofit corporation, approval of the plan of merger requires that the plan of merger be adopted as provided in G.S. 55A-11-03. In the case of each other merging business entity, the plan of merger must be approved in accordance with the laws of the state or country governing the organization and internal affairs of such merging business entity.

After a plan of merger has been approved by a domestic nonprofit corporation but before the articles of merger become effective, the plan of merger (i) may be amended as provided in the plan of merger, or (ii) may be abandoned (subject to any contractual rights) as provided in the plan of merger or, if there is no such provision, as determined by the board of directors.

(d) After a plan of merger has been approved by each merging domestic nonprofit corporation and each other merging business entity as provided in subsection (c) of this section, the surviving business entity shall deliver articles of merger to the Secretary of State for filing. The articles of merger shall set forth:

(1) The plan of merger;

(2) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;

(3) The name and address of the surviving business entity;

(4) A statement that the plan of merger has been approved by each merging business entity in the manner required by law; and

(5) The effective date and time of merger if it is not to be effective at the time of filing of the articles of merger.

If the plan of merger is amended or abandoned before the articles of merger become effective, the surviving business entity promptly shall deliver to the Secretary of State for filing an amendment to the articles of merger reflecting the amendment or abandonment of the plan of merger.

Certificates of merger shall also be registered as provided in G.S. 47-18.1.

(e) A merger takes effect when the articles of merger become effective. When a merger takes effect:

(1) Each other merging business entity merges into the surviving business entity and the separate existence of each merging business entity except the surviving business entity ceases;

(2) The title to all real estate and other property owned by each merging business entity is vested in the surviving business entity without reversion or impairment;

(3) The surviving business entity has all liabilities of each merging business entity;

(4) A proceeding pending by or against any merging business entity may be continued as if the merger did not occur, or the surviving business entity may be substituted in the proceeding for a merging business entity whose separate existence ceases in the merger;

(5) If a domestic nonprofit corporation is the surviving business entity, its articles of incorporation shall be amended to the extent provided in the plan of merger;

(6) The interests in each merging business entity that are to be converted into interests, obligations, or securities of the surviving business entity or into the right to receive cash or other property are thereupon so converted, and the former holders of the interests are entitled only to the rights provided to them in the articles of merger or, in the case of former holders of shares in a domestic business corporation, any rights they may have under Article 13 of Chapter 55 of the General Statutes; and

(7) If the surviving business entity is not a domestic business corporation, the surviving business entity is deemed to agree that it will promptly pay to the dissenting shareholders of any merging domestic business corporation the amount, if any, to which they are entitled under Article 13 of Chapter 55 of the General Statutes and otherwise to comply with the requirements of Article 13 as if it were a surviving domestic business corporation in the merger.

The merger shall not affect the liability or absence of liability of any holder of an interest in a merging business entity for any acts, omissions, or obligations of any merging business entity made or incurred prior to the effectiveness of the merger. The cessation of separate existence of a merging business entity in the merger shall not constitute a dissolution or termination of the merging business entity.

If the surviving business entity is not a domestic limited liability company, a domestic business corporation, a domestic nonprofit corporation, or a domestic limited partnership, when the merger takes effect the surviving business entity is deemed:

(1) To agree that it may be served with process in this State in any proceeding for enforcement of (i) any obligation of any merging domestic limited liability company, domestic business corporation, domestic nonprofit corporation, domestic limited partnership, or other partnership as defined in G.S. 59-36 that is formed under the laws of this State, (ii) the rights of dissenting shareholders of any merging domestic business corporation under Article 13 of Chapter 55 of the General Statutes, and (iii) any obligation of the surviving business entity arising from the merger; and

(2) If the surviving business entity does not have a registered agent in this State, to have appointed the Secretary of State as its registered agent for service of process in any such proceeding until such time as the surviving business entity appoints a registered agent in this State. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process. Upon receipt

of service of process on behalf of a surviving business entity, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving business entity at its address shown in the articles of merger or, if an application for a certificate of withdrawal by reason of merger has been filed, at the address for service of process contained in that application.

(f) This section does not apply to a merger that does not include a merging unincorporated entity."

Section 2.8. G.S. 55A-15-21 reads as rewritten:

"**§ 55A-15-21. Withdrawal of foreign corporation by reason of a ~~merger.~~ merger, consolidation, or conversion.**

(a) Whenever ~~the separate existence of~~ a foreign corporation authorized to conduct affairs in this State ceases its separate existence as a result of a statutory merger or consolidation permitted by the laws of the state or country under which it was incorporated, or converts into another entity as permitted by those laws, the surviving ~~corporation~~ or resulting entity shall apply for a certificate of withdrawal for ~~the merged~~ the foreign corporation by delivering to the Secretary of State for filing a copy of the articles of merger, consolidation, or conversion or a certificate reciting the facts of the merger, consolidation, or conversion duly authenticated by the secretary of state or other official having custody of corporate records in the state or country under the laws of which ~~such statutory merger was effected.~~ the foreign corporation was incorporated. If the surviving or resulting entity ~~corporation~~ is not authorized to conduct affairs in this State, the articles ~~of merger~~ or certificate shall be accompanied by an application which must set forth:

(1) The name of ~~each merged~~ the foreign corporation authorized to conduct affairs in this ~~State and~~ State, the type of entity and the name of the surviving ~~corporation~~ or resulting entity, and a statement that the surviving ~~corporation~~ or resulting entity is not authorized to conduct affairs in this State;

(2) ~~That~~ A statement that the surviving ~~corporation~~ or resulting entity consents that service of process based upon any cause of action arising in this State, or arising out of affairs conducted in this State, during the time ~~each merged~~ the foreign corporation was authorized to conduct affairs in this State may thereafter be made ~~on such corporation~~ by service thereof on the Secretary of State;

(3) A mailing address to which the Secretary of State may mail a copy of any process served on him under subdivision (a)(2) of this section; and

(4) A commitment to notify the Secretary of State in the future of any change in its mailing address.

(b) If the Secretary of State finds that the articles ~~of merger~~ or certificate and the application for withdrawal, if required, ~~conforms~~ conform to law the Secretary of State shall:

(1) Endorse on the articles ~~of merger~~ or certificate and the application for withdrawal, if required, the word 'filed', and the hour, day, month, and year of filing thereof;
(2) File the articles ~~of merger~~ or certificate and the application, if required;
(3) Issue a certificate of withdrawal; and
(4) Send to the ~~foreign corporation~~ surviving or resulting entity or its representative the certificate of withdrawal, together with the exact or conformed copy of the application, if required, affixed thereto."

PART III. LIMITED LIABILITY COMPANIES.

Section 3.1. G.S. 57C-1-20(f) reads as rewritten:

"(f) ~~The~~ A document submitted by a domestic or foreign limited liability company must be executed:

(1) By a manager of ~~a domestic or foreign~~ the limited liability company;
(2) If managers have not been selected, or if the limited liability company does not have a manager other than a member, by any member;
(3) If the limited liability company has not been formed, by an organizer; or
(4) If the limited liability company is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

A document submitted by a business entity other than a domestic or foreign limited liability company must be executed by a person authorized to execute documents (i) pursuant to G.S. 55-1-20(f) if the business entity is a corporation or foreign corporation, (ii) pursuant to G.S. 55A-1-20(f) if the business entity is a domestic or foreign nonprofit corporation, (iii) pursuant to G.S. 59-204 if the business entity is a domestic or foreign limited partnership, or (iv) pursuant to G.S. 59-73.7(a)(4) if the business entity is any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State."

Section 3.2. G.S. 57C-1-03 is amended by adding a new subdivision to read:

"(3a) Business entity. -- A corporation (including a professional corporation as defined in G.S. 55B-2), a foreign corporation (including a foreign professional corporation as defined in G.S. 55B-16), a domestic or foreign nonprofit corporation as defined in G.S. 55A-1-40, a domestic or foreign limited liability company, a domestic or foreign limited partnership as defined in G.S. 59-102, or any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State (including a registered limited liability partnership as defined in G.S. 59-32 and any other limited liability partnership formed under a law other than the laws of this State."

Section 3.3. G.S. 57C-1-03(15) reads as rewritten:

"(15) Membership interest or interest. -- ~~All~~ In the context of a member of a limited liability company, the terms mean all of a member's rights in the limited liability company, including without limitation the member's share of the profits and losses of the limited liability company, the right to receive distributions of the limited liability company assets, any right to vote, and any right to participate in management."

Section 3.4. G.S. 57C-2-20(a) reads as rewritten:

"(a) One or more persons may organize a limited liability company by delivering executed articles of organization to the Secretary of State for filing. A limited liability company may also be formed through the conversion of another business entity pursuant to Part 1 of Article 9A of this Chapter."

Section 3.5. G.S. 57C-2-34 reads as rewritten:

"**§ 57C-2-34. Real property records.**

(a) Whenever the name of any domestic or foreign limited liability company holding title to real property in this State is changed upon amendment to its articles of organization or whenever title to its real property in this State is ~~transferred~~ vested by operation of law in another entity upon ~~merger~~ merger, consolidation, or conversion of ~~two or more~~ the limited liability ~~companies,~~ company, a certificate reciting the ~~change or transfer~~ name change, merger, consolidation, or conversion shall be recorded in the office of the register of deeds of the county where the property lies, or if the property is located in more than one county, then in each county where any portion of the property lies.

(b) The Secretary of State shall adopt uniform certificates to be furnished for registration in accordance with this section. In the case of a foreign limited liability company, a similar certificate by any competent authority of the jurisdiction of organization may be registered in accordance with this section.

(c) The certificate required by this section shall be recorded by the register of deeds in the same manner as deeds, and for the same fees, but no formalities as to acknowledgement, probate, or approval by any other officer shall be required. The former name of the limited liability company holding title to the real property before the ~~amendment or merger~~ name change, merger, consolidation, or conversion shall appear in the 'Grantor' index, and the ~~amended~~ new name of the limited liability company or the name of the other entity holding title to the real property by virtue of the ~~amendment or merger~~ merger, consolidation, or conversion, as applicable, shall appear in the 'Grantee' index."

Section 3.6. G.S. 57C-7-12 reads as rewritten:

"**§ 57C-7-12. Withdrawal of limited liability company by reason of a ~~merger.~~ merger, consolidation, or conversion.**

(a) Whenever ~~the separate existence of~~ a foreign limited liability company authorized to transact business in this State ceases its separate existence as a result of a statutory ~~merger~~ merger, consolidation, or conversion permitted by the laws of the state or country under which it was organized, or converts into another type of entity as permitted by those laws, the surviving or resulting entity shall apply for a

certificate of withdrawal for the ~~merged~~ foreign limited liability company by delivering to the Secretary of State for filing a copy of the articles of ~~merger~~ merger, consolidation, or conversion or a certificate reciting the facts of the merger, consolidation, or conversion, duly authenticated by the Secretary of State or other official having custody of limited liability company records in the state or country under the laws of which ~~such statutory merger~~ the foreign limited liability company was ~~effected.~~ organized. If the surviving or resulting entity is not authorized to transact business in this State, the articles ~~of merger~~ or certificate must be accompanied by an application which must set forth:

(1) The name of ~~each merged~~ the foreign limited liability company authorized to transact business in this ~~State and~~ State, the type of entity and name of the surviving or resulting ~~entity~~ entity, and a statement that the surviving or resulting entity is not authorized to transact business in this State;

(2) ~~That~~ A statement that the surviving or resulting entity consents that service of process based upon any cause of action arising in this State, or arising out of business transacted in this State, during the time ~~each merged~~ the foreign limited liability company was authorized to transact business in this State, may thereafter be made ~~on such foreign limited liability company~~ by service thereof on the Secretary of State;

(3) A mailing address to which the Secretary of State may mail a copy of any process served on him under subdivision (a)(2) of this section; and

(4) A commitment to notify the Secretary of State in the future of any change in its mailing address.

(b) If the Secretary of State finds that the articles ~~of merger~~ or certificate and the application for withdrawal, if required, ~~conforms~~ conform to law, the Secretary of State shall:

(1) Endorse on the articles ~~of merger~~ or certificate and the application for withdrawal, if required, the word 'filed' and the hour, day, month, and year of filing thereof;

(2) File the articles ~~of merger~~ or certificate and the application, if required;

(3) Issue a certificate of withdrawal; and

(4) Send to the ~~foreign limited liability company~~ surviving or resulting entity or its representative the certificate of withdrawal, together with the exact or conformed copy of the application, if required, affixed thereto."

Section 3.7. Article 9 of Chapter 57C of the General Statutes is repealed. Chapter 57C of the General Statutes is amended by adding a new Article to read:

"ARTICLE 9A.

"Conversion and Merger.

"Part 1. Conversions.

"§ 57C-9A-01. Conversion.

(a) A domestic limited liability company may convert to a domestic limited partnership pursuant to Part 10A of Article 5 of Chapter 59 of the General Statutes.

(b) A foreign limited liability company, a domestic or foreign limited partnership as defined in G.S. 59-102, or any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State (including a registered limited liability partnership as defined in G.S. 59-32 and any other limited liability partnership formed under a law other than the laws of this State) may convert to a domestic limited liability company if:

(1) The converting business entity complies with the requirements of this Part; and

(2) If the converting business entity is a foreign limited liability company, a foreign limited partnership, or other partnership as defined in G.S. 59-36 whose organization and internal affairs are governed by a law other than the laws of this State, the conversion is permitted by the laws of the state or country governing the organization and internal affairs of the converting business entity and the converting business entity complies with those laws.

"§ 57C-9A-02. Plan of conversion.

(a) The holders of the interests in the converting business entity shall approve a written plan of conversion containing:

(1) The name of the resulting domestic limited liability company into which the converting business entity shall convert;

(2) The terms and conditions of the conversion; and

(3) The manner and basis for converting the interests in the converting business entity into interests, obligations, or securities of the resulting domestic limited liability company or into cash or other property in whole or in part.

The plan of conversion may also contain other provisions relating to the conversion.

(b) In the case of a domestic limited partnership or other partnership as defined in G.S. 59-36 whose organization and internal affairs are governed by the laws of this State, the plan of conversion must be approved in the manner provided for the approval of such a conversion in a written partnership agreement that is binding on all the partners or, if there is no such provision, by the unanimous consent of all the partners. In the case of a foreign limited liability company, a foreign limited partnership, or other partnership as defined in G.S. 59-36 whose organization and internal affairs are governed by a law other than the laws of this State, the plan of conversion must be approved in accordance with the laws of the state or country governing the organization and internal affairs of the converting business entity.

(c) After a plan of conversion has been approved as provided in subsection (b) of this section, but before articles of organization for the resulting domestic limited

liability company become effective, the plan of conversion may be amended or abandoned to the extent provided in the plan of conversion.

"**§ 57C-9A-03. Filing of articles of organization by converting business entity.**

(a) After a plan of conversion has been approved by the converting business entity as provided in G.S. 57C-9A-02, the converting business entity shall deliver articles of organization to the Secretary of State for filing. In addition to the matters required or permitted by G.S. 57C-2-21, the articles of organization shall state:

(1) That the domestic limited liability company is being formed pursuant to a conversion of another business entity;

(2) The name of the converting business entity, its type of business entity, and the state or country whose laws govern its organization and internal affairs; and

(3) That a plan of conversion has been approved by the converting business entity as required by law.

If the plan of conversion is abandoned before the articles of organization become effective, the converting business entity promptly shall deliver to the Secretary of State for filing an amendment to the articles of organization reflecting the abandonment of the plan of conversion.

(b) The conversion takes effect when the articles of organization become effective.

(c) The converting business entity shall furnish a copy of the plan of conversion, on request and without cost, to any member or partner (whether general or limited) of the converting business entity.

(d) Certificates of conversion shall also be registered as provided in G.S. 47-18.1.

"**§ 57C-9A-04. Effects of conversion.**

When the conversion takes effect:

(1) The converting business entity ceases its prior form of organization and continues in existence as the resulting domestic limited liability company;

(2) The title to all real estate and other property owned by the converting business entity continues vested in the resulting domestic limited liability company without reversion or impairment;

(3) All liabilities of the converting business entity continue as liabilities of the resulting domestic limited liability company;

(4) A proceeding pending by or against the converting business entity may be continued as if the conversion did not occur; and

(5) The interests in the converting business entity that are to be converted into interests, obligations, or securities of the resulting domestic limited liability company or into the right to receive cash or other property are thereupon so converted, and the former holders of interests in the converting business entity are entitled only to the rights provided in the plan of conversion.

The conversion shall not affect the liability or absence of liability of any holder of an interest in the converting business entity for any acts, omissions, or obligations of

the converting business entity made or incurred prior to the effectiveness of the conversion. The cessation of the existence of the converting business entity in its prior form of organization in the conversion shall not constitute a dissolution or termination of the converting business entity.

"Part 2. Merger.

"§ 57C-9A-05. Merger.

A domestic limited liability company may merge with one or more other domestic limited liability companies or other business entities if:

(1) The merger is permitted by the laws of the state or country governing the organization and internal affairs of each other merging business entity; and

(2) Each merging domestic limited liability company and each other merging business entity comply with the requirements of this Part and, to the extent applicable, the laws referred to in subdivision (1) of this section.

"§ 57C-9A-06. Plan of merger.

(a) Each merging domestic limited liability company and each other merging business entity shall approve a written plan of merger containing:

(1) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;

(2) The name of the merging business entity that shall survive the merger;

(3) The terms and conditions of the merger;

(4) The manner and basis for converting the interests in each merging business entity into interests, obligations, or securities of the surviving business entity or into cash or other property in whole or in part; and

(5) If the surviving business entity is a domestic limited liability company, any amendments to its articles of organization that are to be made in connection with the merger.

The plan of merger may contain other provisions relating to the merger.

(b) In the case of a merging domestic limited liability company, the plan of merger must be approved in the manner provided in its articles of organization or a written operating agreement for approval of a merger with the type of business entity contemplated in the plan of merger, or, if there is no provision, by the unanimous consent of its members. In the case of each other merging business entity, the plan of merger must be approved in accordance with the laws of the state or country governing the organization and internal affairs of the merging business entity.

(c) After a plan of merger has been approved by a domestic limited liability company but before the articles of merger become effective, the plan of merger (i) may be amended as provided in the plan of merger, or (ii) may be abandoned (subject to any contractual rights) as provided in the plan of merger, articles of organization, or written operating agreement or, if not so provided, as determined by

the managers of the domestic limited liability company in accordance with G.S. 57C-3-20(b).

"**§ 57C-9A-07. Articles of merger.**

(a) After a plan of merger has been approved by each merging domestic limited liability company and each other merging business entity as provided in G.S. 57C-9A-06, the surviving business entity shall deliver articles of merger to the Secretary of State for filing. The articles of merger shall set forth:

(1) The plan of merger;

(2) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;

(3) The name and address of the surviving business entity;

(4) A statement that the plan of merger has been approved by each merging business entity in the manner required by law; and

(5) The effective date and time of the merger if it is not to be effective at the time of filing of the articles of merger.

If the plan of merger is amended or abandoned before the articles of merger become effective, the surviving business entity promptly shall deliver to the Secretary of State for filing an amendment to the articles of merger reflecting the amendment or abandonment of the plan of merger.

(b) A merger takes effect when the articles of merger become effective.

(c) Certificates of merger shall also be registered as provided in G.S. 47-18.1.

"**§ 57C-9A-08. Effects of merger.**

(a) When the merger takes effect:

(1) Each other merging business entity merges into the surviving business entity, and the separate existence of each merging business entity, except the surviving business entity ceases;

(2) The title to all real estate and other property owned by each merging business entity is vested in the surviving business entity without reversion or impairment;

(3) The surviving business entity has all liabilities of each merging business entity;

(4) A proceeding pending by or against any merging business entity may be continued as if the merger did not occur, or the surviving business entity may be substituted in the proceeding for a merging business entity whose separate existence ceases in the merger;

(5) If a domestic limited liability company is the surviving business entity, its articles of organization shall be amended to the extent provided in the plan of merger;

(6) The interests in each merging business entity that are to be converted into interests, obligations, or securities of the surviving business entity or into the right to receive cash or other property are thereupon so converted, and the former holders of the interests are entitled only to the rights provided to them in the articles of

merger or, in the case of former holders of shares in a domestic corporation, any rights they may have under Article 13 of Chapter 55 of the General Statutes; and

(7) If the surviving business entity is not a domestic corporation, the surviving business entity is deemed to agree that it will promptly pay to the dissenting shareholders of any merging domestic corporation the amount, if any, to which they are entitled under Article 13 of Chapter 55 of the General Statutes and otherwise to comply with the requirements of Article 13 as if it were a surviving domestic corporation in the merger.

The merger shall not affect the liability or absence of liability of any holder of an interest in a merging business entity for any acts, omissions, or obligations of any merging business entity made or incurred prior to the effectiveness of the merger. The cessation of separate existence of a merging business entity in the merger shall not constitute a dissolution or termination of that merging business entity.

If the surviving business entity is not a domestic limited liability company, a domestic corporation, a domestic nonprofit corporation, or a domestic limited partnership when the merger takes effect, the surviving business entity is deemed:

(1) To agree that it may be served with process in this State in any proceeding for enforcement of (i) any obligation of any merging domestic limited liability company, domestic corporation, domestic nonprofit corporation, domestic limited partnership, or other partnership as defined in G.S. 59-36 that is formed under the laws of this State, (ii) the rights of dissenting shareholders of any merging domestic corporation under Article 13 of Chapter 55 of the General Statutes, and (iii) any obligation of the surviving business entity arising from the merger; and

(2) If the surviving business entity does not have a registered agent in this State, to have appointed the Secretary of State as its registered agent for service of process in any such proceeding until such time as the surviving business entity appoints a registered agent in this State. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process. Upon receipt of service of process on behalf of a surviving business entity, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving business entity at its address shown in the articles of merger or, if an application for a certificate of withdrawal by reason of merger has been filed, at the address for service of process contained in that application."

PART IV. PARTNERSHIPS.

Section 4.1. Article 2 of Chapter 59 of the General Statutes is amended by adding a new Part to read:

"Part 7. Conversion and Merger.

"**§ 59-73.1. Definitions.**

As used in this Part:

(1) 'Domestic partnership' means a partnership as defined in G.S. 59-36 that is formed under the laws of this State, including a registered limited liability partnership as defined in G.S. 59-32, but excluding a domestic limited partnership as defined in G.S. 59-102.

(2) 'Business entity' means a domestic corporation as defined in G.S. 55-1-40 (including a professional corporation as defined in G.S. 55B-2), a foreign corporation as defined in G.S. 55-1-40 (including a foreign professional corporation as defined in G.S. 55B-16), a domestic or foreign nonprofit corporation as defined in G.S. 55A-1-40, a domestic or foreign limited liability company as defined in G.S. 57C-1-03, a domestic or foreign limited partnership as defined in G.S. 59-102, a domestic partnership, or any other partnership as defined in G.S. 59-36 formed under a law other than the laws of this State (including a limited liability partnership).

(3) 'Partnership' means a partnership as defined in G.S. 59-36 whether or not formed under the laws of this State including a registered limited liability partnership and any other limited liability partnership formed under a law other than the laws of this State but excluding a domestic limited partnership as defined in G.S. 59-102 and a foreign limited partnership as defined in G.S. 59-102.

"**§ 59-73.2. Conversion of domestic partnership.**

A domestic partnership may convert to a domestic limited liability company pursuant to Part 1 of Article 9A of Chapter 57C of the General Statutes, or to a domestic limited partnership pursuant to Part 10A of Article 5 of Chapter 59 of the General Statutes.

"**§ 59-73.3. Merger.**

A domestic partnership may merge with one or more other domestic partnerships or other business entities if:

(1) The merger is permitted by laws of the state or country governing the organization and internal affairs of each other merging business entity; and

(2) Each merging domestic partnership and each other merging business entity comply with the requirements of this Part and, to the extent applicable, the laws referred to in subdivision (1) of this section.

"**§ 59-73.4. Plan of merger.**

(a) Each merging domestic partnership and each other merging business entity shall approve a written plan of merger containing:

(1) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;
(2) The name of the merging business entity that shall survive the merger;
(3) The terms and conditions of the merger; and
(4) The manner and basis for converting the interests in each merging business entity into interests, obligations, or securities of the surviving business entity or into cash or other property in whole or in part.

The plan of merger may contain other provisions relating to the merger.

(b) In the case of a merging domestic partnership, the plan of merger must be approved in the manner provided in a written partnership agreement that is binding on all the partners for approval of a merger with the type of business entity contemplated in the plan of merger or, if there is no provision, by the unanimous consent of its partners. In the case of each other merging business entity, the plan of merger must be approved in accordance with the laws of the state or country governing the organization and internal affairs of such merging business entity.

(c) After a plan of merger has been approved by the domestic partnership but before the articles of merger become effective, the plan of merger (i) may be amended as provided in the plan of merger, or (ii) may be abandoned (subject to any contractual rights) as provided in the plan of merger or a written partnership agreement that is binding on all the partners or, if not so provided, as determined by the unanimous consent of the partners.

"**§ 59-73.5. Articles of merger.**

(a) After a plan of merger has been approved by each merging domestic partnership and each other merging business entity as provided in G.S. 59-73.4, the surviving business entity shall deliver articles of merger to the Secretary of State for filing. The articles of merger shall set forth:

(1) The plan of merger;
(2) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;
(3) The name and address of the surviving business entity;
(4) A statement that the plan of merger has been approved by each merging business entity in the manner required by law; and
(5) The effective date and time of the merger if it is not to be effective at the time of filing of the articles of merger.

If the plan of merger is amended or abandoned before the articles of merger become effective, the surviving business entity promptly shall deliver to the Secretary of State for filing an amendment to the articles of merger reflecting the amendment or abandonment of the plan of merger.

(b) A merger takes effect when the articles of merger become effective.

(c) Certificates of merger shall also be registered as provided in G.S. 47-18.1.

"**§ 59-73.6. Effects of merger.**

(a) When a merger takes effect:

(1) Each other merging business entity merges into the surviving business entity, and the separate existence of each merging business entity except the surviving business entity ceases;

(2) The title to all real estate and other property owned by each merging business entity is vested in the surviving business entity without reversion or impairment;

(3) The surviving business entity has all liabilities of each merging business entity;

(4) A proceeding pending by or against any merging business entity may be continued as if the merger did not occur, or the surviving business entity may be substituted in the proceeding for a merging business entity whose separate existence ceases in the merger;

(5) The interests in each merging business entity that are to be converted into interests, obligations, or securities of the surviving business entity or into the right to receive cash or other property are thereupon so converted, and the former holders of the interests in each merging business entity are entitled only to the rights provided to them in the articles of merger or, in the case of former holders of shares in a domestic corporation (as defined in G.S. 55-1-40), any rights they may have under Article 13 of Chapter 55 of the General Statutes; and

(6) If the surviving business entity is not a domestic corporation, the surviving business entity is deemed to agree that it will promptly pay to the dissenting shareholders of any merging domestic corporation the amount, if any, to which they are entitled under Article 13 of Chapter 55 of the General Statutes and otherwise to comply with the requirements of Article 13 as if it were a surviving domestic corporation in the merger.

The merger shall not affect the liability or absence of liability of any holder of an interest in a merging business entity for any acts, omissions, or obligations of any merging business entity made or incurred prior to the effectiveness of the merger. The cessation of separate existence of a merging business entity shall not constitute a dissolution or termination of the merging business entity.

If the surviving business entity is not a domestic limited liability company, a domestic corporation, a domestic nonprofit corporation, or a domestic limited partnership when the merger takes effect, the surviving business entity is deemed:

(1) To agree that it may be served with process in this State in any proceeding for enforcement of (i) any obligation of any merging domestic limited liability company, domestic corporation, domestic nonprofit corporation, domestic limited partnership, or other partnership as defined in G.S. 59-36 that is formed under the laws of this State, (ii) the rights of dissenting shareholders of any

merging domestic corporation under Article 13 of Chapter 55 of the General Statutes, and (iii) any obligation of the surviving business entity arising from the merger; and

(2) If the surviving business entity does not have a registered agent in this State, to have appointed the Secretary of State as its registered agent for service of process in any such proceeding until such time as the surviving business entity appoints a registered agent in this State. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process. Upon receipt of service of process on behalf of a surviving business entity, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving business entity at its address shown in the articles of merger or, if an application for a certificate of withdrawal by reason of merger has been filed, at the address for service of process contained in that application.

"**§ 59-73.7. Filing of documents.**

(a) To be entitled to filing by the Secretary of State, a document submitted pursuant to this Part must meet all of the following requirements:

(1) The document must contain the information required by this Part. It may contain other information as well.

(2) The document must be typewritten or printed.

(3) The document must be in the English language.

(4) A document submitted by a partnership must be executed by a general partner of the partnership. A document submitted by a business entity other than a partnership must be executed by a person authorized to execute documents (i) pursuant to G.S. 55-1-20(f) if the business entity is a domestic or foreign corporation, (ii) pursuant to G.S. 55A-1-20(f) if the business entity is a domestic or foreign nonprofit corporation, (iii) pursuant to G.S. 57C-1-20(f) if the business entity is a domestic or foreign limited liability company, or (iv) pursuant to G.S. 59-204 if the business entity is a domestic or foreign limited partnership.

(5) The person executing the document must sign it and state beneath or opposite the person's signature, the person's name and the capacity in which the person signs. Any signature on the document may be a facsimile. The document may, but need not, contain an acknowledgment, verification, or proof.

(6) The document must be delivered to the Office of the Secretary of State for filing and must be accompanied by one exact or conformed copy and by the required filing fee.

(b) A partnership may correct a document filed by the Secretary of State pursuant to this Part if the document (i) contains a statement that is incorrect and was incorrect when the document was filed or (ii) was defectively executed, attested, sealed, verified, or acknowledged.

A document is corrected by:

(1) Preparing articles of correction that (i) describe the document (including its filing date) or have attached to them a copy of the document, (ii) specify the incorrect statement and the reason it is incorrect or the manner in which the execution was defective, and (iii) correct the incorrect statement or defective execution; and

(2) Delivering the articles of correction to the Secretary of State for filing, accompanied by one exact or conformed copy and the required filing fee.

Articles of correction are effective on the effective date of the document that is corrected except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed.

(c) The Secretary of State shall collect the following fees when the documents described in this subsection are submitted by a partnership to the Secretary of State for filing:

Document	Fee
Articles of Merger	$50.00
Articles of Correction	$10.00

The Secretary of State shall collect a fee of ten dollars ($10.00) each time process is served on the Secretary of State under this Part. The party to the proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of a document filed by a partnership pursuant to this Part:

(1) One dollar ($1.00) a page for copying or comparing a copy to the original; and

(2) Five dollars ($5.00) for the certificate.

(d) The Secretary of State shall guarantee the expedited filing of a document upon receipt of the document in proper form and the payment of the required filing fee. The Secretary of State may collect the following additional fees for the expedited filing of a document received in good form:

(1) Two hundred dollars ($200.00) for the filing by the end of the same business day of a document received by 12:00 noon Eastern Standard Time; and

(2) One hundred dollars ($100.00) for the filing of a document within 24 hours after receipt, excluding weekends and holidays.

The Secretary of State shall not collect the fees allowed in this subsection unless the person submitting the document for filing requests an expedited filing and is informed by the Secretary of State of the fees prior to the filing of the document.

(e) Upon request, the Secretary of State shall provide for the review of a document prior to its submission for filing to determine whether it satisfies the requirements of this Part. Submission of a document for review shall be accompanied by the proper fee and shall be in accordance with procedures adopted by rule by the Secretary of State. The advisory review shall be completed within 24 hours after submission, excluding weekends and holidays, unless the person submitting the document is otherwise notified in accordance with procedures adopted by rule by the Secretary of State fixing priority between submissions under this subsection and filings under subsection (d) of this section. Upon completion of the advisory review, the Secretary of State shall notify the person submitting the document of any deficiencies in the document that would prevent its filing.

(f) Except as provided in this subsection and in subsection (b) of this section, a document accepted for filing is effective:

(1) At the time of filing on the date it is filed, as evidenced by the Secretary of State's date and time endorsement on the original document; or

(2) At the time specified in the document as its effective time on the date it is filed.

A document may specify a delayed effective time and date, and if it does so the document becomes effective at the time and date specified. If a delayed effective date but no time is specified, the document is effective at 11:59:59 p.m. on that date. A delayed effective date for a document may not be later than the 90th day after the date it is filed.

The fact that a document has become effective under this subsection does not determine its validity or invalidity or the correctness or incorrectness of the information contained in the document.

(g) If a document delivered to the Office of the Secretary of State for filing satisfies the requirements of this Part, the Secretary of State shall file it. Documents filed with the Secretary of State pursuant to this Part may be maintained by the Secretary either in their original form or in photographic, microfilm, optical disk media, or other reproduced form. The Secretary may make reproductions of documents filed under this Part, or under any predecessor act, by photographic, microfilm, optical disk media, or other means of reproduction, and may destroy the originals of those documents reproduced.

The Secretary of State files a document by stamping or otherwise endorsing 'Filed', together with the Secretary of State's name and official title and the date and time of filing, on both the original and the document copy. After filing a document, the Secretary of State shall deliver the document copy to the partnership or its representative.

If the Secretary of State refuses to file a document, the Secretary of State shall return it to the partnership or its representative within five days after the document was received, together with a brief, written explanation of the reason for refusal. The Secretary of State may correct apparent errors and omissions on a document submitted for filing if authorized to make the corrections by the person submitting

the document for filing. Prior to making the correction, the Secretary shall confirm the authorization to make the corrections according to procedures adopted by rule.

The Secretary of State's duty is to review and file documents that satisfy the requirements of this Part. The Secretary of State's filing or refusing to file a document does not:

(1) Affect the validity or invalidity of the document in whole or part;

(2) Relate to the correctness or incorrectness of information contained in the document; or

(3) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

(h) If the Secretary of State refuses to file a document delivered to the Secretary of State's office for filing, the person tendering the document for filing may, within 30 days after the refusal, appeal the refusal to the Superior Court of Wake County. The appeal is commenced by filing a petition with the court and with the Secretary of State requesting the court to compel the Secretary of State to file the document. The petition shall have attached to it the document to be filed and the Secretary of State's explanation for the refusal to file. The appeal to the Superior Court is not governed by Chapter 150B of the General Statutes, the Administrative Procedure Act, and the court shall determine, based upon what is appropriate under the circumstances, any further notice and opportunity to be heard.

Upon consideration of the petition and any response made by the Secretary of State, the court may, prior to entering final judgment, order the Secretary of State to file the document or take other action the court considers appropriate.

The court's final decision may be appealed as in other civil proceedings.

(i) A certificate attached to a copy of a document filed by the Secretary of State, bearing the Secretary of State's signature (which may be in facsimile) and the seal of office and certifying that the copy is a true copy of the document, is conclusive evidence that the original document is on file with the Secretary of State. A photographic, microfilm, optical disk media, or other reproduced copy of a document filed pursuant to this Part or any predecessor act, when certified by the Secretary, shall be considered an original for all purposes and is admissible in evidence in like manner as an original.

(j) A person commits an offense if the person signs a document the person knows is false in any material respect with intent that the document be delivered to the Secretary of State for filing. An offense under this subsection is a Class 1 misdemeanor.

(k) Whenever title to real property in this State held by a partnership is vested by operation of law in another entity upon merger, consolidation, or conversion of the partnership, a certificate reciting the merger, consolidation, or conversion shall be recorded in the office of the register of deeds of the county where the property is located, or if the property is located in more than one county, then in each county where any portion of the property is located.

The Secretary of State shall adopt uniform certificates to be furnished for registration in accordance with this subsection. In the case of a partnership formed

under a law other than the laws of this State, a similar certificate by any competent authority of the jurisdiction of organization may be registered in accordance with this subsection.

The certificate required by this subsection shall be recorded by the register of deeds in the same manner as deeds, and for the same fees, but no formalities as to acknowledgment, probate, or approval by any other officer shall be required. The former name of the partnership holding title to the real property before the merger, consolidation, or conversion shall appear in the 'Grantor' index and the name of the other entity holding title to the real property by virtue of the merger, consolidation, or conversion shall appear in the 'Grantee' index."

Section 4.2. G.S. 59-102 is amended by adding a new subdivision to read:

"(1a) 'Business entity' means a domestic corporation as defined in G.S. 55-1-40 (including, without limitation, a professional corporation as defined in G.S. 55B-2), a foreign corporation as defined in G.S. 55-1-40 (including, without limitation, a foreign professional corporation as defined in G.S. 55B-16), a domestic or foreign nonprofit corporation as defined in G.S. 55A-1-40, a domestic limited liability company as defined in G.S. 57C-1-03, a foreign limited liability company as defined in G.S. 57C-1-03, a domestic limited partnership, a foreign limited partnership, or any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State (including a registered limited liability partnership as defined in G.S. 59-32 and any other limited liability partnership formed under a law other than the laws of this State)."

Section 4.3. G.S. 59-201 is amended by adding a new subsection to read:

"(d) A limited partnership may also be formed through the conversion of another business entity in accordance with Part 10A of this Article."

Section 4.4. G.S. 59-204 reads as rewritten:

"**§ 59-204. Execution of ~~certificates.~~ documents.**

(a) Each certificate required by this Article to be filed in the office of the Secretary of State shall be executed in the following manner:

(1) An original certificate of limited partnership must be signed by all general partners;

(2) A certificate of amendment must be signed by at least one general partner and by each other partner designated in the certificate as a new general partner; and

(3) A certificate of cancellation must be signed by all general partners.

Any other document submitted by a domestic or foreign limited partnership for filing pursuant to this or any other Chapter must be signed by at least one general partner. Any document submitted by a business entity other than a domestic or foreign limited partnership must be executed by a person authorized to execute documents (i) pursuant to G.S. 55-1-20(f) if the business entity is a domestic or foreign corporation, (ii) pursuant to G.S. 55A-1-20(f) if the business entity is a domestic or foreign nonprofit corporation, (iii) pursuant to G.S. 57C-1-20(f) if the

business entity is a domestic or foreign limited liability company, or (iv) pursuant to G.S. 59-73.7(a)(4) if the business entity is a partnership as defined in G.S. 59-36, whether or not formed under the laws of this State, other than a domestic or foreign limited partnership.

(b) Any person may sign a certificate by an attorney-in-fact.

(b1) Any signature on any document authorized to be filed with the Secretary of State under any provision of this Article may be a facsimile.

(c) The execution of a certificate or amendment by a general partner constitutes an affirmation under the penalties of perjury that the facts stated therein are true."

Section 4.5. G.S. 59-206(a)(3a) reads as rewritten:

"(3a) Whenever the name of any domestic or foreign limited partnership holding title to real property in this State is changed upon amendment to the certificate of limited partnership, or whenever title to its real property is vested by operation of law in another entity upon merger, consolidation, or conversion of the domestic or foreign limited partnership, a certificate reciting the ~~change or transfer~~ name change, merger, consolidation, or conversion shall be recorded in the office of the register of deeds of the county where the property lies, or if the property is located in more than one county, then in each county where any portion of the property lies."

Section 4.6. G.S. 59-206(a)(5) reads as rewritten:

"(5) The certificate required by this section shall be recorded by the register of deeds in the same manner as deeds, and for the same fees, but no formalities as to acknowledgement, probate, or approval by any other officer shall be required. The former name of the domestic or foreign limited partnership holding title to the real property before the ~~amendment~~ name change, merger, consolidation, or conversion shall appear in the 'Grantor' index, and the ~~amended~~ new name of the domestic or foreign limited partnership or the name of the other entity holding title to the real property by virtue of the ~~amendment~~ merger, consolidation, or conversion, as applicable, shall appear in the 'Grantee' index."

Section 4.7. Article 5 of Chapter 59 of the General Statutes is amended by adding a new section to read:

"**§ 59-909. Withdrawal of foreign limited partnership by reason of a merger, consolidation, or conversion.**

(a) Whenever a foreign limited partnership authorized to transact business in this State ceases its separate existence as a result of a statutory merger or consolidation permitted by the laws of the state or country under which it was organized, or converts into another type of entity as permitted by those laws, the surviving or resulting entity shall apply for a certificate of withdrawal for the foreign limited partnership by delivering to the Secretary of State for filing a copy of the articles of merger, consolidation, or conversion or a certificate reciting the facts of the merger,

consolidation, or conversion, duly authenticated by the Secretary of State or other official having custody of limited partnership records in the state or country under the laws of which the foreign limited partnership was organized. If the surviving or resulting entity is not authorized to transact business in this State, the articles or certificate must be accompanied by an application which must set forth:

(1) The name of the foreign limited partnership authorized to transact business in this State, the type of entity and name of the surviving or resulting entity, and a statement that the surviving or resulting entity is not authorized to transact business in this State;

(2) A statement that the surviving or resulting entity consents that service of process based on any cause of action arising in this State, or arising out of business transacted in this State, during the time the foreign limited partnership was authorized to transact business in this State, may thereafter be made by service thereof on the Secretary of State;

(3) A mailing address to which the Secretary of State may mail a copy of any process served upon the Secretary under subdivision (a)(2) of this section; and

(4) A commitment to notify the Secretary of State in the future of any change in its mailing address.

(b) If the Secretary of State finds that the articles or certificate and the application for withdrawal, if required, conform to law, the Secretary of State shall:

(1) Endorse on the articles or certificate and the application for withdrawal, if required, the word 'filed' and the hour, day, month, and year of filing thereof;

(2) File the articles or certificate and the application, if required;

(3) Issue a certificate of withdrawal; and

(4) Send to the surviving or resulting entity or its representative the certificate of withdrawal, together with the exact or conformed copy of the application, if required, affixed thereto."

Section 4.8. Article 5 of Chapter 59 of the General Statutes is amended by adding a new Part to read:

"Part 10A. Conversion and Merger.

"§ 59-1007. Conversions.

(a) A domestic limited partnership may convert to a domestic limited liability company pursuant to Part 1 of Article 9A of Chapter 57C of the General Statutes.

(b) A domestic limited liability company as defined in G.S. 57C-1-03, a foreign limited liability company as defined in G.S. 57C-1-03, a foreign limited partnership, or any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State, including a registered limited liability partnership as defined in G.S. 59-32, and any other limited liability partnership formed under a law other than the laws of this State, but excluding a domestic limited partnership, may convert to a domestic limited partnership if:

(1) Such converting business entity complies with the requirements of G.S. 59-1008 and G.S. 59-1009; and

(2) If the converting business entity is a foreign limited liability company, a foreign limited partnership, or other partnership as defined in G.S. 59-36 whose organization and internal affairs are governed by a law other than the laws of this State, the conversion is permitted by laws of the state or country governing the organization and internal affairs of the converting business entity, and the converting business entity complies with the laws.

"**§ 59-1008. Plan of conversion.**

(a) The holders of the interests in the converting business entity shall approve a written plan of conversion containing:

(1) The name of the resulting domestic limited partnership into which the converting business entity shall convert;

(2) The terms and conditions of the conversion; and

(3) The manner and basis for converting the interests in the converting business entity into interests, obligations, or securities of the resulting domestic limited partnership or into cash or other property in whole or in part.

The plan of conversion may contain other provisions relating to the conversion.

(b) In the case of a domestic limited liability company, the plan of conversion must be approved in the manner provided for approval of such a conversion in its articles of organization or a written operating agreement or, if there is no such provision, by the unanimous consent of its members. In the case of a partnership as defined in G.S. 59-36 whose organization and internal affairs are governed by the laws of this State, the plan of conversion must be approved in the manner provided for the approval of such a conversion in a written partnership agreement that is binding on all the partners or, if there is no such provision, by the unanimous consent of all the partners. In the case of a foreign limited liability company, a foreign limited partnership, or other partnership as defined in G.S. 59-36 whose organization and internal affairs are governed by a law other than the laws of this State, the plan of conversion must be approved in accordance with the laws of the state or country governing the organization and internal affairs of the converting business entity.

(c) After a plan of conversion has been approved as provided in subsection (b) of this section, but before a certificate of limited partnership for the resulting domestic limited liability company becomes effective, the plan of conversion may be amended or abandoned to the extent provided in the plan of conversion.

"**§ 59-1009. Filing of certificate of limited partnership by converting business entity.**

(a) After a plan of conversion has been approved by the converting business entity as provided in G.S. 59-1008, the converting business entity shall deliver a certificate of limited partnership to the Secretary of State for filing. In addition to the matters required or permitted by G.S. 59-201, the certificate of limited partnership shall state:

(1) That the domestic limited partnership is being formed pursuant to a conversion of another business entity;

(2) The name of the converting business entity, its type of business entity, and the state or country whose laws govern its organization and internal affairs; and

(3) That a plan of conversion has been approved by the converting business entity in the manner required by law.

If the plan of conversion is abandoned before the certificate of limited partnership becomes effective, the converting business entity promptly shall deliver to the Secretary of State for filing an amendment to the certificate of limited partnership reflecting the abandonment of the plan of conversion.

(b) The conversion takes effect when the certificate of limited partnership becomes effective.

(c) The converting business entity shall furnish a copy of the plan of conversion, on request and without cost, to any member or partner (whether general or limited) of the converting business entity.

(d) Certificates of conversion shall also be registered as provided in G.S. 47-18.1.

"**§ 59-1010. Effects of conversion.**

(a) When the conversion takes effect:

(1) The converting business entity ceases its prior form of organization and continues in existence as the resulting domestic limited partnership;

(2) The title to all real estate and other property owned by the converting business entity continues vested in the resulting domestic limited partnership without reversion or impairment;

(3) All liabilities of the converting business entity continue as liabilities of the resulting domestic limited partnership;

(4) A proceeding pending by or against the converting business entity may be continued as if the conversion did not occur; and

(5) The interests in the converting business entity that are to be converted into interests, obligations, or securities of the resulting domestic partnership or into the right to receive cash or other property are thereupon so converted, and the former holders of interests in the converting business entity are entitled only to the rights provided in the plan of conversion.

The conversion shall not affect the liability or absence of liability of any holder of an interest in the converting business entity for any acts, omissions, or obligations of the converting business entity made or incurred prior to the effectiveness of the conversion. The cessation of the existence of the converting business entity in its prior form of organization in the conversion shall not constitute a dissolution or termination of the converting business entity.

"**§ 59-1011. Merger.**

A domestic limited partnership may merge with one or more other domestic limited partnerships or other business entities if:

(1) The merger is permitted by the laws of the state or country governing the organization and internal affairs of each other merging business entity; and

(2) Each merging domestic limited partnership and each other merging business entity comply with the requirements of G.S. 59-1012 and G.S. 59-1013, and, to the extent applicable, the laws referred to in subdivision (1) of this section.

"**§ 59-1012. Plan of merger.**

(a) Each merging domestic limited partnership and each other merging business entity shall approve a written plan of merger containing:

(1) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;

(2) The name of the merging business entity that shall survive the merger;

(3) The terms and conditions of the merger;

(4) The manner and basis for converting the interests in each merging business entity into interests, obligations, or securities of the surviving business entity or into cash or other property in whole or in part; and

(5) If the surviving business entity is a domestic limited partnership, any amendments to its certificate of limited partnership that are to be made in connection with the merger.

The plan of merger may contain other provisions relating to the merger.

(b) In the case of a merging domestic limited partnership, the plan of merger must be approved in the manner provided in a written partnership agreement that is binding on all the partners for approval of a merger with the type of business entity contemplated in the plan of merger or, if there is no provision, by the unanimous consent of its partners. In the case of each other merging business entity, the plan of merger must be approved in accordance with the laws of the state or country governing the organization and internal affairs of the merging business entity.

(c) After a plan of merger has been approved by a domestic limited partnership, but before the articles of merger become effective, the plan of merger (i) may be amended as provided in the plan of merger, or (ii) may be abandoned (subject to any contractual rights) as provided in the plan of merger or a written partnership agreement that is binding on all the partners or, if there is no such provision, as determined by the unanimous consent of the partners.

"**§ 59-1013. Articles of merger.**

(a) After a plan of merger has been approved by each merging domestic limited partnership and each other merging business entity as provided in G.S. 59-1012, the surviving business entity shall deliver articles of merger to the Secretary of State for filing. The articles of merger shall set forth:

(1) The plan of merger;

(2) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;
(3) The name and address of the surviving business entity;
(4) A statement that the plan of merger has been approved by each merging business entity in the manner required by law; and
(5) The effective date and time of the merger if it is not to be effective at the time of filing of the articles of merger.

If the plan of merger is amended or abandoned before the articles of merger become effective, the surviving business entity promptly shall deliver to the Secretary of State for filing an amendment to the articles of merger reflecting the amendment or abandonment of the plan of merger.

(b) A merger takes effect when the articles of merger become effective.

(c) Certificates of merger shall also be registered as provided in G.S. 47-18.1.

"**§ 59-1014. Effects of merger.**

(a) When the merger takes effect:

(1) Each other merging business entity merges into the surviving business entity, and the separate existence of each merging business entity except the surviving business entity ceases;
(2) The title to all real estate and other property owned by each merging business entity is vested in the surviving business entity without reversion or impairment;
(3) The surviving business entity has all liabilities of each merging business entity;
(4) A proceeding pending by or against any merging business entity may be continued as if the merger did not occur, or the surviving business entity may be substituted in the proceeding for a merging business entity whose separate existence ceases in the merger;
(5) If a domestic limited partnership is the surviving business entity, its certificate of limited partnership shall be amended to the extent provided in the plan of merger;
(6) The interests in each merging business entity that are to be converted into interests, obligations, or securities of the surviving business entity or into the right to receive cash or other property are thereupon so converted, and the former holders of the interests are entitled only to the rights provided to them in the articles of merger or, in the case of former holders of shares in a domestic corporation as defined in G.S. 55-1-40, any rights they have under Article 13 of Chapter 55 of the General Statutes; and
(7) If the surviving business entity is not a domestic corporation, the surviving business entity is deemed to agree that it will promptly pay to the dissenting shareholders of any merging domestic corporation the amount, if any, to which they are entitled under Article 13 of Chapter 55 of the General Statutes and otherwise to

comply with the requirements of Article 13 as if it were a surviving domestic corporation in the merger.

The merger shall not affect the liability or absence of liability of any holder of an interest in a merging business entity for any acts, omissions, or obligations of any merging business equity made or incurred prior to the effectiveness of the merger. The cessation of separate existence of a merging business entity in the merger shall not constitute a dissolution or termination of such merging business entity.

(b) If the surviving business entity is not a domestic limited liability company, a domestic corporation, a domestic nonprofit corporation, or a domestic limited partnership, when the merger takes effect the surviving business entity is deemed:

(1) To agree that it may be served with process in this State in any proceeding for enforcement of (i) any obligation of any merging domestic limited liability company, domestic corporation, domestic nonprofit corporation, domestic limited partnership or other partnership as defined in G.S. 59-36 that is formed under the laws of this State, (ii) the rights of dissenting shareholders of any merging domestic corporation under Article 13 of Chapter 55 of the General Statutes, and (iii) any obligation of the surviving business entity arising from the merger; and

(2) If the surviving business entity does not have a registered agent in this State, to have appointed the Secretary of State as its registered agent for service of process in any such proceeding until such time as the surviving business entity appoints a registered agent in this State. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process. Upon receipt of service of process on behalf of a surviving business entity, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving business entity at its address shown in the articles of merger or, if an application for a certificate of withdrawal by reason of merger has been filed, at the address for service of process contained in that application."

PART V. CONFORMING CHANGES.

Section 5.1. G.S. 47-18.1 reads as rewritten:

"**§ 47-18.1. Registration of certificate of corporate ~~merger or consolidation.~~ merger, consolidation, or conversion.**

(a) If title to real property in this State is ~~transferred~~ vested by operation of law in another entity upon the ~~merger or consolidation of two or more corporations,~~ merger, consolidation, or conversion of an entity, such ~~transfer~~ vesting is effective against lien creditors or purchasers for a valuable consideration from the ~~corporation~~ entity formerly owning the property, only from the time of registration of a certificate thereof as provided in this section, in the county where the land lies, or if the land is

located in more than one county, then in each county where any portion of the land lies to be effective as to the land in that county.

(b) The Secretary of State shall adopt uniform certificates of ~~merger or consolidation,~~ merger, consolidation, or conversion, to be furnished for registration, and shall adopt such fees as are necessary for the expense of such certification. If the ~~corporation~~ entity involved is not a domestic ~~corporation,~~ entity, a similar certificate by any competent authority in the jurisdiction of incorporation or organization may be registered in accordance with this section.

(c) A certificate of the Secretary of State prepared in accordance with this section shall be registered by the register of deeds in the same manner as deeds, and for the same fees, but no formalities as to acknowledgment, probate, or approval by any other officer shall be required. The name of the ~~corporation~~ entity formerly owning the property shall appear in the 'Grantor' index, and the name of the ~~corporation~~ entity owning the property by virtue of the ~~merger or consolidation~~ merger, consolidation, or conversion shall appear in the 'Grantee' index."

Section 5.2. G.S. 105-129.4(e) reads as rewritten:

"(e) Change in Ownership of Business. -- The sale, merger, consolidation, conversion, acquisition, or bankruptcy of a business, or any transaction by which an existing business reformulates itself as another business, does not create new eligibility in a succeeding business with respect to credits for which the predecessor was not eligible under this Article. A successor business may, however, take any installment of or carried-over portion of a credit that its predecessor could have taken if it had a tax liability. The acquisition of a business is a new investment that creates new eligibility in the acquiring taxpayer under this Article if any of the following conditions are met:

(1) The business closed before it was acquired.

(2) The business was required to file a notice of plant closing or mass layoff under the federal Worker Adjustment and Retraining Notification Act, 29 U.S.C. § 2102, before it was acquired.

(3) The business was acquired by its employees through an employee stock option transaction or another similar mechanism."

Section 5.3. G.S. 105-129.27(d) reads as rewritten:

"(d) Change in Ownership of Facility. -- The sale, merger, consolidation, conversion, acquisition, or bankruptcy of a recycling facility, or any transaction by which the facility is reformulated as another business, does not create new eligibility in a succeeding owner with respect to a credit for which the predecessor was not eligible under this section. A successor business may, however, take any carried-over portion of a credit that its predecessor could have taken if it had a tax liability."

Section 5.4. G.S. 105-130.4(j)(3) reads as rewritten:

"(3) The average value of property shall be determined by averaging the values at the beginning and end of the income year, but in all cases the Secretary of Revenue may require the averaging of monthly or other periodic values during the income year if reasonably required to reflect properly the average value of the

corporation's property. A corporation ~~which~~ that ceases its operations in this State before the end of its income year because of its intention to dissolve or to relinquish its certificate of authority, or because of a ~~merger~~ merger, conversion, or consolidation, or for any other reason whatsoever shall use the real estate and tangible personal property values as of the first day of the income year and the last day of its operations in this State in determining the average value of property, but the Secretary may require averaging of monthly or other periodic values during the income year if reasonably required to reflect properly the average value of the corporation's property."

Section 5.5. G.S. 105-130.17(e) reads as rewritten:

"(e) Any corporation ~~which~~ that ceases its operations in this State before the end of its income year because of its intention to dissolve or to withdraw from this State, or because of a ~~merger~~ merger, conversion, or consolidation or for any other reason whatsoever shall file its return for the then current income year within 75 days after the date it terminates its business in this State."

Section 5.6. G.S. 105-163.010(2) reads as rewritten:

"(2) Business. -- A corporation, partnership, limited liability company, association, or sole proprietorship operated for profit."

Section 5.7. G.S. 105-163.013(f) reads as rewritten:

"(f) Transfer of Registration. -- A registration as a qualified business venture or qualified grantee business may not be sold or otherwise transferred, except that if a qualified business venture or qualified grantee business enters into a merger, conversion, consolidation, or other similar transaction with another business and the surviving ~~corporation~~ company would otherwise meet the criteria for being a qualified business venture or qualified grantee business, the surviving company retains the registration without further application to the Secretary of State. In such a case, the qualified business venture or qualified grantee business shall provide the Secretary of State with written notice of the merger, conversion, consolidation, or similar transaction and the name, address, and jurisdiction of incorporation or organization of the surviving company."

Section 5.8. G.S. 105-163.014(d)(1) reads as rewritten:

"(1) Within one year after the investment was made, the taxpayer transfers any of the securities received in the investment that qualified for the tax credit to another person or entity, other than in a transfer resulting from one of the following:

a. The death of the taxpayer.

b. A final distribution in liquidation to the owners of a taxpayer that is a corporation or other entity.

c. A merger, conversion, consolidation, or similar transaction requiring approval by the ~~shareholders~~ owners of the qualified business venture or qualified grantee business under applicable State law, to the extent the taxpayer does

not receive cash or tangible property in the merger, conversion, consolidation, or other similar transaction."

Section 5.9. G.S. 105-187.6(b)(2) reads as rewritten:

"(2) To a ~~partnership~~ partnership, limited liability company, or corporation as an incident to the formation of the ~~partnership or corporation and~~ partnership, limited liability company, or corporation, and no gain or loss arises on the transfer of the motor vehicle under section 351 or section 721 of the Internal Revenue ~~Code,~~ Code as defined in G.S. 105-228.90, or to a partnership, limited liability company, or corporation by ~~merger or~~ merger, conversion, or consolidation in accordance with ~~G.S. 55-11-06.~~ applicable law."

Section 5.10. G.S. 105-228.29 reads as rewritten:

"**§ 105-228.29. Conveyances excluded.**

The provisions of this Article shall not apply to transfers of an interest in real estate by operation of law, by lease for a term of years, by or pursuant to the provisions of a will, by intestacy, by gift, by ~~merger~~ merger, conversion, or consolidation, or by instruments securing indebtedness, or any other transfer where no consideration in property or money is due or paid by the transferee to transferor."

PART VI. MUTUAL TO STOCK INSURANCE CONVERSION.

Section 6. Article 10 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-10-10. Mutual conversion to stock insurer.**

(a) A domestic mutual insurer may convert to a domestic stock insurer under a plan that is approved in advance by the Commissioner.

(b) The Commissioner shall not approve the plan unless:

(1) It is fair and equitable to the insurer's policyholders.

(2) It is adopted by the insurer's board of directors in accordance with the insurer's bylaws and approved by a vote of not less than two-thirds of the insurer's members voting on it in person, by proxy, or by mail at a meeting called for the purpose of voting on the plan, pursuant to reasonable notice and procedure as approved by the Commissioner. If the company is a life insurer, the right to vote may be limited, as its bylaws provide, to members whose policies are other than term or group policies and have been in effect for more than one year.

(3) Each policyholder's equity in the insurer is determinable under a fair and reasonable formula approved by the Commissioner. The equity shall be based upon the insurer's entire statutory surplus after deducting certificates of contribution, guaranty capital certificates, and similar evidences of indebtedness included in an insurer's statutory surplus.

(4) The policyholders entitled to vote on the plan and participate in the purchase of stock and distribution of assets include all

policyholders on the date the plan was adopted by the insurer's board of directors.

(5) The plan provides that each policyholder specified in subdivision (4) of this subsection receives a preemptive right to acquire a proportionate part of all of the proposed capital stock of the insurer or of all of the stock of a corporation affiliated with the insurer within a designated reasonable period as the part is determinable under the plan of conversion; and to apply toward the purchase of the stock the amount of the policyholder's equity in the insurer under subdivision (3) of this subsection. The plan must provide for an equitable distribution of fractional interests.

(6) The plan provides for payment to each policyholder of the policyholder's entire equity in the insurer; with that payment to be applied toward the purchase of stock to which the policyholder is entitled preemptively or to be made in cash, or both. The cash payment may not exceed fifty percent (50%) of each policyholder's equity. The stock purchased, together with the cash payment, if any, shall constitute full payment and discharge of the policyholder's equity as an owner of the mutual insurer.

(7) Shares are to be offered to policyholders at a price not greater than that of shares to be subsequently offered to others.

(8) The Commissioner finds that the insurer's management has not, through reduction of volume of new business written, through policy cancellations, or through any other means, sought to (i) reduce, limit, or affect the number or identity of the insurer's members entitled to participate in the plan or (ii) secure for the individuals constituting management any unfair advantage through the plan.

(9) The plan, when completed, provides that the insurer's capital and surplus are not less than the minimum required of a domestic stock insurer transacting the same kinds of insurance, are reasonable in relation to the insurer's outstanding liabilities, and are adequate to meet its financial needs.

(c) With respect to an insurer with a guaranty capital, the conversion plan shall be approved by a vote of not less than two-thirds of the insurer's guaranty capital shareholders and policyholders as provided for in subdivision (b)(2) of this section. The plan may provide for the issuance of stock in exchange for outstanding guaranty capital shares at their redemption value subject to the conditions in subsection (b) of this section.

(d) The Commissioner may schedule a public hearing on the proposed conversion plan.

(e) The Commissioner may retain, at the mutual insurer's expense, any attorneys, actuaries, economists, accountants, or other experts not otherwise a part of the

Commissioner's staff as may be reasonably necessary to assist the Commissioner in reviewing the proposed conversion plan.

(f) The corporate existence of the mutual company continues in the stock company created under this section. All assets, rights, franchises, and interests of the former mutual insurer, in and to real or personal property, are deemed to be transferred to and vested in the stock insurer, without any other deed or transfer; and the stock insurer simultaneously assumes all of the obligations and liabilities of the former mutual insurer.

(g) No director, officer, or employee of the insurer shall receive:

(1) Any fee, commission, compensation, or other valuable consideration for aiding, promoting, or assisting in the conversion of the mutual insurer to a domestic stock insurer, other than compensation paid to any director, officer, or employee of the insurer in the ordinary course of business; or

(2) Any distribution of the assets, surplus, or capital of the insurer as part of a conversion.

(h) The Commissioner may adopt rules to carry out the provisions of this section."

PART VII. HOMEOWNER ASSOCIATION REFUNDS.

Section 7. G.S. 55A-13-02(b) reads as rewritten:

"(b) Subject to the provisions of subsection (d) of this ~~section, (i) a~~ section:

(1) A corporation may make distributions to any entity that is exempt under section 501(c)(3) of the Internal Revenue Code of 1986 or any successor section, or that is organized exclusively for one or more of the purposes specified in section 501(c)(3) of the Internal Revenue Code of 1986 or any successor section and that upon dissolution shall distribute its assets to a charitable or religious corporation, the United States, a state or an entity that is exempt under section 501(c)(3) of the Internal Revenue Code of 1986 or any successor ~~section, and (ii) any~~ section.

(2) Any corporation other than a charitable or religious corporation may make distributions to any domestic or foreign corporation.

(3) Except as otherwise prohibited by statute, a corporation not operated for profit, the membership of which is limited to the owners or occupants of real property in a condominium, cooperative housing corporation, or other real property development, having as its primary purposes the management, operation, preservation, maintenance, and repair of common areas and improvements upon the real property owned by the members and the corporation or organization, may make distribution to its members of excess or surplus membership dues, fees, or assessments remaining after the payment of or provisions for common expenses and any prepayment of reserves; provided that these distributions are in proportion to the dues, fees, or assessments collected from the members."

PART VIII. EFFECTIVE DATE.

Section 8. This act becomes effective January 1, 2000, and applies to mergers, consolidations, or conversions effective on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

3

SENATE BILL 835
Judiciary I Committee Substitute Adopted 4/26/99
House Committee Substitute Favorable 6/30/99

Short Title: Revise Law Governing Mergers. (Public)

Sponsors:

Referred to:

April 12, 1999

A BILL TO BE ENTITLED

AN ACT TO REVISE THE LAW GOVERNING MERGERS, CONSOLIDATIONS, AND CONVERSIONS AMONG BUSINESS CORPORATIONS, NONPROFIT CORPORATIONS, AND UNINCORPORATED ENTITIES, INCLUDING LIMITED LIABILITY COMPANIES AND PARTNERSHIPS, FOR THE PURPOSE OF CONFORMING THE LAWS WITH THOSE OF OTHER STATES AND MODERN BUSINESS PRACTICES; TO ALLOW CONVERSION OF A MUTUAL INSURANCE COMPANY TO A STOCK INSURANCE COMPANY; AND TO PERMIT HOMEOWNER ASSOCIATIONS TO DISTRIBUTE SURPLUS FUNDS.

The General Assembly of North Carolina enacts:

PART I. CORPORATIONS.

Section 1.1. G.S. 55-1-20(f) reads as rewritten:

"(f) ~~The~~ A document submitted by a domestic or foreign corporation or nonprofit corporation must be executed:

(1) By the chairman of the board of ~~directors of a domestic or foreign corporation,~~ directors, by its president, or by another of its officers;

(2) If directors have not been selected or the corporation has not been formed, by an incorporator; or

(3) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

A document submitted by an unincorporated entity must be executed by a person authorized to execute documents (i) pursuant to G.S. 57C-1-20(f) if the unincorporated entity is a domestic or foreign limited liability company, (ii) pursuant to G.S. 59-204 if the unincorporated entity is a domestic or foreign limited partnership, or (iii) pursuant to G.S. 59-73.7(a)(4) if the unincorporated entity is any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State."

Section 1.2. G.S. 55-1-40(9) reads as rewritten:

"(9) 'Entity' includes (without limiting the meaning of such term in Article 9) corporation and foreign corporation; nonprofit corporation; professional corporation; limited liability company; profit and nonprofit unincorporated association; business trust, estate, partnership, trust, and two or more persons having a joint or common economic interest; and state, United States, and foreign government."

Section 1.3. G.S. 55-1-40 is amended by adding the following new subdivision, to be placed by the Codifier of Statutes in the appropriate order, to read:

"(25a) 'Unincorporated entity' means a domestic or foreign limited liability company as defined in G.S. 57C-1-03, a domestic or foreign limited partnership as defined in G.S. 59-102, or any other partnership as defined in G.S. 59-36, whether or not formed under the laws of this State, including a registered limited liability partnership as defined in G.S. 59-32 and any other limited liability partnership formed under a law other than the laws of this State."

Section 1.4. G.S. 55-4-05 reads as rewritten:

"**§ 55-4-05. Real property records.**

(a) Whenever the name of any domestic or foreign corporation holding title to real property in this State is changed upon amendment to the articles of incorporation or whenever title to its real property in this State is ~~transferred~~ vested by operation of law in another entity upon ~~merger of two or more corporations,~~ merger, consolidation, or conversion of the corporation, a certificate reciting ~~such change or transfer~~ the name change, merger, consolidation, or conversion shall be recorded in the office of the register of deeds of the county where the property lies, or if the property is located in more than one county, then in each county where any portion of the property lies.

(b) The Secretary of State shall adopt uniform certificates to be furnished for registration in accordance with this section. In the case of a foreign corporation, a similar certificate by any competent authority of the jurisdiction of incorporation may be registered in accordance with this section.

(c) The certificate required by this section shall be recorded by the register of deeds in the same manner as deeds, and for the same fees, but no formalities as to acknowledgement, probate, or approval by any other officer shall be required. The former name of the corporation holding title to the real property before the ~~amendment or merger~~ name change, merger, consolidation, or conversion shall

appear in the 'Grantor' index, and the ~~amended~~ new name of the corporation or the name of the other entity holding title to the real property by virtue of the ~~amendment or merger~~ merger, consolidation, or conversion shall appear in the 'Grantee' index."

Section 1.5. G.S. 55-9-01(b)(1) reads as rewritten:

"(1) 'Business combination' includes any merger or consolidation of a corporation with or into any other ~~corporation,~~ corporation or any unincorporated entity, or the sale or lease of all or any substantial part of the corporation's assets to, or any payment, sale or lease to the corporation or any subsidiary thereof in exchange for securities of the corporation of any assets (except assets having an aggregate fair market value of less than five million dollars ($5,000,000)) of any other entity."

Section 1.6. G.S. 55-9-04(d) reads as rewritten:

"(d) Nothing contained in this Article shall be construed to relieve any other entity from any fiduciary obligation imposed by law. This Article shall be broadly construed so as to be applicable to any transaction reasonably calculated to avoid the application of the provisions hereof including, without limitation, any merger or other recapitalization, initiated by or for the benefit of an other entity that owns more than twenty percent (20%) of the voting shares, which would reincorporate a corporation under the laws of another ~~state.~~ state or which would reorganize a corporation as an unincorporated entity."

Section 1.7. G.S. 55-11-06(a)(4) reads as rewritten:

"(4) A proceeding pending by or against any corporation party to the merger may be continued as if the merger did not occur or the surviving corporation may be substituted in the proceeding for the corporation whose existence ceased;".

Section 1.8. Article 11 of Chapter 55 of the General Statutes is amended by adding a new section to read:

"**§ 55-11-10. Merger with unincorporated entity.**

(a) As used in this section, 'business entity' means a domestic corporation as defined in G.S. 55-1-40 (including a professional corporation as defined in G.S. 55B-2), a foreign corporation as defined in G.S. 55-1-40 (including a foreign professional corporation as defined in G.S. 55B-16), a domestic or foreign nonprofit corporation as defined in G.S. 55A-1-40, a domestic or foreign limited liability company as defined in G.S. 57C-1-03, a domestic or foreign limited partnership as defined in G.S. 59-102, and any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State (including a registered limited liability partnership as defined in G.S. 59-32 and any limited liability partnership formed under a law other than the laws of this State).

(b) One or more domestic corporations may merge with one or more unincorporated entities and, if desired, one or more foreign corporations, domestic nonprofit corporations, or foreign nonprofit corporations if:

(1) The merger is permitted by the laws of the state or country governing the organization and internal affairs of each other merging business entity; and

(2) Each merging domestic corporation and each other merging business entity comply with the requirements of this section and, to the extent applicable, the laws referred to in subdivision (1) of this subsection.

(c) Each merging domestic corporation and each other merging business entity shall approve a written plan of merger containing:

(1) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;

(2) The name of the merging business entity that shall survive the merger;

(3) The terms and conditions of the merger;

(4) The manner and basis for converting the interests in each merging business entity into interests, obligations, or securities of the surviving business entity or into cash or other property in whole or in part; and

(5) If the surviving business entity is a domestic corporation, any amendments to its articles of incorporation that are to be made in connection with the merger.

The plan of merger may contain other provisions relating to the merger.

In the case of a domestic corporation, approval of the plan of merger requires that the plan of merger be adopted by its board of directors as provided in G.S. 55-11-03 and, unless shareholder approval is not required under subsection (g) of G.S. 55-11-03, be approved by its shareholders as provided in G.S. 55-11-03. In the case of each other merging business entity, the plan of merger must be approved in accordance with the laws of the state or country governing the organization and internal affairs of that merging business entity.

After a plan of merger has been approved by a domestic corporation but before the articles of merger become effective, the plan of merger (i) may be amended as provided in the plan of merger, or (ii) may be abandoned (subject to any contractual rights) as provided in the plan of merger or, if there is no such provision, as determined by the board of directors without further shareholder action.

(d) After a plan of merger has been approved by each merging domestic corporation and each other merging business entity as provided in subsection (c) of this section, the surviving business entity shall deliver articles of merger to the Secretary of State for filing. The articles of merger shall set forth:

(1) The plan of merger;

(2) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;

(3) The name and address of the surviving business entity;

(4) A statement that the plan of merger has been approved by each merging business entity in the manner required by law; and

(5) The effective date and time of merger if it is not to be effective at the time of filing of the articles of merger.

If the plan of merger is amended or abandoned before the articles of merger become effective, the surviving business entity promptly shall deliver to the Secretary of State for filing an amendment to the articles of merger reflecting the amendment or abandonment of the plan of merger.

Certificates of merger shall also be registered as provided in G.S. 47-18.1.

(e) A merger takes effect when the articles of merger become effective. When a merger takes effect:

(1) Each other merging business entity merges into the surviving business entity and the separate existence of each merging business entity except the surviving business entity ceases;

(2) The title to all real estate and other property owned by each merging business entity is vested in the surviving business entity without reversion or impairment;

(3) The surviving business entity has all liabilities of each merging business entity;

(4) A proceeding pending by or against any merging business entity may be continued as if the merger did not occur, or the surviving business entity may be substituted in the proceeding for a merging business entity whose separate existence ceases in the merger;

(5) If a domestic corporation is the surviving business entity, its articles of incorporation shall be amended to the extent provided in the plan of merger;

(6) The interests in each merging business entity that are to be converted into interests, obligations, or securities of the surviving business entity or into the right to receive cash or other property are thereupon so converted, and the former holders of the interests are entitled only to the rights provided to them in the articles of merger or, in the case of former holders of shares in a domestic corporation, any rights they may have under Article 13 of this Chapter; and

(7) If the surviving business entity is not a domestic corporation, the surviving business entity is deemed to agree that it will promptly pay to the dissenting shareholders of any merging domestic corporation the amount, if any, to which they are entitled under Article 13 of this Chapter and otherwise to comply with the requirements of Article 13 as if it were a surviving domestic corporation in the merger.

The merger shall not affect the liability or absence of liability of any holder of an interest in a merging business entity for any acts, omissions, or obligations of any merging business entity made or incurred prior to the effectiveness of the merger.

The cessation of separate existence of a merging business entity in the merger shall not constitute a dissolution or termination of the merging business entity.

If the surviving business entity is not a domestic limited liability company, a domestic corporation, a domestic nonprofit corporation, or a domestic limited partnership, when the merger takes effect the surviving business entity is deemed:

(1) To agree that it may be served with process in this State in any proceeding for enforcement of (i) any obligation of any merging domestic limited liability company, domestic corporation, domestic nonprofit corporation, domestic limited partnership, or other partnership as defined in G.S. 59-36 that is formed under the laws of this State, (ii) the rights of dissenting shareholders of any merging domestic corporation under Article 13 of this Chapter, and (iii) any obligation of the surviving business entity arising from the merger; and

(2) If the surviving business entity does not have a registered agent in this State, to have appointed the Secretary of State as its registered agent for service of process in any such proceeding until such time as the surviving business entity appoints a registered agent in this State. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process. Upon receipt of service of process on behalf of a surviving business entity, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving business entity at its address shown in the articles of merger or, if an application for a certificate of withdrawal by reason of merger has been filed, at the address for service of process contained in that application.

(f) This section does not apply to a merger that does not include a merging unincorporated entity."

Section 1.9. G.S. 55-15-21 reads as rewritten:

"**§ 55-15-21. Withdrawal of foreign corporation by reason of a ~~merger.~~ merger, consolidation, or conversion.**

(a) Whenever ~~the separate existence of~~ a foreign corporation authorized to transact business in this State ceases its separate existence as a result of a statutory merger or consolidation permitted by the laws of the state or country under which it was incorporated, or converts into another entity as permitted by those laws, the surviving ~~corporation~~ or resulting entity shall apply for a certificate of withdrawal for the ~~merged~~ foreign corporation by delivering to the Secretary of State for filing a copy of the articles of merger, consolidation, or conversion or a certificate reciting the facts of the merger, consolidation, or conversion, duly authenticated by the Secretary of State or other official having custody of corporate records in the state or country under the laws of which such ~~statutory merger was effected.~~ foreign

corporation was incorporated. If the surviving ~~corporation~~ or resulting entity is not authorized to transact business in this State the articles ~~of merger~~ or certificate must be accompanied by an application which must set forth:

(1) The name of ~~each merged~~ the foreign corporation authorized to transact business in this ~~State and the~~ State, the type of entity and name of the surviving ~~corporation~~ or resulting entity, and a statement that the surviving ~~corporation~~ or resulting entity is not authorized to transact business in this State;

(2) ~~That~~ A statement that the surviving ~~corporation~~ or resulting entity consents that service of process based upon any cause of action arising in this State, or arising out of business transacted in this State, during the time ~~each merged~~ the foreign corporation was authorized to transact business in this State may thereafter be made ~~on such corporation~~ by service thereof on the Secretary of State;

(3) A mailing address to which the Secretary of State may mail a copy of any process served on him under subdivision (a)(2); and

(4) A commitment to notify the Secretary of State in the future of any change in its mailing address.

(b) If the Secretary of State finds that the articles ~~of merger~~ or certificate and the application for withdrawal, if required, ~~conforms~~ conform to law ~~he~~ the Secretary of State shall:

(1) Endorse on the articles ~~of merger~~ or certificate and the application for withdrawal, if required, the word 'filed' and the hour, day, month and year of the filing thereof;

(2) File the articles ~~of merger~~ or certificate and the application, if required;

(3) Issue a certificate of withdrawal; and

(4) Send to the ~~foreign corporation~~ surviving or resulting entity or its representative the certificate of withdrawal, together with the exact or conformed copy of the application, if required, affixed thereto."

PART II. NONPROFIT CORPORATIONS.

Section 2.1. G.S. 55A-1-20(f) reads as rewritten:

"(f) ~~The~~ A document submitted by a domestic or foreign corporation or business corporation shall be executed:

(1) By the presiding officer of the board of directors ~~of a domestic or foreign corporation,~~ by its president, or by another of its officers;

(2) If directors have not been selected or the corporation has not been formed, by an incorporator; or

(3) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

A document submitted by an unincorporated entity must be executed by a person authorized to execute documents (i) pursuant to G.S. 57C-1-20(f) if the unincorporated entity is a domestic or foreign limited liability company, (ii) pursuant

to G.S. 59-204 if the unincorporated entity is a domestic or foreign limited partnership, or (iii) pursuant to G.S. 59-73.7(a)(4) if the unincorporated entity is any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State."

Section 2.2. G.S. 55A-1-40 is amended by adding the following new subdivision to read:

"(25a) 'Unincorporated entity' means a domestic or foreign limited liability company as defined in G.S. 57C-1-03, a domestic or foreign limited partnership as defined in G.S. 59-102, or any other partnership as defined in G.S. 59-36, whether or not formed under the laws of this State, including a registered limited liability partnership as defined in G.S. 59-32 and any other limited liability partnership formed under a law other than the laws of this State."

Section 2.3. G.S. 55A-4-05 reads as rewritten:

"**§ 55A-4-05. Real property records.**

(a) Whenever the name of any domestic or foreign corporation holding title to real property in this State is changed upon amendment to the articles of incorporation or whenever title to its real property in this State is ~~transferred~~ vested by operation of law in another entity upon ~~merger of two or more corporations,~~ merger, consolidation, or conversion of the corporation, a certificate reciting the ~~change or transfer~~ name change, merger, consolidation, or conversion shall be recorded by the corporation or its successor in the office of the register of deeds of the county where the property lies, or if the property is located in more than one county, then in each county where any portion of the property lies.

(b) The Secretary of State shall adopt uniform certificates to be furnished for recording in accordance with this section. In the case of a foreign corporation, a similar certificate by any competent authority of the jurisdiction of incorporation may be recorded in accordance with this section.

(c) The certificate required by this section shall be recorded by the register of deeds in the same manner as deeds, and for the same fees, but no formalities as to acknowledgement, probate, or approval by any other officer shall be required. The former name of the corporation holding title to the real property before the ~~amendment or merger~~ name change, merger, consolidation, or conversion shall appear in the 'Grantor' index, and the ~~amended~~ new name of the corporation or the name of the other entity holding title to the real property by virtue of the ~~amendment or merger~~ merger, consolidation, or conversion shall appear in the 'Grantee' index."

Section 2.4. G.S. 55A-11-02 reads as rewritten:

"**§ 55A-11-02. Limitations on mergers by charitable or religious corporations.**

(a) Without the prior approval of the superior court in a proceeding in which the Attorney General has been given written notice, a charitable or religious corporation may merge only with:

(1) A charitable or religious corporation;

(2) A foreign corporation that would qualify under this Chapter as a charitable or religious corporation;

(3) A wholly owned foreign or domestic corporation (business or nonprofit) which is not a charitable or religious corporation, or an unincorporated entity, provided the charitable or religious corporation is the ~~surviving corporation~~ survivor in the merger and continues to be a charitable or religious corporation after the merger; or

(4) A business or nonprofit corporation (foreign or domestic) other than a charitable or religious corporation, or an unincorporated entity, provided that: (i) on or prior to the effective date of the merger, assets with a value equal to the greater of the fair market value of the net tangible and intangible assets (including goodwill) of the charitable or religious corporation or the fair market value of the charitable or religious corporation if it were to be operated as a business concern are transferred or conveyed to one or more persons who would have received its assets under G.S. 55A-14-03(a)(1) and (2) had it dissolved; (ii) it shall return, transfer or convey any assets held by it upon condition requiring return, transfer or conveyance, which condition occurs by reason of the merger, in accordance with such condition; and (iii) the merger is approved by a majority of directors of the charitable or religious corporation who are not and will not become ~~members~~ members, as 'member' is defined in G.S. 55A-1-40(16) or G.S. 57C-1-03, partners, limited partners, or shareholders in or directors, managers, officers, employees, agents, or consultants of the ~~surviving corporation.~~ survivor in the merger.

(b) At least 20 days before consummation of any merger of a charitable or religious corporation pursuant to subdivision (a)(4) of this section, notice, including a copy of the proposed plan of merger, shall be delivered to the Attorney General.

(c) Without the prior written consent of the Attorney General, or approval of the superior court in a proceeding in which the Attorney General has been given notice, no member of a charitable or religious corporation may receive or retain any property as a result of a merger other than ~~a membership~~ an interest as a member, as 'member' is defined in G.S. 55A-1-40(16), in the ~~surviving corporation.~~ survivor of the merger. The Attorney General may consent to the transaction, or the court shall approve the transaction, if it is fair and not contrary to the public interest."

Section 2.5. G.S. 55A-11-05(a)(4) reads as rewritten:

"(4) A proceeding pending by or against any corporation party to the merger may be continued as if the merger did not occur or the surviving corporation may be substituted in the proceeding for the corporation whose existence ceased; and".

Section 2.6. G.S. 55A-11-07 reads as rewritten:

"**§ 55A-11-07. Bequests, devises, and gifts.**

Any bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance, that is made to a constituent corporation

and that takes effect or remains payable after the merger, inures to the ~~surviving corporation~~ survivor in the merger unless the will or other instrument otherwise specifically provides."

Section 2.7. Article 11 of Chapter 55A of the General Statutes is amended by adding a new section to read:

"**§ 55A-11-09. Merger with unincorporated entity.**

(a) As used in this section, 'business entity' means a domestic corporation as defined in G.S. 55-1-40 (including a professional corporation as defined in G.S. 55B-2), a foreign corporation as defined in G.S. 55-1-40 (including a foreign professional corporation as defined in G.S. 55B-16), a domestic or foreign nonprofit corporation as defined in G.S. 55A-1-40, a domestic or foreign limited liability company as defined in G.S. 57C-1-03, a domestic or foreign limited partnership as defined in G.S. 59-102, and any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State (including a registered limited liability partnership as defined in G.S. 59-32 and any limited liability partnership formed under a law other than the laws of this State).

(b) One or more domestic nonprofit corporations may merge with one or more unincorporated entities and, if desired, one or more foreign nonprofit corporations, domestic business corporations, or foreign business corporations if:

(1) The merger is permitted by the laws of the state or country governing the organization and internal affairs of each of the other merging business entities;

(2) Each merging domestic nonprofit corporation and each other merging business entity comply with the requirements of this section and, to the extent applicable, the laws referred to in subdivision (1) of this subsection; and

(3) The merger complies with G.S. 55A-11-02, if applicable.

(c) Each merging domestic nonprofit corporation and each other merging business entity shall approve a written plan of merger containing:

(1) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;

(2) The name of the merging business entity that shall survive the merger;

(3) The terms and conditions of the merger;

(4) The manner and basis for converting the interests in each merging business entity into interests, obligations, or securities of the surviving business entity or into cash or other property in whole or in part; and

(5) If the surviving business entity is a domestic nonprofit corporation, any amendments to its articles of incorporation that are to be made in connection with the merger.

The plan of merger may contain other provisions relating to the merger.

In the case of a domestic nonprofit corporation, approval of the plan of merger requires that the plan of merger be adopted as provided in G.S. 55A-11-03. In the case of each other merging business entity, the plan of merger must be approved in accordance with the laws of the state or country governing the organization and internal affairs of such merging business entity.

After a plan of merger has been approved by a domestic nonprofit corporation but before the articles of merger become effective, the plan of merger (i) may be amended as provided in the plan of merger, or (ii) may be abandoned (subject to any contractual rights) as provided in the plan of merger or, if there is no such provision, as determined by the board of directors.

(d) After a plan of merger has been approved by each merging domestic nonprofit corporation and each other merging business entity as provided in subsection (c) of this section, the surviving business entity shall deliver articles of merger to the Secretary of State for filing. The articles of merger shall set forth:

(1) The plan of merger;

(2) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;

(3) The name and address of the surviving business entity;

(4) A statement that the plan of merger has been approved by each merging business entity in the manner required by law; and

(5) The effective date and time of merger if it is not to be effective at the time of filing of the articles of merger.

If the plan of merger is amended or abandoned before the articles of merger become effective, the surviving business entity promptly shall deliver to the Secretary of State for filing an amendment to the articles of merger reflecting the amendment or abandonment of the plan of merger.

Certificates of merger shall also be registered as provided in G.S. 47-18.1.

(e) A merger takes effect when the articles of merger become effective. When a merger takes effect:

(1) Each other merging business entity merges into the surviving business entity and the separate existence of each merging business entity except the surviving business entity ceases;

(2) The title to all real estate and other property owned by each merging business entity is vested in the surviving business entity without reversion or impairment;

(3) The surviving business entity has all liabilities of each merging business entity;

(4) A proceeding pending by or against any merging business entity may be continued as if the merger did not occur, or the surviving business entity may be substituted in the proceeding for a merging business entity whose separate existence ceases in the merger;

(5) If a domestic nonprofit corporation is the surviving business entity, its articles of incorporation shall be amended to the extent provided in the plan of merger;

(6) The interests in each merging business entity that are to be converted into interests, obligations, or securities of the surviving business entity or into the right to receive cash or other property are thereupon so converted, and the former holders of the interests are entitled only to the rights provided to them in the articles of merger or, in the case of former holders of shares in a domestic business corporation, any rights they may have under Article 13 of Chapter 55 of the General Statutes; and

(7) If the surviving business entity is not a domestic business corporation, the surviving business entity is deemed to agree that it will promptly pay to the dissenting shareholders of any merging domestic business corporation the amount, if any, to which they are entitled under Article 13 of Chapter 55 of the General Statutes and otherwise to comply with the requirements of Article 13 as if it were a surviving domestic business corporation in the merger.

The merger shall not affect the liability or absence of liability of any holder of an interest in a merging business entity for any acts, omissions, or obligations of any merging business entity made or incurred prior to the effectiveness of the merger. The cessation of separate existence of a merging business entity in the merger shall not constitute a dissolution or termination of the merging business entity.

If the surviving business entity is not a domestic limited liability company, a domestic business corporation, a domestic nonprofit corporation, or a domestic limited partnership, when the merger takes effect the surviving business entity is deemed:

(1) To agree that it may be served with process in this State in any proceeding for enforcement of (i) any obligation of any merging domestic limited liability company, domestic business corporation, domestic nonprofit corporation, domestic limited partnership, or other partnership as defined in G.S. 59-36 that is formed under the laws of this State, (ii) the rights of dissenting shareholders of any merging domestic business corporation under Article 13 of Chapter 55 of the General Statutes, and (iii) any obligation of the surviving business entity arising from the merger; and

(2) If the surviving business entity does not have a registered agent in this State, to have appointed the Secretary of State as its registered agent for service of process in any such proceeding until such time as the surviving business entity appoints a registered agent in this State. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process. Upon receipt

of service of process on behalf of a surviving business entity, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving business entity at its address shown in the articles of merger or, if an application for a certificate of withdrawal by reason of merger has been filed, at the address for service of process contained in that application.

(f) This section does not apply to a merger that does not include a merging unincorporated entity."

Section 2.8. G.S. 55A-15-21 reads as rewritten:

"**§ 55A-15-21. Withdrawal of foreign corporation by reason of a ~~merger.~~ merger, consolidation, or conversion.**

(a) Whenever ~~the separate existence of~~ a foreign corporation authorized to conduct affairs in this State ceases its separate existence as a result of a statutory merger or consolidation permitted by the laws of the state or country under which it was incorporated, or converts into another entity as permitted by those laws, the surviving ~~corporation~~ or resulting entity shall apply for a certificate of withdrawal for ~~the merged~~ the foreign corporation by delivering to the Secretary of State for filing a copy of the articles of merger, consolidation, or conversion or a certificate reciting the facts of the merger, consolidation, or conversion duly authenticated by the secretary of state or other official having custody of corporate records in the state or country under the laws of which ~~such statutory merger was effected.~~ the foreign corporation was incorporated. If the surviving or resulting entity ~~corporation~~ is not authorized to conduct affairs in this State, the articles ~~of merger~~ or certificate shall be accompanied by an application which must set forth:

(1) The name of ~~each merged~~ the foreign corporation authorized to conduct affairs in this ~~State and~~ State, the type of entity and the name of the surviving ~~corporation~~ or resulting entity, and a statement that the surviving ~~corporation~~ or resulting entity is not authorized to conduct affairs in this State;

(2) ~~That~~ A statement that the surviving ~~corporation~~ or resulting entity consents that service of process based upon any cause of action arising in this State, or arising out of affairs conducted in this State, during the time ~~each merged~~ the foreign corporation was authorized to conduct affairs in this State may thereafter be made ~~on such corporation~~ by service thereof on the Secretary of State;

(3) A mailing address to which the Secretary of State may mail a copy of any process served on him under subdivision (a)(2) of this section; and

(4) A commitment to notify the Secretary of State in the future of any change in its mailing address.

(b) If the Secretary of State finds that the articles ~~of merger~~ or certificate and the application for withdrawal, if required, ~~conforms~~ conform to law the Secretary of State shall:

(1) Endorse on the articles ~~of merger~~ or certificate and the application for withdrawal, if required, the word 'filed', and the hour, day, month, and year of filing thereof;
(2) File the articles ~~of merger~~ or certificate and the application, if required;
(3) Issue a certificate of withdrawal; and
(4) Send to the ~~foreign corporation~~ surviving or resulting entity or its representative the certificate of withdrawal, together with the exact or conformed copy of the application, if required, affixed thereto."

PART III. LIMITED LIABILITY COMPANIES.

Section 3.1. G.S. 57C-1-20(f) reads as rewritten:

"(f) ~~The~~ A document submitted by a domestic or foreign limited liability company must be executed:

(1) By a manager of ~~a domestic or foreign~~ the limited liability company;
(2) If managers have not been selected, or if the limited liability company does not have a manager other than a member, by any member;
(3) If the limited liability company has not been formed, by an organizer; or
(4) If the limited liability company is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

A document submitted by a business entity other than a domestic or foreign limited liability company must be executed by a person authorized to execute documents (i) pursuant to G.S. 55-1-20(f) if the business entity is a corporation or foreign corporation, (ii) pursuant to G.S. 55A-1-20(f) if the business entity is a domestic or foreign nonprofit corporation, (iii) pursuant to G.S. 59-204 if the business entity is a domestic or foreign limited partnership, or (iv) pursuant to G.S. 59-73.7(a)(4) if the business entity is any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State."

Section 3.2. G.S. 57C-1-03 is amended by adding a new subdivision to read:

"(3a) Business entity. -- A corporation (including a professional corporation as defined in G.S. 55B-2), a foreign corporation (including a foreign professional corporation as defined in G.S. 55B-16), a domestic or foreign nonprofit corporation as defined in G.S. 55A-1-40, a domestic or foreign limited liability company, a domestic or foreign limited partnership as defined in G.S. 59-102, or any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State (including a registered limited liability partnership as defined in G.S. 59-32 and any other limited liability partnership formed under a law other than the laws of this State."

Section 3.3. G.S. 57C-1-03(15) reads as rewritten:

"(15) Membership interest or interest. -- ~~All~~ In the context of a member of a limited liability company, the terms mean all of a member's rights in the limited liability company, including without limitation the member's share of the profits and losses of the limited liability company, the right to receive distributions of the limited liability company assets, any right to vote, and any right to participate in management."

Section 3.4. G.S. 57C-2-20(a) reads as rewritten:

"(a) One or more persons may organize a limited liability company by delivering executed articles of organization to the Secretary of State for filing. A limited liability company may also be formed through the conversion of another business entity pursuant to Part 1 of Article 9A of this Chapter."

Section 3.5. G.S. 57C-2-34 reads as rewritten:

"**§ 57C-2-34. Real property records.**

(a) Whenever the name of any domestic or foreign limited liability company holding title to real property in this State is changed upon amendment to its articles of organization or whenever title to its real property in this State is ~~transferred~~ vested by operation of law in another entity upon ~~merger~~ merger, consolidation, or conversion of ~~two or more~~ the limited liability ~~companies,~~ company, a certificate reciting the ~~change or transfer~~ name change, merger, consolidation, or conversion shall be recorded in the office of the register of deeds of the county where the property lies, or if the property is located in more than one county, then in each county where any portion of the property lies.

(b) The Secretary of State shall adopt uniform certificates to be furnished for registration in accordance with this section. In the case of a foreign limited liability company, a similar certificate by any competent authority of the jurisdiction of organization may be registered in accordance with this section.

(c) The certificate required by this section shall be recorded by the register of deeds in the same manner as deeds, and for the same fees, but no formalities as to acknowledgement, probate, or approval by any other officer shall be required. The former name of the limited liability company holding title to the real property before the ~~amendment or merger~~ name change, merger, consolidation, or conversion shall appear in the 'Grantor' index, and the ~~amended~~ new name of the limited liability company or the name of the other entity holding title to the real property by virtue of the ~~amendment or merger~~ merger, consolidation, or conversion, as applicable, shall appear in the 'Grantee' index."

Section 3.6. G.S. 57C-7-12 reads as rewritten:

"**§ 57C-7-12. Withdrawal of limited liability company by reason of a ~~merger.~~ merger, consolidation, or conversion.**

(a) Whenever ~~the separate existence of~~ a foreign limited liability company authorized to transact business in this State ceases its separate existence as a result of a statutory ~~merger~~ merger, consolidation, or conversion permitted by the laws of the state or country under which it was organized, or converts into another type of entity as permitted by those laws, the surviving or resulting entity shall apply for a

certificate of withdrawal for the ~~merged~~ foreign limited liability company by delivering to the Secretary of State for filing a copy of the articles of ~~merger~~ merger, consolidation, or conversion or a certificate reciting the facts of the merger, consolidation, or conversion, duly authenticated by the Secretary of State or other official having custody of limited liability company records in the state or country under the laws of which ~~such statutory merger~~ the foreign limited liability company was ~~effected.~~ organized. If the surviving or resulting entity is not authorized to transact business in this State, the articles ~~of merger~~ or certificate must be accompanied by an application which must set forth:

(1) The name of ~~each merged~~ the foreign limited liability company authorized to transact business in this ~~State and~~ State, the type of entity and name of the surviving or resulting ~~entity~~ entity, and a statement that the surviving or resulting entity is not authorized to transact business in this State;

(2) ~~That~~ A statement that the surviving or resulting entity consents that service of process based upon any cause of action arising in this State, or arising out of business transacted in this State, during the time ~~each merged~~ the foreign limited liability company was authorized to transact business in this State, may thereafter be made ~~on such foreign limited liability company~~ by service thereof on the Secretary of State;

(3) A mailing address to which the Secretary of State may mail a copy of any process served on him under subdivision (a)(2) of this section; and

(4) A commitment to notify the Secretary of State in the future of any change in its mailing address.

(b) If the Secretary of State finds that the articles ~~of merger~~ or certificate and the application for withdrawal, if required, ~~conforms~~ conform to law, the Secretary of State shall:

(1) Endorse on the articles ~~of merger~~ or certificate and the application for withdrawal, if required, the word 'filed' and the hour, day, month, and year of filing thereof;

(2) File the articles ~~of merger~~ or certificate and the application, if required;

(3) Issue a certificate of withdrawal; and

(4) Send to the ~~foreign limited liability company~~ surviving or resulting entity or its representative the certificate of withdrawal, together with the exact or conformed copy of the application, if required, affixed thereto."

Section 3.7. Article 9 of Chapter 57C of the General Statutes is repealed. Chapter 57C of the General Statutes is amended by adding a new Article to read:

"ARTICLE 9A.

"Conversion and Merger.

"Part 1. Conversions.

"§ 57C-9A-01. Conversion.

(a) A domestic limited liability company may convert to a domestic limited partnership pursuant to Part 10A of Article 5 of Chapter 59 of the General Statutes.

(b) A foreign limited liability company, a domestic or foreign limited partnership as defined in G.S. 59-102, or any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State (including a registered limited liability partnership as defined in G.S. 59-32 and any other limited liability partnership formed under a law other than the laws of this State) may convert to a domestic limited liability company if:

(1) The converting business entity complies with the requirements of this Part; and

(2) If the converting business entity is a foreign limited liability company, a foreign limited partnership, or other partnership as defined in G.S. 59-36 whose organization and internal affairs are governed by a law other than the laws of this State, the conversion is permitted by the laws of the state or country governing the organization and internal affairs of the converting business entity and the converting business entity complies with those laws.

"§ 57C-9A-02. Plan of conversion.

(a) The holders of the interests in the converting business entity shall approve a written plan of conversion containing:

(1) The name of the resulting domestic limited liability company into which the converting business entity shall convert;

(2) The terms and conditions of the conversion; and

(3) The manner and basis for converting the interests in the converting business entity into interests, obligations, or securities of the resulting domestic limited liability company or into cash or other property in whole or in part.

The plan of conversion may also contain other provisions relating to the conversion.

(b) In the case of a domestic limited partnership or other partnership as defined in G.S. 59-36 whose organization and internal affairs are governed by the laws of this State, the plan of conversion must be approved in the manner provided for the approval of such a conversion in a written partnership agreement that is binding on all the partners or, if there is no such provision, by the unanimous consent of all the partners. In the case of a foreign limited liability company, a foreign limited partnership, or other partnership as defined in G.S. 59-36 whose organization and internal affairs are governed by a law other than the laws of this State, the plan of conversion must be approved in accordance with the laws of the state or country governing the organization and internal affairs of the converting business entity.

(c) After a plan of conversion has been approved as provided in subsection (b) of this section, but before articles of organization for the resulting domestic limited

liability company become effective, the plan of conversion may be amended or abandoned to the extent provided in the plan of conversion.

"**§ 57C-9A-03. Filing of articles of organization by converting business entity.**

(a) After a plan of conversion has been approved by the converting business entity as provided in G.S. 57C-9A-02, the converting business entity shall deliver articles of organization to the Secretary of State for filing. In addition to the matters required or permitted by G.S. 57C-2-21, the articles of organization shall state:

(1) That the domestic limited liability company is being formed pursuant to a conversion of another business entity;

(2) The name of the converting business entity, its type of business entity, and the state or country whose laws govern its organization and internal affairs; and

(3) That a plan of conversion has been approved by the converting business entity as required by law.

If the plan of conversion is abandoned before the articles of organization become effective, the converting business entity promptly shall deliver to the Secretary of State for filing an amendment to the articles of organization reflecting the abandonment of the plan of conversion.

(b) The conversion takes effect when the articles of organization become effective.

(c) The converting business entity shall furnish a copy of the plan of conversion, on request and without cost, to any member or partner (whether general or limited) of the converting business entity.

(d) Certificates of conversion shall also be registered as provided in G.S. 47-18.1.

"**§ 57C-9A-04. Effects of conversion.**

When the conversion takes effect:

(1) The converting business entity ceases its prior form of organization and continues in existence as the resulting domestic limited liability company;

(2) The title to all real estate and other property owned by the converting business entity continues vested in the resulting domestic limited liability company without reversion or impairment;

(3) All liabilities of the converting business entity continue as liabilities of the resulting domestic limited liability company;

(4) A proceeding pending by or against the converting business entity may be continued as if the conversion did not occur; and

(5) The interests in the converting business entity that are to be converted into interests, obligations, or securities of the resulting domestic limited liability company or into the right to receive cash or other property are thereupon so converted, and the former holders of interests in the converting business entity are entitled only to the rights provided in the plan of conversion.

The conversion shall not affect the liability or absence of liability of any holder of an interest in the converting business entity for any acts, omissions, or obligations of

the converting business entity made or incurred prior to the effectiveness of the conversion. The cessation of the existence of the converting business entity in its prior form of organization in the conversion shall not constitute a dissolution or termination of the converting business entity.

"Part 2. Merger.

"§ 57C-9A-05. Merger.

A domestic limited liability company may merge with one or more other domestic limited liability companies or other business entities if:

(1) The merger is permitted by the laws of the state or country governing the organization and internal affairs of each other merging business entity; and

(2) Each merging domestic limited liability company and each other merging business entity comply with the requirements of this Part and, to the extent applicable, the laws referred to in subdivision (1) of this section.

"§ 57C-9A-06. Plan of merger.

(a) Each merging domestic limited liability company and each other merging business entity shall approve a written plan of merger containing:

(1) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;

(2) The name of the merging business entity that shall survive the merger;

(3) The terms and conditions of the merger;

(4) The manner and basis for converting the interests in each merging business entity into interests, obligations, or securities of the surviving business entity or into cash or other property in whole or in part; and

(5) If the surviving business entity is a domestic limited liability company, any amendments to its articles of organization that are to be made in connection with the merger.

The plan of merger may contain other provisions relating to the merger.

(b) In the case of a merging domestic limited liability company, the plan of merger must be approved in the manner provided in its articles of organization or a written operating agreement for approval of a merger with the type of business entity contemplated in the plan of merger, or, if there is no provision, by the unanimous consent of its members. In the case of each other merging business entity, the plan of merger must be approved in accordance with the laws of the state or country governing the organization and internal affairs of the merging business entity.

(c) After a plan of merger has been approved by a domestic limited liability company but before the articles of merger become effective, the plan of merger (i) may be amended as provided in the plan of merger, or (ii) may be abandoned (subject to any contractual rights) as provided in the plan of merger, articles of organization, or written operating agreement or, if not so provided, as determined by

the managers of the domestic limited liability company in accordance with G.S. 57C-3-20(b).

"§ 57C-9A-07. Articles of merger.

(a) After a plan of merger has been approved by each merging domestic limited liability company and each other merging business entity as provided in G.S. 57C-9A-06, the surviving business entity shall deliver articles of merger to the Secretary of State for filing. The articles of merger shall set forth:

(1) The plan of merger;

(2) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;

(3) The name and address of the surviving business entity;

(4) A statement that the plan of merger has been approved by each merging business entity in the manner required by law; and

(5) The effective date and time of the merger if it is not to be effective at the time of filing of the articles of merger.

If the plan of merger is amended or abandoned before the articles of merger become effective, the surviving business entity promptly shall deliver to the Secretary of State for filing an amendment to the articles of merger reflecting the amendment or abandonment of the plan of merger.

(b) A merger takes effect when the articles of merger become effective.

(c) Certificates of merger shall also be registered as provided in G.S. 47-18.1.

"§ 57C-9A-08. Effects of merger.

(a) When the merger takes effect:

(1) Each other merging business entity merges into the surviving business entity, and the separate existence of each merging business entity, except the surviving business entity ceases;

(2) The title to all real estate and other property owned by each merging business entity is vested in the surviving business entity without reversion or impairment;

(3) The surviving business entity has all liabilities of each merging business entity;

(4) A proceeding pending by or against any merging business entity may be continued as if the merger did not occur, or the surviving business entity may be substituted in the proceeding for a merging business entity whose separate existence ceases in the merger;

(5) If a domestic limited liability company is the surviving business entity, its articles of organization shall be amended to the extent provided in the plan of merger;

(6) The interests in each merging business entity that are to be converted into interests, obligations, or securities of the surviving business entity or into the right to receive cash or other property are thereupon so converted, and the former holders of the interests are entitled only to the rights provided to them in the articles of

merger or, in the case of former holders of shares in a domestic corporation, any rights they may have under Article 13 of Chapter 55 of the General Statutes; and

(7) If the surviving business entity is not a domestic corporation, the surviving business entity is deemed to agree that it will promptly pay to the dissenting shareholders of any merging domestic corporation the amount, if any, to which they are entitled under Article 13 of Chapter 55 of the General Statutes and otherwise to comply with the requirements of Article 13 as if it were a surviving domestic corporation in the merger.

The merger shall not affect the liability or absence of liability of any holder of an interest in a merging business entity for any acts, omissions, or obligations of any merging business entity made or incurred prior to the effectiveness of the merger. The cessation of separate existence of a merging business entity in the merger shall not constitute a dissolution or termination of that merging business entity.

If the surviving business entity is not a domestic limited liability company, a domestic corporation, a domestic nonprofit corporation, or a domestic limited partnership when the merger takes effect, the surviving business entity is deemed:

(1) To agree that it may be served with process in this State in any proceeding for enforcement of (i) any obligation of any merging domestic limited liability company, domestic corporation, domestic nonprofit corporation, domestic limited partnership, or other partnership as defined in G.S. 59-36 that is formed under the laws of this State, (ii) the rights of dissenting shareholders of any merging domestic corporation under Article 13 of Chapter 55 of the General Statutes, and (iii) any obligation of the surviving business entity arising from the merger; and

(2) If the surviving business entity does not have a registered agent in this State, to have appointed the Secretary of State as its registered agent for service of process in any such proceeding until such time as the surviving business entity appoints a registered agent in this State. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process. Upon receipt of service of process on behalf of a surviving business entity, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving business entity at its address shown in the articles of merger or, if an application for a certificate of withdrawal by reason of merger has been filed, at the address for service of process contained in that application."

PART IV. PARTNERSHIPS.

Section 4.1. Article 2 of Chapter 59 of the General Statutes is amended by adding a new Part to read:

"Part 7. Conversion and Merger.

"**§ 59-73.1. Definitions.**

As used in this Part:

(1) 'Domestic partnership' means a partnership as defined in G.S. 59-36 that is formed under the laws of this State, including a registered limited liability partnership as defined in G.S. 59-32, but excluding a domestic limited partnership as defined in G.S. 59-102.

(2) 'Business entity' means a domestic corporation as defined in G.S. 55-1-40 (including a professional corporation as defined in G.S. 55B-2), a foreign corporation as defined in G.S. 55-1-40 (including a foreign professional corporation as defined in G.S. 55B-16), a domestic or foreign nonprofit corporation as defined in G.S. 55A-1-40, a domestic or foreign limited liability company as defined in G.S. 57C-1-03, a domestic or foreign limited partnership as defined in G.S. 59-102, a domestic partnership, or any other partnership as defined in G.S. 59-36 formed under a law other than the laws of this State (including a limited liability partnership).

(3) 'Partnership' means a partnership as defined in G.S. 59-36 whether or not formed under the laws of this State including a registered limited liability partnership and any other limited liability partnership formed under a law other than the laws of this State but excluding a domestic limited partnership as defined in G.S. 59-102 and a foreign limited partnership as defined in G.S. 59-102.

"**§ 59-73.2. Conversion of domestic partnership.**

A domestic partnership may convert to a domestic limited liability company pursuant to Part 1 of Article 9A of Chapter 57C of the General Statutes, or to a domestic limited partnership pursuant to Part 10A of Article 5 of Chapter 59 of the General Statutes.

"**§ 59-73.3. Merger.**

A domestic partnership may merge with one or more other domestic partnerships or other business entities if:

(1) The merger is permitted by laws of the state or country governing the organization and internal affairs of each other merging business entity; and

(2) Each merging domestic partnership and each other merging business entity comply with the requirements of this Part and, to the extent applicable, the laws referred to in subdivision (1) of this section.

"**§ 59-73.4. Plan of merger.**

(a) Each merging domestic partnership and each other merging business entity shall approve a written plan of merger containing:

(1) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;
(2) The name of the merging business entity that shall survive the merger;
(3) The terms and conditions of the merger; and
(4) The manner and basis for converting the interests in each merging business entity into interests, obligations, or securities of the surviving business entity or into cash or other property in whole or in part.

The plan of merger may contain other provisions relating to the merger.

(b) In the case of a merging domestic partnership, the plan of merger must be approved in the manner provided in a written partnership agreement that is binding on all the partners for approval of a merger with the type of business entity contemplated in the plan of merger or, if there is no provision, by the unanimous consent of its partners. In the case of each other merging business entity, the plan of merger must be approved in accordance with the laws of the state or country governing the organization and internal affairs of such merging business entity.

(c) After a plan of merger has been approved by the domestic partnership but before the articles of merger become effective, the plan of merger (i) may be amended as provided in the plan of merger, or (ii) may be abandoned (subject to any contractual rights) as provided in the plan of merger or a written partnership agreement that is binding on all the partners or, if not so provided, as determined by the unanimous consent of the partners.

"**§ 59-73.5. Articles of merger.**

(a) After a plan of merger has been approved by each merging domestic partnership and each other merging business entity as provided in G.S. 59-73.4, the surviving business entity shall deliver articles of merger to the Secretary of State for filing. The articles of merger shall set forth:

(1) The plan of merger;
(2) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;
(3) The name and address of the surviving business entity;
(4) A statement that the plan of merger has been approved by each merging business entity in the manner required by law; and
(5) The effective date and time of the merger if it is not to be effective at the time of filing of the articles of merger.

If the plan of merger is amended or abandoned before the articles of merger become effective, the surviving business entity promptly shall deliver to the Secretary of State for filing an amendment to the articles of merger reflecting the amendment or abandonment of the plan of merger.

(b) A merger takes effect when the articles of merger become effective.

(c) Certificates of merger shall also be registered as provided in G.S. 47-18.1.

"§ 59-73.6. Effects of merger.

(a) When a merger takes effect:

(1) Each other merging business entity merges into the surviving business entity, and the separate existence of each merging business entity except the surviving business entity ceases;

(2) The title to all real estate and other property owned by each merging business entity is vested in the surviving business entity without reversion or impairment;

(3) The surviving business entity has all liabilities of each merging business entity;

(4) A proceeding pending by or against any merging business entity may be continued as if the merger did not occur, or the surviving business entity may be substituted in the proceeding for a merging business entity whose separate existence ceases in the merger;

(5) The interests in each merging business entity that are to be converted into interests, obligations, or securities of the surviving business entity or into the right to receive cash or other property are thereupon so converted, and the former holders of the interests in each merging business entity are entitled only to the rights provided to them in the articles of merger or, in the case of former holders of shares in a domestic corporation (as defined in G.S. 55-1-40), any rights they may have under Article 13 of Chapter 55 of the General Statutes; and

(6) If the surviving business entity is not a domestic corporation, the surviving business entity is deemed to agree that it will promptly pay to the dissenting shareholders of any merging domestic corporation the amount, if any, to which they are entitled under Article 13 of Chapter 55 of the General Statutes and otherwise to comply with the requirements of Article 13 as if it were a surviving domestic corporation in the merger.

The merger shall not affect the liability or absence of liability of any holder of an interest in a merging business entity for any acts, omissions, or obligations of any merging business entity made or incurred prior to the effectiveness of the merger. The cessation of separate existence of a merging business entity shall not constitute a dissolution or termination of the merging business entity.

If the surviving business entity is not a domestic limited liability company, a domestic corporation, a domestic nonprofit corporation, or a domestic limited partnership when the merger takes effect, the surviving business entity is deemed:

(1) To agree that it may be served with process in this State in any proceeding for enforcement of (i) any obligation of any merging domestic limited liability company, domestic corporation, domestic nonprofit corporation, domestic limited partnership, or other partnership as defined in G.S. 59-36 that is formed under the laws of this State, (ii) the rights of dissenting shareholders of any

merging domestic corporation under Article 13 of Chapter 55 of the General Statutes, and (iii) any obligation of the surviving business entity arising from the merger; and

(2) If the surviving business entity does not have a registered agent in this State, to have appointed the Secretary of State as its registered agent for service of process in any such proceeding until such time as the surviving business entity appoints a registered agent in this State. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process. Upon receipt of service of process on behalf of a surviving business entity, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving business entity at its address shown in the articles of merger or, if an application for a certificate of withdrawal by reason of merger has been filed, at the address for service of process contained in that application.

"**§ 59-73.7. Filing of documents.**

(a) To be entitled to filing by the Secretary of State, a document submitted pursuant to this Part must meet all of the following requirements:

(1) The document must contain the information required by this Part. It may contain other information as well.

(2) The document must be typewritten or printed.

(3) The document must be in the English language.

(4) A document submitted by a partnership must be executed by a general partner of the partnership. A document submitted by a business entity other than a partnership must be executed by a person authorized to execute documents (i) pursuant to G.S. 55-1-20(f) if the business entity is a domestic or foreign corporation, (ii) pursuant to G.S. 55A-1-20(f) if the business entity is a domestic or foreign nonprofit corporation, (iii) pursuant to G.S. 57C-1-20(f) if the business entity is a domestic or foreign limited liability company, or (iv) pursuant to G.S. 59-204 if the business entity is a domestic or foreign limited partnership.

(5) The person executing the document must sign it and state beneath or opposite the person's signature, the person's name and the capacity in which the person signs. Any signature on the document may be a facsimile. The document may, but need not, contain an acknowledgment, verification, or proof.

(6) The document must be delivered to the Office of the Secretary of State for filing and must be accompanied by one exact or conformed copy and by the required filing fee.

(b) A partnership may correct a document filed by the Secretary of State pursuant to this Part if the document (i) contains a statement that is incorrect and was incorrect when the document was filed or (ii) was defectively executed, attested, sealed, verified, or acknowledged.

A document is corrected by:

(1) Preparing articles of correction that (i) describe the document (including its filing date) or have attached to them a copy of the document, (ii) specify the incorrect statement and the reason it is incorrect or the manner in which the execution was defective, and (iii) correct the incorrect statement or defective execution; and

(2) Delivering the articles of correction to the Secretary of State for filing, accompanied by one exact or conformed copy and the required filing fee.

Articles of correction are effective on the effective date of the document that is corrected except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed.

(c) The Secretary of State shall collect the following fees when the documents described in this subsection are submitted by a partnership to the Secretary of State for filing:

Document	Fee
Articles of Merger	$50.00
Articles of Correction	$10.00

The Secretary of State shall collect a fee of ten dollars ($10.00) each time process is served on the Secretary of State under this Part. The party to the proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of a document filed by a partnership pursuant to this Part:

(1) One dollar ($1.00) a page for copying or comparing a copy to the original; and

(2) Five dollars ($5.00) for the certificate.

(d) The Secretary of State shall guarantee the expedited filing of a document upon receipt of the document in proper form and the payment of the required filing fee. The Secretary of State may collect the following additional fees for the expedited filing of a document received in good form:

(1) Two hundred dollars ($200.00) for the filing by the end of the same business day of a document received by 12:00 noon Eastern Standard Time; and

(2) One hundred dollars ($100.00) for the filing of a document within 24 hours after receipt, excluding weekends and holidays.

The Secretary of State shall not collect the fees allowed in this subsection unless the person submitting the document for filing requests an expedited filing and is informed by the Secretary of State of the fees prior to the filing of the document.

(e) Upon request, the Secretary of State shall provide for the review of a document prior to its submission for filing to determine whether it satisfies the requirements of this Part. Submission of a document for review shall be accompanied by the proper fee and shall be in accordance with procedures adopted by rule by the Secretary of State. The advisory review shall be completed within 24 hours after submission, excluding weekends and holidays, unless the person submitting the document is otherwise notified in accordance with procedures adopted by rule by the Secretary of State fixing priority between submissions under this subsection and filings under subsection (d) of this section. Upon completion of the advisory review, the Secretary of State shall notify the person submitting the document of any deficiencies in the document that would prevent its filing.

(f) Except as provided in this subsection and in subsection (b) of this section, a document accepted for filing is effective:

(1) At the time of filing on the date it is filed, as evidenced by the Secretary of State's date and time endorsement on the original document; or

(2) At the time specified in the document as its effective time on the date it is filed.

A document may specify a delayed effective time and date, and if it does so the document becomes effective at the time and date specified. If a delayed effective date but no time is specified, the document is effective at 11:59:59 p.m. on that date. A delayed effective date for a document may not be later than the 90th day after the date it is filed.

The fact that a document has become effective under this subsection does not determine its validity or invalidity or the correctness or incorrectness of the information contained in the document.

(g) If a document delivered to the Office of the Secretary of State for filing satisfies the requirements of this Part, the Secretary of State shall file it. Documents filed with the Secretary of State pursuant to this Part may be maintained by the Secretary either in their original form or in photographic, microfilm, optical disk media, or other reproduced form. The Secretary may make reproductions of documents filed under this Part, or under any predecessor act, by photographic, microfilm, optical disk media, or other means of reproduction, and may destroy the originals of those documents reproduced.

The Secretary of State files a document by stamping or otherwise endorsing 'Filed', together with the Secretary of State's name and official title and the date and time of filing, on both the original and the document copy. After filing a document, the Secretary of State shall deliver the document copy to the partnership or its representative.

If the Secretary of State refuses to file a document, the Secretary of State shall return it to the partnership or its representative within five days after the document was received, together with a brief, written explanation of the reason for refusal. The Secretary of State may correct apparent errors and omissions on a document submitted for filing if authorized to make the corrections by the person submitting

the document for filing. Prior to making the correction, the Secretary shall confirm the authorization to make the corrections according to procedures adopted by rule.

The Secretary of State's duty is to review and file documents that satisfy the requirements of this Part. The Secretary of State's filing or refusing to file a document does not:

(1) Affect the validity or invalidity of the document in whole or part;

(2) Relate to the correctness or incorrectness of information contained in the document; or

(3) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

(h) If the Secretary of State refuses to file a document delivered to the Secretary of State's office for filing, the person tendering the document for filing may, within 30 days after the refusal, appeal the refusal to the Superior Court of Wake County. The appeal is commenced by filing a petition with the court and with the Secretary of State requesting the court to compel the Secretary of State to file the document. The petition shall have attached to it the document to be filed and the Secretary of State's explanation for the refusal to file. The appeal to the Superior Court is not governed by Chapter 150B of the General Statutes, the Administrative Procedure Act, and the court shall determine, based upon what is appropriate under the circumstances, any further notice and opportunity to be heard.

Upon consideration of the petition and any response made by the Secretary of State, the court may, prior to entering final judgment, order the Secretary of State to file the document or take other action the court considers appropriate.

The court's final decision may be appealed as in other civil proceedings.

(i) A certificate attached to a copy of a document filed by the Secretary of State, bearing the Secretary of State's signature (which may be in facsimile) and the seal of office and certifying that the copy is a true copy of the document, is conclusive evidence that the original document is on file with the Secretary of State. A photographic, microfilm, optical disk media, or other reproduced copy of a document filed pursuant to this Part or any predecessor act, when certified by the Secretary, shall be considered an original for all purposes and is admissible in evidence in like manner as an original.

(j) A person commits an offense if the person signs a document the person knows is false in any material respect with intent that the document be delivered to the Secretary of State for filing. An offense under this subsection is a Class 1 misdemeanor.

(k) Whenever title to real property in this State held by a partnership is vested by operation of law in another entity upon merger, consolidation, or conversion of the partnership, a certificate reciting the merger, consolidation, or conversion shall be recorded in the office of the register of deeds of the county where the property is located, or if the property is located in more than one county, then in each county where any portion of the property is located.

The Secretary of State shall adopt uniform certificates to be furnished for registration in accordance with this subsection. In the case of a partnership formed

under a law other than the laws of this State, a similar certificate by any competent authority of the jurisdiction of organization may be registered in accordance with this subsection.

The certificate required by this subsection shall be recorded by the register of deeds in the same manner as deeds, and for the same fees, but no formalities as to acknowledgment, probate, or approval by any other officer shall be required. The former name of the partnership holding title to the real property before the merger, consolidation, or conversion shall appear in the 'Grantor' index and the name of the other entity holding title to the real property by virtue of the merger, consolidation, or conversion shall appear in the 'Grantee' index."

Section 4.2. G.S. 59-102 is amended by adding a new subdivision to read:

"(1a) 'Business entity' means a domestic corporation as defined in G.S. 55-1-40 (including, without limitation, a professional corporation as defined in G.S. 55B-2), a foreign corporation as defined in G.S. 55-1-40 (including, without limitation, a foreign professional corporation as defined in G.S. 55B-16), a domestic or foreign nonprofit corporation as defined in G.S. 55A-1-40, a domestic limited liability company as defined in G.S. 57C-1-03, a foreign limited liability company as defined in G.S. 57C-1-03, a domestic limited partnership, a foreign limited partnership, or any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State (including a registered limited liability partnership as defined in G.S. 59-32 and any other limited liability partnership formed under a law other than the laws of this State)."

Section 4.3. G.S. 59-201 is amended by adding a new subsection to read:

"(d) A limited partnership may also be formed through the conversion of another business entity in accordance with Part 10A of this Article."

Section 4.4. G.S. 59-204 reads as rewritten:

"**§ 59-204. Execution of ~~certificates.~~ documents.**

(a) Each certificate required by this Article to be filed in the office of the Secretary of State shall be executed in the following manner:

(1) An original certificate of limited partnership must be signed by all general partners;

(2) A certificate of amendment must be signed by at least one general partner and by each other partner designated in the certificate as a new general partner; and

(3) A certificate of cancellation must be signed by all general partners.

Any other document submitted by a domestic or foreign limited partnership for filing pursuant to this or any other Chapter must be signed by at least one general partner. Any document submitted by a business entity other than a domestic or foreign limited partnership must be executed by a person authorized to execute documents (i) pursuant to G.S. 55-1-20(f) if the business entity is a domestic or foreign corporation, (ii) pursuant to G.S. 55A-1-20(f) if the business entity is a domestic or foreign nonprofit corporation, (iii) pursuant to G.S. 57C-1-20(f) if the

business entity is a domestic or foreign limited liability company, or (iv) pursuant to G.S. 59-73.7(a)(4) if the business entity is a partnership as defined in G.S. 59-36, whether or not formed under the laws of this State, other than a domestic or foreign limited partnership.

(b) Any person may sign a certificate by an attorney-in-fact.

(b1) Any signature on any document authorized to be filed with the Secretary of State under any provision of this Article may be a facsimile.

(c) The execution of a certificate or amendment by a general partner constitutes an affirmation under the penalties of perjury that the facts stated therein are true."

Section 4.5. G.S. 59-206(a)(3a) reads as rewritten:

"(3a) Whenever the name of any domestic or foreign limited partnership holding title to real property in this State is changed upon amendment to the certificate of limited partnership, or whenever title to its real property is vested by operation of law in another entity upon merger, consolidation, or conversion of the domestic or foreign limited partnership, a certificate reciting the ~~change or transfer~~ name change, merger, consolidation, or conversion shall be recorded in the office of the register of deeds of the county where the property lies, or if the property is located in more than one county, then in each county where any portion of the property lies."

Section 4.6. G.S. 59-206(a)(5) reads as rewritten:

"(5) The certificate required by this section shall be recorded by the register of deeds in the same manner as deeds, and for the same fees, but no formalities as to acknowledgement, probate, or approval by any other officer shall be required. The former name of the domestic or foreign limited partnership holding title to the real property before the ~~amendment~~ name change, merger, consolidation, or conversion shall appear in the 'Grantor' index, and the ~~amended~~ new name of the domestic or foreign limited partnership or the name of the other entity holding title to the real property by virtue of the ~~amendment~~ merger, consolidation, or conversion, as applicable, shall appear in the 'Grantee' index."

Section 4.7. Article 5 of Chapter 59 of the General Statutes is amended by adding a new section to read:

"**§ 59-909. Withdrawal of foreign limited partnership by reason of a merger, consolidation, or conversion.**

(a) Whenever a foreign limited partnership authorized to transact business in this State ceases its separate existence as a result of a statutory merger or consolidation permitted by the laws of the state or country under which it was organized, or converts into another type of entity as permitted by those laws, the surviving or resulting entity shall apply for a certificate of withdrawal for the foreign limited partnership by delivering to the Secretary of State for filing a copy of the articles of merger, consolidation, or conversion or a certificate reciting the facts of the merger,

consolidation, or conversion, duly authenticated by the Secretary of State or other official having custody of limited partnership records in the state or country under the laws of which the foreign limited partnership was organized. If the surviving or resulting entity is not authorized to transact business in this State, the articles or certificate must be accompanied by an application which must set forth:

(1) The name of the foreign limited partnership authorized to transact business in this State, the type of entity and name of the surviving or resulting entity, and a statement that the surviving or resulting entity is not authorized to transact business in this State;

(2) A statement that the surviving or resulting entity consents that service of process based on any cause of action arising in this State, or arising out of business transacted in this State, during the time the foreign limited partnership was authorized to transact business in this State, may thereafter be made by service thereof on the Secretary of State;

(3) A mailing address to which the Secretary of State may mail a copy of any process served upon the Secretary under subdivision (a)(2) of this section; and

(4) A commitment to notify the Secretary of State in the future of any change in its mailing address.

(b) If the Secretary of State finds that the articles or certificate and the application for withdrawal, if required, conform to law, the Secretary of State shall:

(1) Endorse on the articles or certificate and the application for withdrawal, if required, the word 'filed' and the hour, day, month, and year of filing thereof;

(2) File the articles or certificate and the application, if required;

(3) Issue a certificate of withdrawal; and

(4) Send to the surviving or resulting entity or its representative the certificate of withdrawal, together with the exact or conformed copy of the application, if required, affixed thereto."

Section 4.8. Article 5 of Chapter 59 of the General Statutes is amended by adding a new Part to read:

"Part 10A. Conversion and Merger.

"§ 59-1007. Conversions.

(a) A domestic limited partnership may convert to a domestic limited liability company pursuant to Part 1 of Article 9A of Chapter 57C of the General Statutes.

(b) A domestic limited liability company as defined in G.S. 57C-1-03, a foreign limited liability company as defined in G.S. 57C-1-03, a foreign limited partnership, or any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State, including a registered limited liability partnership as defined in G.S. 59-32, and any other limited liability partnership formed under a law other than the laws of this State, but excluding a domestic limited partnership, may convert to a domestic limited partnership if:

(1) Such converting business entity complies with the requirements of G.S. 59-1008 and G.S. 59-1009; and

(2) If the converting business entity is a foreign limited liability company, a foreign limited partnership, or other partnership as defined in G.S. 59-36 whose organization and internal affairs are governed by a law other than the laws of this State, the conversion is permitted by laws of the state or country governing the organization and internal affairs of the converting business entity, and the converting business entity complies with the laws.

"**§ 59-1008. Plan of conversion.**

(a) The holders of the interests in the converting business entity shall approve a written plan of conversion containing:

(1) The name of the resulting domestic limited partnership into which the converting business entity shall convert;

(2) The terms and conditions of the conversion; and

(3) The manner and basis for converting the interests in the converting business entity into interests, obligations, or securities of the resulting domestic limited partnership or into cash or other property in whole or in part.

The plan of conversion may contain other provisions relating to the conversion.

(b) In the case of a domestic limited liability company, the plan of conversion must be approved in the manner provided for approval of such a conversion in its articles of organization or a written operating agreement or, if there is no such provision, by the unanimous consent of its members. In the case of a partnership as defined in G.S. 59-36 whose organization and internal affairs are governed by the laws of this State, the plan of conversion must be approved in the manner provided for the approval of such a conversion in a written partnership agreement that is binding on all the partners or, if there is no such provision, by the unanimous consent of all the partners. In the case of a foreign limited liability company, a foreign limited partnership, or other partnership as defined in G.S. 59-36 whose organization and internal affairs are governed by a law other than the laws of this State, the plan of conversion must be approved in accordance with the laws of the state or country governing the organization and internal affairs of the converting business entity.

(c) After a plan of conversion has been approved as provided in subsection (b) of this section, but before a certificate of limited partnership for the resulting domestic limited liability company becomes effective, the plan of conversion may be amended or abandoned to the extent provided in the plan of conversion.

"**§ 59-1009. Filing of certificate of limited partnership by converting business entity.**

(a) After a plan of conversion has been approved by the converting business entity as provided in G.S. 59-1008, the converting business entity shall deliver a certificate of limited partnership to the Secretary of State for filing. In addition to the matters required or permitted by G.S. 59-201, the certificate of limited partnership shall state:

(1) That the domestic limited partnership is being formed pursuant to a conversion of another business entity;

(2) The name of the converting business entity, its type of business entity, and the state or country whose laws govern its organization and internal affairs; and

(3) That a plan of conversion has been approved by the converting business entity in the manner required by law.

If the plan of conversion is abandoned before the certificate of limited partnership becomes effective, the converting business entity promptly shall deliver to the Secretary of State for filing an amendment to the certificate of limited partnership reflecting the abandonment of the plan of conversion.

(b) The conversion takes effect when the certificate of limited partnership becomes effective.

(c) The converting business entity shall furnish a copy of the plan of conversion, on request and without cost, to any member or partner (whether general or limited) of the converting business entity.

(d) Certificates of conversion shall also be registered as provided in G.S. 47-18.1.

"**§ 59-1010. Effects of conversion.**

(a) When the conversion takes effect:

(1) The converting business entity ceases its prior form of organization and continues in existence as the resulting domestic limited partnership;

(2) The title to all real estate and other property owned by the converting business entity continues vested in the resulting domestic limited partnership without reversion or impairment;

(3) All liabilities of the converting business entity continue as liabilities of the resulting domestic limited partnership;

(4) A proceeding pending by or against the converting business entity may be continued as if the conversion did not occur; and

(5) The interests in the converting business entity that are to be converted into interests, obligations, or securities of the resulting domestic partnership or into the right to receive cash or other property are thereupon so converted, and the former holders of interests in the converting business entity are entitled only to the rights provided in the plan of conversion.

The conversion shall not affect the liability or absence of liability of any holder of an interest in the converting business entity for any acts, omissions, or obligations of the converting business entity made or incurred prior to the effectiveness of the conversion. The cessation of the existence of the converting business entity in its prior form of organization in the conversion shall not constitute a dissolution or termination of the converting business entity.

"**§ 59-1011. Merger.**

A domestic limited partnership may merge with one or more other domestic limited partnerships or other business entities if:

(1) The merger is permitted by the laws of the state or country governing the organization and internal affairs of each other merging business entity; and

(2) Each merging domestic limited partnership and each other merging business entity comply with the requirements of G.S. 59-1012 and G.S. 59-1013, and, to the extent applicable, the laws referred to in subdivision (1) of this section.

"§ 59-1012. Plan of merger.

(a) Each merging domestic limited partnership and each other merging business entity shall approve a written plan of merger containing:

(1) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;

(2) The name of the merging business entity that shall survive the merger;

(3) The terms and conditions of the merger;

(4) The manner and basis for converting the interests in each merging business entity into interests, obligations, or securities of the surviving business entity or into cash or other property in whole or in part; and

(5) If the surviving business entity is a domestic limited partnership, any amendments to its certificate of limited partnership that are to be made in connection with the merger.

The plan of merger may contain other provisions relating to the merger.

(b) In the case of a merging domestic limited partnership, the plan of merger must be approved in the manner provided in a written partnership agreement that is binding on all the partners for approval of a merger with the type of business entity contemplated in the plan of merger or, if there is no provision, by the unanimous consent of its partners. In the case of each other merging business entity, the plan of merger must be approved in accordance with the laws of the state or country governing the organization and internal affairs of the merging business entity.

(c) After a plan of merger has been approved by a domestic limited partnership, but before the articles of merger become effective, the plan of merger (i) may be amended as provided in the plan of merger, or (ii) may be abandoned (subject to any contractual rights) as provided in the plan of merger or a written partnership agreement that is binding on all the partners or, if there is no such provision, as determined by the unanimous consent of the partners.

"§ 59-1013. Articles of merger.

(a) After a plan of merger has been approved by each merging domestic limited partnership and each other merging business entity as provided in G.S. 59-1012, the surviving business entity shall deliver articles of merger to the Secretary of State for filing. The articles of merger shall set forth:

(1) The plan of merger;

(2) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;
(3) The name and address of the surviving business entity;
(4) A statement that the plan of merger has been approved by each merging business entity in the manner required by law; and
(5) The effective date and time of the merger if it is not to be effective at the time of filing of the articles of merger.

If the plan of merger is amended or abandoned before the articles of merger become effective, the surviving business entity promptly shall deliver to the Secretary of State for filing an amendment to the articles of merger reflecting the amendment or abandonment of the plan of merger.

(b) A merger takes effect when the articles of merger become effective.

(c) Certificates of merger shall also be registered as provided in G.S. 47-18.1.

"**§ 59-1014. Effects of merger.**

(a) When the merger takes effect:

(1) Each other merging business entity merges into the surviving business entity, and the separate existence of each merging business entity except the surviving business entity ceases;
(2) The title to all real estate and other property owned by each merging business entity is vested in the surviving business entity without reversion or impairment;
(3) The surviving business entity has all liabilities of each merging business entity;
(4) A proceeding pending by or against any merging business entity may be continued as if the merger did not occur, or the surviving business entity may be substituted in the proceeding for a merging business entity whose separate existence ceases in the merger;
(5) If a domestic limited partnership is the surviving business entity, its certificate of limited partnership shall be amended to the extent provided in the plan of merger;
(6) The interests in each merging business entity that are to be converted into interests, obligations, or securities of the surviving business entity or into the right to receive cash or other property are thereupon so converted, and the former holders of the interests are entitled only to the rights provided to them in the articles of merger or, in the case of former holders of shares in a domestic corporation as defined in G.S. 55-1-40, any rights they have under Article 13 of Chapter 55 of the General Statutes; and
(7) If the surviving business entity is not a domestic corporation, the surviving business entity is deemed to agree that it will promptly pay to the dissenting shareholders of any merging domestic corporation the amount, if any, to which they are entitled under Article 13 of Chapter 55 of the General Statutes and otherwise to

comply with the requirements of Article 13 as if it were a surviving domestic corporation in the merger.

The merger shall not affect the liability or absence of liability of any holder of an interest in a merging business entity for any acts, omissions, or obligations of any merging business equity made or incurred prior to the effectiveness of the merger. The cessation of separate existence of a merging business entity in the merger shall not constitute a dissolution or termination of such merging business entity.

(b) If the surviving business entity is not a domestic limited liability company, a domestic corporation, a domestic nonprofit corporation, or a domestic limited partnership, when the merger takes effect the surviving business entity is deemed:

(1) To agree that it may be served with process in this State in any proceeding for enforcement of (i) any obligation of any merging domestic limited liability company, domestic corporation, domestic nonprofit corporation, domestic limited partnership or other partnership as defined in G.S. 59-36 that is formed under the laws of this State, (ii) the rights of dissenting shareholders of any merging domestic corporation under Article 13 of Chapter 55 of the General Statutes, and (iii) any obligation of the surviving business entity arising from the merger; and

(2) If the surviving business entity does not have a registered agent in this State, to have appointed the Secretary of State as its registered agent for service of process in any such proceeding until such time as the surviving business entity appoints a registered agent in this State. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process. Upon receipt of service of process on behalf of a surviving business entity, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving business entity at its address shown in the articles of merger or, if an application for a certificate of withdrawal by reason of merger has been filed, at the address for service of process contained in that application."

PART V. CONFORMING CHANGES.

Section 5.1. G.S. 47-18.1 reads as rewritten:

"**§ 47-18.1. Registration of certificate of corporate ~~merger or consolidation.~~ merger, consolidation, or conversion.**

(a) If title to real property in this State is ~~transferred~~ vested by operation of law in another entity upon the ~~merger or consolidation of two or more corporations,~~ merger, consolidation, or conversion of an entity, such ~~transfer~~ vesting is effective against lien creditors or purchasers for a valuable consideration from the ~~corporation~~ entity formerly owning the property, only from the time of registration of a certificate thereof as provided in this section, in the county where the land lies, or if the land is

located in more than one county, then in each county where any portion of the land lies to be effective as to the land in that county.

(b) The Secretary of State shall adopt uniform certificates of ~~merger or consolidation,~~ merger, consolidation, or conversion, to be furnished for registration, and shall adopt such fees as are necessary for the expense of such certification. If the ~~corporation~~ entity involved is not a domestic ~~corporation,~~ entity, a similar certificate by any competent authority in the jurisdiction of incorporation or organization may be registered in accordance with this section.

(c) A certificate of the Secretary of State prepared in accordance with this section shall be registered by the register of deeds in the same manner as deeds, and for the same fees, but no formalities as to acknowledgment, probate, or approval by any other officer shall be required. The name of the ~~corporation~~ entity formerly owning the property shall appear in the 'Grantor' index, and the name of the ~~corporation~~ entity owning the property by virtue of the ~~merger or consolidation~~ merger, consolidation, or conversion shall appear in the 'Grantee' index."

Section 5.2. G.S. 105-129.4(e) reads as rewritten:

"(e) Change in Ownership of Business. -- The sale, merger, consolidation, conversion, acquisition, or bankruptcy of a business, or any transaction by which an existing business reformulates itself as another business, does not create new eligibility in a succeeding business with respect to credits for which the predecessor was not eligible under this Article. A successor business may, however, take any installment of or carried-over portion of a credit that its predecessor could have taken if it had a tax liability. The acquisition of a business is a new investment that creates new eligibility in the acquiring taxpayer under this Article if any of the following conditions are met:

(1) The business closed before it was acquired.

(2) The business was required to file a notice of plant closing or mass layoff under the federal Worker Adjustment and Retraining Notification Act, 29 U.S.C. § 2102, before it was acquired.

(3) The business was acquired by its employees through an employee stock option transaction or another similar mechanism."

Section 5.3. G.S. 105-129.27(d) reads as rewritten:

"(d) Change in Ownership of Facility. -- The sale, merger, consolidation, conversion, acquisition, or bankruptcy of a recycling facility, or any transaction by which the facility is reformulated as another business, does not create new eligibility in a succeeding owner with respect to a credit for which the predecessor was not eligible under this section. A successor business may, however, take any carried-over portion of a credit that its predecessor could have taken if it had a tax liability."

Section 5.4. G.S. 105-130.4(j)(3) reads as rewritten:

"(3) The average value of property shall be determined by averaging the values at the beginning and end of the income year, but in all cases the Secretary of Revenue may require the averaging of monthly or other periodic values during the income year if reasonably required to reflect properly the average value of the

corporation's property. A corporation ~~which~~ that ceases its operations in this State before the end of its income year because of its intention to dissolve or to relinquish its certificate of authority, or because of a ~~merger~~ merger, conversion, or consolidation, or for any other reason whatsoever shall use the real estate and tangible personal property values as of the first day of the income year and the last day of its operations in this State in determining the average value of property, but the Secretary may require averaging of monthly or other periodic values during the income year if reasonably required to reflect properly the average value of the corporation's property."

Section 5.5. G.S. 105-130.17(e) reads as rewritten:

"(e) Any corporation ~~which~~ that ceases its operations in this State before the end of its income year because of its intention to dissolve or to withdraw from this State, or because of a ~~merger~~ merger, conversion, or consolidation or for any other reason whatsoever shall file its return for the then current income year within 75 days after the date it terminates its business in this State."

Section 5.6. G.S. 105-163.010(2) reads as rewritten:

"(2) Business. -- A corporation, partnership, limited liability company, association, or sole proprietorship operated for profit."

Section 5.7. G.S. 105-163.013(f) reads as rewritten:

"(f) Transfer of Registration. -- A registration as a qualified business venture or qualified grantee business may not be sold or otherwise transferred, except that if a qualified business venture or qualified grantee business enters into a merger, conversion, consolidation, or other similar transaction with another business and the surviving ~~corporation~~ company would otherwise meet the criteria for being a qualified business venture or qualified grantee business, the surviving company retains the registration without further application to the Secretary of State. In such a case, the qualified business venture or qualified grantee business shall provide the Secretary of State with written notice of the merger, conversion, consolidation, or similar transaction and the name, address, and jurisdiction of incorporation or organization of the surviving company."

Section 5.8. G.S. 105-163.014(d)(1) reads as rewritten:

"(1) Within one year after the investment was made, the taxpayer transfers any of the securities received in the investment that qualified for the tax credit to another person or entity, other than in a transfer resulting from one of the following:

a. The death of the taxpayer.

b. A final distribution in liquidation to the owners of a taxpayer that is a corporation or other entity.

c. A merger, conversion, consolidation, or similar transaction requiring approval by the ~~shareholders~~ owners of the qualified business venture or qualified grantee business under applicable State law, to the extent the taxpayer does

not receive cash or tangible property in the merger, conversion, consolidation, or other similar transaction."

Section 5.9. G.S. 105-187.6(b)(2) reads as rewritten:

"(2) To a ~~partnership~~ partnership, limited liability company, or corporation as an incident to the formation of the ~~partnership or corporation and~~ partnership, limited liability company, or corporation, and no gain or loss arises on the transfer of the motor vehicle under section 351 or section 721 of the Internal Revenue ~~Code,~~ Code as defined in G.S. 105-228.90, or to a partnership, limited liability company, or corporation by ~~merger or~~ merger, conversion, or consolidation in accordance with ~~G.S. 55-11-06.~~ applicable law."

Section 5.10. G.S. 105-228.29 reads as rewritten:

"**§ 105-228.29. Conveyances excluded.**

The provisions of this Article shall not apply to transfers of an interest in real estate by operation of law, by lease for a term of years, by or pursuant to the provisions of a will, by intestacy, by gift, by ~~merger~~ merger, conversion, or consolidation, or by instruments securing indebtedness, or any other transfer where no consideration in property or money is due or paid by the transferee to transferor."

PART VI. MUTUAL TO STOCK INSURANCE CONVERSION.

Section 6. Article 10 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-10-10. Mutual conversion to stock insurer.**

(a) A domestic mutual insurer may convert to a domestic stock insurer under a plan that is approved in advance by the Commissioner.

(b) The Commissioner shall not approve the plan unless:

(1) It is fair and equitable to the insurer's policyholders.

(2) It is adopted by the insurer's board of directors in accordance with the insurer's bylaws and approved by a vote of not less than two-thirds of the insurer's members voting on it in person, by proxy, or by mail at a meeting called for the purpose of voting on the plan, pursuant to reasonable notice and procedure as approved by the Commissioner. If the company is a life insurer, the right to vote may be limited, as its bylaws provide, to members whose policies are other than term or group policies and have been in effect for more than one year.

(3) Each policyholder's equity in the insurer is determinable under a fair and reasonable formula approved by the Commissioner. The equity shall be based upon the insurer's entire statutory surplus after deducting certificates of contribution, guaranty capital certificates, and similar evidences of indebtedness included in an insurer's statutory surplus.

(4) The policyholders entitled to vote on the plan and participate in the purchase of stock and distribution of assets include all

policyholders on the date the plan was adopted by the insurer's board of directors.

(5) The plan provides that each policyholder specified in subdivision (4) of this subsection receives a preemptive right to acquire a proportionate part of all of the proposed capital stock of the insurer or of all of the stock of a corporation affiliated with the insurer within a designated reasonable period as the part is determinable under the plan of conversion; and to apply toward the purchase of the stock the amount of the policyholder's equity in the insurer under subdivision (3) of this subsection. The plan must provide for an equitable distribution of fractional interests.

(6) The plan provides for payment to each policyholder of the policyholder's entire equity in the insurer; with that payment to be applied toward the purchase of stock to which the policyholder is entitled preemptively or to be made in cash, or both. The cash payment may not exceed fifty percent (50%) of each policyholder's equity. The stock purchased, together with the cash payment, if any, shall constitute full payment and discharge of the policyholder's equity as an owner of the mutual insurer.

(7) Shares are to be offered to policyholders at a price not greater than that of shares to be subsequently offered to others.

(8) The Commissioner finds that the insurer's management has not, through reduction of volume of new business written, through policy cancellations, or through any other means, sought to (i) reduce, limit, or affect the number or identity of the insurer's members entitled to participate in the plan or (ii) secure for the individuals constituting management any unfair advantage through the plan.

(9) The plan, when completed, provides that the insurer's capital and surplus are not less than the minimum required of a domestic stock insurer transacting the same kinds of insurance, are reasonable in relation to the insurer's outstanding liabilities, and are adequate to meet its financial needs.

(c) With respect to an insurer with a guaranty capital, the conversion plan shall be approved by a vote of not less than two-thirds of the insurer's guaranty capital shareholders and policyholders as provided for in subdivision (b)(2) of this section. The plan may provide for the issuance of stock in exchange for outstanding guaranty capital shares at their redemption value subject to the conditions in subsection (b) of this section.

(d) The Commissioner may schedule a public hearing on the proposed conversion plan.

(e) The Commissioner may retain, at the mutual insurer's expense, any attorneys, actuaries, economists, accountants, or other experts not otherwise a part of the

Commissioner's staff as may be reasonably necessary to assist the Commissioner in reviewing the proposed conversion plan.

(f) The corporate existence of the mutual company continues in the stock company created under this section. All assets, rights, franchises, and interests of the former mutual insurer, in and to real or personal property, are deemed to be transferred to and vested in the stock insurer, without any other deed or transfer; and the stock insurer simultaneously assumes all of the obligations and liabilities of the former mutual insurer.

(g) No director, officer, or employee of the insurer shall receive:

(1) Any fee, commission, compensation, or other valuable consideration for aiding, promoting, or assisting in the conversion of the mutual insurer to a domestic stock insurer, other than compensation paid to any director, officer, or employee of the insurer in the ordinary course of business; or

(2) Any distribution of the assets, surplus, or capital of the insurer as part of a conversion.

(h) The Commissioner may adopt rules to carry out the provisions of this section."

PART VII. HOMEOWNER ASSOCIATION REFUNDS.

Section 7. G.S. 55A-13-02(b) reads as rewritten:

"(b) Subject to the provisions of subsection (d) of this ~~section, (i) a~~ section:

(1) A corporation may make distributions to any entity that is exempt under section 501(c)(3) of the Internal Revenue Code of 1986 or any successor section, or that is organized exclusively for one or more of the purposes specified in section 501(c)(3) of the Internal Revenue Code of 1986 or any successor section and that upon dissolution shall distribute its assets to a charitable or religious corporation, the United States, a state or an entity that is exempt under section 501(c)(3) of the Internal Revenue Code of 1986 or any successor ~~section, and (ii) any~~ section.

(2) Any corporation other than a charitable or religious corporation may make distributions to any domestic or foreign corporation.

(3) Except as otherwise prohibited by statute, a corporation not operated for profit, the membership of which is limited to the owners or occupants of real property in a condominium, cooperative housing corporation, or other real property development, having as its primary purposes the management, operation, preservation, maintenance, and repair of common areas and improvements upon the real property owned by the members and the corporation or organization, may make distribution to its members of excess or surplus membership dues, fees, or assessments remaining after the payment of or provisions for common expenses and any prepayment of reserves; provided that these distributions are in proportion to the dues, fees, or assessments collected from the members."

PART VIII. RETENTION OF FEES.

Section 8. All fees received by the Department of the Secretary of State pursuant to the provisions of and for the administration of this act shall be retained by the Department of the Secretary of State for fiscal years 1999-2000, 2000-2001, and 2001-2002. No such fees received shall revert to the General Fund during those fiscal years. Fees retained pursuant to this section shall be used by the Department of the Secretary of State for administration of Chapters 55, 55A, 55B, 57C and 59 of the General Statutes.

Any fees received on or after July 1, 2002, but not used by the Department in the administration of those Chapters by the close of the fiscal year in which such fees are received shall revert to the General Fund. Monies retained pursuant to this section shall be subject to audit pursuant to the Executive Budget Act.

PART IX. EFFECTIVE DATE.

Section 9. This act becomes effective January 1, 2000, and applies to mergers, consolidations, or conversions effective on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 835 Revised Law Governing Mergers

SHORT TITLE: Revised Law Governing Mergers

SPONSOR(S): Sen. Dan Clodfelter

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

		FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES		No Estimate Available				
EXPENDITURES	R	$48,665	$68,886	$68,886	$68,886	$68,886
	NR	$31,000				
POSITIONS:		2*	2*	2*	2*	2*

* The Fiscal Research Division believes that 2 positions at a total cost of $42,665 effective October 1, 1999 ($56,886 annually) may be needed during the first year the bill is effective. However, we believe that the true impact this bill will have on the workload and additional staffing cannot be determined until there has been some experience with the bill.

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Secretary of State and the Department of Insurance

EFFECTIVE DATE: The bill becomes effective January 1, 2000 and applies to mergers, consolidations and conversions effective on or after the effective date.

BILL SUMMARY: ***(Adopted from the April 22, 1999 summary prepared by the Senate Judiciary I Committee Co-Counsel.)***

Senate Bill 835 would clarify and conform laws governing the mergers, consolidations and conversions among business corporations, nonprofit corporations, partnerships, limited partnerships, limited liability partnerships, limited liability companies and foreign entities. It would also provide for a method for conversion of mutual insurance companies to stock insurance companies, and would permit homeowner associations to refund excess dues and fees collected from association members. Current law provides procedures for some mergers,

consolidations and conversions of business corporations, nonprofit corporations, and limited liability companies. There are no conversion/merger provisions for partnerships or limited partnerships.

Parts I through V of Senate Bill 835 provide for a common, standardized form of mergers, consolidations and conversions for business corporations (Part I), nonprofit corporations (Part II), limited liability companies (Part III), partnerships and limited liability partnerships (Part IV), permitting different forms of entities to merge and convert into other entity forms. The standard provisions require a plan of merger or conversion adopted by the merging or converting entities, articles of merger or conversion filed with the Secretary of State. They also define the legal effects of the merger/conversion on title to real property, liabilities, pending actions, and the rights to succeed in interest. Provisions are also made for merger/conversions with foreign corporations, foreign nonprofits, foreign partnerships, foreign limited liability companies and other foreign entities.

Part VI sets out the procedure for the conversion of a mutual insurance company to a stock insurance company. This type of conversion must be approved by the Commissioner of Insurance and must provide that the policyholder in a mutual insurance company will own the same proportionate share of a stock insurance company as the policyholder owned in the mutual insurance company. This Part also insures that the officers, directors and employees of a mutual insurance company will not receive any separate compensation as a result of a conversion other than the compensation paid in the ordinary course of business.

Part VII amends the Nonprofit Corporation statute to permit homeowners associations that accumulate excess funds from its members, to distribute those excess funds to the members of the association in proportion to the fees collected from the members.

ASSUMPTIONS AND METHODOLOGY:

Department of the Secretary of State

This bill allows business and nonprofit corporations, limited liability companies, partnerships, limited partnerships and limited liability partnerships and foreign entities to merge with one another and in some instances to convert from one form of entity to another. These changes will have a cost impact on the Department of the Secretary of State. They are also likely to have an impact on the Department's revenue. The fiscal impact is noted below.

The Secretary of State anticipates that substantial programming changes to its computer database will be necessary to implement this bill. Specifically, they must create a new category for including partnerships as parties to mergers along with mechanisms to track subsequent filings made by partnerships. (Current law does not contain merger or conversion procedures for partnerships. Further, general partnerships are not required to register with the Secretary of State.) Also, they must create new code to document conversions of various sorts of entities into another entity; to provide for a foreign entity's withdrawal from the state by reason of conversion to or consolidation with another entity. In addition to the programming the Department anticipates that the examiners and information specialists in the Corporations Division will need training on the programming changes including learning new computer screens and new codes as well as training on operating the revised system.

The Department estimates the nonrecurring cost to be $31,000. This includes one-time programming cost of $28,000, and training cost of $3,000. The Department also estimates that it will incur $12,000 annually in ITS charges for maintenance and increased data usage and storage. The Fiscal Research Division believes the Department's estimate of the programming cost and training is reasonable. However, we estimate the first year cost for the ITS charges will be $6,000 since the bill would only be effective for one-half of the fiscal year.

The Department anticipates that the new types of mergers, conversions and consolidations permitted by this bill will increase the workload for the Corporations Division. The Department cannot estimate the number of additional mergers, conversions and consolidations that will occur as a result of this bill. However, they anticipate at a minimum that they will need 2 additional document examiners at a total cost of $56,886 annually. The Fiscal Research Division believes the addition of these two positions is not unreasonable. However, since the bill would not become effective until January 1, 2000 and the required system modifications would not be completed until the fall of the year 1999, we believe the effective date of these positions should be October 1, 1999 at the earliest. Consequently, we have reduced the Department's estimate of the first year cost to $42,665 (($28,443 * 2) / 12 * 9). We further believe that **at least** one-year of experience is needed to determine the true impact that this bill will have on the division's current workload and any additional staffing needs.

Existing law requires the Secretary of State to collect filing, service and copying fees when documents are delivered to it for filing. The fee schedule is established in G.S. 55-1-22. The fees include a $10.00 fee for filing articles of correction and a $50 fee for filing articles of merger or conversion. Optional fees include a $100 -$200 fee for expedited filings and a $200 fee for an advisory review. These fees will be applicable to any new mergers, consolidations, or conversions that occur as a result of this bill. Though the Secretary of State anticipates that there will be additional filings as a result of this bill, they cannot estimate the number of new filings or the impact the new filings will have on revenue collections.

Department of Insurance:

This bill allows mutual insurance companies to convert to stock insurance companies. The Commissioner of Insurance must approve the plan of conversion in advance. The bill specifies the conditions that must exist before the Commissioner can approve a plan. The Department of Insurance estimates that implementing the requirements of this bill will have no fiscal impact on the Department.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Marilyn Chism

APPROVED BY: Tom Covington

DATE: Tuesday, July 06, 1999

April 12, 1999

S 835. REVISE LAW GOVERNING MERGERS. *TO CLARIFY THE LAW GOVERNING MERGERS, CONSOLIDATIONS, AND CONVERSIONS AMONG BUSINESS CORPORATIONS, NONPROFIT CORPORATIONS, AND UNINCORPORATED ENTITIES, INCLUDING LIMITED LIABILITY COMPANIES AND PARTNERSHIPS, FOR THE PURPOSE OF CONFORMING THE LAWS WITH THOSE OF OTHER STATES AND MODERN BUSINESS PRACTICES.* As title indicates, adds new 55-11-10 and 55A-11-09 to specify procedure and rules governing merger by domestic or domestic nonprofit corporation with unincorporated entity. Defines unincorporated entity as domestic or foreign limited liability company, domestic or foreign limited partnership and any other partnerships, including limited liability partnerships. Amends various sections in GS Ch. 55, 55A and 57C to specify what is to be done when survivor of merger is unincorporated entity. Adds new article 9A to GS Ch. 57C regulating conversion of domestic limited liability company to domestic limited liability partnership and merger of domestic limited liability corporation with other business entities. Adds similar new Part 7 to Article 2 of GS Ch. 59 to regulate conversion of domestic partnership to domestic limited liability company or domestic limited partnership, as well as merger with other business entities. Adds new Part 10A to Art. 5 of GS Ch. 59 regulating conversion of domestic limited partnership to domestic limited liability company, as well as merge by such partnerships with other business entities. Effective October 1, 1999 ad applicable to contracts entered into or mergers, consolidations or coversions effective on or after that date.

Intro. by Clodfelter.

Ref. to Judiciary I GS 55, 55A, 57C, 59, 47, 105

April 26, 1999

S 835. REVISE LAW GOVERNING MERGERS. Intro. 04/12/99 . Senate committee substitute makes the following changes to 1st edition:

(1) Changes title to "AN ACT TO CLARIFY THE LAW GOVERNING MERGERS, CONSOLIDATIONS, NONPROFIT CORPORATIONS, AND UNINCORPORATED ENTITIES, INCLUDING LIMITED LIABILITY COMPANIES AND PARTNERSHIPS, FOR THE PURPOSE OF CONFORMING THE LAWS WITH THOSE OF OTHER STATES AND MODERN BUSINESS PRACTICES";

(2) Adds new Part VI to bill and adds new GS 58-10-10 (Mutual to Stock Insurance Conversion). Requires advance approval Insurance Comm'r before such a conversion may occur. Forbids the Comm'r from approving conversion unless (a) it is fair to policyholders; (b) it is adopted by board of directors and approved by a vote of not less than two-thirds of the members at a meeting called for the purpose of approving the plan; (c) each policyholder's equity is determinable under a formula approved by the Comm'r; (d) a policyholder is entitled to vote and participate in stock purchase if policyholder was such on date plan was adopted by board; (e) policyholder receives preemptive right to acquire proportionate share of proposed capital stock; (f) plan must provide for payment to each policyholder of holder's entire equity in insurer; cash payment may not exceed 50% of a holder's equity; (g) shares must be offered to policyholders at a rate not to exceed that of shares offered to others; (h) Comm'r finds that insurer's management has not sought to limit or reduce the number of policyholders entitled to participate in plan or secure an advantage for mangers; and (I) the insurer's capital and surplus are not less than that required of a domestic stock insurer, are reasonable in relation to company's liabilities, and adequate to meet its financial needs.

Allows Comm'r to schedule a public hearing on the proposed conversion. May also retain, at mutual insurer's expense, various experts to assist in review of plan. Prohibits director, office, or employee from receiving a free or some compensation or promoting or assisting with conversion or with the distribution of assets or capital.

(3) Adds new Part VII to bill and adds new GS 55A-13-02(b)(3) (Homeowner Association Refunds). Provides that a nonprofit corporation whose membership is limited to owners and occupants of property in a condominium, cooperative housing corporation or other real property development may distribute excess or surplus membership dues, fees, or assessments after payment of common expenses and prepayment of reserves. Provides that refunds must be proportionate to the funds collected.

(4) Changes effective date of act to Oct. 1, 1999, and applies to contracts entered into and mergers, consolidations, or conversions effective on or after that date.

June 30, 1999

S 835. REVISE LAW GOVERNING MERGERS. Intro. 4/12/99. House committee substitute makes the following changes to 2nd edition. Changes title to "AN ACT TO REVISE THE LAW GOVERNING MERGERS, CONSOLIDATIONS, AND CONVERSIONS AMONG BUSINESS CORPORATIONS, NONPROFIT CORPORATIONS, AND UNINCORPORATED ENTITIES, INCLUDING LIMITED LIABILITY COMPANIES AND PARTNERSHIPS, FOR THE PURPOSE OF CONFORMING THE LAWS WITH THOSE OF OTHER STATES AND MODERN BUSINESS PRACTICES; TO ALLOW CONVERSION OF A MUTUAL INSURANCE COMPANY TO A STOCK INSURANCE COMPANY; AND TO PERMIT HOMEOWNER ASSOCIATIONS TO DISTRIBUTE SURPLUS FUNDS." Amends GS 55-1-20(f) to provide that a document submitted by an unincorporated entity, a nonprofit corporation, a domestic, or a foreign limited liability company must be executed by a person authorized to do so (i) pursuant to GS 57C-1-20(f) if a domestic or foreign limited liability company, (ii) pursuant to GS 59-204 if a domestic or foreign limited partnership, or (iii) pursuant to GS 59-73.7(a)(4) if any other partnership. Makes conforming change to GS 59-204. Relocates definition of "surviving entity" for each entity. Makes stylistic change to subheading on Chap. 57C, Art. 9A. Deletes references to Act names in GS 59-73.2. Adds provision at GS 59-73.7(c) for $10 fee to Sec'y of State each time process is served on Sec'y of State under this part. Adds provision for retention of fees by Dep't of Sec'y of State for fiscal years 1999-2000, 2000-2001, and 2001-2002. Changes effective date from October 1, 1999 to January 1, 2000.

July 5, 1999

S 835. REVISE LAW CONCERNING MERGERS. Intro. 4/12/99. House committee substitute makes the following changes to 3rd edition. Deletes provision in previous version for retention of fees by Sec'y of State.

July 12, 1999

S 835. REVISE LAW GOVERNING MERGERS. Intro. 4/12/99. House amendment makes the following changes to 4th edition. Changes effective date from January 1, 2000 to December 15, 1999. Adds provision that bill's amendment to GS 105-228.29 expires on July 1, 2000, to be replaced at that time by comparable amendment to GS 105-228.29(7) (as enacted by S.L. 1999-28). Repeals Sec. 3 of S.L. 1999-189 (comparable to bill's amendment of GS 57C-2-34).

July 13, 1999

S 835. REVISE LAW GOVERNING MERGERS. Intro. 4/12/99. House amendment makes the following changes to 4th edition. Specifies that section of bill that enacts new GS 58-10-10 dealing with conversion of domestic mutual insurer to domestic stock insurer becomes effective Oct. 1, 1999.

VISITOR REGISTRATION SHEET

House Finance July 1, 1999
Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Charles Heatherly	Dept of State Treasurer
Terry Allen	Dept. of State Treasurer
Steve Brooks	NC State Education Assistance Authority
Floyd M. Lewis	General Statutes Commission
[illegible]	NCSR/Lawyers/Dry Cl.
[illegible] Williams	NCMBA
Judy Bullock	Attorney General's Office representing DENR
[illegible]	NC Dry Cleaners Assoc.
Mack Davis	" " " "
Chris Edwards	" " " "
[illegible]	Poyner & Spruill
Nat Mund	Cabarrus County Schools
Lisa Taber	NCDENR / DWM / Superfund Section
Charlene P. Hawkins	SOS
[illegible] Pope	SOS
JOHN McMAHON	GOVERNOR OFFICE
HUGH TILSON	NCHA
[illegible]	Smith Law
Jim Phillips	Brooks et al
CAM CRAIG	BRMHL
Allyson Duncan	Kilpatrick Stockton
DOUGLAS LINDHOLM	COMMITTEE ON STATE TAXATION
SAM JOHNSON	ATTY
Jim Fuller	NCACPA
Tommy [illegible]	Lobbyist
Steve Woodson	NC Farm Bureau
[illegible]	AT&T
Paula Sugeno	NCFB

VISITOR REGISTRATION SHEET

House Finance — July 1, 1999
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
BENJAMIN SLOAN	NORTH CAROLINA COMM. COL. FACULTY ASSOC.
James Leutze	U of N.C. Wilmington
Tom Howe	UNC-TV
Carl Davis	UNC-TV
Jeff Nieman	UNC Board of Governors → Students
Liz Gardner	UNC Chapel Hill
NICHOLAS G. MIRISIS	UNC BOARD OF GOVERNORS - STUDENTS
MICKEY L. BURNIM	ELIZABETH CITY STATE U.
STANLEY GREEN	ECSU - Elizabeth City, NC
Rob Warwick	UNC Bd of Gov
Joe GRIMSLEY	RICHMOND COMMUNITY COLLEGE
Hugh Lee	Richmond Comm. College
Richard H. Bernhard	N.C. State University
David Brown	OSBM
Ed Kizer	UNC. Chapel Hill
JIM WOODWARD	UNC CHARLOTTE
ADDISON BELL	UNC BOARD OF GOVERNORS
Joyce White	UNCG Alum (Raleigh)
Barbara S. Perry	UNC Board of Governors
Velma R Speight	NC A&T Board of Trustees
Richard (Pete) Andrews	UNC-CH Chair of Faculty
Richard Stevens	UNC-CH Chair. Bd of Trustees
Maureen Clark Hogarty	UNCG + UNC Faculty Assembly
Keith Howell	UNCG & UNC Faculty Assembly
Carl Goodwin	OSP
KEVIN MACNAUGHTON	UNC-GA
SYLVIA COOPER	UNC-GA
Jeff Davis	UNC

VISITOR REGISTRATION SHEET

, 1999

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jim Blackburn	County Commissioners Assoc.
Fran Preston	NCRMA
Andy Ellen	NCRMA
Leslie Bovaconi	NCCBT
David Ferrell	HMCCC&C PA
Amie Garland	Entertainment
David McLeod	NCDOT & CS
Paul Spain	CSSM
Daniel Rudisill	SCO
Elizabeth Kuffel	Rep. Baddour
Brenda Douglas	Sprint
[illegible]	NCABA
Joe McCann	Ind. Lenders Group

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Tuesday, July 6, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 449 – Farm Baling Equipment Tax Change – Rep. Nye
HB 667 - Multicounty Local Act - Reps. Allen and Crawford
HB 1153 - Retired Physician License - Rep. Justus
HB 1326 - Dry-Cleaning Solvent Cleanup Amends - Rep. Gibson
HB 1340 - Respiratory Care Practice Act - Rep. Tolson
HB 1466 - Pension Tax Withholding - Rep. Cansler
HB 1471 - Adjust Highway Bond Maturity - Rep. Crawford
SB 244 - Unclaimed Property Act - Sen. Hartsell
SB 251 - Modify Historic Rehab Credit - Sen. Horton
SB 772 - Expand Municipal Service Districts - Sen. Clodfelter
SB 791 - Ten Year Drivers License - Sen. Hoyle
SB 1110 - Technology Commercialization Credit - Sen. Rand

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Tuesday, July 6, 1999

The House Committee on Finance on Tuesday, July 6, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke, Miller; Vice Chairs Jarrell; Representatives Braswell, Bridgeman, Brown, Buchanan, Capps, Church, Cox, Creech, Cunningham, Dedmon, Eddins, Edwards, Gibson, Goodwin, Hackney, Hill, McComas, McCombs, Morris, Pope, Rayfield, Starnes, Tallent, Tucker, and Wilson. Staff including Cindy Avrette, Richard Bostic, Martha Harris, Mary Shuping, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Miller called the meeting to order to consider the following bills:

Rep. Gibson was recognized to explain HB 1326, A BILL TO BE ENTITLED AN ACT TO REPEAL THE REQUIREMENT THAT OWNERS AND OPERATORS OF DRY-CLEANING FACILITIES ESTABLISH AND MAINTAIN FINANCIAL RESPONSIBILITY FOR LEGAL LIABILITY FOR CONTAMINATION, TO PHASE IN A PRIVILEGE TAX ON DRY-CLEANING AND LAUNDRY BUSINESSES BASED ON GROSS RECEIPTS, TO PHASE OUT STATE AND LOCAL SALES TAXES ON DRY-CLEANING SERVICES, AND TO MAKE OTHER AMENDMENTS TO THE DRY-CLEANING SOLVENT CLEANUP ACT OF 1997. Rep. Gibson explained changes to the bill since it was discussed last Thursday, July 1, 1999. Rep. Gibson asked the Chair to recognize Mr. Sam Taylor of the N.C. Association of Launderers and Cleaners. Rep. Gibson sent forward an amendment and moved for its adoption. The amendment was adopted. Rep. Capps moved to roll the amendment into a Proposed Committee Substitute and then give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. The motion passed. A copy of the bill, Proposed Committee Substitute, Amendment, Bill Summary, and Fiscal Note are included in these minutes.

Rep. Redwine was recognized to explain HB 279, A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS TO THE EMPLOYMENT SECURITY COMMISSION FOR AUTOMATION NEEDS. Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion only. Rep. Hill moved for a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. Reps. Capps and Jarrell questioned Rep. Redwine. Rep. Hill's motion passed. A copy of the Proposed Committee Substitute is included in these minutes.

Rep. Tolson was recognized to explain HB 1340, A BILL TO BE ENTITLED AN ACT TO ESTABLISH THE RESPIRATORY CARE PRACTICE ACT. The Chair recognized Mr. Rick Leonard of the N.C. Society of Respiratory Care. Rep. Buchanan moved for a favorable report. The motion passed. A copy of the bill, Bill Summary, and Fiscal Note are included in these minutes.

Rep. Crawford was recognized to explain HB 667, A BILL TO BE ENTITLED AN ACT TO ANNEX CERTAIN DESCRIBED PROPERTY TO THE CITY OF ROANOKE RAPIDS. Rep. Allen moved for a favorable report. The motion passed. A copy of the bill is included in these minutes.

Rep. Crawford was recognized to explain HB 1471, A BILL TO BE ENTITLED AN ACT TO ADJUST THE MATURITY DATE OF THE 1996 HIGHWAY BONDS TO REFLECT A CHANGE IN THE ESTIMATED COMPLETION DATE OF HIGHWAY TRUST FUND PROJECTS. Rep. Allen moved for a favorable report. The motion passed. A copy of the bill is included in these minutes.

Rep. Justus was recognized to explain HB 1153, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE NORTH CAROLINA MEDICAL BOARD TO ISSUE LIMITED VOLUNTEER LICENSES TO RETIRED PHYSICIANS WHO PROVIDE MEDICAL SERVICES TO INDIGENT PATIENTS WITHOUT COMPENSATION AND TO LIMIT THE LIABILITY OS SUCH RETIRED PHYSICIANS. Rep. Rayfield sent forward an amendment and moved for its adoption. Mary Shuping explained the technical amendment. The amendment was adopted. The Chair recognized Mr. Andy Waltry of the N.C. Medical Board who commented. Rep. Womble questioned Mr. Waltry, Rep. Justus, and Mary Shuping. Rep. Rayfield sent forward an amendment. The Chair recognized Dr. Liz Kadoff, Secretary Treasurer of the N.C. Medical Board. Rep. Miller questioned Dr. Kadoff. Reps. Capps, Eddins, and Cunningham commented on the amendment. Rep. Justus questioned Rep. Waltry. Rep. Rayfiel's second amendment was adopted. Dr. Kadoff commented. Rep. Edwards commented. Rep. Womble commented. The Chair displaced HB 1153 for later in the meeting in order for staff to draft an amendment by Rep. Womble.

Rep. Cansler was recognized to explain HB 1466, A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR WITHHOLDING OF NORTH CAROLINA INCOME TAXES FROM TAXABLE PENSIONS, ANNUITIES, AND DEFERRED COMPENSATION. Rep. Hill sent forward a technical amendment and moved for its adoption. Cindy Avrette explained the amendment. The amendment was adopted. Reps. McComas, Rayfield, and Buchanan questioned Rep. Cansler. Rep. Creech moved to roll the amendment into a Proposed Committee Substitute and then give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. The motion passed. A copy of the bill, Proposed Committee Substitute, Amendment, Bill Summary, and Fiscal Note are included in these minutes.

The Chair recognized Rep. Justus to continue on HB 1153. Rep. Womble sent forward an amendment and moved for its adoption. Mr. Waltry and Dr. Kadoff stated they support the amendment. Rep. Tallent commented. Rep. McComas questioned staff. Reps. Capps, Eddins, Womble, Hill, and Edwards commented on the amendment. Rep. Justus questioned Dr. Kadoff.

Reps. Cunningham Edwards commented. Rep. Tallent states he is against the amendment. The amendment was adopted with a vote of 14 ayes, 13 nays. Rep. Womble moved to roll the amendment into a Proposed Committee Substitute and then give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. The motion passed. A copy of the bill, Proposed Committee Substitute, Vote Count sheet, Amendments, and Bill Summary are included in these minutes.

Sen. Hartsell is recognized to explain SB 244, A BILL TO BE ENTITLED AN ACT TO ENACT THE NORTH CAROLINA UNCLAIMED PROPERTY ACT AND TO MAKE CONFORMING AMENDMENTS TO THE GENERAL STATUTES, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE OTHER CHANGES TO THE ESCHEATS LAWS. Reps. Miller and Rep. Luebke questioned Sen. Hartsell. Rep. Luebke sent forward an amendment and moved for its adoption. Cindy Avrette explained the amendment. Rep. Hackney questioned Sen. Hartsell. The Chair recognized Mr. Terry Allen, of the Escheat Program of the N.C. Treasurer's Office who commented. Reps. Hackney and Pope commented. Rep. Luebke moved for adoption of the amendment. The Luebke amendment failed. Rep. Pope sent forward an amendment. Cindy Avrette and Rep. Pope explained the amendment. The Chair questioned Rep. Pope. Sen. Hartsell stated he is not opposed to the amendment. Reps. Hackney and Braswell questioned Rep. Pope. The Chair recognized Mr. Charles Heatherly of the N.C. Treasurer's Office who stated he is not opposed to the amendment. The Pope amendent was adopted. Rep. Hackney sent forward an amendment and moved for its adoption. The Hackney amendment was adopted. Rep. Braswell questioned Sen. Hartsell and Mr. Heatherly. Reps. Rayfield and Pope questioned Sen. Hartsell. The Chair recognized Mr. Floyd Lewis, Ex-officio Secretary of the General Statutes Commission who commented. Rep. Pope sent forward a second amendment. Cindy Avrette explained the amendment. Rep. Gibson questioned Rep. Pope. Rep. Braswell stated he supported the amendment. Rep. Hackney stated the amendment was unwise. The Chair recognized Mr. Dick Johnson from the Attorney General's division of the N.C. Treasurer's Office who commented. Rep. Hackney questioned Rep. Pope. Rep. Allen asked Sen. Clodfelter to comment on the amendment. Sen. Clodfelter stated he concurred with Rep. Pope's amendment. Rep. Pope urged for adoption of the amendment.
The Chair rescheduled SB 244 for July 7, 1999 as the meeting time ran out. A copy of the bill, Amendments, Bill Summary, Fiscal Note, General Statutes Commission handout, and the State Treasurer's handout are included in these minutes.

The Chair adjourned at 9:50 a.m.

Respectfully submitted:

Representative George Miller
Chair

Kristen L. Crosson
Assistant to the Committee

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 279 A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS TO THE EMPLOYMENT SECURITY COMMISSION FOR AUTOMATION NEEDS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#)~~, ☒ which changes the title, unfavorable as to ~~(~~original bill~~)~~ ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 279
Proposed Committee Substitute H279-PCSX6227-LB

Short Title: Township Hospitals. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE TOWNSHIP HOSPITALS STILL OPERATING UNDER PRE-1983 LAW TO LEVY ADDITIONAL TAXES AFTER A REFERENDUM, AND TO MODERNIZE PROVISIONS OF LAW APPLICABLE TO THEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131-4, as it applies to hospitals continuing to operate under Article 2, Chapter 131 of the North Carolina General Statutes pursuant to Section 3, Chapter 775 of the 1983 Session Laws, is amended by adding a new subdivision to read:

"(4) Extension of Tax Levy. Prior to or following the expiration of the tax levy specified in subdivision (3) of this section, a new petition may be presented to the governing body of any county in which a township is located, signed by 200 resident freeholders of such township asking that an annual tax continue to be levied for the maintenance, operation, and improvement of the public hospital, after the expiration of the tax levy specified in subdivision (3). The procedure for submitting the petition and holding an election on the issue of continuing the tax levy shall be the same as the procedure for the petition and election for establishment of the initial tax levy, provided that the requirement that 150 of the 200 petitioners not be residents of the city, town, or village where the hospital is to be located shall not apply. The tax to be levied

under such new election shall not exceed one twenty-fifth of one cent (1/25 of 1 cent) on the dollar ($1.00) for a period of time not exceeding 30 years and shall be for the issue of county or township bonds to provide funds for the maintenance and improvement of the public hospital."

Section 2. G.S. 131-5 reads as rewritten:

"**§ 131-5. Election on tax levy; collection and application of funds.**

The board of elections of such county, township, or town shall submit to the qualified electors thereof, at a regular or special election, the question whether there shall be levied upon the assessed property of such county, township, or town a tax of one fifteenth of one cent (1/15 of 1¢) on the dollar ($1.00) for the purchase of real estate for hospital purposes, for the construction of hospital buildings, and for maintaining same, or for either or all of such purposes. The ballots to be used at any election at which the hospital question is submitted shall be printed with a statement substantially as follows:

[ ] Yes.

For a ..... cent tax for a bond issue for a public hospital and for maintenance of same.

[ ] No.

If a majority of the qualified voters at such election on the proposition shall be in favor of a tax as submitted for a bond issue for a public hospital and for maintenance of same, the governing body shall levy the tax so authorized, which shall be collected in the same manner as other taxes are collected, and credited to the "Hospital Fund," and shall be paid out on the order of the hospital trustees for the purposes authorized by this Article, and for no other purposes whatever.

The procedure for the submission of the issue of the continuation of the tax levy shall be the same as set forth above, provided that the tax shall not exceed one twenty-fifth of one cent (1/25 of 1 cent) on the dollar ($1.00) and the issue to be submitted to the voters shall be as follows:

'[ ] FOR [ ] AGAINST

A ----- cent tax for a bond issue for maintenance and improvement of the public hospital'."

Section 3. All hospitals which continue to operate under Article 2 of Chapter 131 of the General Statutes pursuant to Section 3 of Chapter 775 of the 1983 Session Laws shall, in addition to the powers and authorities set forth in Article 2 of Chapter 131 of the General Statutes have the powers set forth in G.S. 131 E-7(a)(1), (3), (5), (6), 131E-7(b), 131E-7(c), 131E-7.1, 131E-11, 131E-23(1), (2), (5), (6), (7), (8), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (23), (24), (25), (26), (27), (28), (30), (31), (32), (33), (34), 131E-26, and 131E-27.

Section 4. Any hospital continuing to operate under Article 2 of Chapter 131 of the General Statutes pursuant to Section 3 of Chapter 775 of the 1983 Session Laws shall be considered to be a "public hospital" within the meaning of G.S. 159-39 and to be a "unit of local government" within the meaning of G.S. 160A-20.

Section 5. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 449

Short Title: Farm Baling Equipment Tax Change. (Public)

Sponsors: Representatives Nye; Warwick, Gibson, Hill, McLawhorn, Tucker, Warren, and Cox.

Referred to: Finance.

March 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE CURRENT SALES TAX TREATMENT FOR FARM MACHINERY AND EQUIPMENT ALSO APPLIES TO BALERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.4(a)(1d)a. reads as rewritten:

"(1d) The rate of one percent (1%) applies to the sales price of the following articles. The maximum tax is eighty dollars ($80.00) per article.

a. Sales to a farmer of machines and machinery, and parts and accessories for these machines and machinery, for use by the farmer in the planting, cultivating, harvesting, ~~or curing~~ curing, or baling of farm crops or in the production of dairy products, eggs, or animals. A 'farmer' includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758. Items that are exempt from tax under G.S. 105-164.13(4c) are not subject to tax under this section.

The term 'machines and machinery' as used in this subdivision is defined as follows:

The term ~~shall include~~ includes all vehicular implements, designed and sold for any use defined in this subdivision, ~~which~~ that are operated, drawn or propelled by

motor or animal power, but ~~shall~~ does not include vehicular implements ~~which~~ that are operated wholly by hand, and ~~shall~~ does not include any motor vehicles required to be registered under Chapter 20 of the General Statutes.

The term ~~shall include~~ includes all nonvehicular implements and mechanical devices designed and sold for any use defined in this subdivision, ~~which~~ that have moving parts, or ~~which~~ that require the use of any motor or animal power, fuel, or electricity in their operation but ~~shall~~ does not include nonvehicular implements ~~which~~ that have no moving parts and are operated wholly by hand.

The term ~~shall also include~~ also includes metal flues sold for use in curing tobacco, whether ~~such~~ the flues are attached to handfired furnaces or used in connection with mechanical burners."

Section 2. This act becomes effective October 1, 1999, and applies to sales made on or after that date.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 667 A BILL TO BE ENTITLED AN ACT TO ANNEX CERTAIN DESCRIBED PROPERTY TO THE CITY OF ROANOKE RAPIDS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 667
Committee Substitute Reported Without Prejudice 7/1/99

Short Title: Roanoke Rapids Annexation. (Local)

Sponsors:

Referred to:

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO ANNEX CERTAIN DESCRIBED PROPERTY TO THE CITY OF ROANOKE RAPIDS.

The General Assembly of North Carolina enacts:

Section 1. The corporate limits of the City of Roanoke Rapids are extended to include the following described territory:

That certain tract or parcel of land lying and being situated in Roanoke Rapids Township, Halifax County, North Carolina, more particularly described as follows: Beginning at new iron pin, said iron pin being the Southern right-of-way of State Road 1426, the same being in the North-Eastern right-of-way of the access road to Lakeview Plaza Development. Thence leaving said point of beginning along the Southern right-of-way of Bolling Road, State Road 1426, the following courses and distances: N 60°00'42" E chord 118.14'-with a radius of 1,656.45' and an arc of 118.17'-continuing along Bolling Road right-of-way a chord N 62°34'31" E 30.05' with a radius of 1,656.45' and an arc of 30.05' thence leaving the right-of-way of Bolling Road S 30°37'00" E 159.90' to a new 3/4 inch iron pipe, thence S 59°23'00" W. 164.99' to a new 3/4 inch iron pipe, the same being in the Eastern right-of-way of a 45' access drive to Lakeview Plaza Development, thence N 30°, thence along the aforesaid access drive N 30°37'00" W 46', thence N 30°37'39" W 100.03', and thence N 14°26'26" E 23.84' to a new iron pipe (3/4 inches), the same being the point of beginning. Said tract or parcel of land containing approximately 26,675 square feet. See plat Cabinet 4 Slide 44A and 44B for the original map showing a part of the foregoing described tract or parcel of land. The foregoing description contains the

description of the parcel of land purchased by the Grantee as per Deed recorded in Book 1733 page 354 and Deed recorded in Book 1467 page 568. The foregoing parcel of land excludes the parcel of land acquired by the Department of Transportation from the Savings Bank as per F.A. project-STP-1426 [1] also known as State Highway Project 8.2300601. Said deed is recorded in Book 1732 page 086, Halifax Public Registry.

Section 2. Real and personal property in the territory annexed pursuant to this act is subject to municipal taxes as provided in G.S. 160A-58.10.

Section 3. This act becomes effective September 30, 1999.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1153 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE NORTH CAROLINA MEDICAL BOARD TO ISSUE LIMITED VOLUNTEER LICENSES TO RETIRED PHYSICIANS WHO PROVIDE MEDICAL SERVICES TO INDIGENT PATIENTS WITHOUT COMPENSATION AND TO LIMIT THE LIABILITY OF SUCH RETIRED PHSYICIANS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#), ☐ which changes the title,~~ unfavorable as to [original bill] ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 1

H. B. No. 1153 DATE 7/6

S. B. No. _____ Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Womble

Sen.)

1 moves to amend the bill on page 2, line 30

2 ( ) WHICH CHANGES THE TITLE

3 by adding the following at the end of that line:

4

5 "

6 Physicians holding a 'Limited Volunteer License'

7 under this ~~act~~ subsection shall comply

8 with the continuing medical education requirements

9 adopted by the Board. ".

10

11

12

13

14

15

16

17

18

19

SIGNED Jamy Womble

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1153

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1153-ASC-001

Date 7/6/ ,1999

Comm. Sub. [ ]
Amends Title [ ]

Representative Rayfield

moves to amend the bill on page 3, between lines 14 and 15 , by inserting a new section to read:

"Section 3. G.S. 90-15.1 reads as rewritten:

'**§ 90-15.1. Registration every year with Board.**

Every person licensed to practice medicine by the North Carolina Medical Board shall register annually with the Board within 30 days of the person's birthday. A person who registers with the Board shall report to the Board the person's name and office and residence address and any other information required by the Board, and shall pay a registration fee fixed by the Board not in excess of one hundred dollars ($100.00). A physician who is not actively engaged in the practice of medicine in North Carolina and who does not wish to register the license may direct the Board to place the license on inactive status. For purposes of annual registration, the Board shall use a simplified registration form which allows registrants to confirm information on file with the Board. A physician who fails to register as required by this section shall pay an additional fee of twenty dollars ($20.00) to the Board. The license of any physician who fails to register and who remains unregistered for a period of 30 days after certified notice of the failure is automatically inactive. ~~A~~ Except as provided in G.S. 90-12(d), a person whose license is inactive shall not practice medicine in North Carolina

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1153

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1153-ASC-001

nor be required to pay the annual registration fee. Upon payment of all accumulated fees and penalties, the license of the physician may be reinstated, subject to the Board requiring the physician to appear before the Board for an interview and to comply with other licensing requirements. The penalty may not exceed the maximum fee for a license under G.S. 90-13.'";

and by renumbering the following sections accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if **Senate** Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 1

H. B. No. 1153 DATE 7/6/99

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Rayfield
Sen.)

1 moves to amend the bill on page 2, line 27
2 ( ) WHICH CHANGES THE TITLE
3 by deleting the word "shall" and substituting
4 the word "may".
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

ROLL CALL VOTE

14 YES 13 NO = _____(TOTAL)

HB# 1153
SB# ____

HOUSE STANDING COMMITTEE ON FINANCE

House Subcommittee on To adopt Rep. Womble's amendment

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
____	____	MILLER, GEORGE	____	____	~~McALLISTER, MARY~~ removed
____	____	LUEBKE, PAUL	____	____	McCOMAS, DANNY
____	____	ALLEN, GORDON	____	____	McCOMBS, GENE
____	____	JARRELL, MARY	____	____	MINER, DAVID
____	____	WOOD, STEVE	____	____	MORRIS, MIA
____	____	BRASWELL, JERRY	____	____	MOSLEY, JANE
____	____	BRIDGEMAN, JOHN	____	____	~~NEELY, CHUCK~~ Pope, Art
____	____	BROWN, JOHN	____	____	~~RAMSEY, LISTON~~ excused
____	____	BUCHANAN, MONROE	____	____	RAYFIELD, JOHN
____	____	CAPPS, RUSSELL	____	____	STARNES, EDGAR
____	____	CHURCH, WALT	____	____	TALLENT, TIM
____	____	COX, LESLIE	____	____	TUCKER, RUSSELL
____	____	CREECH, BILLY	____	____	WILSON, CONNIE
____	____	DECKER, MIKE	____	____	WOMBLE, LARRY
____	____	DEDMON, ANDY	____	____	WRIGHT, TOM
____	____	EDDINS, RICK	____	____	
____	____	EDWARDS, ZENO	____	____	
____	____	FITCH, TOBY	____	____	
____	____	GOBSON, PRYOR	____	____	
____	____	GOODWIN, WAYNE	____	____	
____	____	GRAY, LYONS	Ex officio Members		
____	____	HACKNEY, JOE	____	____	CUNNINGHAM
____	____	HILL, DEWEY	____	____	Majority Leader BADDOUR
____	____	HOWARD, JULIA	____	____	Majority Whip EARLE

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1153
Proposed Committee Substitute H1153-PCS3454-SC

Short Title: Retired Physician License. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE NORTH CAROLINA MEDICAL BOARD TO ISSUE LIMITED VOLUNTEER LICENSES TO RETIRED PHYSICIANS WHO PROVIDE MEDICAL SERVICES TO INDIGENT PATIENTS WITHOUT COMPENSATION AND TO LIMIT THE LIABILITY OF SUCH RETIRED PHYSICIANS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-12 is amended by adding the following new subsection to read as follows:

"**§ 90-12. Limited license; limited volunteer license.**

(a) The Board may, whenever in its opinion the conditions of the locality where the applicant resides are such as to render it advisable, make any modifications of the requirements of G.S. 90-9, 90-10, and 90-11 as in its judgment the interests of the people living in that locality may demand, and may issue to the applicant a special license, to be entitled a "Limited License," authorizing the holder of the limited license to practice medicine and surgery within the limits only of the districts specifically described therein. A resident's training license shall expire at the time its holder ceases to be a resident in the training program or obtains any other license to practice medicine issued by the Board. The holder of the limited license practicing medicine or surgery beyond the boundaries of the districts as laid down in said license shall be guilty of a Class 3 misdemeanor, and upon conviction shall only be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for

each and every offense; and the Board may revoke the limited license, in its discretion, after due notice.

(b) As used in subsection (a) of this section:

(1) "Limited license" includes a resident's training license.

(2) "Resident training license" means a license to practice in a medical education and training program, approved by the Board, for the purpose of education or training.

(c) The Board shall issue to an applicant a special license to be entitled a "Limited Volunteer License," authorizing the holder of the limited license to practice medicine and surgery only at clinics which specialize in the treatment of indigent patients. The holder of a limited license issued pursuant to this subsection may not receive compensation for services rendered at clinics specializing in the care of indigent patients. The Board shall issue a limited license under this subsection to an applicant who:

(1) Has a license to practice medicine and surgery in another state;

(2) Produces a letter from the state of licensure indicating the applicant is in good standing; and

(3) Is authorized to treat personnel enlisted in the United States armed services or veterans.

The Board shall issue a limited license under this subsection within 30 days after an applicant provides the Board with information satisfying the requirements of this subsection.

The holder of a limited license issued pursuant to this subsection who practices medicine or surgery at places other than clinics which specialize in the treatment of indigent patients shall be guilty of a Class 3 misdemeanor and, upon conviction, shall only be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each and every offense; and the Board may revoke the limited license, in its discretion, after due notice.

(d) The Board may issue a "Limited Volunteer License" as authorized in subsection (c) of this section to an applicant who is a retired physician and has allowed his or her license to practice medicine and surgery in this State or another state to become inactive. Physicians holding a "Limited Volunteer License" under this subsection shall comply with the continuing medical education requirements adopted by the Board."

Section 2. G.S. 90-15 reads as rewritten:

"**§ 90-15. License fee; salaries, fees, and expenses of Board.**

Each applicant for a license by examination shall pay to the North Carolina Medical Board a fee which shall be prescribed by the Board in an amount not exceeding the sum of four hundred dollars ($400.00) plus the cost of test materials before being admitted to the examination. Whenever a license is granted without examination, as authorized in G.S. 90-13, the applicant shall pay to the Board a fee in an amount to be prescribed by the Board not in excess of two hundred fifty dollars ($250.00). Whenever a limited license is granted as provided in G.S. 90-12, the applicant shall pay to the Board a fee not to exceed one hundred fifty dollars

($150.00), except where a limited license to practice in a medical education and training program approved by the Board for the purpose of education or training is granted, the applicant shall pay a fee of twenty-five dollars ~~($25.00).~~ ($25.00), and where a limited license to practice medicine and surgery only at clinics that specialize in the treatment of indigent patients is granted, the applicant shall not pay a fee. A fee of twenty-five dollars ($25.00) shall be paid for the issuance of a duplicate license. All fees shall be paid in advance to the North Carolina Medical Board, to be held in a fund for the use of the Board. The compensation and expenses of the members and officers of the Board and all expenses proper and necessary in the opinion of the Board to the discharge of its duties under and to enforce the laws regulating the practice of medicine or surgery shall be paid out of the fund, upon the warrant of the Board. The per diem compensation of Board members shall not exceed two hundred dollars ($200.00) per day per member for time spent in the performance and discharge of duties as a member. Any unexpended sum or sums of money remaining in the treasury of the Board at the expiration of the terms of office of the members of the Board shall be paid over to their successors in office.

For the initial and annual registration of an assistant to a physician, the Board may require the payment of a fee not to exceed a reasonable amount."

Section 3. G.S. 90-15.1 reads as rewritten:

"**§ 90-15.1. Registration every year with Board.**

Every person licensed to practice medicine by the North Carolina Medical Board shall register annually with the Board within 30 days of the person's birthday. A person who registers with the Board shall report to the Board the person's name and office and residence address and any other information required by the Board, and shall pay a registration fee fixed by the Board not in excess of one hundred dollars ($100.00). A physician who is not actively engaged in the practice of medicine in North Carolina and who does not wish to register the license may direct the Board to place the license on inactive status. For purposes of annual registration, the Board shall use a simplified registration form which allows registrants to confirm information on file with the Board. A physician who fails to register as required by this section shall pay an additional fee of twenty dollars ($20.00) to the Board. The license of any physician who fails to register and who remains unregistered for a period of 30 days after certified notice of the failure is automatically inactive. ~~A~~ Except as provided in G.S. 90-12(d), a person whose license is inactive shall not practice medicine in North Carolina nor be required to pay the annual registration fee. Upon payment of all accumulated fees and penalties, the license of the physician may be reinstated, subject to the Board requiring the physician to appear before the Board for an interview and to comply with other licensing requirements. The penalty may not exceed the maximum fee for a license under G.S. 90-13."

Section 4. G.S. 90-21.14(a1) reads as rewritten:

"(a1) (1) Any volunteer medical or health care provider at a facility of a local health department or at a nonprofit community health ~~center;~~ center.

(2) Any volunteer medical or health care provider rendering services to a patient referred by a local health department as defined in G.S. 130A-2(5) or nonprofit community health center at the provider's place of ~~employment; or~~ employment.

(3) Any volunteer medical or health care provider serving as medical director of an emergency medical services (EMS) ~~agency,~~ agency.

(4) Any retired physician holding a "Limited Volunteer License" under G.S. 90-12(d),

who receives no compensation for medical services or other related services rendered at the facility, center, ~~or agency or,~~ agency, or clinic, or who neither charges nor receives a fee for medical services rendered to the patient referred by a local health department or nonprofit community health center at the provider's place of employment shall not be liable for damages for injuries or death alleged to have occurred by reason of an act or omission in the rendering of the services unless it is established that the injuries or death were caused by gross negligence, wanton conduct, or intentional wrongdoing on the part of the person rendering the services. The local health department facility, nonprofit community health center, or agency shall use due care in the selection of volunteer medical or health care providers, and this subsection shall not excuse the health department facility, community health center, or agency for the failure of the volunteer medical or health care provider to use ordinary care in the provision of medical services to its patients."

Section 5. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1153

Short Title: Retired Physician License. (Public)

Sponsors: Representatives Justus; and Cansler.

Referred to: Finance.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE NORTH CAROLINA MEDICAL BOARD TO ISSUE LIMITED VOLUNTEER LICENSES TO RETIRED PHYSICIANS WHO PROVIDE MEDICAL SERVICES TO INDIGENT PATIENTS WITHOUT COMPENSATION AND TO LIMIT THE LIABILITY OF SUCH RETIRED PHYSICIANS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-12 is amended by adding the following new subsection to read as follows:

"**§ 90-12. Limited license; limited volunteer license.**

(a) The Board may, whenever in its opinion the conditions of the locality where the applicant resides are such as to render it advisable, make any modifications of the requirements of G.S. 90-9, 90-10, and 90-11 as in its judgment the interests of the people living in that locality may demand, and may issue to the applicant a special license, to be entitled a "Limited License," authorizing the holder of the limited license to practice medicine and surgery within the limits only of the districts specifically described therein. A resident's training license shall expire at the time its holder ceases to be a resident in the training program or obtains any other license to practice medicine issued by the Board. The holder of the limited license practicing medicine or surgery beyond the boundaries of the districts as laid down in said license shall be guilty of a Class 3 misdemeanor, and upon conviction shall only be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each and every offense; and the Board may revoke the limited license, in its discretion, after due notice.

(b) As used in subsection (a) of this section:

(1) "Limited license" includes a resident's training license.

(2) "Resident training license" means a license to practice in a medical education and training program, approved by the Board, for the purpose of education or training.

(c) The Board shall issue to an applicant a special license to be entitled a "Limited Volunteer License," authorizing the holder of the limited license to practice medicine and surgery only at clinics which specialize in the treatment of indigent patients. The holder of a limited license issued pursuant to this subsection may not receive compensation for services rendered at clinics specializing in the care of indigent patients. The Board shall issue a limited license under this subsection to an applicant who:

(1) Has a license to practice medicine and surgery in another state;

(2) Produces a letter from the state of licensure indicating the applicant is in good standing; and

(3) Is authorized to treat personnel enlisted in the United States armed services or veterans.

The Board shall issue a limited license under this subsection within 30 days after an applicant provides the Board with information satisfying the requirements of this subsection.

The holder of a limited license issued pursuant to this subsection who practices medicine or surgery at places other than clinics which specialize in the treatment of indigent patients shall be guilty of a Class 3 misdemeanor and, upon conviction, shall only be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each and every offense; and the Board may revoke the limited license, in its discretion, after due notice.

(d) The Board shall issue a "Limited Volunteer License" as authorized in subsection (c) of this section to an applicant who is a retired physician and has allowed his or her license to practice medicine and surgery in this State or another state to become inactive."

Section 2. G.S. 90-15 reads as rewritten:

"**§ 90-15. License fee; salaries, fees, and expenses of Board.**

Each applicant for a license by examination shall pay to the North Carolina Medical Board a fee which shall be prescribed by the Board in an amount not exceeding the sum of four hundred dollars ($400.00) plus the cost of test materials before being admitted to the examination. Whenever a license is granted without examination, as authorized in G.S. 90-13, the applicant shall pay to the Board a fee in an amount to be prescribed by the Board not in excess of two hundred fifty dollars ($250.00). Whenever a limited license is granted as provided in G.S. 90-12, the applicant shall pay to the Board a fee not to exceed one hundred fifty dollars ($150.00), except where a limited license to practice in a medical education and training program approved by the Board for the purpose of education or training is granted, the applicant shall pay a fee of twenty-five dollars ~~($25.00).~~ ($25.00), and where a limited license to practice medicine and surgery only at clinics that specialize

in the treatment of indigent patients is granted, the applicant shall not pay a fee. A fee of twenty-five dollars ($25.00) shall be paid for the issuance of a duplicate license. All fees shall be paid in advance to the North Carolina Medical Board, to be held in a fund for the use of the Board. The compensation and expenses of the members and officers of the Board and all expenses proper and necessary in the opinion of the Board to the discharge of its duties under and to enforce the laws regulating the practice of medicine or surgery shall be paid out of the fund, upon the warrant of the Board. The per diem compensation of Board members shall not exceed two hundred dollars ($200.00) per day per member for time spent in the performance and discharge of duties as a member. Any unexpended sum or sums of money remaining in the treasury of the Board at the expiration of the terms of office of the members of the Board shall be paid over to their successors in office.

For the initial and annual registration of an assistant to a physician, the Board may require the payment of a fee not to exceed a reasonable amount."

Section 3. G.S. 90-21.14(a1) reads as rewritten:

"(a1) (1) Any volunteer medical or health care provider at a facility of a local health department or at a nonprofit community health ~~center;~~ center.

(2) Any volunteer medical or health care provider rendering services to a patient referred by a local health department as defined in G.S. 130A-2(5) or nonprofit community health center at the provider's place of ~~employment; or~~ employment.

(3) Any volunteer medical or health care provider serving as medical director of an emergency medical services (EMS) ~~agency;~~ agency.

(4) Any retired physician holding a "Limited Volunteer License" under G.S. 90-12(d),

who receives no compensation for medical services or other related services rendered at the facility, center, ~~or agency or;~~ agency, or clinic, or who neither charges nor receives a fee for medical services rendered to the patient referred by a local health department or nonprofit community health center at the provider's place of employment shall not be liable for damages for injuries or death alleged to have occurred by reason of an act or omission in the rendering of the services unless it is established that the injuries or death were caused by gross negligence, wanton conduct, or intentional wrongdoing on the part of the person rendering the services. The local health department facility, nonprofit community health center, or agency shall use due care in the selection of volunteer medical or health care providers, and this subsection shall not excuse the health department facility, community health center, or agency for the failure of the volunteer medical or health care provider to use ordinary care in the provision of medical services to its patients."

Section 4. This act is effective when it becomes law.

HOUSE BILL 1153:
Retired Physician License

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Representative Justus
Date:	July 1, 1999	**Summary by:**	Mary Shuping
Version:	1st edition		Research Assistant

SUMMARY: ***House Bill 1153 would allow retired physicians whose licenses have become inactive to be issued a Limited Volunteer License by the North Carolina Medical Board. This limited license would allow the physician to practice medicine at clinics that specialize in the treatment of indigent patients.***

CURRENT LAW: Current law provides for a "Limited Volunteer License" that authorizes certain physicians to practice medicine and surgery only at clinics which specialize in the treatment of indigent patients. In order to receive a "Limited Volunteer License", a physician must:

- Have a license to practice medicine in another state;
- Produce a letter from the state of licensure indicating the physician is in good standing; and,
- Be authorized to treat personnel enlisted in the armed forces.

If a physician holding a "Limited Volunteer License" practices medicine at places other than clinics which treat indigent patients, the physician is guilty of a Class 3 misdemeanor and may be fined not less than $25 or more than $50 for every offense.

BILL ANALYSIS: **Section 1** of House Bill 1153 would expand the "Limited Volunteer License" to include retired physicians in North Carolina or from another state whose licenses are on inactive status.

Section 2 of HB 1153 provides that there will be no fee for the "Limited Volunteer License".

Section 3 of the bill amends the statute regarding the liability limitation for first aid or emergency treatment to provide that any retired physician holding a "Limited Volunteer License" who receives no compensation for his or her services will not be liable for damages for injuries or death alleged to have occurred by the physician rendering those services.

EFFECTIVE DATE: The act is effective when it becomes law.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1326 A BILL TO BE ENTITLED AN ACT TO REPEAL THE REQUIREMENT THAT OWNERS AND OPERATORS OF DRY-CLEANING FACILITIES ESTABLISH AND MAINTAIN FINANCIAL RESPONSIBILITY FOR LEGAL LIABILITY FOR CONTAMINATION, TO PHASE IN A PRIVILEGE TAX ON DRY-CLEANING AND LAUNDRY BUSINESSES BASED ON GROSS RECEIPTS, TO PHASE OUT STATE AND LOCAL SALES TAXES ON DRY-CLEANING SERVICES, AND TO MAKE OTHER AMENDMENTS TO THE DRY-CLEANING SOLVENT CLEANUP ACT OF 1997.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#_____)~~, ☒ which changes the title, unfavorable as to ~~/~~original bill~~/~~ ~~(Committee Substitute Bill #_____), (and recommendation that the committee substitute bill #_____) be re-referred to the Committee on_____.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1326

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1326-ARB-7/6

Date July 6e ,1999

Comm. Sub. [PROPOSED]
Amends Title []
H1326-PCS1312-RB

Representative _____

moves to amend the bill on page 13, line 12, by adding the following sentence at the end of that line to read:
"Notwithstanding any other provision of this subsection, the Commission may by rule shorten the period during which costs subject to reimbursement pursuant to this subsection may be incurred.";

and on page 13, line 22, by adding the following sentence immediately before the quotation marks to read:
"Notwithstanding any other provision of this subsection, the Commission may by rule establish a different cutoff date for assessment and remediation activities covered by this subsection."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

7/6

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1326*
Proposed Committee Substitute H1326-PCS3455-RB

Short Title: Dry-Cleaning Solvent Cleanup Amends. (Public)

Sponsors:

Referred to:

April 23, 1999

A BILL TO BE ENTITLED

AN ACT TO EARMARK THE STATE SALES TAX REVENUE FROM DRY-CLEANING AND LAUNDRY SERVICES FOR THE DRY-CLEANING SOLVENT CLEANUP FUND, AND TO AMEND THE DRY-CLEANING SOLVENT CLEANUP ACT OF 1997 TO REPEAL THE REQUIREMENT OF FINANCIAL RESPONSIBILITY FOR DRY-CLEANING FACILITIES AND WHOLESALE DRY-CLEANING SOLVENT DISTRIBUTION FACILITIES, TO ALLOW THE ENVIRONMENTAL MANAGEMENT COMMISSION TO ENTER INTO CONTRACTS WITH PRIVATE CONTRACTORS FOR ASSESSMENT AND REMEDIATION ACTIVITIES AT DRY-CLEANING FACILITIES AND WHOLESALE DRY-CLEANING SOLVENT DISTRIBUTION FACILITIES, TO ESTABLISH A STATE GOAL FOR THE REDUCTION OF THE USE OF PERCHLOROETHYLENE F-1,1,3 BY DRY-CLEANING FACILITIES, TO REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO REPORT TO THE ENVIRONMENTAL REVIEW COMMISSION ON THE PROGRESS IN ATTAINING THIS GOAL AND THE COST AND EFFECTIVENESS OF DRY-CLEANING TECHNOLOGIES AND CHEMICALS THAT OFFER AN ALTERNATIVE TO THE USE OF PERCHLOROETHYLENE F-1,1,3, AND TO MAKE OTHER CHANGES IN THE DRY-CLEANING SOLVENT CLEANUP ACT OF 1997.

The General Assembly of North Carolina enacts:

Section 1. Chapter 105 of the General Statutes is amended to add a new section to read:

"**§ 105-164.44E. Transfer to the Dry-Cleaning Solvent Cleanup Fund.**

At the end of each quarter, the Secretary must transfer to the Dry-Cleaning Solvent Cleanup Fund established under G.S. 143-215.104C a percentage of the net amount of State sales and use taxes collected under G.S. 105-164.4(a)(4), as determined by the Secretary based on available data. The percentage amount to be transferred is as follows:

Quarters in Fiscal Year	Percentage
2001-2002	15%
2002-2003	30%
2003-2004	45%
2004-2005 and thereafter	60%."

Section 2. G.S. 143-215.104C(b) reads as rewritten:

"(b) Sources of Revenue. -- The following revenue is credited to the Fund:

(1) Dry-cleaning solvent taxes collected under Article 5D of Chapter 105 of the General Statutes.

(2) Recoveries made pursuant to G.S. 143-215.104N and G.S. 143-215.104O.

(3) Gifts and grants made to the Fund.

(4) Revenues credited to the Fund under G.S. 105-164.44E."

Section 3. G.S. 143-215.104B(b)(20), 143-215.104E, 143-215.104F(b)(3), 143-215.104F(d)(3), 143-215.104F(g), 143-215.104J(a)(5), 143-215.104P(a)(1), and Section 3 of S.L. 1997-392 are repealed.

Section 4. G.S. 143-215.104F(f) reads as rewritten:

"(f) Financial Responsibility Requirements. -- Each potentially responsible person who petitions the Commission to enter into a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement shall accept written responsibility in the amount specified in this section for the assessment or remediation of the dry-cleaning solvent contamination identified in the petition. If two or more potentially responsible persons petition the Commission jointly, the requirements below shall be the aggregate requirements for the financial responsibility of all potentially responsible persons who are party to the petition. Unless an alternative arrangement is agreed to by co-petitioners, the financial responsibility requirements of this section shall be apportioned equally among the co-petitioners. ~~The requirements in this subsection shall be in addition to any insurance or other financial responsibility, including deductibles or retentions, established pursuant to G.S. 143-215.104E.~~

Facility or Abandoned Site Where Release Occurred	Costs
Dry-cleaning facilities owned by persons who employ fewer than five full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year	~~$5,000~~ $10,000

Dry-cleaning facilities owned by persons who employ at least five but fewer than 10 full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year	~~$10,000~~ $15,000
Dry-cleaning facilities owned by persons who employ 10 or more full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year	~~$15,000~~ $20,000
Wholesale distribution facilities	~~$25,000~~ $30,000
Abandoned dry-cleaning facility sites	$50,000."

Section 5. G.S. 143-215.104C reads as rewritten:

"**§ 143-215.104C. (Repealed effective January 1, 2012) Dry-Cleaning Solvent Cleanup Fund.**

(a) Creation. -- The Dry-Cleaning Solvent Cleanup Fund is established as a special revenue fund to be administered by the Commission. Accordingly, revenue in the Fund at the end of a fiscal year does not revert and interest and other investment income earned by the Fund must be credited to it. The Fund is created to provide revenue to implement this Part.

(b) Sources of Revenue. -- The following revenue is credited to the Fund:

(1) Dry-cleaning solvent taxes collected under Article 5D of Chapter 105 of the General Statutes.

(2) Recoveries made pursuant to G.S. 143-215.104N and G.S. 143-215.104O.

(3) Gifts and grants made to the Fund.

(c) Disbursements. -- A claim filed against the Fund may be paid only from monies in the Fund and only in accordance with the provisions of this Part. Any obligation to pay or reimburse claims against the Fund shall be expressly contingent upon availability of monies in the Fund. Neither the State nor any of its agencies shall have any obligation to pay or reimburse any costs for which monies are not available in the Fund. The provisions of this Part shall not constitute a contract, either express or implied, to pay or reimburse costs in excess of the monies available in the Fund. In making disbursements from the Fund, the Commission shall ~~pay the claims with the highest priority before claims of lower priority, and claims of equal priority in the order in which the facility or abandoned site was certified~~ obligate monies to facilities or sites with higher priority before facilities or sites of lower priority, and facilities or sites with equal priority in the order in which the facilities or sites were prioritized until the revenue is exhausted. Consistent with the provisions of this Part, the Commission may disburse monies from the Fund to abate imminent hazards caused by dry-cleaning solvent contamination at abandoned dry-cleaning

facility sites that have not been certified. Up to twenty percent (20%) of the amount of revenue credited to the Fund in a year may be used to defray costs incurred by the Department and the Attorney General's Office in connection with administration of the program described in this Part, including oversight of response activities."

Section 6. G.S. 143-215.104D(a) reads as rewritten:

"(a) Administrative Functions. -- The Commission may delegate any or all of the powers enumerated in this subsection to the ~~Department or engage a private contractor or contractors to carry out the activities enumerated in this subsection. If the Commission engages a private contractor to carry out the functions enumerated in subdivisions (1) through (6) of this subsection, no action of the contractor shall be effective until ratified by the Commission.~~ Department. The Commission shall:

(1) Accept petitions for certification and petitions to enter into dry-cleaning solvent assessment agreements or remediation agreements under this Part.

(2) Prioritize certified dry-cleaning facilities, certified wholesale distribution facilities, or certified abandoned dry-cleaning facility sites for the initiation of assessment or remediation activities that are reimbursable from the Fund.

(3) Develop forms to be used by persons applying for reimbursement of assessment or remediation costs.

(4) Schedule funding of assessment and remediation activities.

(5) Determine whether assessment or remediation is necessary at a site at which dry-cleaning solvent contamination has occurred.

(5a) Enter into contracts with private contractors for assessment and remediation activities at certified dry-cleaning facilities, certified wholesale distribution facilities, or certified abandoned dry-cleaning facility sites.

(6) Determine that all necessary assessment and remediation has been completed at a contamination site.

(7) Make payments from the Fund to reimburse the costs of assessment and remediation. ~~Any payments made by a private contractor engaged by the Commission shall be authorized by the Commission prior to disbursement.~~"

Section 7. G.S. 143-215.104F, as amended by Sections 3 and 4 of this act, reads as rewritten:

"**§ 143-215.104F. (Repealed effective January 1, 2012) Requirements for certification, assessment agreements, and remediation agreements.**

(a) Any person petitioning for certification of a facility or abandoned site pursuant to G.S. 143-215.104G, for a dry-cleaning solvent assessment agreement pursuant to G.S. 143-215.104H, or for a dry-cleaning solvent remediation agreement pursuant to G.S. 143-215.104I, shall meet the requirements set out in this section and any other applicable requirements of this Part.

(b) Requirements for Potentially Responsible Persons Generally. -- Every petitioner shall provide the Commission with:

(1) ~~Information necessary for the Commission to determine the priority ranking of~~ Any information that the petitioner possesses relating to the contamination at the facility or abandoned site described in the petition.

(2) Information necessary to demonstrate the person's ability to incur the response costs specified in subsection (f) of this section.

(4) Information necessary to demonstrate that the petitioner, and any parent, subsidiary, or other affiliate of the petitioner has substantially complied with:

a. The terms of any dry-cleaning solvent assessment agreement, dry-cleaning solvent remediation agreement, brownfields agreement, or other similar agreement to which the petitioner or any parent, subsidiary, or other affiliate of the petitioner has been a party.

b. The requirements applicable to any remediation in which the petitioner has previously engaged.

c. Federal and State laws, regulations, and rules for the protection of the environment.

(5) Evidence demonstrating that a release of dry-cleaning solvent has occurred at the facility or abandoned site and that the release has resulted in dry-cleaning solvent contamination.

(c) Requirement for Property Owners. -- In addition to the information required by subsection (b) of this section, a petitioner who is the owner of the property on which the dry-cleaning solvent contamination identified in the petition is located shall provide the Commission a written agreement authorizing the Commission or its agent to have access to the property for purposes of conducting assessment or remediation activities or determining whether assessment or remediation activities are being conducted in compliance with this Part and any assessment agreement or remediation agreement.

(c1) Costs incurred by the petitioner for activities to obtain certification of a facility or site shall not be reimbursable from the Fund.

(d) The Commission shall reject any petition made pursuant to this Part in any of the following circumstances:

(1) The petitioner is an owner or operator of the facility described in the petition and the facility was not being operated in compliance with minimum management practices adopted by the Commission pursuant to G.S. 143-215.104D(b)(2) at the time the contamination was discovered.

(2) The petitioner is an owner or operator of the facility described in the petition and the petitioner owed delinquent taxes under Article 5D of Chapter 105 of the General Statutes at the time the dry-cleaning solvent contamination was discovered.

(e) The Commission may reject any petition made pursuant to this Part in any of the following circumstances:

(1) The petitioner fails to provide the information required by subsection (b) of this section.

(2) The petitioner falsified any information in its petition that was material to the determination of the priority ranking, the nature, scope and extent of contamination to be assessed or remediated, or the appropriate means to contain and remediate the contaminants.

(f) Financial Responsibility Requirements. -- Each potentially responsible person who petitions the Commission to ~~enter into a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement~~ certify a facility or abandoned site shall accept written responsibility in the amount specified in this section for the assessment or remediation of the dry-cleaning solvent contamination identified in the petition. If two or more potentially responsible persons petition the Commission jointly, the requirements below shall be the aggregate requirements for the financial responsibility of all potentially responsible persons who are party to the petition. Unless an alternative arrangement is agreed to by co-petitioners, the financial responsibility requirements of this section shall be apportioned equally among the co-petitioners.

Facility or Abandoned Site Where Release Occurred	Costs
Dry-cleaning facilities owned by persons who employ fewer than five full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year	$10,000
Dry-cleaning facilities owned by persons who employ at least five but fewer than 10 full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year	$15,000
Dry-cleaning facilities owned by persons who employ 10 or more full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year	$20,000
Wholesale distribution facilities	$30,000
Abandoned dry-cleaning facility sites	$50,000."

Section 8. G.S. 143-215.104G reads as rewritten:

"**§ 143-215.104G. (Effective January 1, 1999; repealed effective January 1, 2012) Certification of facilities and abandoned sites.**

(a) A potentially responsible party may petition the Commission to certify a facility or abandoned site where a release of dry-cleaning solvent ~~is believed to have~~ has occurred. The Commission shall certify the facility or abandoned site if the petitioner meets the applicable requirements of G.S. 143-215.104F. Upon its decision

to certify a facility or abandoned site, the Commission shall inform the petitioner of its decision and of the initial priority ranking of the facility or site.

~~(b) The Commission may change the initial priority rankings of any facility or abandoned site as additional facilities or abandoned sites are certified if the Commission, in its sole discretion, determines that additional facilities or sites pose a higher degree of harm or risk to public health and the environment. However, the Commission shall not change the priority ranking of a facility or an abandoned site that is set in a dry-cleaning solvent remediation agreement.~~

(c) A potentially responsible party who petitions for certification of a facility or abandoned site shall provide the Commission with either of the following:

(1) A ~~proposed dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement or an indication~~ written statement of the petitioner's intent to enter into an assessment agreement or remediation agreement.

(2) A written statement of the petitioner's intent to conduct assessment and remediation activities pursuant to subsection (d) of this section.

(d) A person who has access to property that is contaminated by dry-cleaning solvent and who has successfully petitioned for certification of the facility or abandoned site from which the contamination is believed to have resulted may undertake assessment or remediation of dry-cleaning solvent contamination located on the property consistent with the standards established by the Commission pursuant to G.S. 143-215.104D(b)(3) without first entering into a dry-cleaning solvent assessment agreement or a dry-cleaning solvent remediation agreement. No assessment or remediation activities undertaken pursuant to this subsection shall rely on standards that require the creation of land-use restrictions. A person who undertakes assessment or remediation activities pursuant to this subsection shall provide the Commission prior written notice of the activity. Costs associated with assessment or remediation activities undertaken pursuant to this subsection shall not be eligible for reimbursement from the Fund.

(e) The rejection of any petition filed pursuant to this section shall not affect the rights of any other petitioner, other than any parent, subsidiary, or other affiliate of the petitioner, under this Part. The rejection of a petition or the decertification of a facility or abandoned site may be the basis for rejection of a petition by any parent, subsidiary, or other affiliate of the petitioner for the facility or abandoned site."

Section 9. G.S. 143-215.104H reads as rewritten:

"**§ 143-215.104H. (Effective January 1, 1999; repealed effective January 1, 2012) Dry-Cleaning Solvent Assessment Agreements.**

(a) Assessment Agreements. -- One or more potentially responsible parties may petition the Commission to enter into a dry-cleaning solvent assessment agreement regarding a facility or abandoned site that has been certified pursuant to G.S. 143-215.104G. The Commission may, in its discretion, enter into an assessment agreement with any potentially responsible party who satisfies the requirements of this section and the applicable requirements of G.S. 143-215.104F. If more than one potentially

responsible party petitions the Commission, the Commission may enter into a single assessment agreement with one or more of the petitioners. The Commission shall not unreasonably refuse to enter into an assessment agreement pursuant to this section. ~~Petitioners shall~~ The Commission may require the petitioners to provide the Commission with any information necessary to ~~demonstrate that the:~~ demonstrate:

(1) ~~Priority~~ The priority ranking assigned to the facility or site is consistent with the rules adopted ~~by the Commission or the adjusted priority ranking that the petitioner agrees to accept is consistent with the rules adopted~~ by the Commission.

(2) ~~Projected~~ The projected schedule for funding of assessment ~~activities, including reimbursements from the Fund~~ activities is adequate.

(3) ~~Assessment~~ The assessment activities to be undertaken with respect to the dry-cleaning solvent contamination and any other contamination at the contamination site are adequate.

(4) ~~Person~~ The person who will be responsible for implementation of the activities is capable and qualified to conduct the assessment.

(4a) The amount of funds already expended by the petitioner for assessment or remediation of dry-cleaning solvent contamination at the facility or site.

(5) ~~Petitioner~~ The petitioner has and will continue to have available the financial resources necessary to pay the costs of assessment activities and the share of response costs imposed on the petitioner by G.S. 143-215.104F.

(6) ~~Permits~~ The permits or other authorizations required to conduct the assessment activities and to lawfully dispose of any hazardous substances or wastes generated by the assessment activities have been or can be obtained.

(7) ~~Assessment~~ The assessment activities will not increase the existing level of public exposure to health or environmental hazards at the contamination site.

(8) ~~Costs~~ The costs to be incurred in connection with the assessment activities contemplated by the assessment agreement are reasonable and necessary.

(9) ~~Petitioner~~ The petitioner has obtained the consent of other property owners to enter into their property for the purpose of conducting assessment activities specified in the assessment agreement.

(b) The terms and conditions of an assessment agreement regarding dry-cleaning solvent contamination shall be guided by and consistent with the rules adopted by the Commission pursuant to G.S. 143-215.104D and the reimbursement authorities and limitations set out in this Part. An assessment agreement shall, subject to the availability of monies from the Fund:

~~(1) Specify the date on which remediation will begin.~~

(1a) Require that the petitioner shall be liable to the Fund for an amount equal to the difference, if any, between the applicable amount of financial responsibility established by G.S. 143-215.104F and the amount reasonably paid by the petitioner for assessment or remediation activities of the type specified in G.S. 143-215.104N(a)(1) through (7) and otherwise consistent with the requirements of this Part.

(2) Provide for the prompt reimbursement of response costs incurred in assessment activities that are found by the Commission to be consistent with the assessment agreement and this Part.

(c) The Commission may refuse to enter into a dry-cleaning solvent assessment agreement with any petitioner if:

(1) The petitioner will not accept financial responsibility for the share of the response costs required by G.S. 143-215.104F.

(2) The petitioner will not accept responsibility for conducting, supervising, or otherwise undertaking assessment activities required by the Commission.

(3) The petitioner fails to provide any information required by subsection (a) of this section.

(d) The refusal of the Commission to enter into a dry-cleaning solvent assessment agreement with any petitioner shall not affect the rights of any other petitioner under this Part, except that the refusal may be the basis for rejection of a petition by any parent, subsidiary or other affiliate of the petitioner for the facility or abandoned site.

(e) If the Commission determines from an assessment prepared pursuant to this Part that the degree of risk to public health or the environment resulting from dry-cleaning solvent contamination otherwise subject to assessment or remediation under this Part and Article 9 of Chapter 130A is acceptable in light of the criteria established pursuant to G.S. 143-215.104D(b)(3) and Article 9 of Chapter 130A, the Commission shall issue a written statement of its determination and notify the owner or operator of the facility or abandoned site responsible for the contamination that no cleanup, no further cleanup, or no further action is required in connection with the contamination.

(f) If the Commission determines that no remediation or further action is required in connection with dry-cleaning solvent contamination otherwise subject to assessment or remediation pursuant to this Part and Article 9 of Chapter 130A, the Commission shall not pay or reimburse any response costs otherwise payable or reimbursable under this Part from the Fund other than costs reasonable and necessary to conduct the risk assessment pursuant to this section and in compliance with a dry-cleaning solvent assessment agreement."

Section 10. G.S. 143-215.104I(a) reads as rewritten:

"(a) Upon the completion of assessment activities required by a dry-cleaning solvent assessment agreement, one or more potentially responsible parties may petition the Commission to enter into a dry-cleaning solvent remediation agreement for any contamination requiring remediation. The Commission may, in its discretion,

agreement shall provide, subject to availability of monies in the Fund, for prompt reimbursement of response costs incurred in assessment or remediation activities that are found by the Commission to be consistent with the remediation agreement and this Part. A remediation agreement may provide for the Commission to conduct assessment and remediation activities at the site."

Section 14. G.S. 143-215.104N(c) reads as rewritten:

"(c) The Commission shall not pay or reimburse any response costs arising from a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement until the petitioners who are party to the agreement have exhausted the financial resources made available under the agreement pursuant to ~~G.S. 143-215.104E and~~ G.S. 143-215.104F."

Section 15. G.S. 143-215.104O reads as rewritten:

"**§ 143-215.104O. (Repealed effective January 1, 2012) Remediation of uncertified sites.**

(a) In the event the owner or operator of a facility or the current owner of an abandoned site cannot be identified or located, unreasonably refuses to enter into either an assessment agreement or remediation agreement or cannot be made to comply with the provisions of an assessment agreement or remediation agreement between the petitioner and the Commission, the Commission may direct the Department or a private contractor engaged by the Commission to use staff, equipment, or materials under the control of the Department or contractor or provided by other cooperating federal, State, or local agencies to develop and implement a plan for abatement of an imminent hazard, or to provide interim alternative sources of drinking water to third parties affected by dry-cleaning solvent contamination resulting from a release at the facility or abandoned site. The cost of any of these actions shall be paid from the Fund. The Department or private contractor shall keep a record of all expenses incurred for personnel and for the use of equipment and materials and all other expenses of developing and implementing the remediation plan.

(b) The Commission shall request the Attorney General to commence a civil action to secure reimbursement of costs incurred under this ~~subsection.~~ section.

(c) In the event a civil action is commenced pursuant to this Part to recover monies paid from the Fund, the Commission may recover, in addition to any amount due, the costs of the action, including reasonable attorneys' fees and investigation expenses. Any monies received or recovered as reimbursement shall be paid into the Fund or other source from which the expenditures were made."

Section 16. Section 5 of S.L. 1997-392 reads as rewritten:

"Section 5. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. The Environmental Management Commission may adopt temporary rules to implement this act until ~~1 January 1999.~~ 30 June 2000."

Section 17. Section 7 of S.L. 1997-392 reads as rewritten:

"Section 7. (a) Any person who undertakes assessment or remediation of dry-cleaning solvent contamination pursuant to ~~an~~ a notice of violation or enforcement action by the Department of ~~Environment, Health,~~ Environment and

Natural Resources during the period beginning 1 October 1997 and ~~1 January 1999~~ ending 30 June 2000 may, on or after ~~1 January 1999~~ 30 June 2000 seek reimbursement from the Dry-Cleaning Solvent Cleanup Fund for any costs exceeding fifty thousand dollars ($50,000). The Commission shall reimburse costs if it finds that the costs incurred were (i) appropriately documented and reasonably necessary to assess or remediate the dry-cleaning solvent contamination; (ii) for any of the activities described in subdivisions (1) through (7) of G.S. 143-215.104N(a); (iii) not subject to any of the limitations in subdivisions (4) ~~or (5)~~ through (9) of G.S. 143-215.104N(b); and (iv) not reimbursable from pollution and remediation legal liability insurance; and (v) required by a notice of violation or a specific order of the Department of ~~Environment, Health,~~ Environment and Natural Resources issued on or after 30 June 1996. No reimbursement may be paid pursuant to this section for dry-cleaning solvent contamination that did not result from operations at a dry-cleaning or wholesale distribution facility. Notwithstanding any other provision of this subsection, the Commission may by rule shorten the period during which costs subject to reimbursement pursuant to this subsection may be incurred.

(b) Any person who, as of ~~1 January 1999,~~ 30 June 2000, is undertaking assessment or remediation of dry-cleaning solvent contamination shall be eligible to petition the Commission to enter into a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement with respect to the contamination. In calculating the required financial contribution of parties to any agreement, the Commission shall determine the reasonable cost of any necessary unreimbursed assessment or remediation activity undertaken by the parties with respect to the contamination site prior to ~~1 January 1999~~ 30 June 2000 and shall credit the amount toward any applicable financial responsibility limits established in G.S. 143-215.104F. Notwithstanding any other provision of this subsection, the Commission may by rule establish a different cutoff date for assessment and remediation activities covered by this subsection."

Section 18. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

Section 19. Article 21A of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.104V. Dry-cleaning solvent reduction goals.**

It shall be the goal of the State of North Carolina to reduce the use of Perchloroethylene F-1,1,3 (PERC) by dry-cleaning facilities in accordance with the following schedule:

Percent Reduction in PERC	Reduction Deadline
10%	1 July 2004
25%	1 July 2009
50%	1 July 2014
100%	1 July 2019."

Section 20. G.S. 143-215.104U reads as rewritten:

"**§ 143-215.104U. (Repealed effective January 1, 2012) Reporting requirements.**

(a) The Secretary shall present an annual report to the Environmental Review Commission that shall include at least the following:

(1) A list of all dry-cleaning solvent contamination reported to the Department.

(2) A list of all facilities and abandoned sites certified by the Commission and the status of contamination associated with each facility or abandoned site.

(3) An estimate of the cost of assessment and remediation required in connection with facilities or abandoned sites certified by the Commission and an estimate of assessment and remediation costs expected to be paid from the Fund.

(4) A statement of receipts and disbursements for the Fund.

(5) A statement of all claims against the Fund, including claims paid, claims denied, pending claims, anticipated claims, and any other obligations.

(6) The adequacy of the Fund to carry out the purposes of this Part together with any recommendations as to measures that may be necessary to assure the continued solvency of the Fund.

(7) The progress of the State in attaining the goals of reducing the use of Perchloroethylene F-1,1,3 (PERC) as established in G.S. 143-215.104T.

(8) The cost and effectiveness of dry-cleaning technologies and chemicals that offer an alternative to the use of Perchloroethylene F-1,1,3 (PERC).

(b) The Secretary shall make the annual report required by this section on or before 1 October of each year."

Section 21. Sections 1 and 2 of this act become effective July 1, 2001. G.S. 105-164.44E and G.S. 143-215.104C(b)(4), as enacted by this act, are repealed on July 1, 2010. The remainder of this act is effective when it becomes law, and Sections 3 and 4 of this act apply retroactively to April 1, 1998.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1326*
Proposed Committee Substitute H1326-PCS1312-RB

Short Title: Dry-Cleaning Solvent Cleanup Amends. (Public)

Sponsors:

Referred to:

April 23, 1999

A BILL TO BE ENTITLED

AN ACT TO EARMARK THE STATE SALES TAX REVENUE FROM DRY-CLEANING AND LAUNDRY SERVICES FOR THE DRY-CLEANING SOLVENT CLEANUP FUND, AND TO AMEND THE DRY-CLEANING SOLVENT CLEANUP ACT OF 1997 TO REPEAL THE REQUIREMENT OF FINANCIAL RESPONSIBILITY FOR DRY-CLEANING FACILITIES AND WHOLESALE DRY-CLEANING SOLVENT DISTRIBUTION FACILITIES, TO ALLOW THE ENVIRONMENTAL MANAGEMENT COMMISSION TO ENTER INTO CONTRACTS WITH PRIVATE CONTRACTORS FOR ASSESSMENT AND REMEDIATION ACTIVITIES AT DRY-CLEANING FACILITIES AND WHOLESALE DRY-CLEANING SOLVENT DISTRIBUTION FACILITIES, TO ESTABLISH A STATE GOAL FOR THE REDUCTION OF THE USE OF PERCHLOROETHYLENE F-1,1,3 BY DRY-CLEANING FACILITIES, TO REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO REPORT TO THE ENVIRONMENTAL REVIEW COMMISSION ON THE PROGRESS IN ATTAINING THIS GOAL AND THE COST AND EFFECTIVENESS OF DRY-CLEANING TECHNOLOGIES AND CHEMICALS THAT OFFER AN ALTERNATIVE TO THE USE OF PERCHLOROETHYLENE F-1,1,3, AND TO MAKE OTHER CHANGES IN THE DRY-CLEANING SOLVENT CLEANUP ACT 0F 1997.

The General Assembly of North Carolina enacts:

Section 1. Chapter 105 of the General Statutes is amended to add a new section to read:

"**§ 105-164.44E. Transfer to the Dry-Cleaning Solvent Cleanup Fund.**

At the end of each quarter, the Secretary must transfer to the Dry-Cleaning Solvent Cleanup Fund established under G.S. 143-215.104C a percentage of the net amount of State sales and use taxes collected under G.S. 105-164.4(a)(4), as determined by the Secretary based on available data. The percentage amount to be transferred is as follows:

Quarters in Fiscal Year	Percentage
2001-2002	15%
2002-2003	30%
2003-2004	45%
2004-2005 and thereafter	60%."

Section 2. G.S. 143-215.104C(b) reads as rewritten:

"(b) Sources of Revenue. -- The following revenue is credited to the Fund:

(1) Dry-cleaning solvent taxes collected under Article 5D of Chapter 105 of the General Statutes.

(2) Recoveries made pursuant to G.S. 143-215.104N and G.S. 143-215.104O.

(3) Gifts and grants made to the Fund.

(4) Revenues credited to the Fund under G.S. 105-164.44E."

Section 3. G.S. 143-215.104B(b)(20), 143-215.104E, 143-215.104F(b)(3), 143-215.104F(d)(3), 143-215.104F(g), 143-215.104J(a)(5), 143-215.104P(a)(1), and Section 3 of S.L. 1997-392 are repealed.

Section 4. G.S. 143-215.104F(f) reads as rewritten:

"(f) Financial Responsibility Requirements. -- Each potentially responsible person who petitions the Commission to enter into a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement shall accept written responsibility in the amount specified in this section for the assessment or remediation of the dry-cleaning solvent contamination identified in the petition. If two or more potentially responsible persons petition the Commission jointly, the requirements below shall be the aggregate requirements for the financial responsibility of all potentially responsible persons who are party to the petition. Unless an alternative arrangement is agreed to by co-petitioners, the financial responsibility requirements of this section shall be apportioned equally among the co-petitioners. ~~The requirements in this subsection shall be in addition to any insurance or other financial responsibility, including deductibles or retentions, established pursuant to G.S. 143-215.104E.~~

Facility or Abandoned Site Where Release Occurred	Costs
Dry-cleaning facilities owned by persons who employ fewer than five full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year	~~$5,000~~ $10,000

Dry-cleaning facilities owned by persons who employ at least five but fewer than 10 full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year	~~$10,000~~ $15,000
Dry-cleaning facilities owned by persons who employ 10 or more full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year	~~$15,000~~ $20,000
Wholesale distribution facilities	~~$25,000~~ $30,000
Abandoned dry-cleaning facility sites	$50,000."

Section 5. G.S. 143-215.104C reads as rewritten:

"**§ 143-215.104C. (Repealed effective January 1, 2012) Dry-Cleaning Solvent Cleanup Fund.**

(a) Creation. -- The Dry-Cleaning Solvent Cleanup Fund is established as a special revenue fund to be administered by the Commission. Accordingly, revenue in the Fund at the end of a fiscal year does not revert and interest and other investment income earned by the Fund must be credited to it. The Fund is created to provide revenue to implement this Part.

(b) Sources of Revenue. -- The following revenue is credited to the Fund:

(1) Dry-cleaning solvent taxes collected under Article 5D of Chapter 105 of the General Statutes.

(2) Recoveries made pursuant to G.S. 143-215.104N and G.S. 143-215.104O.

(3) Gifts and grants made to the Fund.

(c) Disbursements. -- A claim filed against the Fund may be paid only from monies in the Fund and only in accordance with the provisions of this Part. Any obligation to pay or reimburse claims against the Fund shall be expressly contingent upon availability of monies in the Fund. Neither the State nor any of its agencies shall have any obligation to pay or reimburse any costs for which monies are not available in the Fund. The provisions of this Part shall not constitute a contract, either express or implied, to pay or reimburse costs in excess of the monies available in the Fund. In making disbursements from the Fund, the Commission shall ~~pay the claims with the highest priority before claims of lower priority, and claims of equal priority in the order in which the facility or abandoned site was certified~~ obligate monies to facilities or sites with higher priority before facilities or sites of lower priority, and facilities or sites with equal priority in the order in which the facilities or sites were prioritized until the revenue is exhausted. Consistent with the provisions of this Part, the Commission may disburse monies from the Fund to abate imminent hazards caused by dry-cleaning solvent contamination at abandoned dry-cleaning

facility sites that have not been certified. Up to twenty percent (20%) of the amount of revenue credited to the Fund in a year may be used to defray costs incurred by the Department and the Attorney General's Office in connection with administration of the program described in this Part, including oversight of response activities."

Section 6. G.S. 143-215.104D(a) reads as rewritten:

"(a) Administrative Functions. -- The Commission may delegate any or all of the powers enumerated in this subsection to the ~~Department or engage a private contractor or contractors to carry out the activities enumerated in this subsection. If the Commission engages a private contractor to carry out the functions enumerated in subdivisions (1) through (6) of this subsection, no action of the contractor shall be effective until ratified by the Commission.~~ Department. The Commission shall:

(1) Accept petitions for certification and petitions to enter into dry-cleaning solvent assessment agreements or remediation agreements under this Part.

(2) Prioritize certified dry-cleaning facilities, certified wholesale distribution facilities, or certified abandoned dry-cleaning facility sites for the initiation of assessment or remediation activities that are reimbursable from the Fund.

(3) Develop forms to be used by persons applying for reimbursement of assessment or remediation costs.

(4) Schedule funding of assessment and remediation activities.

(5) Determine whether assessment or remediation is necessary at a site at which dry-cleaning solvent contamination has occurred.

(5a) Enter into contracts with private contractors for assessment and remediation activities at certified dry-cleaning facilities, certified wholesale distribution facilities, or certified abandoned dry-cleaning facility sites.

(6) Determine that all necessary assessment and remediation has been completed at a contamination site.

(7) Make payments from the Fund to reimburse the costs of assessment and remediation. ~~Any payments made by a private contractor engaged by the Commission shall be authorized by the Commission prior to disbursement.~~"

Section 7. G.S. 143-215.104F, as amended by Sections 3 and 4 of this act, reads as rewritten:

"**§ 143-215.104F. (Repealed effective January 1, 2012) Requirements for certification, assessment agreements, and remediation agreements.**

(a) Any person petitioning for certification of a facility or abandoned site pursuant to G.S. 143-215.104G, for a dry-cleaning solvent assessment agreement pursuant to G.S. 143-215.104H, or for a dry-cleaning solvent remediation agreement pursuant to G.S. 143-215.104I, shall meet the requirements set out in this section and any other applicable requirements of this Part.

(b) Requirements for Potentially Responsible Persons Generally. -- Every petitioner shall provide the Commission with:

(1) ~~Information necessary for the Commission to determine the priority ranking of~~ Any information that the petitioner possesses relating to the contamination at the facility or abandoned site described in the petition.

(2) Information necessary to demonstrate the person's ability to incur the response costs specified in subsection (f) of this section.

(4) Information necessary to demonstrate that the petitioner, and any parent, subsidiary, or other affiliate of the petitioner has substantially complied with:

a. The terms of any dry-cleaning solvent assessment agreement, dry-cleaning solvent remediation agreement, brownfields agreement, or other similar agreement to which the petitioner or any parent, subsidiary, or other affiliate of the petitioner has been a party.

b. The requirements applicable to any remediation in which the petitioner has previously engaged.

c. Federal and State laws, regulations, and rules for the protection of the environment.

(5) Evidence demonstrating that a release of dry-cleaning solvent has occurred at the facility or abandoned site and that the release has resulted in dry-cleaning solvent contamination.

(c) Requirement for Property Owners. -- In addition to the information required by subsection (b) of this section, a petitioner who is the owner of the property on which the dry-cleaning solvent contamination identified in the petition is located shall provide the Commission a written agreement authorizing the Commission or its agent to have access to the property for purposes of conducting assessment or remediation activities or determining whether assessment or remediation activities are being conducted in compliance with this Part and any assessment agreement or remediation agreement.

(c1) Costs incurred by the petitioner for activities to obtain certification of a facility or site shall not be reimbursable from the Fund.

(d) The Commission shall reject any petition made pursuant to this Part in any of the following circumstances:

(1) The petitioner is an owner or operator of the facility described in the petition and the facility was not being operated in compliance with minimum management practices adopted by the Commission pursuant to G.S. 143-215.104D(b)(2) at the time the contamination was discovered.

(2) The petitioner is an owner or operator of the facility described in the petition and the petitioner owed delinquent taxes under Article 5D of Chapter 105 of the General Statutes at the time the dry-cleaning solvent contamination was discovered.

(e) The Commission may reject any petition made pursuant to this Part in any of the following circumstances:

(1) The petitioner fails to provide the information required by subsection (b) of this section.

(2) The petitioner falsified any information in its petition that was material to the determination of the priority ranking, the nature, scope and extent of contamination to be assessed or remediated, or the appropriate means to contain and remediate the contaminants.

(f) Financial Responsibility Requirements. -- Each potentially responsible person who petitions the Commission to ~~enter into a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement~~ certify a facility or abandoned site shall accept written responsibility in the amount specified in this section for the assessment or remediation of the dry-cleaning solvent contamination identified in the petition. If two or more potentially responsible persons petition the Commission jointly, the requirements below shall be the aggregate requirements for the financial responsibility of all potentially responsible persons who are party to the petition. Unless an alternative arrangement is agreed to by co-petitioners, the financial responsibility requirements of this section shall be apportioned equally among the co-petitioners.

Facility or Abandoned Site Where Release Occurred	Costs
Dry-cleaning facilities owned by persons who employ fewer than five full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year	$10,000
Dry-cleaning facilities owned by persons who employ at least five but fewer than 10 full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year	$15,000
Dry-cleaning facilities owned by persons who employ 10 or more full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year	$20,000
Wholesale distribution facilities	$30,000
Abandoned dry-cleaning facility sites	$50,000."

Section 8. G.S. 143-215.104G reads as rewritten:

"**§ 143-215.104G. (Effective January 1, 1999; repealed effective January 1, 2012) Certification of facilities and abandoned sites.**

(a) A potentially responsible party may petition the Commission to certify a facility or abandoned site where a release of dry-cleaning solvent ~~is believed to have~~ has occurred. The Commission shall certify the facility or abandoned site if the petitioner meets the applicable requirements of G.S. 143-215.104F. Upon its decision to certify a facility or abandoned site, the Commission shall inform the petitioner of its decision and of the initial priority ranking of the facility or site.

~~(b) The Commission may change the initial priority rankings of any facility or abandoned site as additional facilities or abandoned sites are certified if the Commission, in its sole discretion, determines that additional facilities or sites pose a higher degree of harm or risk to public health and the environment. However, the Commission shall not change the priority ranking of a facility or an abandoned site that is set in a dry-cleaning solvent remediation agreement.~~

(c) A potentially responsible party who petitions for certification of a facility or abandoned site shall provide the Commission with either of the following:

(1) A ~~proposed dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement or an indication~~ written statement of the petitioner's intent to enter into an assessment agreement or remediation agreement.

(2) A written statement of the petitioner's intent to conduct assessment and remediation activities pursuant to subsection (d) of this section.

(d) A person who has access to property that is contaminated by dry-cleaning solvent and who has successfully petitioned for certification of the facility or abandoned site from which the contamination is believed to have resulted may undertake assessment or remediation of dry-cleaning solvent contamination located on the property consistent with the standards established by the Commission pursuant to G.S. 143-215.104D(b)(3) without first entering into a dry-cleaning solvent assessment agreement or a dry-cleaning solvent remediation agreement. No assessment or remediation activities undertaken pursuant to this subsection shall rely on standards that require the creation of land-use restrictions. A person who undertakes assessment or remediation activities pursuant to this subsection shall provide the Commission prior written notice of the activity. Costs associated with assessment or remediation activities undertaken pursuant to this subsection shall not be eligible for reimbursement from the Fund.

(e) The rejection of any petition filed pursuant to this section shall not affect the rights of any other petitioner, other than any parent, subsidiary, or other affiliate of the petitioner, under this Part. The rejection of a petition or the decertification of a facility or abandoned site may be the basis for rejection of a petition by any parent, subsidiary, or other affiliate of the petitioner for the facility or abandoned site."

Section 9. G.S. 143-215.104H reads as rewritten:

"**§ 143-215.104H. (Effective January 1, 1999; repealed effective January 1, 2012) Dry-Cleaning Solvent Assessment Agreements.**

(a) Assessment Agreements. -- One or more potentially responsible parties may petition the Commission to enter into a dry-cleaning solvent assessment agreement regarding a facility or abandoned site that has been certified pursuant to G.S. 143-215.104G. The Commission may, in its discretion, enter into an assessment agreement with any potentially responsible party who satisfies the requirements of this section and the applicable requirements of G.S. 143-215.104F. If more than one potentially responsible party petitions the Commission, the Commission may enter into a single assessment agreement with one or more of the petitioners. The Commission shall not

unreasonably refuse to enter into an assessment agreement pursuant to this section. ~~Petitioners shall~~ The Commission may require the petitioners to provide the Commission with any information necessary to ~~demonstrate that the:~~ demonstrate:

(1) ~~Priority~~ The priority ranking assigned to the facility or site is consistent with the rules adopted ~~by the Commission or the adjusted priority ranking that the petitioner agrees to accept is consistent with the rules adopted~~ by the Commission.

(2) ~~Projected~~ The projected schedule for funding of assessment ~~activities, including reimbursements from the Fund~~ activities is adequate.

(3) ~~Assessment~~ The assessment activities to be undertaken with respect to the dry-cleaning solvent contamination and any other contamination at the contamination site are adequate.

(4) ~~Person~~ The person who will be responsible for implementation of the activities is capable and qualified to conduct the assessment.

(4a) The amount of funds already expended by the petitioner for assessment or remediation of dry-cleaning solvent contamination at the facility or site.

(5) ~~Petitioner~~ The petitioner has and will continue to have available the financial resources necessary to pay the costs of assessment activities and the share of response costs imposed on the petitioner by G.S. 143-215.104F.

(6) ~~Permits~~ The permits or other authorizations required to conduct the assessment activities and to lawfully dispose of any hazardous substances or wastes generated by the assessment activities have been or can be obtained.

(7) ~~Assessment~~ The assessment activities will not increase the existing level of public exposure to health or environmental hazards at the contamination site.

(8) ~~Costs~~ The costs to be incurred in connection with the assessment activities contemplated by the assessment agreement are reasonable and necessary.

(9) ~~Petitioner~~ The petitioner has obtained the consent of other property owners to enter into their property for the purpose of conducting assessment activities specified in the assessment agreement.

(b) The terms and conditions of an assessment agreement regarding dry-cleaning solvent contamination shall be guided by and consistent with the rules adopted by the Commission pursuant to G.S. 143-215.104D and the reimbursement authorities and limitations set out in this Part. An assessment agreement shall, subject to the availability of monies from the Fund:

~~(1) Specify the date on which remediation will begin.~~

(1a) Require that the petitioner shall be liable to the Fund for an amount equal to the difference, if any, between the applicable

amount of financial responsibility established by G.S. 143-215.104F and the amount reasonably paid by the petitioner for assessment or remediation activities of the type specified in G.S. 143-215.104N(a)(1) through (7) and otherwise consistent with the requirements of this Part.

(2) Provide for the prompt reimbursement of response costs incurred in assessment activities that are found by the Commission to be consistent with the assessment agreement and this Part.

(c) The Commission may refuse to enter into a dry-cleaning solvent assessment agreement with any petitioner if:

(1) The petitioner will not accept financial responsibility for the share of the response costs required by G.S. 143-215.104F.

(2) The petitioner will not accept responsibility for conducting, supervising, or otherwise undertaking assessment activities required by the Commission.

(3) The petitioner fails to provide any information required by subsection (a) of this section.

(d) The refusal of the Commission to enter into a dry-cleaning solvent assessment agreement with any petitioner shall not affect the rights of any other petitioner under this Part, except that the refusal may be the basis for rejection of a petition by any parent, subsidiary or other affiliate of the petitioner for the facility or abandoned site.

(e) If the Commission determines from an assessment prepared pursuant to this Part that the degree of risk to public health or the environment resulting from dry-cleaning solvent contamination otherwise subject to assessment or remediation under this Part and Article 9 of Chapter 130A is acceptable in light of the criteria established pursuant to G.S. 143-215.104D(b)(3) and Article 9 of Chapter 130A, the Commission shall issue a written statement of its determination and notify the owner or operator of the facility or abandoned site responsible for the contamination that no cleanup, no further cleanup, or no further action is required in connection with the contamination.

(f) If the Commission determines that no remediation or further action is required in connection with dry-cleaning solvent contamination otherwise subject to assessment or remediation pursuant to this Part and Article 9 of Chapter 130A, the Commission shall not pay or reimburse any response costs otherwise payable or reimbursable under this Part from the Fund other than costs reasonable and necessary to conduct the risk assessment pursuant to this section and in compliance with a dry-cleaning solvent assessment agreement."

Section 10. G.S. 143-215.104I(a) reads as rewritten:

"(a) Upon the completion of assessment activities required by a dry-cleaning solvent assessment agreement, one or more potentially responsible parties may petition the Commission to enter into a dry-cleaning solvent remediation agreement for any contamination requiring remediation. The Commission may, in its discretion, enter into a remediation agreement with any petitioner who satisfies the requirements of this section and the applicable requirements of G.S. 143-215.104F. If more than

one potentially responsible party petitions the Commission, the Commission may enter into a single remediation agreement with one or more of the petitioners. The Commission shall not unreasonably refuse to enter into a remediation agreement pursuant to this section. The Commission may, in its discretion, enter into a remediation agreement that includes the assessment described in G.S. 143-215.104H. Petitioners shall provide the Commission with any information necessary to demonstrate that:

~~(1) The petitioner, and any parent, subsidiary, or other affiliate of the petitioner has substantially complied with:~~

~~a. The terms of any dry-cleaning solvent assessment agreement, dry-cleaning solvent remediation agreement, brownfields agreement, or other similar agreement to which the petitioner or any parent, subsidiary, or other affiliate of the petitioner has been a party.~~

~~b. The requirements applicable to any remediation in which the petitioner has previously engaged.~~

~~c. Federal and State laws, regulations, and rules for the protection of the environment.~~

(2) As a result of the remediation agreement, the contamination site will be suitable for the uses specified in the remediation agreement while fully protecting public health and the environment from dry-cleaning solvent contamination and any other contaminants included in the remediation agreement.

(3) There is a public benefit commensurate with the liability protection provided under this Part.

(4) The petitioner has or can obtain the financial, managerial, and technical means to fully implement the remediation agreement and assure the safe use of the contamination site.

(5) The petitioner has complied with or will comply with all applicable procedural requirements.

(6) The remediation agreement will not cause the Department to violate the terms and conditions under which the Department operates and administers remedial programs, including the programs established or operated pursuant to Article 9 of Chapter 130A of the General Statutes, by delegation or similar authorization from the United States or its departments or agencies, including the United States Environmental Protection Agency.

(7) The priority ranking assigned to the facility or site is consistent with the rules adopted by the Commission or the ~~adjusted~~ priority ranking that the petitioner agrees to accept is consistent with the rules adopted by the Commission.

(8) The projected schedule for funding of remediation ~~activities, including reimbursements from the Fund.~~ activities.

(9) The petitioner will continue to have available the financial resources necessary to satisfy the share of response costs imposed on the petitioner by G.S. 143-215.104F.

(10) The expenditures eligible for reimbursement from the Fund and to be incurred in connection with the remediation agreement are reasonable and necessary.

(11) The consent of other property owners to enter into their property for purposes of conducting remediation activities specified in the remediation agreement."

Section 11. G.S. 143-215.104I(c)(6) reads as rewritten:

"(c) A dry-cleaning solvent remediation agreement shall contain a description of the contamination site that would be sufficient as a description of the property in an instrument of conveyance and, as applicable, a statement of:

. . .

(6) The ~~final~~ priority ranking of the facility or abandoned site."

Section 12. G.S. 143-215.104N(a) reads as rewritten:

"(a) Reimbursement. -- To the extent monies are available in the Fund for reimbursement of response costs, the Commission shall reimburse any ~~person~~ person, including a private contractor, responsible for implementing reasonable and necessary assessment and remediation activities at a contamination site associated with a certified facility or a certified abandoned site pursuant to a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement for the following assessment and remediation response ~~costs:~~ costs, for which appropriate documentation is submitted:

(1) Costs of assessment with respect to dry-cleaning solvent contamination.

(2) Costs of treatment or replacement of potable water supplies affected by the contamination.

(3) Costs of remediation of affected soil, groundwater, surface waters, bedrock or other rock formations, or buildings.

(4) Monitoring of the contamination.

(5) Inspection and supervision of activities described in this subsection.

(6) Reasonable costs of restoring property as nearly as practicable to the conditions that existed prior to activities associated with assessment and remediation conducted pursuant to this Part.

(7) Other activities reasonably required to protect public health and the environment."

Section 13. G.S. 143-215.104I(g) reads as rewritten:

"(g) The terms and conditions of a dry-cleaning solvent remediation agreement concerned with dry-cleaning solvent contamination shall be guided by and consistent with the rules adopted by the Commission pursuant to G.S. 143-215.104D and the reimbursement authorities and limitations set out in this Part. A remediation agreement shall provide, subject to availability of monies in the Fund, for prompt reimbursement of response costs incurred in assessment or remediation activities that

are found by the Commission to be consistent with the remediation agreement and this Part. A remediation agreement may provide for the Commission to conduct assessment and remediation activities at the site."

Section 14. G.S. 143-215.104N(c) reads as rewritten:

"(c) The Commission shall not pay or reimburse any response costs arising from a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement until the petitioners who are party to the agreement have exhausted the financial resources made available under the agreement pursuant to ~~G.S. 143-215.104E and~~ G.S. 143-215.104F."

Section 15. G.S. 143-215.104O reads as rewritten:

"**§ 143-215.104O. (Repealed effective January 1, 2012) Remediation of uncertified sites.**

(a) In the event the owner or operator of a facility or the current owner of an abandoned site cannot be identified or located, unreasonably refuses to enter into either an assessment agreement or remediation agreement or cannot be made to comply with the provisions of an assessment agreement or remediation agreement between the petitioner and the Commission, the Commission may direct the Department or a private contractor engaged by the Commission to use staff, equipment, or materials under the control of the Department or contractor or provided by other cooperating federal, State, or local agencies to develop and implement a plan for abatement of an imminent hazard, or to provide interim alternative sources of drinking water to third parties affected by dry-cleaning solvent contamination resulting from a release at the facility or abandoned site. The cost of any of these actions shall be paid from the Fund. The Department or private contractor shall keep a record of all expenses incurred for personnel and for the use of equipment and materials and all other expenses of developing and implementing the remediation plan.

(b) The Commission shall request the Attorney General to commence a civil action to secure reimbursement of costs incurred under this ~~subsection.~~ section.

(c) In the event a civil action is commenced pursuant to this Part to recover monies paid from the Fund, the Commission may recover, in addition to any amount due, the costs of the action, including reasonable attorneys' fees and investigation expenses. Any monies received or recovered as reimbursement shall be paid into the Fund or other source from which the expenditures were made."

Section 16. Section 5 of S.L. 1997-392 reads as rewritten:

"Section 5. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. The Environmental Management Commission may adopt temporary rules to implement this act until ~~1 January 1999.~~ 30 June 2000."

Section 17. Section 7 of S.L. 1997-392 reads as rewritten:

"Section 7. (a) Any person who undertakes assessment or remediation of dry-cleaning solvent contamination pursuant to ~~an~~ a notice of violation or enforcement action by the Department of ~~Environment, Health,~~ Environment and Natural Resources during the period beginning 1 October 1997 and ~~1 January 1999~~ ending 30 June 2000 may, on or after ~~1 January 1999~~ 30 June 2000 seek

reimbursement from the Dry-Cleaning Solvent Cleanup Fund for any costs exceeding fifty thousand dollars ($50,000). The Commission shall reimburse costs if it finds that the costs incurred were (i) appropriately documented and reasonably necessary to assess or remediate the dry-cleaning solvent contamination; (ii) for any of the activities described in subdivisions (1) through (7) of G.S. 143-215.104N(a); (iii) not subject to any of the limitations in subdivisions (4) ~~or (5)~~ through (9) of G.S. 143-215.104N(b); and (iv) not reimbursable from pollution and remediation legal liability insurance; and (v) required by a notice of violation or a specific order of the Department of ~~Environment, Health,~~ Environment and Natural Resources issued on or after 30 June 1996. No reimbursement may be paid pursuant to this section for dry-cleaning solvent contamination that did not result from operations at a dry-cleaning or wholesale distribution facility.

(b) Any person who, as of ~~1 January 1999,~~ 30 June 2000, is undertaking assessment or remediation of dry-cleaning solvent contamination shall be eligible to petition the Commission to enter into a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement with respect to the contamination. In calculating the required financial contribution of parties to any agreement, the Commission shall determine the reasonable cost of any necessary unreimbursed assessment or remediation activity undertaken by the parties with respect to the contamination site prior to ~~1 January 1999~~ 30 June 2000 and shall credit the amount toward any applicable financial responsibility limits established in G.S. 143-215.104F."

Section 18. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

Section 19. Article 21A of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.104V. Dry-cleaning solvent reduction goals.**

It shall be the goal of the State of North Carolina to reduce the use of Perchloroethylene F-1,1,3 (PERC) by dry-cleaning facilities in accordance with the following schedule:

Percent Reduction in PERC	Reduction Deadline
10%	1 July 2004
25%	1 July 2009
50%	1 July 2014
100%	1 July 2019."

Section 20. G.S. 143-215.104U reads as rewritten:

"**§ 143-215.104U. (Repealed effective January 1, 2012) Reporting requirements.**

(a) The Secretary shall present an annual report to the Environmental Review Commission that shall include at least the following:

(1) A list of all dry-cleaning solvent contamination reported to the Department.

(2) A list of all facilities and abandoned sites certified by the Commission and the status of contamination associated with each facility or abandoned site.
(3) An estimate of the cost of assessment and remediation required in connection with facilities or abandoned sites certified by the Commission and an estimate of assessment and remediation costs expected to be paid from the Fund.
(4) A statement of receipts and disbursements for the Fund.
(5) A statement of all claims against the Fund, including claims paid, claims denied, pending claims, anticipated claims, and any other obligations.
(6) The adequacy of the Fund to carry out the purposes of this Part together with any recommendations as to measures that may be necessary to assure the continued solvency of the Fund.
(7) The progress of the State in attaining the goals of reducing the use of Perchloroethylene F-1,1,3 (PERC) as established in G.S. 143-215.104T.
(8) The cost and effectiveness of dry-cleaning technologies and chemicals that offer an alternative to the use of Perchloroethylene F-1,1,3 (PERC).

(b) The Secretary shall make the annual report required by this section on or before 1 October of each year."

Section 21. Sections 1 and 2 of this act become effective July 1, 2001. G.S. 105-164.44E and G.S. 143-215.104C(b)(4), as enacted by this act, are repealed on July 1, 2010. The remainder of this act is effective when it becomes law, and Sections 3 and 4 of this act apply retroactively to April 1, 1998.

HOUSE BILL 1326:
Dry-Cleaning Solvent Amendments

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Representative Gibson
Date:	July 6, 1999	**Summary by:**	Rick Zechini, Cindy Avrette Committee Counsel .
Version:	Proposed Committee Substitute		

SUMMARY: ***House Bill 1326 earmarks a percentage of the State sales and use taxes collected on dry-cleaning services to the Dry-Cleaning Solvent Fund, and amends the Dry-Cleaning Solvent Cleanup Act of 1997 by repealing the requirement of financial responsibility for dry-cleaning facilities, allowing the Environmental Management Commission, and by delegation the Department of Environment and Natural Resources, to enter into contracts for the cleanup of contamination resulting from dry-cleaning facilities, and making other changes to the Dry-Cleaning Solvent Cleanup Act of 1997.***

CURRENT LAW AND BACKGROUND: The Dry-Cleaning Solvent Cleanup Act of 1997 (Act) is designed to facilitate the cleanup of contamination at dry-cleaning facilities. The Act employs two monetary tools to assist parties in cleaning up contaminated dry-cleaning facilities:

1. Pollution and remediation legal liability insurance; and
2. The Dry-Cleaning Solvent Cleanup Fund (Fund).

It was thought that all dry-cleaners would be able to purchase this type of insurance, and thus the insurance would provide funds to assist in the cleanup of contaminated dry-cleaning facilities. There is an incentive to purchase this insurance because eligibility for reimbursement from the Fund is contingent on the owner of the dry-cleaning facility having satisfied the Act's financial responsibility requirement. The financial responsibility requirement is satisfied by establishing and maintaining financial responsibility for legal liability for dry-cleaning solvent contamination at the facility by either:

1. Obtaining pollution and remediation legal liability insurance for the facility with coverage limits not less than $1,000,000; or,
2. Depositing securities or an acceptable third-party bond in an amount not less than $1,000,000.

The type of insurance that the Act requires is not available, and therefore the Fund is the sole source of financial assistance available for cleaning up contaminated dry-cleaning facilities. The source of the revenue for the Fund is a tax on dry-cleaning solvent. Currently the Fund is receiving roughly $1,000,000 per year from the dry-cleaning solvent tax. After the applicable deductibles are meet, monies from the Fund may be used to reimburse an owner of a dry-cleaning facility for the costs the owner expends for cleanup. Because of the limited amount of monies in the Fund and the fact that the Fund is also the source of funding for the administration of the Dry-Cleaning Program, no monies from the Fund have been disbursed for cleaning up contaminated dry-cleaning facilities.

BILL ANALYSIS: House Bill 1326 earmarks a percentage of the State sales and use taxes collected on dry-cleaning services to the Dry-Cleaning Solvent Fund.

The amount to be transferred is as follows:

Fiscal Year	Percentage
2001-2002	15%
2002-2003	30%
2003-2004	45%
2004-2010	60%

The earmarking of State sales and use taxes collected on dry-cleaning services to the Dry-Cleaning Solvent Fund sunsets July 1, 2010. The bill **does not** affect the tax on dry-cleaning solvent and the revenue from the dry-cleaning solvent tax will continue to be credited to the Fund.

House Bill 1326 also amends the Act in the following ways:

- Repealing the requirement of financial responsibility for dry-cleaning facilities.
- Raising the level of the deductibles that have to be met before an owner of a dry-cleaning facility may access the Fund to pay for cleanup costs.
- Allowing the Dry-Cleaning Program to be a "State lead" program. This allows the Environmental Management Commission, and by delegation the Department of Environment and Natural Resources, to enter into contracts with environmental consultants for the cleanup of contaminated dry-cleaning facilities. Currently an owner of a dry-cleaning facility contracts with an environmental consultant to do the cleanup work and seeks reimbursement from the Fund.
- Establishing State goals for reducing the use of dry-cleaning solvent.
- Requiring the Department of Environment and Natural Resources to report to the Environmental Review Commission on the progress in attaining these goals and the possible alternatives to the use of dry-cleaning solvents.

HOUSE BILL 1326:
Dry-Cleaning Solvent Amendments

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Representative Gibson
Date:	July 6, 1999	**Summary by:**	Rick Zechini, Cindy Avrette
Version:	PCS for 1st Edition H1326-PCS1312		Committee Counsel

SUMMARY: ***House Bill 1326 earmarks a percentage of the State sales and use taxes collected on dry-cleaning services to the Dry-Cleaning Solvent Fund. It also amends the Dry-Cleaning Solvent Cleanup Act of 1997 in three ways:***

- ***It repeals the requirement of financial responsibility for dry-cleaning facilities.***
- ***It allows the Environmental Management Commission, and by delegation the Department of Environment and Natural Resources, to enter into contracts for the cleanup of contamination resulting from dry-cleaning facilities.***
- ***It makes other changes to the Dry-Cleaning Solvent Cleanup Act of 1997.***

CURRENT LAW AND BACKGROUND: The Dry-Cleaning Solvent Cleanup Act of 1997 (Act) is designed to facilitate the cleanup of contamination at dry-cleaning facilities. The Act employs two monetary tools to assist parties in cleaning up contaminated dry-cleaning facilities:

1. Pollution and remediation legal liability insurance; and
2. The Dry-Cleaning Solvent Cleanup Fund (Fund).

It was thought that all dry-cleaners would be able to purchase this type of insurance, and thus the insurance would provide funds to assist in the cleanup of contaminated dry-cleaning facilities. There is an incentive to purchase this insurance because eligibility for reimbursement from the Fund is contingent on the owner of the dry-cleaning facility having satisfied the Act's financial responsibility requirement. The financial responsibility requirement is satisfied by establishing and maintaining financial responsibility for legal liability for dry-cleaning solvent contamination at the facility by either:

1. Obtaining pollution and remediation legal liability insurance for the facility with coverage limits not less than $1,000,000; or,
2. Depositing securities or an acceptable third-party bond in an amount not less than $1,000,000.

The type of insurance that the Act requires is not available, and therefore the Fund is the sole source of financial assistance available for cleaning up contaminated dry-cleaning facilities. The source of the revenue for the Fund is a tax on dry-cleaning solvent. Currently the Fund is receiving roughly $1,000,000 per year from the dry-cleaning solvent tax. After the applicable deductibles are meet, monies from the Fund may be used to reimburse an owner of a dry-cleaning facility for the costs the owner expends for cleanup. Because of the limited amount of monies in the Fund and the fact that the Fund is also the

source of funding for the administration of the Dry-Cleaning Program, no monies from the Fund have been disbursed for cleaning up contaminated dry-cleaning facilities.

BILL ANALYSIS: House Bill 1326 earmarks a percentage of the State sales and use taxes collected on dry-cleaning services to the Dry-Cleaning Solvent Fund. The amount to be transferred is as follows:

Fiscal Year	Percentage
2001-2002	15%
2002-2003	30%
2003-2004	45%
2004-2010	60%

The earmarking of State sales and use taxes collected on dry-cleaning services to the Dry-Cleaning Solvent Fund sunsets July 1, 2010. The bill **does not** affect the tax on dry-cleaning solvent and the revenue from the dry-cleaning solvent tax will continue to be credited to the Fund.

House Bill 1326 also amends the Act in the following ways:

- Repealing the requirement of financial responsibility for dry-cleaning facilities.
- Raising the level of the deductibles that have to be met before an owner of a dry-cleaning facility may access the Fund to pay for cleanup costs.
- Allowing the Dry-Cleaning Program to be a "State lead" program. This allows the Environmental Management Commission, and by delegation the Department of Environment and Natural Resources, to enter into contracts with environmental consultants for the cleanup of contaminated dry-cleaning facilities. Currently an owner of a dry-cleaning facility contracts with an environmental consultant to do the cleanup work and seeks reimbursement from the Fund.
- Establishing State goals for reducing the use of dry-cleaning solvent.
- Requiring the Department of Environment and Natural Resources to report to the Environmental Review Commission on the progress in attaining these goals and the possible alternatives to the use of dry-cleaning solvents.

FISCAL ANALYSIS MEMORANDUM

DATE: July 1, 1999

TO: House Finance Committee

FROM: Richard Bostic
Fiscal Research Division

RE: Dry-Cleaning Solvent Cleanup Amends.

FISCAL IMPACT

Yes (X) **No** ( ) **No Estimate Available** ( )

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
General Fund - Sales Tax Transfer			($2,300,000)	($4,600,000)	($6,900,000)
Dry-Cleaning Solvent Cleanup Fund			$2,300,000	$4,600,000	$6,900,000

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue (DOR); Environmental Management Commission

EFFECTIVE DATE: Section 3 of the bill dealing with the transfer of sales tax is effective July 1, 2001.

BILL SUMMARY:
This fiscal memo looks only at the transfer of sales tax receipts from the General Fund to the Dry-Cleaning Solvent Cleanup Fund.

BACKGROUND:
A state sales tax of 4% and local sales tax of 2% is imposed on the gross receipts of businesses "operating a dry-cleaning, pressing, or hat blocking establishment, a laundry, or any similar business, engaged in the business of renting clean linen or towels or wearing apparel, or any similar business, or engaged in the business of soliciting cleaning, pressing, hat blocking, laundering or linen rental business for any of these businesses." A 1% sales tax with a $80 maximum is applied to sales of dry-cleaning and laundering machinery. Items used in the dry-

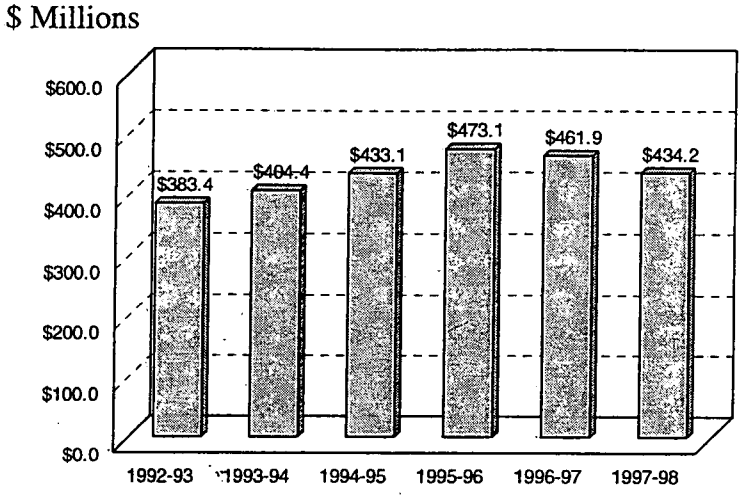
cleaning and laundering process such as starch, soap, cleaning fluids, hangers, and bags are exempted from sales and use tax.

ASSUMPTIONS AND METHODOLOGY:

REVENUE

The gross retail sales for laundries and dry cleaners have declined in recent years from a high of $473.1 million in 1995-96 to $434.3 million in 1997-98. Gross retail sales in the current fiscal year are on pace to finish at $431 million. This fiscal note will assume gross retail sales of $435 million a year with no growth.

GROSS RETAIL SALES FOR LAUNDRIES AND DRY CLEANERS



Gross retail sales includes both taxable and nontaxable sales reported on monthly and semimonthly sales and use tax returns. To estimate the impact of HB 1326, nontaxable sales must be removed from the equation. Dividing sales tax collection by 4%, then dividing that result by gross retail sales provides the percentage of taxable sales. From 1993 to 1999, the percentage of taxable sales ranged from 81.6% in FY 1996-97 to 90.3% in the first seven months of 1998-99 (see chart below). This fiscal memo will assume the midpoint of this range or 87.9%. If $435 million in gross retail sales of laundry and dry-cleaning services each year, then 87.9% or $382,365,000 in sales are taxable.

	Sales Tax Collected	Gross Retail Sales	Percent (%) Taxable
FY 1998-99	$ 9,075,796	$251,316,232	90.3%
FY 1997-98	$15,225,715	$434,290,844	87.6%
FY 1996-97	$15,085,579	$461,954,623	81.6%
FY 1995-96	$16,091,521	$473,132,389	85.0%
FY 1994-95	$15,234,188	$433,121,056	87.9%
FY 1993-94	$14,426,870	$404,433,777	89.2%
FY 1992-93	$13,689,558	$383,399,394	89.3%

A 4% state sales tax on $383.4 million in dry-cleaning, laundry and linen rental services is equal to $15.34 million. HB 1326 transfers a portion of these state sales tax receipts from dry cleaning and laundry services from the General Fund to the Dry-Cleaning Solvent Cleanup Fund as follows:

	% of Tax Transferred	Amount Transferred
FY 1999-00		
FY 2000-01		
FY 2001-02	15%	$2.3 million
FY 2002-03	30%	$4.6 million
FY 2003-04	45%	$6.9 million
FY 2004-05	60%	$9.2 million
FY 2005-06	60%	$9.2 million

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 1340 A BILL TO BE ENTITLED AN ACT TO ESTABLISH THE RESPIRATORY CARE PRACTICE ACT.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 1340
Committee Substitute Favorable 6/23/99

Short Title: Respiratory Care Practice Act. (Public)

Sponsors:

Referred to:

April 26, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE RESPIRATORY CARE PRACTICE ACT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 37.

"Respiratory Care Practice Act.

"**§ 90-646. Short title.**

This Article may be cited as the 'Respiratory Care Practice Act'.

"**§ 90-647. Purpose.**

The General Assembly finds that the practice of respiratory care in the State of North Carolina affects the public health, safety, and welfare and that the mandatory licensure of persons who engage in respiratory care is necessary to ensure a minimum standard of competency. It is the purpose and intent of this Article to protect the public from the unqualified practice of respiratory care and from unprofessional conduct by persons licensed pursuant to this Article.

"**§ 90-648. Definitions.**

The following definitions apply in this Article:

(1) Board. -- The North Carolina Respiratory Care Board.

(2) Diagnostic testing. -- Cardiopulmonary procedures and tests performed on the written order of a physician licensed under Article 1 of this Chapter that provide information to the physician to formulate a diagnosis of the patient's condition. The tests and

procedures may include pulmonary function testing, electrocardiograph testing, cardiac stress testing, and sleep related testing.

(3) Direct supervision. -- The authority and responsibility to direct the performance of activities as established by policies and procedures for safe and appropriate completion of services.

(4) Individual. -- A human being.

(5) License. -- A certificate issued by the Board recognizing the person named therein as having met the requirements to practice respiratory care as defined in this Article.

(6) Licensee. -- A person who has been issued a license under this Article.

(7) Medical director. -- An appointed physician who is licensed under Article 1 of this Chapter and a member of the entity's medical staff, and who is granted the authority and responsibility for assuring and establishing policies and procedures and that the provision of such is provided to the quality, safety, and appropriateness standards as recognized within the defined scope of practice for the entity.

(8) Person. -- An individual, corporation, partnership, association, unit of government, or other legal entity.

(9) Physician. -- A doctor of medicine licensed by the State of North Carolina in accordance with Article 1 of this Chapter.

(10) Practice of respiratory care. -- As defined by the written order of a physician licensed under Article 1 of this Chapter, the observing and monitoring of signs and symptoms, general behavior, and general physical response to respiratory care treatment and diagnostic testing, including the determination of whether such signs, symptoms, reactions, behavior, or general response exhibit abnormal characteristics, and the performance of diagnostic testing and therapeutic application of:

a. Medical gases, humidity, and aerosols including the maintenance of associated apparatus, except for the purpose of anesthesia.

b. Pharmacologic agents related to respiratory care procedures, including those agents necessary to perform hemodynamic monitoring.

c. Mechanical or physiological ventilatory support.

d. Cardiopulmonary resuscitation and maintenance of natural airways, the insertion and maintenance of artificial airways under the direct supervision of a recognized medical director in a health care environment which identifies these services within the scope of practice by the facility's governing board.

e. Hyperbaric oxygen therapy.
f. Nontraditional cardiopulmonary support techniques in appropriately identified environments and under the training and practice guidelines established by the appropriate professional associations.

The term also means the interpretation and implementation of a physician's written or verbal order pertaining to the acts described in this subdivision.

(11) Respiratory care. -- As defined by the written order of a physician licensed under Article 1 of Chapter 90, the treatment, management, diagnostic testing, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system.

(12) Respiratory care practitioner. -- A person who has been licensed by the Board to engage in the practice of respiratory care.

(13) Support activities. -- Procedures that do not require formal academic training, including the delivery, setup, and maintenance of apparatus. The term also includes giving instructions on the use, fitting, and application of apparatus, but does not include therapeutic evaluation and assessment.

"**§ 90-649. North Carolina Respiratory Care Board; creation.**

(a) The North Carolina Respiratory Care Board is created. The Board shall consist of nine members as follows:

(1) Two members shall be respiratory care practitioners.
(2) Three members shall be physicians licensed to practice in North Carolina, and whose primary practice is Pulmonology, Anesthesiology, Critical Care Medicine, or whose specialty is Cardiothoracic Disorders.
(3) One member shall represent the NCHA.
(4) One member shall represent the North Carolina Association of Medical Equipment Services.
(5) Two members shall represent the public at large.

(b) Members of the Board shall be citizens of the United States and residents of this State. The respiratory care practitioner members shall have practiced respiratory care for at least five years and shall be licensed under this Article. The public members shall not be: (i) a respiratory care practitioner, (ii) an agent or employee of a person engaged in the profession of respiratory care, (iii) a health care professional licensed under this Chapter or a person enrolled in a program to become a licensed health care professional, (iv) an agent or employee of a health care institution, a health care insurer, or a health care professional school, (v) a member of an allied health profession or a person enrolled in a program to become a member of an allied health profession, or (vi) a spouse of an individual who may not serve as a public member of the Board.

"**§ 90-650. Appointments and removal of Board members; terms and compensation.**

(a) The members of the Board shall be appointed as follows:

(1) The Governor shall appoint the public members described in G.S. 90-649(a)(5).

(2) The General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint one of the respiratory care practitioner members described in G.S. 90-649(a)(1) and one of the physician members described in G.S. 90-649(a)(2) in accordance with G.S. 120-121.

(3) The General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint one of the respiratory care practitioner members described in G.S. 90-649(a)(1) and one of the physician members described in G.S. 90-649(a)(2) in accordance with G.S. 120-121.

(4) The North Carolina Medical Society shall appoint one of the physician members described in G.S. 90-649(a)(2).

(5) The North Carolina Hospital Association shall appoint the member described in G.S. 90-649(a)(3).

(6) The North Carolina Association of Medical Equipment Services shall appoint the member described in G.S. 90-649(a)(4).

(b) Members of the Board shall take office on the first day of July immediately following the expired term of that office and shall serve for a term of three years and until their successors are appointed and qualified. No member shall serve on the Board for more than two consecutive terms.

(c) The Governor may remove members of the Board, after notice and an opportunity for hearing, for incompetence, neglect of duty, unprofessional conduct, conviction of any felony, failure to meet the qualifications of this Article, or committing any act prohibited by this Article.

(d) Any vacancy shall be filled by the authority originally filling that position, except that any vacancy in appointments by the General Assembly shall be filled in accordance with G.S. 120-122. Appointees to fill vacancies shall serve the remainder of the unexpired term and until their successors have been duly appointed and qualified.

(e) Members of the Board shall receive no compensation for their services but shall be entitled to travel, per diem, and other expenses authorized by G.S. 93B-5.

(f) Individual members shall be immune from civil liability arising from activities performed within the scope of their official duties.

"**§ 90-651. Election of officers; meetings of the Board.**

(a) The Board shall elect a chair and a vice-chair who shall hold office according to rules adopted pursuant to this Article, except that all officers shall be elected annually by the Board for one-year terms and shall serve until their successors are elected and qualified.

(b) The Board shall hold at least two regular meetings each year as provided by rules adopted pursuant to this Article. The Board may hold additional meetings

upon the call of the chair or any two Board members. A majority of the Board membership shall constitute a quorum.

"**§ 90-652. Powers and duties of the Board.**

The Board shall have the power and duty to:

(1) Determine the qualifications and fitness of applicants for licensure, renewal of licensure, and reciprocal licensure.

(2) Establish and adopt rules necessary to conduct its business, carry out its duties, and administer this Article.

(3) Adopt and publish a code of ethics.

(4) Deny, issue, suspend, revoke, and renew licenses in accordance with this Article.

(5) Conduct investigations, subpoena individuals and records, and do all other things necessary and proper to discipline persons licensed under this Article and to enforce this Article.

(6) Employ professional, clerical, investigative, or special personnel necessary to carry out the provisions of this Article and purchase or rent office space, equipment, and supplies.

(7) Adopt a seal by which it shall authenticate its proceedings, official records, and licenses.

(8) Conduct administrative hearings in accordance with Article 3A of Chapter 150B of the General Statutes.

(9) Establish certain reasonable fees as authorized by this Article for applications for examination, licensure, provisional licensure, renewal of licensure, and other services provided by the Board.

(10) Submit an annual report to the North Carolina Medical Board, the North Carolina Hospital Association, the North Carolina Society of Respiratory Care, the Governor, and the General Assembly of all the Board's official actions during the preceding year, together with any recommendations and findings regarding improvements of the practice of respiratory care.

(11) Publish and make available upon request the licensure standards prescribed under this Article and all rules adopted pursuant to this Article.

(12) Request and receive the assistance of State educational institutions or other State agencies.

(13) Establish and approve continuing education requirements for persons seeking licensure under this Article.

"**§ 90-653. Licensure requirements; examination.**

(a) Each applicant for licensure under this Article shall meet the following requirements:

(1) Submit a completed application as required by the Board.

(2) Submit any fees required by the Board.

(3) Submit to the Board written evidence, verified by oath, that the applicant has successfully completed the minimal requirements of a

respiratory care education program as approved by the Commission for Accreditation of Allied Health Educational Programs.

(4) Submit to the Board written evidence, verified by oath, that the applicant has successfully completed the minimal requirements for Basic Cardiac Life Support as recognized by the American Heart Association.

(5) Pass the entry-level examination given by the National Board for Respiratory Care, Inc.

(b) At least three times each year, the Board shall cause the examination required in subdivision (5) of subsection (a) of this section to be given to applicants at a time and place to be announced by the Board. Any applicant who fails to pass the first examination may take additional examinations in accordance with rules adopted pursuant to this Article.

"§ 90-654. Exemption from certain requirements.

(a) The Board may issue a license to an applicant who, as of October 1, 1999, has passed the entry-level examination given by the National Board for Respiratory Care, Inc. An applicant applying for licensure under this subsection shall submit his or her application to the Board before October 1, 2001.

(b) The Board may grant a temporary license to an applicant who, as of October 1, 1999, does not meet the qualifications of G.S. 90-653 but, through written evidence verified by oath, demonstrates that he or she is performing the duties of a respiratory care practitioner within the State. The temporary license is valid until October 1, 2000, within which time the applicant shall be required to complete the requirements of G.S. 90-653(a)(5). A license granted under this subsection shall contain an endorsement indicating that the license is temporary and shall state the date the license was granted and the date it expires.

"§ 90-655. Licensure by reciprocity.

The Board may grant, upon application and the payment of proper fees, a license to a person who, at the time of application holds a valid license, certificate, or registration as a respiratory care practitioner issued by another state or a political territory or jurisdiction acceptable to the Board if, in the Board's determination, the requirements for that license, certificate, or registration are substantially the same as the requirements for licensure under this Article.

"§ 90-656. Provisional license.

The Board may grant a provisional license for a period not exceeding 12 months to any applicant who has successfully completed the education requirements under G.S. 90-653(a)(3) and has made application to take the examination required under G.S. 90-653(a)(5). A provisional license allows the individual to practice respiratory care under the supervision of a respiratory care practitioner and in accordance with rules adopted pursuant to this Article. A license granted under this section shall contain an endorsement indicating that the license is provisional and stating the terms and conditions of its use by the licensee and shall state the date the license was granted and the date it expires.

"§ 90-657. Notification of applicant following evaluation of application.

After evaluation of the application and of any other evidence required from the applicant by the Board, the Board shall notify each applicant that the application and evidence submitted are satisfactory and accepted or unsatisfactory and rejected. If the application and evidence is rejected, the notice shall state the reasons for the rejection.

"§ 90-658. License as property of the Board; display requirement; renewal; inactive status.

(a) A license issued by the Board is the property of the Board and shall be surrendered by the licensee to the Board on demand.

(b) The licensee shall display the license in the manner prescribed by the Board.

(c) The licensee shall inform the Board of any change of the licensee's address.

(d) The license shall be renewed by the Board annually upon the payment of a renewal fee if, at the time of application for renewal, the applicant is not in violation of this Article and has fulfilled the current requirements regarding continuing education as established by rules adopted pursuant to this Article.

(e) The Board shall notify a licensee at least 30 days in advance of the expiration of his or her license. Each licensee is responsible for renewing his or her license before the expiration date. Licenses that are not renewed automatically lapse.

(f) The Board may provide for the late renewal of an automatically lapsed license upon the payment of a late fee. No late fee renewal may be granted more than five years after a license expires.

(g) In accordance with rules adopted pursuant to this Article, a licensee may request that his or her license be declared inactive and may thereafter apply for active status.

"§ 90-659. Suspension, revocation, and refusal to renew a license.

(a) The Board shall take the necessary actions to deny or refuse to renew a license, suspend or revoke a license, or to impose probationary conditions on a licensee or applicant if the licensee or applicant:

(1) Has engaged in any of the following conduct:

a. Employed fraud, deceit, or misrepresentation in obtaining or attempting to obtain a license or the renewal of a license.

b. Committed an act of malpractice, gross negligence, or incompetence in the practice of respiratory care.

c. Practiced respiratory care without a license.

d. Engaged in health care practices that are determined to be hazardous to public health, safety, or welfare.

(2) Was convicted of or entered a plea of guilty or nolo contendere to any crime involving moral turpitude.

(3) Was adjudicated insane or incompetent, until proof of recovery from the condition can be established.

(4) Engaged in any act or practice that violates any of the provisions of this Article or any rule adopted pursuant to this Article, or aided, abetted, or assisted any person in such a violation.

(b) Denial, refusal to renew, suspension, or revocation of a license, or imposition of probationary conditions upon a licensee may be ordered by the Board after a hearing held in accordance with Article 3A of Chapter 150B of the General Statutes and rules adopted pursuant to this Article. An application may be made to the Board for reinstatement of a revoked license if the revocation has been in effect for at least one year.

"§ 90-660. Expenses; fees.

(a) All salaries, compensation, and expenses incurred or allowed for carrying out the purposes of this Article shall be paid by the Board exclusively out of the fees received by the Board as authorized by this Article or funds received from other sources. In no case shall any salary, expense, or other obligations of the Board be charged against the State.

(b) All monies received by the Board pursuant to this Article shall be deposited in an account for the Board and shall be used for the administration and implementation of this Article. The Board shall establish fees in amounts to cover the cost of services rendered for the following purposes:

(1) For an initial application, a fee not to exceed twenty-five dollars ($25.00).

(2) For examination or reexamination, a fee not to exceed one hundred fifty dollars ($150.00).

(3) For issuance of any license, a fee not to exceed one hundred dollars ($100.00).

(4) For the renewal of any license, a fee not to exceed fifty dollars ($50.00).

(5) For the late renewal of any license, an additional late fee not to exceed fifty dollars ($50.00).

(6) For a license with a provisional or temporary endorsement, a fee not to exceed thirty-five dollars ($35.00).

(7) For copies of rules adopted pursuant to this Article and licensure standards, charges not exceeding the actual cost of printing and mailing.

"§ 90-661. Requirement of license.

After October 1, 2000, it shall be unlawful for any person who is not currently licensed under this Article to:

(1) Engage in the practice of respiratory care.

(2) Use the title 'respiratory care practitioner'.

(3) Use the letters 'RCP', 'RTT', 'RT', or any facsimile or combination in any words, letters, abbreviations, or insignia.

(4) Imply orally or in writing or indicate in any way that the person is a respiratory care practitioner or is otherwise licensed under this Article.

(5) Employ or solicit for employment unlicensed persons to practice respiratory care.

"§ 90-662. Violation a misdemeanor.

Any person who violates any provision of this Article shall be guilty of a Class 1 misdemeanor.

"**§ 90-663. Injunctions.**

The Board may apply to the superior court for an order enjoining violations of this Article, and upon a showing by the Board that any person has violated or is about to violate this Article, the court may grant an injunction or restraining order or take other appropriate action.

"**§ 90-664. Persons and practices not affected.**

The requirements of this Article shall not apply to:

(1) Any person registered, certified, credentialed, or licensed to engage in another profession or occupation or any person working under the supervision of a person registered, certified, credentialed, or licensed to engage in another profession or occupation in this State who is performing work incidental to the practice of that profession or occupation and does not represent himself or herself as a respiratory care practitioner.

(2) A student or trainee working under the direct supervision of a respiratory care practitioner while fulfilling an experience requirement or pursuing a course of study to meet requirements for licensure in accordance with rules adopted pursuant to this Article.

(3) A respiratory care practitioner serving in the armed forces or the Public Health Service of the United States or employed by the Veterans Administration when performing duties associated with that service or employment.

(4) A person aiding in the practice of respiratory care, in accordance with rules adopted pursuant to this Article, if the person works under the direct supervision of a respiratory care practitioner or on the order of or under the direct supervision of a physician licensed under Article 1 of this Chapter and performs only support activities as defined in G.S. 90-648(12).

"**§ 90-665. Third-party reimbursement.**

Nothing in this Article shall be construed to require direct third-party reimbursements to persons licensed under this Article."

Section 2. G.S. 120-123 is amended by adding a new subdivision to read:

"(70) The North Carolina Respiratory Care Board as created by Article 37 of Chapter 90 of the General Statutes."

Section 3. The initial appointments to the North Carolina Respiratory Care Board, created in G.S. 90-649, as enacted in Section 1 of this act, shall be appointed no later than October 1, 1999. Notwithstanding the provisions of G.S. 90-649(b), as enacted in Section 1 of this act, the initial members of the North Carolina Respiratory Care Board who are appointed pursuant to G.S. 90-649(a)(1) shall be licensed under Article 37 of Chapter 90 of the General Statutes, as enacted in Section 1 of this act, no later than June 30, 2000, and, until October 1, 2004, must have

passed the entry-level examination administered by the National Board for Respiratory Care, Inc. Notwithstanding the provisions of G.S. 90-650(b), as enacted in Section 1 of this act, of the initial appointments to the North Carolina Respiratory Care Board, one of the members appointed by the General Assembly, upon the recommendation of the Speaker of the House of Representatives, and one of the members appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall be appointed for three-year terms; one of the members appointed by the General Assembly, upon the recommendation of the Speaker of the House of Representatives, and one of the members appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall be appointed for two-year terms; the public member appointed by the Governor shall be appointed for a one-year term; the physician member appointed by the North Carolina Medical Society shall be appointed for a one-year term; and the members appointed by the North Carolina Hospital Association and the North Carolina Association of Medical Equipment Services shall be appointed for one-year terms.

Section 4. This act is effective when it becomes law.

HOUSE BILL 1340:
Respiratory Care Practice Act

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Representative Tolson
Date:	July 6, 1999	**Summary by:**	Mary Shuping
Version:	2nd Edition		Research Assistant

SUMMARY: ***House Bill 1340 establishes the Respiratory Care Practice Act for the purpose of licensing respiratory care practitioners. The bill sets up the Respiratory Care Board, establishes licensure requirements, provides for the denial, suspension, and revocation of licenses, establishes fees, provides that a violation is a Class 1 misdemeanor, and exempts certain persons and practices from licensure.***

House Bill 1340 was given a favorable assessment report by the Legislative Committee on New Licensing Boards.

CURRENT LAW: Under current law, respiratory care practitioners are not regulated. The North Carolina Society for Respiratory Care (NCSRC) promotes a voluntary certification and registration of respiratory care practitioners by the National Board of Respiratory Care. Currently, there are approximately 2,800 respiratory care practitioners in North Carolina (*Respiratory Care Questionnaire for the Legislative Committee on New Licensing Boards,* May 1999).

BILL ANALYSIS: Following is a summary of the Respiratory Care Practice Act.

G.S. 90-648. Definitions. ***(page 1, line 17 – page 3, line 20)*** Sets forth the definitions applicable in the Article, including the "practice of respiratory care" *(p. 2, line 24)* which are procedures that may be performed by a licensed respiratory care practitioner, and "support activities" *(p. 3, line 16)* which are procedures that do not require licensure.

G.S. 90-649 – G.S. 90-652. Respiratory Care Board. ***(page 3, line 21 – page 5, line 37)*** These sections establish the North Carolina Respiratory Care Board.

Membership. *(page 3, lines 21 – 43)* The Board will consist of nine members, as follows:

- 2 respiratory care practitioners – 1 appointed by the President Pro Tempore of the Senate, and 1 appointed by the Speaker of the House.
- 3 physicians whose primary practice is Plumonology, Anesthesiology, Critical Care Medicine, or Cardiothoracic Disorders – 1 appointed by the President Pro Tempore of the Senate, 1 appointed by the Speaker of the House, and 1 appointed by the NC Medical Society.
- 1 member of the Hospital Association, appointed by the Association.
- 1 member of the North Carolina Association of Medical Equipment Services, appointed by the Association
- 2 members of the public who are not medical professionals, appointed by the Governor.

This section also provides for terms, removal, vacancies, meetings and election of officers, and that members are immune from civil liability while arising from activities performed within the scope of their official duties.

Powers and Duties. *(page 5, lines 3 – 37)* This section authorizes the Board to:

- Determine the qualifications and fitness of applicants for licensure.
- Deny, suspend, revoke, and renew licenses.
- Conduct investigations, subpoena individuals and records in conducting disciplinary proceedings.
- Establish fees, in accordance with G.S. 90-660.
- Submit an annual report to the NC Medical Board, the NC Hospital Association, the NC Society of Respiratory Care, the Governor, and the General Assembly.
- Establish and approve continuing education requirements.

G.S. 90-653. Licensure. ***(page 5, line 38 – page 7, line 25)*** These sections set forth licensure requirements, certain exemptions, and reciprocity and provisional licensure requirements.

Licensure Requirements. *(page 5, line 38 – page 6, line 14)*. Applicants for licensure as respiratory care practitioners must:

- Submit a completed application
- Pay the required fees.
- Submit written evidence, verified by oath, that the applicant has successfully completed the minimal requirements for
  1. A respiratory care education program approved by the Commission for Accreditation of Allied Health Educational Programs; and,
  2. Basic Cardiac Life Support as recognized by the American Heart Association.
- Pass the entry-level exam given by the National Board for Respiratory Care, Inc.

Exemption from Certain Requirements. *(page 6, lines 15 – 27)* The Board may issue a license to an applicant who, as of October 1, 1999, has passed the entry-level exam. The applicant must submit the application for licensure before October 1, 2001.

The board may grant a temporary license to an applicant who, as of October 1, 1999, does not meet the qualifications for licensure, but has demonstrated through written evidence, verified by oath, that the applicant is performing the duties of a respiratory care practitioner. The temporary license is valid until October 1, 2000, and the applicant must pass the entry-level exam by that date.

Reciprocity. *(page 6, lines 28 – 34)* This section provides that a person licensed in another state may obtain licensure in North Carolina provided that the requirements for licensure in the other state are substantially the same as in North Carolina.

Provisional License. *(page 6, lines 35 – 44)* An applicant may receive a provisional license for up to 12 months if the applicant has successfully completed the respiratory care education program approved by the Commission for Accreditation of Allied Health Educational Programs, and has applied to take the

entry-level exam given by the National Board for Respiratory Care. A provisional license allows the person to practice only under the supervision of a licensed respiratory care practitioner.

G.S. 90-659. Disciplinary Procedures. ***(page 7, line 26 – page 8, line 6)*** The Board may deny, refuse to renew, revoke, or suspend a license, or impose probationary conditions if the person:

- Engaged in fraud, deceit, misrepresentation in obtaining a license;
- Committed an act of malpractice, gross negligence, or incompetence.
- Practiced without a license.
- Engaged in health care practices that are determined to be hazardous to the public.
- Was convicted or pleaded no contest to a crime involving moral turpitude.
- Was adjudicated insane or incompetent, until proof of recovery can be established.
- Violated any of the provisions of the Respiratory Care Practice Act.

G.S. 90-660. Fees. ***(page 8, lines 7 – 31)*** This section establishes the following maximum fees.

TYPE OF FEE	MAXIMUM FEE AMOUNT
Initial application	$25.00
Examination or Reexamination	$150.00
Issuance of License	$100.00
Renewal of License (annually)	$50.00
Late Renewal (additional fee)	$50.00
Provisional or Temporary License	$35.00
Copies of Board Rules, etc	Actual Cost

G.S. 90-661. License Required. ***(page 8, lines 32 – 43)*** As of October 1, 2000, it will be unlawful for anyone to practice respiratory care, use the title of "respiratory care practitioner", or employ unlicensed persons to practice respiratory care.

G.S. 90-662. Violation. ***(page 8, line 44 – page 9, line 2)*** Violation of the Respiratory Care Practice Act is a Class 1 misdemeanor.

G.S. 90-664. Exemptions from Licensure. ***(page 9, lines 8 – 31)*** Licensure requirements do *not* apply to the following:

- Any person who is registered, certified, credentialed, or licensed to engage in another profession or occupation, or any person working under the supervision of that person who is performing work incidental to the practice of respiratory care and does not represent himself or herself as a respiratory care practitioner.

- A student or trainee working under the direct supervision of a respiratory care practitioner while fulfilling requirements of the course of study.

- A person serving in the armed forces or the Public Health Service of the United States or employed by the Veterans Administration when performing duties associated with that service or employment.

- A person aiding in the practice of respiratory care, working under the supervision of a respiratory care practitioner, or physician, and who performs only support activities (procedures that do not require formal academic training, including the delivery, setup and maintenance of equipment.)

G.S. 90-665. Third Party Reimbursement. ***(page 9, lines 32 – 34)*** This section provides that the Respiratory Care Practice Act does not authorize respiratory care practitioners to bill directly for third-party reimbursement.

Section 2 ***(page 9, lines 35 – 37)*** provides that no member of the General Assembly may serve on the Board.

Section 3 ***(page 9, line 38 – page 10, line 16)*** sets up the initial terms of appointment to the Board.

EFFECTIVE DATE: The act is effective when it becomes law.

Linda Attarian, Counsel, House Health Committee, contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

DRAFT

BILL NUMBER: HB 1340 (Second Edition)

SHORT TITLE: Respiratory Care Practice Act

SPONSOR(S):

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Special Fund	$307,625	$125,750	$128,250	$130,750	$133,250
EXPENDITURES					
Special Fund	To be determined by Board				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Respiratory Care Board

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY:

This bill establishes the Respiratory Care Practice Act. It creates an eight member NC Respiratory Care Board with powers and duties that include determining qualifications and fitness of applicants for licensure, renewal of licensure, reciprocal licensure, and suspension, revocation, and refusal to renew license. Provides that after Oct. 1, 2000, it is unlawful for person to engage in practice of respiratory care without license. The bill sets the following maximum fees: (1) initial application, $25; (2) examination or reexamination, $150; (3) issuance of license, $100; (4) renewal of license, $50; (5) late renewal of license, $50; and (6) license with provisional or temporary endorsement, $35. Violation of any provision of Article is a Class 1 misdemeanor.

ASSUMPTIONS AND METHODOLOGY:

The North Carolina Society for Respiratory Care identified approximately 2,100 respiratory care practitioners in North Carolina in 1995. This number has grown to 2,300 in 1999 based on 1) the state's Community College System graduates approximately 110 respiratory care students each year, and 2) it is estimated that 60 respiratory care professionals retire or leave the profession each year. This net gain of 50 respiratory care professionals is expected to continue into the near future.

The chart below estimates the number of applications, licenses, license endorsements, and license renewals handled by the new North Carolina Respiratory Care Board each fiscal year.

	FY 99-00	FY 00-01	FY 01-02	FY 02-03	FY 03-04
Applications	2,300	110	110	110	110
Initial Licenses	2,300	110	110	110	110
Temporary Endorsements	575				
License Renewal		2,240	2,290	2,340	2,390

This fiscal note assumes that the Board will be appointed during FY 1999-00 and that Board staff will be hired in time to receive applications and issue licenses to 2300 current respiratory care practitioners in the state in FY 1999-00. Approximately 75% of the current professionals have passed an exam given by the National Board for Respiratory Care (NBRC) and will be issued a license. The remaining 25% of existing professionals will receive a license with a temporary endorsement until they complete the NBRC exam. Since the NBRC exam is given in March, July and November, it is assumed that this group will take the exam in July 2000 to meet the October 2000 deadline. Future year license renewal assumes an attrition rate of 60 professionals each year and increase of 110 new applicants from the Community Colleges.

The next chart shows the anticipated revenue from the proposed fees. Respiratory care practitioners will pay a $25 application fee and a $100 license fee in their first year in the program. The annual license renewal fee is $50. A respiratory care practitioner that has not passed the NBRC exam must pay $25 application fee, a $100 license fee, and a $35 temporary endorsement fee. The fee for the NBRC exam is $150 and goes directly to the national board and is not kept by the state board. This exam is already given to all those graduating from Community College respiratory care programs.

	FY 99-00	FY 00-01	FY 01-02	FY 02-03	FY 03-04
Applications ($25)	$57,500	$2,750	$2,750	$2,750	$2,750
Initial Licenses ($100)	$230,000	$11,000	$11,000	$11,000	$11,000
Temporary Endorsement ($35)	$20,125				
License Renewal ($50)		$112,000	$114,500	$117,000	$119,500
Total Fee Revenue	$307,625	$125,750	$128,250	$130,750	$133,250

TECHNICAL CONSIDERATIONS:
GS 90-660(b) (2) does not identify the $150 exam fee as the cost of the exam given by the National Board for Respiratory Care (NBRC).

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY:

DATE:

DRAFT

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 1466 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR WITHHOLDING OF NORTH CAROLINA INCOME TAXES FROM TAXABLE PENSIONS, ANNUITIES, AND DEFERRED COMPENSATION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#), ☐ which changes the title,~~ unfavorable as to ~~/~~original bill~~/~~ ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1466

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1466-ARB-7/2

Page 1 of __

Date July 6 ,1999

Comm. Sub. []
Amends Title []

Representative Hill

1 moves to amend the bill on page 2, line 29, by adding the following
2 word at the end of that line:
3 "number".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1466
Proposed Committee Substitute H1466-PCS4276-RB

Short Title: Pension Tax Withholding. (Public)

Sponsors:

Referred to:

May 12, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR WITHHOLDING OF NORTH CAROLINA INCOME TAXES FROM TAXABLE PENSIONS, ANNUITIES, AND DEFERRED COMPENSATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-163.1 is amended by adding two new subdivisions to read:

"(11a) Pension payer. -- A payor or a plan administrator with respect to a pension payment under section 3405 of the Code.

(11b) Pension payment. -- A periodic payment or a nonperiodic distribution that is not an eligible rollover distribution, as defined in section 3405 of the Code."

Section 2. G.S. 105-163.1(14) reads as rewritten:

"(14) Withholding agent. -- An ~~employer~~ employer, a pension payer, or a payer."

Section 3. Article 4A of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-163.2A. Pension payers must withhold taxes.**

(a) Definitions. -- The definitions provided in section 3405 of the Code apply in this section.

(b) Withholding Required. -- A pension payer required to withhold federal taxes under section 3405 of the Code on a pension payment to a resident of this State must deduct and withhold from the payment the State income taxes payable on the

payment. Liability for withholding and paying taxes under this section on a pension payment falls on the person who would be liable under section 3405 of the Code for withholding federal taxes on the payment.

Except as otherwise provided in this section, the provisions of this Article apply to a pension payer's pension payment to a resident of this State as if it were an employer's payment of wages to an employee. If a pension payer has more than one arrangement under which it may make pension payments to a resident of this State, each arrangement must be treated separately under this section.

(c) Amount. -- In the case of a periodic payment, the pension payer must withhold the amount that would be required to be withheld under this Article if the payment were a payment of wages by an employer to an employee for the appropriate payroll period. If the recipient of periodic payments fails to file an exemption certificate under G.S. 105-163.5, the pension payer must compute the amount to be withheld as if the recipient were a married individual claiming three withholding exemptions.

In the case of a nonperiodic distribution, the pension payer must withhold taxes equal to four percent (4%) of the nonperiodic distribution.

(d) Election of No Withholding. -- The recipient may elect not to have taxes withheld under this section. The election must be in the form required by the Secretary. In the case of periodic payments, the election remains in effect until revoked by the recipient. In the case of a nonperiodic distribution, the election applies on a distribution-by-distribution basis unless it meets conditions prescribed by the Secretary for it to apply to subsequent nonperiodic distributions by the pension payer.

A pension payer must notify each recipient of the right to elect not to have taxes withheld under this section. The notice must comply with the requirements of section 3405 of the Code and any additional requirements prescribed by the Secretary.

A recipient's election not to have taxes withheld under this section is void if the recipient fails to furnish the recipient's tax identification number to the pension payer, or the Secretary has notified the pension payer that the tax identification number furnished by the recipient is incorrect.

(e) Exemptions. -- This section does not apply to the following pension payments:

(1) A pension payment that is wages under this Article.

(2) Any portion of a pension payment that meets both of the following conditions:

a. It is not a distribution or payment from an individual retirement plan as defined in section 7701 of the Code.

b. The pension payer reasonably believes it is not taxable to the recipient under Article 4 of this Chapter.

(3) A distribution described in section 404(k)(2) of the Code, relating to dividends on corporate securities.

(4) A pension payment that consists only of securities of the recipient's employer corporation plus cash not in excess of two

hundred dollars ($200.00) in lieu of securities of the employer corporation."

Section 4. This act becomes effective January 1, 2001.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1466

Short Title: Pension Tax Withholding. (Public)

Sponsors: Representative Cansler.

Referred to: Finance

May 12, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR WITHHOLDING OF NORTH CAROLINA INCOME TAXES FROM TAXABLE PENSIONS, ANNUITIES, AND DEFERRED COMPENSATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-163.1 is amended by adding two new subdivisions to read:

"(11a) Pension payer. -- A payor or a plan administrator with respect to a pension payment under section 3405 of the Code.

(11b) Pension payment. -- A periodic payment or a nonperiodic distribution that is not an eligible rollover distribution, as defined in section 3405 of the Code."

Section 2. G.S. 105-163.1(14) reads as rewritten:

"(14) Withholding agent. -- An ~~employer~~ employer, a pension payer, or a payer."

Section 3. Article 4A of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-163.2A. Pension payers must withhold taxes.**

(a) Definitions. -- The definitions provided in section 3405 of the Code apply in this section.

(b) Withholding Required. -- A pension payer required to withhold federal taxes under section 3405 of the Code on a pension payment to a resident of this State must deduct and withhold from the payment the State income taxes payable on the payment. Liability for withholding and paying taxes under this section on a pension

payment falls on the person who would be liable under section 3405 of the Code for withholding federal taxes on the payment.

Except as otherwise provided in this section, the provisions of this Article apply to a pension payer's pension payment to a resident of this State as if it were an employer's payment of wages to an employee. If a pension payer has more than one arrangement under which it may make pension payments to a resident of this State, each arrangement must be treated separately under this section.

(c) Amount. -- In the case of a periodic payment, the pension payer must withhold the amount that would be required to be withheld under this Article if the payment were a payment of wages by an employer to an employee for the appropriate payroll period. If the recipient of periodic payments fails to file an exemption certificate under G.S. 105-163.5, the pension payer must compute the amount to be withheld as if the recipient were a married individual claiming three withholding exemptions.

In the case of a nonperiodic distribution, the pension payer must withhold taxes equal to four percent (4%) of the nonperiodic distribution.

(d) Election of No Withholding. -- The recipient may elect not to have taxes withheld under this section. The election must be in the form required by the Secretary. In the case of periodic payments, the election remains in effect until revoked by the recipient. In the case of a nonperiodic distribution, the election applies on a distribution-by-distribution basis unless it meets conditions prescribed by the Secretary for it to apply to subsequent nonperiodic distributions by the pension payer.

A pension payer must notify each recipient of the right to elect not to have taxes withheld under this section. The notice must comply with the requirements of section 3405 of the Code and any additional requirements prescribed by the Secretary.

A recipient's election not to have taxes withheld under this section is void if the recipient fails to furnish the recipient's tax identification number to the pension payer, or the Secretary has notified the pension payer that the tax identification furnished by the recipient is incorrect.

(e) Exemptions. -- This section does not apply to the following pension payments:

(1) A pension payment that is wages under this Article.

(2) Any portion of a pension payment that meets both of the following conditions:

a. It is not a distribution or payment from an individual retirement plan as defined in section 7701 of the Code.

b. The pension payer reasonably believes it is not taxable to the recipient under Article 4 of this Chapter.

(3) A distribution described in section 404(k)(2) of the Code, relating to dividends on corporate securities.

(4) A pension payment that consists only of securities of the recipient's employer corporation plus cash not in excess of two hundred dollars ($200.00) in lieu of securities of the employer corporation."

Section 4. This act becomes effective January 1, 2001.

HOUSE BILL 1466:
Pension Tax Withholding

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Cansler
Date:	July 6, 1999	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: House Bill 1466 requires a person paying pensions, annuities, and deferred compensation to withhold North Carolina individual income tax from the payments unless the recipient elects not to have the tax withheld. The bill becomes effective January 1, 2001.

CURRENT LAW: As a general rule, retirement income is not considered wages for income tax purposes. Under federal law, withholding is required on pensions, annuities, and certain deferred income, including IRAs. However, North Carolina does not piggyback this aspect of federal withholding law. Individuals whose income is not subject to withholding must estimate their income tax liability each year and pay the tax in four installments.

The Department of Revenue does allow voluntary withholding by employers. The holder of an IRA, although not an employer, may also enter into a voluntary withholding agreement. The voluntary agreements are optional – the payee can refuse to do it. Also, if the payer withholds the tax but does not pay it to the Department of Revenue, the taxpayer's only recourse is against the payer. The Department cannot credit the taxpayer and pursue the payer.

BILL ANALYSIS: House Bill 1466 provides that a pension payer required to withhold federal income tax on a pension payment to a resident of North Carolina must also withhold State income tax. A recipient may elect to not have tax withheld from the pension payment. The pension payer must notify each recipient of the right to elect not to have tax withheld.

In the case of periodic payments, the pension payer must withhold as if the recipient were a married person with three exemptions, unless the recipient provides an exemption certificate reflecting a different filing status or number of exemptions. For a non-periodic payment, the pension payer must withhold 4% of the payment. A pension payer who fails to withhold or remit the tax that is withheld is liable for the tax.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1466 (First Edition)

SHORT TITLE: Pension Tax Withholding

SPONSOR(S): Representative Lanier Cansler

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
General Fund	see ASSUMPTIONS AND METHODOLOGY				
EXPENDITURES					
General Fund	No Fiscal Impact				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: This act becomes effective January 1, 2001.

BILL SUMMARY:
The bill provides that a pension payer required to withhold federal taxes on a pension payment to a North Carolina resident must withhold state taxes on a pension payment, annuity, or deferred compensation unless the recipient elects not to withhold.

BACKGROUND:
Under current law, an employer or pension payer may enter into a voluntary agreement to withhold North Carolina tax on pensions or other income not requiring withholding. However, because the agreement is voluntary, the Department of Revenue may not pursue the pension payer for tax it withholds but does not remit. If the pension payer does not remit the tax to the Department of Revenue, then the retiree or pension recipient is not allowed credit against his tax liability for the tax withheld.

ASSUMPTIONS AND METHODOLOGY:
This bill does not apply to federal, state and local retirees with 5 years creditable service as of August 12, 1989. These groups are exempt from state income tax due to a court decision in the Bailey, Emory, and Patton lawsuits. Instead the bill will help the estimated 280,000 private sector

retirees in the state with pension income (estimate by Fiscal Research Division using Current Population Survey).

The Internal Revenue Service (IRS) does not know how many taxpayers have federal income tax withheld from their pension payment, annuity, or deferred compensation. When a company submits withheld income taxes, it does not separately account for current and former employees. Similarly, the North Carolina Department of Revenue has no data on the number of taxpayers that have chosen voluntary withholding of their pension payment, annuity, or deferred compensation. Without state and federal tax data, no estimate can be made on the General Fund impact of HB 1466. It can be assumed that the state General Fund could gain interest on funds that are withheld monthly instead of submitted quarterly in estimated payments. Unfortunately, the extent of this gain cannot be quantified.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY: Tom Covington

DATE: Monday, June 21, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1471 A BILL TO BE ENTITLED AN ACT TO ADJUST THE MATURITY DATE OF THE 1996 HIGHWAY BONDS TO REFLECT A CHANGE IN THE ESTIMATED COMPLETION DATE OF HIGHWAY TRUST FUND PROJECTS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1471

Short Title: Adjust Highway Bond Maturity. (Public)

Sponsors: Representative Crawford.

Referred to: Finance.

May 13, 1999

A BILL TO BE ENTITLED

AN ACT TO ADJUST THE MATURITY DATE OF THE 1996 HIGHWAY BONDS TO REFLECT A CHANGE IN THE ESTIMATED COMPLETION DATE OF HIGHWAY TRUST FUND PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. The General Assembly finds that:

(1) The State Highway Bond Act of 1996 provided, subject to a vote of the qualified voters of the State, for the issuance of nine hundred fifty million dollars ($950,000,000) general obligation bonds of the State for certain highway purposes.

(2) These bonds were approved by the voters.

(3) The State Highway Bond Act of 1996 stated that the bonds could be used to expedite the completion of certain highway projects that would otherwise be funded from the Highway Trust Fund only when sufficient revenues were generated.

(4) The State Highway Bond Act of 1996 also stated the intent of the General Assembly that the debt service on the bonds be paid for with the revenues that would otherwise be deposited to the Highway Trust Fund to fund highway construction.

(5) The State Highway Bond Act of 1996 recognized that these revenues would be available only until the Highway Trust Fund sunset upon completion of the highway construction it funds, estimated to occur at the end of 2013, and thus required that the bonds must mature not later than that date.

(6) Since 1996, it has been determined that the Highway Trust Fund construction projects will not be completed by 2013 but instead could take until at least 2020.

(7) Accordingly, the 2013 deadline set for the maturity of the highway bonds is no longer appropriate, and should be extended to the current estimated date for completion of Highway Trust Fund projects, which is 2020.

Section 2. Section 2(b) of Chapter 590 of the 1995 Session Laws (1996) reads as rewritten:

"(b) Findings and determinations. -- The General Assembly finds that:

(1) Pursuant to Chapter 692 of the 1989 Session Laws, the General Assembly created the Highway Trust Fund, provided for revenues to be deposited to the Highway Trust Fund, and designated how the revenues may be expended.

(2) As contemplated by Chapter 692, highway construction to be funded from the Highway Trust Fund is funded on a "pay-as-you-go" basis, with highway construction proceeding based upon the amount of funds to be available to pay the costs of the construction on a current basis, and this highway construction is expected to be completed and funded by December 31, ~~2013.~~ 2020.

(3) Providing funds from the proceeds of bonds as authorized in this act will expedite the completion of construction of urban loops, Intrastate System highways, and necessary improvements to the State secondary road highway system that otherwise would be constructed only when sufficient revenues were generated to fund this construction.

(4) The State could issue the bonds authorized by this act, expediting this construction, and could provide sufficient funds to pay debt service on the bonds from the moneys otherwise to be deposited to the Highway Trust Fund to fund highway construction.

(5) Sufficient moneys are expected to be deposited to the Highway Trust Fund to pay anticipated debt service on the bonds authorized by this act.

(6) Although the bonds authorized by this act will constitute general obligation bonds, secured by the faith and credit and taxing power of the State, and although the funds deposited to the Highway Trust Fund are not specifically pledged to pay debt service on the bonds, it is the intent of the General Assembly that the debt service on the bonds authorized by this act will be provided from amounts deposited to the Highway Trust Fund, and certain amendments to Chapter 692 of the 1989 Session Laws are necessary to facilitate this funding of payments."

Section 3. Section 10(a) of Chapter 590 of the 1995 Session Laws (1996) reads as rewritten:

"(a) Terms and conditions. Bonds or notes may bear such date or dates, may be serial or term bonds or notes, or any combination thereof, may mature in such amounts and at such time or times, not later than December 1, ~~2013,~~ 2020, may be payable at such place or places, either within or without the United States of America, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts, may bear interest at such rate or rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at such price or prices, including a price less than the face amount of the bonds or notes, and under such terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State."

Section 4. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE July 6, 1999

S. B. No. 244, 5th Edition Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) Hackney
Sen.)

moves to amend the bill on page 17, lines 6-12

( ) WHICH CHANGES THE TITLE

by rewriting the lines to read:

"five years after the holder filed a report with the Treasurer in which the holder specifically identified property, should have but failed to identify property, or gave express notice to the treasurer of a dispute regarding property. In the absence of such a report or other."

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

withdrawn to be raised. (Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE July 6, 1999

S. B. No. 244 Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) Pope
Sen.)

moves to amend the bill on page 7, line 37

( ) WHICH CHANGES THE TITLE

by rewriting the line to read:

"(e) Except as provided by the Uniform Commercial Code, property is payable or distributable for purposes of this Chapter".

SIGNED Pope

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 244

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H244-ARB-7/2.5

Date July 6 ,1999

Comm. Sub. [YES]
Amends Title []
Fifth Edition

Representative Pope

moves to amend the bill on page 10, line 2, by adding the following at the end of that line to read:
"In asserting these affirmative defenses, a holder who is also the issuer may satisfy the holder's burden of proof by showing a written acknowledgement by the payee of a check, draft, or similar instrument that no obligation is owed the payee."

SIGNED Pope
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 244

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H244-ARB-7/2.5

Date_____,1999

Comm. Sub. [YES]
Amends Title []
Fifth Edition

Representative_____

moves to amend the bill on page 10, line 2, by adding the following at the end of that line to read:
"In asserting these affirmative defenses, a holder who is also the issuer may satisfy the holder's burden of proof by showing a written acknowledgement by the payee of a check, draft, or similar instrument that no obligation is owed the payee."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 244

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H244-ARB-7/2.5

Date_____,1999

Comm. Sub. [YES]
Amends Title []
Fifth Edition

Representative _____

moves to amend the bill on page 10, line 2, by adding the following at the end of that line to read:
"In asserting these affirmative defenses, a holder who is also the issuer may satisfy the holder's burden of proof by showing a written acknowledgement by the payee of a check, draft, or similar instrument that no obligation is owed the payee."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 5

SENATE BILL 244*
Judiciary I Committee Substitute Adopted 5/26/99
Finance Committee Substitute No. 2 Adopted 6/9/99
Finance Committee Substitute No. 3 Adopted 6/15/99
Fifth Edition Engrossed 6/16/99

Short Title: Unclaimed Property Act/AB. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO ENACT THE NORTH CAROLINA UNCLAIMED PROPERTY ACT AND TO MAKE CONFORMING AMENDMENTS TO THE GENERAL STATUTES, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE OTHER CHANGES TO THE ESCHEATS LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116B-4 reads as rewritten:

"**§ 116B-4. Claim for escheated property.**

Any escheated property or proceeds from the sale of escheated property held by the Escheat Fund pursuant to ~~G.S. 116B-27~~ G.S. 116B-5 may be claimed by an heir of the decedent or by a creditor of the decedent who is not barred from presenting a claim under the provisions of Article 19 of ~~Chapter 28A.~~ Chapter 28A of the General Statutes. ~~The claim shall be made on a form prescribed by the Treasurer and shall be presented to the Treasurer. If the Treasurer determines that the claimant is entitled to all or a portion of the escheated property or the proceeds from its sale, he shall make payment of the claim or return of the property. The claimant shall agree to indemnify the State, the State Treasurer and the Escheat Fund from any claim arising out of or in connection with refund of the property claimed.~~ The provisions of ~~G.S. 116B-38(b) and (c)~~ G.S. 116B-67(a), (c), (d), and (e) and G.S. 116B-68 shall apply to a claim under this ~~subsection.~~ section."

Section 2. Article 2 of Chapter 116B of the General Statutes is repealed.

Section 3.(a) Except as provided in subsection (b) of this section, Article 3 of Chapter 116B of the General Statutes is repealed.

Section 3.(b) G.S. 116B-27 is recodified as G.S. 116B-5 within Article 1 of Chapter 116B of the General Statutes. G.S. 116B-36 is recodified as G.S. 116B-6 within Article 1 of Chapter 116B of the General Statutes. G.S. 116B-37 is recodified as G.S. 116B-7 within Article 1 of Chapter 116B of the General Statutes. G.S. 116B-47 is recodified as G.S. 116B-8 within Article 1 of Chapter 116B of the General Statutes.

Section 4.(a) G.S. 116B-6(b), as recodified by subsection (b) of Section 3 of this act, reads as rewritten:

"(b) Investment and Transfer of Assets; Income. -- The Treasurer ~~shall be~~ is the trustee of the Escheat Account and ~~shall have~~ has full power to invest and reinvest the assets of the Escheat Account and the Escheat Fund. Subject to the Treasurer's withholding an amount necessary to accomplish ~~his~~ the Treasurer's duties as set out in this Chapter, including subsections (e), (f) and (g) of this section, the Treasurer shall transfer, at least annually, to the Escheat Account all moneys then in ~~his~~ the Treasurer's custody received as, or derived from the disposition of, escheated and abandoned property and shall disburse to the State Education Assistance Authority, as provided in ~~G.S. 116B-37,~~ G.S. 116B-7, the income derived from the investment of the Escheat Account and the Escheat Fund. All moneys transferred to the Escheat Account under this section shall be accounted for and administered separately from other assets and money in the trust fund created under G.S. 116-209."

Section 4.(b) G.S. 116B-6(h) as recodified by subsection (b) of Section 3 of this act, reads as rewritten:

"(h) Expenditures. -- The Treasurer may expend the funds in the Escheat Fund, other than funds in the Escheat Account, for the payment of claims for refunds to owners, holders and claimants under G.S. 116B-4; for the payment of costs of maintenance and upkeep of abandoned or escheated property; costs of preparing lists of names of owners of abandoned property to be furnished to clerks of superior court; costs of notice and publication; costs of appraisals; fees of persons employed pursuant to ~~G.S. 116B-47;~~ G.S. 116B-8 costs involved in determining whether a decedent died without heirs; costs of a title search of real property that has escheated; and costs of auction or sale under this Chapter. All other costs, including salaries of personnel, necessary to carry out the duties of the Treasurer under this Chapter, shall be appropriated from the funds of the Escheat Fund pursuant to the provisions of Article 1, Chapter 143 of the General Statutes."

Section 5. G.S. 116B-8, as recodified by subsection (b) of Section 3 of this act, reads as rewritten:

"**§ 116B-8. Employment of persons with specialized skills or knowledge.**

The Treasurer may employ the services of such independent consultants, real estate managers and other persons possessing specialized skills or knowledge as ~~he shall deem~~ the Treasurer deems necessary or appropriate for the administration of this Chapter, ~~including, but specifically not limited to,~~ including valuation,

maintenance, upkeep, management, sale and conveyance of property and determination of sources of unreported abandoned property. The Treasurer may also employ the services of an attorney to perform a title search or to provide an accurate legal description of real property which ~~he~~ the Treasurer has reason to believe may have escheated. Persons whose services are employed by the Treasurer pursuant to this section to determine sources and amounts of unreported property are subject to the same policies, including confidentiality and ethics, as employees of the Department of State Treasurer assigned to determine sources and amounts of unreported property. Compensation of persons whose services are employed pursuant to this section on a contingent fee basis shall be limited to ten percent (10%) of the final assessment."

Section 6. Chapter 116B of the General Statutes is amended by adding the following new article to read:

"ARTICLE 4.

"North Carolina Unclaimed Property Act.

"**§ 116B-51. Short title.**

This Article may be cited as the 'North Carolina Unclaimed Property Act.'

"**§ 116B-52. Definitions.**

In this Chapter:

(1) 'Apparent owner' means a person whose name appears on the records of a holder as the person entitled to property held, issued, or owing by the holder.

(2) 'Business association' means a corporation, joint stock company, investment company, partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository, financial organization, insurance company, mutual fund, utility, or other business entity consisting of one or more persons, whether or not for profit.

(3) 'Domicile' means the state of incorporation of a corporation and the state of the principal place of business of a holder other than a corporation.

(4) 'Financial organization' means a savings and loan association, building and loan association, savings bank, industrial bank, bank, banking organization, or credit union.

(5) 'Holder' means a person obligated to hold for the account of or deliver or pay to the owner property that is subject to this Chapter.

(6) 'Insurance company' means an association, corporation, or fraternal or mutual benefit organization, whether or not for profit, engaged in the business of providing life endowments, annuities, or insurance, including accident, burial, casualty, credit life, contract performance, dental, disability, fidelity, fire, health, hospitalization, illness, life, malpractice, marine, mortgage, surety, wage protection, and workers' compensation insurance.

(7) 'Mineral' means gas, oil, coal, other gaseous, liquid, and solid hydrocarbons, oil shale, cement material, sand and gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resource, or any other substance defined as a mineral by the law of this State.

(8) 'Mineral proceeds' means amounts payable for the extraction, production, or sale of minerals, or, upon the abandonment of those payments, all payments that become payable thereafter. The term includes amounts payable:

a. For the acquisition and retention of a mineral lease, including bonuses, royalties, compensatory royalties, shut-in royalties, minimum royalties, and delay rentals;

b. For the extraction, production, or sale of minerals, including net revenue interests, royalties, overriding royalties, extraction payments, and production payments; and

c. Under an agreement or option, including a joint operating agreement, unit agreement, pooling agreement, and farm-out agreement.

(9) 'Owner' means a person who has a legal or equitable interest in property subject to this Chapter or the person's legal representative. The term includes a depositor in the case of a deposit, a beneficiary in the case of a trust other than a deposit in trust, and a creditor, claimant, or payee in the case of other property.

(10) 'Person' means an individual, business association, financial organization, estate, trust, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(11) 'Property' means tangible personal property physically located within this State or a fixed and certain interest in intangible property that is held, issued, or owed in the course of a holder's business, or by a government, governmental subdivision, agency, or instrumentality, and all income or increments therefrom. The term includes property that is referred to as or evidenced by:

a. Money, a check, draft, deposit, interest, or dividend;

b. Credit balance, customer's overpayment, gift certificate, security deposit, refund, credit memorandum, unpaid wage, unused ticket, mineral proceeds, or unidentified remittance;

c. Stock or other evidence of ownership of an interest in a business association;

d. A bond, debenture, note, or other evidence of indebtedness;

e. Money deposited to redeem stocks, bonds, coupons, or other securities, or to make distributions;

f. An amount due and payable under the terms of an annuity or insurance policy, including policies providing life insurance, property and casualty insurance, workers' compensation insurance, or health and disability insurance; and

g. An amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.

(12) 'Record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(13) 'State' means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.

(14) 'Treasurer' means the Treasurer of the State of North Carolina or the Treasurer's designated agent.

(15) 'Utility' means a person who owns or operates for public use any plant, equipment, real property, franchise, or license for the transportation of the public, the transmission of communications, or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

"§ 116B-53. Presumptions of abandonment.

(a) Property is unclaimed if the apparent owner has not communicated in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder, with the holder concerning the property or the account in which the property is held, and has not otherwise indicated an interest in the property. A communication with an owner by a person (other than the holder or its representative) who has not, in writing, identified the property to the owner is not an indication of interest in the property by the owner.

(b) An indication of an interest in property includes:

(1) The presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

(2) The presentment of a check or other instrument of payment of interest made with respect to debt of a business association or, in the case of an interest payment made by electronic or similar means, evidence that the interest payment has been received;

(3) Owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease, or change the amount or type of property held in the account;

(4) The making of a deposit to or withdrawal from an account in a financial organization;

(5) Owner activity in another account with the holder of a deposit described in subdivisions (c)(2) and (c)(6) of this section; and

(6) The payment of a premium with respect to a property interest in an insurance policy; but the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

(c) Property is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:

(1) Traveler's check, 15 years after issuance;

(2) Time deposit, including a deposit that is automatically renewable, 10 years after the later of initial maturity or the date of the last indication by the owner of interest in the property;

(3) Money order, cashier's check, teller's check, and certified check, seven years after issuance;

(4) Stock or other equity interest in a business association, including a security entitlement under Article 8 of the Uniform Commercial Code, Chapter 25 of the General Statutes, five years after the earlier of:

a. The date of a cash dividend or other cash distribution unclaimed by the apparent owner, or

b. The date of the second mailing of a stock certificate or other evidence of ownership, a statement of account, or other notification or communication which second mailing was returned as undeliverable or the date the holder discontinued mailings, notifications, or communications to the apparent owner;

(5) Debt of a business association, other than a bearer bond or an original issue discount bond, five years after the date of an interest payment unclaimed by the apparent owner;

(6) Demand or savings deposit, five years after the date of the last indication by the owner of interest in the property;

(7) Money or credits owed to a customer as a result of a retail business transaction, three years after the obligation accrued;

(8) Any gift certificate or electronic gift card bearing an expiration date and remaining unredeemed or dormant for more than three years after the gift certificate or electronic gift card was sold is deemed abandoned. The amount abandoned is deemed to be sixty

percent (60%) of the unredeemed portion of the face value of the gift certificate or the electronic gift card;

(9) Amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, three years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, three years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;

(10) Property distributable by a business association in a course of dissolution, one year after the property becomes distributable;

(11) Property received by a court as proceeds of a class action, and not distributed pursuant to the judgment, one year after the distribution date;

(12) Property held by a court, government, governmental subdivision, agency, or instrumentality, one year after the property becomes distributable;

(13) Wages or other compensation for personal services, two years after the compensation becomes payable;

(14) Deposit or refund owed to a subscriber by a utility, one year after the deposit or refund becomes payable;

(15) Property in an individual retirement account, defined benefit plan, or other account or plan that is qualified for tax deferral under the income tax laws of the United States, three years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan, or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty; and

(16) All other property, five years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs.

(d) At the time that an interest in property is presumed abandoned under subsection (c) of this section, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

(e) Property is payable or distributable for purposes of this Chapter notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment or distribution.

"§ 116B-54. Exclusion for forfeited reservation deposits, certain gift certificates or electronic gift cards, prepaid calling cards, certain manufactured home buyer deposits, and certain credit balances.

(a) A forfeited reservation deposit is not abandoned property. For the purposes of this section, the term 'reservation deposit' means an amount of money paid to a

business association to guarantee that the business association holds a specific service, such as a room accommodation at a hotel, seating at a restaurant, or an appointment with a doctor, for a specified date and place. The term 'reservation deposit' does not include an application fee, a utility deposit, or a deposit made toward the purchase of real property.

(b) A gift certificate or electronic gift card is not abandoned property when the gift certificate or electronic gift card:

(1) Conspicuously states that the gift certificate or electronic gift card does not expire;

(2) Bears no expiration date; or

(3) States that a date of expiration printed on the gift certificate or electronic gift card is not applicable in North Carolina.

(c) A prepaid calling card issued by a public utility as defined in G.S. 62-3(23)a.6. is not abandoned property.

(d) A buyer deposit that a dealer is authorized to retain under either G.S. 143-143.21A or G.S. 143-143.21B is not abandoned property and is not subject to this Article.

(e) Credit balances as shown on the records of a business association to or for the benefit of another business association, shall not constitute abandoned property. For purposes of this section, the term 'credit balances' means items such as overpayments or underpayments on the sale of goods or services.

"§ 116B-55. Contents of safe deposit box or other safekeeping depository.

Contents of a safe deposit box or other safekeeping depository held by a financial organization is presumed abandoned if the apparent owner has not claimed the property within the period established by G.S. 53-43.7 and shall be delivered to the Treasurer as provided by that section. If the contents include property described in G.S. 116B-53, the Treasurer shall hold the property for the remainder of the applicable period set forth in that section before the property is deemed to be received for purpose of sale under G.S. 116B-65.

"§ 116B-56. Rules for taking custody.

(a) Except as otherwise provided in this Chapter or by other statute of this State, property that is presumed abandoned, whether located in this or another state, is subject to the custody of this State if:

(1) The last known address of the apparent owner, as shown on the records of the holder, is in this State;

(2) The records of the holder do not reflect the identity of the person entitled to the property, and it is established that the last known address of the person entitled to the property is in this State;

(3) The records of the holder do not reflect the last known address of the apparent owner and it is established that:

a. The last known address of the person entitled to the property is in this State; or

b. The holder is domiciled in this State or is a government or governmental subdivision, agency, or instrumentality of this

State and has not previously paid or delivered the property to the state of the last known address of the apparent owner or other person entitled to the property;

(4) The last known address of the apparent owner, as shown on the records of the holder, is in a state that does not provide for the escheat or custodial taking of the property, and the holder is domiciled in this State or is a government or governmental subdivision, agency, or instrumentality of this State;

(5) The last known address of the apparent owner, as shown on the records of the holder, is in a foreign country, and the holder is domiciled in this State or is a government or governmental subdivision, agency, or instrumentality of this State; or

(6) The property is a traveler's check or money order purchased in this State or the issuer of the traveler's check or money order has its principal place of business in this State and the issuer's records show that the instrument was purchased in a state that does not provide for the escheat or custodial taking of the property or do not show the state in which the instrument was purchased.

(b) In the case of an amount payable under the terms of an annuity or insurance policy, the last known address of the person entitled to the property is presumed to be the same as the last known address of the insured or the principal, as shown on the records of the insurance company, if:

(1) A person other than the insured or the principal is entitled to the property; and

(2) Either:

a. No address of the person is known to the insurance company; or

b. The records of the insurance company do not reflect the identity of the person.

"§ 116B-57. Dormancy charge; other lawful charges.

(a) A holder may deduct from property presumed abandoned a reasonable charge imposed by reason of the owner's failure to claim the property within a specified time only if there is a valid and enforceable written contract between the holder and the owner under which the holder may impose the charge and the holder regularly imposes the charge, which is not regularly reversed or otherwise canceled.

(b) This Chapter does not prevent a holder from deducting from property presumed abandoned other lawful charges specifically authorized by statute or by a valid and enforceable contract.

"§ 116B-58. Burden of proof as to property evidenced by record of check or draft.

A record of the issuance of a check, draft, or similar instrument is prima facie evidence of an obligation. In claiming property from a holder who is also the issuer, the Treasurer's burden of proof as to the existence and amount of the property and its abandonment is satisfied by showing issuance of the instrument and passage of the

requisite period of abandonment. Defenses of payment, satisfaction, discharge, and want of consideration are affirmative defenses that must be established by the holder.

"§ 116B-59. Notice by holders to apparent owners.

(a) A holder of property presumed abandoned shall make a good faith effort to locate an apparent owner.

(b) The holder shall send written notice, by first-class mail, to the apparent owner, not more than 120 days or less than 60 days before filing the report required by G.S. 116B-60, to the last known address of the apparent owner as reflected in the holder's records, if the value of the property is fifty dollars ($50.00) or more.

(c) The notice must contain:

(1) A statement that, according to the records of the holder, property is being held to which the addressee appears entitled and the amount or description of the property;

(2) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder;

(3) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the following October 1 or, if the holder is an insurance company, by the following April 1, the property will be placed in the custody of the Treasurer, to whom all further claims shall be directed.

"§ 116B-60. Report of abandoned property; certification by holders with tax return.

(a) A holder of property presumed abandoned shall make a report to the Treasurer concerning the property.

(b) The report must be verified and must contain:

(1) A description of the property;

(2) Except with respect to a traveler's check or money order, the name, if known, and last known address, if any, and the social security number or taxpayer identification number, if readily ascertainable, of the apparent owner of property of the value of fifty dollars ($50.00) or more;

(3) An aggregated amount of items valued under fifty dollars ($50.00) each;

(4) In the case of an amount of fifty dollars ($50.00) or more held or owing under an annuity or a life or endowment insurance policy, the full name and last known address of the annuitant or insured and of the beneficiary;

(5) The date, if any, on which the property became payable, demandable, or returnable, and the date of the last transaction or communication with the apparent owner with respect to the property; and

(6) Other information that the Treasurer by rule prescribes as necessary for the administration of this Chapter.

(c) If a holder of property presumed abandoned is a successor to another person who previously held the property for the apparent owner or the holder has changed its name while holding the property, the holder shall file with the report its former names, if any, and the known names and addresses of all previous holders of the property.

(d) The report must be filed before November 1 of each year and cover the 12 months next preceding July 1 of that year, but a report with respect to a life insurance company must be filed before May 1 of each year for the calendar year next preceding.

(e) Before the date for filing the report, the holder of property presumed abandoned may request the Treasurer to extend the time for filing the report. A request for an extension for filing a report shall be accompanied by an extension processing fee of ten dollars ($10.00). The Treasurer may grant the extension for good cause. The holder, upon receipt of the extension, may make an interim payment on the amount the holder estimates will ultimately be due, which terminates the accrual of additional interest on the amount paid.

(f) The holder of property presumed abandoned shall file with the report an affidavit stating that the holder has complied with G.S. 116B-59.

(g) Every business association holding property presumed abandoned under this Chapter shall certify the holding in the income tax return required by Chapter 105 of the General Statutes. The certification shall be a part of the tax return with which it is filed. If the business association is not required to file an income tax return under Chapter 105, the certification shall be made in the form and manner required by the Secretary of Revenue. The information appearing on the certification is not privileged or confidential, and this information shall be furnished by the Secretary of Revenue to the Escheat Fund on October 1 of each year, or if this date shall fall on a weekend or holiday, on the next regular business day.

"§ 116B-61. Payment or delivery of abandoned property.

(a) Upon filing the report required by G.S. 116B-60, the holder of property presumed abandoned shall pay, deliver, or cause to be paid or delivered to the Treasurer the property described in the report, but if the property is an automatically renewable deposit, and a penalty or forfeiture in the payment of interest would result, the time for compliance is extended to the next filing and delivery date at which a penalty or forfeiture would no longer result.

(b) If the property reported to the Treasurer is a security or security entitlement under Article 8 of Chapter 25 of the General Statutes, the Treasurer is an appropriate person to make an indorsement, instruction, or entitlement order on behalf of the apparent owner to invoke the duty of the issuer or its transfer agent or the securities intermediary to transfer or dispose of the security or the security entitlement in accordance with Article 8 of Chapter 25 of the General Statutes.

(c) If the holder of property reported to the Treasurer is the issuer of a certificated security, the Treasurer has the right to obtain a replacement certificate pursuant to G.S. 25-8-405, but an indemnity bond is not required.

(d) An issuer, the holder, and any transfer agent or other person acting pursuant to the instructions of and on behalf of the issuer or holder in accordance with this section is not liable to the apparent owner and must be indemnified against claims of any person in accordance with G.S. 116B-63.

"**§ 116B-62. Preparation of list of owners by Treasurer.**

(a) There shall be delivered to the clerk of superior court of each county prior to June 30 of each year a list prepared by the Treasurer of escheated and abandoned property reported to the Treasurer. The list shall contain:

(1) The names, if known, in alphabetical order of surname, and last known addresses, if any, of apparent owners of escheated and abandoned property;

(2) The names and addresses of the holders of the abandoned property; and

(3) A statement that claim and proof of legal entitlement to escheated or abandoned property shall be presented by the owner to the Treasurer, which statement shall set forth where further information may be obtained.

(b) At the time the lists are distributed to the clerks of superior court, the Treasurer shall cause to be published once each week for two consecutive weeks, in at least two newspapers having general circulation in this State, a notice stating the nature of the lists and that the lists are available for inspection at the offices of the respective clerks of superior court, together with any other information the Treasurer deems appropriate to appear in the notice.

(c) The Treasurer is not required to include in any list any item of a value, as determined by the Treasurer, in the Treasurer's discretion, of less than fifty dollars ($50.00), unless the Treasurer deems inclusion of items of lesser amounts to be in the public interest.

(d) The clerks of superior court shall retain the lists on permanent file in their offices and shall make them available for public inspection.

(e) The lists prepared by the Treasurer shall include only escheated and abandoned property reported for the current reporting date and are not required to be cumulative lists of escheated and abandoned property previously reported.

(f) Notwithstanding the provisions of Chapter 132 of the General Statutes, the supporting data and lists of apparent owners of escheated and abandoned property may be confidential until six months after the notice to clerks of superior court required by subsection (b) of this section has been distributed. This subsection shall not apply to owners of reported property making inquiries about their property to the Escheat Fund.

"**§ 116B-63. Custody by State; recovery by holder; defense of holder.**

(a) In this section, payment or delivery is made in 'good faith' if:

(1) Payment or delivery was made in a reasonable attempt to comply with this Chapter;

(2) The holder was not then in breach of a fiduciary obligation with respect to the property and had a reasonable basis for believing,

based on the facts then known, that the property was presumed abandoned; and

(3) There is no showing that the records under which the payment or delivery was made did not meet reasonable commercial standards of practice.

(b) Upon payment or delivery of property to the Treasurer, the State assumes custody and responsibility for the safekeeping of the property. A holder who pays or delivers property to the Treasurer in good faith is relieved of all liability arising thereafter with respect to the property.

(c) A holder who has paid money to the Treasurer pursuant to this Chapter may subsequently make payment to a person reasonably appearing to the holder to be entitled to payment. Upon a filing by the holder of proof of payment and proof that the payee was entitled to the payment, the Treasurer shall promptly reimburse the holder for the payment without imposing a fee or other charge. If reimbursement is sought for a payment made on a negotiable instrument, including a traveler's check or money order, the holder must be reimbursed upon filing proof that the instrument was duly presented and that payment was made to a person who reasonably appeared to be entitled to payment. The holder must be reimbursed for payment made even if the payment was made to a person whose claim was barred under G.S. 116B-71(a).

(d) A holder who has delivered property other than money to the Treasurer pursuant to this Chapter may reclaim the property if it is still in the possession of the Treasurer,without paying any fee or other charge, upon filing proof that the apparent owner has claimed the property from the holder.

(e) The Treasurer may accept a holder's affidavit as sufficient proof of the holder's right to recover money and property under this section.

(f) If a holder pays or delivers property to the Treasurer in good faith and thereafter another person claims the property from the holder or another state claims the money or property under its laws relating to escheat or abandoned or unclaimed property, the Treasurer, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim resulting from payment or delivery of the property to the Treasurer.

"§ 116B-64. Income or gain accruing after payment or delivery.

If property other than money is delivered to the Treasurer under this Chapter, the owner is entitled to receive from the Treasurer any income or gain realized or accruing on the property at or before liquidation or conversion of the property into money. If the property is interest-bearing or pays dividends, the interest or dividends shall be paid until the date on which the amount of the deposits, accounts, or funds, or the shares must be remitted or delivered to the Treasurer under G.S. 116B-61. Otherwise, when property is delivered or paid to the Treasurer, the Treasurer shall hold the property without liability for income or gain.

"§ 116B-65. Public sale of abandoned property.

(a) Except as otherwise provided in this section, the Treasurer, within three years after the receipt of abandoned property, shall sell it to the highest bidder at public sale at a location in the State which in the judgment of the Treasurer affords the most

favorable market for the property. The Treasurer may decline the highest bid and reoffer the property for sale if the Treasurer considers the bid to be insufficient. The Treasurer need not offer the property for sale if the Treasurer considers that the probable cost of sale will exceed the proceeds of the sale. A sale held under this section must be preceded by a single publication of notice, at least three weeks before sale, in a newspaper of general circulation in the county in which the property is to be sold. The Treasurer is not required to sell money unless it is a collector's species having value greater than the face value of the money as cash.

(b) Securities listed on an established stock exchange must be sold at prices prevailing on the exchange at the time of sale. Other securities may be sold over the counter at prices prevailing at the time of sale or by any reasonable method selected by the Treasurer. If securities are sold by the Treasurer before the expiration of three years after their delivery to the Treasurer, a person making a claim under this Chapter before the end of the three-year period is entitled to the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever is greater, less any deduction for expenses of sale. A person making a claim under this Chapter after the expiration of the three-year period is entitled to receive the securities delivered to the Treasurer by the holder, if they still remain in the custody of the Treasurer, or the net proceeds received from sale, and is not entitled to receive any appreciation in the value of the property occurring after delivery to the Treasurer, except in a case of intentional misconduct by the Treasurer.

(c) A purchaser of property at a sale conducted by the Treasurer pursuant to this Chapter takes the property free of all claims of the owner or previous holder and of all persons claiming through or under them. The Treasurer shall execute all documents necessary to complete the transfer of ownership.

"§ 116B-66. Claim of another state to recover property.

(a) After property has been paid or delivered to the Treasurer under this Article, another state may recover the property if:

(1) The property was paid or delivered to the custody of this State because the records of the holder did not reflect a last known location of the apparent owner within the borders of the other state, and the other state establishes that the apparent owner or other person entitled to the property was last known to be located within the borders of that state and under the laws of that state the property has escheated or become subject to a claim of abandonment by that state;

(2) The property was paid or delivered to the custody of this State because the laws of the other state did not provide for the escheat or custodial taking of the property, and under the laws of that state subsequently enacted, the property has escheated or become subject to a claim of abandonment by that state;

(3) The records of the holder were erroneous in that they did not accurately identify the owner of the property and the last known location of the owner within the borders of another state, and

under the laws of that state the property has escheated or become subject to a claim of abandonment by that state;

(4) The property was subjected to custody by this State under G.S. 116B-56(6), and under the laws of the state of domicile of the holder, the property has escheated or become subject to a claim of abandonment by that state; or

(5) The property is a sum payable on a traveler's check, money order, or similar instrument that was purchased in the other state and delivered into the custody of this State under G.S. 116B-56(7), and under the laws of the other state, the property has escheated or become subject to a claim of abandonment by that state.

(b) A claim of another state to recover escheated or abandoned property must be presented in a form prescribed by the Treasurer, who shall decide the claim within 90 days after it is presented. The Treasurer shall allow the claim upon determining that the other state is entitled to the abandoned property under subsection (a) of this section.

(c) The Treasurer shall require another state, before recovering property under this section, to agree to indemnify this State and its officers and employees against any liability on a claim to the property.

"§ 116B-67. Claim for property paid or delivered to the Treasurer.

(a) A person, excluding another state, claiming property paid or delivered to the Treasurer may file a claim on a form prescribed by the Treasurer and verified by the claimant.

(b) At the discretion of the Treasurer, the claim shall be made to the holder or to the holder's successor. If the holder is satisfied that the claim is valid and that the claimant is the owner of the property, the holder shall so certify to the Treasurer by written statement attested by the holder under oath, or in the case of a corporation, by two principal officers, or one principal officer and an authorized employee of the corporation. The determination of the holder that the claimant is the owner shall, in the absence of fraud, be binding upon the Treasurer and upon receipt of the certificate of the holder to this effect, the Treasurer shall forthwith authorize and make payment of the claim or return of the property, or if the property has been sold, the amount received from the sale, to the owner, or to the holder in the event the owner has assigned the claim to the holder and the certificate of the holder is accompanied by an assignment. In the event the holder rejects the claim, the claimant may appeal to the Treasurer.

If the holder, or the holder's successor, is not available, the owner may file a claim with the Treasurer on a form prescribed by the Treasurer. In addition to any other information, the claim shall state the facts surrounding the unavailability of the holder and the lack of a successor.

(c) Within 90 days after a claim is filed, the Treasurer shall allow or deny the claim and give written notice of the decision to the claimant. If the claim is denied, the Treasurer shall inform the claimant of the reasons for the denial and specify what

additional evidence is required before the claim will be allowed. The claimant may then file a new claim with the Treasurer or maintain an action under G.S. 116B-68.

(d) Within 30 days after a claim is allowed, the property or the net proceeds of a sale of the property must be delivered or paid by the Treasurer to the claimant.

(e) The claimant or claimants and the holder, if the holder either certifies that the claimant is the owner under subsection (b) of this section or recovers money and property from the Treasurer under G.S. 116B-63, shall agree to indemnify, save harmless, and defend the State, the Treasurer, and the Escheat Fund from any claim arising out of or in connection with refund of the property claimed. In like manner, the claimant shall also agree to indemnify, save harmless, and defend the holder, if the holder certifies the claim under subsection (b) of this section or pays or delivers property to the claimant under G.S. 116B-63.

"§ 116B-68. Action to establish claim.

A person aggrieved by a decision of the Treasurer or whose claim has not been acted upon within 90 days after its filing may maintain an original action to establish the claim in the Superior Court of Wake County, naming the Treasurer as a defendant.

"§ 116B-69. Election to take payment or delivery.

(a) The Treasurer may decline to receive property reported under this Chapter which the Treasurer considers to have a value less than the expenses of notice and sale.

(b) A holder, with the written consent of the Treasurer and upon conditions and terms prescribed by the Treasurer, may report and deliver property before the property is presumed abandoned. Property so delivered must be held by the Treasurer and is not presumed abandoned until it otherwise would be presumed abandoned under this Article.

"§ 116B-70. Destruction or disposition of property having no substantial commercial value; immunity from liability; property of historical significance.

(a) If the Treasurer determines after investigation that property delivered under this Chapter has no substantial commercial value, the Treasurer may destroy or otherwise dispose of the property at any time. An action or proceeding may not be maintained against the State or any officer, employee, or agent of the State, both past and present, in the person's individual and official capacity, or against the holder for or on account of an act of the Treasurer under this subsection, except for intentional misconduct.

(b) Notwithstanding the provisions of G.S. 116B-65, the Treasurer may retain any tangible property delivered to the Treasurer, if the property has recognized historic significance. The historic significance shall be certified by the Treasurer, with the advice of the Secretary of Cultural Resources; and a statement of the appraised value of the property shall be filed with the certification. Historic property retained under this subsection may be stored and displayed at any suitable location.

"§ 116B-71. Periods of limitation.

(a) The expiration, before or after the effective date of this Article, of a period of limitation on the owner's right to receive or recover property, whether specified by

contract, statute, or court order, does not preclude the property from being presumed abandoned or affect a duty of a holder to file a report or to pay or deliver or transfer property to the Treasurer as required by this Article.

(b) An action or proceeding may not be maintained by the Treasurer to enforce this Article in regard to the reporting, delivery, or payment of property more than three years after the holder filed a report with the Treasurer in which the holder specifically identified property, should have but failed to identify property, or gave express notice to the Treasurer of a dispute regarding property. However, the period of limitation is extended to six years after the holder filed a report if the holder failed to identify more than twenty-five percent (25%) of the value of the property or to give express notice to the Treasurer of a dispute regarding more than twenty-five percent (25%) of the value of the property. In the absence of such a report or other express notice, the period of limitation is tolled. The period of limitation is also tolled by the filing of a report that is fraudulent.

"**§ 116B-72. Requests for reports and examination of records.**

(a) The Treasurer may require a person who has not filed a report, or a person who the Treasurer believes has filed an inaccurate, incomplete, or false report, to file a verified report in a form specified by the Treasurer. The report must state whether the person is holding property reportable under this Chapter, describe property not previously reported or as to which the Treasurer has made inquiry, and specifically identify and state the value of property that may be in issue.

(b) The Treasurer, at reasonable times and upon reasonable notice, may examine the records of any person to determine whether the person has complied with this Chapter. The Treasurer may conduct the examination even if the person believes it is not in possession of any property that must be reported, paid, or delivered under this Chapter. The Treasurer may contract with any other person to conduct the examination on behalf of the Treasurer.

(c) The Treasurer at reasonable times may examine the records of an agent, including a dividend disbursing agent or transfer agent, of a business association that is the holder of property presumed abandoned if the Treasurer has given the notice required by subsection (b) of this section to both the association and the agent at least 90 days before the examination.

(d) Documents and working papers obtained or compiled by the Treasurer, or the Treasurer's agents, employees, or designated representatives, in the course of conducting an examination are confidential, but the documents and papers may be:

(1) Used by the Treasurer in the course of an action to collect unclaimed property or otherwise enforce this Chapter;

(2) Used in joint examinations conducted with or pursuant to an agreement with another state, the federal government, or any other governmental subdivision, agency, or instrumentality;

(3) Produced pursuant to subpoena or court order; or

(4) Disclosed to the abandoned property office of another state for that state's use in circumstances equivalent to those described in this

subsection, if the other state is bound to keep the documents and papers confidential.

(e) If an examination results in the disclosure of property reportable under this Chapter, the Treasurer may assess, against a holder who made a fraudulent report, the cost of the examination at the rate of two hundred dollars ($200.00) a day for each examiner, or a greater amount that is reasonable and was incurred, but the assessment may not exceed the value of the property found to be reportable. The cost of an examination made pursuant to subsection (c) of this section may be assessed only against the business association.

(f) If a holder does not maintain the records required by G.S. 116B-73 and the records of the holder available for the periods subject to this Chapter are insufficient to permit the preparation of a report, the Treasurer may require the holder to report and pay to the Treasurer the amount the Treasurer reasonably estimates, on the basis of any available records of the holder or by any other reasonable method of estimation, should have been, but was not reported.

"§ 116B-73. Retention of records.

(a) Except as otherwise provided in subsection (b) of this section, a holder required to file a report under G.S. 116B-60 shall maintain the records containing the information required to be included in the report for 10 years after the holder files the report, unless a shorter period is provided by rule of the Treasurer.

(b) A business association that sells, issues, or provides to others for sale or issue in this State, traveler's checks, money orders, or similar instruments other than third-party bank checks, on which the business association is directly liable, shall maintain a record of the instruments while they remain outstanding, indicating the state and date of issue, for three years after the holder files the report.

"§ 116B-73.1. Discretionary precompliance review.

A holder may request the Treasurer to conduct a precompliance review of the holder's compliance program to educate the holder's employees on the unclaimed property laws and filing procedures and to recommend ways to facilitate the holder's compliance with the law. Subject to the availability of staff, the Treasurer may conduct a precompliance review upon request. The Treasurer may charge the holder a precompliance review fee of up to five hundred dollars ($500.00) per day for conducting this review.

"§ 116B-74. Enforcement.

(a) The Treasurer may maintain an action in this or another state to enforce this Chapter.

(b) The Treasurer may order a person required to report, pay, or deliver property under this Chapter, or an officer or employee of the person, or a person having possession, custody, care, or control of records relevant to the matter under inquiry, or any other person having knowledge of the property or records, to appear before the Treasurer, at a time and place named in the order, and to produce the records and to give such testimony under oath or affirmation relevant to the inquiry. For purposes of this subsection, the Treasurer may administer oaths or affirmations. If a person refuses to obey an order of the Treasurer, the Treasurer may apply to the

Superior Court of Wake County for an order requiring the person to obey the order of the Treasurer. Failure to comply with the court order is punishable for contempt.

"**§ 116B-75. Interstate agreements and cooperation; joint and reciprocal actions with other states.**

(a) The Treasurer may enter into an agreement with another state to exchange information relating to abandoned property or its possible existence. The agreement may permit the other state, or another person acting on behalf of a state, to examine records as authorized in G.S. 116B-72. The Treasurer by rule may require the reporting of information needed to enable compliance with an agreement made under this section and prescribe the form.

(b) The Treasurer may join with another state to seek enforcement of this Chapter against any person who is or may be holding property reportable under this Chapter.

(c) At the request of another state, the Attorney General of this State may maintain an action on behalf of the other state to enforce, in this State, the unclaimed property laws of the other state against a holder of property subject to escheat or a claim of abandonment by the other state, if the other state has agreed to pay expenses incurred by the Attorney General in maintaining the action.

(d) The Treasurer may request that the attorney general of another state or another attorney commence an action in the other state on behalf of the Treasurer. With the approval of the Attorney General of this State, the Treasurer may retain any other attorney to commence an action in this State on behalf of the Treasurer. This State shall pay all expenses, including attorneys' fees, in maintaining an action under this subsection. With the Treasurer's approval, the expenses and attorneys' fees may be paid from money received under this Chapter. The Treasurer may agree to pay expenses and attorneys' fees based in whole or in part on a percentage of the value of any property recovered in the action. Any expenses or attorneys' fees paid under this subsection may not be deducted from the amount that is subject to the claim by the owner under this Chapter.

(e) The Treasurer is authorized to make such expenditures from the funds of the Escheat Fund as may be necessary to effectuate the provisions of this section.

"**§ 116B-76. Interest and penalties; waiver.**

(a) A holder who fails to report, pay, or deliver property within the time prescribed by this Chapter shall pay to the Treasurer interest at the rate established pursuant to this subsection on the property or value of the property from the date the property should have been reported, paid, or delivered. On or before June 1 and December 1 of each year, the Treasurer shall establish the interest rate to be in effect during the six-month period beginning on the next succeeding July 1 and January 1, respectively, after giving due consideration to current market conditions. If no new rate is established, the rate in effect during the preceding six-month period shall continue in effect. The rate established by the Treasurer may not be less than five percent (5%) per year and may not exceed sixteen percent (16%) per year.

(b) A holder who willfully fails to report, pay, or deliver property within the time prescribed by this Chapter, or willfully fails to perform other duties imposed by this Chapter, shall pay to the Treasurer, in addition to interest as provided in subsection

(a) of this section , a civil penalty of one thousand dollars ($1,000) for each day the report, payment, or delivery is withheld, or the duty is not performed, up to a maximum of twenty-five thousand dollars ($25,000), plus twenty-five percent (25%) of the value of any property that should have been but was not reported.

(c) A holder who makes a fraudulent report shall pay to the Treasurer, in addition to interest as provided in subsection (a) of this section, a civil penalty of one thousand dollars ($1,000) for each day from the date a report under this Chapter was due, up to a maximum of twenty-five thousand dollars ($25,000), plus twenty-five percent (25%) of the value of any property that should have been but was not reported.

(d) The Treasurer for good cause may waive, in whole or in part, interest under subsection (a) of this section and penalties under subsection (b) of this section.

"**§ 116B-77. Agreement to locate property.**

(a) An agreement by an owner, the primary purpose of which is to locate, deliver, recover, or assist in the recovery of property that is presumed abandoned, is void and unenforceable if it was entered into during the period commencing on the date the property was presumed abandoned and extending to a time that is 24 months after the date the property is paid or delivered to the Treasurer. This subsection does not apply to an owner's agreement with an attorney to file a claim as to identified property or contest the Treasurer's denial of a claim.

(b) An agreement by an owner, the primary purpose of which is to locate, deliver, recover, or assist in the recovery of property, is enforceable only if the agreement is in writing, clearly sets forth the nature of the property and the services to be rendered, is signed by the owner, and states the value of the property before and after the fee or other compensation has been deducted.

(c) If an agreement covered by this section applies to mineral proceeds and the agreement contains a provision to pay compensation that includes a portion of the underlying minerals or any mineral proceeds not then presumed abandoned, the provision is void and unenforceable.

(d) An agreement covered by this section that provides for compensation that is unconscionable is unenforceable except by the owner. An owner who has made an agreement to pay compensation that is unconscionable, or the Treasurer on behalf of the owner, may maintain an action to reduce the compensation to a conscionable amount. The court may award reasonable attorneys' fees to an owner who prevails in the action.

(e) This section does not preclude an owner from asserting that an agreement covered by this section is invalid on grounds other than as provided in subsection (d) of this section.

(f) Any person who enters into an agreement covered by this section with an owner shall register annually with the Treasurer. The information to be required under this subsection shall include the person's name, address, telephone number, state of incorporation or residence, as applicable, and the person's federal identification number. A registration fee of one hundred dollars ($100.00) shall be

paid to the Treasurer at the time of the filing of the registration information. Fees received under this subsection shall be credited to the General Fund.

"**§ 116B-78. Transitional provisions.**

(a) An initial report filed under this Article for property that was not required to be reported before the effective date of this Article but which is subject to this Article must include all items of property that would have been presumed abandoned during the 10-year period next preceding the effective date of this Article as if this Article had been in effect during that period.

(b) This Article does not relieve a holder of a duty that arose before the effective date of this Article to report, pay, or deliver property. Except as otherwise provided in G.S 116B-71(b) and G.S. 116B-76(d), a holder who did not comply with the law in effect before the effective date of this Article is subject to the applicable provisions for enforcement and penalties which then existed, which are continued in effect for the purpose of this section.

"**§ 116B-79. Rules.**

The Treasurer may adopt rules necessary to carry out this Chapter."

Section 7. G.S. 44A-4(b)(1) reads as rewritten:

"(b) Notice and Hearings. --

(1) If the property upon which the lien is claimed is a motor vehicle that is required to be registered, the lienor following the expiration of the relevant time period provided by subsection (a) shall give notice to the Division of Motor Vehicles that a lien is asserted and sale is proposed and shall remit to the Division a fee of ten dollars ($10.00). The Division of Motor Vehicles shall issue notice by registered or certified mail, return receipt requested, to the person having legal title to the property, if reasonably ascertainable, to the person with whom the lienor dealt if different, and to each secured party and other person claiming an interest in the property who is actually known to the Division or who can be reasonably ascertained. The notice shall state that a lien has been asserted against specific property and shall identify the lienor, the date that the lien arose, the general nature of the services performed and materials used or sold for which the lien is asserted, the amount of the lien, and that the lienor intends to sell the property in satisfaction of the lien. The notice shall inform the recipient that the recipient has the right to a judicial hearing at which time a determination will be made as to the validity of the lien prior to a sale taking place. The notice shall further state that the recipient has a period of 10 days from the date of receipt in which to notify the Division by registered or certified mail, return receipt requested, that a hearing is desired and that if the recipient wishes to contest the sale of his property pursuant to such lien, the recipient should notify the Division that a hearing is desired. The notice shall state the required information in simplified terms and

shall contain a form whereby the recipient may notify the Division that a hearing is desired by the return of such form to the Division. The Division shall notify the lienor whether such notice is timely received by the Division. In lieu of the notice by the lienor to the Division and the notices issued by the Division described above, the lienor may issue notice on a form approved by the Division pursuant to the notice requirements above. If notice is issued by the lienor, the recipient shall return the form requesting a hearing to the lienor, and not the Division, within 10 days from the date the recipient receives the notice if a judicial hearing is requested. Failure of the recipient to notify the Division or lienor, as specified in the notice, within 10 days of the receipt of such notice that a hearing is desired shall be deemed a waiver of the right to a hearing prior to the sale of the property against which the lien is asserted, and the lienor may proceed to enforce the lien by public or private sale as provided in this section and the Division shall transfer title to the property pursuant to such sale. If the Division or lienor, as specified in the notice, is notified within the 10-day period provided above that a hearing is desired prior to sale, the lien may be enforced by sale as provided in this section and the Division will transfer title only pursuant to the order of a court of competent jurisdiction.

If the registered or certified mail notice has been returned as undeliverable, or if the name of the person having legal title to the vehicle cannot reasonably be ascertained and the fair market value of the vehicle is less than eight hundred dollars ($800.00), the lienor may institute a special proceeding in the county where the vehicle is being held, for authorization to sell that vehicle. Market value shall be determined by the schedule of values adopted by the Commissioner under G.S. 105-187.3.

In such a proceeding a lienor may include more than one vehicle, but the proceeds of the sale of each shall be subject only to valid claims against that vehicle, and any excess proceeds of the sale shall ~~escheat to the State and~~ be paid immediately to the ~~treasurer~~ Treasurer for disposition pursuant to Chapter 116B of the General Statutes. ~~A vehicle owner or possessor claiming an interest in such proceeds shall have a right of action under G.S. 116B-38.~~

The application to the clerk in such a special proceeding shall contain the notice of sale information set out in subsection (f) hereof. If the application is in proper form the clerk shall enter an order authorizing the sale on a date not less than 14 days therefrom, and the lienor shall cause the application and order to be sent immediately by first-class mail pursuant to G.S. 1A-1, Rule 5, to each person to whom notice was mailed pursuant to this

subsection. Following the authorized sale the lienor shall file with the clerk a report in the form of an affidavit, stating that the lienor has complied with the public or private sale provisions of G.S. 44A-4, the name, address, and bid of the high bidder or person buying at a private sale, and a statement of the disposition of the sale proceeds. The clerk then shall enter an order directing the Division to transfer title accordingly.

If prior to the sale the owner or legal possessor contests the sale or lien in a writing filed with the clerk, the proceeding shall be handled in accordance with G.S. 1-399."

Section 8. G.S. 29-12 reads as rewritten:

"**§ 29-12. Escheats.**

If there is no person entitled to take under G.S. 29-14 or ~~29-15,~~ G.S. 29-15, or if in case of an illegitimate intestate, there is no one entitled to take under G.S. 29-21 or ~~29-22~~ G.S. 29-22 the net estate shall escheat as provided in ~~G.S. 116A-2.~~ G.S. 116B-2."

Section 9. G.S. 53-43.7(b)

"(b) Any property, including documents or writings of a private nature, which has little or no apparent value, need not be sold but may be destroyed ~~by the Treasurer or~~ by the ~~lessor, if retained by the lessor pursuant to a determination by the Treasurer under G.S. 116B-31(c).~~ lessor if the Treasurer declines to receive the property under G.S. 116B-69(a)."

Section 10. G.S. 53-43.7(d) reads as rewritten:

"(d) The lessor shall submit to the Treasurer a verified inventory of all of the contents of the safe-deposit box upon delivery of the contents of the box or such part thereof as shall be required by the Treasurer under ~~G.S. 116B-31(c);~~ G.S. 116B-55; but the lessor may deduct from any cash of the lessee in the safe-deposit box an amount equal to accumulated charges for rental and shall submit to the Treasurer a verified statement of such charges and deduction. If there is no cash, or insufficient cash to pay accumulated charges, in the safe-deposit box, the lessor may submit to the Treasurer a verified statement of accumulated charges or balance of accumulated charges due, and the Treasurer shall remit to the lessor the charges or balance due, up to the value of the property in the safe-deposit box delivered to ~~him,~~ the Treasurer, less any costs or expenses of sale; but if the charges or balance due exceeds the value of such property, the Treasurer shall remit only the value of the property, less costs or expenses of sale. Any accumulated charges for safe-deposit box rental paid by the Treasurer to the lessor shall be deducted from the value of the property of the lessee delivered to the Treasurer."

Section 11. G.S. 53B-4 reads as rewritten:

"**§ 53B-4. Access to financial records.**

Notwithstanding any other provision of law, no government authority may have access to a customer's financial record held by a financial institution unless the financial record is described with reasonable specificity and access is sought pursuant to:

(1) Customer authorization that meets the requirements of the Right to Financial Privacy Act § 1104, 12 U.S.C. § 3404, provided, however, a customer authorization received by a State agency or a county department of social services for the purpose of determining eligibility for the programs of public assistance under Chapter 108A of the General Statutes, or for purposes of a government inquiry concerning these same programs of public assistance, cannot be revoked and shall remain valid for 12 months unless a shorter period is specified in the authorization, or a customer authorization that is given by a licensed attorney with respect to an account in which the attorney holds funds as a fiduciary;

(2) Authorization under G.S. 105-251, 105-251.1, or 105-258;

(3) Search warrant as provided in Article 11 of Chapter 15A of the General Statutes;

(4) Statutory authority of a supervisory agency to examine or have access to financial records in the exercise of its supervisory, regulatory, or monetary functions with respect to a financial institution;

(5) The authority granted under ~~G.S. 116B-39;~~ G.S. 116B-72 and G.S. 116B-74;

(6) Examination and review by the State Auditor or his authorized representative under G.S. 147-64.6(c)(9) or ~~147-64.7(a);~~ G.S. 147-64.7(a);

(7) Request by a government authority authorized to buy and sell student loan notes under Article 23 of Chapter 116 of the General Statutes for financial records relating to insured student loans;

(8) Pending litigation to which the government authority and the customer are parties;

(9) Subpoena or court order in connection with a grand jury proceeding;

(10) A writ of execution under Article 28 of Chapter 1 of the General Statutes; or

(11) Other court order or administrative or judicial subpoena authorized by law if the requirements of G.S. 53B-5 are met.

As used in this section, the term 'reasonable specificity' means that degree of specificity reasonable under all the circumstances, ~~and~~ and, with respect to requests under G.S. 116B-72 and G.S. 116B-74, may include designation by general type or ~~class as authorized in G.S. 116B-39.~~ class."

Section 12. G.S. 116-209.3 reads as rewritten:

"**§ 116-209.3. Additional powers.**

The Authority is authorized to develop and administer programs and perform all functions necessary or convenient to promote and facilitate the making and insuring of student loans and providing such other student loan assistance and services as the

Authority shall deem necessary or desirable for carrying out the purposes of this Article and for qualifying for loans, grants, insurance and other benefits and assistance under any program of the United States now or hereafter authorized fostering student loans. There shall be established and maintained a trust fund which shall be designated 'State Education Assistance Authority Loan Fund' (the 'Loan Fund') which may be used by the Authority in making student loans directly or through agents or independent contractors, insuring student loans, acquiring, purchasing, endorsing or guaranteeing promissory notes, contracts, obligations or other legal instruments evidencing student loans made by banks, educational institutions, nonprofit corporations or other eligible lenders, and for defraying the expenses of operation and administration of the Authority for which other funds are not available to the Authority. There shall be deposited to the credit of such Loan Fund the proceeds (exclusive of accrued interest) derived from the sale of its revenue bonds by the Authority and any other moneys made available to the Authority for the making or insuring of student loans or the purchase of obligations. There shall also be deposited to the credit of the Loan Fund surplus funds from time to time transferred by the Authority from the sinking fund. Such Loan Fund shall be maintained as a revolving fund. There is also deposited to the credit of the Loan Fund the income derived from the investment or deposit of the Escheat Fund distributed to the Authority pursuant to ~~G.S. 116B-37.~~ G.S. 116B-7. The income shall be held, administered and applied by the Authority as provided in any resolution adopted or trust agreement approved by the Authority, subject to the provisions of Chapter 116B of the General Statutes and this Article.

In lieu of or in addition to the Loan Fund, the Authority may provide in any resolution authorizing the issuance of bonds or any trust agreement securing such bonds that any other trust funds or accounts may be established as may be deemed necessary or convenient for securing the bonds or for making student loans, acquiring obligations or otherwise carrying out its other powers under this Article, and there may be deposited to the credit of any such fund or account proceeds of bonds or other money available to the Authority for the purposes to be served by such fund or account."

Section 13. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect the provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 14. The Revisor of Statutes shall cause to be printed with this act all explanatory comments of the drafters of this act as the Revisor may deem appropriate.

Section 15. This act becomes effective January 1, 2000, and shall apply to property existing on or after that date. G.S. 116B-54(d), as enacted in Section 6 of this act, is intended to clarify and not change existing law.

SENATE BILL 244:
Unclaimed Property Act/AB

BILL ANALYSIS

Committee:	Senate Finance	**Introduced by:**	Senator Hartsell
Date:	July 6, 1999	**Summary by:**	General Statutes Commission and Cindy Avrette Committee Counsel
Version:	5th Edition		

SUMMARY: ***Senate Bill 244 revises the current escheat and unclaimed property laws and adopts the Uniform Unclaimed Property Act as promulgated by the National Conference of Commissioners on Uniform State Laws. The bill as originally introduced was a recommendation of the General Statutes Commission.***

BILL ANALYSIS: A detailed section-by-section summary of the bill has been prepared by the General Statutes Commission staff and is attached to this summary. Reference should be made to the General Statutes Commission summary for detailed information on the bill. This summary highlights the four new fee provisions.

- Page 11, lines 10 through 16: A holder of property presumed abandoned must file a report with the Treasurer. A holder must pay a processing fee of $10 to request an extension of time to file a report.

  Page 18, lines 3 through 9: The Treasurer may examine or contract with any other person to examine the records of a person to determine whether the person has complied with the Unclaimed Property Act. If the examination results in the disclosure of reportable property, the Treasurer may assess against a holder who made a fraudulent report the cost of the examination at the rate of $200 a day for each examiner, or a greater amount that is reasonable and was incurred. The assessment may not exceed the value of the property found to be reportable.

- Page 18, lines 26 through 33: A holder may request the Treasurer to conduct a precompliance review. The Treasurer may charge the holder a precompliance review fee of up to $500 a day.

- Page 20, line 39 through page 21, line 2: Unclaimed property locators or heir finder must register with the Treasurer and pay an annual registration fee of $100.

Walker Reagan, counsel to the Senate Judiciary I Committee, contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 244 (Second Edition)

SHORT TITLE: Unclaimed Property Act/ AB

SPONSOR(S):

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Escheat Fund					
Gift Certificates	($250,000)	($500,000)	($500,000)	($500,000)	($500,000)
Manufactured Homes	($1,200,000)				
Bus. Credit Balances	($125,000)	($250,000)	($250,000)	($250,000)	($250,000)
Extension Request	$250	$500	$500	$500	$500
EXPENDITURES					
State Education Assistance Authority		($94,485)	($139,455)	($184,425)	($229,395)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of State Treasurer – Escheat and Unclaimed Property Program

EFFECTIVE DATE: The act becomes effective January 1, 2000.

BILL SUMMARY: This bill rewrites the escheat and unclaimed property laws in North Carolina.

ASSUMPTIONS AND METHODOLOGY:
The following sections of SB 244 have a potential fiscal impact on the Escheat Fund:

Section 5 – G.S. 116B-8
This section has no fiscal impact. This section limits the compensation the State Treasurer pays companies to uncover unreported, escheatable property. The limit will be 10% of the final assessment of property escheated to the state. This provision will not affect the Treasurer's current contracts with two firms. The state contract with the National Abandoned Property Processing Corp. pays 10% of the recovered property. The state contract with the Unclaimed

Property Clearinghouse pays 12% (6% for an audit and 6% for processing) for recovered property. This 12% is really for two separate functions that are paid as one fee. The provision would force the Treasurer to make two payments for these services.

Section 6 – G.S. 116B-53(c) & G.S. 116B-54(b)

Amending these statutes will produce a loss of revenue for the Escheat Fund by exempting gift certificates, manufactured home buyer's deposits, and credit balances between businesses from the definition of abandoned property. As for prepaid calling cards and electronic gift cards, there is no revenue loss because the Treasurer has never escheated these items. However, assuming that these items are eligible for escheat, there is a potential revenue loss that cannot be estimated at this time.

I. Gift Certificates

The Director of the Escheat and Unclaimed Property Program estimates that the Escheat Fund will lose $500,000 per year in unclaimed assets by eliminating gift certificates from escheat. Since the Escheat and Unclaimed Property Program does not record whether a gift certificate has an expiration date or not, this estimate assumes all unclaimed gift certificates are eligible to escheat. In 1998, the state received $117,522 from five companies that listed gift certificates as a specific property type. However, officials in the Escheat and Unclaimed Property Program believe that most gift certificates and gift cards are grouped together with other property types that are reported by businesses. The state collected $6.9 million in unclaimed property from businesses other than banks, insurance companies, and utilities in 1998. It is unknown what percentage of this amount is from gift certificates.

The Director of the Escheat and Unclaimed Property Program believes his agency has only begun discovering unclaimed gift certificates, phone cards, and electronic gift cards. The State Treasurer has six auditors and two contract audit firms that search for unclaimed property in North Carolina and in other states. A recent multi-state audit of a large retail chain found $1 million in unclaimed gift certificates in North Carolina. This $1 million will be remitted to the state over the next four years unless prohibited by SB 244.

To gauge whether North Carolina's estimate of escheated gift certificates was reasonable, unclaimed property programs in other states were surveyed by e-mail by legislative staff. Of the small number of states that responded, gift certificate collections in Indiana and Maine appear to validate the $500,000 estimate for North Carolina. An official with the Indiana Office of the Attorney General reported that $425,000 in gift certificates were escheated to the state in 1998. Indiana has a population of 5.8 million versus North Carolina's 7.4 million. Maine, state population 1.24 million, had $209,100 in gift certificates escheated in 1998. Some states reported that they grouped many classes of property together like North Carolina. Other states escheated gift certificates but admitted their low collections were due to noncompliance by retailers and the state's lack of aggressiveness in seeking unclaimed gift certificates.

II. Manufactured Home Buyers' Deposit

The Escheat and Unclaimed Property Program conducted an audit of a major mobile home manufacturer in North Carolina and found **$1.2 million in unclaimed buyers' deposits.** Passage of SB 244 would prevent the deposit of these funds into the Escheat Fund. There is also an annual revenue loss to the Escheat Fund from this exemption, but no estimate is available from the Treasurer's staff at this time.

III. Credit Balances

It is estimated that the Escheat Fund will lose $250,000 a year if credit balances between businesses are exempted from escheat. Since 1988, the Escheat Fund has received $1.46 million in unclaimed credit balances from in-state and out-of-state property holders. In the last four fiscal years, business to business credit balances have averaged $250,000 a year.

Section 6 – 116B-60

This section will generate annual revenue of $500 for the Escheat Fund. The Treasurer receives approximately 50 requests a year from property holders who request extensions for filing a report. Fifty requests times the $10 fee is $500.

Section 6 – 116B-72

No estimate available. The Escheat and Unclaimed Property Program did 57 record examinations in FY 97-98. This section would allow the Treasurer to charge $200 a day for an exam of a property holder who made a fraudulent report of unclaimed property. The Treasurer's staff does not think this power will be used often due to the difficulty of proving fraud.

Section 6 – 116B-73.1

No fiscal impact. This section states that the Treasurer may charge $500 per day for precompliance reviews. Heretofore, the Treasurer has provided five property holder seminars a year and offered free precompliance advice. The Treasurer's staff does not intend to charge for their compliance efforts.

Section 6 – 116B-76

No estimate available. This section will reduce the interest rate on holders who fail to report, pay, or deliver property in a prescribed time. The interest rate reduction from 12% to the market rate will reduce interest earnings for the Escheat Fund. No estimate is available for the increase in the civil penalty for fraudulent reporting because the Treasurer has not used this authority.

Section 6 – 116B-77

No fiscal impact. The $100 registration fee for third party tracers is not anticipated to be used because there are none presently operating in North Carolina.

SEAA

The interest from the Escheat Fund is deposited with the North Carolina State Education Assistance Authority (SEAA) to provide financial assistance to students in state supported schools of higher education. The interest on Escheat Fund investments in future years is calculated at 6% per year. This is the short-term investment rate recommended by the State Treasurer. It is assumed that the interest will accrue the year after the property is escheated. This interest would have been deposited with the State Education Assistance Authority to be used for student loans. The interest lost each year is as follows:

	Cumulative	Interest
FY 1999-00	$1,574,750	
FY 2000-01	$2,324,250	$94,485
FY 2001-02	$3,073,750	$139,455
FY 2002-03	$3,823,250	$184,425
FY 2003-04	$4,572,750	$229,395

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY: Tom Covington

DATE: Wednesday, June 09, 1999

State Treasurer's Office SB 244

Monday
July 5, 1999

Treasurer, Merchants Sparring Over Gift Certificates

RALEIGH (AP) -- Got an old gift certificate someone gave you lying around uncashed? If you do, you're not alone.

Retailers expect to sell about $18 billion worth of gift certificates this year. Nearly 6 percent of them, over $1 billion, they estimate will never be redeemed.

The state treasurer's office estimates about $21 million in those unclaimed gift certificates will be stuck in dresser drawers in North Carolina.

What should be done with those certificates is now a matter of dispute between merchants and the treasurer's office. A bill approved by the Senate and likely to be considered this week by a House committee says gift certificates cannot be considered abandoned property that would go to the state's escheat fund in the treasurer's office. It would also exempt deposits on mobile homes, prepaid calling cards sold by phone companies and credit balances owed by one business to another.

North Carolina's escheat fund was created in 1789. Abandoned property and bank accounts are held by the state, which attempts to find the legal owner or his heirs. Interest from the fund is used for low-interest student loans.

Until 1972, the fund was managed by the University of North Carolina. When the treasurer's office took it over that year, there was about $4 million in the escheat fund.

Now, however, there is over $200 million in the fund, and the interest from it has provided 68,000 loans to students. About 4,500 new loans a year come from that interest.

Unclaimed gift certificates, says Terry Allen, who oversees the escheat fund, ought to be surrendered to the treasurer's office like other unclaimed property.

``Our primary purpose is to get it back to the people it belongs to," said Allen. ``If the state keeps whittling away and letting people keep money that doesn't belong to them, eventually you're going to hurt the fund."

An audit of an out-of-state discount chain, Allen said, showed nearly $1 million in unredeemed gift certificates that should come to the escheat fund.

But Fran Preston of the North Carolina Retail Merchants Association doesn't see it that way.

Merchants, she said, want to issue gift certificates with no expiration date. ``The main reason they are not redeemed is because they have an expiration date on them," she said. ``Somebody opens a drawer and says, `Oops, that one's expired.

``If there is no expiration date, then the gift certificate is just like cash and should not escheat."

Finding the rightful owners of gift certificates, she said, is practically impossible since they are used as gifts. The buyer, even if he could be located, is not the person who owns the certificate after it is given away.

And stores do not record the name and address of the eventual recipient, or the buyer, in most cases.

(MORE, Turn Over Page)

Stores have to pay federal and state taxes of up to 40 percent two years after a gift certificate is issued, Preston said. If it is not used in five years, then the store is supposed to surrender 100 percent of the certificate's value to the escheat fund.

The means merchants end up paying 140 percent of the certificate's value.
Allen said a study commission that looked at the issue agreed to give merchants 40 percent of the certificate's value, with 60 percent going to the state. But an amendment added in a Senate committee gave 100 percent of the value to merchants.

Prepaid phone cards and electronic greeting cards, which are like prepaid credit cards for specific stores, are such new innovations that the state has never collected them in its abandoned property fund, Allen said.

But they seem likely to become more common, and to create more abandoned property, he said. A $10 phone card, for instance, could have $1 in credit left when the customer sets it aside and forgets it. "You're talking about the potential of losing many, many millions of dollars that could be going toward student loans," Allen said.

But Preston said the income from uncashed gift certificates would be a small fraction of the escheat fund. And eliminating expiration dates will encourage more customers to use them. ``It is more important to get the certificate used by the consumer and the retailer than for the treasurer to hold it," she said.

``We are, maybe more than another business, in a relationship with the consumer," she said. ``It's in our best interest for the consumer to come in and use the certificate."
By DENNIS PATTERSON, Associated Press Writer

Obituaries 8B
Tar Heel Tally 9B
Weather 10B

Tug of war over gift certificates

Billionaire merchant Sam Walton's heirs are sufficiently well off that they don't need to be dipping into North Carolina's college loan fund. Or at least that is how state Treasurer Harlan Boyles sees it.

This is why Boyles is not happy that the General Assembly is on the verge of providing what he sees as a multimillion-dollar windfall to Wal-Mart and other merchants by letting them keep unclaimed gift certificates.

Rob Christensen

Boyles, a conservative pro-business Democrat, thinks the unclaimed gift certificates should be turned over to the state's lost and found (escheats) fund, where the state can try to return the money to the rightful owner. And he thinks is it "selfish" and "unfair" that some companies are trying to hold on to the money.

"It is very confusing to me as to why the legislature would even give the time of day to a proposal like this when the beneficiaries are out-of-state [companies], by and large," Boyles said. And the people who would be hurt by the bill are North Carolinians, he said.

The stakes in the legislative battle are bigger than you might think. Americans spend $18 billion a year on gift certificates, and about 6 percent are never redeemed — lost, forgotten or not wanted.

Last year, the state treasurer's office collected an estimated $500,000 from stores — the value of unclaimed gift certificates.

Like other unclaimed property — savings accounts, checking accounts, securities, stocks and the like — the gift certificates end up in a special "escheat" fund in the state treasurer's office. There was $184.3 million in the pot last year.

The treasurer's office tries to find the owner. Meanwhile, interest earned in the fund is used for low-interest college loans — helping 5,000 Tar Heel students this year and 75,000 students over the years.

It was during Senate debate over a routine bill, updating the escheats law, that the legislation was amended to exempt gift certificates. The measure passed the Senate unanimously, with the backing of the N.C. Merchants Association and the N.C. Citizens for Business and Industry.

Boyles says he doesn't think it's a coincidence that the bill was amended not long after an audit found that Wal-Mart was holding $1 million in unclaimed gift certificates owned by North Carolina residents. This $1 million probably would have to be remitted to the state over the next four years, although the issue is expected to be contested.

But two of the senators responsible for the change, Republican Fletcher Hartsell of Concord and Democrat Dan Clodfelter of Charlotte, both said that Boyles has the wrong take on the issue.

They said the bill was not designed to help Wal-Mart or any other company. The two attorneys said Boyles does not have the law on his side. And despite whatever good may result from the student loans, they said, the unclaimed gift certificates are like legal tender and are the legal property of the stores and not the state.

"As far as I am concerned, the treasurer is asking us to pass a bad law so he can get credit for passing out more scholarships," Clodfelter said. "But he would be taking property that doesn't belong to the state of North Carolina. It belongs to other people."

The bill is scheduled to be considered in the House Finance Committee on Tuesday.

Rob Christensen can be reached at 829-4532 or at robc@nando.com

Senate Bill 244

Proposed amendments to Senate Bill 244

1) Eliminate fixed percentage payable to contract auditors.
2) Require the issuer of a gift certificate to retain names and addresses of purchasers.
3) Provide for the escheat of business-to-business credit balances where there is no longer a continuing business relationship.
4) Limit the reach-back period for an escheat audit to 10 years

G.S. 116B-8 Employment of persons with specialized skills or knowledge

The Treasurer's Office agrees that any persons whose services are employed by the Treasurer should meet the same confidentiality and ethics requirements as employees of the Department of State Treasurer. However, negotiation of compensation should be made by State Treasurer under competitive standards.

G.S. 116B-54(b) Exclusion of certain gift certificates or electronic gift cards

The North Carolina General Statutes Commission concurred with The National Conference of Commissioners on Uniform State Laws in deciding that it was equitable for issuers of gift certificates to retain 40% of the value of the certificate when it escheats. The Treasurer's Office also concurred on this issue.

Studies show that a gift certificate that is not presented within a year is highly unlikely to ever be presented. This year it is estimated that approximately $18 billion in gift certificates will be purchased, and approximately 6% of these will never be redeemed.

The committee substitute, adopted by the Senate, exempts gift certificates with no expiration date. This would allow for any windfall from the sale of these certificates to go to the holder rather than to be utilized for student loans.

In addition, this committee substitute

Does not protect the consumer.

Lacks any provision for making the issuer accountable.

Does not require the issuer to maintain the address of the purchaser so they can be notified after the certificate has been unredeemed after a period of time.

Does not protect the purchaser in the event of bankruptcy.

Does not prevent unredeemed certificates from being escheated to another state.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 244

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S244-ARB-7/2.4

Page 1 of __

Date July 6 ,1999

Comm. Sub. [YES]
Amends Title []
Fifth Edition

Representative Luebke

moves to amend the bill on page 17, lines 6 through 12, by rewriting the lines to read:
"ten years after the holder filed a report with the Treasurer in which the holder specifically identified property, should have but failed to identify property, or gave express notice to the Treasurer of a dispute regarding property. In the absence of such a report or other".

SIGNED Luebke
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 251
Finance Committee Substitute Adopted 6/23/99

Short Title: Modify Historic Rehabilitation Credit. (Public)

Sponsors:

Referred to:

March 8, 1999

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE HISTORIC REHABILITATION TAX CREDIT TO BE ALLOCATED BY A PASS-THROUGH ENTITY TO ITS OWNERS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 105 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 3D.

"Historic Rehabilitation Tax Credits."

Section 2. G.S. 105-130.42(a) is recodified as G.S. 105-129.35 in Article 3D of Chapter 105 of the General Statutes.

Section 3. G.S. 105-130.42(b) is recodified as G.S. 105-129.36 in Article 3D of Chapter 105 of the General Statutes.

Section 4. G.S. 105-130.42(c) is recodified as G.S. 105-129.37 in Article 3D of Chapter 105 of the General Statutes.

Section 5. Article 3D of Chapter 105 of the General Statutes, as enacted and amended by this act, reads as rewritten:

"ARTICLE 3D.

"Historic Rehabilitation Tax Credits.

"§ **105-129.35. Credit for rehabilitating** ~~Income-Producing Historic Structure.~~ **income-producing historic structure.**

(a) Credit. -- A taxpayer who is allowed a federal income tax credit under section 47 of the Code for making ~~qualifying~~ qualified rehabilitation expenditures for a certified historic structure located in this State is allowed a credit ~~against the tax~~

~~imposed by this Part. The amount of the credit is~~ equal to twenty percent (20%) of the expenditures that qualify for the federal credit.

(b) Allocation. -- Notwithstanding the provisions of G.S. 105-131.8 and G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this section may allocate the credit among any of its owners in its discretion as long as the amount of credit allocated to an owner does not exceed the owner's adjusted basis in the pass-through entity, as determined under the Code, at the end of the taxable year in which the certified historic structure is placed in service. Owners to whom a credit is allocated are allowed the credit as if they had qualified for the credit directly. A pass-through entity and its owners must include with their tax returns for every taxable year in which an allocated credit is claimed a statement of the allocation made by the pass-through entity and the allocation that would have been required under G.S. 105-131.8 or G.S. 105-269.15.

(c) Definitions. -- The following definitions apply in this section:

(1) Certified historic structure. -- Defined in section 47 of the Code.

(2) Pass-through entity. -- An entity or business, including a limited partnership, a general partnership, a joint venture, a Subchapter S Corporation, or a limited liability company, all of which is treated as owned by individuals or other entities under the federal tax laws, in which the owners report their share of the income, losses, and credits from the entity or business on their income tax returns filed with this State. For the purpose of this section, an owner of a pass-through entity is an individual or entity who is treated as an owner under the federal tax laws.

(3) Qualified rehabilitation expenditures. -- Defined in section 47 of the Code.

"**§ 105-129.36. Credit for rehabilitating** ~~Nonincome-Producing Historic Structure.~~ **nonincome-producing historic structure.**

(a) Credit. -- A taxpayer who is not allowed a federal income tax credit under section 47 of the Code and who makes rehabilitation expenses for a ~~certified~~ State-certified historic structure located in this State is allowed a credit ~~against the tax imposed by this Part. The amount of the credit is~~ equal to thirty percent (30%) of the rehabilitation expenses. To qualify for the credit, the taxpayer's rehabilitation expenses must exceed twenty-five thousand dollars ($25,000) within a 24-month period. To claim the credit allowed by this subsection, the taxpayer must attach to the return a copy of the certification obtained from the State Historic Preservation Officer verifying that the historic structure has been rehabilitated in accordance with this subsection.

(b) Definitions. -- The following definitions apply in this ~~subsection:~~ section:

~~(1) Certified historic structure. -- A structure that is individually listed in the National Register of Historic Places or is certified by the State Historic Preservation Officer as contributing to the historic significance of a National Register Historic District or a locally~~

~~designated historic district certified by the United States Department of the Interior.~~

(2) Certified rehabilitation. -- Repairs or alterations consistent with the Secretary of the Interior's Standards for Rehabilitation and certified as such by the State Historic Preservation Officer prior to the commencement of the work. ~~The expenditures must, within a 24-month period, exceed twenty-five thousand dollars ($25,000). The North Carolina Historical Commission, in consultation with the State Historic Preservation Officer, may adopt rules needed to administer the certification process.~~

(3) Rehabilitation expenses. -- Expenses incurred in the certified rehabilitation of a certified historic structure and added to the property's basis. The term does not include the cost of acquiring the property, the cost attributable to the enlargement of an existing building, the cost of sitework expenditures, or the cost of personal property.

(3a) State-certified historic structure. -- A structure that is individually listed in the National Register of Historic Places or is certified by the State Historic Preservation Officer as contributing to the historic significance of a National Register Historic District or a locally designated historic district certified by the United States Department of the Interior.

(4) State Historic Preservation Officer. -- The Director of the Division of Archives and History or the Director's designee who acts to administer the historic preservation programs within the State.

(c) Rules. -- The North Carolina Historical Commission, in consultation with the State Historic Preservation Officer, may adopt rules needed to administer the certification process required by this section.

"**§ 105-129.37. Tax credited; credit limitations.**

(a) Tax Credited. -- The credits provided in this Article are allowed against the income taxes levied in Article 4 of this Chapter.

(b) Credit Limitations. -- The entire credit may not be taken for the taxable year in which the property is placed in service but must be taken in five equal installments beginning with the taxable year in which the property is placed in service. Any unused portion of the credit may be carried forward for the succeeding five years. ~~The~~ A credit allowed under this ~~section~~ Article may not exceed the amount of ~~tax imposed by this Part~~ the tax against which it is claimed for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.

(c) Forfeiture for Disposition. -- A taxpayer who is required under section 50 of the Code to recapture all or part of the federal credit for rehabilitating an income-producing historic structure located in this State forfeits the corresponding part of the State credit allowed under G.S. 105-129.35 with respect to that historic structure. If

the credit was allocated among the owners of a pass-through entity, the forfeiture applies to the owners in the same proportion that the credit was allocated.

(d) Forfeiture for Change in Ownership. -- If an owner of a pass-through entity that has qualified for the credit allowed under G.S. 105-129.35 disposes of all or a portion of the owner's interest in the pass-through entity within five years from the date the rehabilitated historic structure is placed in service and the owner's interest in the pass-through entity is reduced to less than two-thirds of the owner's interest in the pass-through entity at the time the historic structure was placed in service, the owner forfeits a portion of the credit. The amount forfeited is determined by multiplying the amount of credit by the percentage reduction in ownership and then multiplying that product by the forfeiture percentage. The forfeiture percentage equals the recapture percentage found in the table in section 50(a)(1)(B) of the Code. The remaining allowable credit is allocated equally among the five years in which the credit is claimed.

(e) Exceptions to Forfeiture. -- Forfeiture as provided in subsection (d) of this section is not required if the change in ownership is the result of any of the following:

(1) The death of the owner.

(2) A merger, consolidation, or similar transaction requiring approval by the shareholders, partners, or members of the taxpayer under applicable State law, to the extent the taxpayer does not receive cash or tangible property in the merger, consolidation, or other similar transaction.

(f) Liability From Forfeiture. -- A taxpayer or an owner of a pass-through entity that forfeits a credit under this section is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited. A taxpayer or owner of a pass-through entity that fails to pay the taxes and interest by the due date is subject to the penalties provided in G.S. 105-236."

Section 6. G.S. 105-151.23(a) is recodified as G.S. 105-129.35; G.S. 105-151.23(b) is recodified as G.S. 105-129.36; and G.S. 105-151.23(c) is recodified as G.S. 105-129.37. Article 3D of Chapter 105 of the General Statutes, as amended by this act, incorporates both G.S. 105-130.42 and G.S. 105-151.23.

Section 7. This act is effective for taxable years beginning on or after January 1, 1999. G.S. 105-129.35(b), as amended by this act, is repealed effective January 1, 2002, for property placed in service on or after that date.

SENATE BILL 251:
Modify Historic Rehabilitation Credit

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Horton
Date:	July 6, 1999	**Summary by:**	Cindy Avrette
Version:	2nd Edition		Committee Counsel

SUMMARY: Senate Bill 251 modifies the tax credit for rehabilitating income-producing historic property in two substantive ways:

- *It allows a pass-through entity, such as a Subchapter S corporation, to allocate the credit among any of the entity's owners, as long as the credit does not exceed the owner's adjusted basis in the pass-through entity. The credit amount may be allocated among any of the pass-through entity's owners, in the entity's discretion. The allocation provision sunsets in three years. Under current law, the credits must be allocated in the same proportion as other income items allocated to the owners under the Code.*
- *It adds provisions to recapture the credit if the taxpayer is required to recapture the credit under the Code or if a partner or owner disposes of its interest in the pass-through entity.*

The bill also consolidates the credits for rehabilitating an historic property into one tax Article. The credits are currently duplicated in two separate statutes in the individual and corporate parts of the income tax Article in Chapter 105. The act becomes effective beginning with the 1999 tax year.

CURRENT LAW: Under current law, taxpayers are allowed an income tax credit of 20% of the expenses of rehabilitating an income-producing historic structure and a credit of 30% of the expenses of rehabilitating an historic structure that is not income-producing. The credit for income-producing structures is lower because federal law also allows a 20% credit for those expenses, yielding a combined credit of 40%. The 20% credit is allowed only if the taxpayer qualifies for the federal credit and the 30% credit is allowed only if the taxpayer does not qualify for the federal credit. The credit may not be taken for the tax year the property is placed in service but must be taken in installments over five years after the historic structure is placed in service. Any unused portion of a credit may be carried forward for a five-year period.

Under current law, a pass-through entity may qualify for the rehabilitation credits and pass the credits on to its owners. A pass-through entity is an entity, such as a partnership, a limited liability company, or a Subchapter S corporation, that is treated as owned by individuals or other entities under federal tax law and whose income, losses, and credits are reported by the owners on their State income tax returns. Under G.S. 105-131.8 and G.S. 105-269.15, the pass-through entity is required to allocate a tax credit among its owners in the same proportion that other items, such as the federal rehabilitation credit, are allocated under the Code.

Under the Code, tax credits are allocated among S corporation shareholders in accordance with their pro rata share of the corporation, which is determined on the basis of stock ownership, and tax credits are

allocated among partners in a partnership in accordance with the partnership agreement. The allocation made by the partnership agreement must have a substantial economic effect, which means that the allocation agreement must reflect the economic interest of the partners in the partnership and cannot be based solely on tax consequences. Therefor, the allocation agreement of partners cannot give one partner 100% of the income, loss, or credits of the partnership.

BILL ANALYSIS: Sections 1 through 4 of the bill create a new Article for the historic rehabilitation tax credits. The current statutes for these tax credits are recodified as part of the new Article.

In putting together an investment group for an income-producing historic rehabilitation project, the project sponsors may find some investors that can benefit from only the federal credit because they have little or no North Carolina tax liability, and other investors than can benefit from both the federal and the North Carolina credit because they have both types of tax liability.

Section 5 of the bill allows a pass-through entity to allocate the credit for rehabilitating an income-producing historic structure among any of its owners, **as long as the amount of the allocated credit does not exceed the owner's adjusted basis in the entity, as determined under the Code. The adjusted basis is determined at the end of the taxable year in which the historic structure is placed in service.** Each year an allocated credit is claimed, the pass-through entity and its owners must include a statement with their tax return that shows both the allocation made and the allocation that would have been required under G.S. 105-131.8 and G.S. 105-269.15. G.S. 105-131.8 provides that the tax credit allowed a shareholder in a Subchapter S corporation is based on the percentage of stock held by the shareholder in the corporation. G.S. 105-269.15 provides that the tax credit allowed a partner is based on the partnership agreement, which must have substantial economic effect.

Section 5 of the bill also requires forfeiture of all or part of the credit for an income-producing historic structure when the following occurs:

- **Forfeiture for Disposition.** When a taxpayer is required by the Code to recapture part or all of the federal credit, then the taxpayer must forfeit the corresponding part of the State credit. Under the Code, the recapture does not apply if the property is disposed of because of the death of the taxpayer, a mere change in form of doing business, or a transfer between spouses or incident to a divorce
- **Forfeiture for Change in Ownership.** If an owner of a pass-through entity that qualified for the credit disposes of all or a portion of the owner's interest in the pass-through entity within 5 years from the date the structure was placed in service so that the owner's interest is reduced to less than 2/3 of its interest at the time the structure was placed in service, the owner must forfeit a portion of the credit. This recapture does not apply if the change in ownership is due to the death of the owner or to a merger or consolidation requiring approval of the members of the taxpayer pass-through entity to the extent the entity does not receive cash or property.

  <u>The Department of Revenue's example of the result if there is a forfeiture for change in ownership pursuant to G.S. 105-129.37(d) of bill.</u>

  Taxpayer Partnership A invests $1 million to rehabilitate an income-producing historic structure. The structure is placed in service on July 1, 1999. The partnership qualifies for a $200,000 credit. It allocates the credit to Owner John Doe, who is a five percent partner and has a basis in the partnership of $200,000. Mr. Doe claims a credit of $40,000 on the 1999 and 2000 tax returns. On May 25, 2001, Mr. Doe's ownership

interest is reduced to two percent, a sixty percent decrease. The forfeiture amount is $96,000, calculated as follows:

Credit ($200,000) X percentage reduction in ownership (60%) X forfeiture percentage (80% because the reduction occurred after one year but before two years after property placed in service).

The remaining allowable credit is $104,000, and $20,800 may be claimed in each year. Therefore, Mr. Doe must reduce the credit claimed on the 1999 and 2000 returns and pay to the State tax of $19,200 for each of the two years (assuming he had enough tax in those years to have claimed the entire installment of the original amount of credit. The $19,200 amount is the forfeiture amount of $96,000 X the twenty percent credit.

If a taxpayer or owner of a pass-through entity forfeits the credit, then the taxpayer or owner is liable for all past taxes avoided plus interest. The past taxes and interest are due 30 days after the credit is forfeited.

Section 6 of the bill explains the recodification.

Section 7 of the bill provides that the act is effective for taxable years beginning on or after January 1, 1999. The allocation provision of the act sunsets January 1, 2002, but this sunset applies only to property placed in service on or after that date.

BACKGROUND: In 1993, the General Assembly enacted a 5% income tax credit for qualifying expenditures to rehabilitate a certified historic structure, if the expenses qualified for the federal 20% credit. In 1997, the General Assembly raised the North Carolina credit from 5% to 20%, added the 30% credit for expenditures that did not qualify for the federal credit because the structure was not income-producing, and required both credits to be taken in installments. The federal credit is limited to structures that are used in connection with a trade or business or held for the production of income, including both residential rental buildings and nonresidential buildings. Expenditures to rehabilitate a taxpayer's personal residence would qualify for the 30% North Carolina credit but not the federal credit, because the building is not income-producing.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 251
Finance Committee Substitute Adopted 6/23/99
PROPOSED HOUSE COMMITTEE SUBSTITUTE
S251-CSRBX-7/2

Short Title: Modify Historic Rehabilitation Credit. (Public)

Sponsors:

Referred to:

March 8, 1999

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE HISTORIC REHABILITATION TAX CREDIT TO BE ALLOCATED BY A PASS-THROUGH ENTITY TO ITS OWNERS AND TO REQUIRE CORPORATIONS THAT ARE REQUIRED TO PAY FEDERAL-ESTIMATED INCOME TAX BY ELECTRONIC FUNDS TRANSFER TO PAY STATE-ESTIMATED INCOME TAX BY ELECTRONIC FUNDS TRANSFER.

The General Assembly of North Carolina enacts:

Section 1. Chapter 105 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 3D.

"Historic Rehabilitation Tax Credits."

Section 2. G.S. 105-130.42(a) is recodified as G.S. 105-129.35 in Article 3D of Chapter 105 of the General Statutes.

Section 3. G.S. 105-130.42(b) is recodified as G.S. 105-129.36 in Article 3D of Chapter 105 of the General Statutes.

Section 4. G.S. 105-130.42(c) is recodified as G.S. 105-129.37 in Article 3D of Chapter 105 of the General Statutes.

Section 5. Article 3D of Chapter 105 of the General Statutes, as enacted and amended by this act, reads as rewritten:

"ARTICLE 3D.

"Historic Rehabilitation Tax Credits.

"§ 105-129.35. Credit for rehabilitating ~~Income-Producing Historic Structure.~~ income-producing historic structure.

(a) Credit. -- A taxpayer who is allowed a federal income tax credit under section 47 of the Code for making ~~qualifying~~ qualified rehabilitation expenditures for a certified historic structure located in this State is allowed a credit ~~against the tax imposed by this Part. The amount of the credit is~~ equal to twenty percent (20%) of the expenditures that qualify for the federal credit.

(b) Allocation. -- Notwithstanding the provisions of G.S. 105-131.8 and G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this section may allocate the credit among any of its owners in its discretion as long as the amount of credit allocated to an owner does not exceed the owner's adjusted basis in the pass-through entity, as determined under the Code, at the end of the taxable year in which the certified historic structure is placed in service. Owners to whom a credit is allocated are allowed the credit as if they had qualified for the credit directly. A pass-through entity and its owners must include with their tax returns for every taxable year in which an allocated credit is claimed a statement of the allocation made by the pass-through entity and the allocation that would have been required under G.S. 105-131.8 or G.S. 105-269.15.

(c) Definitions. -- The following definitions apply in this section:

(1) Certified historic structure. -- Defined in section 47 of the Code.

(2) Pass-through entity. -- An entity or business, including a limited partnership, a general partnership, a joint venture, a Subchapter S Corporation, or a limited liability company, all of which is treated as owned by individuals or other entities under the federal tax laws, in which the owners report their share of the income, losses, and credits from the entity or business on their income tax returns filed with this State. For the purpose of this section, an owner of a pass-through entity is an individual or entity who is treated as an owner under the federal tax laws.

(3) Qualified rehabilitation expenditures. -- Defined in section 47 of the Code.

"§ 105-129.36. Credit for rehabilitating ~~Nonincome-Producing Historic Structure.~~ nonincome-producing historic structure.

(a) Credit. -- A taxpayer who is not allowed a federal income tax credit under section 47 of the Code and who makes rehabilitation expenses for a ~~certified~~ State-certified historic structure located in this State is allowed a credit ~~against the tax imposed by this Part. The amount of the credit is~~ equal to thirty percent (30%) of the rehabilitation expenses. To qualify for the credit, the taxpayer's rehabilitation expenses must exceed twenty-five thousand dollars ($25,000) within a 24-month period. To claim the credit allowed by this subsection, the taxpayer must attach to the return a copy of the certification obtained from the State Historic Preservation Officer verifying that the historic structure has been rehabilitated in accordance with this subsection.

(b) Definitions. -- The following definitions apply in this ~~subsection:~~ section:

~~(1) Certified historic structure. -- A structure that is individually listed in the National Register of Historic Places or is certified by the State Historic Preservation Officer as contributing to the historic significance of a National Register Historic District or a locally designated historic district certified by the United States Department of the Interior.~~

(2) Certified rehabilitation. -- Repairs or alterations consistent with the Secretary of the Interior's Standards for Rehabilitation and certified as such by the State Historic Preservation Officer prior to the commencement of the work. ~~The expenditures must, within a 24-month period, exceed twenty-five thousand dollars ($25,000). The North Carolina Historical Commission, in consultation with the State Historic Preservation Officer, may adopt rules needed to administer the certification process.~~

(3) Rehabilitation expenses. -- Expenses incurred in the certified rehabilitation of a certified historic structure and added to the property's basis. The term does not include the cost of acquiring the property, the cost attributable to the enlargement of an existing building, the cost of sitework expenditures, or the cost of personal property.

(3a) State-certified historic structure. -- A structure that is individually listed in the National

Register of Historic Places or is certified by the State Historic Preservation Officer as contributing to the historic significance of a National Register Historic District or a locally designated historic district certified by the United States Department of the Interior.

(4) State Historic Preservation Officer. -- The Director of the Division of Archives and History or the Director's designee who acts to administer the historic preservation programs within the State.

(c) Rules. -- The North Carolina Historical Commission, in consultation with the State Historic Preservation Officer, may adopt rules needed to administer the certification process required by this section.

"§ 105-129.37. Tax credited; credit limitations.

(a) Tax Credited. -- The credits provided in this Article are allowed against the income taxes levied in Article 4 of this Chapter.

(b) Credit Limitations. -- The entire credit may not be taken for the taxable year in which the property is placed in service but must be taken in five equal installments beginning with the taxable year in which the property is placed in service. Any unused portion of the credit may be carried forward for the succeeding five years. ~~The~~ A credit allowed under this ~~section~~ Article may not exceed the amount of ~~tax imposed by this Part~~ the tax against which it is claimed for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.

(c) Forfeiture for Disposition. -- A taxpayer who is required under section 50 of the Code to recapture all or part of the federal credit for rehabilitating an income-producing historic structure located in this State forfeits the corresponding part of the State credit allowed under G.S. 105-129.35 with respect to that historic structure. If the credit was allocated among the owners of a pass-through entity, the forfeiture applies to the owners in the same proportion that the credit was allocated.

(d) Forfeiture for Change in Ownership. -- If an owner of a pass-through entity that has qualified for the credit allowed under G.S. 105-129.35 disposes of all or a portion of the owner's interest in the pass-through entity within five years from the date the rehabilitated historic structure is placed in service and the owner's interest in the pass-through entity is reduced to less than two-thirds of the owner's interest in the pass-through entity at the time the historic structure was placed in service,

the owner forfeits a portion of the credit. The amount forfeited is determined by multiplying the amount of credit by the percentage reduction in ownership and then multiplying that product by the forfeiture percentage. The forfeiture percentage equals the recapture percentage found in the table in section 50(a)(1)(B) of the Code. The remaining allowable credit is allocated equally among the five years in which the credit is claimed.

(e) Exceptions to Forfeiture. -- Forfeiture as provided in subsection (d) of this section is not required if the change in ownership is the result of any of the following:

(1) The death of the owner.

(2) A merger, consolidation, or similar transaction requiring approval by the shareholders, partners, or members of the taxpayer under applicable State law, to the extent the taxpayer does not receive cash or tangible property in the merger, consolidation, or other similar transaction.

(f) Liability From Forfeiture. -- A taxpayer or an owner of a pass-through entity that forfeits a credit under this section is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited. A taxpayer or owner of a pass-through entity that fails to pay the taxes and interest by the due date is subject to the penalties provided in G.S. 105-236."

Section 6. G.S. 105-151.23(a) is recodified as G.S. 105-129.35; G.S. 105-151.23(b) is recodified as G.S. 105-129.36; and G.S. 105-151.23(c) is recodified as G.S. 105-129.37. Article 3D of Chapter 105 of the General Statutes, as amended by this act, incorporates both G.S. 105-130.42 and G.S. 105-151.23.

Section 7. G.S. 105-163.40 reads as rewritten:

"**§ 105-163.40. Time for submitting declaration; time and method for paying estimated ~~tax.~~ tax; form of payment.**

(a) Due Dates of Declarations. -- Declarations of estimated tax are due at the same time as the corporation's first installment payment. Installment payments are due as follows:

(1) If, before the 1st day of the 4th month of the taxable year, the corporation's estimated tax equals or exceeds five hundred dollars ($500.00), the corporation shall pay the estimated tax in four

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: S.B. 251 (Second Edition)

SHORT TITLE: Modify Historic Rehab Credit

SPONSOR(S): Senator Hamilton Horton

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
General Fund	*** See Assumptions and Methodology ***				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue, Department of Cultural Resources.

EFFECTIVE DATE: Effective for taxable years beginning on or after January 1, 1999 and expires effective January 1, 2002 for property placed in service on or after that date.

BILL SUMMARY:
The bill modifies the existing historic rehabilitation income tax credit to allow a pass through organization to allocate the credits among project owners. It requires that the amount of the credit be limited to the owner's adjusted basis in the pass-through entity. It also allows for the recapture of the credit if the taxpayer is required to recapture the credit under the Code or if the taxpayer disposes of his interest in the pass-through entity. It requires the pass through organization and the property owners to include an allocation statement with their annual tax returns. It also recodifies the existing historic rehabilitation credit language in a single Article, and makes conforming changes.

BACKGROUND INFORMATION:
Federal law provides a federal income tax credit equal to 20% of qualified rehabilitation expenditures for certified historic structures that are used in connection with a trade or business or held for the production of income. This credit is available for both residential rental buildings and nonresidential buildings. In order to qualify, the property itself must be either listed in the National Register, or located in a registered historic district and be certified as being of historic significance.

Since 1993, North Carolina investors eligible for the Federal Rehabilitation Investment Tax Credit have been allowed a state income tax credit equal to one-fourth of the federal amount

(5%). The 1997 General Assembly expanded the State income tax credit from 5% to 20% for rehabilitating an income-producing historic structure, effective for tax years beginning on or after January 1, 1998. (S.L. 1997-139) The credits may not be taken in one year, but must be spread out in installments over five years after the historic structure is placed in service. Any unused portion of a credit may be carried forward for a five-year period.

ASSUMPTIONS AND METHODOLOGY:

By allowing a pass through entity to reallocate the tax credits, the bill effectively authorizes rehabilitation property owners to transfer all of the North Carolina tax credits to North Carolina residents and businesses with tax liability. Currently, if foreign investors are involved in a qualifying rehabilitation project, their tax credits can not be redistributed. For example, if there are five equal investors, but only four of them are North Carolinians, only 80% of the available North Carolina tax credits are used.

Previous fiscal notes assumed taxpayers would use 100% of their allotted credit taken over a required five-year period. Once the bills enacting the rehab credit were passed (the original enacting legislation and SB 323 which expanded the credit in 1997), the resulting revenue losses were included in future year base budget projections. The fiscal note for SB 323 assumed the number of completed federal projects each year would range from 35 projects valued at $17,500,000 in 1998 up to 60 projects valued at $30 million in 2002. However, the program has proven more popular than was originally projected. (see note below)

Under the existing law, the actual experience is that 100% of the rehab credit will probably not be used due to out-of-state investors without North Carolina income tax liability or North Carolina investors without state income tax liability. According to the Department of Cultural Resources, two of the 69 projects reviewed in 1998 had out-of-state investors. Due to the confidentiality of tax information, it is unknown if these out-of-state investors can utilize all of the rehab credits. It is also impossible to determine how many projects had in-state investors with no state tax liability.

In 1998, the Executive Director of the Historic Preservation Foundation of North Carolina, Myrick Howard, saw the pass - through issue as a technical correction. It allows rehab project managers to fully utilize the credits as envisioned in the 1997 legislation and accompanying fiscal note. On the other hand, officials from the Department of Revenue believe the credit could encourage more out of state investment. However, there is no way to quantify what that additional investment might be.

NOTE: January 1999 data from the State Historic Preservation Office (SHPO) indicate that the historic rehabilitation credit has received far more interest than expected. As an example, SHPO and Fiscal Research estimated there would be 35 projects with a total value of $17.5 million in 1998. This estimate was based on other states' experiences. In reality, the SHPO received 89 applications for rehabilitation work valued at $106 million. If all the projects are completed and all credits are utilized, project owners will recoup $21.2 million in income tax credits over five years. This is six times the $3.5 million originally estimated.

FISCAL RESEARCH DIVISION 733-4910

PREPARED BY: Richard Bostic and Linda Struyk Millsaps

APPROVED BY: Tom Covington

DATE: Thursday, July 01, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 772 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE CREATION OF MUNICIPAL SERVICE DISTRICTS IN CERTAIN CITIES FOR URBAN AREA REVITALIZATION PROJECTS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 772

Short Title: Expand Municipal Service Districts. (Public)

Sponsors: Senators Clodfelter; Dannelly and Odom.

Referred to: Finance.

April 7, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CREATION OF MUNICIPAL SERVICE DISTRICTS IN CERTAIN CITIES FOR URBAN AREA REVITALIZATION PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-536 reads as rewritten:

"**§ 160A-536. Purposes for which districts may be established.**

(a) Purposes. -- The city council of any city may define any number of service districts in order to finance, provide, or maintain for the districts one or more of the following services, facilities, or functions in addition to or to a greater extent than those financed, provided or maintained for the entire city:

(1) Beach erosion control and flood and hurricane protection ~~works;~~ works.

(1a) (For applicability see note) Any service, facility, or function which the municipality may by law provide in the city, and including but not limited to placement of utility wiring underground, placement of period street lighting, placement of specially designed street signs and street furniture, landscaping, specialized street and sidewalk paving, and other appropriate improvements to the rights-of-way that generally preserve the character of an historic district; provided that this subdivision only applies to a service district which, at the time of its creation, had the same boundaries as an historic district created under Part 3A of Article 19 of this ~~Chapter;~~ Chapter.

(2) Downtown revitalization ~~projects;~~ projects.
(2a) Urban area revitalization projects.
(3) Drainage ~~projects;~~ projects.
(3a) Sewage collection and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or ~~systems;~~ systems.
(4) Off-street parking ~~facilities; and~~ facilities.
(5) Watershed improvement projects, including but not limited to watershed improvement projects as defined in General Statutes Chapter 139; drainage projects, including but not limited to the drainage projects provided for by General Statutes Chapter 156; and water resources development projects, including but not limited to the federal water resources development projects provided for by General Statutes Chapter 143, Article 21.

(b) Downtown Revitalization Defined. -- As used in this section "downtown revitalization projects" include by way of illustration but not limitation improvements to water mains, sanitary sewer mains, storm sewer mains, electric power distribution lines, gas mains, street lighting, streets and sidewalks, including rights-of-way and easements therefor, the construction of pedestrian malls, bicycle paths, overhead pedestrian walkways, sidewalk canopies, and parking facilities both on-street and off-street, and other improvements intended to relieve traffic congestion in the central city, improve pedestrian and vehicular access thereto, reduce the incidence of crime therein, and generally to further the public health, safety, welfare, and convenience by promoting the economic health of the central city or downtown area. In addition, a downtown revitalization project may, in order to revitalize a downtown area and further the public health, safety, welfare, and convenience, include the provision of city services or functions in addition to or to a greater extent than those provided or maintained for the entire city. A downtown revitalization project may also include promotion and developmental activities (such as sponsoring festivals and markets in the downtown area, promoting business investment in the downtown area, helping to coordinate public and private actions in the downtown area, and developing and issuing publications on the downtown area) designed to improve the economic well-being of the downtown area and further the public health, safety, welfare, and convenience. Exercise of the authority granted by this Article to undertake downtown revitalization projects financed by a municipal service district shall not prejudice the city's authority to undertake urban renewal projects in the same area.

(c) Urban Area Revitalization Defined. -- As used in this section, the term 'urban area revitalization projects' includes the provision within an urban area of any service or facility that may be provided in a downtown area as a downtown revitalization project under subdivision (a)(2) and subsection (b) of this section. As used in this section, the term 'urban area' means an area that (i) is located within a city whose population exceeds 400,000 according to the most recent annual population statistics certified by the State Planning Officer and (ii) meets one or more of the following conditions:

(1) It is the central business district of the city.
(2) It consists primarily of existing or redeveloping concentrations of industrial, retail, wholesale, office, or significant employment-generating uses, or any combination of these uses.
(3) It is located in or along a major transportation corridor and does not include any residential parcels that are not, at their closest point, within 150 feet of the major transportation corridor right-of-way or any nonresidentially zoned parcels that are not, at their closest point, within 1,500 feet of the major transportation corridor right-of-way.
(4) It has as its center and focus a major concentration of public or institutional uses, such as airports, seaports, colleges or universities, hospitals and health care facilities, or governmental facilities.

(d) Contracts. -- A city may provide services, facilities, functions, or promotional and developmental activities in a service district with its own forces, through a contract with another governmental agency, through a contract with a private agency, or by any combination thereof. Any contracts entered into pursuant to this paragraph shall specify the purposes for which city moneys are to be used and shall require an appropriate accounting for those moneys at the end of each fiscal year or other appropriate period."

Section 2. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 1

H. B. No. _____ DATE _____

S. B. No. 772 Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Arnold
)
Sen.)

1 moves to amend the bill on page 2, line 42
2 ( ) WHICH CHANGES THE TITLE
3 by deleting the ~~and~~ number "400,000"
4 and substituting the number ~~"0,000"~~.
5 "25,000"
6
7
8
9
10
11
12
13
14
15
16
17
18
19

SIGNED Gene Arnold

ADOPTED ✓ FAILED _____ TABLED _____

111-0EV adopted TWeeks

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

SENATE BILL 772:
Expand Municipal Service District

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Clodfelter
Date:	July 6, 1999	**Summary by:**	Cindy Avrette
Version:	1st Edition, as Amended Amendment unengrossed		Committee Counsel

SUMMARY: ***Senate Bill 772 expands the purposes for which service districts may be established in certain cities to include "urban area revitalization projects". The original bill defined an urban area as a city whose population exceeds 400,000. Only one city in the State, Charlotte, has a population that exceeds 400,000. The House Economic Growth and Community Development Committee amended the definition of an urban area to include a city whose population exceeds 25,000. The bill, as amended, may apply to following 23 cities: Charlotte, Raleigh, Greensboro, Winston-Salem, Durham, Fayetteville, Cary, Jacksonville, High Point, Asheville, Wilmington, Gastonia, Rocky Mount, Greenville, Goldsboro, Concord, Chapel Hill, Burlington, Wilson, Kannapolis, Hickory, Salisbury, and Kinston.***

CURRENT LAW: Article 23 of Chapter 160A sets out "The Municipal Service District Act of 1973". This Act allows a city council, by resolution, to define a service district upon finding that a proposed district is in need of one or more of the services, facilities or functions listed in the Act to a demonstrably greater extent than the remainder of the city. A service district may be established for the following purposes: (1) beach erosion control and flood and hurricane protection; (1a) certain services, facilities, or functions that preserve the character of an historic district; (2) downtown revitalization projects; (3) drainage projects, (4) off-street parking facilities; and (5) watershed improvement projects. A city may levy property taxes within defined service districts in addition to those levied throughout the city. The property taxes may not be in excess of a rate on each $100 value of property subject to taxation which, when added to the rate levied city wide, would exceed a maximum combined rate of $1.50 on the $100 appraised value of property subject to taxation. A city may also issue general obligation bonds to finance the services provided in a service district.

BILL ANALYSIS: Senate Bill 772 adds "urban area revitalization projects" to the purposes for which a service district may be established. Such projects include the providing of a service or facility within an urban area that may be provided in a downtown area as a downtown revitalization project. "Urban area " is defined as an area located within a city whose population exceeds 400,000 according to the most recent annual population statistics certified by the State Planning Officer and meets one or more of the following conditions:

1. Is the central business district of the city.
2. Consists primarily of industrial, retail, wholesale, office or significant employment generating uses.

3. Is on major transportation corridor and does not contain residential parcels within 150 feet of corridor right-of-way or nonresidentially zoned parcels within 1,500 feet of right-of-way.
4. Has as its focus a major concentration of public or institutional uses.

Martha Walston, counsel to the Senate Finance Committee, contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

2

SENATE BILL 1110
Finance Committee Substitute Adopted 6/15/99

Short Title: Tech. Commercialization Credit. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE AN INCENTIVE FOR BUSINESSES TO FIND COMMERCIAL USES FOR TECHNOLOGY DEVELOPED BY RESEARCH UNIVERSITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-129.9 reads as rewritten:

"**§ 105-129.9. Credit for investing in machinery and equipment.**

(a) ~~Credit.~~ General Credit. -- If a taxpayer that has purchased or leased eligible machinery and equipment places it in service in this State during the taxable year, the taxpayer is allowed a credit equal to seven percent (7%) of the excess of the eligible investment amount over the applicable threshold. Machinery and equipment is eligible if it is capitalized by the taxpayer for tax purposes under the Code and is not leased to another party. In addition, in the case of a large investment, machinery and equipment that is not capitalized by the taxpayer is eligible if the taxpayer leases it from another party. The credit may not be taken for the taxable year in which the equipment is placed in service but shall be taken in equal installments over the seven years following the taxable year in which the equipment is placed in service.

(a1) Technology Commercialization Credit. -- If a taxpayer is eligible for the credit allowed in this section with respect to eligible machinery and equipment and qualifies for one of the credits allowed in G.S. 105-129.9A with respect to the same machinery and equipment, the taxpayer may choose to take one of those credits instead of the credit allowed in this section. A taxpayer may take the credit allowed in this section or one of the credits allowed in G.S. 105-129.9A during a taxable year with respect to

eligible machinery and equipment, but may not take more than one of these credits with respect to the same machinery and equipment.

(b) Eligible Investment Amount. -- The eligible investment amount is the lesser of (i) the cost of the eligible machinery and equipment and (ii) the amount by which the cost of all of the taxpayer's eligible machinery and equipment that is in service in this State on the last day of the taxable year exceeds the cost of all of the taxpayer's eligible machinery and equipment that was in service in this State on the last day of the base year. The base year is that year, of the three immediately preceding taxable years, in which the taxpayer had the most eligible machinery and equipment in service in this State. A taxpayer that claims a credit under this section must include with the application for certification required under G.S. 105-129.6(a) specific documentation supporting the taxpayer's calculation of the eligible investment amount under this subsection.

(c) Threshold. -- The applicable threshold is the appropriate amount set out in the following table based on the enterprise tier of the area where the eligible machinery and equipment are placed in service during the taxable year. If the taxpayer places eligible machinery and equipment in service in more than one area during the taxable year, the threshold applies separately to the eligible machinery and equipment placed in service in each area. If the taxpayer places eligible machinery and equipment in service in an area over the course of a two-year period, the applicable threshold for the second taxable year is reduced by the eligible investment amount for the previous taxable year.

Area Enterprise Tier	Threshold
Tier One	$ -0-
Tier Two	100,000
Tier Three	200,000
Tier Four	500,000
Tier Five	1,000,000

(d) Expiration. -- If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are disposed of, taken out of service, or moved out of State, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are moved to an area in a higher-numbered enterprise tier, or are moved from a development zone to an area that is not a development zone, the remaining installments of the credit are allowed only to the extent they would have been allowed if the machinery and equipment had been placed in service initially in the area to which they were moved.

(e) Planned Expansion. -- A taxpayer that signs a letter of commitment with the Department of Commerce to place specific eligible machinery and equipment in service in an area within two years after the date the letter is signed may, in the year the eligible machinery and equipment are placed in service in that area, calculate the

credit for which the taxpayer qualifies based on the area's enterprise tier and development zone designation for the year the letter was signed. All other conditions apply to the credit, but if the area has been redesignated to a higher-numbered enterprise tier or has lost its development zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and development zone designation for the year the letter was signed. If the taxpayer does not place part or all of the specified eligible machinery and equipment in service within the two-year period, the taxpayer does not qualify for the benefit of this subsection with respect to the machinery and equipment not placed in service within the two-year period. However, if the taxpayer qualifies for a credit in the year the eligible machinery and equipment are placed in service, the taxpayer may take the credit for that year as if no letter of commitment had been signed pursuant to this subsection."

Section 2. Article 3A of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.9A. Technology commercialization credit.**

(a) Credit. -- If a taxpayer that has purchased or leased eligible machinery and equipment places it in service in this State during the taxable year, the taxpayer may qualify for a credit as provided in this section. If the taxpayer is also eligible for the credit allowed under G.S. 105-129.9 with respect to the eligible machinery and equipment, the taxpayer may choose instead of the credit allowed under G.S. 105-129.9 with respect to the machinery and equipment to take one of the credits under this section for which the taxpayer qualifies. The twenty percent (20%) credit is a credit equal to twenty percent (20%) of the excess of the eligible investment amount over the applicable threshold for the taxable year. The fifteen percent (15%) credit is a credit equal to fifteen percent (15%) of the excess of the eligible investment amount over the applicable threshold for the taxable year.

Except as provided in this section, the provisions of G.S. 105-129.9 apply to the credits allowed under this section. As used in this section, the term 'research university' means an institution of higher education classified as a Research I university or a Research II university in the most recent edition of 'A Classification of Institutions of Higher Education,' the official report of The Carnegie Foundation for the Advancement of Teaching.

A credit allowed under this section must be taken for the taxable year in which the machinery and equipment are placed in service. A taxpayer may take the twenty percent (20%) credit allowed under this section, the fifteen percent (15%) credit allowed under this section, or the credit allowed in G.S. 105-129.9 during a taxable year with respect to eligible machinery and equipment, but may not take more than one of these credits with respect to the same machinery and equipment.

(b) Eligible Investment Amount. -- In calculating the eligible investment amount under this section, for the purpose of determining the taxpayer's machinery and equipment in service in this State during the taxable year and the three immediately preceding taxable years, the following exceptions apply:

(1) Machinery and equipment that were transferred to another taxpayer during the three-year period are considered the taxpayer's machinery and equipment if they are still in service in this State during the taxable year, and the taxpayer to whom they were transferred is not entitled to claim a new credit for the investment under this Article.

(2) Machinery and equipment that were taken out of service during the three-year period are considered the taxpayer's machinery and equipment in service if all of the following conditions are met:

a. The machinery and equipment were taken out of service by the taxpayer or by the person to whom the taxpayer transferred them.

b. The machinery and equipment were taken out of service at a site separate from any site with respect to which the taxpayer claims a credit under this section.

c. The machinery and equipment were used in a business that was not and is not competitive with any business with respect to which the taxpayer claimed a credit under this section. For the purpose of this subdivision, two businesses are not competitive if both of the following conditions are met:

1. Their products and services lack reasonable interchangeability of use by the customer, based on use but without regard to quality, price, condition, or availability.

2. Their products and services lack reasonable interchangeability of production in that the businesses could not readily switch production capabilities from one product or service to the other.

(c) Documentation. -- If the taxpayer claims the exception provided in subdivision (b)(2) of this section, the Secretary of Commerce must obtain an opinion of the Attorney General that the taxpayer meets all of the conditions of subdivision (b)(2) before the Secretary certifies the application under G.S. 105-129.6(a).

(d) Twenty Percent Credit. -- A taxpayer qualifies for a twenty percent (20%) credit under this section if it meets all of the following conditions:

(1) The eligible machinery and equipment are directly related to production based on technology developed by and licensed from a research university or are used to produce resources essential to the taxpayer's production based on technology developed by and licensed from a research university.

(2) The eligible machinery and equipment are placed in service in a tier one, two, or three enterprise area.

(3) The eligible investment amount is at least ten million dollars ($10,000,000) for the taxable year.

(4) The Secretary of Commerce has certified that the taxpayer will invest at least one hundred fifty million dollars ($150,000,000) in eligible machinery and equipment in a tier one, two, or three enterprise area by the end of the fourth year after the year in which the taxpayer first places eligible machinery and equipment in service in the enterprise area.

(5) No more than nine years have passed since the first taxable year the taxpayer claimed a credit under this section with respect to the same location.

(e) Fifteen Percent Credit. -- A taxpayer qualifies for a fifteen percent (15%) credit under this section if it meets all of the following conditions:

(1) The eligible machinery and equipment are directly related to production based on technology developed by and licensed from a research university, or are used to produce resources essential to the taxpayer's production based on technology developed by and licensed from a research university.

(2) The eligible machinery and equipment are placed in service in a tier one, two, or three enterprise area.

(3) The eligible investment amount is at least ten million dollars ($10,000,000) for the taxable year.

(4) The Secretary of Commerce has certified that the taxpayer will invest at least one hundred million dollars ($100,000,000) in eligible machinery and equipment in a tier one, two, or three enterprise area by the end of the fourth year after the year in which the taxpayer first places eligible machinery and equipment in service in the enterprise area.

(5) No more than nine years have passed since the first taxable year the taxpayer claimed a credit under this section with respect to the same location."

Section 3. G.S. 105-129.4(d) reads as rewritten:

"(d) Forfeiture. -- A taxpayer forfeits a credit allowed under this Article if the taxpayer was not eligible for the credit at the time the taxpayer applied for the credit. In addition, a taxpayer forfeits a large investment enhancement of a tax credit if the taxpayer fails to make the level of investment certified by the Secretary of Commerce under subsection (b1) of this section within the required two-year period. A taxpayer forfeits the technology commercialization credit allowed under G.S. 105-129.9A if the taxpayer fails to make the level of investment required by subsection (e) of that section within the required period or if the taxpayer fails to meet the terms of its licensing agreement with a research university. If a taxpayer claimed a twenty percent (20%) technology commercialization credit under G.S. 105-129.9A(d) and fails to make the level of investment required under that subsection within the required period, but does make the level of investment required under subsection (e) of that section within the required period, the taxpayer forfeits one-fourth of the twenty percent (20%) credit.

A taxpayer that forfeits a credit under this Article is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236. If a taxpayer forfeits the credit for creating jobs or the credit for investing in machinery and equipment, the taxpayer also forfeits any credit for worker training claimed for the jobs for which the credit for creating jobs was claimed or the jobs at the location with respect to which the credit for investing in machinery and equipment was claimed."

Section 4. G.S. 105-129.5 reads as rewritten:

"**§ 105-129.5. Tax election; cap.**

(a) Tax Election. -- The credits provided in this Article are allowed against the franchise tax levied in Article 3 of this Chapter and the income taxes levied in Article 4 of this Chapter. The credit for investing in central administrative office property provided in G.S. 105-129.12 is also allowed against the gross premiums tax levied in Article 8B of this Chapter. The taxpayer may divide the technology commercialization credit allowed in G.S. 105-129.9A between the taxes against which it is allowed. The taxpayer must take any other credit allowed in this Article against only one of the taxes against which it is allowed. The taxpayer shall elect the tax against which a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. Any carryforwards of the credit must be claimed against the same tax.

(b) Cap. -- The credits allowed under this Article may not exceed fifty percent (50%) of the tax against which they are claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article against each tax for the taxable year. Any unused portion of a credit with respect to a large investment or with respect to the technology commercialization credit allowed in G.S. 105-129.9A may be carried forward for the succeeding 20 years. Any unused portion of any other credit may be carried forward for the succeeding five years."

Section 5. This act is effective for taxable years beginning on or after January 1, 2000.

NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 1110 (Finance Committee Substitute Adopted 6/15/99) Technology Commercialization Credit

SHORT TITLE: Technology Commercialization Credit

FISCAL IMPACT ($ Mill.)

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
State General Fund		-$2.1	-$2.1	-$2.1	-$2.1

PRINCIPAL DEPARTMENTS AFFECTED: Department of Revenue and Department of Commerce

EFFECTIVE DATE: Tax years beginning on or after January 1, 2000.

BILL SUMMARY: Adds a new investment tax credit that would be an alternative to the targeted 7% credit under the Bill Lee Act. The credit would apply to investments in machinery and equipment that meet the following conditions:

(1) Machinery and equipment is used in production that is based on technology licensed from a research university.
(2) Investment is located in a Tier 1, 2, or 3 county.
(3) Investment mounts to at least $10 million during the taxable year and at least $100 million over a five-year period.

If the investment amount is $100-$150 million during a five-year period, the credit is equal to 15% of the amount invested. If the amount is at least $150 million, the credit is 20%. The credit is available for 10 years of investments at a single location. The credit is taken in the year the investment in placed in service and is not required to be offset by machinery and equipment sold to another taxpayer if the new owner keeps the machinery and equipment in service in North Carolina. In addition, the credit is not required to be offset by machinery and equipment the taxpayer takes out of service at a separate location and was used in a business that is not competitive with the technology commercialization business. The credit may be taken against the income tax, the franchise tax, or both and may be carried forward 20 years.

ASSUMPTIONS AND METHODOLOGY: A review was made of planned investment activity, state tax liability, and existing Bill Lee Act credit usage data voluntarily supplied by a taxpayer planning a major project in a Tier 3 county in Southeastern North Carolina.

The major unknown is the potential additional tax loss from new or expanded investments that are stimulated by the incentives provided in the bill. Some issues affecting this activity are shown on next page.

Factors That Could Limit Fiscal Impact:

(1) The language in the proposed committee substitute limits eligibility in the following ways:

a. Size of investment: at least $100 million.
b. Location: Tiers 1, 2, or 3.
c. Production process at facility: based on technology licensed from a research university.

(2) A review of 1993-98 investment "announcements" compiled by the Department of Commerce indicates that only 20% of the number of announcements were located in Tiers 1-3. Many of the investments were not in manufacturing or processing industries.

(3) A conceptual point is that if a new or expanded investment is dependent upon the adoption of a particular incentive, the state's revenue loss will be from an economic activity that is not included in the baseline revenue forecast. In other words, if the investment does not take place, the bill would have no impact. In addition, the revenue forecasts used in the budget process have not built in a projection of the additional state and local tax revenues that will result from the investment decision.

(4) The cost of the new incentive would be offset to some extent by the cost of investment tax credits available under current law.

(5) The enhanced credit plus other Bill Lee Act credits taken cannot exceed 50% of tax due for a particular year.

(6) The special language in the bill having to do with the modification of the "net investment" test is fairly restrictive (see last paragraph in "Bill Summary").

Factors That Could Expand Fiscal Impact:

(1) There would be a revenue loss in traditional budgeting terms if the taxpayers making the new or expanded investment would do so without the proposed incentives.

(2) The new tax credits are substantially more lucrative to the taxpayer than the current Bill Lee Act investment tax credits.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: David Crotts

APPROVED BY: Tom Covington

DATE: **Wednesday, June 16, 1999**

VISITOR REGISTRATION SHEET

House Finance — July 6, 1999
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Chris Edwards	N.C. Assoc. of Launders & Cleaners
Lisa Tabler	NC DENR / DWM
Doug Johnston	NC Treas.
Charles Heatherly	DST
Terry Allen	Dept. of State Treasurer
Steve Brooks	NC State Education Assistance Authority
[illegible]	Poyner & Spruill
Kelli Fulcher	DuPont
Rick Carlisle	Dept. of Commerce
Floyd M. Lewis	General Statutes Commission
Clay Bunyard	Univ. of North Carolina
Ruben Carbonell	NC State University
Vicki Haithcock	Univ. of NC a Chapel Hill
Ruth Sabaire	NCDOT
Wayne Hurder	DMV - Driver License
Andy Ellis	[illegible]
Kim Preston	[illegible]
Steve Lettis	Brown, Pierce
Cam Covey	BPMHL
Dave Horn	Smith Anderson
Tom McArthur	General Electric
Allyson K Duncan	Kilpatrick Stockton
Doug Lindholm	Committee On State Taxation (COST)
Jim Blackburn	County Commrs Association
John Policastro	AT&T
[illegible]	Zeb Alley P.A.
Wayne Stallings	NCDOT
Bob Jackson	AARP

VISITOR REGISTRATION SHEET

House Finance , 1999 7/6/99

Name of Committee Date 8:30am

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sue Ellen	NCMS
Mary Watson	NC Med Bd
LIZ KANOF MD	NC med Bd
Tim Bryan	Dept State Treasurer
Sarah Scarl	WCSR
Christopher Mattheis	COG GA
Sam Hayes IV	NCALC
Bob Kennel	Council of UNC Alumni
Katherine Davies	Electricities
Al McBride	NCA
Edwin Speas Jr	UNC-CH
Jeff Nieman	UNC Students
NICHOLAS G. MICISIS	UNC STUDENTS
RON AYCOCK	NC. ASSN. of County Commissioners
[illegible]	NCCC
[illegible]	WCSR
TOM NIEMANN	BDN
Joyce Peters	JP Assoc
Susan Valauri	Nationwide

Box 11

1. (contd.) 1999 House Finance, **July 7**-
2. 2000 House Finance
3. 1999-2000 House Financial Institutions
4. 1999 House Health
5. 2000 House Health
6. 1999 House Highway Safety
7. 1999 House Insurance
8. 2000 House Insurance

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Wednesday, July 7, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

SB 244 - Unclaimed Property Act - Sen. Hartsell
SB 1110 - Technology Commercialization Credit - Sen. Rand

ADJOURNMENT OF MEETING

File

Final

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 244*
Judiciary I Committee Substitute Adopted 5/26/99
Finance Committee Substitute No. 2 Adopted 6/9/99
Finance Committee Substitute No. 3 Adopted 6/15/99
Fifth Edition Engrossed 6/16/99
Proposed House Committee Substitute S244-PCS4716-RB

Short Title: Unclaimed Property Act/AB. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO ENACT THE NORTH CAROLINA UNCLAIMED PROPERTY ACT AND TO MAKE CONFORMING AMENDMENTS TO THE GENERAL STATUTES, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE OTHER CHANGES TO THE ESCHEATS LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116B-4 reads as rewritten:

"**§ 116B-4. Claim for escheated property.**

Any escheated property or proceeds from the sale of escheated property held by the Escheat Fund pursuant to ~~G.S. 116B-27~~ G.S. 116B-5 may be claimed by an heir of the decedent or by a creditor of the decedent who is not barred from presenting a claim under the provisions of Article 19 of ~~Chapter 28A.~~ Chapter 28A of the General Statutes. ~~The claim shall be made on a form prescribed by the Treasurer and shall be presented to the Treasurer. If the Treasurer determines that the claimant is entitled to all or a portion of the escheated property or the proceeds from its sale, he shall make payment of the claim or return of the property. The claimant shall agree to indemnify the State, the State Treasurer and the Escheat Fund from any claim arising out of or in connection with refund of the property claimed.~~ The provisions of ~~G.S.~~

~~116B-38(b) and (c)~~ G.S. 116B-67(a), (c), (d), and (e) and G.S. 116B-68 shall apply to a claim under this ~~subsection.~~ section."

Section 2. Article 2 of Chapter 116B of the General Statutes is repealed.

Section 3.(a) Except as provided in subsection (b) of this section, Article 3 of Chapter 116B of the General Statutes is repealed.

Section 3.(b) G.S. 116B-27 is recodified as G.S. 116B-5 within Article 1 of Chapter 116B of the General Statutes. G.S. 116B-36 is recodified as G.S. 116B-6 within Article 1 of Chapter 116B of the General Statutes. G.S. 116B-37 is recodified as G.S. 116B-7 within Article 1 of Chapter 116B of the General Statutes. G.S. 116B-47 is recodified as G.S. 116B-8 within Article 1 of Chapter 116B of the General Statutes.

Section 4.(a) G.S. 116B-6(b), as recodified by subsection (b) of Section 3 of this act, reads as rewritten:

"(b) Investment and Transfer of Assets; Income. -- The Treasurer ~~shall be~~ is the trustee of the Escheat Account and ~~shall have~~ has full power to invest and reinvest the assets of the Escheat Account and the Escheat Fund. Subject to the Treasurer's withholding an amount necessary to accomplish ~~his~~ the Treasurer's duties as set out in this Chapter, including subsections (e), (f) and (g) of this section, the Treasurer shall transfer, at least annually, to the Escheat Account all moneys then in ~~his~~ the Treasurer's custody received as, or derived from the disposition of, escheated and abandoned property and shall disburse to the State Education Assistance Authority, as provided in ~~G.S. 116B-37,~~ G.S. 116B-7, the income derived from the investment of the Escheat Account and the Escheat Fund. All moneys transferred to the Escheat Account under this section shall be accounted for and administered separately from other assets and money in the trust fund created under G.S. 116-209."

Section 4.(b) G.S. 116B-6(h) as recodified by subsection (b) of Section 3 of this act, reads as rewritten:

"(h) Expenditures. -- The Treasurer may expend the funds in the Escheat Fund, other than funds in the Escheat Account, for the payment of claims for refunds to owners, holders and claimants under G.S. 116B-4; for the payment of costs of maintenance and upkeep of abandoned or escheated property; costs of preparing lists of names of owners of abandoned property to be furnished to clerks of superior court; costs of notice and publication; costs of appraisals; fees of persons employed pursuant to ~~G.S. 116B-47,~~ G.S. 116B-8 costs involved in determining whether a decedent died without heirs; costs of a title search of real property that has escheated; and costs of auction or sale under this Chapter. All other costs, including salaries of personnel, necessary to carry out the duties of the Treasurer under this Chapter, shall be appropriated from the funds of the Escheat Fund pursuant to the provisions of Article 1, Chapter 143 of the General Statutes."

Section 5. G.S. 116B-8, as recodified by subsection (b) of Section 3 of this act, reads as rewritten:

"**§ 116B-8. Employment of persons with specialized skills or knowledge.**

The Treasurer may employ the services of such independent consultants, real estate managers and other persons possessing specialized skills or knowledge as ~~he~~

~~shall deem~~ the Treasurer deems necessary or appropriate for the administration of this Chapter, ~~including, but specifically not limited to,~~ including valuation, maintenance, upkeep, management, sale and conveyance of property and determination of sources of unreported abandoned property. The Treasurer may also employ the services of an attorney to perform a title search or to provide an accurate legal description of real property which ~~he~~ the Treasurer has reason to believe may have escheated. Persons whose services are employed by the Treasurer pursuant to this section to determine sources and amounts of unreported property are subject to the same policies, including confidentiality and ethics, as employees of the Department of State Treasurer assigned to determine sources and amounts of unreported property. Compensation of persons whose services are employed pursuant to this section on a contingent fee basis shall be limited to twelve percent (12%) of the final assessment."

Section 6. Chapter 116B of the General Statutes is amended by adding the following new article to read:

"ARTICLE 4.

"North Carolina Unclaimed Property Act.

"§ 116B-51. Short title.

This Article may be cited as the 'North Carolina Unclaimed Property Act.'

"§ 116B-52. Definitions.

In this Chapter:

(1) 'Apparent owner' means a person whose name appears on the records of a holder as the person entitled to property held, issued, or owing by the holder.

(2) 'Business association' means a corporation, joint stock company, investment company, partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository, financial organization, insurance company, mutual fund, utility, or other business entity consisting of one or more persons, whether or not for profit.

(3) 'Domicile' means the state of incorporation of a corporation and the state of the principal place of business of a holder other than a corporation.

(4) 'Financial organization' means a savings and loan association, building and loan association, savings bank, industrial bank, bank, banking organization, or credit union.

(5) 'Holder' means a person obligated to hold for the account of or deliver or pay to the owner property that is subject to this Chapter.

(6) 'Insurance company' means an association, corporation, or fraternal or mutual benefit organization, whether or not for profit, engaged in the business of providing life endowments, annuities, or insurance, including accident, burial, casualty, credit life, contract performance, dental, disability, fidelity, fire, health, hospitalization,

illness, life, malpractice, marine, mortgage, surety, wage protection, and workers' compensation insurance.

(7) 'Mineral' means gas, oil, coal, other gaseous, liquid, and solid hydrocarbons, oil shale, cement material, sand and gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resource, or any other substance defined as a mineral by the law of this State.

(8) 'Mineral proceeds' means amounts payable for the extraction, production, or sale of minerals, or, upon the abandonment of those payments, all payments that become payable thereafter. The term includes amounts payable:

a. For the acquisition and retention of a mineral lease, including bonuses, royalties, compensatory royalties, shut-in royalties, minimum royalties, and delay rentals;

b. For the extraction, production, or sale of minerals, including net revenue interests, royalties, overriding royalties, extraction payments, and production payments; and

c. Under an agreement or option, including a joint operating agreement, unit agreement, pooling agreement, and farm-out agreement.

(9) 'Owner' means a person who has a legal or equitable interest in property subject to this Chapter or the person's legal representative. The term includes a depositor in the case of a deposit, a beneficiary in the case of a trust other than a deposit in trust, and a creditor, claimant, or payee in the case of other property.

(10) 'Person' means an individual, business association, financial organization, estate, trust, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(11) 'Property' means tangible personal property physically located within this State or a fixed and certain interest in intangible property that is held, issued, or owed in the course of a holder's business, or by a government, governmental subdivision, agency, or instrumentality, and all income or increments therefrom. The term includes property that is referred to as or evidenced by:

a. Money, a check, draft, deposit, interest, or dividend;

b. Credit balance, customer's overpayment, gift certificate, security deposit, refund, credit memorandum, unpaid wage, unused ticket, mineral proceeds, or unidentified remittance;

c. Stock or other evidence of ownership of an interest in a business association;

d. A bond, debenture, note, or other evidence of indebtedness;

e. Money deposited to redeem stocks, bonds, coupons, or other securities, or to make distributions;

f. An amount due and payable under the terms of an annuity or insurance policy, including policies providing life insurance, property and casualty insurance, workers' compensation insurance, or health and disability insurance; and

g. An amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.

(12) 'Record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(13) 'State' means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.

(14) 'Treasurer' means the Treasurer of the State of North Carolina or the Treasurer's designated agent.

(15) 'Utility' means a person who owns or operates for public use any plant, equipment, real property, franchise, or license for the transportation of the public, the transmission of communications, or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

"§ 116B-53. Presumptions of abandonment.

(a) Property is unclaimed if the apparent owner has not communicated in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder, with the holder concerning the property or the account in which the property is held, and has not otherwise indicated an interest in the property. A communication with an owner by a person (other than the holder or its representative) who has not, in writing, identified the property to the owner is not an indication of interest in the property by the owner.

(b) An indication of an interest in property includes:

(1) The presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

(2) The presentment of a check or other instrument of payment of interest made with respect to debt of a business association or, in the case of an interest payment made by electronic or similar means, evidence that the interest payment has been received;

(3) Owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease, or change the amount or type of property held in the account;

(4) The making of a deposit to or withdrawal from an account in a financial organization;

(5) Owner activity in another account with the holder of a deposit described in subdivisions (c)(2) and (c)(6) of this section; and

(6) The payment of a premium with respect to a property interest in an insurance policy; but the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

(c) Property is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:

(1) Traveler's check, 15 years after issuance;

(2) Time deposit, including a deposit that is automatically renewable, 10 years after the later of initial maturity or the date of the last indication by the owner of interest in the property;

(3) Money order, cashier's check, teller's check, and certified check, seven years after issuance;

(4) Stock or other equity interest in a business association, including a security entitlement under Article 8 of the Uniform Commercial Code, Chapter 25 of the General Statutes, five years after the earlier of:

a. The date of a cash dividend or other cash distribution unclaimed by the apparent owner, or

b. The date of the second mailing of a stock certificate or other evidence of ownership, a statement of account, or other notification or communication which second mailing was returned as undeliverable or the date the holder discontinued mailings, notifications, or communications to the apparent owner;

(5) Debt of a business association, other than a bearer bond or an original issue discount bond, five years after the date of an interest payment unclaimed by the apparent owner;

(6) Demand or savings deposit, five years after the date of the last indication by the owner of interest in the property;

(7) Money or credits owed to a customer as a result of a retail business transaction, three years after the obligation accrued;

(8) Any gift certificate or electronic gift card bearing an expiration date and remaining unredeemed or dormant for more than three

years after the gift certificate or electronic gift card was sold is deemed abandoned. The amount abandoned is deemed to be sixty percent (60%) of the unredeemed portion of the face value of the gift certificate or the electronic gift card;

(9) Amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, three years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, three years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;

(10) Property distributable by a business association in a course of dissolution, one year after the property becomes distributable;

(11) Property received by a court as proceeds of a class action, and not distributed pursuant to the judgment, one year after the distribution date;

(12) Property held by a court, government, governmental subdivision, agency, or instrumentality, one year after the property becomes distributable;

(13) Wages or other compensation for personal services, two years after the compensation becomes payable;

(14) Deposit or refund owed to a subscriber by a utility, one year after the deposit or refund becomes payable;

(15) Property in an individual retirement account, defined benefit plan, or other account or plan that is qualified for tax deferral under the income tax laws of the United States, three years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan, or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty; and

(16) All other property, five years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs.

(d) At the time that an interest in property is presumed abandoned under subsection (c) of this section, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

(e) Property is payable or distributable for purposes of this Chapter notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment or distribution, except as otherwise provided by the Uniform Commercial Code.

"**§ 116B-54. Exclusion for forfeited reservation deposits, certain gift certificates or electronic gift cards, prepaid calling cards, certain manufactured home buyer deposits, and certain credit balances.**

(a) A forfeited reservation deposit is not abandoned property. For the purposes of this section, the term 'reservation deposit' means an amount of money paid to a business association to guarantee that the business association holds a specific service, such as a room accommodation at a hotel, seating at a restaurant, or an appointment with a doctor, for a specified date and place. The term 'reservation deposit' does not include an application fee, a utility deposit, or a deposit made toward the purchase of real property.

(b) A gift certificate or electronic gift card is not abandoned property when the gift certificate or electronic gift card:

(1) Conspicuously states that the gift certificate or electronic gift card does not expire;

(2) Bears no expiration date; or

(3) States that a date of expiration printed on the gift certificate or electronic gift card is not applicable in North Carolina.

(c) A prepaid calling card issued by a public utility as defined in G.S. 62-3(23)a.6. is not abandoned property.

(d) A buyer deposit that a dealer is authorized to retain under either G.S. 143-143.21A or G.S. 143-143.21B is not abandoned property and is not subject to this Article.

(e) Credit balances as shown on the records of a business association to or for the benefit of another business association, shall not constitute abandoned property. For purposes of this section, the term 'credit balances' means items such as overpayments or underpayments on the sale of goods or services.

"**§ 116B-55. Contents of safe deposit box or other safekeeping depository.**

Contents of a safe deposit box or other safekeeping depository held by a financial organization is presumed abandoned if the apparent owner has not claimed the property within the period established by G.S. 53-43.7 and shall be delivered to the Treasurer as provided by that section. If the contents include property described in G.S. 116B-53, the Treasurer shall hold the property for the remainder of the applicable period set forth in that section before the property is deemed to be received for purpose of sale under G.S. 116B-65.

"**§ 116B-56. Rules for taking custody.**

(a) Except as otherwise provided in this Chapter or by other statute of this State, property that is presumed abandoned, whether located in this or another state, is subject to the custody of this State if:

(1) The last known address of the apparent owner, as shown on the records of the holder, is in this State;

(2) The records of the holder do not reflect the identity of the person entitled to the property, and it is established that the last known address of the person entitled to the property is in this State;

(3) The records of the holder do not reflect the last known address of the apparent owner and it is established that:
a. The last known address of the person entitled to the property is in this State; or
b. The holder is domiciled in this State or is a government or governmental subdivision, agency, or instrumentality of this State and has not previously paid or delivered the property to the state of the last known address of the apparent owner or other person entitled to the property;
(4) The last known address of the apparent owner, as shown on the records of the holder, is in a state that does not provide for the escheat or custodial taking of the property, and the holder is domiciled in this State or is a government or governmental subdivision, agency, or instrumentality of this State;
(5) The last known address of the apparent owner, as shown on the records of the holder, is in a foreign country, and the holder is domiciled in this State or is a government or governmental subdivision, agency, or instrumentality of this State; or
(6) The property is a traveler's check or money order purchased in this State or the issuer of the traveler's check or money order has its principal place of business in this State and the issuer's records show that the instrument was purchased in a state that does not provide for the escheat or custodial taking of the property or do not show the state in which the instrument was purchased.

(b) In the case of an amount payable under the terms of an annuity or insurance policy, the last known address of the person entitled to the property is presumed to be the same as the last known address of the insured or the principal, as shown on the records of the insurance company, if:
(1) A person other than the insured or the principal is entitled to the property; and
(2) Either:
a. No address of the person is known to the insurance company; or
b. The records of the insurance company do not reflect the identity of the person.

"**§ 116B-57. Dormancy charge; other lawful charges.**

(a) A holder may deduct from property presumed abandoned a reasonable charge imposed by reason of the owner's failure to claim the property within a specified time only if there is a valid and enforceable written contract between the holder and the owner under which the holder may impose the charge and the holder regularly imposes the charge, which is not regularly reversed or otherwise canceled.

(b) This Chapter does not prevent a holder from deducting from property presumed abandoned other lawful charges specifically authorized by statute or by a valid and enforceable contract.

"**§ 116B-58. Burden of proof as to property evidenced by record of check or draft.**

A record of the issuance of a check, draft, or similar instrument is prima facie evidence of an obligation. In claiming property from a holder who is also the issuer, the Treasurer's burden of proof as to the existence and amount of the property and its abandonment is satisfied by showing issuance of the instrument and passage of the requisite period of abandonment. Defenses of payment, satisfaction, discharge, and want of consideration are affirmative defenses that must be established by the holder. In asserting these affirmative defenses, a holder who is also the issuer may satisfy the holder's burden of proof by showing a written acknowledgement by the payee of a check, draft, or similar instrument that no obligation is owed the payee.

"**§ 116B-59. Notice by holders to apparent owners.**

(a) A holder of property presumed abandoned shall make a good faith effort to locate an apparent owner.

(b) The holder shall send written notice, by first-class mail, to the apparent owner, not more than 120 days or less than 60 days before filing the report required by G.S. 116B-60, to the last known address of the apparent owner as reflected in the holder's records, if the value of the property is fifty dollars ($50.00) or more.

(c) The notice must contain:

(1) A statement that, according to the records of the holder, property is being held to which the addressee appears entitled and the amount or description of the property;

(2) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder;

(3) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the following October 1 or, if the holder is an insurance company, by the following April 1, the property will be placed in the custody of the Treasurer, to whom all further claims shall be directed.

"**§ 116B-60. Report of abandoned property; certification by holders with tax return.**

(a) A holder of property presumed abandoned shall make a report to the Treasurer concerning the property.

(b) The report must be verified and must contain:

(1) A description of the property;

(2) Except with respect to a traveler's check or money order, the name, if known, and last known address, if any, and the social security number or taxpayer identification number, if readily ascertainable, of the apparent owner of property of the value of fifty dollars ($50.00) or more;

(3) An aggregated amount of items valued under fifty dollars ($50.00) each;

(4) In the case of an amount of fifty dollars ($50.00) or more held or owing under an annuity or a life or endowment insurance policy,

the full name and last known address of the annuitant or insured and of the beneficiary;

(5) The date, if any, on which the property became payable, demandable, or returnable, and the date of the last transaction or communication with the apparent owner with respect to the property; and

(6) Other information that the Treasurer by rule prescribes as necessary for the administration of this Chapter.

(c) If a holder of property presumed abandoned is a successor to another person who previously held the property for the apparent owner or the holder has changed its name while holding the property, the holder shall file with the report its former names, if any, and the known names and addresses of all previous holders of the property.

(d) The report must be filed before November 1 of each year and cover the 12 months next preceding July 1 of that year, but a report with respect to a life insurance company must be filed before May 1 of each year for the calendar year next preceding.

(e) Before the date for filing the report, the holder of property presumed abandoned may request the Treasurer to extend the time for filing the report. A request for an extension for filing a report shall be accompanied by an extension processing fee of ten dollars ($10.00). The Treasurer may grant the extension for good cause. The holder, upon receipt of the extension, may make an interim payment on the amount the holder estimates will ultimately be due, which terminates the accrual of additional interest on the amount paid.

(f) The holder of property presumed abandoned shall file with the report an affidavit stating that the holder has complied with G.S. 116B-59.

(g) Every business association holding property presumed abandoned under this Chapter shall certify the holding in the income tax return required by Chapter 105 of the General Statutes. The certification shall be a part of the tax return with which it is filed. If the business association is not required to file an income tax return under Chapter 105, the certification shall be made in the form and manner required by the Secretary of Revenue. The information appearing on the certification is not privileged or confidential, and this information shall be furnished by the Secretary of Revenue to the Escheat Fund on October 1 of each year, or if this date shall fall on a weekend or holiday, on the next regular business day.

"**§ 116B-61. Payment or delivery of abandoned property.**

(a) Upon filing the report required by G.S. 116B-60, the holder of property presumed abandoned shall pay, deliver, or cause to be paid or delivered to the Treasurer the property described in the report, but if the property is an automatically renewable deposit, and a penalty or forfeiture in the payment of interest would result, the time for compliance is extended to the next filing and delivery date at which a penalty or forfeiture would no longer result.

(b) If the property reported to the Treasurer is a security or security entitlement under Article 8 of Chapter 25 of the General Statutes, the Treasurer is an

appropriate person to make an indorsement, instruction, or entitlement order on behalf of the apparent owner to invoke the duty of the issuer or its transfer agent or the securities intermediary to transfer or dispose of the security or the security entitlement in accordance with Article 8 of Chapter 25 of the General Statutes.

(c) If the holder of property reported to the Treasurer is the issuer of a certificated security, the Treasurer has the right to obtain a replacement certificate pursuant to G.S. 25-8-405, but an indemnity bond is not required.

(d) An issuer, the holder, and any transfer agent or other person acting pursuant to the instructions of and on behalf of the issuer or holder in accordance with this section is not liable to the apparent owner and must be indemnified against claims of any person in accordance with G.S. 116B-63.

"**§ 116B-62. Preparation of list of owners by Treasurer.**

(a) There shall be delivered to the clerk of superior court of each county prior to June 30 of each year a list prepared by the Treasurer of escheated and abandoned property reported to the Treasurer. The list shall contain:

(1) The names, if known, in alphabetical order of surname, and last known addresses, if any, of apparent owners of escheated and abandoned property;

(2) The names and addresses of the holders of the abandoned property; and

(3) A statement that claim and proof of legal entitlement to escheated or abandoned property shall be presented by the owner to the Treasurer, which statement shall set forth where further information may be obtained.

(b) At the time the lists are distributed to the clerks of superior court, the Treasurer shall cause to be published once each week for two consecutive weeks, in at least two newspapers having general circulation in this State, a notice stating the nature of the lists and that the lists are available for inspection at the offices of the respective clerks of superior court, together with any other information the Treasurer deems appropriate to appear in the notice.

(c) The Treasurer is not required to include in any list any item of a value, as determined by the Treasurer, in the Treasurer's discretion, of less than fifty dollars ($50.00), unless the Treasurer deems inclusion of items of lesser amounts to be in the public interest.

(d) The clerks of superior court shall retain the lists on permanent file in their offices and shall make them available for public inspection.

(e) The lists prepared by the Treasurer shall include only escheated and abandoned property reported for the current reporting date and are not required to be cumulative lists of escheated and abandoned property previously reported.

(f) Notwithstanding the provisions of Chapter 132 of the General Statutes, the supporting data and lists of apparent owners of escheated and abandoned property may be confidential until six months after the notice to clerks of superior court required by subsection (b) of this section has been distributed. This subsection shall

not apply to owners of reported property making inquiries about their property to the Escheat Fund.

"§ 116B-63. Custody by State; recovery by holder; defense of holder.

(a) In this section, payment or delivery is made in 'good faith' if:

(1) Payment or delivery was made in a reasonable attempt to comply with this Chapter;

(2) The holder was not then in breach of a fiduciary obligation with respect to the property and had a reasonable basis for believing, based on the facts then known, that the property was presumed abandoned; and

(3) There is no showing that the records under which the payment or delivery was made did not meet reasonable commercial standards of practice.

(b) Upon payment or delivery of property to the Treasurer, the State assumes custody and responsibility for the safekeeping of the property. A holder who pays or delivers property to the Treasurer in good faith is relieved of all liability arising thereafter with respect to the property.

(c) A holder who has paid money to the Treasurer pursuant to this Chapter may subsequently make payment to a person reasonably appearing to the holder to be entitled to payment. Upon a filing by the holder of proof of payment and proof that the payee was entitled to the payment, the Treasurer shall promptly reimburse the holder for the payment without imposing a fee or other charge. If reimbursement is sought for a payment made on a negotiable instrument, including a traveler's check or money order, the holder must be reimbursed upon filing proof that the instrument was duly presented and that payment was made to a person who reasonably appeared to be entitled to payment. The holder must be reimbursed for payment made even if the payment was made to a person whose claim was barred under G.S. 116B-71(a).

(d) A holder who has delivered property other than money to the Treasurer pursuant to this Chapter may reclaim the property if it is still in the possession of the Treasurer,without paying any fee or other charge, upon filing proof that the apparent owner has claimed the property from the holder.

(e) The Treasurer may accept a holder's affidavit as sufficient proof of the holder's right to recover money and property under this section.

(f) If a holder pays or delivers property to the Treasurer in good faith and thereafter another person claims the property from the holder or another state claims the money or property under its laws relating to escheat or abandoned or unclaimed property, the Treasurer, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim resulting from payment or delivery of the property to the Treasurer.

"§ 116B-64. Income or gain accruing after payment or delivery.

If property other than money is delivered to the Treasurer under this Chapter, the owner is entitled to receive from the Treasurer any income or gain realized or accruing on the property at or before liquidation or conversion of the property into money. If the property is interest-bearing or pays dividends, the interest or dividends

shall be paid until the date on which the amount of the deposits, accounts, or funds, or the shares must be remitted or delivered to the Treasurer under G.S. 116B-61. Otherwise, when property is delivered or paid to the Treasurer, the Treasurer shall hold the property without liability for income or gain.

"**§ 116B-65. Public sale of abandoned property.**

(a) Except as otherwise provided in this section, the Treasurer, within three years after the receipt of abandoned property, shall sell it to the highest bidder at public sale at a location in the State which in the judgment of the Treasurer affords the most favorable market for the property. The Treasurer may decline the highest bid and reoffer the property for sale if the Treasurer considers the bid to be insufficient. The Treasurer need not offer the property for sale if the Treasurer considers that the probable cost of sale will exceed the proceeds of the sale. A sale held under this section must be preceded by a single publication of notice, at least three weeks before sale, in a newspaper of general circulation in the county in which the property is to be sold. The Treasurer is not required to sell money unless it is a collector's species having value greater than the face value of the money as cash.

(b) Securities listed on an established stock exchange must be sold at prices prevailing on the exchange at the time of sale. Other securities may be sold over the counter at prices prevailing at the time of sale or by any reasonable method selected by the Treasurer. If securities are sold by the Treasurer before the expiration of three years after their delivery to the Treasurer, a person making a claim under this Chapter before the end of the three-year period is entitled to the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever is greater, less any deduction for expenses of sale. A person making a claim under this Chapter after the expiration of the three-year period is entitled to receive the securities delivered to the Treasurer by the holder, if they still remain in the custody of the Treasurer, or the net proceeds received from sale, and is not entitled to receive any appreciation in the value of the property occurring after delivery to the Treasurer, except in a case of intentional misconduct by the Treasurer.

(c) A purchaser of property at a sale conducted by the Treasurer pursuant to this Chapter takes the property free of all claims of the owner or previous holder and of all persons claiming through or under them. The Treasurer shall execute all documents necessary to complete the transfer of ownership.

"**§ 116B-66. Claim of another state to recover property.**

(a) After property has been paid or delivered to the Treasurer under this Article, another state may recover the property if:

(1) The property was paid or delivered to the custody of this State because the records of the holder did not reflect a last known location of the apparent owner within the borders of the other state, and the other state establishes that the apparent owner or other person entitled to the property was last known to be located within the borders of that state and under the laws of that state the property has escheated or become subject to a claim of abandonment by that state;

(2) The property was paid or delivered to the custody of this State because the laws of the other state did not provide for the escheat or custodial taking of the property, and under the laws of that state subsequently enacted, the property has escheated or become subject to a claim of abandonment by that state;

(3) The records of the holder were erroneous in that they did not accurately identify the owner of the property and the last known location of the owner within the borders of another state, and under the laws of that state the property has escheated or become subject to a claim of abandonment by that state;

(4) The property was subjected to custody by this State under G.S. 116B-56(6), and under the laws of the state of domicile of the holder, the property has escheated or become subject to a claim of abandonment by that state; or

(5) The property is a sum payable on a traveler's check, money order, or similar instrument that was purchased in the other state and delivered into the custody of this State under G.S. 116B-56(7), and under the laws of the other state, the property has escheated or become subject to a claim of abandonment by that state.

(b) A claim of another state to recover escheated or abandoned property must be presented in a form prescribed by the Treasurer, who shall decide the claim within 90 days after it is presented. The Treasurer shall allow the claim upon determining that the other state is entitled to the abandoned property under subsection (a) of this section.

(c) The Treasurer shall require another state, before recovering property under this section, to agree to indemnify this State and its officers and employees against any liability on a claim to the property.

"§ 116B-67. Claim for property paid or delivered to the Treasurer.

(a) A person, excluding another state, claiming property paid or delivered to the Treasurer may file a claim on a form prescribed by the Treasurer and verified by the claimant.

(b) At the discretion of the Treasurer, the claim shall be made to the holder or to the holder's successor. If the holder is satisfied that the claim is valid and that the claimant is the owner of the property, the holder shall so certify to the Treasurer by written statement attested by the holder under oath, or in the case of a corporation, by two principal officers, or one principal officer and an authorized employee of the corporation. The determination of the holder that the claimant is the owner shall, in the absence of fraud, be binding upon the Treasurer and upon receipt of the certificate of the holder to this effect, the Treasurer shall forthwith authorize and make payment of the claim or return of the property, or if the property has been sold, the amount received from the sale, to the owner, or to the holder in the event the owner has assigned the claim to the holder and the certificate of the holder is accompanied by an assignment. In the event the holder rejects the claim, the claimant may appeal to the Treasurer.

If the holder, or the holder's successor, is not available, the owner may file a claim with the Treasurer on a form prescribed by the Treasurer. In addition to any other information, the claim shall state the facts surrounding the unavailability of the holder and the lack of a successor.

(c) Within 90 days after a claim is filed, the Treasurer shall allow or deny the claim and give written notice of the decision to the claimant. If the claim is denied, the Treasurer shall inform the claimant of the reasons for the denial and specify what additional evidence is required before the claim will be allowed. The claimant may then file a new claim with the Treasurer or maintain an action under G.S. 116B-68.

(d) Within 30 days after a claim is allowed, the property or the net proceeds of a sale of the property must be delivered or paid by the Treasurer to the claimant.

(e) The claimant or claimants and the holder, if the holder either certifies that the claimant is the owner under subsection (b) of this section or recovers money and property from the Treasurer under G.S. 116B-63, shall agree to indemnify, save harmless, and defend the State, the Treasurer, and the Escheat Fund from any claim arising out of or in connection with refund of the property claimed. In like manner, the claimant shall also agree to indemnify, save harmless, and defend the holder, if the holder certifies the claim under subsection (b) of this section or pays or delivers property to the claimant under G.S. 116B-63.

"§ 116B-68. Action to establish claim.

A person aggrieved by a decision of the Treasurer or whose claim has not been acted upon within 90 days after its filing may maintain an original action to establish the claim in the Superior Court of Wake County, naming the Treasurer as a defendant.

"§ 116B-69. Election to take payment or delivery.

(a) The Treasurer may decline to receive property reported under this Chapter which the Treasurer considers to have a value less than the expenses of notice and sale.

(b) A holder, with the written consent of the Treasurer and upon conditions and terms prescribed by the Treasurer, may report and deliver property before the property is presumed abandoned. Property so delivered must be held by the Treasurer and is not presumed abandoned until it otherwise would be presumed abandoned under this Article.

"§ 116B-70. Destruction or disposition of property having no substantial commercial value; immunity from liability; property of historical significance.

(a) If the Treasurer determines after investigation that property delivered under this Chapter has no substantial commercial value, the Treasurer may destroy or otherwise dispose of the property at any time. An action or proceeding may not be maintained against the State or any officer, employee, or agent of the State, both past and present, in the person's individual and official capacity, or against the holder for or on account of an act of the Treasurer under this subsection, except for intentional misconduct.

(b) Notwithstanding the provisions of G.S. 116B-65, the Treasurer may retain any tangible property delivered to the Treasurer, if the property has recognized historic

significance. The historic significance shall be certified by the Treasurer, with the advice of the Secretary of Cultural Resources; and a statement of the appraised value of the property shall be filed with the certification. Historic property retained under this subsection may be stored and displayed at any suitable location.

"**§ 116B-71. Periods of limitation.**

(a) The expiration, before or after the effective date of this Article, of a period of limitation on the owner's right to receive or recover property, whether specified by contract, statute, or court order, does not preclude the property from being presumed abandoned or affect a duty of a holder to file a report or to pay or deliver or transfer property to the Treasurer as required by this Article.

(b) An action or proceeding may not be maintained by the Treasurer to enforce this Article in regard to the reporting, delivery, or payment of property more than five years after the holder filed a report with the Treasurer in which the holder specifically identified property, should have but failed to identify property, or gave express notice to the Treasurer of a dispute regarding property. In the absence of such a report or other express notice, the period of limitation is tolled. The period of limitation is also tolled by the filing of a report that is fraudulent.

"**§ 116B-72. Requests for reports and examination of records.**

(a) The Treasurer may require a person who has not filed a report, or a person who the Treasurer believes has filed an inaccurate, incomplete, or false report, to file a verified report in a form specified by the Treasurer. The report must state whether the person is holding property reportable under this Chapter, describe property not previously reported or as to which the Treasurer has made inquiry, and specifically identify and state the value of property that may be in issue.

(b) The Treasurer, at reasonable times and upon reasonable notice, may examine the records of any person to determine whether the person has complied with this Chapter. The Treasurer may conduct the examination even if the person believes it is not in possession of any property that must be reported, paid, or delivered under this Chapter. The Treasurer may contract with any other person to conduct the examination on behalf of the Treasurer.

(c) The Treasurer at reasonable times may examine the records of an agent, including a dividend disbursing agent or transfer agent, of a business association that is the holder of property presumed abandoned if the Treasurer has given the notice required by subsection (b) of this section to both the association and the agent at least 90 days before the examination.

(d) Documents and working papers obtained or compiled by the Treasurer, or the Treasurer's agents, employees, or designated representatives, in the course of conducting an examination are confidential, but the documents and papers may be:

(1) Used by the Treasurer in the course of an action to collect unclaimed property or otherwise enforce this Chapter;

(2) Used in joint examinations conducted with or pursuant to an agreement with another state, the federal government, or any other governmental subdivision, agency, or instrumentality;

(3) Produced pursuant to subpoena or court order; or

(4) Disclosed to the abandoned property office of another state for that state's use in circumstances equivalent to those described in this subsection, if the other state is bound to keep the documents and papers confidential.

(e) If an examination results in the disclosure of property reportable under this Chapter, the Treasurer may assess, against a holder who made a fraudulent report, the cost of the examination at the rate of two hundred dollars ($200.00) a day for each examiner, or a greater amount that is reasonable and was incurred, but the assessment may not exceed the value of the property found to be reportable. The cost of an examination made pursuant to subsection (c) of this section may be assessed only against the business association.

(f) If a holder does not maintain the records required by G.S. 116B-73 and the records of the holder available for the periods subject to this Chapter are insufficient to permit the preparation of a report, the Treasurer may require the holder to report and pay to the Treasurer the amount the Treasurer reasonably estimates, on the basis of any available records of the holder or by any other reasonable method of estimation, should have been, but was not reported.

"§ 116B-73. Retention of records.

(a) Except as otherwise provided in subsection (b) of this section, a holder required to file a report under G.S. 116B-60 shall maintain the records containing the information required to be included in the report for 10 years after the holder files the report, unless a shorter period is provided by rule of the Treasurer.

(b) A business association that sells, issues, or provides to others for sale or issue in this State, traveler's checks, money orders, or similar instruments other than third-party bank checks, on which the business association is directly liable, shall maintain a record of the instruments while they remain outstanding, indicating the state and date of issue, for three years after the holder files the report.

"§ 116B-74. Discretionary precompliance review.

A holder may request the Treasurer to conduct a precompliance review of the holder's compliance program to educate the holder's employees on the unclaimed property laws and filing procedures and to recommend ways to facilitate the holder's compliance with the law. Subject to the availability of staff, the Treasurer may conduct a precompliance review upon request. The Treasurer may charge the holder a precompliance review fee of up to five hundred dollars ($500.00) per day for conducting this review.

"§ 116B-75. Enforcement.

(a) The Treasurer may maintain an action in this or another state to enforce this Chapter.

(b) The Treasurer may order a person required to report, pay, or deliver property under this Chapter, or an officer or employee of the person, or a person having possession, custody, care, or control of records relevant to the matter under inquiry, or any other person having knowledge of the property or records, to appear before the Treasurer, at a time and place named in the order, and to produce the records and to give such testimony under oath or affirmation relevant to the inquiry. For

purposes of this subsection, the Treasurer may administer oaths or affirmations. If a person refuses to obey an order of the Treasurer, the Treasurer may apply to the Superior Court of Wake County for an order requiring the person to obey the order of the Treasurer. Failure to comply with the court order is punishable for contempt.

"§ 116B-76. Interstate agreements and cooperation; joint and reciprocal actions with other states.

(a) The Treasurer may enter into an agreement with another state to exchange information relating to abandoned property or its possible existence. The agreement may permit the other state, or another person acting on behalf of a state, to examine records as authorized in G.S. 116B-72. The Treasurer by rule may require the reporting of information needed to enable compliance with an agreement made under this section and prescribe the form.

(b) The Treasurer may join with another state to seek enforcement of this Chapter against any person who is or may be holding property reportable under this Chapter.

(c) At the request of another state, the Attorney General of this State may maintain an action on behalf of the other state to enforce, in this State, the unclaimed property laws of the other state against a holder of property subject to escheat or a claim of abandonment by the other state, if the other state has agreed to pay expenses incurred by the Attorney General in maintaining the action.

(d) The Treasurer may request that the attorney general of another state or another attorney commence an action in the other state on behalf of the Treasurer. With the approval of the Attorney General of this State, the Treasurer may retain any other attorney to commence an action in this State on behalf of the Treasurer. This State shall pay all expenses, including attorneys' fees, in maintaining an action under this subsection. With the Treasurer's approval, the expenses and attorneys' fees may be paid from money received under this Chapter. The Treasurer may agree to pay expenses and attorneys' fees based in whole or in part on a percentage of the value of any property recovered in the action. Any expenses or attorneys' fees paid under this subsection may not be deducted from the amount that is subject to the claim by the owner under this Chapter.

(e) The Treasurer is authorized to make such expenditures from the funds of the Escheat Fund as may be necessary to effectuate the provisions of this section.

"§ 116B-77. Interest and penalties; waiver.

(a) A holder who fails to report, pay, or deliver property within the time prescribed by this Chapter shall pay to the Treasurer interest at the rate established pursuant to this subsection on the property or value of the property from the date the property should have been reported, paid, or delivered. On or before June 1 and December 1 of each year, the Treasurer shall establish the interest rate to be in effect during the six-month period beginning on the next succeeding July 1 and January 1, respectively, after giving due consideration to current market conditions. If no new rate is established, the rate in effect during the preceding six-month period shall continue in effect. The rate established by the Treasurer may not be less than five percent (5%) per year and may not exceed sixteen percent (16%) per year.

(b) A holder who willfully fails to report, pay, or deliver property within the time prescribed by this Chapter, or willfully fails to perform other duties imposed by this Chapter, shall pay to the Treasurer, in addition to interest as provided in subsection (a) of this section , a civil penalty of one thousand dollars ($1,000) for each day the report, payment, or delivery is withheld, or the duty is not performed, up to a maximum of twenty-five thousand dollars ($25,000), plus twenty-five percent (25%) of the value of any property that should have been but was not reported.

(c) A holder who makes a fraudulent report shall pay to the Treasurer, in addition to interest as provided in subsection (a) of this section, a civil penalty of one thousand dollars ($1,000) for each day from the date a report under this Chapter was due, up to a maximum of twenty-five thousand dollars ($25,000), plus twenty-five percent (25%) of the value of any property that should have been but was not reported.

(d) The Treasurer for good cause may waive, in whole or in part, interest under subsection (a) of this section and penalties under subsection (b) of this section.

"**§ 116B-78. Agreement to locate property.**

(a) An agreement by an owner, the primary purpose of which is to locate, deliver, recover, or assist in the recovery of property that is presumed abandoned, is void and unenforceable if it was entered into during the period commencing on the date the property was presumed abandoned and extending to a time that is 24 months after the date the property is paid or delivered to the Treasurer. This subsection does not apply to an owner's agreement with an attorney to file a claim as to identified property or contest the Treasurer's denial of a claim.

(b) An agreement by an owner, the primary purpose of which is to locate, deliver, recover, or assist in the recovery of property, is enforceable only if the agreement is in writing, clearly sets forth the nature of the property and the services to be rendered, is signed by the owner, and states the value of the property before and after the fee or other compensation has been deducted.

(c) If an agreement covered by this section applies to mineral proceeds and the agreement contains a provision to pay compensation that includes a portion of the underlying minerals or any mineral proceeds not then presumed abandoned, the provision is void and unenforceable.

(d) An agreement covered by this section that provides for compensation that is unconscionable is unenforceable except by the owner. An owner who has made an agreement to pay compensation that is unconscionable, or the Treasurer on behalf of the owner, may maintain an action to reduce the compensation to a conscionable amount. The court may award reasonable attorneys' fees to an owner who prevails in the action.

(e) This section does not preclude an owner from asserting that an agreement covered by this section is invalid on grounds other than as provided in subsection (d) of this section.

(f) Any person who enters into an agreement covered by this section with an owner shall register annually with the Treasurer. The information to be required under this subsection shall include the person's name, address, telephone number,

state of incorporation or residence, as applicable, and the person's federal identification number. A registration fee of one hundred dollars ($100.00) shall be paid to the Treasurer at the time of the filing of the registration information. Fees received under this subsection shall be credited to the General Fund.

"**§ 116B-79. Transitional provisions.**

(a) An initial report filed under this Article for property that was not required to be reported before the effective date of this Article but which is subject to this Article must include all items of property that would have been presumed abandoned during the 10-year period next preceding the effective date of this Article as if this Article had been in effect during that period.

(b) This Article does not relieve a holder of a duty that arose before the effective date of this Article to report, pay, or deliver property. Except as otherwise provided in G.S 116B-71(b) and G.S. 116B-77(d), a holder who did not comply with the law in effect before the effective date of this Article is subject to the applicable provisions for enforcement and penalties which then existed, which are continued in effect for the purpose of this section.

"**§ 116B-80. Rules.**

The Treasurer may adopt rules necessary to carry out this Chapter."

Section 7. G.S. 44A-4(b)(1) reads as rewritten:

"(b) Notice and Hearings. --

(1) If the property upon which the lien is claimed is a motor vehicle that is required to be registered, the lienor following the expiration of the relevant time period provided by subsection (a) shall give notice to the Division of Motor Vehicles that a lien is asserted and sale is proposed and shall remit to the Division a fee of ten dollars ($10.00). The Division of Motor Vehicles shall issue notice by registered or certified mail, return receipt requested, to the person having legal title to the property, if reasonably ascertainable, to the person with whom the lienor dealt if different, and to each secured party and other person claiming an interest in the property who is actually known to the Division or who can be reasonably ascertained. The notice shall state that a lien has been asserted against specific property and shall identify the lienor, the date that the lien arose, the general nature of the services performed and materials used or sold for which the lien is asserted, the amount of the lien, and that the lienor intends to sell the property in satisfaction of the lien. The notice shall inform the recipient that the recipient has the right to a judicial hearing at which time a determination will be made as to the validity of the lien prior to a sale taking place. The notice shall further state that the recipient has a period of 10 days from the date of receipt in which to notify the Division by registered or certified mail, return receipt requested, that a hearing is desired and that if the recipient wishes to contest the sale of his property pursuant to such lien, the

recipient should notify the Division that a hearing is desired. The notice shall state the required information in simplified terms and shall contain a form whereby the recipient may notify the Division that a hearing is desired by the return of such form to the Division. The Division shall notify the lienor whether such notice is timely received by the Division. In lieu of the notice by the lienor to the Division and the notices issued by the Division described above, the lienor may issue notice on a form approved by the Division pursuant to the notice requirements above. If notice is issued by the lienor, the recipient shall return the form requesting a hearing to the lienor, and not the Division, within 10 days from the date the recipient receives the notice if a judicial hearing is requested. Failure of the recipient to notify the Division or lienor, as specified in the notice, within 10 days of the receipt of such notice that a hearing is desired shall be deemed a waiver of the right to a hearing prior to the sale of the property against which the lien is asserted, and the lienor may proceed to enforce the lien by public or private sale as provided in this section and the Division shall transfer title to the property pursuant to such sale. If the Division or lienor, as specified in the notice, is notified within the 10-day period provided above that a hearing is desired prior to sale, the lien may be enforced by sale as provided in this section and the Division will transfer title only pursuant to the order of a court of competent jurisdiction.

If the registered or certified mail notice has been returned as undeliverable, or if the name of the person having legal title to the vehicle cannot reasonably be ascertained and the fair market value of the vehicle is less than eight hundred dollars ($800.00), the lienor may institute a special proceeding in the county where the vehicle is being held, for authorization to sell that vehicle. Market value shall be determined by the schedule of values adopted by the Commissioner under G.S. 105-187.3.

In such a proceeding a lienor may include more than one vehicle, but the proceeds of the sale of each shall be subject only to valid claims against that vehicle, and any excess proceeds of the sale shall ~~escheat to the State and~~ be paid immediately to the ~~treasurer~~ Treasurer for disposition pursuant to Chapter 116B of the General Statutes. ~~A vehicle owner or possessor claiming an interest in such proceeds shall have a right of action under G.S. 116B-38.~~

The application to the clerk in such a special proceeding shall contain the notice of sale information set out in subsection (f) hereof. If the application is in proper form the clerk shall enter an order authorizing the sale on a date not less than 14 days therefrom, and the lienor shall cause the application and order to

be sent immediately by first-class mail pursuant to G.S. 1A-1, Rule 5, to each person to whom notice was mailed pursuant to this subsection. Following the authorized sale the lienor shall file with the clerk a report in the form of an affidavit, stating that the lienor has complied with the public or private sale provisions of G.S. 44A-4, the name, address, and bid of the high bidder or person buying at a private sale, and a statement of the disposition of the sale proceeds. The clerk then shall enter an order directing the Division to transfer title accordingly.

If prior to the sale the owner or legal possessor contests the sale or lien in a writing filed with the clerk, the proceeding shall be handled in accordance with G.S. 1-399."

Section 8. G.S. 29-12 reads as rewritten:

"**§ 29-12. Escheats.**

If there is no person entitled to take under G.S. 29-14 or ~~29-15,~~ G.S. 29-15, or if in case of an illegitimate intestate, there is no one entitled to take under G.S. 29-21 or ~~29-22~~ G.S. 29-22 the net estate shall escheat as provided in ~~G.S. 116A-2.~~ G.S. 116B-2."

Section 9. G.S. 53-43.7(b) reads as rewritten:

"(b) Any property, including documents or writings of a private nature, which has little or no apparent value, need not be sold but may be destroyed ~~by the Treasurer or~~ by the ~~lessor, if retained by the lessor pursuant to a determination by the Treasurer under G.S. 116B-31(c).~~ lessor if the Treasurer declines to receive the property under G.S. 116B-69(a)."

Section 10. G.S. 53-43.7(d) reads as rewritten:

"(d) The lessor shall submit to the Treasurer a verified inventory of all of the contents of the safe-deposit box upon delivery of the contents of the box or such part thereof as shall be required by the Treasurer under ~~G.S. 116B-31(c);~~ G.S. 116B-55; but the lessor may deduct from any cash of the lessee in the safe-deposit box an amount equal to accumulated charges for rental and shall submit to the Treasurer a verified statement of such charges and deduction. If there is no cash, or insufficient cash to pay accumulated charges, in the safe-deposit box, the lessor may submit to the Treasurer a verified statement of accumulated charges or balance of accumulated charges due, and the Treasurer shall remit to the lessor the charges or balance due, up to the value of the property in the safe-deposit box delivered to ~~him,~~ the Treasurer, less any costs or expenses of sale; but if the charges or balance due exceeds the value of such property, the Treasurer shall remit only the value of the property, less costs or expenses of sale. Any accumulated charges for safe-deposit box rental paid by the Treasurer to the lessor shall be deducted from the value of the property of the lessee delivered to the Treasurer."

Section 11. G.S. 53B-4 reads as rewritten:

"**§ 53B-4. Access to financial records.**

Notwithstanding any other provision of law, no government authority may have access to a customer's financial record held by a financial institution unless the

financial record is described with reasonable specificity and access is sought pursuant to:

(1) Customer authorization that meets the requirements of the Right to Financial Privacy Act § 1104, 12 U.S.C. § 3404, provided, however, a customer authorization received by a State agency or a county department of social services for the purpose of determining eligibility for the programs of public assistance under Chapter 108A of the General Statutes, or for purposes of a government inquiry concerning these same programs of public assistance, cannot be revoked and shall remain valid for 12 months unless a shorter period is specified in the authorization, or a customer authorization that is given by a licensed attorney with respect to an account in which the attorney holds funds as a fiduciary;

(2) Authorization under G.S. 105-251, 105-251.1, or 105-258;

(3) Search warrant as provided in Article 11 of Chapter 15A of the General Statutes;

(4) Statutory authority of a supervisory agency to examine or have access to financial records in the exercise of its supervisory, regulatory, or monetary functions with respect to a financial institution;

(5) The authority granted under ~~G.S. 116B-39;~~ G.S. 116B-72 and G.S. 116B-75;

(6) Examination and review by the State Auditor or his authorized representative under G.S. 147-64.6(c)(9) or ~~147-64.7(a);~~ G.S. 147-64.7(a);

(7) Request by a government authority authorized to buy and sell student loan notes under Article 23 of Chapter 116 of the General Statutes for financial records relating to insured student loans;

(8) Pending litigation to which the government authority and the customer are parties;

(9) Subpoena or court order in connection with a grand jury proceeding;

(10) A writ of execution under Article 28 of Chapter 1 of the General Statutes; or

(11) Other court order or administrative or judicial subpoena authorized by law if the requirements of G.S. 53B-5 are met.

As used in this section, the term 'reasonable specificity' means that degree of specificity reasonable under all the circumstances, ~~and~~ and, with respect to requests under G.S. 116B-72 and G.S. 116B-75, may include designation by general type or ~~class as authorized in G.S. 116B-39.~~ class."

Section 12. G.S. 116-209.3 reads as rewritten:

"**§ 116-209.3. Additional powers.**

The Authority is authorized to develop and administer programs and perform all functions necessary or convenient to promote and facilitate the making and insuring of student loans and providing such other student loan assistance and services as the Authority shall deem necessary or desirable for carrying out the purposes of this Article and for qualifying for loans, grants, insurance and other benefits and assistance under any program of the United States now or hereafter authorized fostering student loans. There shall be established and maintained a trust fund which shall be designated 'State Education Assistance Authority Loan Fund' (the 'Loan Fund') which may be used by the Authority in making student loans directly or through agents or independent contractors, insuring student loans, acquiring, purchasing, endorsing or guaranteeing promissory notes, contracts, obligations or other legal instruments evidencing student loans made by banks, educational institutions, nonprofit corporations or other eligible lenders, and for defraying the expenses of operation and administration of the Authority for which other funds are not available to the Authority. There shall be deposited to the credit of such Loan Fund the proceeds (exclusive of accrued interest) derived from the sale of its revenue bonds by the Authority and any other moneys made available to the Authority for the making or insuring of student loans or the purchase of obligations. There shall also be deposited to the credit of the Loan Fund surplus funds from time to time transferred by the Authority from the sinking fund. Such Loan Fund shall be maintained as a revolving fund. There is also deposited to the credit of the Loan Fund the income derived from the investment or deposit of the Escheat Fund distributed to the Authority pursuant to ~~G.S. 116B-37.~~ G.S. 116B-7. The income shall be held, administered and applied by the Authority as provided in any resolution adopted or trust agreement approved by the Authority, subject to the provisions of Chapter 116B of the General Statutes and this Article.

In lieu of or in addition to the Loan Fund, the Authority may provide in any resolution authorizing the issuance of bonds or any trust agreement securing such bonds that any other trust funds or accounts may be established as may be deemed necessary or convenient for securing the bonds or for making student loans, acquiring obligations or otherwise carrying out its other powers under this Article, and there may be deposited to the credit of any such fund or account proceeds of bonds or other money available to the Authority for the purposes to be served by such fund or account."

Section 13. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect the provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 14. The Revisor of Statutes shall cause to be printed with this act all explanatory comments of the drafters of this act as the Revisor may deem appropriate.

Section 15. This act becomes effective January 1, 2000, and shall apply to property existing on or after that date. G.S. 116B-54(d), as enacted in Section 6 of this act, is intended to clarify and not change existing law.

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE
AFTER SESSION MEETING

Wednesday, July 7, 1999 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE HEARD:

HB 136 - Exempt Child Care Property - Rep. Insko
HB 449 - Farm Baling Equipment Tax Change - Rep. Nye
HB 723 - Dark Window Inspection Fee - Rep. Insko
SB 523 - Modify Greensboro Room Tax Use - Sen. Hagan
SB 772 - Expand Municipal Service Districts - Sen. Clodfelter
SB 1110 - Technology Commercialization Credit - Sen. Rand

ADJOURNMENT OF MEETING

MINUTES
HOUSE COMMITTEE ON FINANCE

Wednesday, July 7, 1999

The House Committee on Finance on Wednesday, July 7, 1999 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke, Miller; Vice Chairs Jarrell; Representatives Braswell, Bridgeman, Brown, Buchanan, Capps, Church, Cox, Creech, Cunningham, Dedmon, Eddins, Edwards, Gibson, Hackney, Hill, McComas, McCombs, Morris, Pope, Rayfield, Starnes, Tallent, Tucker, Wilson and Womble. Staff including Cindy Avrette, Richard Bostic, Martha Harris, Mary Shuping, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Allen called the meeting to order to consider the following bills:

Sen. Hartsell is recognized to explain SB 244, A BILL TO BE ENTITLED AN ACT TO ENACT THE NORTH CAROLINA UNCLAIMED PROPERTY ACT AND TO MAKE CONFORMING AMENDMENTS TO THE GENERAL STATUTES, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE OTHER CHANGES TO THE ESCHEATS LAWS. Rep. Pope withdrew the amendment he had introduced yesterday at the end of the meeting. Rep. Pope sent forward an amendment and moved for its adoption. The Pope amendment was adopted. The Chair recognized Mr. Charles Heatherly of the N.C. Treasurer's Office to answer Rep. McComb's question. Rep. Gibson sent forward an amendment. Rep. Hackney questioned Rep. Gibson. Mr. Heatherly stated he agreed with amendment. Rep. Rayfield questioned Rep. Gibson. The Gibson amendment was adopted. Rep. Luebke sent forward a technical amendment and moved for its adoption. The Luebke amendment was adopted. Rep. McCombs moved to roll the amendment into a Proposed Committee Substitute and then give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. Mr. Heatherly commented on the bill and stated the Senate amendment weakened the bill. Rep. Womble questioned Mr. Heatherly. Rep. Cunningham questioned Sen. Hartsell. Sen. Hartsell commented. Rep. Miller questioned Mr. Terry Allen of the Treasurer's office. Rep. Hackney questioned Sen. Hartsell. Rep. Hackney moved to remove the bill and place it in a subcommittee. Rep. Pope commented and opposed Rep. Hackney's motion. Reps. Womble and Cunningham stated they support Rep. Hackney's motion. Rep. Miller questioned N.C. Treasurer's office. Rep. Creech stated he is opposed to Rep. Hackney's motion. The Chair recognized Mr. Steve Brooks, Executive Director of the State Education Assistance Funds who supported the bill. Rep. Hackney's motion failed. Reps. Rayfield and Cunningham questioned Sen. Hartsell. Rep. McComb's motion to roll the amendment into a Proposed Committee Substitute and then give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill passed. A copy of the bill, Proposed Committee Substitute, Amendments, Fiscal Note, and handouts are included in these minutes.

Sen. Rand was recognized to explain SB 1110, A BILL TO BE ENTITLED AN ACT TO PROVIDE AN INCENTIVE FOR BUSINESSES TO FIND COMMERCIAL USES FOR TECHNOLOGY DEVELOPED BY RESEARCH UNIVERSITIES. Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion only. Rep. Luebke questioned Sen. Rand. The Chair recognized Ms. Sabra Faires of the Deparment of Revenue who commented. Martha Harris of staff explained technical changes. The Chair recognized Mr. Rubin Carbonelle of North Carolina State University who stated he supported the bill. Rep. Pope questioned Mr. Carbonelle and Sen. Rand. Rep. McComas questioned Mr. Carbonelle. Reps. Cox and Hill stated they supported the bill. Rep. Morris moved to give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. Rep. Braswell questioned Martha Harris. Rep. Capps questioned Mr. Carbonelle. Rep.Pope questioned Sen. Rand. Rep. Cunningham questioned Rep. Pope. Rep. Eddins questioned Martha Harris and Sabra Faires. Rep. Luebke commented.

Chair Allen postpones SB 1110 until the AFTER SESSION meeting today.

The Chair adjourned at 9:50 a.m.

Respectfully submitted:

Representative Gordon Allen
Chair

Kristen L. Crosson
Assistant to the Committee

MINUTES
HOUSE COMMITTEE ON FINANCE

Wednesday, July 7, 1999
AFTER SESSION

The House Committee on Finance on Wednesday, July 7, 1999 in Room 544 of the Legislative Office Building AFTER SESSION. The following members were present: Chairs Allen, Luebke, Miller; Vice Chairs Jarrell and Wood; Representatives Bridgeman, Brown, Buchanan, Capps, Church, Cox, Creech, Cunningham, Dedmon, Eddins, Edwards, Gibson, Gray, Haire, Hill, Howard, McComas, Morris, Rayfield, Tucker, and Womble. Staff including Cindy Avrette, Richard Bostic, Martha Harris, Mary Shuping, and Linda Millsaps were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Allen called the meeting to order to consider the following bills:

Sen. Rand was recognized to explain SB 1110, A BILL TO BE ENTITLED AN ACT TO PROVIDE AN INCENTIVE FOR BUSINESSES TO FIND COMMERCIAL USES FOR TECHNOLOGY DEVELOPED BY RESEARCH UNIVERSITIES. Rep. Luebke sent forward an amendment. Martha Harris explained the amendment. The amendment failed. Rep. Eddins sent forward an amendment. The Chair ruled the Eddins amendment is germane to the bill. Cindy Avrette explained the amendment. The amendment failed. Rep. McComas moved to lay the amendment on the table. Rep. Rayfield seconded the motion. The amendment was lain on the table. Rep. Cunningham moved to roll the amendment into a Proposed Committee Substitute and then give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. Members of the committee commented. Rep. Cunningham's motion passed. A copy of the bill, Proposed Committee Substitute, Amendment, Bill Summary, Fiscal Note, and Revenue Dept. note are included in these minutes.

Sen. Clodfelter was recognized to explain SB 772, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE CREATION OF MUNICIPAL SERVICE DISTRICTS IN CERTAIN CITIES FOR URBAN AREA REVITALIZATION PROJECTS. Cindy Avrette explained the bill and its amendment from another committee. Rep. Dedmon moved for a favorable report. The motion passed. A copy of the bill, Amendment, and Bill Summary, are included in these minutes.

Rep. Jarrell was recognized to explain Sen. Hagan's SB 523, A BILL TO BE ENTITLED AN ACT TO MODIFY THE PURPOSES FOR WHICH THE GREENSBORO ROOM OCCUPANCY TAX MAY BE USED. Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion only. Rep. Cunningham moved to give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. The motion passed. A copy of the bill, Proposed Committee Substitute, and Bill Summary are included in these minutes.

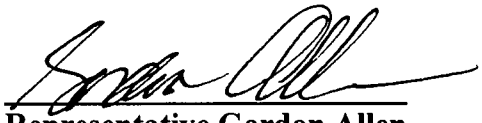
Rep. Insko was recognized to explain HB 723, A BILL TO BE ENTITLED AN ACT TO ALLOW A PERSON WHO SUFFERS FROM A MEDICAL CONDITION THAT CAUSES THE PERSON TO BE PHOTOSENSITIVE TO VISIBLE LIGHT TO HAVE A DARKER VEHICLE WINDOW THAN IS ALLOWED UNDER THE WINDOW TINTING LAWS AND TO ELIMINATE THE AFTER-FACTORY WINDOW TINTING INSPECTION FEE FOR VEHICLES OWNED BY PERSONS ISSUED A MEDICAL EXCEPTION PERMIT BY THE DIVISION OF MOTOR VEHICLES ALLOWING THE WINDOW TINTING. Rep. Hill moved for a favorable report. Rep. Allen sent forward an amendment. The Chair recognized Ms. Ruth Sappie of the Department of Motor Vehicles who answered members' questions. Rep. Culpepper commented. Cindy Avrette commented on permits. Rep. Haire moved for the adoption of Rep. Allen's amendment. The amendment was adopted. Rep. Hill moved to roll the amendment into a Proposed Committee Substitute and then give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. The motion passed. A copy of the bill, Proposed Committee Substitute, Amendment, and Bill Summary are included in these minutes.

Rep. Insko was recognized to explain HB 136, A BILL TO BE ENTITLED AN ACT TO EXEMPT NONPROFIT CHILD CARE CENTERS FROM PROPERTY TAX. Rep. Buchanan moved to adopt the Proposed Committee Substitute for discussion only. Linda Millsaps explained the fiscal note. Rep. Creech moved to give a favorable report to the Proposed Committee Substitute and an unfavorable report to the original bill. Rep. Insko answered members' questions. Linda Millsaps answered members' questions. The Chair recognized Mr. Jim Blackburn of the County Commissioners' Association who opposed the bill. The Chair recognized Mr. Andy Romany of the League of Municipalities who opposed the bill. Rep. Creech's motion failed with a vote of 6 ayes, 7 nays. A copy of the bill, Proposed Committee Substitute, Bill Summary, and Fiscal Note are included in these minutes.

Rep. Nye was recognized to explain HB 449, A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT THE CURRENT SALES TAX TREATMENT FOR FARM MACHINERY AND EQUIPMENT ALSO APPLIES TO BALERS. Linda Millsaps explained the bill. Rep. Buchanan moved to give a favorable report. The Chair recognized Mr. Jim Blackburn of the County Commissioners' Association who supported the bill. Rep. Buchanan's motion passed. A copy of the bill, Bill Summary, and Fiscal Note are included in these minutes.

The Chair adjourned at 8:20 p.m.

Respectfully submitted:



Representative Gordon Allen
Chair

Kristen L. Crosson
Assistant to the Committee

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 136*
Proposed Committee Substitute H136-PCSA163-RB

Short Title: Exempt Child Care Property. (Public)

Sponsors:

Referred to:

February 24, 1999

A BILL TO BE ENTITLED

AN ACT TO EXEMPT NONPROFIT CHILD CARE CENTERS FROM PROPERTY TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-278.4 reads as rewritten:

"**§ 105-278.4. ~~Real and personal property~~ Property used for educational purposes.**

(a) Buildings. -- Buildings, the land they actually occupy, and additional land reasonably necessary for the convenient use of ~~any such~~ the building ~~shall be exempted~~ are exempt from taxation ~~if:~~ if all of the following conditions are met:

(1) ~~Owned~~ The property is owned by an educational ~~institution (including a university, college, school, seminary, academy, industrial school, public library, museum, and similar institution);~~ institution.

(2) The owner is not organized or operated for profit and no officer, shareholder, member, or employee of the owner or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for ~~services;~~ services.

(3) ~~Of~~ The property is of a kind commonly employed in the performance of those activities naturally and properly incident to the operation of an educational institution such as the ~~owner; and~~ owner.

(4) ~~Wholly~~ The property is used wholly and exclusively ~~used~~ for educational purposes by the ~~owner~~ owner, or is occupied

gratuitously by another nonprofit educational institution ~~(as defined herein) and wholly and exclusively~~ and used by the occupant wholly and exclusively for nonprofit educational purposes.

(b) Land. -- Land (exclusive of improvements); and improvements other than buildings, the land actually occupied by ~~such~~ the improvements, and additional land reasonably necessary for the convenient use of ~~any such improvement shall be exempted from taxation if:~~ the improvements is exempt from taxation if all of the following conditions are met:

(1) ~~Owned~~ The property is owned by an educational institution that owns real property entitled to exemption under ~~the provisions of subsection (a), above;~~ subsection (a) of this section.

(2) ~~Of~~ The property is of a kind commonly employed in the performance of those activities naturally and properly incident to the operation of an educational institution such as the ~~owner; and~~ owner.

(3) ~~Wholly and exclusively used~~ The property is used wholly and exclusively for educational purposes by the ~~owner~~ owner, or is occupied gratuitously by another nonprofit educational institution ~~(as defined herein) and wholly and exclusively~~ and used by the occupant wholly and exclusively for nonprofit educational purposes.

(c) Partial Exemption. -- Notwithstanding the exclusive-use requirements of subsections (a) and ~~(b), above,~~ (b) of this section, if part of a property that otherwise meets the requirements of one of those subsections is used for a purpose that would require exemption if the entire property were so used, the valuation of the part so used ~~shall be exempted~~ is exempt from taxation.

(d) Incidental Public Use. -- The fact that a building or facility is incidentally available to and patronized by the general public, so long as there is no material amount of business or patronage with the general public, ~~shall~~ does not defeat the exemption granted by this section.

(e) Personal Property. -- Personal property owned by a church, a religious body, or an educational institution ~~(including a university, college, school, seminary, academy, industrial school, public library, museum, and similar institution) shall be exempted from taxation if:~~ is exempt from taxation if both of the following conditions are met:

(1) The owner is not organized or operated for profit, and no officer, shareholder, member, or employee of the owner, or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for ~~services; and~~ services.

(2) ~~Used~~ The property is used wholly and exclusively for educational purposes by the ~~owner~~ owner, or is held gratuitously by a church, religious body, or nonprofit educational institution ~~(as defined~~

~~herein)~~ other than the ~~owner, and~~ owner and used wholly and exclusively ~~used~~ for nonprofit educational purposes by the possessor.

(f) Definitions. -- The following definitions apply in this section:

(1) Child care center. -- Defined in G.S. 110-86.

(2) Educational institution. -- A university, a college, a school, a seminary, an academy, an industrial school, a public library, a museum, a licensed child care center, or a similar institution.

(3) Educational purpose. -- A purpose ~~An educational purpose within the meaning of this section is one~~ that has as its objective the education or instruction of human beings; it comprehends the transmission of information and the training or development of the knowledge or skills of individual persons. The operation of a child care center is an educational purpose. The operation of a golf course, a tennis court, a sports arena, a similar sport property, or a similar recreational sport property for the use of students or faculty is also an educational purpose, regardless of the extent to which the property is also available to and patronized by the general public.

(4) License. -- Defined in G.S. 110-86."

Section 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

HOUSE BILL 136*

Short Title: Exempt Child Care Property. (Public)

Sponsors: Representatives Insko; Alexander, Bonner, Boyd-McIntyre, Earl, Easterling, Hackney, Hensley, Hunter, Luebke, Michaux, Mosley, Oldham, and Wainwright.

Referred to: Finance.

February 24, 1999

A BILL TO BE ENTITLED

AN ACT TO EXEMPT NONPROFIT CHILD CARE CENTERS FROM PROPERTY TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-278.4 reads as rewritten:

"**§ 105-278.4. ~~Real and personal property~~ Property used for educational purposes.**

(a) Buildings. -- Buildings, the land they actually occupy, and additional land reasonably necessary for the convenient use of ~~any such~~ the building ~~shall be exempted~~ are exempt from taxation ~~if:~~ if all of the following conditions are met:

(1) ~~Owned~~ The property is owned by an educational ~~institution (including a university, college, school, seminary, academy, industrial school, public library, museum, and similar institution);~~ institution.

(2) The owner is not organized or operated for profit and no officer, shareholder, member, or employee of the owner or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for ~~services;~~ services.

(3) ~~Of~~ The property is of a kind commonly employed in the performance of those activities naturally and properly incident to the operation of an educational institution such as the ~~owner; and~~ owner.

(4) ~~Wholly~~ The property is used wholly and exclusively ~~used~~ for educational purposes by the ~~owner~~ owner, or is occupied gratuitously by another nonprofit educational institution ~~(as defined herein) and wholly and exclusively~~ and used by the occupant wholly and exclusively for nonprofit educational purposes.

(b) Land. -- Land (exclusive of improvements); and improvements other than buildings, the land actually occupied by ~~such~~ the improvements, and additional land reasonably necessary for the convenient use of ~~any such improvement shall be exempted from taxation if:~~ the improvements is exempt from taxation if all of the following conditions are met:

(1) ~~Owned~~ The property is owned by an educational institution that owns real property entitled to exemption under ~~the provisions of subsection (a), above;~~ subsection (a) of this section.

(2) ~~Of~~ The property is of a kind commonly employed in the performance of those activities naturally and properly incident to the operation of an educational institution such as the ~~owner; and~~ owner.

(3) ~~Wholly and exclusively used~~ The property is used wholly and exclusively for educational purposes by the ~~owner~~ owner, or is occupied gratuitously by another nonprofit educational institution ~~(as defined herein) and wholly and exclusively~~ and used by the occupant wholly and exclusively for nonprofit educational purposes.

(c) Partial Exemption. -- Notwithstanding the exclusive-use requirements of subsections (a) and ~~(b), above,~~ (b) of this section, if part of a property that otherwise meets the requirements of one of those subsections is used for a purpose that would require exemption if the entire property were so used, the valuation of the part so used ~~shall be exempted~~ is exempt from taxation.

(d) Incidental Public Use. -- The fact that a building or facility is incidentally available to and patronized by the general public, so long as there is no material amount of business or patronage with the general public, ~~shall~~ does not defeat the exemption granted by this section.

(e) Personal Property. -- Personal property owned by a church, a religious body, or an educational institution ~~(including a university, college, school, seminary, academy, industrial school, public library, museum, and similar institution) shall be exempted from taxation if:~~ is exempt from taxation if both of the following conditions are met:

(1) The owner is not organized or operated for profit, and no officer, shareholder, member, or employee of the owner, or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for ~~services; and~~ services.

(2) ~~Used~~ The property is used wholly and exclusively for educational purposes by the ~~owner~~ owner, or is held gratuitously by a church, religious body, or nonprofit educational institution ~~(as defined herein)~~ other than the ~~owner, and~~ owner and used wholly and exclusively ~~used~~ for nonprofit educational purposes by the possessor.

(f) Definitions. -- The following definitions apply in this section:

(1) Child care center. -- Defined in G.S. 110-86.

(2) Educational institution. -- A university, a college, a school, a seminary, an academy, an industrial school, a public library, a museum, a child care center, or a similar institution.

(3) Educational purpose. -- A purpose ~~An educational purpose within the meaning of this section is one~~ that has as its objective the education or instruction of human beings; it comprehends the transmission of information and the training or development of the knowledge or skills of individual persons. The operation of a child care center is an educational purpose. The operation of a golf course, a tennis court, a sports arena, a similar sport property, or a similar recreational sport property for the use of students or faculty is also an educational purpose, regardless of the extent to which the property is also available to and patronized by the general public."

Section 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 1999. Notwithstanding the provisions of G.S. 105-282.1(a), an application for the benefit provided in this act for the 1999-2000 tax year shall be considered timely if it is filed on or before September 1, 1999.

HOUSE BILL 136:
Exempt Child Care Property

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Insko
Date:	July 7, 1997	**Summary by:**	Cindy Avrette
Version:	PCS for 1st Edition H136-PCSA163-RB		Committee Counsel

SUMMARY: The proposed committee substitute for House Bill 136 exempts property owned by a nonprofit licensed child care center and used exclusively for educational purposes from local property tax. The bill becomes effective for taxable years beginning on or after July 1, 2000. The proposed committee substitute changes the effective date and provides that the exemption applies to licensed child care centers.

CURRENT LAW: Property owned by a nonprofit educational institution and used exclusively for educational purposes is exempt from property tax. An educational institution is not defined. However, the statute provides that the following are considered educational institutions: a university, college, school, seminary, academy, industrial school, public library, museum, and similar institution. To obtain the exemption, a person must apply for the exemption during the regular January listing period. After the exemption has been approved, the owner is not required to file an application in subsequent years unless there is a change in the property, in the ownership, or in the use of the property.

BILL ANALYSIS: House Bill 136 provides a definition of "educational institution" and includes a licensed childcare center in the definition. The bill also provides a definition of "educational purpose" and specifically provides that the operation of a child care center is an educational purpose. A childcare center is an arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving childcare. A licensed childcare center is one that has a permit issued by the Secretary of the Department of Health and Human Services. The Secretary issues a permit to a center that complies with the standards established in Article 7 of Chapter 110 of the General Statutes.

To receive the exemption, the property must be owned by a nonprofit educational institution and used "wholly and exclusively" for childcare. A childcare center located in a residence would not, therefore, receive the property tax exemption.

The bill also reorganizes and modernizes the language of the statute but does not make further substantive changes.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: H.B. 136 House Finance Proposed Committee Substitute DRAFT

SHORT TITLE: Exemption Child Care Property

SPONSOR(S): Rep. Insko

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	($) FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES	No General Fund Impact				
Local Governments	0	(39,172)	(41,981)	(44,991)	(48,217)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: County and City Governments.

EFFECTIVE DATE: Tax years beginning on or after July 1, 2000.

BILL SUMMARY: Under current law the land, buildings and other business property owned by non-profit educational institutions are exempt from property tax. This bill extends the definition of educational institutions to include child care centers, and specifically designates all child care centers as educational. As such, all qualifying non-profit child care centers would be exempt from property tax.

ASSUMPTIONS AND METHODOLOGY: In order to qualify for the exemption a child care center must serve three or more pre-school age children, or nine or more school age children. To receive the exemption the property must be owned by a non-profit educational institution, and must be used "wholly and exclusively" for child care. As a result, a child care center located in a residence would not qualify. The land, buildings, and personal property used in the provision of child care would be exempt from property tax.

Records from the Internal Revenue Service indicate that there are more than 28,500 501(c) 3 non-profit, tax exempt organizations in North Carolina. Of these 152 list "nursery school" or "day care center" as one of their primary activities, and indicated to the IRS that they hold physical assets. Twenty-three centers were removed from the list by fiscal research because it

appeared from their name that they proved only adult day care or would likely be exempt from property tax because of their association with a church or other religious group. This shortened the list to 128. The Department of Health and Human Services, Child Development Division reviewed this list and removed several centers from those potentially impacted because of their affiliation with a church or other previously exempted non-profit organization. They also removed center from the list that are known to provide adult day care instead of child day care.

A survey of county assessors with potentially impacted centers in their area revealed that fourteen of those centers ware currently being taxed.

Center	County	Land & Building Value
Cobb Child Care	Craven	211,700
Community Ridge Day Care Center Inc.	Catawba	*
Faith Child Care and Development Center Inc.	Iredell	37,770
Ruthies Day Care Center Inc.	Iredell	65,450
Summit House	Guilford	69,200
Albemarle Educational Foundation, Inc.	Pasquotank	1,042,900
Campus Child Care Center Inc.	Wake	284,624
Community Child Care Center, Inc.	Durham	73,500
Creative Pre School, Inc.	Mitchell	50,273
East Side Improvement Association, Inc.	Randolph	431,580
Little Miracles Day Care	Moore	125,140
School for Young Children, Inc.	Caldwell	181,700
Service League of Hickory, NC Inc.	Catawba	313,200
Chapel Hill Day Care Center	Orange	488,127
TOTAL		$ 3,375,164
* No estimate is available just for the day care, is it is one room in a much larger facility.		

As is indicated by the above chart, the land and building values of these facilities totaled approximately $3.4 million. Assuming that each facility also had an additional $20,000 in tangible personal property, the total tax value of these day care centers, in 1999, is $3.7 million. The historic average growth rate for total statewide valuations (7.17%) was used to grow the estimate for future years.

The 1997-98 weighted average property tax rate for all governmental jurisdictions in the state (cities and counties) was $0.968 per $100.00 of assessed value. The rate has varied from in the past ten years from a low of $0.938 per $100.00 (1988-89) to a high of $0.994 per $100.00 (1993-94 and 1994-95). Because of increasing pressures to build schools and provide other services, this note assumes a rate of $1.00 per $100.00 of assessed value for the five year period of the note. As such, the minimum loss associated with this bill is as follows:

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
Property Value	$3,655,164	$ 3,917,239	$ 4,198,105	$ 4,499,109	$ 4,821,696
Tax Liability	$ 36,552	$ 39,172	$ 41,981	$ 44,991	$ 48,217

Further conversations with county tax officials suggest that there may be more than fourteen non-profit centers that own property. However, the county tax officials have no way to know if they centers actually are non-profit, unless the center voluntarily reports that information. As such, this estimate represents the minimum potential loss. Fiscal Research does not anticipate that the impacted number of centers would increase dramatically beyond fourteen. The numbers in the fiscal note chart are adjusted to reflect the July 1, 2000 effective date.

FISCAL RESEARCH DIVISION
733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY:

DATE:

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 449 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT THE CURRENT SALES TAX TREATMENT FOR FARM MACHINERY AND EQUIPMENT ALSO APPLIES TO BALERS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 449

Short Title: Farm Baling Equipment Tax Change. (Public)

Sponsors: Representatives Nye; Warwick, Gibson, Hill, McLawhorn, Tucker, Warren, and Cox.

Referred to: Finance.

March 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE CURRENT SALES TAX TREATMENT FOR FARM MACHINERY AND EQUIPMENT ALSO APPLIES TO BALERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.4(a)(1d)a. reads as rewritten:

"(1d) The rate of one percent (1%) applies to the sales price of the following articles. The maximum tax is eighty dollars ($80.00) per article.

a. Sales to a farmer of machines and machinery, and parts and accessories for these machines and machinery, for use by the farmer in the planting, cultivating, harvesting, ~~or curing~~ curing, or baling of farm crops or in the production of dairy products, eggs, or animals. A 'farmer' includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758. Items that are exempt from tax under G.S. 105-164.13(4c) are not subject to tax under this section.

The term 'machines and machinery' as used in this subdivision is defined as follows:

The term ~~shall include~~ includes all vehicular implements, designed and sold for any use defined in this subdivision, ~~which~~ that are operated, drawn or propelled by

motor or animal power, but ~~shall~~ does not include vehicular implements ~~which~~ that are operated wholly by hand, and ~~shall~~ does not include any motor vehicles required to be registered under Chapter 20 of the General Statutes.

The term ~~shall include~~ includes all nonvehicular implements and mechanical devices designed and sold for any use defined in this subdivision, ~~which~~ that have moving parts, or ~~which~~ that require the use of any motor or animal power, fuel, or electricity in their operation but ~~shall~~ does not include nonvehicular implements ~~which~~ that have no moving parts and are operated wholly by hand.

The term ~~shall also include~~ also includes metal flues sold for use in curing tobacco, whether ~~such~~ the flues are attached to handfired furnaces or used in connection with mechanical burners."

Section 2. This act becomes effective October 1, 1999, and applies to sales made on or after that date.

HOUSE BILL 449:
Farm Baling Equipment Tax Change

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Nye
Date:	July 7, 1999	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 449 provides the 1% sales tax rate with an $80 per item tax cap applies to tobacco balers. The bill becomes effective October 1 ,1999, and applies to sales made on or after that date.***

CURRENT LAW: Sales to a farmer of machines used by the farmer in the planting, cultivating, harvesting, or curing of farm crops are taxed at a rate of 1%, subject to a maximum tax of $80 per article. Tobacco balers are taxed at a rate of 6% -- 4% State sales tax and 2% local sales tax. A tobacco baler is not subject to the 1% tax rate because it is not used directly in the "planting, cultivating, harvesting, or curing of farm crops".

BILL ANALYSIS: House Bill 449 adds tobacco balers to the list of farm equipment that is taxed at the 1% sales tax rate, with a maximum tax of $80 per item. By changing the State sales tax rate on tobacco balers from 4% to 1%, the bill eliminates the 2% local sales tax on tobacco balers as well.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 449 DRAFT NOTE

SHORT TITLE: Farm Baling Equipment Tax Change.

SPONSOR(S): Rep. Edd Nye

FISCAL IMPACT

Yes (X) No ( ) No Estimate Available ( )

	($ Millions) FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
General Fund	**(0.55)**	**(0.55)**	(0.28)	**minimal loss**	
Local Governments	**(0.38)**	**(0.38)**	(0.19)	**minimal loss**	

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue, Sales Tax Division.

EFFECTIVE DATE: This act becomes effective October 1, 1999, and applies to sales made on or after that date.

BILL SUMMARY: The legislation adds tobacco balers to the list of farm equipment that is taxed at the 1% sales tax rate with an $80 per item tax liability cap. Tobacco balers are now taxed at 6%.

ASSUMPTIONS AND METHODOLOGY: Agricultural researchers at N.C. State indicate that tobacco balers have only recently been introduced to the North Carolina market. They report that as of July 1998 there were only 25 balers in the state, most of which were constructed by the farmers themselves. Today they believe that there are approximately 1250 purchased tobacco balers in North Carolina. These same researchers suggest that market saturation will be about 7500 balers. They believe market saturation will be reached in two to three years. These numbers suggest that approximately 6250 tobacco balers will be purchased before saturation is reached (7500 total market – 1250 existing = 6250 potential). While there are several different kinds of balers in a broad price range, N.C. State indicates that the average sales price is between $7,000 and $8,000. Using the midpoint of $7,500 as a proxy for the average price, the total value of the potential market is $46,875,000. Apply the 6% sales tax rate suggests that the purchase of these balers will raise approximately $2,812,500 in sales tax revenue. Of this amount 2/3 or $1,875,000 goes to the general fund and $937,500 goes to local governments. This is a sales tax liability of approximately $450 per baler.

Because the bill effectively eliminates the local sales tax on these balers (the 1% rate with an $80 cap is a state only tax), local governments will loose the entire $937,500. Assuming that loss is spread out over the next 2.5 years (the mid-point of the 2-3 year estimate for market saturation), the annual local loss for the period will be approximately $375,000 statewide.

The bill also effectively reduces the state tax from 4% to 1% with an $80 cap. As mentioned previously, the total sales tax liability for a tobacco baler is estimated to be $450. Two thirds of that amount or $300 is the state tax liability. The bill will lower that liability to the $80 maximum tax cap. Therefore the state will loose $220 per baler sold, or $1,375,000 over two to three years. Assuming the loss is spread out over the next 2.5 years (the mid point of the 2-3 year estimate for market saturation), the annual state tax loss will be $550,000.

N.C. State researchers believe demand for tobacco balers will drop of significantly after three years, as most farmers will already own a baler, and few new tobacco farmers are expected. If this is correct, only replacement balers will be purchased. As such, the number of baler purchases, and the associated tax loss, is expected to be minimum after three years.

Note: The Department of Revenue indicates that these items are taxed at the 6% rate because they are not used directly in "planting, cultivating, harvesting, or curing of farm crops" as is required by G.S. 105-164.4(a)(1d)a for the lower tax rate.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY:

DATE:

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☒ Committee Substitute for
H.B. 723 A BILL TO BE ENTITLED AN ACT TO ALLOW A PERSON WHO SUFFERS FROM A MEDICAL CONDITION THAT CAUSES THE PERSON TO BE PHOTOSENSITIVE TO VISIBLE LIGHT TO HAVE A DARKER VEHICLE WINDOW THAN IS ALLOWED UNDER THE WINDOW TINTING LAWS AND TO ELIMINATE THE AFTER-FACTORY WINDOW TINTING INSPECTION FEE FOR VEHICLES OWNED BY PERSONS ISSUED A MEDICAL EXCEPTION PERMIT BY THE DIVISION OF MOTOR VEHICLES ALLOWING THE WINDOW TINTING.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill (# 5), ~~☐ which changes the title,~~ unfavorable as to ~~(original bill)~~ (Committee Substitute Bill # 4), ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 723

AMENDMENT NO. _____
(to be filled in by Principal Clerk)

H723-ALK-1

Page 1 of __

Date July 7 ,1999

Comm. Sub. [YES]
Amends Title []
Fourth Edition

Representative ~~Insko~~ Allen

moves to amend the bill on page 3, lines 26 through 28, by rewriting those lines to read:
driven on a highway.";
and further moves to amend the bill on page 4, line 25, by rewriting that line to read:
"Section 4. This act becomes effective ~~October 1, 2000~~. July 1, 2001"

SIGNED ~~Insko~~
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 723
Committee Substitute Favorable 4/22/99
Committee Substitute #2 Favorable 6/24/99
Committee Substitute #3 Reported Without Prejudice 7/1/99
Proposed Committee Substitute H723-PCS6231-LK

Short Title: Dark Window Inspection Fee. (Public)

Sponsors:

Referred to:

March 30, 1999

A BILL TO BE ENTITLED

AN ACT TO ALLOW A PERSON WHO SUFFERS FROM A MEDICAL CONDITION THAT CAUSES THE PERSON TO BE PHOTOSENSITIVE TO VISIBLE LIGHT TO HAVE A DARKER VEHICLE WINDOW THAN IS ALLOWED UNDER THE WINDOW TINTING LAWS AND TO ELIMINATE THE AFTER-FACTORY WINDOW TINTING INSPECTION FEE FOR VEHICLES OWNED BY PERSONS ISSUED A MEDICAL EXCEPTION PERMIT BY THE DIVISION OF MOTOR VEHICLES ALLOWING THE WINDOW TINTING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-127 reads as rewritten:

"**§ 20-127. Windows and windshield wipers.**

(a) Windshield Wipers. -- A vehicle that is operated on a highway and has a windshield ~~must~~ shall have a windshield wiper to clear rain or other substances from the windshield in front of the driver of the vehicle and the windshield wiper ~~must~~ shall be in good working order. If a vehicle has more than one windshield wiper to clear substances from the windshield, all the windshield wipers ~~must~~ shall be in good working order.

(b) Window Tinting Restrictions. -- A window of a vehicle that is operated on a highway or a public vehicular area ~~must~~ shall comply with this subsection. The

windshield of the vehicle may be tinted only along the top of the windshield and the tinting may not extend more than five inches below the top of the windshield or below the AS1 line of the windshield, whichever measurement is longer. Provided, however, an untinted clear film, which does not obstruct vision but which reduces or eliminates ultraviolet radiation from entering a vehicle may be applied to the windshield. Any other window of the vehicle may be tinted in accordance with the following restrictions:

(1) The total light transmission of the tinted window ~~must~~ shall be at least thirty-five percent (35%). A vehicle window that, by use of a light meter approved by the Commissioner, measures a total light transmission of more than thirty-two percent (32%) is conclusively presumed to meet this restriction.

(2) The light reflectance of the tinted window ~~must~~ shall be twenty percent (20%) or less.

(3) Tinted film or another material used to tint the window ~~must~~ shall be nonreflective and ~~must~~ shall not be ~~a color other than~~ red, yellow, or amber.

(c) Tinting Exceptions. -- The window tinting restrictions in subsection (b) of this section apply without exception to the windshield of a vehicle. The window tinting restrictions in subdivisions (b)(1) and (b)(2) of this section do not apply to any of the following vehicle windows:

(1) A window of an excursion passenger vehicle, as defined in G.S. 20-4.01(27)a.

(2) A window of a for-hire passenger vehicle, as defined in G.S. 20-4.01(27)b.

(3) A window of a common carrier of passengers, as defined in G.S. 20-4.01(27)c.

(4) A window of a motor home, as defined in G.S. 20-4.01(27)d2.

(5) A window of an ambulance, as defined in G.S. 20-4.01(27)f.

(6) The rear window of a property-hauling vehicle, as defined in G.S. 20-4.01(31).

(7) A window of a limousine.

(8) A window of a law enforcement vehicle.

(9) A window of a multipurpose vehicle that is behind the driver of the vehicle. A multipurpose vehicle is a passenger vehicle that is designed to carry 10 or fewer passengers and either is constructed on a truck chassis or has special features designed for occasional off-road operation. A minivan and a pickup truck are multipurpose vehicles.

(10) A window of a vehicle that is registered in another state and meets the requirements of the state in which it is registered.

(11) A window of a vehicle for which the Division has issued a medical exception permit under subsection (f) of this section.

(d) Violations. -- A person who does any of the following commits a misdemeanor of the class set in G.S. 20-176:

(1) Applies tinting to the window of a vehicle that is subject to a safety inspection in this State and the resulting tinted window does not meet the window tinting restrictions set in this section.

(2) Drives on a highway or a public vehicular area a vehicle that has a window that does not meet the window tinting restrictions set in this section.

(e) Defense. -- It is a defense to a charge of driving a vehicle with an unlawfully tinted window that the tinting was removed within 15 days after the charge and the window now meets the window tinting restrictions. To assert this defense, the person charged ~~must~~ shall produce in court, or submit to the prosecuting attorney before trial, a certificate from the Division of Motor Vehicles or the Highway Patrol showing that the window complies with the restrictions.

(f) Medical Exception. -- A person who suffers from a medical condition that causes the person to be photosensitive to visible light may obtain a medical exception permit. To obtain a permit, an applicant shall apply in writing to the Drivers Medical Evaluation Program, have his or her doctor complete the required medical evaluation form provided by the Division, and pay the application fee. The application fee is five dollars ($5.00). The permit shall be valid for five years from the date of issue, unless a shorter time is directed by the Drivers Medical Evaluation Program. The renewal shall require a medical recertification that the person continues to suffer from a medical condition requiring tinting.

A person may receive no more than two medical exception permits that are valid at any one time. A permit issued under this subsection shall specify the vehicle to which it applies, the windows that may be tinted, and the permitted levels of tinting. The permit shall be carried in the vehicle to which it applies when the vehicle is driven on a highway."

Section 2. The Medical Review Branch of the Division of Motor Vehicles shall issue rules and create forms and permits necessary for this program. Until funds for this program are appropriated by the General Assembly, the Medical Review Branch shall manually issue all medical exception permits and shall manually maintain the records related specifically to these permits.

The Division of Motor Vehicles shall add the medical exception described in Section 1 of this act to the STARS program, to allow the computerized issuance of medical exception permits and to allow computerized maintenance of the records related specifically to these permits when it is modifying that computer program for some other purpose.

The Division of Motor Vehicles shall report to the Joint Legislative Transportation Oversight Committee six months after the first medical exception permit is issued on the number of permits issued and the projected additional costs, if any, of operating the program.

Section 3. G.S. 20-183.7(a) reads as rewritten:

"(a) Fee Amount. -- When a fee applies to an inspection of a vehicle or the issuance of an inspection sticker, the fee must be collected. The following fees apply to an inspection of a vehicle and the issuance of an inspection sticker:

Type	Inspection	Sticker
Safety ~~Only, Without After-Factory Tinted Window~~ Only	$ 8.25	$ 1.00
~~Safety Only, With After-Factory Tinted Window~~	~~18.25~~	~~1.00~~
Emissions and Safety ~~Without After-Factory Tinted Window~~	17.00	2.40
~~Emissions and Safety With After-Factory Tinted Window~~	~~27.00~~	~~2.40~~.

The fee for performing an inspection of a vehicle applies when an inspection is performed, regardless of whether the vehicle passes the inspection. The fee for an inspection sticker applies when an inspection sticker is put on a vehicle. The fee for ~~performing an inspection of a vehicle with a~~ inspecting after-factory tinted ~~window~~ windows shall be ten dollars ($10.00), and the fee applies only to an inspection performed with a light meter after a safety inspection mechanic determined that the window had after-factory tint. A safety inspection mechanic shall not inspect an after-factory tinted window of a vehicle for which the Division has issued a medical exception permit pursuant to G.S. 20-127(f).

A vehicle that is inspected at an inspection station and fails the inspection is entitled to be reinspected at the same station at any time within 30 days of the failed inspection without paying another inspection fee."

Section 4. This act becomes effective July 1, 2001.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

HOUSE BILL 723
Committee Substitute Favorable 4/22/99
Committee Substitute #2 Favorable 6/24/99
Committee Substitute #3 Reported Without Prejudice 7/1/99

Short Title: Dark Window Inspection Fee. (Public)

Sponsors:

Referred to:

March 30, 1999

A BILL TO BE ENTITLED

AN ACT TO ALLOW A PERSON WHO SUFFERS FROM A MEDICAL CONDITION THAT CAUSES THE PERSON TO BE PHOTOSENSITIVE TO VISIBLE LIGHT TO HAVE A DARKER VEHICLE WINDOW THAN IS ALLOWED UNDER THE WINDOW TINTING LAWS AND TO ELIMINATE THE AFTER-FACTORY WINDOW TINTING INSPECTION FEE FOR VEHICLES OWNED BY PERSONS ISSUED A MEDICAL EXCEPTION PERMIT BY THE DIVISION OF MOTOR VEHICLES ALLOWING THE WINDOW TINTING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-127 reads as rewritten:

"**§ 20-127. Windows and windshield wipers.**

(a) Windshield Wipers. -- A vehicle that is operated on a highway and has a windshield ~~must~~ shall have a windshield wiper to clear rain or other substances from the windshield in front of the driver of the vehicle and the windshield wiper ~~must~~ shall be in good working order. If a vehicle has more than one windshield wiper to clear substances from the windshield, all the windshield wipers ~~must~~ shall be in good working order.

(b) Window Tinting Restrictions. -- A window of a vehicle that is operated on a highway or a public vehicular area ~~must~~ shall comply with this subsection. The windshield of the vehicle may be tinted only along the top of the windshield and the

tinting may not extend more than five inches below the top of the windshield or below the AS1 line of the windshield, whichever measurement is longer. Provided, however, an untinted clear film, which does not obstruct vision but which reduces or eliminates ultraviolet radiation from entering a vehicle may be applied to the windshield. Any other window of the vehicle may be tinted in accordance with the following restrictions:

(1) The total light transmission of the tinted window ~~must~~ shall be at least thirty-five percent (35%). A vehicle window that, by use of a light meter approved by the Commissioner, measures a total light transmission of more than thirty-two percent (32%) is conclusively presumed to meet this restriction.

(2) The light reflectance of the tinted window ~~must~~ shall be twenty percent (20%) or less.

(3) Tinted film or another material used to tint the window ~~must~~ shall be nonreflective and ~~must~~ shall not be ~~a color other than~~ red, yellow, or amber.

(c) Tinting Exceptions. -- The window tinting restrictions in subsection (b) of this section apply without exception to the windshield of a vehicle. The window tinting restrictions in subdivisions (b)(1) and (b)(2) of this section do not apply to any of the following vehicle windows:

(1) A window of an excursion passenger vehicle, as defined in G.S. 20-4.01(27)a.

(2) A window of a for-hire passenger vehicle, as defined in G.S. 20-4.01(27)b.

(3) A window of a common carrier of passengers, as defined in G.S. 20-4.01(27)c.

(4) A window of a motor home, as defined in G.S. 20-4.01(27)d2.

(5) A window of an ambulance, as defined in G.S. 20-4.01(27)f.

(6) The rear window of a property-hauling vehicle, as defined in G.S. 20-4.01(31).

(7) A window of a limousine.

(8) A window of a law enforcement vehicle.

(9) A window of a multipurpose vehicle that is behind the driver of the vehicle. A multipurpose vehicle is a passenger vehicle that is designed to carry 10 or fewer passengers and either is constructed on a truck chassis or has special features designed for occasional off-road operation. A minivan and a pickup truck are multipurpose vehicles.

(10) A window of a vehicle that is registered in another state and meets the requirements of the state in which it is registered.

(11) A window of a vehicle for which the Division has issued a medical exception permit under subsection (f) of this section.

(d) Violations. -- A person who does any of the following commits a misdemeanor of the class set in G.S. 20-176:

(1) Applies tinting to the window of a vehicle that is subject to a safety inspection in this State and the resulting tinted window does not meet the window tinting restrictions set in this section.

(2) Drives on a highway or a public vehicular area a vehicle that has a window that does not meet the window tinting restrictions set in this section.

(e) Defense. -- It is a defense to a charge of driving a vehicle with an unlawfully tinted window that the tinting was removed within 15 days after the charge and the window now meets the window tinting restrictions. To assert this defense, the person charged ~~must~~ shall produce in court, or submit to the prosecuting attorney before trial, a certificate from the Division of Motor Vehicles or the Highway Patrol showing that the window complies with the restrictions.

(f) Medical Exception. -- A person who suffers from a medical condition that causes the person to be photosensitive to visible light may obtain a medical exception permit. To obtain a permit, an applicant shall apply in writing to the Drivers Medical Evaluation Program, have his or her doctor complete the required medical evaluation form provided by the Division, and pay the application fee. The application fee is five dollars ($5.00). The permit shall be valid for five years from the date of issue, unless a shorter time is directed by the Drivers Medical Evaluation Program. The renewal shall require a medical recertification that the person continues to suffer from a medical condition requiring tinting.

A person may receive no more than two medical exception permits that are valid at any one time. A permit issued under this subsection shall specify the vehicle to which it applies, the windows that may be tinted, and the permitted levels of tinting. The permit shall be carried in the vehicle to which it applies when the vehicle is driven on a highway. The Division shall give a person who receives a medical exception permit a sticker to place on the lower left-hand corner of the rear window of the vehicle to which it applies."

Section 2. The Medical Review Branch of the Division of Motor Vehicles shall issue rules and create forms and permits necessary for this program. Until funds for this program are appropriated by the General Assembly, the Medical Review Branch shall manually issue all medical exception permits and shall manually maintain the records related specifically to these permits.

The Division of Motor Vehicles shall add the medical exception described in Section 1 of this act to the STARS program, to allow the computerized issuance of medical exception permits and to allow computerized maintenance of the records related specifically to these permits when it is modifying that computer program for some other purpose.

The Division of Motor Vehicles shall report to the Joint Legislative Transportation Oversight Committee six months after the first medical exception permit is issued on the number of permits issued and the projected additional costs, if any, of operating the program.

Section 3. G.S. 20-183.7(a) reads as rewritten:

"(a) Fee Amount. -- When a fee applies to an inspection of a vehicle or the issuance of an inspection sticker, the fee must be collected. The following fees apply to an inspection of a vehicle and the issuance of an inspection sticker:

Type	Inspection	Sticker
Safety ~~Only, Without After-Factory Tinted Window~~ Only	$ 8.25	$ 1.00
~~Safety Only, With After-Factory Tinted Window~~	~~18.25~~	~~1.00~~
Emissions and Safety ~~Without After-Factory Tinted Window~~	17.00	2.40
~~Emissions and Safety With After-Factory Tinted Window~~	~~27.00~~	~~2.40~~.

The fee for performing an inspection of a vehicle applies when an inspection is performed, regardless of whether the vehicle passes the inspection. The fee for an inspection sticker applies when an inspection sticker is put on a vehicle. The fee for ~~performing an inspection of a vehicle with a~~ inspecting after-factory tinted ~~window~~ windows shall be ten dollars ($10.00), and the fee applies only to an inspection performed with a light meter after a safety inspection mechanic determined that the window had after-factory tint. A safety inspection mechanic shall not inspect an after-factory tinted window of a vehicle for which the Division has issued a medical exception permit pursuant to G.S. 20-127(f).

A vehicle that is inspected at an inspection station and fails the inspection is entitled to be reinspected at the same station at any time within 30 days of the failed inspection without paying another inspection fee."

Section 4. This act becomes effective October 1, 1999.

HOUSE BILL 723:
Dark Window Inspection Fee

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Representative Insko
Date:	July 7, 1999	**Summary by:**	Mary Shuping
Version:	4th Edition		Research Assistant

SUMMARY: ***The 4th edition of HB 723 allows a person who suffers from a medical condition that causes the person to be photosensitive to have a darker windshield than allowed by current law. The bill also eliminates the after-factory window tinting inspection fee for those persons.***

The 2nd edition of HB 723, which was given a favorable report by the House Finance Committee on June 15, 1999, would have reduced the after-factory window tinting inspection for a motor vehicle by $5.00 if the person had a documented medical condition that required tinted windows; however, the bill did not provide for a medical exception permit.

CURRENT LAW & BILL ANALYSIS:

Section 1. Windshield Tinting Restrictions. Under current law, windshields may only be tinted along the top of the windshield and the tinting may not extend more than five inches below the top of the windshield. There are no exceptions to this requirement. HB 723 would allow an untinted clear film that reduces or eliminates ultraviolet light but does not obstruct vision to be placed on the windshield.

Also under current law, windshields must have a total light transmission of at least 35% with a light reflectance of 20% or less. There are, however, exceptions to this requirement for limousines, motor homes, multipurpose vehicles, minivans, and pickup trucks. HB 723 would add to the exceptions those vehicles for which the DMV has issued a medical exception permit.

HB 723 also authorizes the DMV to issue "Medical Exception" permits to persons who suffer from a medical condition that causes the person to be photosensitive. In order to obtain a permit, the person must:

- Apply to the Drivers Medical Evaluation Program
- Have his or her doctor complete the required medical evaluation form.
- Pay an application fee of $5.00.

The permit is valid for five years from the date of issue, unless a shorter time is directed by the Program. In order to renew the permit, the applicant must provide medical recertification that he or she continues to suffer from the condition.

A person may receive no more than two medical exception permits at any one time. A Medical Exception Permit must

- Specify the vehicle to which it applies.
- Specify the windows that may be tinted, and the permitted levels of tinting.

- Be carried in the vehicle to which it applies, and the vehicle must display a medical exception permit sticker.

Section 2 of the bill requires the Medical Review Branch of DMV to implement the program through rule-making. In addition, until funds are appropriated by the General Assembly, the Medical Review Branch is required to manually issue all medical exception permits and to maintain records on those permits. This section also requires DMV to modify its computer system in order to allow for the computerized issuance of permits when it is modifying that computer program for some other purpose. Finally, DMV is required to report to the Joint Legislative Transportation Oversight Committee six months after issuing the first medical exception permit on the number of permits issued and the additional cost of operating the program.

Section 3 deletes the separate fees for safety and emissions inspections for after-factory tinted windows and provides that the fee for inspecting an after-factory tinted window is $10.00, and the fee only applies to an inspection with a light meter after the inspector determines that the window has an after-factory tint. However, this section prohibits the inspection of an after-factory tinted window for a vehicle having a medical exception permit.

EFFECTIVE DATE: The act becomes effective October 1, 1999.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 244 A BILL TO BE ENTITLED AN ACT TO ENACT THE NORTH CAROLINA UNCLAIMED PROPERTY ACT AND TO MAKE CONFORMING AMENDMENTS TO THE GENERAL STATUTES, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE OTHER CHANGES TO THE ESCHEATS LAWS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 244

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S244-ARB-7/2.1A

Date July 6 & 7, 1999

Comm. Sub. [YES]
Amends Title []
Fifth Edition

Representative _____

moves to amend the bill on page 3, lines 10 and 11, by deleting "ten percent (10%)" and substituting "twelve percent (12%)".

SIGNED Gibson
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 244

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S
H244-ARB-7/2.6

Page 1 of __

Date July 7 ,1999

Comm. Sub. [YES]
Amends Title []
Fifth Edition

Representative Luebke

moves to amend the bill on page 18, line 26, by deleting "116B-73.1" and substituting "116B-74";

and on page 18, line 34; page 19, lines 3 and 31; page 20, line 13; and on page 21, lines 3 and 15, by renumbering the remaining sections accordingly;

and on page 21, line 11, by deleting "G.S. 116B-76(d)," and substituting "G.S. 116B-77(d)";

and on page 24, lines 21 and 38, by deleting "116B-74" and substituting "116B-75".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

SENATE BILL 244:
Unclaimed Property Act/AB

BILL ANALYSIS

Committee:	Senate Finance	**Introduced by:**	Senator Hartsell
Date:	July 6, 1999	**Summary by:**	General Statutes Commission and Cindy Avrette Committee Counsel
Version:	5th Edition		

SUMMARY: ***Senate Bill 244 revises the current escheat and unclaimed property laws and adopts the Uniform Unclaimed Property Act as promulgated by the National Conference of Commissioners on Uniform State Laws. The bill as originally introduced was a recommendation of the General Statutes Commission.***

BILL ANALYSIS: A detailed section-by-section summary of the bill has been prepared by the General Statutes Commission staff and is attached to this summary. Reference should be made to the General Statutes Commission summary for detailed information on the bill. This summary highlights the four new fee provisions.

- Page 11, lines 10 through 16: A holder of property presumed abandoned must file a report with the Treasurer. A holder must pay a processing fee of $10 to request an extension of time to file a report.

  Page 18, lines 3 through 9: The Treasurer may examine or contract with any other person to examine the records of a person to determine whether the person has complied with the Unclaimed Property Act. If the examination results in the disclosure of reportable property, the Treasurer may assess against a holder who made a fraudulent report the cost of the examination at the rate of $200 a day for each examiner, or a greater amount that is reasonable and was incurred. The assessment may not exceed the value of the property found to be reportable.

- Page 18, lines 26 through 33: A holder may request the Treasurer to conduct a precompliance review. The Treasurer may charge the holder a precompliance review fee of up to $500 a day.

- Page 20, line 39 through page 21, line 2: Unclaimed property locators or heir finder must register with the Treasurer and pay an annual registration fee of $100.

Walker Reagan, counsel to the Senate Judiciary I Committee, contributed to this summary.

STATE OF NORTH CAROLINA
GENERAL STATUTES COMMISSION
POST OFFICE BOX 629
RALEIGH, NORTH CAROLINA 27602
(919) 716-6800

MEMORANDUM

TO: House Finance Committee

FROM: General Statutes Commission

DATE: June 30, 1999

RE: Senate Bill 244 (5th edition)(Unclaimed Property Act)

General Comments

Senate Bill 244 (5th edition) amends Chapter 116B of the General Statutes (Escheats and Abandoned Property) by repealing Article 2 (Abandoned Property), repealing Article 3 (Administration of Abandoned Property) except for certain sections that are recodified within Article 1 (Escheats), and adding a new Article 4 (North Carolina Unclaimed Property Act). The new Article 4 is based on the Uniform Unclaimed Property Act (1995), promulgated by the National Conference of Commissioners on Uniform State Laws to update, modernize, and substantially improve the law governing abandoned property. The Article, however, varies in several respects from the Uniform Act.

The bill, among other things, sets forth in a single section the various periods after which property is presumed abandoned and the owner activity that may rebut the presumption of abandonment. It closely follows the language of the United States Supreme Court opinion in *Texas v. New Jersey*, 379 U.S. 674, 85 S.Ct. 626, 13 L.Ed. 2d 596 (1965), in describing the general rules under which a state may take custody of abandoned property. The bill changes some of the holding periods established under the current law and includes some specific kinds of property not expressly addressed under the current law. Shorter holding periods increase the likelihood of locating the missing property owner. Like the current law, the owner, at any time, may make a claim to the State for restitution of property delivered into the State's custody. Please note that the property is and remains the property of the owner. The bill also makes conforming amendments to other sections of the General Statutes.

Specific Comments

Section 1. This section amends G.S. 116B-4 to cross refer to the appropriate provisions of the new Article 4 for filing claims with the Treasurer. The section also deletes language that is no longer necessary because the subject matter is covered in the new Article 4.

Section 2. This section repeals Article 2 of Chapter 116B (Abandoned Property) because the subject matter is covered in the new Article 4.

Section 3. This section repeals Article 3 of Chapter 116B (Administration of Abandoned Property) except for the following sections of Article 3 that are recodified within Article 1 of Chapter 116B: G.S. 116B-27 (Escheat Fund), 116B-36 (Administration of Escheat Fund; Escheat Account), G.S. 116B-37 (Distribution of income of fund), and G.S. 116B-47 (Employment of persons with specialized skills or knowledge).

Section 4. This section amends G.S. 116B-6, as recodified by Section 3 of the bill, to update language and internal statutory references and to make the statute gender neutral.

Section 5. This section amends G.S. 116B-8, as recodified by Section 3 of the bill, to make the statute gender neutral and to update language.

The Senate amended G.S. 116B-8 to provide that persons employed by the Treasurer to determine sources and amounts of unreported property are subject to the same policies, including confidentiality and ethics, as employees of the Department of State Treasurer assigned to determine sources and amounts of unreported property. In addition, the amendments limit compensation paid on a contingency fee basis to 10% of the final assessment.

Section 6. This section amends Chapter 116B of the General Statutes by adding a new Article 4, entitled "North Carolina Unclaimed Property Act" and consisting of §§ 116B-51 through 116B-79.

§ 116B-51. This section provides that the Article may be cited as the "North Carolina Unclaimed Property Act".

§ 116B-52. This section defines key terms used in the Article, including the following new terms: (1) "apparent owner"; (2) "domicile"; (3) "mineral"; (4) "mineral proceeds"; (5) "property"; (6) "record"; and (7) "state".

§ 116B-53. This section combines all dormancy periods for categories of property in one section, whereas current law sets out in separate sections the dormancy periods for each category of property. The section also reduces some of the dormancy periods under current law and includes some specific categories of property not specifically addressed under current

law (e.g. IRA's and unmatured debt).

Subsection (a) specifies when property is "unclaimed" for purposes of the applicable dormancy periods set forth in subsection (c). The presumption that the property is abandoned can be rebutted by contact between the apparent owner and the holder by means of a written communication from the owner to the holder, or by some other means memorialized in the records of the holder, or by other means whereby the owner indicates an interest in the property.

Subsection (b) sets forth a nonexclusive list of actions an owner can take to indicate interest in property. These actions include presentment of a check, making deposits and withdrawals from the account in which the property is held, paying a premium, or negotiating an instrument.

Subsection (c) provides that, on the expiration of the dormancy periods specified in subdivisions (1) through (16) of the subsection, unclaimed property is presumed abandoned.

The Senate amended subdivision (c)(8) to provide that any gift certificate or electronic gift card bearing an expiration date is deemed abandoned if the certificate or card remains unredeemed or dormant for more than three years after it was sold. The amount abandoned is deemed to be 60% of the unredeemed portion of the face value of the gift certificate or the electronic gift card.

The Senate also amended subdivision (c)(13) to provide that wages or other compensation for personal services is presumed abandoned if the compensation remains unclaimed for two years after the compensation becomes payable.

Subsection (d) provides that when the underlying interest, e.g. stock, is presumed abandoned, all other property accruing to the owner as a result of that interest, e.g. dividends, is then also presumed abandoned. Subsection (d) eliminates the situation where underlying stock is presumed abandoned and delivered to the Treasurer but dividends issued on the stock within the last five years must be held by the holder because the dormancy period as to the dividends has not yet expired.

Subsection (e) provides that property is deemed payable or distributable even though the owner has not made a demand or presented an instrument or document that is required to obtain payment.

§ 116B-54. This section brings forward current law on forfeited reservation deposits held by business associations.

The Senate amended § 116B-54 to add subsections (b), (c), (d), and (e). The new subsections provide that the following property is not abandoned property: (1) gift certificates

or electronic gift cards which do not expire in North Carolina; (2) prepaid calling cards issued by a telephone company; (3) manufactured home buyer deposits which a manufactured home dealer is authorized to retain under G.S. 143-143.21A or G.S. 143-143.21B; and (4) credit balances between business associations.

§ 116B-55. This section brings forward current law on taking custody of the contents of safe deposit boxes or other safekeeping depositories held by banks and other financial organizations. The contents of safe deposit boxes are presumed abandoned if the apparent owner has not claimed the property within the period established by G.S. 53-43.7. The contents are delivered to the Treasurer as provided by that statute If the contents include property described in § 116B-53 the Treasurer is required to hold the property for the remainder of the applicable dormancy period set forth in that section before the property is deemed to be received for purpose of public sale under § 116B-65.

§ 116B-56. This section describes the general rules under which this State may take custody of abandoned property. These rules are dependent upon the presence or absence of the last known address of the apparent owner in the records of the holder. Apparent owner is defined in § 116B-52(1) to mean the person whose name appears on the records of a holder as the person entitled to property held, issued, or owing by the holder. Abandoned property is subject to custodial taking by the State regardless of whether the property is located in this or another state.

The Senate amended subsection (a) by deleting a provision allowing North Carolina to take custody of property if: (1) the transaction out of which the property arose occurred in North Carolina; (2) the holder is domiciled in a state that does not provide for the custodial taking of the property; and (3) the last known address of the apparent owner or other person entitled to the property is unknown or is in a state that does not provide for the custodial taking of the property.

§ 116B-57. This section provides that dormancy charges imposed by holders for inactivity can not be levied against property held unless there is a valid and enforceable written contract between the owner and the holder for assessing the charges. The amount of the charges must be reasonable. In addition to dormancy charges, holders may deduct from the property presumed abandoned other lawful charges specially authorized by statute or contract.

§ 116B-58. This section clarifies the Treasurer's burden of proof in situations where the property being claimed by the Treasurer is an obligation arising from the issuance of a check or similar instrument by the holder and the obligation is disputed by the holder. Under this section, a record of the issuance of the instrument is prima facie evidence of an obligation. The Treasurer's burden of proof as to the existence and amount of the property and its abandonment is satisfied by showing issuance of the instrument and passage of the requisite dormancy period. Affirmative defenses available to the holder for establishing that the holder had no obligation to the apparent owner include payment, satisfaction, discharge, and want of

consideration.

§ 116B-59. This section requires a holder of property presumed abandoned to make a good faith effort to locate the apparent owner. If the value of the property is $50.00 or more, the holder must send written notice, by first-class mail, to the apparent owner not more than 120 days or less than 60 days before filing the report of abandoned property with the Treasurer. The section also brings forward current law specifying the contents of the notice.

§ 116B-60. This section requires the holder of property presumed abandoned to file a report with the Treasurer and specifies the contents of the report. The report must be filed before November 1 of each year and must cover the 12 months next preceding July 1 of that year, except that a report with respect to a life insurance company must be filed before May 1 of each year and must cover the calendar year next preceding. Before the date for filing the report, the holder may request an extension of time for filing the report, and the Treasurer may grant the extension for good cause. An affidavit stating that the holder has complied with § 116B-59 must be filed with the report. The section brings forward current law requiring a business association holding property presumed abandoned to certify the holding in its income tax return and requiring the Secretary of Revenue to furnish to the Escheat Fund the information appearing on the certification.

The Senate amended subsection (e) to require that a request for extension of time to file a report be accompanied by a processing fee of $10.00.

§ 116B-61. Subsection (a) requires the holder to pay or deliver the property described in the report upon filing the report. However, if the property is an automatic renewal deposit and a penalty or forfeiture in the payment of interest would result, the time for compliance is extended to the next filing and delivery date at which a penalty or forfeiture would no longer result.

Subsection (b) provides that with respect to securities and security entitlements that have been reported as abandoned property, the Treasurer is an "appropriate person" to make an indorsement, instruction, or entitlement order under Article 8 of Chapter 25 of the General Statutes. Accordingly, the Treasurer has the same rights under Article 8 as other persons who succeed by operation of law to securities or security entitlements, such as the executor or administrator of a decedent.

Where the holder is itself the issuer of a certificated security and does not have the original certificate to turn over to the Treasurer, subsection (c) allows the Treasurer to obtain a replacement certificate without giving an indemnity bond. G.S. 25-8-405 enables the owner of a certificated security to obtain a replacement of a lost, destroyed, or stolen certificate, provided that reasonable requirements are satisfied and a sufficient indemnity bond is supplied.

Subsection (d) indemnifies a person causing a replacement certificate to be issued to the

Treasurer from any claims that the person acted wrongfully in so doing. This indemnification is desirable in that it eliminates any duty of the transferring authority to make an independent investigation into whether the listed owner of the security is in fact missing, or into other factors which might affect the Treasurer's right to obtain custody of the property.

§ 116B-62. This section brings forward current law requiring the Treasurer to prepare a list of apparent owners to be delivered to the clerks of superior court and to publish notice of the list.

§ 116B-63. Subsection (a) defines when property is paid or delivered to the Treasurer in "good faith". Subsection (b) relieves a holder of all liability for any property paid or delivered to the Treasurer in good faith. Subsection (c) requires the Treasurer to reimburse a holder who pays unclaimed money to the Treasurer and subsequently pays a person reasonably appearing to the holder to be entitled to the money. Subsection (d) allows a holder to reclaim property other than money upon filing proof that the apparent owner has claimed the property from the holder. Subsection (e) allows the Treasurer to accept a holder's affidavit as sufficient proof of the holder's right to recover money and property. Subsection (f) provides that if any person or another state makes a claim on a holder for property paid or delivery to the Treasurer, the Treasurer, upon written notice of the claim, is required to defend the holder and provide indemnification against any liability on the claim resulting from payment or delivery of the property in good faith to the Treasurer.

§ 116B-64. This section provides that if property other than money is delivered to the Treasurer, the owner is entitled to receive from the Treasurer any income or gain realized or accruing on the property at or before liquidation or conversion of the property into money. If the property is interest-bearing or pays dividends, the interest or dividends must be paid until the date on which the property is delivered to the Treasurer.

§ 116B-65. Subsection (a) requires the public sale of abandoned property, other than securities, within three years after receipt of the property. Subsection (b) governs the sale of securities. Subsection (c) provides that a purchaser takes the property free of all claims of the owner or previous holder and of all persons claiming through or under them.

§ 116B-66. This section and § 116B-56 (rules for taking custody) are designed to carry out the priority scheme enunciated in *Texas v. New Jersey*. In general the state in which the owner had his or her last known address is entitled to claim abandoned property. Where there is insufficient information to permit this assertion of custody, the state of the holder's domicile takes the property subject to a later claim by the owner's state.

A claim to recover property under this section shall be presented in a form prescribed by the Treasurer and the Treasurer shall decide the claim within 90 days after it is presented. The Treasurer shall also require a state, before recovering property under this section, to agree to indemnify the State of North Carolina and its officers and employees against any liability on

a claim to the property.

§ 116B-67. This section allows the owner to make a claim to the State for restitution of property delivered into the State's custody.

§ 116B-68. This section provides that a person aggrieved by a decision of the Treasurer or whose claim has not been acted upon within 90 days after filing may commence an action to establish the claim in the Superior Court of Wake County.

§ 116B-69. Subsection (a) allows the Treasurer to decline to receive property which the Treasurer considers to have a value less than the expenses of notice and sale. Subsection (b) allows the holder, with the consent of the Treasurer, to report and deliver property before the property is presumed abandoned; however, the Treasurer must hold the property until the dormancy period runs before the property would be subject to other provisions of Chapter 116B. This authority will enable the Treasurer to take possession of property when the holder is terminating business but the property is not yet reportable.

§ 116B-70. Subsection (a) allows the Treasurer to destroy or otherwise dispose of property which has no substantial commercial value. The subsection provides immunity from liability, except for intentional misconduct. Subsection (b) brings forward current law in expressly providing for the retention of property having historic significance.

§ 116B-71. Subsection (a) brings forward current law (G.S. 116B-34), providing that the expiration of a period of limitation on a claim by an owner does not relieve a holder of the duties imposed by this Article.

Subsection (b), which has no counterpart in current law, establishes a period of limitation for the Treasurer to commence an enforcement action after the holder filed a report in which the holder specifically identified or should have identified property or gave express notice of a dispute regarding property. The period of limitation is tolled if the report is not filed, the notice of dispute is not given, or the report is fraudulent.

The Senate amended subsection (b) to change the period of limitation from ten years to three years and to extend the three-year period of limitation to six years after the holder filed a report if the holder failed to identify more than 25% of the value of the property or to give express notice to the Treasurer of a dispute regarding more than 25% of the value of the property.

§ 116B-72. This section is designed to facilitate compliance with Chapter 116B. Subsection (a) authorizes the Treasurer to require a person who has not filed a report or who has filed an inaccurate, incomplete, or false report to file a verified report in a form specified by the Treasurer. Subsection (b) authorizes the Treasurer to examine or to contract with any other person to examine the records of any person to determine whether the person has

complied with Chapter 116B. Subsection (c) authorizes the Treasurer to examine the records of an agent of a business association, e.g. a dividend disbursing agent or transfer agent, that is the holder of property presumed abandoned. Subsection (d) provides for the confidentiality of documents and working papers obtained or compiled in the course of an examination and lists the circumstances under which the documents and papers may be disclosed. If an examination results in the disclosure of reportable property, subsection (e) authorizes the Treasurer to assess against a holder who made a fraudulent report the cost of the examination at the rate of $200 a day for each examiner, or a greater amount that is reasonable and was incurred, but the assessment may not exceed the value of the property found to be reportable. Subsection (f) permits the use of estimates in instances where the holder has failed to report and deliver property and no longer has reasonably accessible records sufficient to prepare a specific report.

The Senate amended subsection (e) to delete language authorizing the Treasurer to assess the cost of an examination against a holder who willfully fails to report property.

§ 116B-73. Except as provided in subsection (b), subsection (a) requires a holder to maintain records containing the information required to be included in a report for 10 years after the holder filed the report, unless a shorter period is provided by rule of the Treasurer. Subsection (b) requires the issuer of travelers checks and money orders to maintain records of the instruments for three years after the holder filed the report.

§ 116B-73.1. The Senate added this new section to allow a holder to request the Treasurer to conduct a precompliance review of the holder's program for complying with the North Carolina Unclaimed Property Act. The Treasurer is authorized to charge a fee of $500.00 per day for conducting a precompliance review.

§ 116B-74. Subsection (a) authorizes the Treasurer to commence an enforcement action in this or another state. Subsection (b) brings forward current law allowing the Treasurer to order persons required to report, pay, or deliver property to appear before the Treasurer and to produce records and give testimony.

§ 116B-75. This section deals with interstate cooperation and joint actions. Subsection (a) allows an exchange of information relating to abandoned property or its possible existence. Subsection (b) explicitly permits the Treasurer to join with another state to seek enforcement of Chapter 116B. Subsection (c) explicitly permits the Attorney General of this State to commence an enforcement action on behalf of another state if the state agrees to pay the expenses incurred by the Attorney General. Subsection (d) explicitly permits the Treasurer to request that the attorney general of another state or another attorney commence an enforcement action in the other state on behalf of the Treasurer and also allows the Treasurer, with the approval of the Attorney General of this State, to retain an outside attorney to commence an enforcement action in this State on behalf of the Treasurer. The Treasurer may agree to base the attorneys' fees upon a percentage of the value of the property recovered for the State. Subsection (e) continues the authorization of the Treasurer to make expenditures from the

Escheat Fund as may be necessary to effectuate this section.

§ 116B-76. This section requires a holder who fails to report, pay, or deliver property to pay interest on the property or value of the property from the date the property should have been reported, paid, or delivered. The section also provides civil penalties for willful failure to report, pay, or deliver property and for making a fraudulent report. These penalties are different from the penalties under current law. The Treasurer is expressly authorized to waive, in whole or in part, interest and penalties; however, this authorization does not include the penalty for fraudulent reporting.

§ 116B-77. This section governs agreements between owners and "unclaimed property locators" or "heir finders" to locate abandoned property and is intended to enhance the likelihood that the owner of the property will be located by the efforts of the Treasurer and will receive a return of the property without payment of a "finder's fee." Subsection (a) voids any unclaimed property locator's or heir finder's agreement with the apparent owner if it was entered into during the period commencing on the date the property was presumed abandoned and extending to a time that is 24 months after the date the property is paid or delivered to the Treasurer. Subsection (b) requires that the agreement be in writing, identify the property, state its value before and after deduction of the fee, and specify the services to be rendered. Subsection (c) voids a provision of an agreement that provides for compensation that includes a portion of the underlying minerals or the mineral proceeds not yet presumed abandoned. Subsection (d) limits the locator's compensation to an amount that is not greater than 25% of the actual value of the property recovered. An owner who has made an agreement to pay compensation that is unenforceable, or the Treasurer on behalf of the owner, may bring an action to reduce the compensation. The court may award attorneys' fees to an owner who prevails in the action. Subsection (e) provides that an owner is not precluded from asserting that an agreement is invalid on grounds other than as provided in subsection (d).

The Senate added a new subsection (f) to require unclaimed property locators or heir finders to register annually with the Treasurer. The subsection also requires the payment of an annual registration fee of $100.00 to be credited to the General Fund.

§ 116B-78. This section sets forth transitional provisions.

§ 116B-79. This section authorizes the Treasurer to adopt rules necessary to carry out Chapter 116B.

Sections 7 through 12. These sections make conforming amendments to G.S. 44A-4(b)(1), 29-12, 53-43.7(b), 53-43.7(d), 53B-4, and 116-209.3. The amendments update statutory cross references, delete language believed to be no longer necessary, and make provisions gender neutral.

Section 13. This section is a general severability clause.

Section 14. This section authorizes the printing of drafters' comments.

Section 15. This section provides a delayed effective date of January 1, 2000.

The Senate amended Section 15 to provide that the act applies to property existing on or after January 1, 2000, and that § 116B-54(d) (exclusion for manufactured home buyer deposits) is intended to clarify and not change existing law.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 244 (Second Edition)

SHORT TITLE: Unclaimed Property Act/ AB

SPONSOR(S):

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Escheat Fund					
Gift Certificates	($250,000)	($500,000)	($500,000)	($500,000)	($500,000)
Manufactured Homes	($1,200,000)				
Bus. Credit Balances	($125,000)	($250,000)	($250,000)	($250,000)	($250,000)
Extension Request	$250	$500	$500	$500	$500
EXPENDITURES					
State Education Assistance Authority		($94,485)	($139,455)	($184,425)	($229,395)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of State Treasurer – Escheat and Unclaimed Property Program

EFFECTIVE DATE: The act becomes effective January 1, 2000.

BILL SUMMARY: This bill rewrites the escheat and unclaimed property laws in North Carolina.

ASSUMPTIONS AND METHODOLOGY:
The following sections of SB 244 have a potential fiscal impact on the Escheat Fund:

Section 5 – G.S. 116B-8
This section has no fiscal impact. This section limits the compensation the State Treasurer pays companies to uncover unreported, escheatable property. The limit will be 10% of the final assessment of property escheated to the state. This provision will not affect the Treasurer's current contracts with two firms. The state contract with the National Abandoned Property Processing Corp. pays 10% of the recovered property. The state contract with the Unclaimed

Property Clearinghouse pays 12% (6% for an audit and 6% for processing) for recovered property. This 12% is really for two separate functions that are paid as one fee. The provision would force the Treasurer to make two payments for these services.

Section 6 – G.S. 116B-53(c) & G.S. 116B-54(b)

Amending these statutes will produce a loss of revenue for the Escheat Fund by exempting gift certificates, manufactured home buyer's deposits, and credit balances between businesses from the definition of abandoned property. As for prepaid calling cards and electronic gift cards, there is no revenue loss because the Treasurer has never escheated these items. However, assuming that these items are eligible for escheat, there is a potential revenue loss that cannot be estimated at this time.

I. Gift Certificates

The Director of the Escheat and Unclaimed Property Program estimates that the Escheat Fund will lose $500,000 per year in unclaimed assets by eliminating gift certificates from escheat. Since the Escheat and Unclaimed Property Program does not record whether a gift certificate has an expiration date or not, this estimate assumes all unclaimed gift certificates are eligible to escheat. In 1998, the state received $117,522 from five companies that listed gift certificates as a specific property type. However, officials in the Escheat and Unclaimed Property Program believe that most gift certificates and gift cards are grouped together with other property types that are reported by businesses. The state collected $6.9 million in unclaimed property from businesses other than banks, insurance companies, and utilities in 1998. It is unknown what percentage of this amount is from gift certificates.

The Director of the Escheat and Unclaimed Property Program believes his agency has only begun discovering unclaimed gift certificates, phone cards, and electronic gift cards. The State Treasurer has six auditors and two contract audit firms that search for unclaimed property in North Carolina and in other states. A recent multi-state audit of a large retail chain found $1 million in unclaimed gift certificates in North Carolina. This $1 million will be remitted to the state over the next four years unless prohibited by SB 244.

To gauge whether North Carolina's estimate of escheated gift certificates was reasonable, unclaimed property programs in other states were surveyed by e-mail by legislative staff. Of the small number of states that responded, gift certificate collections in Indiana and Maine appear to validate the $500,000 estimate for North Carolina. An official with the Indiana Office of the Attorney General reported that $425,000 in gift certificates were escheated to the state in 1998. Indiana has a population of 5.8 million versus North Carolina's 7.4 million. Maine, state population 1.24 million, had $209,100 in gift certificates escheated in 1998. Some states reported that they grouped many classes of property together like North Carolina. Other states escheated gift certificates but admitted their low collections were due to noncompliance by retailers and the state's lack of aggressiveness in seeking unclaimed gift certificates.

II. Manufactured Home Buyers' Deposit

The Escheat and Unclaimed Property Program conducted an audit of a major mobile home manufacturer in North Carolina and found **$1.2 million in unclaimed buyers' deposits**. Passage of SB 244 would prevent the deposit of these funds into the Escheat Fund. There is also an annual revenue loss to the Escheat Fund from this exemption, but no estimate is available from the Treasurer's staff at this time.

III. Credit Balances

It is estimated that the Escheat Fund will lose $250,000 a year if credit balances between businesses are exempted from escheat. Since 1988, the Escheat Fund has received $1.46 million in unclaimed credit balances from in-state and out-of-state property holders. In the last four fiscal years, business to business credit balances have averaged $250,000 a year.

Section 6 – 116B-60

This section will generate annual revenue of $500 for the Escheat Fund. The Treasurer receives approximately 50 requests a year from property holders who request extensions for filing a report. Fifty requests times the $10 fee is $500.

Section 6 – 116B-72

No estimate available. The Escheat and Unclaimed Property Program did 57 record examinations in FY 97-98. This section would allow the Treasurer to charge $200 a day for an exam of a property holder who made a fraudulent report of unclaimed property. The Treasurer's staff does not think this power will be used often due to the difficulty of proving fraud.

Section 6 – 116B-73.1

No fiscal impact. This section states that the Treasurer may charge $500 per day for precompliance reviews. Heretofore, the Treasurer has provided five property holder seminars a year and offered free precompliance advice. The Treasurer's staff does not intend to charge for their compliance efforts.

Section 6 – 116B-76

No estimate available. This section will reduce the interest rate on holders who fail to report, pay, or deliver property in a prescribed time. The interest rate reduction from 12% to the market rate will reduce interest earnings for the Escheat Fund. No estimate is available for the increase in the civil penalty for fraudulent reporting because the Treasurer has not used this authority.

Section 6 – 116B-77

No fiscal impact. The $100 registration fee for third party tracers is not anticipated to be used because there are none presently operating in North Carolina.

SEAA

The interest from the Escheat Fund is deposited with the North Carolina State Education Assistance Authority (SEAA) to provide financial assistance to students in state supported schools of higher education. The interest on Escheat Fund investments in future years is calculated at 6% per year. This is the short-term investment rate recommended by the State Treasurer. It is assumed that the interest will accrue the year after the property is escheated. This interest would have been deposited with the State Education Assistance Authority to be used for student loans. The interest lost each year is as follows:

	Cumulative	Interest
FY 1999-00	$1,574,750	
FY 2000-01	$2,324,250	$94,485
FY 2001-02	$3,073,750	$139,455
FY 2002-03	$3,823,250	$184,425
FY 2003-04	$4,572,750	$229,395

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY: Tom Covington

DATE: Wednesday, June 09, 1999

Talking Points
for use in discussing SB 244

- Unclaimed property laws have not been updated for over 18 years.

- The General Statutes Commission reviewed carefully and approved most of what is in SB 244. The Senate made some changes to reflect current business practices and to address some serious concerns of the business community.

- Currently, the Treasurer's office is allowed to go back as far as 1982 in its audits of companies for unclaimed property. SB 244 conforms that time period to 3 years -- the same for most tax audits.

- SB 244 will allow consumers the benefit of gift certificates and electronic gift cards without expiration dates for an indefinite period of time. Current law requires that proceeds from gift certificates that are not used after a certain period of time to be surrendered to the Treasurer's office. Practically all gift certificates and electronic gift cards are issued with no known owner recorded so there is no method of reuniting the owner. SB 244 benefits consumers by improving the treatment of gift certificates and electronic gift cards under the Unclaimed Property Act.

- SB 244 addresses a serious problem in credit balances between businesses. Currently, credit balances as old as 17 years are subject to audit and escheat and the business must prove that all credit balances are not unclaimed property.

- SB 244 exempts only business-to-business credit balances. Businesses normally settle credit balances between themselves and do not routinely abandon property.

- Very often, credit balances are administrative errors. The cost of researching and documenting credit balances as old as 17 years (or even 10 years) far exceeds (often by as many as 10x) any amount surrendered to the Treasurer's office.

- The fiscal impact of SB244 to the General Fund is $0.

- The fiscal impact to the Escheats Fund is minuscule compared to the $33 million collected last year for the Fund.

UNCLAIMED PROPERTY
ACCOUNT RECEIVABLE CREDITS

Position

- Consider clarifying that account receivable credit balances resulting from business to business transactions, in connection with the sale of goods in the ordinary course of business, are not subject to the State of North Carolina Unclaimed Property Act.

Explanation

- Remove the costly burden to businesses for tracking credit balances which occur in its accounts receivable

- Each day our company has multiple transactions including billing, cash receipts, posting, credit disputes and issuing credit memos that involve thousands of customers, orders and products which have the potential for creating errors.

- Errors may include data entry errors, posting to the wrong account, account number errors, credits issued internally only because the customer has already deducted an amount from its payment, varying reference numbers, timing differences, credit memos issued twice, etc.

- On a periodic basis, credit managers clean up their customer open debit and credit balances. It is impractical and not value added for us to research all of the detail. The predominance of the write offs consist of debit balances. Credit balances written off during this process are the result of bookkeeping errors and timing differences.

- We conduct business with the majority of our customers on an ongoing basis. Customer satisfaction is a top priority. Balances owed to our customers are settled promptly. Our customers are smart business people with sophisticated systems and excellent personnel. If we do not satisfy them with first class service and settle amounts due to them, they are quick to let us know.

- Contract auditors currently require that businesses either prove that each credit balance, existing or written off, is the result of an error or report that amount as unclaimed property. Requiring the maintenance of records to prove that accounts receivable credit balances that result from bookkeeping errors, internal procedures and timing differences are not unclaimed property is very expensive. Requiring our company to research past transactions or to establish and maintain tracking systems to prove that such credits are not unclaimed property would place an unfair and unproductive burden on us and would result in only a small amount of these credits actually being escheatable.

- Some states either have or are in the process of excluding credit balances from the definition of unclaimed property. We need your support to help state businesses to operate more efficiently by not requiring the listing of account receivable credits as unclaimed property.

ARTHUR ANDERSEN

Arthur Andersen LLP

Suite 3800
100 North Tryon Street
Charlotte NC 28202-4000
704 332 0092

June 1, 1999

The Honorable David W. Hoyle
Co-Chair, Senate Finance Committee
North Carolina Senate
300A Legislative Office Building
Raleigh, North Carolina 27601-2808

The Honorable John H. Kerr, III
Co-Chair, Senate Finance Committee
North Carolina Senate
526 Legislative Office Building
Raleigh, North Carolina 27601-2808

Dear Senators Hoyle and Kerr:

I attended your hearing on Senate Bill 244 and would like to comment on the cost to comply with reporting credit balances. I am Arthur Andersen's State and Local Tax Practice Director for the Carolinas and have assisted many clients through unclaimed property audits. Based on my experience, The Committee On State Taxes (COST) requested that I write you to address these costs.

The cost to comply with the credit balance issue needs to be discussed from two different perspectives. First, the cost incurred in an audit that is typically for the period 1981 forward often results in $10 of internal and consultant costs for each dollar that is ultimately turned over to the state. Second is the annual cost to comply as represented by the following client's situations:

The first example is a North Carolina based service company with annual sales of approximately $120 million. They have over 40,000 customers through out the Southeast and annually issue over 2.1 million invoices, each with an average amount due of $50. Annually approximately 130 accounts have a net credit balance that is over one year old of which approximately 50 are for inactive customers. Historically over 50 percent of the inactive customer accounts resulted from accounting errors, therefore; resulting in only $1,300 to be shared with North Carolina and the other Southeast states as unclaimed property. To research and analyze the all the inactive accounts to determine accounting errors, customers with several accounts and active/inactive customers; the time and expenses incurred by the computer programmer, accounts receivable supervisor and the analysts exceed 60 hours at a cost greater that the $1,300 reportable amount.

ARTHUR ANDERSEN

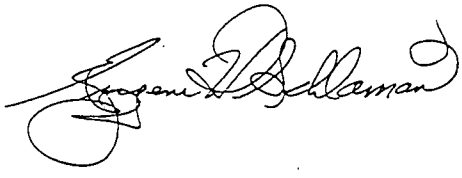
The second example is a billion-dollar manufacturer/distributor with sales in all fifty states. Each year they issue over 500,000 credits. Annually $25,000 to $50,000 relates to inactive customer accounts that are over one year old. The $25,000 to $50,000 is before reviewing for accounting errors. To properly review and determine which of these amounts are reportable to the 50 states the company does business in, they estimate it would take one full-time staff employee plus supervisory time resulting in an annual cost in excess of $50,000.

It is important to note that businesses do not in the normal course of business abandon property. It has been my experience that the majority of credit balances occur as the result of accounting errors such as improper posting, entering a credit twice or invoices issued in the field which the client pays however the invoice did not reaching the billing department.

Thank you for your interest in this matter. I hope this will answer your question regarding the fact that the cost to comply with reporting credit balances far exceed the benefit that the state would receive. If you have any questions please feel free to contact me at the above address or at 704-332-1454.

Very truly yours,

ARTHUR ANDERSEN LLP



By
Eugene H. Schlaman

KSH
J:\Tax\SAR138\1999\letters\hoyle.doc

SB 244

Monday
July 5, 1999

Treasurer, Merchants Sparring Over Gift Certificates

RALEIGH (AP) -- Got an old gift certificate someone gave you lying around uncashed? If you do, you're not alone.

Retailers expect to sell about $18 billion worth of gift certificates this year. Nearly 6 percent of them, over $1 billion, they estimate will never be redeemed.

The state treasurer's office estimates about $21 million in those unclaimed gift certificates will be stuck in dresser drawers in North Carolina.

What should be done with those certificates is now a matter of dispute between merchants and the treasurer's office. A bill approved by the Senate and likely to be considered this week by a House committee says gift certificates cannot be considered abandoned property that would go to the state's escheat fund in the treasurer's office. It would also exempt deposits on mobile homes, prepaid calling cards sold by phone companies and credit balances owed by one business to another.

North Carolina's escheat fund was created in 1789. Abandoned property and bank accounts are held by the state, which attempts to find the legal owner or his heirs. Interest from the fund is used for low-interest student loans.

Until 1972, the fund was managed by the University of North Carolina. When the treasurer's office took it over that year, there was about $4 million in the escheat fund.

Now, however, there is over $200 million in the fund, and the interest from it has provided 68,000 loans to students. About 4,500 new loans a year come from that interest.

Unclaimed gift certificates, says Terry Allen, who oversees the escheat fund, ought to be surrendered to the treasurer's office like other unclaimed property.

``Our primary purpose is to get it back to the people it belongs to," said Allen. ``If the state keeps whittling away and letting people keep money that doesn't belong to them, eventually you're going to hurt the fund."

An audit of an out-of-state discount chain, Allen said, showed nearly $1 million in unredeemed gift certificates that should come to the escheat fund.

But Fran Preston of the North Carolina Retail Merchants Association doesn't see it that way.

Merchants, she said, want to issue gift certificates with no expiration date. ``The main reason they are not redeemed is because they have an expiration date on them," she said. ``Somebody opens a drawer and says, `Oops, that one's expired.

``If there is no expiration date, then the gift certificate is just like cash and should not escheat."

Finding the rightful owners of gift certificates, she said, is practically impossible since they are used as gifts. The buyer, even if he could be located, is not the person who owns the certificate after it is given away.

And stores do not record the name and address of the eventual recipient, or the buyer, in most cases.

(MORE, Turn Over Page)

Stores have to pay federal and state taxes of up to 40 percent two years after a gift certificate is issued, Preston said. If it is not used in five years, then the store is supposed to surrender 100 percent of the certificate's value to the escheat fund.

The means merchants end up paying 140 percent of the certificate's value.

Allen said a study commission that looked at the issue agreed to give merchants 40 percent of the certificate's value, with 60 percent going to the state. But an amendment added in a Senate committee gave 100 percent of the value to merchants.

Prepaid phone cards and electronic greeting cards, which are like prepaid credit cards for specific stores, are such new innovations that the state has never collected them in its abandoned property fund, Allen said.

But they seem likely to become more common, and to create more abandoned property, he said. A $10 phone card, for instance, could have $1 in credit left when the customer sets it aside and forgets it. "You're talking about the potential of losing many, many millions of dollars that could be going toward student loans," Allen said.

But Preston said the income from uncashed gift certificates would be a small fraction of the escheat fund. And eliminating expiration dates will encourage more customers to use them. ``It is more important to get the certificate used by the consumer and the retailer than for the treasurer to hold it," she said.

``We are, maybe more than another business, in a relationship with the consumer," she said. ``It's in our best interest for the consumer to come in and use the certificate."

By DENNIS PATTERSON, Associated Press Writer

THE NEWS & OBSERVER

Obituaries 8B
Tar Heel Tally 9B
Weather 10B

Tug of war over gift certificates

Billionaire merchant Sam Walton's heirs are sufficiently well off that they don't need to be dipping into North Carolina's college loan fund. Or at least that is how state Treasurer Harlan Boyles sees it.

This is why Boyles is not happy that the General Assembly is on the verge of providing what he sees as a multimillion-dollar windfall to Wal-Mart and other merchants by letting them keep unclaimed gift certificates.

Rob Christensen

Boyles, a conservative pro-business Democrat, thinks the unclaimed gift certificates should be turned over to the state's lost and found (escheats) fund, where the state can try to return the money to the rightful owner. And he thinks is it "selfish" and "unfair" that some companies are trying to hold on to the money.

"It is very confusing to me as to why the legislature would even give the time of day to a proposal like this when the beneficiaries are out-of-state [companies], by and large," Boyles said. And the people who would be hurt by the bill are North Carolinians, he said.

The stakes in the legislative battle are bigger than you might think. Americans spend $18 billion a year on gift certificates, and about 6 percent are never redeemed — lost, forgotten or not wanted.

Last year, the state treasurer's office collected an estimated $500,000 from stores — the value of unclaimed gift certificates.

Like other unclaimed property — savings accounts, checking accounts, securities, stocks and the like — the gift certificates end up in a special "escheat" fund in the state treasurer's office. There was $184.3 million in the pot last year.

The treasurer's office tries to find the owner. Meanwhile, interest earned in the fund is used for low-interest college loans — helping 5,000 Tar Heel students this year and 75,000 students over the years.

It was during Senate debate over a routine bill, updating the escheats law, that the legislation was amended to exempt gift certificates. The measure passed the Senate unanimously, with the backing of the N.C. Merchants Association and the N.C. Citizens for Business and Industry.

Boyles says he doesn't think it's a coincidence that the bill was amended not long after an audit found that Wal-Mart was holding $1 million in unclaimed gift certificates owned by North Carolina residents. This $1 million probably would have to be remitted to the state over the next four years, although the issue is expected to be contested.

But two of the senators responsible for the change, Republican Fletcher Hartsell of Concord and Democrat Dan Clodfelter of Charlotte, both said that Boyles has the wrong take on the issue.

They said the bill was not designed to help Wal-Mart or any other company. The two attorneys said Boyles does not have the law on his side. And despite whatever good may result from the student loans, they said, the unclaimed gift certificates are like legal tender and are the legal property of the stores and not the state.

"As far as I am concerned, the treasurer is asking us to pass a bad law so he can get credit for passing out more scholarships," Clodfelter said. "But he would be taking property that doesn't belong to the state of North Carolina. It belongs to other people."

The bill is scheduled to be considered in the House Finance Committee on Tuesday.

Rob Christensen can be reached at 829-4532 or at robc@nando.com

Senate Bill 244

Proposed amendments to Senate Bill 244

1) Eliminate fixed percentage payable to contract auditors.
2) Require the issuer of a gift certificate to retain names and addresses of purchasers.
3) Provide for the escheat of business-to-business credit balances where there is no longer a continuing business relationship.
4) Limit the reach-back period for an escheat audit to 10 years

G.S. 116B-8 Employment of persons with specialized skills or knowledge

The Treasurer's Office agrees that any persons whose services are employed by the Treasurer should meet the same confidentiality and ethics requirements as employees of the Department of State Treasurer. However, negotiation of compensation should be made by State Treasurer under competitive standards.

G.S. 116B-54(b) Exclusion of certain gift certificates or electronic gift cards

The North Carolina General Statutes Commission concurred with The National Conference of Commissioners on Uniform State Laws in deciding that it was equitable for issuers of gift certificates to retain 40% of the value of the certificate when it escheats. The Treasurer's Office also concurred on this issue.

Studies show that a gift certificate that is not presented within a year is highly unlikely to ever be presented. This year it is estimated that approximately $18 billion in gift certificates will be purchased, and approximately 6% of these will never be redeemed.

The committee substitute, adopted by the Senate, exempts gift certificates with no expiration date. This would allow for any windfall from the sale of these certificates to go to the holder rather than to be utilized for student loans.

In addition, this committee substitute

Does not protect the consumer.

Lacks any provision for making the issuer accountable.

Does not require the issuer to maintain the address of the purchaser so they can be notified after the certificate has been unredeemed after a period of time.

Does not protect the purchaser in the event of bankruptcy.

Does not prevent unredeemed certificates from being escheated to another state.

G.S. 116B-54(e) Exclusion of Business-to-Business Credit Balances from Escheat

Current law provides that business-to-business credit balances escheat. The Treasurer agrees that where there is an on-going business relation between two businesses, credit balances should not escheat. Only when the companies are no longer doing business with each other should the credit balance escheat. The Senate Committee Substitute however, provides for the exclusion of all business-to-business credit balances from escheat.

The cost of complying with credit balances and gift certificates under the uniform act would be minimal unless the company refuses to comply yearly and has to research many years back. When auditing for business-to-business credit balances where there is no longer a business relationship, North Carolina escheat auditors recover approximately $4,400 per audit hour

G.S. 116B-71(b) Limit the reach-back period for escheat audits

This provision was a result of an amendment introduced on the floor of the Senate. It reduces the amount of time that the Treasurer has to bring an action from ten years to three years after the holder has filed a report with the treasurer. The period of limitation is extended to six years after the holder filed a report if the holder failed to identify more than 25% of the value of the property or to give express notice to the Treasurer of a dispute regarding more than 25% of the value of the property. In the absence of such a report or other express notice, or if a fraudulent report is filed, the period of limitation is tolled.

Under present law, unclaimed property audits reach back to 1981, if the holder is found to be in non-compliance. This has been done to provide a means of equity for those holders who have been diligent in obeying the law and filing their reports. For holders in general compliance, audits generally go back approximately 3 years. The recommendation made by the North Carolina General Statutes Commission, and supported by the State Treasurer provided that the reach-back should be set at 10 years. The intent of the Senate floor amendment was to make the time frame on escheat audits similar to Department of Revenue audits. However, the Department of Revenue has hundreds of auditors and they cross-reference with the IRS. With over 12,500 holders on the escheat database and 4,500 of those filing positive reports each year, it would not be possible for the Treasurer's limited staff of five field auditors, and two contract auditors to be able to properly conduct all the audits necessary to ensure compliance with the law. Although no fiscal note has been requested, it is anticipated that the ultimate loss of revenue would be tens of millions of dollars.

Out-of-state companies, having unclaimed property (i.e. shares and bank deposits) in North Carolina would greatly benefit from this amendment.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 523 A BILL TO BE ENTITLED AN ACT TO MODIFY THE PURPOSES FOR WHICH THE GREENSBORO ROOM OCCUPANCY TAX MAY BE USED.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill ~~(#), ☐ which changes the title,~~ unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

File

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 523
Rules and Operations of the Senate Committee Substitute Adopted 6/8/99
Proposed Committee Substitute S523-PCSA663-RB

Short Title: Modify Greensboro Room Tax Use. (Local)

Sponsors:

Referred to:

March 25, 1999

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE PURPOSES FOR WHICH THE GREENSBORO ROOM OCCUPANCY TAX MAY BE USED.

The General Assembly of North Carolina enacts:

Section 1. Chapter 22 of the 1991 Session Laws, as amended by Chapter 380 of the 1995 Session Laws, reads as rewritten:

"Section 1. Levy of Tax.

~~(a)~~ The Greensboro City Council ~~may, by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ may levy a city-wide room occupancy and tourism development tax in addition to any other occupancy tax authorized for Guilford County.

~~(b) Collection of the tax, and liability therefor, shall begin and continue only on and after the first day of a calendar month set by the city council in the resolution levying the tax which may in no case be earlier than the first day of the second succeeding calendar month after the date of adoption of the resolution.~~

"Sec. 2. Occupancy Tax.

The city room occupancy and tourism development tax that may be levied under this act shall be three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourism camp, or other similar place within the City of Greensboro which is subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales or occupancy tax.

"Sec. 3. Exemptions.

The tax authorized by this act does not apply to gross receipts derived by the following entities from accommodations furnished by them:

(1) Religious organizations;

(2) A business that offers to rent fewer than five units;

(3) Educational organizations;

(4) Summer camps; and

(5) Charitable, benevolent, and other nonprofit organizations.

"Sec. 4. Administration of Tax.

~~(a) The City of Greensboro may contract with Guilford County to collect and administer a tax levied under this act. The tax is due and payable to the city in monthly installments on or before the fifteenth day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the fifteenth day of each month, prepare and render a return on a form prescribed by the city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~(b) A person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars ($10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due, in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the occupancy tax is paid. The city council may, for good cause shown, compromise or forgive the additional tax penalties imposed by this subsection.~~

~~(c) Any person who willfully attempts in any manner to evade the occupancy tax imposed by this act or to make a return and who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both.~~ A tax levied under this section shall be levied, administered, and collected as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this act. The provisions for repeal of the tax as provided in G.S. 160A-215 do not apply to a tax levied under this act.

~~"Sec. 5. Collection of Tax.~~

~~Every operator of a business subject to the tax levied under this act shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the city. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The city or the county shall design, print, and furnish to all appropriate businesses in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

"Sec. 6. Disposition of Taxes Collected.

(a) Until retirement of the debt to finance renovation and expansion of the Greensboro War Memorial Coliseum arena, the proceeds of the occupancy tax shall be used as provided in this subsection.

(1) Promotion funds. -- The city or the county shall remit twenty percent (20%) of the net proceeds of the tax to the Greensboro/Guilford County Tourism Development Authority. ~~'Net proceeds' means gross proceeds less the cost to the city or the county of administering and collecting the tax, not to exceed five percent (5%) of the gross proceeds of the tax.~~ The authority shall use the funds remitted to it under this subsection only ~~for activities and programs promoting and encouraging travel and tourism.~~ to promote travel and tourism and for tourism-related expenditures.

(2) Rent subsidy funds. -- The city may remit up to two hundred thousand dollars ($200,000) of the remaining net proceeds each fiscal year to the Greensboro/Guilford County Tourism Development Authority for a marketing fund. The marketing fund may be used only for coliseum rent subsidies to attract large groups that commit to fill at least 5,000 room nights for the event. Any part of the marketing fund that has not been spent or committed at the end of each fiscal year for this purpose shall be credited to the City of Greensboro for use in accordance with subdivision (3) of this subsection.

(3) Complex funds. -- The City of Greensboro shall receive the balance of the net proceeds and shall use these funds only (i) to finance the renovation and expansion of the Greensboro War Memorial Coliseum arena, (ii) to finance the renovation and expansion of the remainder of the Greensboro War Memorial Complex and acquisition of property in the vicinity of the Complex, and (iii) for maintenance of the Complex. In the event that the funds exceed the amount required for these purposes, the excess shall be retained in a special reserve fund and used (i) to make debt payments where additional funds are needed in any payment period or (ii) to call a portion of the debt.

(b) Upon retirement of the full debt to finance the renovation and expansion of the Greensboro War Memorial Coliseum arena, the proceeds of the occupancy tax shall be used as provided in this subsection.

(1) Promotion funds. -- The city or the county shall remit twenty-five percent (25%) of the net proceeds of the tax to the Greensboro/Guilford County Tourism Development Authority. The authority shall use the funds remitted to it under this subsection only ~~for activities and programs promoting and encouraging travel and tourism.~~ to promote travel and tourism and for tourism-related expenditures.

(2) Rent subsidy funds. -- The city may remit up to two hundred thousand dollars ($200,000) of the remaining net proceeds each fiscal year to the Greensboro/Guilford County Tourism Development Authority for a marketing fund. The marketing fund may be used only for coliseum rent subsidies to attract large groups that commit to fill at least 5,000 room nights for the event. Any part of the marketing fund that has not been spent or committed at the end of each fiscal year for this purpose shall be credited to the City of Greensboro for use in accordance with subdivision (3) of this subsection.

(3) Promotion and facilities funds. -- The city shall receive the balance of the net proceeds and shall use these funds only (i) for specific tourist-related events, programs, and activities, such as arts, recreational, or cultural events, or (ii) for promoting, improving, constructing, financing, or acquiring facilities or attractions that enhance the development of tourism. Before expending the proceeds for any of the purposes listed in this subsection, the city shall submit each project to the Greensboro/Guilford County Tourism Development Authority. The board of directors of that authority shall make recommendations to the city with respect to the projects within 60 days after submission by the city.

(c) The following definitions apply in this section:

(1) Net proceeds. -- Gross proceeds less the cost to the city or county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

"Sec. 7. Contracts Authorized.

The City of Greensboro may contract with any nonprofit organization to assist it in carrying out the purposes for which the tax proceeds levied by this act may be expended. The Greensboro/Guilford County Tourism Development Authority may

contract with any person, firm, or agency to assist it in carrying out the purposes for which the tax proceeds levied by this act may be expended.

"Sec. 8. Reports.

The Greensboro/Guilford County Tourism Development Authority and the City of Greensboro shall report quarterly and at the close of the fiscal year to the city council on their receipts and expenditures for the preceding quarter and for the year in such detail as the council may require. The Greensboro/Guilford County Tourism Development Authority shall submit its annual budget for the funds provided in this act to the Greensboro City Council for approval prior to adoption by the authority. This action does not, however, incorporate the authority's budget into the annual operating budget of the City of Greensboro. The authority shall furnish its annual audit to the Greensboro City Council.

"Sec. 9. Repeal of Levy.

The Greensboro City Council may, by resolution, repeal the tax levied under this act, but the repeal may not become effective until the debt for the renovation and expansion of the Greensboro War Memorial Coliseum arena has been retired. In addition, the repeal may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal."

Section 2. City administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Greensboro, Lumberton, Mount Airy, Shelby, and Statesville, to the Town of St. Pauls and to the municipalities in Brunswick County."

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 523
Rules and Operations of the Senate Committee Substitute Adopted 6/8/99
PROPOSED COMMITTEE SUBSTITUTE
S523-CSRB-7/6

Short Title: Modify Greensboro Room Tax Use. (Local)

Sponsors:

Referred to:

March 25, 1999

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE PURPOSES FOR WHICH THE GREENSBORO ROOM OCCUPANCY TAX MAY BE USED.

The General Assembly of North Carolina enacts:

Section 1. Chapter 22 of the 1991 Session Laws, as amended by Chapter 380 of the 1995 Session Laws, reads as rewritten:

"Section 1. Levy of Tax.

~~(a)~~ The Greensboro City Council ~~may, by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ may levy a city-wide room occupancy and tourism development tax in addition to any other occupancy tax authorized for Guilford County.

~~(b) Collection of the tax, and liability therefor, shall begin and continue only on and after the first day of a calendar month set by the city council in the resolution levying the tax which may in no case be earlier than the first day of the second succeeding calendar month after the date of adoption of the resolution.~~

Sec. 2. Occupancy Tax.

The city room occupancy and tourism development tax that may be levied under this act shall be three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourism camp, or other similar place within the City of Greensboro which is subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales or occupancy tax.

Sec. 3. Exemptions.

The tax authorized by this act does not apply to gross receipts derived by the following entities from accommodations furnished by them:

(1) Religious organizations;

(2) A business that offers to rent fewer than five units;

(3) Educational organizations;

(4) Summer camps; and

(5) Charitable, benevolent, and other nonprofit organizations.

Sec. 4. Administration of Tax.

~~(a) The City of Greensboro may contract with Guilford County to collect and administer a tax levied under this act. The tax is due and payable to the city in monthly installments on or before the fifteenth day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the fifteenth day of each month, prepare and render a return on a form prescribed by the city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~(b) A person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars ($10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due, in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the occupancy tax is paid. The city council may, for good cause shown, compromise or forgive the additional tax penalties imposed by this subsection.~~

~~(c) Any person who willfully attempts in any manner to evade the occupancy tax imposed by this act or to make a return~~

~~and who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both.~~ A tax levied under this section shall be levied, administered, and collected as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this act. The provisions for repeal of the tax as provided in G.S. 160A-215 do not apply to a tax levied under this act.

~~Sec. 5. Collection of Tax.~~

~~Every operator of a business subject to the tax levied under this act shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the city. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The city or the county shall design, print, and furnish to all appropriate businesses in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

Sec. 6. Disposition of Taxes Collected.

(a) Until retirement of the debt to finance renovation and expansion of the Greensboro War Memorial Coliseum arena, the proceeds of the occupancy tax shall be used as provided in this subsection.

(1) Promotion Funds. -- The city or the county shall remit twenty percent (20%) of the net proceeds of the tax to the Greensboro/Guilford County Tourism Development Authority. ~~'Net proceeds' means gross proceeds less the cost to the city or the county of administering and collecting the tax, not to exceed five percent (5%) of the gross proceeds of the tax.~~ The authority shall use the funds remitted to it under this subsection only ~~for activities and programs promoting and encouraging travel and tourism.~~ to promote travel and tourism and for tourism-related expenditures.

(2) Rent Subsidy Funds. -- The city may remit up to two hundred thousand dollars ($200,000) of the remaining net proceeds each fiscal year to the

Greensboro/Guilford County Tourism Development Authority for a marketing fund. The marketing fund may be used only for coliseum rent subsidies to attract large groups that commit to fill at least 5,000 room nights for the event. Any part of the marketing fund that has not been spent or committed at the end of each fiscal year for this purpose shall be credited to the City of Greensboro for use in accordance with subdivision (3) of this subsection.

(3) Complex Funds. -- The City of Greensboro shall receive the balance of the net proceeds and shall use these funds only (i) to finance the renovation and expansion of the Greensboro War Memorial Coliseum arena, (ii) to finance the renovation and expansion of the remainder of the Greensboro War Memorial Complex and acquisition of property in the vicinity of the Complex, and (iii) for maintenance of the Complex. In the event that the funds exceed the amount required for these purposes, the excess shall be retained in a special reserve fund and used (i) to make debt payments where additional funds are needed in any payment period or (ii) to call a portion of the debt.

(b) Upon retirement of the full debt to finance the renovation and expansion of the Greensboro War Memorial Coliseum arena, the proceeds of the occupancy tax shall be used as provided in this subsection.

(1) Promotion Funds. -- The city or the county shall remit twenty-five percent (25%) of the net proceeds of the tax to the Greensboro/Guilford County Tourism Development Authority. The authority shall use the funds remitted to it under this subsection only ~~for activities and programs promoting and encouraging travel and tourism.~~ to promote travel and tourism and for tourism-related expenditures.

(2) Rent Subsidy Funds. -- The city may remit up to two hundred thousand dollars ($200,000) of the remaining net proceeds each fiscal year to the Greensboro/Guilford County Tourism Development Authority for a marketing fund. The marketing fund may be used only for coliseum rent subsidies to attract large groups that commit to fill at least 5,000 room nights for the event. Any part of the

marketing fund that has not been spent or committed at the end of each fiscal year for this purpose shall be credited to the City of Greensboro for use in accordance with subdivision (3) of this subsection.

(3) Promotion and Facilities Funds. -- The city shall receive the balance of the net proceeds and shall use these funds only (i) for specific tourist-related events, programs, and activities, such as arts, recreational, or cultural events, or (ii) for promoting, improving, constructing, financing, or acquiring facilities or attractions that enhance the development of tourism. Before expending the proceeds for any of the purposes listed in this subsection, the city shall submit each project to the Greensboro/Guilford County Tourism Development Authority. The board of directors of that authority shall make recommendations to the city with respect to the projects within 60 days after submission by the city.

(c) The following definitions apply in this section:

(1) Net proceeds. -- Gross proceeds less the cost to the city or county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Sec. 7. Contracts Authorized.

The City of Greensboro may contract with any nonprofit organization to assist it in carrying out the purposes for which the tax proceeds levied by this act may be expended. The Greensboro/Guilford County Tourism Development Authority may contract with any person, firm, or agency to assist it in carrying out the purposes for which the tax proceeds levied by this act may be expended.

Sec. 8. Reports.

The Greensboro/Guilford County Tourism Development Authority and the City of Greensboro shall report quarterly and at the close of the fiscal year to the city council on their receipts and expenditures for the preceding quarter and for the year in such detail as the council may require. The Greensboro/Guilford County Tourism Development Authority shall submit its annual budget for the funds provided in this act to the Greensboro City Council for approval prior to adoption by the authority. This action does not, however, incorporate the authority's budget into the annual operating budget of the City of Greensboro. The authority shall furnish its annual audit to the Greensboro City Council.

Sec. 9. Repeal of Levy.

The Greensboro City Council may, by resolution, repeal the tax levied under this act, but the repeal may not become effective until the debt for the renovation and expansion of the Greensboro War Memorial Coliseum arena has been retired. In addition, the repeal may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal."

Section 2. City administrative provisions. -- Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447 and Section 4 of S.L. 1998-112, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Greensboro, Lumberton, Mount Airy, Shelby, and Statesville, to the Town of St. Pauls and to the municipalities in Brunswick County."

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 523
Rules and Operations of the Senate Committee Substitute Adopted 6/8/99

Short Title: Modify Greensboro Room Tax Use. (Local)

Sponsors:

Referred to:

March 25, 1999

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE PURPOSES FOR WHICH THE GREENSBORO ROOM OCCUPANCY TAX MAY BE USED.

The General Assembly of North Carolina enacts:

Section 1. Section 6 of Chapter 22 of the 1991 Session Laws, as amended by Chapter 380 of the 1995 Session Laws, reads as rewritten:

"Sec. 6. Disposition of Taxes Collected.

(a) Until retirement of the debt to finance renovation and expansion of the Greensboro War Memorial Coliseum arena, the proceeds of the occupancy tax shall be used as provided in this subsection.

(1) Promotion Funds. -- The city or the county shall remit twenty percent (20%) of the net proceeds of the tax to the Greensboro/Guilford County Tourism Development Authority. 'Net proceeds' means gross proceeds less the cost to the city or the county of administering and collecting the tax, not to exceed five percent (5%) of the gross proceeds of the tax. The authority shall use the funds remitted to it under this subsection only for activities and programs promoting and encouraging travel and tourism.

(2) Rent Subsidy Funds. -- The city may remit up to two hundred thousand dollars ($200,000) of the remaining net proceeds each fiscal year to the Greensboro/Guilford County Tourism Development Authority for a marketing fund. The marketing fund may be used only for coliseum rent subsidies to attract citywide

groups that commit to fill at least 5,000 room nights for the event. Any part of the marketing fund that has not been spent or committed at the end of each fiscal year for this purpose shall be credited to the City of Greensboro for use in accordance with subdivision (3) of this subsection.

(3) Complex Funds. -- The City of Greensboro shall receive the balance of the net proceeds and shall use these funds only (i) to finance the renovation and expansion of the Greensboro War Memorial Coliseum arena, (ii) to finance the renovation and expansion of the remainder of the Greensboro War Memorial Complex and acquisition of property in the vicinity of the Complex, and (iii) for maintenance of the Complex. In the event that the funds exceed the amount required for these purposes, the excess shall be retained in a special reserve fund and used (i) to make debt payments where additional funds are needed in any payment period or (ii) to call a portion of the debt.

(b) Upon retirement of the full debt to finance the renovation and expansion of the Greensboro War Memorial Coliseum arena, the proceeds of the occupancy tax shall be used as provided in this subsection.

(1) Promotion Funds. -- The city or the county shall remit twenty-five percent (25%) of the net proceeds of the tax to the Greensboro/Guilford County Tourism Development Authority. The authority shall use the funds remitted to it under this subsection only for activities and programs promoting and encouraging travel and tourism.

(2) Rent Subsidy Funds. -- The city may remit up to two hundred thousand dollars ($200,000) of the remaining net proceeds each fiscal year to the Greensboro/Guilford County Tourism Development Authority for a marketing fund. The marketing fund may be used only for coliseum rent subsidies to attract citywide groups that commit to fill at least 5,000 room nights for the event. Any part of the marketing fund that has not been spent or committed at the end of each fiscal year for this purpose shall be credited to the City of Greensboro for use in accordance with subdivision (3) of this subsection.

(3) Promotion and Facilities Funds. -- The city shall receive the balance of the net proceeds and shall use these funds only (i) for specific tourist-related events, programs, and activities, such as arts, recreational, or cultural events, or (ii) for promoting, improving, constructing, financing, or acquiring facilities or attractions that enhance the development of tourism. Before expending the proceeds for any of the purposes listed in this subsection, the city shall submit each project to the Greensboro/Guilford County Tourism Development Authority. The board of directors of that

authority shall make recommendations to the city with respect to the projects within 60 days after submission by the city."

Section 2. This act becomes effective July 1, 1999, and applies to taxes collected on or after that date.

SENATE BILL 523:
Modify Greensboro Room Tax Use

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Hagan
Date:	July 7, 1999	**Summary by:**	Cindy Avrette
Version:	PCS for 2nd Edition *S523-CSRB-7/6*		Committee Counsel

SUMMARY: Senate Bill 523 modifies Greensboro's current occupancy tax use by permitting the City of Greensboro to remit up to $200,000 to the Greensboro/Guilford County Tourism Development Authority for a marketing fund. The proposed committee substitute conforms the administrative provisions of the current room occupancy tax session law for Greensboro to the uniform occupancy tax provisions of G.S. 160A-215.

SENATE BILL 523: The 2nd Edition of Senate Bill 523 changes the use of the proceeds of the Greensboro occupancy tax. Currently, all proceeds from the occupancy tax are used either for activities and programs promoting and encouraging travel and tourism, or for the Greensboro coliseum complex. Senate Bill 323 allows, but does not require, the City of Greensboro to remit up to $200,000 of the net proceeds of the tax to the TDA for a marketing fund. The marketing fund may be used only for coliseum rent subsidies to attract large groups that commit to fill at least 5,000 room nights.

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably. Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

The North Carolina Travel and Tourism Coalition has a policy statement for legislation authorizing local occupancy taxes. These principals include:

- **Rate** – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
- **Use** – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related purposes.
- **Definitions** – The term "net revenues", "promote travel and tourism", and "tourism-related expenditures" are defined terms.
- **Administration** – The net revenues must be administered by a local tourism promotion agency that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least ¾ of the members must be currently active in the promotion of travel and tourism in the taxing district and 1/3 of the members must be affiliated with organizations that collect the tax.

- **Costs of Collection** – The taxing authority may retain from the revenues its actual costs of collection not to exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.

PROPOSED COMMITTEE SUBSTITUE: Earlier this session, the Finance Chairs appointed a subcommittee to consider the occupancy tax legislation in light of the uniform provisions discussed above. Representative Jarrell chaired the subcommittee and Representatives Dedmon, Gibson, Goodwin, and C. Wilson were members of the subcommittee. The subcommittee gave a favorable recommendation to the legislation that met the uniform administrative provisions concerning levy, administration, collection, penalties, and repeal. Legislation enacting new occupancy taxes, or increasing the rate of existing occupancy taxes, also had to meet uniform distribution requirements. **This bill has not been through this subcommittee. The proposed committee substitute makes changes to the bill in light of the past work of the subcommittee this session:**

Administration. -- The proposed committee substitute for Senate Bill 523 conforms the administrative provisions of the 1991 Greensboro occupancy tax law with the uniform provisions first enacted in 1997. **Under the proposed committee substitute, the levy, administration, and collection of the occupancy taxes must be done in accordance with G.S. 160A-215.** These provisions are substantially the same as the ones in the current 1991 session law.

Repeal of tax. -- The proposed committee substitute does not conform the repeal provision with the uniform repeal provision because the current local act prohibits the repeal of the tax until the debt for the renovation and expansion of the Greensboro War Memorial Coliseum arena has been retired. The remaining provisions of the repeal provision reads substantially the same as the uniform provisions.

Penalty provision. -- Under the current Greensboro occupancy tax law, the penalty for failure to file a return is $10 for each day's omission. In case of failure to file the return or pay the tax for a period of 30 days after it is due, the penalty is 5% of the tax due. **The proposed committee substitute provides that the uniform penalties will apply.** The uniform occupancy tax penalties in G.S. 160A-215 are the same as the penalties for failure to pay or file a return for State sales and use taxes. The uniform penalty for failure to file a return is 5% of the amount of tax due, not to exceed 25% or $5, whichever is greater. The uniform penalty for failure to pay the tax due is 10% of the tax due or $5, whichever is greater.

Distribution. -- Although the distribution requirements under the current Greensboro occupancy tax law do not mirror the uniform distribution requirements, they do meet the spirit of the uniform requirements. **The proposed committee substitute does not substantively change the distribution requirements from the 2nd edition of the bill. It does define net proceeds to limit administrative costs to 3%, rather than 5% and it defines the terms "promote travel and tourism" and "tourism-related expenditures".** Under current law, as well as under the bill, all of the net proceeds must be used to promote travel and tourism. Twenty percent of the net proceeds are remitted to the Greensboro/Guilford County Tourism Development Authority to be used only for activities and programs promoting and encouraging travel and tourism. The remainder must be used to finance the renovation and expansion of the Greensboro War Memorial Coliseum arena, the Greensboro War Memorial Complex, and the maintenance of the Complex. Upon the retirement of the full debt to finance the renovation and expansion of the Greensboro War Memorial Coliseum arena, the city must remit 25% of the net proceeds to the Tourism Development Authority and must use the remainder only for activities and programs promoting and encouraging travel and tourism.

Tourism Development Authority. -- One of the uniform provisions considered by the subcommittee included the creation of a tourism development authority. The current Greensboro occupancy tax law references the Greensboro/Guilford County Tourism Development Authority. **The proposed committee substitute does not make any change in this area.** As noted above, a portion of the proceeds, including the proposed $200,000, goes to the TDA.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☐ Committee Substitute for
S.B. 772 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE CREATION OF MUNICIPAL SERVICE DISTRICTS IN CERTAIN CITIES FOR URBAN AREA REVITALIZATION PROJECTS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 772

Short Title: Expand Municipal Service Districts. (Public)

Sponsors: Senators Clodfelter; Dannelly and Odom.

Referred to: Finance.

April 7, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CREATION OF MUNICIPAL SERVICE DISTRICTS IN CERTAIN CITIES FOR URBAN AREA REVITALIZATION PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-536 reads as rewritten:

"**§ 160A-536. Purposes for which districts may be established.**

(a) Purposes. -- The city council of any city may define any number of service districts in order to finance, provide, or maintain for the districts one or more of the following services, facilities, or functions in addition to or to a greater extent than those financed, provided or maintained for the entire city:

(1) Beach erosion control and flood and hurricane protection ~~works;~~ works.

(1a) (For applicability see note) Any service, facility, or function which the municipality may by law provide in the city, and including but not limited to placement of utility wiring underground, placement of period street lighting, placement of specially designed street signs and street furniture, landscaping, specialized street and sidewalk paving, and other appropriate improvements to the rights-of-way that generally preserve the character of an historic district; provided that this subdivision only applies to a service district which, at the time of its creation, had the same boundaries as an historic district created under Part 3A of Article 19 of this ~~Chapter;~~ Chapter.

(2) Downtown revitalization ~~projects;~~ projects.
(2a) Urban area revitalization projects.
(3) Drainage ~~projects;~~ projects.
(3a) Sewage collection and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or ~~systems;~~ systems.
(4) Off-street parking ~~facilities; and~~ facilities.
(5) Watershed improvement projects, including but not limited to watershed improvement projects as defined in General Statutes Chapter 139; drainage projects, including but not limited to the drainage projects provided for by General Statutes Chapter 156; and water resources development projects, including but not limited to the federal water resources development projects provided for by General Statutes Chapter 143, Article 21.

(b) Downtown Revitalization Defined. -- As used in this section "downtown revitalization projects" include by way of illustration but not limitation improvements to water mains, sanitary sewer mains, storm sewer mains, electric power distribution lines, gas mains, street lighting, streets and sidewalks, including rights-of-way and easements therefor, the construction of pedestrian malls, bicycle paths, overhead pedestrian walkways, sidewalk canopies, and parking facilities both on-street and off-street, and other improvements intended to relieve traffic congestion in the central city, improve pedestrian and vehicular access thereto, reduce the incidence of crime therein, and generally to further the public health, safety, welfare, and convenience by promoting the economic health of the central city or downtown area. In addition, a downtown revitalization project may, in order to revitalize a downtown area and further the public health, safety, welfare, and convenience, include the provision of city services or functions in addition to or to a greater extent than those provided or maintained for the entire city. A downtown revitalization project may also include promotion and developmental activities (such as sponsoring festivals and markets in the downtown area, promoting business investment in the downtown area, helping to coordinate public and private actions in the downtown area, and developing and issuing publications on the downtown area) designed to improve the economic well-being of the downtown area and further the public health, safety, welfare, and convenience. Exercise of the authority granted by this Article to undertake downtown revitalization projects financed by a municipal service district shall not prejudice the city's authority to undertake urban renewal projects in the same area.

(c) Urban Area Revitalization Defined. -- As used in this section, the term 'urban area revitalization projects' includes the provision within an urban area of any service or facility that may be provided in a downtown area as a downtown revitalization project under subdivision (a)(2) and subsection (b) of this section. As used in this section, the term 'urban area' means an area that (i) is located within a city whose population exceeds 400,000 according to the most recent annual population statistics certified by the State Planning Officer and (ii) meets one or more of the following conditions:

(1) It is the central business district of the city.

(2) It consists primarily of existing or redeveloping concentrations of industrial, retail, wholesale, office, or significant employment-generating uses, or any combination of these uses.

(3) It is located in or along a major transportation corridor and does not include any residential parcels that are not, at their closest point, within 150 feet of the major transportation corridor right-of-way or any nonresidentially zoned parcels that are not, at their closest point, within 1,500 feet of the major transportation corridor right-of-way.

(4) It has as its center and focus a major concentration of public or institutional uses, such as airports, seaports, colleges or universities, hospitals and health care facilities, or governmental facilities.

(d) Contracts. -- A city may provide services, facilities, functions, or promotional and developmental activities in a service district with its own forces, through a contract with another governmental agency, through a contract with a private agency, or by any combination thereof. Any contracts entered into pursuant to this paragraph shall specify the purposes for which city moneys are to be used and shall require an appropriate accounting for those moneys at the end of each fiscal year or other appropriate period."

Section 2. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 1

H. B. No. _____ DATE _____

S. B. No. 772 Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Arnold
)
Sen.)

1 moves to amend the bill on page 2, line 42
2 ( ) WHICH CHANGES THE TITLE
3 by deleting the ~~and~~ number "400,000"
4 and substituting the number "~~50,000~~".
5 "25,000".
6
7
8
9
10
11
12
13
14
15
16
17
18
19

SIGNED Gene Arnold

ADOPTED ✓ FAILED _____ TABLED _____

111-0EV adopted DWeeks

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

SENATE BILL 772:
Expand Municipal Service District

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Clodfelter
Date:	July 6, 1999	**Summary by:**	Cindy Avrette
Version:	1st Edition, as Amended Amendment unengrossed		Committee Counsel

SUMMARY: ***Senate Bill 772 expands the purposes for which service districts may be established in certain cities to include "urban area revitalization projects". The original bill defined an urban area as a city whose population exceeds 400,000. Only one city in the State, Charlotte, has a population that exceeds 400,000. The House Economic Growth and Community Development Committee amended the definition of an urban area to include a city whose population exceeds 25,000. The bill, as amended, may apply to following 23 cities: Charlotte, Raleigh, Greensboro, Winston-Salem, Durham, Fayetteville, Cary, Jacksonville, High Point, Asheville, Wilmington, Gastonia, Rocky Mount, Greenville, Goldsboro, Concord, Chapel Hill, Burlington, Wilson, Kannapolis, Hickory, Salisbury, and Kinston.***

CURRENT LAW: Article 23 of Chapter 160A sets out "The Municipal Service District Act of 1973". This Act allows a city council, by resolution, to define a service district upon finding that a proposed district is in need of one or more of the services, facilities or functions listed in the Act to a demonstrably greater extent than the remainder of the city. A service district may be established for the following purposes: (1) beach erosion control and flood and hurricane protection; (1a) certain services, facilities, or functions that preserve the character of an historic district; (2) downtown revitalization projects; (3) drainage projects, (4) off-street parking facilities; and (5) watershed improvement projects. A city may levy property taxes within defined service districts in addition to those levied throughout the city. The property taxes may not be in excess of a rate on each $100 value of property subject to taxation which, when added to the rate levied city wide, would exceed a maximum combined rate of $1.50 on the $100 appraised value of property subject to taxation. A city may also issue general obligation bonds to finance the services provided in a service district.

BILL ANALYSIS: Senate Bill 772 adds "urban area revitalization projects" to the purposes for which a service district may be established. Such projects include the providing of a service or facility within an urban area that may be provided in a downtown area as a downtown revitalization project. "Urban area " is defined as an area located within a city whose population exceeds 400,000 according to the most recent annual population statistics certified by the State Planning Officer and meets one or more of the following conditions:

1. Is the central business district of the city.
2. Consists primarily of industrial, retail, wholesale, office or significant employment generating uses.

3. Is on major transportation corridor and does not contain residential parcels within 150 feet of corridor right-of-way or nonresidentially zoned parcels within 1,500 feet of right-of-way.
4. Has as its focus a major concentration of public or institutional uses.

Martha Walston, counsel to the Senate Finance Committee, contributed to this summary.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Miller, Luebke, Allen** for the Committee on **FINANCE.**

☒ Committee Substitute for
S.B. 1110 A BILL TO BE ENTITLED AN ACT TO PROVIDE AN INCENTIVE FOR BUSINESSES TO FIND COMMERCIAL USES FOR TECHNOLOGY DEVELOPED BY RESEARCH UNIVERSITIES

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill ~~(#)~~, ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1110

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S1110-ARB-7/7

Page 1 of __

Date July 7 ,1999

Comm. Sub. [PROPOSED]
Amends Title [YES]
S1110-CSLCX-7/7

Representative Eddins

moves to amend the bill on page 1, line 3, by rewriting the line to read:
"USES FOR TECHNOLOGY DEVELOPED BY RESEARCH UNIVERSITIES, TO REDUCE PROPERTY TAXES ON HOMESTEAD PROPERTY BY INCREASING THE EXEMPTION AMOUNT AND BY ALLOWING MORE INDIVIDUALS TO QUALIFY FOR THE HOMESTEAD TAX EXEMPTION, AND TO REIMBURSE LOCAL GOVERNMENTS FOR THE RESULTING REVENUE LOSS.";

and on page 8, lines 16 and 17, by rewriting the lines to read:

"Section 5. G.S. 105-277.1(a) reads as rewritten:

'(a) Exclusion. -- The following class of property is designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and shall be assessed for taxation in accordance with this section. The first ~~twenty thousand dollars ($20,000)~~ twenty-five thousand dollars ($25,000) in appraised value of a permanent residence owned and occupied by a qualifying owner is excluded from taxation. A qualifying owner is an owner who meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

(1) Is at least 65 years of age or totally and permanently disabled.
(2) Has an income for the preceding calendar year of not more than ~~fifteen thousand dollars ($15,000).~~ twenty-five thousand dollars ($25,000).
(3) Is a North Carolina resident.

An otherwise qualifying owner does not lose the benefit of this exclusion because of a temporary absence from his or her permanent residence for reasons of health, or because of an extended absence

while confined to a rest home or nursing home, so long as the residence is unoccupied or occupied by the owner's spouse or other dependent.'

Section 6. G.S. 105-309(f) reads as rewritten:

'(f) The following information shall appear on each abstract or on an information sheet distributed with the abstract. The abstract or sheet must include the address and telephone number of the assessor below the notice required by this subsection. The notice shall read as follows:

'PROPERTY TAX RELIEF FOR ELDERLY AND
PERMANENTLY DISABLED PERSONS.

North Carolina excludes from property taxes the first ~~twenty thousand dollars ($20,000)~~ twenty-five thousand dollars ($25,000) in appraised value of a permanent residence owned and occupied by North Carolina residents aged 65 or older or totally and permanently disabled whose income does not exceed ~~fifteen thousand dollars ($15,000).~~ twenty-five thousand dollars ($25,000). Income means the owner's adjusted gross income as determined for federal income tax purposes, plus all moneys received other than gifts or inheritances received from a spouse, lineal ancestor or lineal descendant.

If you received this exclusion in (assessor insert previous year), you do not need to apply again unless you have changed your permanent residence. If you received the exclusion in (assessor insert previous year) and your income in (assessor insert previous year) was above ~~fifteen thousand dollars ($15,000),~~ twenty-five thousand dollars ($25,000), you must notify the assessor. If you received the exclusion in (assessor insert previous year) because you were totally and permanently disabled and you are no longer totally and permanently disabled, you must notify the assessor. If the person receiving the exclusion in (assessor insert previous year) has died, the person required by law to list the property must notify the assessor. Failure to make any of the notices required by this paragraph before April 15 will result in penalties and interest.

If you did not receive the exclusion in (assessor insert previous year) but are now eligible, you may obtain a copy of an application from the assessor. It must be filed by April 15."'

Section 7. G.S. 105-277.1A reads as rewritten:

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1110

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S1110-ARB-7/7

'§ 105-277.1A. Property classified for taxation at reduced valuation; duties of tax collectors; reimbursement of localities for portion of tax lost.

(a) On September 1, 1990, the tax collector of each county and the tax collector of each city shall furnish to the Secretary of Revenue a list containing the name and address of each person who has qualified in that year for the exemption provided in G.S. 105-277.1. The list shall also contain for each name the total amount of property exempted, the tax rate the property is subject to, and the product obtained by multiplying those two numbers by each other. The lists shall be accompanied by an affidavit attesting to the accuracy of the list and shall all be on a form prescribed by the Secretary of Revenue.

(a1) On December 1, 1997, the tax collector of each county and the tax collector of each city shall furnish to the Secretary of Revenue two lists containing the name and address of each taxpayer who has qualified in that year for the exemption provided in G.S. 105-277.1. The first list shall include those taxpayers whose income was above eleven thousand dollars ($11,000) and the second list shall include those taxpayers whose income was eleven thousand dollars ($11,000) or less. On the first list, the tax collector shall provide for each name the total amount of property exempted and on the second list, the tax collector shall provide for each name the amount of property above fifteen thousand dollars ($15,000) exempted. On both lists, the tax collector shall provide the tax rate the property is subject to and the product obtained by multiplying the tax rate by the amount of property. The lists shall be accompanied by an affidavit attesting to the accuracy of the list and shall be on a form prescribed by the Secretary of Revenue.

(a2) On December 1, 2000, the tax collector of each county and the tax collector of each city shall furnish to the Secretary of Revenue two lists containing the name and address of each taxpayer who has qualified in that year for the exemption provided in G.S. 105-277.1. The first list shall include those taxpayers whose income was above fifteen thousand dollars ($15,000), and the second list shall include those taxpayers whose income was fifteen thousand dollars ($15,000) or less. On the first list, the tax collector shall provide for each name the total amount of property exempted, and on the second list, the tax collector shall provide for each name the amount of property above twenty thousand dollars ($20,000)

exempted. On both lists, the tax collector shall provide the tax rate the property is subject to and the product obtained by multiplying the tax rate by the amount of property. The lists shall be accompanied by an affidavit attesting to the accuracy of the list and shall be on a form prescribed by the Secretary of Revenue.

(b) Repealed by Session Laws 1996, Second Extra Session, c. 18, s. 15.1(c).

(c) The Secretary of Revenue may, for cause, grant an extension for the submission of a list required by this section.

(d) Before May 31, 1991, the Secretary of Revenue shall distribute to the county or city fifty percent (50%) of the total for the entire list provided pursuant to subsection (a) of this section of the product obtained by multiplying the tax exemption for each taxpayer times the applicable tax rate. Each year thereafter, on or before May 31, the Secretary of Revenue shall pay to each county and city that was entitled to receive a distribution under this subsection in 1991 the amount it was entitled to receive in 1991.

(d1) Before May 31, 1998, the Secretary of Revenue shall distribute to the county or city fifty percent (50%) of the total for both lists provided the preceding December 1 pursuant to subsection (a1) of this section of the product obtained by multiplying the applicable tax rate times the amount listed for each taxpayer. Before May 31, 1999, the Secretary of Revenue shall pay to each county and city the amount it received under this subsection in 1998.

(d2) Before May 31, 2001, the Secretary of Revenue shall distribute to the county or city the total for both lists provided the preceding December 1 pursuant to subsection (a2) of this section of the product obtained by multiplying the applicable tax rate times the amount listed for each taxpayer. Each year thereafter, on or before May 31, the Secretary of Revenue shall pay to each county and city the amount it received under this subsection in 2001.

(e) Any funds received by any county or city pursuant to this section because the county or city was collecting taxes for another unit of government or special district shall be credited to the funds of that other unit or district in accordance with regulations issued by the Local Government Commission.

(f) In order to pay for the reimbursement under this section and the cost to the Department of Revenue of administering the

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1110

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S1110-ARB-7/7 Page 5 of __

reimbursement, the Secretary of Revenue shall draw from collections received under Division I of Article 4 of this Chapter an amount equal to the reimbursement and the cost of administration.'

Section 8. Sections 1 through 4 of this act are effective for taxable years beginning on or after January 1, 2000. Sections 5 through 7 of this act are effective for taxes imposed for taxable years beginning on or after July 1, 2000. The remainder of this act is effective when it becomes law."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED ✓

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1110

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S1110-ALC-7/6

Page 1 of __

Date July 7, 199

Comm. Sub. [YES]
Amends Title []
PCS-7/7

Rep._____

moves to amend the bill on page 4, line 27, through page 5, line 30, by deleting the lines;

and on page 5, line 31, page 6, line 12, by relettering the remaining subsections accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

ROLL CALL VOTE

1 YES / not of committee NO = _____(TOTAL)

HB# _____
SB# 1110

HOUSE STANDING COMMITTEE ON
FINANCE

House Subcommittee on Luebke's amendment # Fails

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
___	___	MILLER, GEORGE	___	___	~~McALLISTER, MARY~~
___	___	LUEBKE, PAUL	___	___	McCOMAS, DANNY
___	___	ALLEN, GORDON	___	___	McCOMBS, GENE
___	___	JARRELL, MARY	___	___	MINER, DAVID
___	___	WOOD, STEVE	___	___	MORRIS, MIA
___	___	BRASWELL, JERRY	___	___	MOSLEY, JANE
___	___	BRIDGEMAN, JOHN	___	___	~~NEELY, CHUCK~~ Pope, Art
___	___	BROWN, JOHN	___	___	~~RAMSEY, LISTON~~ (sick/hurt)
___	___	BUCHANAN, MONROE	___	___	RAYFIELD, JOHN
___	___	CAPPS, RUSSELL	___	___	STARNES, EDGAR
___	___	CHURCH, WALT	___	___	TALLENT, TIM
___	___	COX, LESLIE	___	___	TUCKER, RUSSELL
___	___	CREECH, BILLY	___	___	WILSON, CONNIE
___	___	DECKER, MIKE	___	___	WOMBLE, LARRY
___	___	DEDMON, ANDY	___	___	WRIGHT, TOM
___	___	EDDINS, RICK	___	___	
___	___	EDWARDS, ZENO	___	___	
___	___	FITCH, TOBY	___	___	
___	___	GOBSON, PRYOR	___	___	
___	___	GOODWIN, WAYNE	___	___	
___	___	GRAY, LYONS	Ex officio Members		
___	___	HACKNEY, JOE	___	___	CUNNINGHAM
___	___	HILL, DEWEY	___	___	Majority Leader BADDOUR
___	___	HOWARD, JULIA	___	___	Majority Whip EARLE
___	___	Haire, Phillip			

Final

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

File

S D

SENATE BILL 1110
Finance Committee Substitute Adopted 6/15/99
Proposed House Committee Substitute S1110-PCSX1779-LC

Short Title: Tech. Commercialization Credit. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE AN INCENTIVE FOR BUSINESSES TO FIND COMMERCIAL USES FOR TECHNOLOGY DEVELOPED BY RESEARCH UNIVERSITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-129.9 reads as rewritten:

"**§ 105-129.9. Credit for investing in machinery and equipment.**

(a) ~~Credit.~~ General Credit. -- If a taxpayer that has purchased or leased eligible machinery and equipment places it in service in this State during the taxable year, the taxpayer is allowed a credit equal to seven percent (7%) of the excess of the eligible investment amount over the applicable threshold. Machinery and equipment is eligible if it is capitalized by the taxpayer for tax purposes under the Code and is not leased to another party. In addition, in the case of a large investment, machinery and equipment that is not capitalized by the taxpayer is eligible if the taxpayer leases it from another party. The credit may not be taken for the taxable year in which the equipment is placed in service but shall be taken in equal installments over the seven years following the taxable year in which the equipment is placed in service.

(a1) Technology Commercialization Credit. -- If a taxpayer is eligible for the credit allowed in this section with respect to eligible machinery and equipment and qualifies for one of the credits allowed in G.S. 105-129.9A with respect to the same machinery and equipment, the taxpayer may choose to take one of those credits instead of the credit allowed in this section. A taxpayer may take the credit allowed in this section

or one of the credits allowed in G.S. 105-129.9A during a taxable year with respect to eligible machinery and equipment, but may not take more than one of these credits with respect to the same machinery and equipment.

(b) Eligible Investment Amount. -- The eligible investment amount is the lesser of (i) the cost of the eligible machinery and equipment and (ii) the amount by which the cost of all of the taxpayer's eligible machinery and equipment that is in service in this State on the last day of the taxable year exceeds the cost of all of the taxpayer's eligible machinery and equipment that was in service in this State on the last day of the base year. The base year is that year, of the three immediately preceding taxable years, in which the taxpayer had the most eligible machinery and equipment in service in this State. A taxpayer that claims a credit under this section must include with the application for certification required under G.S. 105-129.6(a) specific documentation supporting the taxpayer's calculation of the eligible investment amount under this subsection.

(c) Threshold. -- The applicable threshold is the appropriate amount set out in the following table based on the enterprise tier of the area where the eligible machinery and equipment are placed in service during the taxable year. If the taxpayer places eligible machinery and equipment in service in more than one area during the taxable year, the threshold applies separately to the eligible machinery and equipment placed in service in each area. If the taxpayer places eligible machinery and equipment in service in an area over the course of a two-year period, the applicable threshold for the second taxable year is reduced by the eligible investment amount for the previous taxable year.

Area Enterprise Tier	Threshold
Tier One	$ -0-
Tier Two	100,000
Tier Three	200,000
Tier Four	500,000
Tier Five	1,000,000

(d) Expiration. -- If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are disposed of, taken out of service, or moved out of State, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are moved to an area in a higher-numbered enterprise tier, or are moved from a development zone to an area that is not a development zone, the remaining installments of the credit are allowed only to the extent they would have been allowed if the machinery and equipment had been placed in service initially in the area to which they were moved.

(e) Planned Expansion. -- A taxpayer that signs a letter of commitment with the Department of Commerce to place specific eligible machinery and equipment in service in an area within two years after the date the letter is signed may, in the year

the eligible machinery and equipment are placed in service in that area, calculate the credit for which the taxpayer qualifies based on the area's enterprise tier and development zone designation for the year the letter was signed. All other conditions apply to the credit, but if the area has been redesignated to a higher-numbered enterprise tier or has lost its development zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and development zone designation for the year the letter was signed. If the taxpayer does not place part or all of the specified eligible machinery and equipment in service within the two-year period, the taxpayer does not qualify for the benefit of this subsection with respect to the machinery and equipment not placed in service within the two-year period. However, if the taxpayer qualifies for a credit in the year the eligible machinery and equipment are placed in service, the taxpayer may take the credit for that year as if no letter of commitment had been signed pursuant to this subsection."

Section 2. Article 3A of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.9A. Technology commercialization credit.**

(a) Credit. -- If a taxpayer that has purchased or leased eligible machinery and equipment places it in service in this State during the taxable year, the taxpayer may qualify for a credit as provided in this section. If the taxpayer is also eligible for the credit allowed under G.S. 105-129.9 with respect to the eligible machinery and equipment, the taxpayer may choose instead of the credit allowed under G.S. 105-129.9 with respect to the machinery and equipment to take one of the credits under this section for which the taxpayer qualifies. The twenty percent (20%) credit is a credit equal to twenty percent (20%) of the excess of the eligible investment amount over the applicable threshold for the taxable year. The fifteen percent (15%) credit is a credit equal to fifteen percent (15%) of the excess of the eligible investment amount over the applicable threshold for the taxable year.

Except as provided in this section, the provisions of G.S. 105-129.9 apply to the credits allowed under this section. As used in this section, the term 'research university' means an institution of higher education classified as a Research I university or a Research II university in the most recent edition of 'A Classification of Institutions of Higher Education,' the official report of The Carnegie Foundation for the Advancement of Teaching.

A credit allowed under this section must be taken for the taxable year in which the machinery and equipment are placed in service. A taxpayer may take the twenty percent (20%) credit allowed under this section, the fifteen percent (15%) credit allowed under this section, or the credit allowed in G.S. 105-129.9 during a taxable year with respect to eligible machinery and equipment, but may not take more than one of these credits with respect to the same machinery and equipment.

(b) Eligible Investment Amount. -- In calculating the eligible investment amount under this section, for the purpose of determining the taxpayer's machinery and equipment in service in this State during the taxable year and the three immediately preceding taxable years, the following exceptions apply:

(1) Machinery and equipment that were transferred to another taxpayer during the three-year period are considered the taxpayer's machinery and equipment if they are still in service in this State during the taxable year, and the taxpayer to whom they were transferred is ineligible under G.S. 105-129.4(e) to claim a new credit for the investment under this Article.

(2) Machinery and equipment that were taken out of service during the three-year period are considered the taxpayer's machinery and equipment in service if all of the following conditions are met:

a. The machinery and equipment were taken out of service by the taxpayer or by the person to whom the taxpayer transferred them.

b. The machinery and equipment were taken out of service at a location separate from any location with respect to which the taxpayer claims a credit under this section.

c. The machinery and equipment were used in a business that was not and is not competitive with any business with respect to which the taxpayer claimed a credit under this section. For the purpose of this subdivision, two businesses are not competitive if both of the following conditions are met:

1. Their products and services lack reasonable interchangeability of use by the customer, based on use but without regard to quality, price, condition, or availability.

2. Their products and services lack reasonable interchangeability of production in that the businesses could not readily switch production capabilities from one product or service to the other.

(c) Documentation. -- If the taxpayer claims the exception provided in subdivision (b)(2) of this section, the Secretary of Commerce must obtain an opinion of the Attorney General that the taxpayer meets all of the conditions of subdivision (b)(2) before the Secretary certifies the application under G.S. 105-129.6(a).

(d) Twenty Percent Credit. -- A taxpayer qualifies for a twenty percent (20%) credit under this section if it meets all of the following conditions:

(1) The eligible machinery and equipment are directly related to production based on technology developed by and licensed from a research university or are used to produce resources essential to the taxpayer's production based on technology developed by and licensed from a research university.

(2) The eligible machinery and equipment are placed in service in a tier one, two, or three enterprise area.

(3) The eligible investment amount is at least ten million dollars ($10,000,000) for the taxable year.

(4) The Secretary of Commerce has certified that the taxpayer will invest at least one hundred fifty million dollars ($150,000,000) in eligible machinery and equipment in a tier one, two, or three enterprise area by the end of the fourth year after the year in which the taxpayer first places eligible machinery and equipment in service in the enterprise area.

(5) No more than nine years have passed since the first taxable year the taxpayer claimed a credit under this section with respect to the same location.

(e) Fifteen Percent Credit. -- A taxpayer qualifies for a fifteen percent (15%) credit under this section if it meets all of the following conditions:

(1) The eligible machinery and equipment are directly related to production based on technology developed by and licensed from a research university, or are used to produce resources essential to the taxpayer's production based on technology developed by and licensed from a research university.

(2) The eligible machinery and equipment are placed in service in a tier one, two, or three enterprise area.

(3) The eligible investment amount is at least ten million dollars ($10,000,000) for the taxable year.

(4) The Secretary of Commerce has certified that the taxpayer will invest at least one hundred million dollars ($100,000,000) in eligible machinery and equipment in a tier one, two, or three enterprise area by the end of the fourth year after the year in which the taxpayer first places eligible machinery and equipment in service in the enterprise area.

(5) No more than nine years have passed since the first taxable year the taxpayer claimed a credit under this section with respect to the same location."

Section 3. G.S. 105-129.4(d) reads as rewritten:

"(d) Forfeiture. -- A taxpayer forfeits a credit allowed under this Article if the taxpayer was not eligible for the credit at the time the taxpayer applied for the credit. In addition, a taxpayer forfeits a large investment enhancement of a tax credit if the taxpayer fails to make the level of investment certified by the Secretary of Commerce under subsection (b1) of this section within the required two-year period. A taxpayer forfeits the technology commercialization credit allowed under G.S. 105-129.9A if the taxpayer fails to make the level of investment required by subsection (e) of that section within the required period or if the taxpayer fails to meet the terms of its licensing agreement with a research university. If a taxpayer claimed a twenty percent (20%) technology commercialization credit under G.S. 105-129.9A(d) and fails to make the level of investment required under that subsection within the required period, but does make the level of investment required under subsection (e) of that section within the required period, the taxpayer forfeits one-fourth of the twenty percent (20%) credit.

A taxpayer that forfeits a credit under this Article is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236. If a taxpayer forfeits the credit for creating ~~jobs~~ jobs, the technology commercialization credit, or the credit for investing in machinery and equipment, the taxpayer also forfeits any credit for worker training claimed for the jobs for which the credit for creating jobs was claimed or the jobs at the location with respect to which the technology commercialization credit or the credit for investing in machinery and equipment was claimed."

Section 4. G.S. 105-129.5 reads as rewritten:

"**§ 105-129.5. Tax election; cap.**

(a) Tax Election. -- The credits provided in this Article are allowed against the franchise tax levied in Article 3 of this Chapter and the income taxes levied in Article 4 of this Chapter. The credit for investing in central administrative office property provided in G.S. 105-129.12 is also allowed against the gross premiums tax levied in Article 8B of this Chapter. The taxpayer may divide the technology commercialization credit allowed in G.S. 105-129.9A between the taxes against which it is allowed. The taxpayer shall elect the percentage of the credit that will be taken against each tax when filing the return on which the credit is first taken. This election is binding. The percentage of the credit elected to be taken against each tax may be carried forward only against the same tax.

The taxpayer must take any other credit allowed in this Article against only one of the taxes against which it is allowed. The taxpayer shall elect the tax against which a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. Any carryforwards of the credit must be claimed against the same tax.

(b) Cap. -- The credits allowed under this Article may not exceed fifty percent (50%) of the tax against which they are claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article against each tax for the taxable year. Any unused portion of a credit with respect to a large investment or with respect to the technology commercialization credit allowed in G.S. 105-129.9A may be carried forward for the succeeding 20 years. Any unused portion of any other credit may be carried forward for the succeeding five years."

Section 5. This act is effective for taxable years beginning on or after January 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1110
Finance Committee Substitute Adopted 6/15/99
Proposed House Committee Substitute S1110-CSLCX-7/7
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Tech. Commercialization Credit. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE AN INCENTIVE FOR BUSINESSES TO FIND COMMERCIAL USES FOR TECHNOLOGY DEVELOPED BY RESEARCH UNIVERSITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-129.9 reads as rewritten:

"**§ 105-129.9. Credit for investing in machinery and equipment.**

(a) ~~Credit.~~ General Credit. -- If a taxpayer that has purchased or leased eligible machinery and equipment places it in service in this State during the taxable year, the taxpayer is allowed a credit equal to seven percent (7%) of the excess of the eligible investment amount over the applicable threshold. Machinery and equipment is eligible if it is capitalized by the taxpayer for tax purposes under the Code and is not leased to another party. In addition, in the case of a large investment, machinery and equipment that is not capitalized by the taxpayer is eligible if the taxpayer leases it from another party. The credit may not be taken for the taxable year in which the equipment is placed in service but shall be taken in equal installments over the seven years following the taxable year in which the equipment is placed in service.

(a1) Technology Commercialization Credit. -- If a taxpayer is eligible for the credit allowed in this section with respect to eligible machinery and equipment and qualifies for one of the credits allowed in G.S. 105-129.9A with respect to the same machinery and equipment, the taxpayer may choose to take one of those credits instead of the credit allowed in this section. A taxpayer may take the credit allowed in this section or one of the credits allowed in G.S. 105-129.9A during a taxable year with respect to eligible machinery and equipment, but may not take more than one of these credits with respect to the same machinery and equipment.

(b) Eligible Investment Amount. -- The eligible investment amount is the lesser of (i) the cost of the eligible machinery and equipment and (ii) the amount by which the cost of all of the taxpayer's eligible machinery and equipment that is in service in this State on the last day of the taxable year exceeds the cost of all of the taxpayer's eligible machinery and equipment that was in service in this State on the last day of the base year. The base year is that year, of the three immediately preceding taxable years, in which the taxpayer had the most eligible machinery and equipment in service in this State. A taxpayer that claims a credit under this section must include with the application for certification required under G.S. 105-129.6(a) specific documentation supporting the taxpayer's calculation of the eligible investment amount under this subsection.

(c) Threshold. -- The applicable threshold is the appropriate amount set out in the following table based on the enterprise tier of the area where the eligible machinery and equipment are placed in service during the taxable year. If the taxpayer places eligible machinery and equipment in service in more than one area during the taxable year, the threshold applies separately to the eligible machinery and equipment placed in service in each area. If the taxpayer places eligible machinery and equipment in service in an area over the course of a two-year period, the applicable threshold for the second taxable year is reduced by the eligible investment amount for the previous taxable year.

Area Enterprise Tier	Threshold
Tier One	$ -0-
Tier Two	100,000
Tier Three	200,000
Tier Four	500,000
Tier Five	1,000,000

(d) Expiration. -- If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with

respect to which the credit was claimed are disposed of, taken out of service, or moved out of State, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are moved to an area in a higher-numbered enterprise tier, or are moved from a development zone to an area that is not a development zone, the remaining installments of the credit are allowed only to the extent they would have been allowed if the machinery and equipment had been placed in service initially in the area to which they were moved.

(e) Planned Expansion. -- A taxpayer that signs a letter of commitment with the Department of Commerce to place specific eligible machinery and equipment in service in an area within two years after the date the letter is signed may, in the year the eligible machinery and equipment are placed in service in that area, calculate the credit for which the taxpayer qualifies based on the area's enterprise tier and development zone designation for the year the letter was signed. All other conditions apply to the credit, but if the area has been redesignated to a higher-numbered enterprise tier or has lost its development zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and development zone designation for the year the letter was signed. If the taxpayer does not place part or all of the specified eligible machinery and equipment in service within the two-year period, the taxpayer does not qualify for the benefit of this subsection with respect to the machinery and equipment not placed in service within the two-year period. However, if the taxpayer qualifies for a credit in the year the eligible machinery and equipment are placed in service, the taxpayer may take the credit for that year as if no letter of commitment had been signed pursuant to this subsection."

Section 2. Article 3A of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.9A. Technology commercialization credit.**

(a) Credit. -- If a taxpayer that has purchased or leased eligible machinery and equipment places it in service in this State during the taxable year, the taxpayer may qualify for a credit as provided in this section. If the taxpayer is also eligible for the credit allowed under G.S. 105-129.9 with respect

to the eligible machinery and equipment, the taxpayer may choose instead of the credit allowed under G.S. 105-129.9 with respect to the machinery and equipment to take one of the credits under this section for which the taxpayer qualifies. The twenty percent (20%) credit is a credit equal to twenty percent (20%) of the excess of the eligible investment amount over the applicable threshold for the taxable year. The fifteen percent (15%) credit is a credit equal to fifteen percent (15%) of the excess of the eligible investment amount over the applicable threshold for the taxable year.

Except as provided in this section, the provisions of G.S. 105-129.9 apply to the credits allowed under this section. As used in this section, the term 'research university' means an institution of higher education classified as a Research I university or a Research II university in the most recent edition of 'A Classification of Institutions of Higher Education,' the official report of The Carnegie Foundation for the Advancement of Teaching.

A credit allowed under this section must be taken for the taxable year in which the machinery and equipment are placed in service. A taxpayer may take the twenty percent (20%) credit allowed under this section, the fifteen percent (15%) credit allowed under this section, or the credit allowed in G.S. 105-129.9 during a taxable year with respect to eligible machinery and equipment, but may not take more than one of these credits with respect to the same machinery and equipment.

(b) Eligible Investment Amount. -- In calculating the eligible investment amount under this section, for the purpose of determining the taxpayer's machinery and equipment in service in this State during the taxable year and the three immediately preceding taxable years, the following exceptions apply:

(1) Machinery and equipment that were transferred to another taxpayer during the three-year period are considered the taxpayer's machinery and equipment if they are still in service in this State during the taxable year, and the taxpayer to whom they were transferred is ineligible under G.S. 105-129.4(e) to claim a new credit for the investment under this Article.

(2) Machinery and equipment that were taken out of service during the three-year period are considered the taxpayer's machinery and equipment in service if all of the following conditions are met:

a. The machinery and equipment were taken out of service by the taxpayer or by the person to whom the taxpayer transferred them.

b. The machinery and equipment were taken out of service at a location separate from any location with respect to which the taxpayer claims a credit under this section.

c. The machinery and equipment were used in a business that was not and is not competitive with any business with respect to which the taxpayer claimed a credit under this section. For the purpose of this subdivision, two businesses are not competitive if both of the following conditions are met:

1. Their products and services lack reasonable interchangeability of use by the customer, based on use but without regard to quality, price, condition, or availability.

2. Their products and services lack reasonable interchangeability of production in that the businesses could not readily switch production capabilities from one product or service to the other.

(c) Documentation. -- If the taxpayer claims the exception provided in subdivision (b)(2) of this section, the Secretary of Commerce must obtain an opinion of the Attorney General that the taxpayer meets all of the conditions of subdivision (b)(2) before the Secretary certifies the application under G.S. 105-129.6(a).

(d) Twenty Percent Credit. -- A taxpayer qualifies for a twenty percent (20%) credit under this section if it meets all of the following conditions:

(1) The eligible machinery and equipment are directly related to production based on technology developed by and licensed from a research university or are used to produce resources essential to the taxpayer's production based on technology developed by and licensed from a research university.

(2) The eligible machinery and equipment are placed in service in a tier one, two, or three enterprise area.

(3) The eligible investment amount is at least ten million dollars ($10,000,000) for the taxable year.

(4) The Secretary of Commerce has certified that the taxpayer will invest at least one hundred fifty million dollars ($150,000,000) in eligible machinery and equipment in a tier one, two, or three enterprise area by the end of the fourth year after the year in which the taxpayer first places eligible machinery and equipment in service in the enterprise area.

(5) No more than nine years have passed since the first taxable year the taxpayer claimed a credit under this section with respect to the same location.

(e) Fifteen Percent Credit. -- A taxpayer qualifies for a fifteen percent (15%) credit under this section if it meets all of the following conditions:

(1) The eligible machinery and equipment are directly related to production based on technology developed by and licensed from a research university, or are used to produce resources essential to the taxpayer's production based on technology developed by and licensed from a research university.

(2) The eligible machinery and equipment are placed in service in a tier one, two, or three enterprise area.

(3) The eligible investment amount is at least ten million dollars ($10,000,000) for the taxable year.

(4) The Secretary of Commerce has certified that the taxpayer will invest at least one hundred million dollars ($100,000,000) in eligible machinery and equipment in a tier one, two, or three enterprise area by the end of the fourth year after the year in which the taxpayer first places eligible machinery and equipment in service in the enterprise area.

(5) No more than nine years have passed since the first taxable year the taxpayer claimed a credit under this section with respect to the same location."

Section 3. G.S. 105-129.4(d) reads as rewritten:

"(d) Forfeiture. -- A taxpayer forfeits a credit allowed under this Article if the taxpayer was not eligible for the credit at the time the taxpayer applied for the credit. In addition, a taxpayer forfeits a large investment enhancement of a tax credit if the taxpayer fails to make the level of investment certified by the Secretary of Commerce under subsection (b1) of this section within the required two-year period. A taxpayer forfeits

the technology commercialization credit allowed under G.S. 105-129.9A if the taxpayer fails to make the level of investment required by subsection (e) of that section within the required period or if the taxpayer fails to meet the terms of its licensing agreement with a research university. If a taxpayer claimed a twenty percent (20%) technology commercialization credit under G.S. 105-129.9A(d) and fails to make the level of investment required under that subsection within the required period, but does make the level of investment required under subsection (e) of that section within the required period, the taxpayer forfeits one-fourth of the twenty percent (20%) credit.

A taxpayer that forfeits a credit under this Article is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236. If a taxpayer forfeits the credit for creating ~~jobs~~ jobs, the technology commercialization credit, or the credit for investing in machinery and equipment, the taxpayer also forfeits any credit for worker training claimed for the jobs for which the credit for creating jobs was claimed or the jobs at the location with respect to which the technology commercialization credit or the credit for investing in machinery and equipment was claimed."

Section 4. G.S. 105-129.5 reads as rewritten:

"**§ 105-129.5. Tax election; cap.**

(a) Tax Election. -- The credits provided in this Article are allowed against the franchise tax levied in Article 3 of this Chapter and the income taxes levied in Article 4 of this Chapter. The credit for investing in central administrative office property provided in G.S. 105-129.12 is also allowed against the gross premiums tax levied in Article 8B of this Chapter. The taxpayer may divide the technology commercialization credit allowed in G.S. 105-129.9A between the taxes against which it is allowed. The taxpayer shall elect the percentage of the credit that will be taken against each tax when filing the return on which the credit is first taken. This election is binding. The percentage of the credit elected to be taken against each tax may be carried forward only against the same tax.

The taxpayer must take any other credit allowed in this Article against only one of the taxes against which it is allowed. The taxpayer shall elect the tax against which a credit will be

claimed when filing the return on which the first installment of the credit is claimed. This election is binding. Any carryforwards of the credit must be claimed against the same tax.

(b) Cap. -- The credits allowed under this Article may not exceed fifty percent (50%) of the tax against which they are claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article against each tax for the taxable year. Any unused portion of a credit with respect to a large investment or with respect to the technology commercialization credit allowed in G.S. 105-129.9A may be carried forward for the succeeding 20 years. Any unused portion of any other credit may be carried forward for the succeeding five years."

Section 5. This act is effective for taxable years beginning on or after January 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

2

SENATE BILL 1110
Finance Committee Substitute Adopted 6/15/99

Short Title: Tech. Commercialization Credit. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE AN INCENTIVE FOR BUSINESSES TO FIND COMMERCIAL USES FOR TECHNOLOGY DEVELOPED BY RESEARCH UNIVERSITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-129.9 reads as rewritten:

"**§ 105-129.9. Credit for investing in machinery and equipment.**

(a) ~~Credit.~~ General Credit. -- If a taxpayer that has purchased or leased eligible machinery and equipment places it in service in this State during the taxable year, the taxpayer is allowed a credit equal to seven percent (7%) of the excess of the eligible investment amount over the applicable threshold. Machinery and equipment is eligible if it is capitalized by the taxpayer for tax purposes under the Code and is not leased to another party. In addition, in the case of a large investment, machinery and equipment that is not capitalized by the taxpayer is eligible if the taxpayer leases it from another party. The credit may not be taken for the taxable year in which the equipment is placed in service but shall be taken in equal installments over the seven years following the taxable year in which the equipment is placed in service.

(a1) Technology Commercialization Credit. -- If a taxpayer is eligible for the credit allowed in this section with respect to eligible machinery and equipment and qualifies for one of the credits allowed in G.S. 105-129.9A with respect to the same machinery and equipment, the taxpayer may choose to take one of those credits instead of the credit allowed in this section. A taxpayer may take the credit allowed in this section or one of the credits allowed in G.S. 105-129.9A during a taxable year with respect to

eligible machinery and equipment, but may not take more than one of these credits with respect to the same machinery and equipment.

(b) Eligible Investment Amount. -- The eligible investment amount is the lesser of (i) the cost of the eligible machinery and equipment and (ii) the amount by which the cost of all of the taxpayer's eligible machinery and equipment that is in service in this State on the last day of the taxable year exceeds the cost of all of the taxpayer's eligible machinery and equipment that was in service in this State on the last day of the base year. The base year is that year, of the three immediately preceding taxable years, in which the taxpayer had the most eligible machinery and equipment in service in this State. A taxpayer that claims a credit under this section must include with the application for certification required under G.S. 105-129.6(a) specific documentation supporting the taxpayer's calculation of the eligible investment amount under this subsection.

(c) Threshold. -- The applicable threshold is the appropriate amount set out in the following table based on the enterprise tier of the area where the eligible machinery and equipment are placed in service during the taxable year. If the taxpayer places eligible machinery and equipment in service in more than one area during the taxable year, the threshold applies separately to the eligible machinery and equipment placed in service in each area. If the taxpayer places eligible machinery and equipment in service in an area over the course of a two-year period, the applicable threshold for the second taxable year is reduced by the eligible investment amount for the previous taxable year.

Area Enterprise Tier	Threshold
Tier One	$ -0-
Tier Two	100,000
Tier Three	200,000
Tier Four	500,000
Tier Five	1,000,000

(d) Expiration. -- If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are disposed of, taken out of service, or moved out of State, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are moved to an area in a higher-numbered enterprise tier, or are moved from a development zone to an area that is not a development zone, the remaining installments of the credit are allowed only to the extent they would have been allowed if the machinery and equipment had been placed in service initially in the area to which they were moved.

(e) Planned Expansion. -- A taxpayer that signs a letter of commitment with the Department of Commerce to place specific eligible machinery and equipment in service in an area within two years after the date the letter is signed may, in the year the eligible machinery and equipment are placed in service in that area, calculate the

credit for which the taxpayer qualifies based on the area's enterprise tier and development zone designation for the year the letter was signed. All other conditions apply to the credit, but if the area has been redesignated to a higher-numbered enterprise tier or has lost its development zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and development zone designation for the year the letter was signed. If the taxpayer does not place part or all of the specified eligible machinery and equipment in service within the two-year period, the taxpayer does not qualify for the benefit of this subsection with respect to the machinery and equipment not placed in service within the two-year period. However, if the taxpayer qualifies for a credit in the year the eligible machinery and equipment are placed in service, the taxpayer may take the credit for that year as if no letter of commitment had been signed pursuant to this subsection."

Section 2. Article 3A of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.9A. Technology commercialization credit.**

(a) Credit. -- If a taxpayer that has purchased or leased eligible machinery and equipment places it in service in this State during the taxable year, the taxpayer may qualify for a credit as provided in this section. If the taxpayer is also eligible for the credit allowed under G.S. 105-129.9 with respect to the eligible machinery and equipment, the taxpayer may choose instead of the credit allowed under G.S. 105-129.9 with respect to the machinery and equipment to take one of the credits under this section for which the taxpayer qualifies. The twenty percent (20%) credit is a credit equal to twenty percent (20%) of the excess of the eligible investment amount over the applicable threshold for the taxable year. The fifteen percent (15%) credit is a credit equal to fifteen percent (15%) of the excess of the eligible investment amount over the applicable threshold for the taxable year.

Except as provided in this section, the provisions of G.S. 105-129.9 apply to the credits allowed under this section. As used in this section, the term 'research university' means an institution of higher education classified as a Research I university or a Research II university in the most recent edition of 'A Classification of Institutions of Higher Education,' the official report of The Carnegie Foundation for the Advancement of Teaching.

A credit allowed under this section must be taken for the taxable year in which the machinery and equipment are placed in service. A taxpayer may take the twenty percent (20%) credit allowed under this section, the fifteen percent (15%) credit allowed under this section, or the credit allowed in G.S. 105-129.9 during a taxable year with respect to eligible machinery and equipment, but may not take more than one of these credits with respect to the same machinery and equipment.

(b) Eligible Investment Amount. -- In calculating the eligible investment amount under this section, for the purpose of determining the taxpayer's machinery and equipment in service in this State during the taxable year and the three immediately preceding taxable years, the following exceptions apply:

(1) Machinery and equipment that were transferred to another taxpayer during the three-year period are considered the taxpayer's machinery and equipment if they are still in service in this State during the taxable year, and the taxpayer to whom they were transferred is not entitled to claim a new credit for the investment under this Article.

(2) Machinery and equipment that were taken out of service during the three-year period are considered the taxpayer's machinery and equipment in service if all of the following conditions are met:

a. The machinery and equipment were taken out of service by the taxpayer or by the person to whom the taxpayer transferred them.

b. The machinery and equipment were taken out of service at a site separate from any site with respect to which the taxpayer claims a credit under this section.

c. The machinery and equipment were used in a business that was not and is not competitive with any business with respect to which the taxpayer claimed a credit under this section. For the purpose of this subdivision, two businesses are not competitive if both of the following conditions are met:

1. Their products and services lack reasonable interchangeability of use by the customer, based on use but without regard to quality, price, condition, or availability.

2. Their products and services lack reasonable interchangeability of production in that the businesses could not readily switch production capabilities from one product or service to the other.

(c) Documentation. -- If the taxpayer claims the exception provided in subdivision (b)(2) of this section, the Secretary of Commerce must obtain an opinion of the Attorney General that the taxpayer meets all of the conditions of subdivision (b)(2) before the Secretary certifies the application under G.S. 105-129.6(a).

(d) Twenty Percent Credit. -- A taxpayer qualifies for a twenty percent (20%) credit under this section if it meets all of the following conditions:

(1) The eligible machinery and equipment are directly related to production based on technology developed by and licensed from a research university or are used to produce resources essential to the taxpayer's production based on technology developed by and licensed from a research university.

(2) The eligible machinery and equipment are placed in service in a tier one, two, or three enterprise area.

(3) The eligible investment amount is at least ten million dollars ($10,000,000) for the taxable year.

(4) The Secretary of Commerce has certified that the taxpayer will invest at least one hundred fifty million dollars ($150,000,000) in eligible machinery and equipment in a tier one, two, or three enterprise area by the end of the fourth year after the year in which the taxpayer first places eligible machinery and equipment in service in the enterprise area.

(5) No more than nine years have passed since the first taxable year the taxpayer claimed a credit under this section with respect to the same location.

(e) Fifteen Percent Credit. -- A taxpayer qualifies for a fifteen percent (15%) credit under this section if it meets all of the following conditions:

(1) The eligible machinery and equipment are directly related to production based on technology developed by and licensed from a research university, or are used to produce resources essential to the taxpayer's production based on technology developed by and licensed from a research university.

(2) The eligible machinery and equipment are placed in service in a tier one, two, or three enterprise area.

(3) The eligible investment amount is at least ten million dollars ($10,000,000) for the taxable year.

(4) The Secretary of Commerce has certified that the taxpayer will invest at least one hundred million dollars ($100,000,000) in eligible machinery and equipment in a tier one, two, or three enterprise area by the end of the fourth year after the year in which the taxpayer first places eligible machinery and equipment in service in the enterprise area.

(5) No more than nine years have passed since the first taxable year the taxpayer claimed a credit under this section with respect to the same location."

Section 3. G.S. 105-129.4(d) reads as rewritten:

"(d) Forfeiture. -- A taxpayer forfeits a credit allowed under this Article if the taxpayer was not eligible for the credit at the time the taxpayer applied for the credit. In addition, a taxpayer forfeits a large investment enhancement of a tax credit if the taxpayer fails to make the level of investment certified by the Secretary of Commerce under subsection (b1) of this section within the required two-year period. A taxpayer forfeits the technology commercialization credit allowed under G.S. 105-129.9A if the taxpayer fails to make the level of investment required by subsection (e) of that section within the required period or if the taxpayer fails to meet the terms of its licensing agreement with a research university. If a taxpayer claimed a twenty percent (20%) technology commercialization credit under G.S. 105-129.9A(d) and fails to make the level of investment required under that subsection within the required period, but does make the level of investment required under subsection (e) of that section within the required period, the taxpayer forfeits one-fourth of the twenty percent (20%) credit.

A taxpayer that forfeits a credit under this Article is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236. If a taxpayer forfeits the credit for creating jobs or the credit for investing in machinery and equipment, the taxpayer also forfeits any credit for worker training claimed for the jobs for which the credit for creating jobs was claimed or the jobs at the location with respect to which the credit for investing in machinery and equipment was claimed."

Section 4. G.S. 105-129.5 reads as rewritten:

"**§ 105-129.5. Tax election; cap.**

(a) Tax Election. -- The credits provided in this Article are allowed against the franchise tax levied in Article 3 of this Chapter and the income taxes levied in Article 4 of this Chapter. The credit for investing in central administrative office property provided in G.S. 105-129.12 is also allowed against the gross premiums tax levied in Article 8B of this Chapter. The taxpayer may divide the technology commercialization credit allowed in G.S. 105-129.9A between the taxes against which it is allowed. The taxpayer must take any other credit allowed in this Article against only one of the taxes against which it is allowed. The taxpayer shall elect the tax against which a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. Any carryforwards of the credit must be claimed against the same tax.

(b) Cap. -- The credits allowed under this Article may not exceed fifty percent (50%) of the tax against which they are claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article against each tax for the taxable year. Any unused portion of a credit with respect to a large investment or with respect to the technology commercialization credit allowed in G.S. 105-129.9A may be carried forward for the succeeding 20 years. Any unused portion of any other credit may be carried forward for the succeeding five years."

Section 5. This act is effective for taxable years beginning on or after January 1, 2000.

ROLL CALL VOTE

20 YES 2 NO = _____(TOTAL)

HB# ____
SB# 1110

HOUSE STANDING COMMITTEE ON
FINANCE

House Subcommittee on Fav Rept. to PCS

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
___	___	MILLER, GEORGE	___	___	~~McALLISTER, MARY~~
___	___	LUEBKE, PAUL	___	___	McCOMAS, DANNY
___	___	ALLEN, GORDON	___	___	McCOMBS, GENE
___	___	JARRELL, MARY	___	___	MINER, DAVID
___	___	WOOD, STEVE	___	___	MORRIS, MIA
___	___	BRASWELL, JERRY	___	___	~~MOSLEY, JANE~~ (sick)
___	___	BRIDGEMAN, JOHN	___	___	~~NEELY, CHUCK~~ Pope, Art
___	___	BROWN, JOHN	___	___	~~RAMSEY, LISTON~~ (sick)
___	___	BUCHANAN, MONROE	___	___	RAYFIELD, JOHN
___	___	CAPPS, RUSSELL	___	___	STARNES, EDGAR
___	___	CHURCH, WALT	___	___	TALLENT, TIM
___	___	COX, LESLIE	___	___	TUCKER, RUSSELL
___	___	CREECH, BILLY	___	___	WILSON, CONNIE
___	___	DECKER, MIKE	___	___	WOMBLE, LARRY
___	___	DEDMON, ANDY	___	___	WRIGHT, TOM
___	___	EDDINS, RICK	___	___	
___	___	EDWARDS, ZENO	___	___	
___	___	FITCH, TOBY	___	___	
___	___	GOBSON, PRYOR	___	___	
___	___	GOODWIN, WAYNE	___	___	
___	___	GRAY, LYONS	Ex officio Members		
___	___	HACKNEY, JOE	___	___	CUNNINGHAM
___	___	HILL, DEWEY	___	___	~~Majority~~ Leader BADDOUR
___	___	HOWARD, JULIA	___	___	Majority Whip EARLE
___	___	Haire, Phillip			

Rep. Luebke

North Carolina Department of Revenue

on SB 1110 (Technology Commercialization Credit)

Department Comments and Concerns

The Department has the following comments and concerns about this bill:

(1) The tax credit in this bill is a custom-made tax credit for Dupont. It follows in the footsteps of the three custom tax credits enacted in the 1998 Session for Nucor, Federal Express, and Wisconsin Tissue and is one of the seven custom tax credits proposed this session. Four of the ones for this session are in Senate Bill 1115 (U.S. Airways, Midway , TIAA-CREF, and an unnamed mail order house), one is in House Bill 74 (R.J. Reynolds and other tobacco manufacturers), one is in Senate Bill 864 (LabCorps), and one is in this bill (Dupont).

(2) The calculation of "eligible investment amount" under this bill allows the taxpayer to have a net Statewide reduction in machinery and equipment and still qualify for the credit. This is because the bill allows certain machinery and equipment taken out of service to be counted as if it were still in service. Under the current credit for investing in machinery and equipment, the taxpayer must have a net increase in machinery and equipment to qualify. The eligible investment amount is the lower of two numbers – (i) the cost of the machinery and equipment placed in service and (ii) the amount by which the cost of the taxpayer's total Statewide machinery and equipment in service on the last day of the taxable year exceeds the cost of the taxpayer's total Statewide machinery and equipment in service on the last day of the base year. The base year is the year, of the preceding three years, in which the taxpayer had the most eligible machinery and equipment in service in this State. The difference in eligible investment amount under the current law and under the bill is shown in the following example; the example assumes a taxpayer claims the credit in tax year 2000:

Tax Year	Plant #1	Plant #2	Plant # 3	Current Yr. End Total	Current Eligible Investment Amount	Yr. End Total for Bill	Eligible Investment Amount for Bill	Difference
1997	100	100	0	200	–	200	–	–
1998	100	100	0	200	–	200	–	–
1999	80	100	0	180	–	200	–	–
2000	80	50	50	180	0	250	50	50
2001	80	50	100	230	30	300	50	20
2002	60	40	150	250	20	350	50	30
2003	30	40	200	270	20	380	30	10

(3) The exceptions in proposed G.S. 105-129.9A(b) to the calculation of eligible investment amount are not clear. In (b)(1), when is a taxpayer not entitled to claim the new credit? Is it when that taxpayer is prohibited under G.S. 105-129.4(e) or when that taxpayer does not meet one of the regular conditions

for qualifying, such as being in a Lee Act business or not having the required investment amount?
In G.S. 105-129.9A(b)(2), condition (2)a. is unnecessary because it is always met. In every case, the taxpayer will have taken the machinery and equipment out of service.
In G.S. 105-129.9A(b)(2)b., the Department requests that the language on page 4, lines 14 and 15 be changed to "a location other than the location at which the machinery and equipment that is eligible for the credit allowed by this section was placed in service." The current language implies that the credit is calculated on a site specific basis, which is not the case.

(4) A taxpayer who claims the technology commercialization credit and the worker training credit does not forfeit the worker training credit under G.S. 105-129.4(d) if the technology credit is forfeited. This does not parallel the treatment for the current machinery and equipment credit.

(5) A taxpayer who claims this credit can "divide" the credit between franchise and income tax. This is unlike the other Lee Act credits, which require a choice between one or the other types of taxes, and will further complicate the tracking of these credits. The Department requests that a taxpayer who elects to divide the credits be required to indicate the percentages to be split between the two and that this choice be binding. The current election for the other Lee Act credits is binding.

Distribution:
Representative Gordon P. Allen
Representative Paul Luebke
Representative George W. Miller, Jr.
Senator Tony Rand

Cc: Senator John H. Kerr, III
Senator David W. Hoyle
Michael S. Hodges
Bernice W. Thomas
Sabra J. Faires

Bill Analysis
Senate Bill 1110: Technology Commercialization Credit

To: House Finance Committee Chairs and Bill Sponsor
From: Muriel K. Offerman, Secretary of Revenue
Date: July 6, 1999 7/7/99

Bill Summary

This bill creates a new income and franchise tax credit under Article 3A of Chapter 105 of the General Statutes, which contains the William S. Lee Tax Incentives for New and Expanding Businesses. The new tax credit is another tax credit for investing in machinery and equipment. The new tax credit is effective for taxable years beginning on or after January 1, 2000.

The new tax credit applies to a taxpayer that meets the following descriptions:

- Is in a kind of business, such as manufacturing, that is eligible for Lee Act credits.
- Places certain machinery and equipment in service in this State in a tier one, two, or three enterprise area during the taxable year. The machinery and equipment must be directly related to production based on technology developed by and licensed from a research university.
- Has a Statewide eligible investment amount for machinery and equipment of at least $10 million for the tax year the credit is claimed. The taxpayer's eligible investment amount is calculated differently for this credit than for the existing Lee Act credit for investing in machinery and equipment. The taxpayer can have net Statewide reductions in machinery and equipment and still qualify if the reductions meet either of the two descriptions in proposed G.S. 105-129.9A(b).
- Will invest at least $100 million in the described machinery and equipment by the end of the fourth year after first claiming a credit for any of the machinery and equipment.

The amount of the credit is either 15% or 20% of the excess over the taxpayer's eligible investment amount and the threshold for the tier one (0), tier two ($100,000) or tier three ($200,000) enterprise area. It is 20% if the five-year investment of the taxpayer will be at least $150 million, and it is 15% if the five-year investment of the taxpayer will be between $100 and $150 million. The credit is taken in the year the machinery and equipment is placed in service, cannot exceed 50% of the taxpayer's tax liability, and can be carried forward for 20 years. The existing Lee Act credit for machinery and equipment is 7% instead of 15% or 20%, must be taken in seven installments beginning the year after the machinery and equipment is placed in service, and can be carried forward for five years instead of 20 years.

SENATE BILL 1110:
Tech. Commercialization Credit

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Senator Rand
Date:	July 5, 1999	**Analysis by:**	Martha H. Harris
Version:	Second Edition		Staff Attorney

SUMMARY: ***Effective beginning with the 2000 tax year, this bill would provide an enhanced investment tax credit for taxpayers who make large investments in tier one, two, and three counties of machinery and equipment used in production based on technology licensed from a research university.***

This bill would add a new investment tax credit to the Bill Lee Act. The credit, called the technology commercialization credit, would be an alternative to the existing 7% tax credit for investing in machinery and equipment. The technology commercialization credit applies only to investments in machinery and equipment used in production based on technology licensed from a research university. In addition, to qualify, the machinery and equipment must be located in a tier one, two, or three enterprise area. Finally, the taxpayer's investment must equal at least $10 million during the taxable year and must total at least $100 million over a five-year period. If the investment totals between $100 and $150 million over five years, the technology commercialization credit is equal to 15% of the amount invested. If the investment equals or exceeds $150 million over five years, the technology commercialization credit is equal to 20% of the amount invested. The technology commercialization credit remains available for 10 years of investments at a single location. The taxpayer's eligibility for the technology commercialization credit is based on the Secretary of Commerce's certification that the taxpayer will invest either $100 or $150 million over five years. If the taxpayer does not achieve the certified level of investment, the credit is forfeited.

The technology commercialization credit is more generous than the existing investment tax credit in several ways. The existing investment tax credit is 7% of the amount invested. The technology commercialization credit is 15% or 20% of the amount invested, depending upon the size of the investment.

The existing investment tax credit must be taken in seven annual installments beginning the year after the year the investment is placed in service. The technology commercialization credit may be taken in the year the investment is placed in service.

The existing investment tax credit applies only to the extent the new investment is not offset by the amount of machinery and equipment the taxpayer either sold or took out of service in the three-year period before the new investment was placed in service. This restriction limits the existing credit to net increases in North Carolina investment, and disallows it for investment that, in effect, is a replacement or relocation of pre-existing machinery and equipment. The technology commercialization credit is not required to be offset by machinery and equipment sold to another taxpayer if the new owner keeps the machinery and equipment in service in North Carolina. In addition, the technology commercialization credit is not required to be offset by machinery and equipment the taxpayer takes out of service if it was in service at a separate site and was used in a business that is not competitive with the technology commercialization business.

The existing investment tax credit, like all other Bill Lee Act credits, may be taken against the taxpayer's income tax or franchise tax, but not both. The technology commercialization credit may be taken against both income tax and franchise tax.

The existing investment tax credit, like all other Bill Lee Act credits, may be carried forward for five years unless the investment amount exceeds $150 million over a two-year period, in which case it may be carried forward for 20 years. The technology commercialization credit may be carried forward for 20 years.

SENATE BILL 1110:
Tech. Commercialization Credit

BILL ANALYSIS

Committee:	House Finance	Sponsor:	Senator Rand
Date:	July 6, 1999	Analysis by:	Martha H. Harris
Version:	Proposed Comm Sub for Second Edition		Staff Attorney

SUMMARY: Effective beginning with the 2000 tax year, this bill would provide an enhanced investment tax credit for taxpayers who make large investments in tier one, two, and three counties of machinery and equipment used in production based on technology licensed from a research university. The proposed committee substitute makes technical and administrative change suggested by the Department of Revenue.

This bill would add a new investment tax credit to the Bill Lee Act. The credit, called the technology commercialization credit, would be an alternative to the existing 7% tax credit for investing in machinery and equipment. The technology commercialization credit applies only to investments in machinery and equipment used in production based on technology licensed from a research university. In addition, to qualify, the machinery and equipment must be located in a tier one, two, or three enterprise area. Finally, the taxpayer's investment must equal at least $10 million during the taxable year and must total at least $100 million over a five-year period. If the investment totals between $100 and $150 million over five years, the technology commercialization credit is equal to 15% of the amount invested. If the investment equals or exceeds $150 million over five years, the technology commercialization credit is equal to 20% of the amount invested. The technology commercialization credit remains available for 10 years of investments at a single location. The taxpayer's eligibility for the technology commercialization credit is based on the Secretary of Commerce's certification that the taxpayer will invest either $100 or $150 million over five years. If the taxpayer does not achieve the certified level of investment, the credit is forfeited. As for the existing investment tax credit, forfeiture of the credit triggers forfeiture of any worker training credit taken for training workers to operate the new machinery and equipment.

The technology commercialization credit is more generous than the existing investment tax credit in several ways. The existing investment tax credit is 7% of the amount invested. The technology commercialization credit is 15% or 20% of the amount invested, depending upon the size of the investment.

The existing investment tax credit must be taken in seven annual installments beginning the year after the year the investment is placed in service. The technology commercialization credit may be taken in the year the investment is placed in service.

The existing investment tax credit applies only to the extent the new investment is not offset by the amount of machinery and equipment the taxpayer either sold or took out of service in the three-year period before the new investment was placed in service. This restriction limits the

existing credit to net increases in North Carolina investment, and disallows it for investme that, in effect, is a replacement or relocation of pre-existing machinery and equipment. Th technology commercialization credit is not required to be offset by machinery and equipment sold to another taxpayer if the new owner keeps the machinery and equipment in service in North Carolina. In addition, the technology commercialization credit is not required to be offset by machinery and equipment the taxpayer takes out of service if it was in service at a separate location and was used in a business that is not competitive with the technology commercialization business.

The existing investment tax credit, like all other Bill Lee Act credits, may be taken against the taxpayer's income tax or franchise tax, but not both. The technology commercialization credit may be taken against both income tax and franchise tax. The taxpayer must determine what percentage of the credit will be taken against each tax, and must maintain the same percentage for the purpose of carryforwards. If new investment is made in a second or subsequent tax year, the taxpayer may elect a different percentage with respect to the credit for each tax year. The election is binding.

The existing investment tax credit, like all other Bill Lee Act credits, may be carried forward for five years unless the investment amount exceeds $150 million over a two-year period, in which case it may be carried forward for 20 years. The technology commercialization credit may be carried forward for 20 years.

NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL ESTIMATE
(DRAFT OFFICIAL FISCAL NOTE)

BILL NUMBER: SB 1110 (Finance Committee Substitute Adopted 6/15/99)
SHORT TITLE: Technology Commercialization Credit

FISCAL IMPACT ($ Mill.)

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
State General Fund		-$2.1	-$2.1	-$2.1	-$2.1

Note: The cost beginning in 2005-06 rises to $3.0 million and continues for 15 years at this rate.

PRINCIPAL DEPARTMENTS AFFECTED: Department of Revenue and Department of Commerce

EFFECTIVE DATE: Tax years beginning on or after January 1, 2000.

BILL SUMMARY: Adds a new investment tax credit that would be an alternative to the targeted 7% credit under the Bill Lee Act. The credit would apply to investments in machinery and equipment that meet the following conditions:

(1) Machinery and equipment is used in production that is based on technology licensed from a research university.
(2) Investment is located in a Tier 1, 2, or 3 county.
(3) Investment mounts to at least $10 million during the taxable year and at least $100 million over a five-year period.

If the investment amount is $100-$150 million during a five-year period, the credit is equal to 15% of the amount invested. If the amount is at least $150 million, the credit is 20%. The credit is available for 10 years of investments at a single location. The credit is taken in the year the investment in placed in service and is not required to be offset by machinery and equipment sold to another taxpayer if the new owner keeps the machinery and equipment in service in North Carolina. In addition, the credit is not required to be offset by machinery and equipment the taxpayer takes out of service at a separate location and was used in a business that is not competitive with the technology commercialization business. The credit may be taken against the income tax, the franchise tax, or both and may be carried forward 20 years.

ASSUMPTIONS AND METHODOLOGY: A review was made of planned investment activity, state tax liability, and existing Bill Lee Act credit usage data voluntarily supplied by a taxpayer planning a major project in a Tier 3 county in Southeastern North Carolina.

The major unknown is the potential additional tax loss from new or expanded investments that are stimulated by the incentives provided in the bill. Some issues affecting this activity are shown on next page.

Factors That Could Limit Fiscal Impact:

(1) The language in the proposed committee substitute limits eligibility in the following ways:

a. Size of investment: at least $100 million.
b. Location: Tiers 1, 2, or 3.
c. Production process at facility: based on technology licensed from a research university.

(2) A review of 1993-98 investment "announcements" compiled by the Department of Commerce indicates that only 20% of the number of announcements were located in Tiers 1-3. Many of the investments were not in manufacturing or processing industries.

(3) A conceptual point is that if a new or expanded investment is dependent upon the adoption of a particular incentive, the state's revenue loss will be from an economic activity that is not included in the baseline revenue forecast. In other words, if the investment does not take place, the bill would have no impact. In addition, the revenue forecasts used in the budget process have not built in a projection of the additional state and local tax revenues that will result from the investment decision.

(4) The cost of the new incentive would be offset to some extent by the cost of investment tax credits available under current law.

(5) The enhanced credit plus other Bill Lee Act credits taken cannot exceed 50% of tax due for a particular year.

(6) The special language in the bill having to do with the modification of the "net investment" test is fairly restrictive (see last paragraph in "Bill Summary").

Factors That Could Expand Fiscal Impact:

(1) There would be a revenue loss in traditional budgeting terms if the taxpayers making the new or expanded investment would do so without the proposed incentives.

(2) The new tax credits are substantially more lucrative to the taxpayer than the current Bill Lee Act investment tax credits.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Dave Crotts
DATE: **July 7, 1999**

VISITOR REGISTRATION SHEET

FINANCE — July 7th, 1999 (after ~~session~~)
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
RUBEN G. CARBONELL	NC STATE UNIV.
Charles Heatherly	DOT
Steve Brooks	NC SEAA
Floyd M. Lewis	General Statutes Commission
[illegible]	[illegible]
Patti Segwell	NC DOR
Greg Rudnik	NC DOR
[illegible]	Poyner & Spruill
[illegible]	Poyner & Spruill
Will Culpepper	Linwood Mercer Assoc.
Linwood Mercer	[illegible]
[illegible]	[illegible]
Allyson Duncan	Kilpatrick Stockton
FRAN PRESTON	NCRMA
ANDY ELLEN	NCRMA
[illegible]	[illegible]
Roslyn Savitt	NC Child Care Coalition
Sue Russell	DCSA
LT B. M. CROSS	DMV ENFORCEMENT
Brenda Dougherty	Sprint
[illegible]	NCDOR
Jim Blackburn	Assoc. County Commissioners
[illegible]	NCFB
[illegible]	GE
[illegible]	[illegible]
[illegible]	NCCBT
[illegible]	OSBM
[illegible]	NCSA

VISITOR REGISTRATION SHEET

FINANCE — 7/7, 1999
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Larry Sessoms	Bladen County
Jeff VAN Dyke	BELLSOUTH
David Farrell	HMCCC&C, PA
Clay Bunyard	Univ. of North Carolina
Vicki Hathcock	UNIV. of North Carolina at CH
Tom Nagle	
Eddie Caldwell	HMcCC&C, P.A.
Kathy Sawyer	Commerce
Jim Fain	DOC
Betsy Justus	ACS
Lewis Tatum	Bladen County
Jennie McQueen	" " "
Edgar Evans	" "
John May	NC CWA Council
Doris Weaver	NC CWA Political Council
Leon Martin	Bladen County
Chuck Hewstess	BladenCounty

VISITOR REGISTRATION SHEET

House Finance — 7-7-99 — After Session

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Chuck Houston	Bladen County
Kelli Ulma	DuPont
Jean M Kilbian	DuPont / Mon-Vandle
Sabra Faires	Dept. of Revenue
Willie Riddell	DOR
Evelyn Hawthorne	UNC-CH
Kim Causton	BTC
David Ferrell	Hmc CC&C, PA
Al [illegible]	NCSSA
Brenda Dougherty	Sprint
Frank Gray	N.C. Man. Housing
Ralph Kramden	Transportation workers of America
Andy Romenet	N.C.L.M.
[illegible] Hale	NCDOT
Ed Norton	NYC AFL-CIO
Mary Carmelia	Mecklenburg County
Walter Price	Charlotte Chamber
Boyd Campbell	City of Charlotte
Dascheil Propes	NC DOT
Steve Woodside	NC Farm Bureau
S Markham	Eqtis
Kathy Sawyer	Commerce
Steve Keene	NCMS
Rick Catlisle	NC DOC
Eddie Caldwell	HMCCC&C

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

DRAFT

BILL NUMBER: HB 1699

SHORT TITLE: Insurance License Fees/Reciprocity/AB
(House Finance Proposed Committee Substitute)

SPONSOR(S): Rep. Hurley

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
REVENUES	($11,050)	($11,050)	($11,050)	($11,050)	($11,050)

Note: Revenue from the annual fee and the application fee may increase if the revised reciprocity provisions result in an increase in the number of nonresident producers. However, no estimate of potential increases in revenue is available at this time.

EXPENDITURES

POSITIONS: 0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Insurance

EFFECTIVE DATE: Sections 8 and 9 become effective September 1, 2000. The remainder is effective when it becomes law.

BILL SUMMARY: Section 1 reduces the annual licensing fee for nonresident insurance brokers from $100 to $50. Section 2 of the bill adds a new section to Article 33 of Chapter 58 to comply with the reciprocity requirements in the federal Gramm-Leach-Bliley Act (Public Law 106-102) and to establish a procedure for nonresident producers to obtain a license in North Carolina. It sets forth the procedures a nonresident person must follow to obtain a nonresident producer license. These provisions are modeled after the Producer Licensing Model Act drafted and adopted by the National Association of Insurance Commissioners.

Section 4 changes the applicable examination requirements for financial analysts and examiners who work for the Department of Insurance.

Section 8 of the bill increases the surety bond applicants licensed as dealers or set-up contractors must furnish. It increases the bond for a dealer with one place of business to $25,000. A dealer

with more than one business must furnish $25,000 for each additional place of business. Currently those with four or less must furnish $25,000 and others furnish $50,000. The bill also increases the bond for a set up contractor from $5,000 to $10,000.

Section 9 of the bill requires manufactured housing licensees to notify the Manufacturing Housing Board within 30 days of any change in address, ownership control, and bankruptcy.

Section 10 of the bill eliminates the requirement that the Commissioner of Insurance review plans for county, city and school district buildings comprising less than 10,000 square feet.

Sections 3, 5, 6, and 7 make some technical changes and clarifications of miscellaneous insurance provisions.

ASSUMPTIONS AND METHODOLOGY:

Sections 1 and 2: The bill reduces the annual fee for a nonresident broker license and it establishes procedures for nonresident brokers and agents to obtain a license in the State. The changes impact the revenue from the annual license fee and it also has the potential to impact the workload for processing applications for nonresident producers.

Section 1 of the bill reduces the annual nonresident broker license fee from $100.00 to $50.00. For 1998-99, there were 221 nonresident brokers. Assuming the number of nonresident brokers remains constant, the total revenue from the nonresident broker license fee would ***decrease*** by $11,050 annually. Assuming, however, that implementation of section 2, which establishes a procedure for nonresident producers to obtain a license in North Carolina, will result in an increase in the number of nonresident producer applicants, the revenue from the application fee (currently $30) and the annual fee ($50 as revised by Section 1 of the bill) may increase. At this time no data is available upon which to estimate what revenue increases, if any, will be.

Also, as noted above Section 2 establishes procedures for a nonresident producer to obtain a license in the State. The Department believes that administering the reciprocity requirements will not significantly impact its current workload and estimates that implementation of this portion of the bill will have no fiscal impact.

Section 10: This section eliminates the current requirement that the Commissioner review plans for city, county or school district buildings that are less than 10,000 square feet. Currently, the Office of the Fire Marshall's Engineering Division in the Department of Insurance reviews the building plans for all non-State owned buildings including those for use by a city, county or school district. Because of the number of plans submitted, there is a backlog for completing the initial review. The current turnaround time for the initial review of a set of plans is 5-8 weeks. Eliminating the need to review the plans for city, county, or school district buildings with less than 10,00 square feet, will reduce the workload. However, the reduction in the workload is not expected to result in the need for fewer positions. Rather, the reduced workload should allow the Department to complete its initial review of plans on a more timely basis and reduce the backlog.

Remaining Sections: Sections 3, 5, and 6 make technical changes and clarifications of miscellaneous insurance provisions. Section 4 changes the applicable examination requirement for financial analysts and examiners. Section 7 restricts the definition of a motor club district or association branch office. These sections are primarily technical or clarifying in nature. The

implementation of these changes has no impact on the workload and no fiscal impact on the department.

Section 8 increases the bond that a dealer or set-up contractor must furnish. Section 9 requires manufactured homes licensees to notify the Board of any change in address, ownership control or bankruptcy petition within 30 days. The bond increase and the notification provision have no impact on the Department's revenue or its workload

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Marilyn Chism

APPROVED BY:

DATE:

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1853 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA AND TO AMEND THE LAWS REGARDING CERTAIN REVENUE BONDS THAT MAY BE ISSUED BY THE BOARD OF GOVERNORS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1853*
Proposed Committee Substitute H1853-PCS7367-RB

Short Title: UNC Nonappropriated Capital/Rev. Bonds. (Public)

Sponsors:

Referred to:

May 30, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA AND TO AMEND THE LAWS REGARDING CERTAIN REVENUE BONDS THAT MAY BE ISSUED BY THE BOARD OF GOVERNORS.

The General Assembly of North Carolina enacts:

Section 1. The purpose of this act is (i) to authorize the construction by The University of North Carolina, of the capital improvements projects listed in the act for the respective institutions, and (ii) to authorize the financing of these projects with funds available to the institutions from gifts, grants, receipts, self-liquidating indebetedness, or other funds, or any combination of these funds, but not including funds appropriated from the General Fund of the State.

Section 2. The capital improvements projects, and their respective costs, authorized by this act to be constructed and financed as provided in Section 1 of this act, are as follows:

1. **Appalachian State University**

New Dining Hall - Supplement	$ 9,569,744
Steam Distribution/Return System-Reconstruction	$ 3,109,200

2. **East Carolina University**

Diabetes Building - Planning	$ 500,000
West End Dining Hall - Supplement	$ 5,089,700
3. North Carolina School of the Arts	
Technology Infrastructure - Residence Halls	$ 1,000,000
4. North Carolina State University	
Expansion of Parking Facilities	$ 9,000,000
Centennial Campus Infrastructure	$18,780,000
Centennial Campus Tenant Upfits	$ 6,750,000
5. The University of North Carolina at Asheville	
New Residence Hall - Supplement	$ 3,720,800
6. The University of North Carolina at Chapel Hill	
Sonja H. Stone Black Cultural Center	$ 9,000,000
7. The University of North Carolina at Charlotte	
Alumni Center	$ 3,300,000
8. The University of North Carolina at Greensboro	
Parking Deck	$11,000,000
9. The University of North Carolina at Pembroke	
Dining Hall Addition	$ 750,000.

Section 3. At the request of the Board of Governors of The University of North Carolina and upon determining that it is in the best interest of the State to do so, the Director of the Budget may authorize an increase or decrease in the cost of, or a change in the method of, funding the projects authorized by this act. In determining whether to authorize a change in cost or funding, the Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations.

Section 4. G.S. 116-187 reads as rewritten:

"**§ 116-187. Purpose of Article.**

The purpose of this Article is to authorize the Board of Governors of the University of North Carolina to issue revenue bonds, payable from rentals, charges, fees (including student fees) and other revenues but with no pledge of taxes or the faith and credit of the State or any agency or political subdivision thereof, to pay the cost, in whole or in part, ~~of buildings and other facilities for the housing, health, welfare, recreation and convenience of students enrolled at the institutions hereinafter designated, housing of faculty, adult or continuing education programs and for revenue producing parking decks or structures, and for University of North Carolina~~

~~Hospitals at Chapel Hill.~~ for projects as hereinafter defined or for nonprofit corporations providing such projects."

Section 5. G.S. 116-189(4) reads as rewritten:

"(4) The word 'institution' shall mean each of the institutions enumerated in G.S. 116-2, ~~and~~ the University of North Carolina ~~Hospitals at Chapel Hill~~ Health Care System, and the University of North Carolina General Administration."

Section 6. G.S. 116-189(5) is amended as follows:

"(5) ~~The word "project" shall mean and shall include any one or more buildings or facilities for (i) the housing, health, welfare, recreation and convenience of students, (ii) the housing of faculty, (iii) adult or continuing education, (iv) revenue producing parking decks or structures, and (v) education, research, patient care and community services at the University of North Carolina Hospitals at Chapel Hill, of any size or type approved by the Board and the Director of the Budget and any enlargements, improvements or additions so approved of or to any such buildings or facilities now or hereafter existing, including, but without limiting the generality thereof, dormitories and other student, faculty and adult or continuing education housing, dining facilities, student centers, gymnasiums, field houses and other physical education and recreation buildings, structures and facilities, infirmaries and other health care buildings, structures and facilities, academic facilities for adult or continuing education, and necessary land and interests in land, furnishings, equipment and parking facilities. Any project comprising a building or buildings for student activities or adult or continuing education or any enlargement or improvement thereof or addition thereto may include, without limiting the generality thereof, facilities for services such as lounges, restrooms, lockers, offices, stores for books and supplies, snack bars, cafeterias, restaurants, laundries, cleaning, postal, banking and similar services, offices, rooms and other facilities for guests and visitors and facilities for meetings and for recreational, cultural and entertainment activities.~~ The word 'project' shall mean and shall include any one or more buildings, structures, or facilities of any size or type now or hereafter existing for (i) the housing, health, welfare, recreation, and convenience of students, (ii) the housing of faculty, (iii) academic, research, patient care, and community services, and (iv) parking at an institution or institutions, that has been approved by the Board and the Director of the Budget and any improvements or additions so approved to any such buildings, structures, or facilities, including, but without limiting the generality thereof, dormitories and other student, faculty, and adult or continuing education housing, dining facilities, student centers, gymnasiums,

field houses and other physical education and recreation buildings, infirmaries and other health care buildings, academic facilities, furnishings, equipment, parking facilities, and necessary land and interest in land. Any project may include, without limiting the generality thereof, facilities for services such as lounges, restrooms, lockers, offices, stores for books and supplies, snack bars, cafeterias, restaurants, laundries, cleaning, postal, banking and similar services, rooms and other facilities for guests and visitors, and facilities for meetings and for recreational, cultural, and entertainment activities."

Section 7. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

HOUSE BILL 1853*

Short Title: UNC Nonappropriated Capital/Rev. Bonds. (Public)

Sponsors: Representatives Miller; and Hurley.

Referred to: Appropriations.

May 30, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA AND TO AMEND THE LAWS REGARDING CERTAIN REVENUE BONDS THAT MAY BE ISSUED BY THE BOARD OF GOVERNORS.

The General Assembly of North Carolina enacts:

Section 1. The purpose of this act is (i) to authorize the construction by The University of North Carolina, of the capital improvements projects listed in the act for the respective institutions, and (ii) to authorize the financing of these projects with funds available to the institutions from gifts, grants, receipts, self-liquidating indebetedness, or other funds, or any combination of these funds, but not including funds appropriated from the General Fund of the State.

Section 2. The capital improvements projects, and their respective costs, authorized by this act to be constructed and financed as provided in Section 1 of this act, are as follows:

1. **Appalachian State University**	
New Dining Hall - Supplement	$ 9,569,744
Steam Distribution/Return System-Reconstruction	$ 3,109,200
2. **East Carolina University**	
West End Dining Hall - Supplement	$ 5,089,700

3. **North Carolina School of the Arts**	
Technology Infrastructure - Residence Halls	$ 1,000,000
4. **North Carolina State University**	
Expansion of Parking Facilities	$ 9,000,000
Centennial Campus Infrastructure	$18,780,000
Centennial Campus Tenant Upfits	$ 6,750,000
5. **The University of North Carolina at Asheville**	
New Residence Hall - Supplement	$ 3,720,800
6. **The University of North Carolina at Chapel Hill**	
Sonja H. Stone Black Cultural Center	$ 9,000,000
7. **The University of North Carolina at Charlotte**	
Alumni Center	$ 3,300,000
8. **The University of North Carolina at Greensboro**	
Parking Deck	$11,000,000
9. **The University of North Carolina at Pembroke**	
Dining Hall Addition	$ 750,000.

Section 3. At the request of the Board of Governors of The University of North Carolina and upon determining that it is in the best interest of the State to do so, the Director of the Budget may authorize an increase or decrease in the cost of, or a change in the method of, funding the projects authorized by this act. In determining whether to authorize a change in cost or funding, the Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations.

Section 4. G.S. 116-187 reads as rewritten:

"**§ 116-187. Purpose of Article.**

The purpose of this Article is to authorize the Board of Governors of the University of North Carolina to issue revenue bonds, payable from rentals, charges, fees (including student fees) and other revenues but with no pledge of taxes or the faith and credit of the State or any agency or political subdivision thereof, to pay the cost, in whole or in part, ~~of buildings and other facilities for the housing, health, welfare, recreation and convenience of students enrolled at the institutions hereinafter designated, housing of faculty, adult or continuing education programs and for revenue-producing parking decks or structures, and for University of North Carolina Hospitals at Chapel Hill.~~ for projects as hereinafter defined or for nonprofit corporations providing such projects."

Section 5. G.S. 116-189(4) reads as rewritten:

"(4) The word 'institution' shall mean each of the institutions enumerated in G.S. 116-2, ~~and~~ the University of North Carolina ~~Hospitals at Chapel Hill~~ Health Care System, and the University of North Carolina General Administration."

Section 6. G.S. 116-189(5) is amended as follows:

"(5) ~~The word "project" shall mean and shall include any one or more buildings or facilities for (i) the housing, health, welfare, recreation and convenience of students, (ii) the housing of faculty, (iii) adult or continuing education, (iv) revenue-producing parking decks or structures, and (v) education, research, patient care and community services at the University of North Carolina Hospitals at Chapel Hill, of any size or type approved by the Board and the Director of the Budget and any enlargements, improvements or additions so approved of or to any such buildings or facilities now or hereafter existing, including, but without limiting the generality thereof, dormitories and other student, faculty and adult or continuing education housing, dining facilities, student centers, gymnasiums, field houses and other physical education and recreation buildings, structures and facilities, infirmaries and other health care buildings, structures and facilities, academic facilities for adult or continuing education, and necessary land and interests in land, furnishings, equipment and parking facilities. Any project comprising a building or buildings for student activities or adult or continuing education or any enlargement or improvement thereof or addition thereto may include, without limiting the generality thereof, facilities for services such as lounges, restrooms, lockers, offices, stores for books and supplies, snack bars, cafeterias, restaurants, laundries, cleaning, postal, banking and similar services, offices, rooms and other facilities for guests and visitors and facilities for meetings and for recreational, cultural and entertainment activities.~~ The word 'project' shall mean and shall include any one or more buildings, structures, or facilities of any size or type now or hereafter existing for (i) the housing, health, welfare, recreation, and convenience of students, (ii) the housing of faculty, (iii) academic, research, patient care, and community services, and (iv) parking at an institution or institutions, that has been approved by the Board and the Director of the Budget and any improvements or additions so approved to any such buildings, structures, or facilities, including, but without limiting the generality thereof, dormitories and other student, faculty, and adult or continuing education housing, dining facilities, student centers, gymnasiums, field houses and other physical education and recreation buildings, infirmaries and other health care buildings, academic facilities, furnishings, equipment, parking facilities, and necessary land and

interest in land. Any project may include, without limiting the generality thereof, facilities for services such as lounges, restrooms, lockers, offices, stores for books and supplies, snack bars, cafeterias, restaurants, laundries, cleaning, postal, banking and similar services, rooms and other facilities for guests and visitors, and facilities for meetings and for recreational, cultural, and entertainment activities."

Section 7. G.S. 116-190 reads as rewritten:

"**§ 116-190. General powers of Board of Governors.**

The Board is authorized, subject to the requirements of this Article:

(1) To determine the location and character of any project or projects and to acquire, construct and provide the same and to maintain, repair and operate and enter into contracts for the management, lease, use or operation of all or any portion of any project or projects and any existing facilities;

(2) To issue revenue bonds as hereinafter provided to pay all or any part of the cost of any project or projects, and to fund or refund the same;

(3) To fix and revise from time to time and charge and collect (i) student fees from students enrolled at the institution operated by the Board, (ii) rates, fees, rents and charges for the use of and for the services furnished by all or any portion of any project or projects and (iii) admission fees for athletic games and other public events;

(4) To establish and enforce, and to agree through any resolution or trust agreement authorizing or securing bonds under this Article to make and enforce, rules and regulations for the use of and services rendered by any project or projects and any existing facilities, including parietal rules, when deemed desirable by the Board, to provide for the maximum use of any project or projects and any existing facilities;

(5) To acquire, hold, lease and dispose of real and personal property in the exercise of its powers and the performance of its duties hereunder and to lease all or any part of any project or projects and any existing facilities for such period or periods of years, not exceeding 40 years, upon such terms and conditions as the Board determines subject to the provisions of G.S. 143-341;

(6) To employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers and such other employees and agents as may be necessary in its judgment in connection with any project or projects and existing facilities, and to fix their compensation;

(7) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Article;

(8) To receive and accept from any federal, State or other public agency and any private agency, person or other entity donations, loans, grants, aid or contributions of any money, property, labor or other things of value for any project or projects, and to agree to apply and use the same in accordance with the terms and conditions under which the same are provided; and

(8a) In connection with contracts with nonprofit corporations, (i) to use contracting methods that are considered to be alternatives to the traditional design/bid/build method (including design/build, construction management, and other methods that conform to State statutes that ensure free and competitive bidding by qualified contractors) without having to seek the approval of any other governmental agency or authority, (ii) to direct that insurance for the project be provided by the nonprofit corporation rather than the State, and (iii) to contract with certified code-compliance reviewers for the purposes of certifying plans and specifications and work in place for code compliance. No other reviews by State or local jurisdictions will be required. The Board shall have the sole responsibility to select and contract with designers and consultants and to award construction contracts and change orders related to projects with nonprofit corporations.

(9) To do all acts and things necessary or convenient to carry out the powers granted by this Article."

Section 8. This act is effective when it becomes law.

MINUTES
HOUSE COMMITTEE ON FINANCE

Thursday, June 22, 2000

The House Committee on Finance met on Thursday, June 22, 2000 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke; Vice Chairs Jarrell and Wood; Representatives Bridgeman, Brown, Capps, Church, Cox, Decker, Dedmon, Eddins, Edwards, Ford, Gibson, Goodwin, Gray, Hackney, Hill, McCombs, Morris, Pope, Rayfield, Starnes, Tucker, Weis, Wilson, Womble and Ex-Officio members Cunningham and Earle. Staff including Cindy Avrette, Richard Bostic, Gerry Cohen, Mary Shuping; Eugene Son and Rebekah Butler, Interns; were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Luebke called the meeting to order. Chair Luebke recognized the pages and Sergeant-at-Arms staff and commented briefly on the agenda and proceeded to consider the following bills:

Rep. McMahan was recognized to explain HB 1647, A BILL TO BE ENTITLED AN ACT TO ALLOW THE CITY OF CHARLOTTE TO USE THE PROCEDURES OF CHAPTER 136 OF THE GENERAL STATUTES FOR CONDEMNATION FOR ECONOMIC DEVELOPMENT PURPOSES WITHIN A DEFINED AREA. Rep. Cunningham made a motion to give the Proposed Committee Substitute a favorable report and give the original bill an unfavorable report. The motion passed. A copy of the bill and Proposed Committee Substitute included in the minutes.

Rep. Gulley was recognized to explain SB 1263, A BILL TO BE ENTITLED AN ACT TO PERMIT THE CITY OF CHARLOTTE TO USE WHEEL LOCKS TO ENFORCE PARKING ORDINANCES. Rep. Womble made a motion to give the bill a favorable report. The motion passed. A copy of the bill included in the minutes.

Rep. Rayfield was recognized to explain SB 1264, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE CITY OF MOUNT HOLLY TO ENTER INTO AN ANNEXATION AGREEMENT. Rep. Brown made a motion to give the bill a favorable report. The motion passed. A copy of the bill included in the minutes.

Senator Ballantine was recognized to explain SB 1190, A BILL TO BE ENTITLED AN ACT TO ANNEX A TRACT TO THE TOWN OF CAROLINA BEACH AND TO ALLOW STREET ASSESSMENTS WITHOUT PETITION IN THAT TRACT. Rep. Womble made a motion to adopt a Proposed Committee Substitute. The motion passed. Gerry Cohen, Director of Bill Drafting, was recognized to explain the Proposed Committee Substitute. A discussion ensued. Chair Luebke displaced the bill.

Rep. Fox was recognized to explain HB 1748, A BILL TO BE ENTITLED AN ACT TO CHANGE THE PURPOSES FOR WHICH THE GRANVILLE COUNTY OCCUPANCY TAX CAN BE USED AND TO MAKE TECHNICAL CHANGES. Rep. Womble made a motion to adopt a Proposed Committee Substitute. The motion passed. Rep. Allen made a motion to give the

Proposed Committee Substitute a favorable report and give the original bill an unfavorable report. The motion passed. A copy of the bill, Proposed Committee Substitute and bill analysis included in the minutes.

Rep. Hill was recognized to explain SB 1334, A BILL TO BE ENTITLED AN ACT TO ANNEX CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF TABOR CITY. Rep. Brown made a motion to give the bill a favorable report. The motion passed. A copy of the bill included in the minutes.

Rep. Culpepper was recognized to explain SB 1190. A BILL TO BE ENTITLED AN ACT TO ANNEX A TRACT TO THE TOWN OF CAROLINA BEACH AND TO ALLOW STREET ASSESSMENTS WITHOUT PETITION IN THAT TRACT. Rep. Gray questioned whether a sunset could be added to the fee. Rep. Culpepper requested an amendment to add a date certain regarding the completion of the project. Rep. Gray sent forth an amendment. Chair Luebke read the amendment. Rep. Gray made a motion to adopt the amendment. The motion passed. Rep. Allen made a motion to give the Proposed Committee Substitute a favorable report and give the original bill an unfavorable report. Rep. Howard requested a roll call vote. The vote was 12 ayes and 13 nayes. The motion to give the Proposed Committee Substitute failed. Rep. Decker made a motion to give the original bill a favorable report. The motion passed. A copy of the bill, Proposed Committee Substitute, amendment and roll call vote included in the minutes.

Senator Wellons was recognized to explain SB 328, A BILL TO BE ENTITLED AN ACT TO INCREASE THE FEE PAYABLE TO THE REGISTER OF DEEDS FOR THE FILING OF RIGHT-OF-WAY PLANS BY THE DEPARTMENT OF TRANSPORTATION. Rep. Goodwin made a motion to give the bill a favorable report. Ruth Sappie, Department of Transportation, was recognized to explain the bill. The motion passed. A copy of the bill and fiscal note included in the minutes.

There being no further business, the Chair adjourned the meeting at 9:59 a.m.

Respectfully submitted:

Representative Paul Luebke
Chair

Ken Melton
Assistant to the Committee

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Thursday, June 22, 2000 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

HB 1647 – CHARLOTTE ECONOMIC DEVELOPMENT QUICKTAKE – REP. McMAHAN
HB 1748 – CHANGE GRANVILLE ROOM TAX USE – REP. FOX
SB 328 – DOT RIGHT-OF-WAY PLAN FILING – SENATOR WELLONS
SB 1190 – CAROLINA BEACH ANNEXATION/STREETS – SENATOR BALLANTINE
SB 1263 – CHARLOTTE WHEEL LOCKS ALLOWED – SENATOR DANNELLY
SB 1264 – MOUNT HOLLY ANNEXATION – SENATOR FORRESTER
SB 1334 – TABOR CITY ANNEXATION – SENATOR SOLES

ADJOURNMENT OF MEETING

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES		6-22														
Allen, Gordon	Chair	X														
Luebke, Paul	Chair	X														
Miller, George	Chair															
Jarrell, Mary	Vice-Chair	X														
Wood, Steve	Vice-Chair	X														
Bridgeman, John		X														
Brown, John		X														
Buchanan, Monroe																
Capps, Russell		X														
Church, Walter		X														
Cox, Leslie		X														
Creech, Billy																
Decker, Michael		X														
Dedmon, Andy		X														
Eddins, Rick		X														
Edwards, Zeno		X														
Fitch, Toby																
Ford, Jimmie		X														
Gibson, Pryor		X														
Goodwin, Wayne		X														
Gray, Lyons		X														
Hackney, Joe		X														
Haire, Phillip																
Hill, Dewey		X														
Howard, Julia		X														
McComas, Daniel																

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES	6-22														
McCombs, Eugene	X														
Miner, David															
Morris, Mia	X														
Pope, Art	X														
Ramsey, Liston															
Rayfield, John	X														
Starnes, Edgar	X														
Tallent, Tim															
Tucker, Russell	X														
Weiss, Jennifer	X														
Wilson, Connie	X														
Womble, Larry	X														
Wright, Thomas															
Ex Officio Members:															
Hackney, Pro Tem	X														
Baddour, Majority															
Dedmon, Whip	X														
Earle, Whip	X														
Cunningham	X														

VISITOR REGISTRATION SHEET

Finance Comm — 6-22-06

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

	NAME	FIRM OR AGENCY AND ADDRESS
1	Lawrence J. Tolwin	Charlotte Chamber of Commerce
2	[illegible] Brown	NCDOT
3	RUTH SAPPIS	NC DOT
4	CALVIN PECK	TOWN OF CAROLINA BEACH
5	Carran Markham	Eqtts
6	JE Hobbs	NCHMA
7	Mac McCarley	City of Charlotte
8	Paul Logan	ODOT
9	Natalie English	Charlotte Chamber
10	Jere McClees	McClees Consulting
11	Eddie Caldwell	NCH&MA
12	Mary Carmilia	RCBIC
13	[illegible]	Parker + Sparrell
14	Charles FRANCIS	Attorney
15	[illegible]	BPMPC
16	Sylvia McClees	McClees Consulting
17	Joe McClees	McClees Consulting
18	Steve Woodson	NC Farm Bureau
19	Jimi Blackburn	NC Assoc County Commrs.
20	Preston Howard	NCIC
21	Alan Niles	Bailey & Dixon LLP
22	Margaret Wasserman	Kennedy Covington
23	Patrice Rocca	NCADC
24	Steve Swanson	KCLT
25	VL McBride	NCTA
26	James Ramseur	NCANA
27	John Bowdich II	Allen Associates
28	Walter Logan	SEANC

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

	NAME	FIRM OR AGENCY AND ADDRESS
29	Andy Romanet	NCLM
30		

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE, AND MILLER** for the Committee on **FINANCE.**

☒ Committee Substitute for
H.B. 1647 A BILL TO BE ENTITLED AN ACT TO ALLOW THE CITY OF CHARLOTTE TO USE THE PROCEDURES OF CHAPTER 136 OF THE GENERAL STATUTES FOR CONDEMNATION FOR ECONOMIC DEVELOPMENT PURPOSES WITHIN A DEFINED AREA.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

X With a favorable report as to committee substitute bill (# 2), unfavorable as to (Committee Substitute Bill # 1).

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 1647*
Committee Substitute Favorable 6/7/00

Short Title: Charlotte Economic Development Quicktake. (Local)

Sponsors:

Referred to:

May 22, 2000

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE CITY OF CHARLOTTE TO USE THE PROCEDURES OF CHAPTER 136 OF THE GENERAL STATUTES FOR CONDEMNATION FOR ECONOMIC DEVELOPMENT PURPOSES WITHIN A DEFINED AREA.

The General Assembly of North Carolina enacts:

Section 1. Section 7.81 of the Charter of the City of Charlotte, being Chapter 713, Session Laws of 1965, as amended by Chapter 216, Session Laws of 1967, Chapter 384, Session Laws of 1969, and Chapters 432 and 1046, Session Laws of 1973, as rewritten by Chapter 437, Session Laws of 1983, and as amended by Chapter 31 of the 1989 Session Laws, reads as rewritten:

"Sec. 7.81. (a) The City of Charlotte shall have the power of eminent domain and may acquire, either by purchase, gift or condemnation, any land, right of access, right-of-way, water right, privilege, easement, or any other interest in or relating to land, water or improvements, either within or without the city limits, for any lawful public use or purpose. In the exercise of the power of eminent domain, the city is hereby vested with all power and authority now or hereafter granted by the laws of North Carolina applicable to the City of Charlotte, and the city shall follow the procedures now or hereafter prescribed by said laws; provided that, notwithstanding the provisions of G.S. 40A-1, in the exercise of its authority of eminent domain for the acquisition of property to be used for streets and highways, water supply and distribution systems, sewage collection and disposal systems, economic development purposes authorized by law within the territory described in subsection (b) of this

section, and airports, the City of Charlotte is hereby authorized to use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes of North Carolina, as now or hereafter amended; provided further, that whenever therein the words 'Secretary' or 'Secretary of Transportation' appear, they shall be deemed to include the 'City Manager'; provided further that nothing herein shall be construed to enlarge the power of the City of Charlotte to condemn property already devoted to public use. The City of Charlotte is also vested with the authority to condemn for public library purposes, property, rights, privileges, easements and restrictive covenants and conditions, including any restrictive covenants and conditions applicable to real estate now or hereafter owned, restricting the use of same in any manner whatsoever.

The City of Charlotte shall have the power of eminent domain to acquire property to provide housing for low- and moderate-income persons, but only to acquire: (i) vacant structures boarded up as a result of housing code violations; (ii) structures that have been found to contain housing code violations that the property owner has failed or refused to correct within a reasonable time; and (iii) vacant properties rendered vacant as a result of a housing code enforcement demolition order. Provided, that in the exercise of its authority of eminent domain to acquire property to provide housing for low- and moderate-income persons, the city shall follow the procedures prescribed in Chapter 40A of the General Statutes. Vesting of title to the property taken under this paragraph and right to possession shall occur pursuant to the provisions of G.S. 40A-42(b). The City may not file an eminent domain action to acquire property described in clauses (i) or (ii) of this paragraph until the property owner has had 150 days from the date of the order finding violations of the City Housing Code to correct the violations. The city council must adopt a plan to use condemned property for low or moderate income housing prior to exercising the powers under this paragraph.

(b) The area within which the City of Charlotte is authorized to use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes for economic development purposes by subsection (a) of this section is as follows: an area bounded on the east by Berryhill and West Morehead at Wilkinson Boulevard, on the south by the Norfolk Southern Railroad from Berryhill to the Billy Graham Parkway, on the north by Greenland Avenue, Ashley Road, Dublin Road, Cartwright, Carlyle Drive, Denver, Mulberry Church and Withrow, and on the west by Billy Graham Parkway. The property may be conveyed at private sale as allowed by the exception in G.S. 160A-279(d), but otherwise following the procedures of G.S. 160A-279."

Section 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1647*
Committee Substitute Favorable 6/7/00
Proposed Committee Substitute H1647-PCS6303

Short Title: Charlotte Economic Development Quicktake. (Local)

Sponsors:

Referred to:

May 22, 2000

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE CITY OF CHARLOTTE TO USE THE PROCEDURES OF CHAPTER 136 OF THE GENERAL STATUTES FOR CONDEMNATION FOR ECONOMIC DEVELOPMENT PURPOSES WITHIN A DEFINED AREA.

The General Assembly of North Carolina enacts:

Section 1. Section 7.81 of the Charter of the City of Charlotte, being Chapter 713, Session Laws of 1965, as amended by Chapter 216, Session Laws of 1967, Chapter 384, Session Laws of 1969, and Chapters 432 and 1046, Session Laws of 1973, as rewritten by Chapter 437, Session Laws of 1983, and as amended by Chapter 31 of the 1989 Session Laws, reads as rewritten:

"Sec. 7.81. (a) The City of Charlotte shall have the power of eminent domain and may acquire, either by purchase, gift or condemnation, any land, right of access, right-of-way, water right, privilege, easement, or any other interest in or relating to land, water or improvements, either within or without the city limits, for any lawful public use or purpose. In the exercise of the power of eminent domain, the city is hereby vested with all power and authority now or hereafter granted by the laws of North Carolina applicable to the City of Charlotte, and the city shall follow the procedures now or hereafter prescribed by said laws; provided that, notwithstanding the provisions of G.S. 40A-1, in the exercise of its authority of eminent domain for the acquisition of property to be used for streets and highways, water supply and distribution systems, sewage collection and disposal systems, economic development

purposes authorized by law within the territory described in subsection (b) of this section, and airports, the City of Charlotte is hereby authorized to use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes of North Carolina, as now or hereafter amended; provided further, that whenever therein the words 'Secretary' or 'Secretary of Transportation' appear, they shall be deemed to include the 'City Manager'; provided further that nothing herein shall be construed to enlarge the power of the City of Charlotte to condemn property already devoted to public use. The City of Charlotte is also vested with the authority to condemn for public library purposes, property, rights, privileges, easements and restrictive covenants and conditions, including any restrictive covenants and conditions applicable to real estate now or hereafter owned, restricting the use of same in any manner whatsoever.

The City of Charlotte shall have the power of eminent domain to acquire property to provide housing for low- and moderate-income persons, but only to acquire: (i) vacant structures boarded up as a result of housing code violations; (ii) structures that have been found to contain housing code violations that the property owner has failed or refused to correct within a reasonable time; and (iii) vacant properties rendered vacant as a result of a housing code enforcement demolition order. Provided, that in the exercise of its authority of eminent domain to acquire property to provide housing for low- and moderate-income persons, the city shall follow the procedures prescribed in Chapter 40A of the General Statutes. Vesting of title to the property taken under this paragraph and right to possession shall occur pursuant to the provisions of G.S. 40A-42(b). The City may not file an eminent domain action to acquire property described in clauses (i) or (ii) of this paragraph until the property owner has had 150 days from the date of the order finding violations of the City Housing Code to correct the violations. The city council must adopt a plan to use condemned property for low or moderate income housing prior to exercising the powers under this paragraph.

(b) The area within which the City of Charlotte is authorized to use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes for economic development purposes by subsection (a) of this section is as follows: an area bounded on the east by Berryhill and West Morehead at Wilkinson Boulevard, on the south by the Norfolk Southern Railroad from Berryhill to the Billy Graham Parkway, on the north by Greenland Avenue, Ashley Road, Dublin Road, Cartwright, Carlyle Drive, Denver, Mulberry Church and Withrow, and on the west by Billy Graham Parkway. The property may be conveyed at private sale as allowed by the exception in G.S. 160A-279(d), but otherwise following the procedures of G.S. 160A-279."

Section 2. If House Bill 1667 or Senate Bill 1391 of the 1999 Regular Session become law, then the amendments made by this act to Section 7.81 of the current city charter in this act are made in identical fashion to Section 7.81(a) of the revised charter enacted by House Bill 1667 or Senate Bill 1391, except that the reference to "subsection (b)" is changed to "subsection (c)", and the matter added to

the charter as Section 7.81(b) is instead added as Section 7.81(c), to the end that the repeal of Chapter 713 of the 1965 Session Laws does not affect this act.

Section 3. This act is effective when it becomes law.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1748 A BILL TO BE ENTITLED AN ACT TO CHANGE THE PURPOSES FOR WHICH THE GRANVILLE COUNTY OCCUPANCY TAX CAN BE USED AND TO MAKE TECHNICAL CHANGES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill (#), ☒ which changes the title, unfavorable as to (original bill) (~~Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1748

Short Title: Change Granville Room Tax Use. (Local)

Sponsors: Representative Fox.

Referred to: Local Government I.

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE PURPOSES FOR WHICH THE GRANVILLE COUNTY OCCUPANCY TAX CAN BE USED AND TO MAKE TECHNICAL CHANGES.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 454 of the 1993 Session Laws reads as rewritten:

"Section 1. Occupancy tax.

(a) **Authorization and Scope.**

The Granville County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of five percent (5%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations. The combined occupancy tax rates for Granville County and any city or town that is located in Granville County and is authorized to levy a room occupancy tax may not exceed six percent (6%).

(b) **Administration.**

A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

~~(b) Collection.~~

~~Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~(c) Administration.~~

~~The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties.~~

~~A person, firm, corporation, or association who fails or refuses to file the return required by this section is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The board of commissioners has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.~~

(e) **Use of Tax Revenue.**

Granville County shall use at least ~~two-thirds~~ one-third of the proceeds of the tax revenue to promote travel and tourism and shall use the remaining tax proceeds for tourism-related expenditures. The term "promote travel and tourism" means to advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the county; the term includes administrative expenses incurred in engaging in the listed activities. The term "tourism-related expenditures" means expenditures that are designed to increase the use of lodging facilities in the county or to attract tourists or business travelers to the county and expenditures by the county to administer and collect the tax; it includes expenditures for the construction or maintenance of a convention or meeting facility and tournament-grade ballparks, to be used primarily by individuals who are not residents of the ~~county~~ county, and for the construction or maintenance of a coliseum or a visitors' ~~center, but does not include other capital expenditures.~~ center.

~~(f) Effective Date of Levy.~~

~~A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal.~~

~~A tax levied under this section may be repealed by a resolution adopted by the Granville County Board of Commissioners. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~"

Section 2. G.S. 153A-155 reads as rewritten:

"**§ 153A-155. Uniform provisions for room occupancy taxes.**

(a) Scope. -- This section applies only to counties the General Assembly has authorized to levy room occupancy taxes.

(b) Levy. -- A room occupancy tax may be levied only by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto. A room occupancy tax shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.

(c) Collection. -- Every operator of a business subject to a room occupancy tax shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records and shall be paid by the purchaser to the operator of the business as trustee for and on account of the taxing county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The taxing county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects a room occupancy tax may deduct from the amount remitted to the taxing county a discount equal to the discount the State allows the operator for State sales and use tax.

(d) Administration. -- The taxing county shall administer a room occupancy tax it levies. A room occupancy tax is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the taxing county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A room occupancy tax return filed with the county finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

(e) Penalties. -- A person, firm, corporation, or association who fails or refuses to file a room occupancy tax return or pay a room occupancy tax as required by law is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The governing board of the taxing county has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

(f) Repeal or Reduction. -- A room occupancy tax levied by a county may be repealed or reduced by a resolution adopted by the governing body of the county. Repeal or reduction of a room occupancy tax shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the resolution was adopted. Repeal or reduction of a room occupancy tax does not affect a liability for a tax that was attached before the effective date of the repeal or reduction, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal or reduction.

(g) This section applies only to Avery, Brunswick, Craven, Currituck, Davie, Granville, Madison, Nash, Person, Randolph, Scotland, and Transylvania Counties."

Section 3. This act becomes effective October 1, 2000, and applies to taxes collected on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1748
PROPOSED COMMITTEE SUBSTITUTE
H1748-CSRBX-6.21

Short Title: Change Granville Room Tax Use. (Local)

Sponsors:

Referred to: Local Government I.

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE PURPOSES FOR WHICH THE GRANVILLE COUNTY OCCUPANCY TAX CAN BE USED FOR A LIMITED PERIOD OF TIME, TO ESTABLISH A TOURISM DEVELOPMENT AUTHORITY, AND TO MAKE TECHNICAL CHANGES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 454 of the 1993 Session Laws reads as rewritten:

"Section 1. Occupancy tax.

(a) **Authorization and Scope.**

The Granville County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of ~~five percent (5%)~~ three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations. The combined occupancy tax rates for Granville County and any city or town that is located in Granville County

and is authorized to levy a room occupancy tax may not exceed six percent (6%).

(b) **Administration.**

A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

~~(b) Collection.~~

~~Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~(c) Administration.~~

~~The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties.~~

~~A person, firm, corporation, or association who fails or refuses to file the return required by this section is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The board of commissioners has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.~~

(e) **Distribution and Use of Tax Revenue.**

~~Granville County shall use at least two-thirds of the proceeds of the tax revenue to promote travel and tourism and shall use the remaining tax proceeds for tourism-related expenditures. The term "promote travel and tourism" means to~~ The county shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Granville County Tourism Development Authority. The Authority may use up to two-thirds of the funds remitted to it under this subsection for the following tourism-related expenditures designed to attract tourists and business travelers from outside the county into the county: (i) developing facilities for fishing tournaments, skiing tournaments, and boating events; (ii) constructing facilities for festivals; (iii) constructing tournament grade multi-purpose athletic facilities; and (iv) financing other similar capital expenditures. The Authority shall use the remaining net proceeds to promote travel and tourism in Granville County.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the gross proceeds.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the ~~county; the~~ county. The term includes administrative expenses incurred in engaging in the listed activities. ~~The term "tourism-related expenditures" means expenditures that~~

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities in the county or to attract tourists or business travelers to the ~~county and expenditures by the county to administer and collect the tax; it~~ county. The term includes ~~expenditures for the construction or maintenance of a convention or meeting facility to be used primarily by individuals who are not residents of the county and for the construction or maintenance of a coliseum or a visitors' center, but does not include other~~ tourism-related capital expenditures.

~~(f) Effective Date of Levy.~~

~~A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal.~~

~~A tax levied under this section may be repealed by a resolution adopted by the Granville County Board of Commissioners. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~

Sec. 1.1. Granville Tourism Development Authority.

(a) **Appointment and Membership.**

The Board of County Commissioners shall adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The Authority shall be composed of five members who shall serve for staggered three year terms. The members shall be appointed as follows: three appointed by the Granville County Board of Commissioners, one appointed by the Oxford City Council, and one appointed by the Creedmoor City Council. One of the three members appointed by the Granville County Board of Commissioners must be an owner or manager of a Granville County hotel or motel. The remaining members must be individuals who are currently active in the promotion of travel and tourism in the county. Vacancies shall be filled in the same manner as original appointments, and members appointed to fill vacancies shall serve for the remainder of the unexpired term. The resolution shall determine the compensation, if any, to be paid to the members of the Authority.

At the first meeting of each calendar year, the membership of the Authority shall elect one member to serve as chair until the first meeting of the following year. The Authority shall met at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Granville County shall be the ex officio finance officer of the Authority.

(b) **Duties.**

The Authority shall expend the net proceeds of the tax levied under this Act for the purposes provided in this Act. The

Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities n the county, and finance tourist-related capital projects in the county.

(c) **Reports.**

The Authority shall report quarterly and at the close of the fiscal year to the Granville County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Sec. 2. This act is effective upon ratification."

Section 2. To achieve the staggered terms required on the Granville County Tourism Development Authority, as provided in Section 1 of this act, the initial terms of the members of the Authority shall be as follows: The initial term of the member who is an owner or manager of a hotel or motel shall be three years. The Granville County Board of Commissioner must designate one of its remaining appointees to serve an initial term of two years and the other to serve an initial term of one year. The remaining initial members shall serve terms of three years each. Thereafter, all terms shall be three years.

Section 3. Section 1(a) of Chapter 454 of the 1993 Session Laws, as amended by Section 1 of this act, reads as rewritten:

"(a) **Authorization and Scope.**

The Granville County Board of Commissioners may levy a room occupancy tax of ~~three percent (3%)~~ five percent (5%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations. The combined occupancy tax rates for Granville County and any city or town that is located in Granville County and is authorized to levy a room occupancy tax may not exceed six percent (6%)."

Section 4. Section 1(e) of Chapter 454 of the 1993 Session Laws, as amended by Section 1 of this act, reads as rewritten:

"(e) **Distribution and Use of Tax Revenue.**

The county shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Granville County Tourism Development Authority. The Authority ~~may~~ shall use ~~up to~~ at least two-thirds of the funds remitted to it under this subsection ~~for the~~

~~following tourism-related expenditures designed to attract tourists and business travelers from outside the county into the county: (i) developing facilities for fishing tournaments, skiing tournaments, and boating events; (ii) constructing facilities for festivals; (iii) constructing tournament grade multi-purpose athletic facilities; and (iv) financing other similar capital expenditures. The Authority shall use the remaining net proceeds~~ to promote travel and tourism in Granville ~~County.~~ County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. -- Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the gross proceeds.

(2) Promote travel and tourism. -- To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the county. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. -- Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures."

Section 5. G.S. 153A-155(g) reads as rewritten:

"(g) This section applies only to Avery, Brunswick, Craven, Currituck, Davie, Granville, Madison, Nash, Person, Randolph, Scotland, and Transylvania Counties."

Section 6. Sections 3 and 4 of this act become effective October 1, 2007, and apply to taxes collected on or after that date. The remainder of this act becomes effective October 1, 2000, and applies to taxes collected on or after that date.

HOUSE BILL 1748:
Change Granville Room Tax Use

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Representative Fox
Date:	June 22, 2000	**Summary by:**	Cindy Avrette
Version:	PCS for 1st Edition H1748-CSRBX-6.21		Committee Counsel

SUMMARY: ***House Bill 1748 would have changed the purposes for which the Granville County Room Tax could be used and conformed the local law to the uniform occupancy tax provisions. The Proposed Committee Substitute changes the bill as follows:***

- ***It establishes a Granville County Tourism Development Authority, which will be responsible for expending the net proceeds of the county's occupancy tax.***
- ***It provides for a variation in the use of the tax revenue for 7 years.***
- ***It reduces the maximum county occupancy tax rate from 5% to 3% for 7 years.***

BILL ANALYSIS: The proposed committee substitute for **House Bill 1748** establishes a Granville County Tourism Development Authority. The bill provides that the Authority will be composed of 5 members: 3 appointed by the County, 1 by the City of Oxford, and 1 by the City of Creedmoor. The Authority becomes responsible for expending the net proceeds of the Granville County occupancy tax revenues for tourism-related expenditures and to promote travel and tourism in Granville County.

The bill changes the tax rate and the use of the net proceeds for 7 years: effective October 1, 2000, through October 1, 2007. Under current law, the occupancy tax in Granville County may not exceed 5% of the gross receipts derived from the rental of any room, lodging, or accommodation. Under the bill, the rate may not exceed 3% for taxes collected on or after October 1, 2000, through October 1, 2007. During the period of October 1, 2000, through October 1, 2007, the Authority may use up to 2/3 of the net proceeds for the following specified tourism-related expenditures:

- Developing facilities for fishing tournaments, skiing tournaments, and boating events.
- Constructing facilities for festivals.
- Constructing tournament grade multi-purpose athletic facilities.
- Making other similar capital expenditures designed to attract tourist and business travelers.

The remaining 1/3 of net proceeds must be used to promote travel and tourism in Granville County.

Effective October 1, 2007, the rate may return to 5% and the Authority must use 2/3 of the net proceeds to promote travel and tourism in Granville County and the remaining 1/3 for tourism-related expenditures.

UNIFORM PROVISIONS: **House** Bill 1748 meets most, but not all, of the uniform occupancy tax provisions recognized by the House Finance Committee:

1. The use of the money differs during the 7 years, as summarized above.
2. The taxing authority's costs of collection differs slightly.

The proposed committee substitute does conform the current session law governing Granville County occupancy taxes to the uniform occupancy tax statutory provisions. Therefore, the levy, administration,

collection, and repeal of the occupancy taxes must be done in accordance with G.S. 160A-215. These provisions are substantially the same as the ones under the county's current session law.

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably. Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

The North Carolina Travel and Tourism Coalition has a policy statement for legislation authorizing local occupancy taxes. Many of the principles contained in its statement are similar to the ones established by the House Finance subcommittee in 1993. Based upon this work, the House Finance Subcommittee on Occupancy Taxes created last year looked for the inclusion of the following uniform provision in the occupancy tax bills the House Finance Committee has considered this biennium:

- **Rate** – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
- **Use** – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related purposes.
- **Definitions** The term "net revenues", promote travel and tourism", and "tourism related expenditures" are defined terms.
- **Administration** – The net revenues must be administered by a local tourism promotion agency that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least ¾ of the members must be currently active in the promotion of travel and tourism in the taxing district and 1/3 of the members must be affiliated with organizations that collect the tax.
- **Costs of Collection** – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.

There is a 32-page chart detailing the occupancy taxes authorized in North Carolina. There is also a chart detailing the amount of occupancy tax revenue collect by the various localities. These charts can be accessed on the North Carolina General Assembly's Intranet web page under "Resource Center", "Tax Center".

Other States - State and local governments in every state impose an occupancy tax. The taxes are usually earmarked for tourist related activities. The taxes are usually levied in addition to the general rate of sales tax. The combined state and local occupancy taxes average more than 10%.

Erika Churchill, counsel to the Local Government II Committee, contributed to this summary.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

House

☒ Committee Substitute for
S.B. 328 A BILL TO BE ENTITLED AN ACT TO INCREASE THE FEE PAYABLE TO THE REGISTER OF DEEDS FOR THE FILING OF RIGHT-OF-WAY PLANS BY THE DEPARTMENT OF TRANSPORTATION.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 3

SENATE BILL 328
Finance Committee Substitute Adopted 5/19/99
House Committee Substitute Favorable 6/7/00

Short Title: D.O.T. Right-of-Way Plan Filing. (Public)

Sponsors:

Referred to:

March 11, 1999

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE FEE PAYABLE TO THE REGISTER OF DEEDS FOR THE FILING OF RIGHT-OF-WAY PLANS BY THE DEPARTMENT OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-19.4 reads as rewritten:

"**§ 136-19.4. Registration of right-of-way plans.**

(a) A copy of the cover sheet and plan and profile sheets of the final right-of-way plans for all Department of Transportation projects, on those projects for which plans are prepared, under which right-of-way or other interest in real property is acquired or access is controlled shall be certified by the Department of Transportation to the register of deeds of the county or counties within which the project is located. The Department shall certify said plan sheets to the register of deeds within two weeks from their formal approval by the Board of Transportation.

(b) The copy of the plans certified to the register of deeds shall consist of a Xerox, photographic, or other permanent copy, except for plans electronically transmitted pursuant to subsection (b1) of this section, and shall measure approximately 17 inches by 11 inches including no less than one and one-half inches binding space on the left-hand side.

(b1) With the approval of the county in which the right-of-way plans are to be filed, the Department may transmit the plans electronically.

(c) Notwithstanding any other provision in the law, upon receipt of said original certified copy of the right-of-way plans, the register of deeds shall record said right-of-way plans and place the same in a book maintained for that purpose, and the register of deeds shall maintain a cross-index to said right-of-way plans by number of road affected, if any, and by identification number. No probate before the clerk of the superior court shall be required.

(d) If after the approval of said final right-of-way plans the Board of Transportation shall by resolution alter or amend said right-of-way or control of access, the Department of Transportation, within two weeks from the adoption by the Board of Transportation of said alteration or amendment, shall certify to the register of deeds in the county or counties within which the project is located a copy of the amended plan and profile sheets approved by the Board of Transportation and the register of deeds shall remove the original plan sheets and record the amended plan sheets in lieu thereof.

(e) The register of deeds in each county shall collect a fee from the Department of Transportation of twenty-one dollars ($21.00) for the first page and five dollars ($5.00) for each additional page for each original or amended plan and profile sheet recorded."

Section 2. This act becomes effective January 1, 2001.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 328 (Proposed Committee Substitute) D.O.T. Right-of-Way Plan Filing

SHORT TITLE: D.O.T. Right-of-Way Plan Filing

SPONSOR(S): Senators Wellons; Gulley and Lucas

FISCAL IMPACT

Yes (x) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
EXPENDITURES	$1160	$2320	$2320	$2320	$2320
POSITIONS:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation

EFFECTIVE DATE: January 1, 2000

BILL SUMMARY: SB 328 allows DOT to transmit right-of-way plans electronically with the approval of the county in which the plans are to be filed. The fee collected from DOT by the register of deeds in each county would change to $21 for the first page plus $5 for each additional page from the current charge of $5 per page.

ASSUMPTIONS AND METHODOLOGY: DOT estimates that there are approximately 145 projects per year for which the additional fees would be relevant. At an additional charge of $16 for each the annual impact would be $2320. (The impact for FY1999-2000 would be half this amount.) This assumes that all counties permit the electronic filing. DOT points out that the language of the bill does not address revisions to plans but that even with charges for revisions the impact would not be greater than $3000 per year. There are likely to be savings from electronic submission of plans but no estimate of these savings is included. DOT is in a pilot project with several counties to test the system and estimate the savings and at this time no estimate of savings is available.

TECHNICAL CONSIDERATIONS: The expenditures would be from TIP funding, which could be either Federal funding or Trust Fund, depending on how the project is funded. Most of these will be 80% Federal funds with a 20% Trust Fund match.

FISCAL RESEARCH DIVISION 733-4910

PREPARED BY: Robert Weiss

APPROVED BY: Tom Covington

DATE: Monday, May 17, 1999

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

☐ Committee Substitute for
S.B. 1190 A BILL TO BE ENTITLED AN ACT TO ANNEX A TRACT TO THE TOWN OF CAROLINA BEACH AND TO ALLOW STREET ASSESSMENTS WITHOUT PETITION IN THAT TRACT.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1190

Short Title: Carolina Beach Annexation/Streets. (Local)

Sponsors: Senator Ballantine.

Referred to: Finance.

May 10, 2000

A BILL TO BE ENTITLED

AN ACT TO ANNEX A TRACT TO THE TOWN OF CAROLINA BEACH AND TO ALLOW STREET ASSESSMENTS WITHOUT PETITION IN THAT TRACT.

The General Assembly of North Carolina enacts:

Section 1(a). The corporate limits of the Town of Carolina Beach are extended to include the following described tract:

(Wilmington Beach Tract), New Hanover County, North Carolina.

Beginning at an existing concrete monument in the dividing line between Carolina Beach and the now or formerly Wilmington Beach in the Sunny Point Military Ocean Terminal buffer zone line that has North Carolina grid coordinates North = 101,445.376, East = 2,331,597.568 (Nad 83) and is located North 73 degrees 15 minutes 23 seconds East -2062.38' from North Carolina geodetic survey monument "OCEAN" with North Carolina grid coordinates: North = 100,851.163, East = 2,329,622.414 (Nad 83). Said point of beginning also being the southwestern corner of Carolina Sands Subdivision as shown on maps of Section 1 and 2 recorded in Map Book 21 at Page 13 and 14 of the New Hanover County Registry. Running thence from said point of beginning with the dividing line between Carolina Beach and Wilmington Beach North 88 degrees 41 minutes 50 seconds East - 3299.99' to a point in the Mean Low Water Line of the Atlantic Ocean, passing through an in line iron pipe in the western right-of-way line of U.S. Highway # 421 at 2709.25'; thence with the Mean Low Water Line of the Atlantic Ocean in a southwesterly direction: South 19 degrees 01 minute 16 seconds West - 161.89' to a point; thence South 19 degrees 01 minute 16 seconds West -91.53' to a point; thence South 17 degrees 36 minutes 16

seconds West - 92.21' to a point; thence South 17 degrees 45 minutes 13 seconds West - 96.39' to a point; thence South 14 degrees 05 minutes 31 seconds West - 97.01' to a point; thence South 14 degrees 49 minutes 57 seconds West - 101.62' to a point; thence South 16 degrees 38 minutes 08 seconds West - 98.92' to a point; thence South 16 degrees 35 minutes 34 seconds West - 109.39' to a point; thence South 25 degrees 49 minutes 49 seconds West - 147.40' to a point; thence South 22 degrees 21 minutes 12 seconds West - 122.67' to a point; thence South 20 degrees 23 minutes 23 seconds West - 108.24' to a point; thence South 05 degrees 46 minutes 19 seconds West - 121.96' to a point; thence South 15 degrees 43 minutes 53 seconds West - 105.93' to a point; thence South 26 degrees 51 minutes 12 seconds West - 103.57' to a point; thence South 23 degrees 48 minutes 36 seconds West - 100.62' to a point; thence South 18 degrees 50 minutes 03 seconds West - 122.54' to a point; thence South 13 degrees 34 minutes 46 seconds West - 146.97' to a point; thence South 13 degrees 11 minutes 10 seconds West - 116.93' to a point; thence South 18 degrees 48 minutes 21 seconds West - 103.63' to a point; thence South 22 degrees 54 minutes 50 seconds West - 104.48' to a point; thence South 26 degrees 25 minutes 09 seconds West - 118.65' to a point; thence South 18 degrees 20 minutes 08 seconds West - 112.91' to a point; thence South 16 degrees 27 minutes 21 seconds West - 101.96' to a point; thence South 17 degrees 28 minutes 00 seconds West - 115.58' to a point; thence South 19 degrees 31 minutes 54 seconds West - 104.35' to a point; thence South 17 degrees 25 minutes 10 seconds West - 164.56' to a point; thence South 24 degrees 51 minutes 53 seconds West - 109.82' to a point; thence South 16 degrees 44 minutes 26 seconds West - 102.33' to a point; thence South 17 degrees 12 minutes 36 seconds West - 117.52' to a point; thence South 17 degrees 30 minutes 33 seconds West - 109.06' to a point; thence South 18 degrees 12 minutes 59 seconds West - 121.04' to a point; thence South 20 degrees 04 minutes 38 seconds West - 165.24' to a point; thence South 15 degrees 02 minutes 49 seconds West - 118.37' to a point; thence South 07 degrees 55 minutes 59 seconds West - 108.95' to a point; thence South 12 degrees 59 minutes 24 seconds West - 29.12' to a point; thence leaving the Mean Low Water Line of the Atlantic Ocean and running North 73 degrees 33 minutes 05 seconds West - 2485.74', with the center line of Alabama Avenue, (being the Kure Beach or Carolina Beach City Limit line) to an iron rod in the Sunny Point Military Ocean Terminal buffer zone line; thence with the Sunny Point Military Ocean Terminal buffer zone line, North 16 degrees 26 minutes 17 seconds East - 594.66' to a point; thence North 73 degrees 33 minutes 43 seconds West - 90.00' to an existing concrete monument; thence North 16 degrees 26 minutes 17 seconds East - 150.00' to an existing concrete monument; thence North 73 degrees 33 minutes 43 seconds West - 10.00' to an existing concrete monument; thence North 16 degrees 26 minutes 17 seconds East - 350.00' to an existing concrete monument; thence North 73 degrees 33 minutes 43 seconds West - 50.00' to an iron rod; thence North 16 degrees 26 minutes 17 seconds East - 300.00' to an existing concrete monument; thence North 73 degrees 33 minutes 43 seconds West - 140.00' to an iron rod; thence North 16 degrees 26 minutes 17 seconds East - 840.00' to an existing concrete monument; thence North 73 degrees 33 minutes 43 seconds West - 90.00' to an iron rod; thence North 16 degrees

26 minutes 17 seconds East - 100.00' to an existing concrete monument; thence North 73 degree 33 minutes 43 seconds West - 10.00' to an existing concrete monument; thence North 16 degrees 26 minutes 17 seconds East - 100.00' to an existing concrete monument; thence North 28 degrees 33 minutes 43 seconds West - 70.71' to an existing concrete monument; thence North 16 degrees 26 minutes 17 seconds East - 200.00' to an existing concrete monument; thence North 73 degrees 33 minutes 43 seconds West - 100.00' to an iron rod; thence North 16 degrees 23 minutes 53 seconds East - 248.59' to the point of beginning and containing 220.590 acres more or less.

Section 1(b). The provisions of G.S. 160A-217 do not apply to the Town of Carolina Beach as to special assessments for street improvements in the area annexed by this section. This subsection does not affect the applicability to the Town of Carolina Beach of other provisions of Article 10 of Chapter 160A of the General Statutes.

Section 2. This act becomes effective June 30, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S **D**

SENATE BILL 1190
Proposed House Committee Substitute S1190-PCS7788-LB1

Short Title: Carolina Beach Annex/Dare Utilities. (Local)

Sponsors:

Referred to:

May 10, 2000

A BILL TO BE ENTITLED

AN ACT TO ANNEX A TRACT TO THE TOWN OF CAROLINA BEACH AND TO ALLOW STREET ASSESSMENTS WITHOUT PETITION IN THAT TRACT AND TO ALLOW DARE COUNTY TO CREATE SPECIAL DISTRICTS TO UNDERGROUND LINES.

The General Assembly of North Carolina enacts:

Section 1.(a) The corporate limits of the Town of Carolina Beach are extended to include the following described tract:

(Wilmington Beach Tract), New Hanover County, North Carolina.

Beginning at an existing concrete monument in the dividing line between Carolina Beach and the now or formerly Wilmington Beach in the Sunny Point Military Ocean Terminal buffer zone line that has North Carolina grid coordinates North = 101,445.376, East = 2,331,597.568 (Nad 83) and is located North 73 degrees 15 minutes 23 seconds East - 2062.38' from North Carolina geodetic survey monument "OCEAN" with North Carolina grid coordinates: North = 100,851.163, East = 2,329,622.414 (Nad 83). Said point of beginning also being the southwestern corner of Carolina Sands Subdivision as shown on maps of Section 1 and 2 recorded in Map Book 21 at Page 13 and 14 of the New Hanover County Registry. Running thence from said point of beginning with the dividing line between Carolina Beach and Wilmington Beach North 88 degrees 41 minutes 50 seconds East - 3299.99' to a point in the Mean Low Water Line of the Atlantic Ocean, passing through an in line iron pipe in the western right-of-way line of U.S. Highway # 421 at 2709.25'; thence with the Mean Low Water Line of the Atlantic Ocean in a southwesterly direction: South

19 degrees 01 minute 16 seconds West - 161.89' to a point; thence South 19 degrees 01 minute 16 seconds West - 91.53' to a point; thence South 17 degrees 36 minutes 16 seconds West - 92.21' to a point; thence South 17 degrees 45 minutes 13 seconds West - 96.39' to a point; thence South 14 degrees 05 minutes 31 seconds West - 97.01' to a point; thence South 14 degrees 49 minutes 57 seconds West - 101.62' to a point; thence South 16 degrees 38 minutes 08 seconds West - 98.92' to a point; thence South 16 degrees 35 minutes 34 seconds West - 109.39' to a point; thence South 25 degrees 49 minutes 49 seconds West - 147.40' to a point; thence South 22 degrees 21 minutes 12 seconds West - 122.67' to a point; thence South 20 degrees 23 minutes 23 seconds West - 108.24' to a point; thence South 05 degrees 46 minutes 19 seconds West - 121.96' to a point; thence South 15 degrees 43 minutes 53 seconds West - 105.93' to a point; thence South 26 degrees 51 minutes 12 seconds West - 103.57' to a point; thence South 23 degrees 48 minutes 36 seconds West - 100.62' to a point; thence South 18 degrees 50 minutes 03 seconds West - 122.54' to a point; thence South 13 degrees 34 minutes 46 seconds West - 146.97' to a point; thence South 13 degrees 11 minutes 10 seconds West - 116.93' to a point; thence South 18 degrees 48 minutes 21 seconds West - 103.63' to a point; thence South 22 degrees 54 minutes 50 seconds West - 104.48' to a point; thence South 26 degrees 25 minutes 09 seconds West - 118.65' to a point; thence South 18 degrees 20 minutes 08 seconds West - 112.91' to a point; thence South 16 degrees 27 minutes 21 seconds West - 101.96' to a point; thence South 17 degrees 28 minutes 00 seconds West - 115.58' to a point; thence South 19 degrees 31 minutes 54 seconds West - 104.35' to a point; thence South 17 degrees 25 minutes 10 seconds West - 164.56' to a point; thence South 24 degrees 51 minutes 53 seconds West - 109.82' to a point; thence South 16 degrees 44 minutes 26 seconds West - 102.33' to a point; thence South 17 degrees 12 minutes 36 seconds West - 117.52' to a point; thence South 17 degrees 30 minutes 33 seconds West - 109.06' to a point; thence South 18 degrees 12 minutes 59 seconds West - 121.04' to a point; thence South 20 degrees 04 minutes 38 seconds West - 165.24' to a point; thence South 15 degrees 02 minutes 49 seconds West - 118.37' to a point; thence South 07 degrees 55 minutes 59 seconds West - 108.95' to a point; thence South 12 degrees 59 minutes 24 seconds West - 29.12' to a point; thence leaving the Mean Low Water Line of the Atlantic Ocean and running North 73 degrees 33 minutes 05 seconds West - 2485.74', with the center line of Alabama Avenue, (being the Kure Beach or Carolina Beach City Limit line) to an iron rod in the Sunny Point Military Ocean Terminal buffer zone line; thence with the Sunny Point Military Ocean Terminal buffer zone line, North 16 degrees 26 minutes 17 seconds East - 594.66' to a point; thence North 73 degrees 33 minutes 43 seconds West - 90.00' to an existing concrete monument; thence North 16 degrees 26 minutes 17 seconds East - 150.00' to an existing concrete monument; thence North 73 degrees 33 minutes 43 seconds West - 10.00' to an existing concrete monument; thence North 16 degrees 26 minutes 17 seconds East - 350.00' to an existing concrete monument; thence North 73 degrees 33 minutes 43 seconds West - 50.00' to an iron rod; thence North 16 degrees 26 minutes 17 seconds East - 300.00' to an existing concrete monument; thence North 73 degrees 33 minutes 43 seconds West - 140.00' to an iron rod; thence North 16 degrees 26

minutes 17 seconds East - 840.00' to an existing concrete monument; thence North 73 degrees 33 minutes 43 seconds West - 90.00' to an iron rod; thence North 16 degrees 26 minutes 17 seconds East - 100.00' to an existing concrete monument; thence North 73 degree 33 minutes 43 seconds West - 10.00' to an existing concrete monument; thence North 16 degrees 26 minutes 17 seconds East - 100.00' to an existing concrete monument; thence North 28 degrees 33 minutes 43 seconds West - 70.71' to an existing concrete monument; thence North 16 degrees 26 minutes 17 seconds East - 200.00' to an existing concrete monument; thence North 73 degrees 33 minutes 43 seconds West - 100.00' to an iron rod; thence North 16 degrees 23 minutes 53 seconds East - 248.59' to the point of beginning and containing 220.590 acres more or less.

Section 1.(b) The provisions of G.S. 160A-217 do not apply to the Town of Carolina Beach as to special assessments for street improvements in the area annexed by this section. This subsection does not affect the applicability to the Town of Carolina Beach of other provisions of Article 10 of Chapter 160A of the General Statutes.

DARE UTILITY DISTRICT

Section 1.1. Authorization to Create Utility District. A county board of commissioners may create one or more Utility Districts for the purpose of raising and expending funds to underground electric and telephone utility lines in the district.

Section 2.(a) Procedure. A county board of commissioners may by resolution signify its determination to create a Utility District under the provisions of this act. The resolution shall be adopted after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for the hearing, in a newspaper having a general circulation in the county. The notice shall contain a brief statement of the substance of the proposed resolution, shall set forth the boundaries of the district, and shall state the time and place of the public hearing. No other publication of the resolution is required under the provisions of any other law.

Section 2.(b) The resolution shall include articles of incorporation which shall set forth:

(1) The name of the district;

(2) A statement that the district is organized under this act; and

(3) A description of the boundaries, which may include any territory designated by the county board of commissioners that is not in the corporate limits of any municipality.

Section 2.(c) No territory may be in more than one district.

Section 2.(d) All territory of a district shall be within the county.

Section 2.(e) A certified copy of the resolution signifying the determination to organize a district under the provisions of this act shall be filed with the Secretary of State, together with proof of publication of the notice of hearing on the resolution. If the Secretary of State finds that the resolution, including the articles of incorporation, conforms to the provisions of this act and that the notice of hearing was properly published, the Secretary of State shall file the resolution and proof of publication in the records of that office, shall issue a certificate of incorporation

under the seal of the State, and shall record the same in an appropriate book of record. The issuance of the certificate of incorporation by the Secretary of State shall constitute the district, a public body and body politic and corporate of the State of North Carolina. This certificate of incorporation shall be conclusive evidence of the fact that the district has been duly created and established under the provisions of this act.

Section 2.(f) When the district has been duly organized and its officers appointed as provided by this act, the secretary or clerk of the district shall certify to the Secretary of State the names and addresses of the officers as well as the address of the principal office of the district.

Section 3.(a) Annexation to District. By adoption of a resolution, and with the approval of the board of commissioners of a county by resolution, any municipality located wholly within that county may annex the entirety of that municipality to any Utility District created by this act, but no municipality may be in more than one district. The resolution shall be adopted by the municipal governing board after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for the hearing, in a newspaper having a general circulation in the county. The notice shall contain a brief statement of the substance of the proposed resolution and shall state the time and place of the public hearing. No other publication of the resolution is required under the provisions of any other law.

Section 3.(b) By adoption of a resolution, the board of commissioners of a county may annex any area within that county but not within the corporate limits of any municipality to a Utility District, but no area may be in more than one district. The resolution shall be adopted by the county board of commissioners after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for the hearing, in a newspaper having a general circulation in the county. The notice shall contain a brief statement of the substance of the proposed resolution, the boundaries of the proposed annexation, and shall state the time and place of the public hearing. No other publication of the resolution is required under the provisions of any other law.

Section 3.(c) If any area in a Utility District is annexed to the corporate limits of any municipality, it shall remain in the same Utility District notwithstanding any other provision of this act.

Section 4.(a) Governing Board. Each Utility District shall be governed by a special commission consisting of one person appointed by the board of commissioners of that county, one nonvoting member appointed by the board of commissioners of the county who has been recommended by each local telephone exchange carrier licensed to do business in North Carolina and providing service in that county, one nonvoting member appointed by the board of commissioners of the county who has been recommended by each electric utility provider in the county, one nonvoting member appointed by the board of commissioners of the county who has been recommended by each cable television provider in the county, and one

person appointed by the governing board of each municipality that has annexed its territory to the district under Section 3(a) of this act.

Section 4.(b) In the case of Dare County, one person shall also be appointed to the Special Commission by the Roanoke Island Commission established by Part 27A of Article 2 of Chapter 143B of the General Statutes. Appointments shall be for two-year terms.

Section 5.(a) Powers. By resolution the board of commissioners of the county, acting ex officio on behalf of the Utility District, may levy an assessment of up to:

(1) One dollar ($1.00) per month on each residential electric power customer bill for service within the district, and up to five dollars ($5.00) per month on each commercial or industrial electric power customer bill within the district.

(2) One dollar ($1.00) per month on each residential telephone customer bill for service within the district and up to five dollars ($5.00) per month on each commercial or industrial telephone customer bill within the district.

Section 5.(b) The Utility District may receive contributions from the State of North Carolina, local governments, and the private sector for corporate purposes authorized by this act.

Section 5.(c) The commission may contract with the State of North Carolina, another local government, or a private entity for carrying out the projects authorized by this act. Any State, local government, or other entity which carries out projects authorized by this act, or otherwise takes action affecting any company whose lines are effected pursuant to the terms of this act shall remain fully liable for any damages to company property. Any private sector entity with which the district wishes to contract to carry out projects authorized by this act must be approved in writing in advance by each company whose facilities will be affected and must carry sufficient insurance to cover any damages caused.

Section 5.(d) The board of commissioners may exempt from payment of the assessment on an electric bill any person for whom the payment would work an unreasonable financial hardship in accordance with criteria established by the board of commissioners. The board of commissioners shall exempt from payment of the assessment on a telephone bill those low-income residential telephone customers who pay reduced rates for local telephone service pursuant to an order of the North Carolina Utilities Commission.

Section 5.(e) The commission may order any cable television lines (or other lines other than electric or telephone) to be undergrounded when any electric or telephone line on the same pole is undergrounded.

Section 6. Use of Funds. The assessments levied under this act, after being expended for the necessary administrative expenses of the utility district, shall be used only for undergrounding of electric and telephone utility lines within the district. The budget for the Utility District shall be adopted by the special

commission for that district. The budget shall include funding to pay for the installation of conduit for underground telephone cable, where required.

Section 7. Corporate Existence. A Utility District created under this act shall have the power granted by this act, and may do all acts reasonably necessary to fulfill this purpose. A simple majority of the governing board constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

Section 8. Fiscal Control. The Utility District is a special district under G.S. 159-7 and is covered by the applicable provisions of Chapter 159 of the General Statutes.

Section 9.(a) Levy. An assessment authorized by this act may be levied only by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto. An assessment authorized by this act shall become effective on the date specified in the resolution levying the assessment. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the third month after the date the resolution is adopted. In establishing the effective date, the board of commissioners shall consult with any utility that will be collecting the assessment to determine any administrative lead times that might be desirable.

Section 9.(b) Collection. Every utility subject to an assessment authorized by this act shall, on and after the effective date of the levy of the assessment, collect it. The assessment shall be collected as part of the charge for furnishing service. The assessment shall be stated and charged separately and shall be paid by the purchaser to the utility as trustee for and on account of the Utility District. The assessment shall be passed on to the purchaser instead of being borne by the utility. The Utility District shall design, print, and furnish to all appropriate utilities in the district the necessary forms for filing returns and instructions to ensure the full collection of the assessment. A utility who collects an assessment authorized by this act may deduct from the amount remitted to the Utility District a discount equal to the discount the State allows the utility for State sales and use tax. For the purpose of this act, a utility includes a government entity providing service, a cooperative, and any other utility. A utility shall have the same right to suspend or terminate service for nonpayment of the assessment that it has to suspend or terminate service for payment of any other part of the utility bill. A utility has no obligation to take any legal action to enforce the collection of assessments under this act. The county or the district may initiate a collection action in its name and reasonable costs and attorneys' fees may be awarded to the plaintiff.

Section 9.(c) Administration. The Utility District shall administer an assessment it levies under this act. An assessment authorized by this act is due and payable to the district finance officer in monthly installments on or before the last day of the month following the month in which the assessment accrues. Every person, firm, corporation, or association liable for the assessment shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the Utility District. The return shall state the total gross receipts derived in the preceding

month upon which the assessment is levied. A return filed with the district finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 as if the Utility District were a county. The Utility District may adopt a payment schedule keyed to the billing cycle of the utility collecting the assessment rather than the calendar month, as long as there are at least 12 billing cycles per year.

Section 9.(d) Penalties. A person, firm, corporation, or association who fails or refuses to file an assessment return or pay an assessment authorized by this act as required by law is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The governing board of the Utility District has the same authority to waive the penalties for an assessment authorized by this act that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

Section 9.(e) Increase, Repeal, or Reduction. An assessment levied by a district under this act may be increased not in excess of the maximum allowed by this act, repealed or reduced by a resolution adopted by the board of commissioners of the county, acting ex officio on behalf of the Utility District. Repeal or reduction of an assessment authorized by this act shall become effective on the first day of a month and may not be earlier than the first day of the third month after the date the resolution is adopted. Repeal or reduction of an assessment authorized by this act does not affect a liability for an assessment that was attached before the effective date of the repeal or reduction, nor does it affect a right to a refund of an assessment that accrued before the effective date of the repeal or reduction. In establishing the effective date, the board of commissioners shall consult with any utility that will be collecting the assessment to determine any administrative lead times that might be desirable.

Section 10. Interlocal Agreements. By interlocal agreement adopted under Chapter 160A of the General Statutes, a Utility District created under this act may contract with a municipality or county to handle assessment collections and fiscal control.

Section 11.(a) The district shall coordinate with affected utilities, municipalities, and the North Carolina Department of Transportation to facilitate acquisition of rights-of-way for burial of cable.

Section 11.(b) The undergrounding required by this act shall be a coordinated effort between the utility district and the affected electric, telephone, and cable television companies.

Section 12. The State Auditor may perform audits pursuant to Article 5A of Chapter 147 of the General Statutes to ensure that funds collected by or paid to the Utility District are being managed in accordance with the provisions of this act, and shall perform an audit at least every two years. The costs of the audit shall be reimbursed to the State Auditor by the Utility District.

Section 13. Sections 1.1 through 12 of this act apply to Dare County only.

Section 14. Sections 1.1 through 11 of S.L. 1999-127 are repealed.

Section 15. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) _____
Sen.)

1 moves to amend the bill on page _____, line _____

2 ( ) WHICH CHANGES THE TITLE

3 by _____

4 _____

5 _____

6 _____

7 _____

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

COMMITTEE CLERK

ROLL CALL VOTE

12 YES 13 NO = _____(TOTAL) HB# ____ SB# 1190

HOUSE STANDING COMMITTEE ON FINANCE

House Subcommittee on _____

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
___	___	MILLER, GEORGE-CHAIR	___	✓	HOWARD, JULIA
✓	___	LUEBKE, PAUL-CHAIR	___	___	McALLISTER, MARY
✓	___	ALLEN, GORDON-CHAIR	___	___	McCOMAS, DANNY
✓	___	JARRELL, MARY- V.C.	___	✓	McCOMBS, GENE
___	✓	WOOD, STEVE-V.C.	___	___	MINER, DAVID
___	✓	BRIDGEMAN, JOHN	___	✓	MORRIS, MIA
___	✓	BROWN, JOHN	___	✓	POPE, ART
___	___	BUCHANAN, MONROE	___	___	RAMSEY, LISTON
___	✓	CAPPS, RUSSELL	___	✓	RAYFIELD, JOHN
✓	___	CHURCH, WALT	___	✓	STARNES, EDGAR
___	✓	COX, LESLIE	___	___	TALLENT, TIM
___	___	CREECH, BILLY	___	___	TUCKER, RUSSELL
___	✓	DECKER, MIKE	___	___	WEISS, JENNIFER
✓	___	DEDMON, ANDY	___	___	WILSON, CONNIE
___	✓	EDDINS, RICK	✓	___	WOMBLE, LARRY
✓	___	EDWARDS, ZENO	___	___	WRIGHT, TOM
___	___	FITCH, TOBY	___	___	
✓	___	FORD, JIMMIE	___	___	
✓	___	GIBSON, PRYOR	___	___	
✓	___	GOODWIN, WAYNE	___	___	
✓	___	GRAY, LYONS	Ex officio Members		
___	___	HACKNEY, JOE	___	___	CUNNINGHAM
___	___	HAIRE, PHILLIP	___	___	Majority Leader BADDOUR
✓	___	HILL, DEWEY	___	___	Majority Whip EARLE

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

House

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

☒ Committee Substitute for
S.B. 1263 A BILL TO BE ENTITLED AN ACT TO PERMIT THE CITY OF CHARLOTTE TO USE WHEEL LOCKS TO ENFORCE PARKING ORDINANCES.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 3

SENATE BILL 1263*
State and Local Government Committee Substitute Adopted 5/25/00
House Committee Substitute Favorable 6/20/00

Short Title: Charlotte Wheel Locks Allowed. (Local)

Sponsors:

Referred to:

May 16, 2000

A BILL TO BE ENTITLED

AN ACT TO PERMIT THE CITY OF CHARLOTTE TO USE WHEEL LOCKS TO ENFORCE PARKING ORDINANCES.

The General Assembly of North Carolina enacts:

Section 1. Chapter VI, Subchapter A, Article II of the Charter of the City of Charlotte, being Chapter 713 of the 1965 Session Laws, is amended by adding a new section:

"Section 6.28. **Towing Penalties.** The Council may provide by ordinance that any vehicle that has been towed for a parking violation is to be held until the towing fee and penalties related to all outstanding parking tickets and penalties owed to the City are paid in full, or a bond is posted in the amount of the towing fee and all outstanding parking tickets and penalties. Payment of the towing fee and all outstanding parking tickets and penalties shall not constitute a waiver of a person's right to contest the towing or the outstanding parking tickets and penalties."

Section 2. Chapter VI, Subchapter A, Article II of the Charter of the City of Charlotte, being Chapter 713 of the 1965 Session Laws, is amended by adding a new section:

"Section 6.29. **Wheel Locks Permitted.** The Council may provide by ordinance for the use of wheel locks on illegally parked vehicles for which there are three or more outstanding, unpaid, and overdue parking tickets for a period of 90 days. The ordinance shall provide for notice or warning to be affixed to the vehicle,

immobilization, towing, impoundment, appeal hearing, an immobilization fee not to exceed fifty dollars ($50.00), and charges for towing and storage. The City shall not be responsible for any damage to an immobilized illegally parked vehicle resulting from unauthorized attempts to free or move that vehicle."

Section 3. If Senate Bill 1391 or House Bill 1667, 1999 Session, becomes law, then Section 6.11 of the City of Charlotte, as enacted by Senate Bill 1391 or House Bill 1667, reads as rewritten:

"Section 6.11. **Parking Regulations and Violations.** (a) The Council may provide by ordinance that each hour a vehicle remains illegally parked in an on-street parking space is a separate offense, and the violator may be given a ticket for each offense.

(b) The Council may provide by ordinance that any vehicle that has been towed for a parking violation is to be held until the towing fee ~~and any related parking tickets and penalties are paid in full, or a bond is posted in the amount of the towing fee and any related parking tickets and penalties. Payment of the towing fee and any related parking tickets and penalties or posting of a bond shall not constitute a waiver of a person's right to contest the towing or any related parking tickets and penalties.~~ and penalties related to all outstanding parking tickets and penalties owed to the City are paid in full, or a bond is posted in the amount of the towing fee and all outstanding parking tickets and penalties. Payment of the towing fee and all outstanding parking tickets and penalties shall not constitute a waiver of a person's right to contest the towing or the outstanding parking tickets and penalties.

(c) The Council may provide by ordinance for the use of wheel locks on illegally parked vehicles for which there are three or more outstanding, unpaid, and overdue parking tickets for a period of 90 days. The ordinance shall provide for notice or warning to be affixed to the vehicle, immobilization, towing, impoundment, appeal hearing, an immobilization fee not to exceed fifty dollars ($50.00), and charges for towing and storage. The City shall not be responsible for any damage to an immobilized illegally parked vehicle resulting from unauthorized attempts to free or move that vehicle."

Section 4. This act is effective when it becomes law.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

House

☒ Committee Substitute for
S.B. 1264 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE CITY OF MOUNT HOLLY TO ENTER INTO AN ANNEXATION AGREEMENT.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1264*
State and Local Government Committee Substitute Adopted 5/24/00

Short Title: Mount Holly Annexation. (Local)

Sponsors:

Referred to:

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF MOUNT HOLLY TO ENTER INTO AN ANNEXATION AGREEMENT.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any applicable provisions of the General Statutes or any other public or local law, the City of Mount Holly is granted certain contract powers as follows:

(1) The City of Mount Holly may, by agreement with the property owner, provide that certain property described in the agreement as the "Riverbend Steam Station Property" and as the "Mountain Island Power House and Dam" (excluding such portion of the dam as may lie in Mecklenburg County) may be voluntarily annexed by the City as set forth in the agreement, and the agreement may provide that, notwithstanding G.S. 160A-31(d) the effective date of such annexation is June 30, 2014. The City of Mount Holly shall not seek the repeal of this act.

(2) Any agreement entered into as provided in subdivision (1) of this section is deemed by this act to be proprietary and commercial in nature and is specifically determined to be consistent with the public policy of the State of North Carolina.

(3) Any agreement entered into as provided in subdivision (1) of this section is a continuing agreement and is binding on and enforceable against the current and future members of the City

Council of the City of Mount Holly during the full term of such agreement and any extension thereof.

(4) The parties to any agreement entered into as provided in subdivision (1) of this section may modify, amend, and extend such agreement on mutual written consent, without the approval of the General Assembly, provided that any such modification or amendment does not materially alter the concept of the agreement.

Section 2. The City of Mount Holly may accept, as consideration for such agreement, such monetary and nonmonetary consideration as may be set forth in said agreement.

Section 3. The agreement under Section 1 of this act allowing for the effective date of such annexation to be June 30, 2014, shall apply to the property as described as follows:

Tract One: Riverbend Steam Station Property. Commencing on NC grid station "45-EG-5", with NC values based on NAD 83 of North 179,784.43 (meters) and East 429,640.17 (meters), and runs thence North 82-13-49 East 1,017.26 feet to a #5 rebar found on the eastern margin of the right-of-way for NC Highway #16; thence North 62-21-20 East 88.42 feet to a #5 rebar found on the northern margin of the right-of-way for Horseshoe Bend Beach Road (S.R. 1912), thence with the northern margin of Horseshoe Bend Beach Road North 37-04-00 East 77.42 feet to an iron pin; thence, continuing with the northern margin of said road, North 40-00-27 East 174.20 feet to a mag. nail, on the north margin of S.R. 1911, thence North 40-01-19 East 39.92 feet to the POINT OF BEGINNING OF THE FOLLOWING DESCRIBED TRACT OF LAND; and running thence with the center of Steam Station Road (S.R. 1911.), North 49-53-46 West 900.22 feet to a railroad spike; thence, leaving said road and running thence, North 26-18 West 900.5 feet to an iron pin; thence North 48-24 East passing through an iron pin at a distance of 1,062.2 feet and continuing for a total distance of 1,165.2 feet to an iron pin; thence North 16-38 East passing through an iron pipe at a distance of 538 feet and continuing for a total distance of 708 feet to a point in the Catawba River; thence South 82-22 East 827.1 feet to a point; thence North 38-52 East 1,362.6 feet to a point in the Catawba River; thence North 62-21 East 605.5 feet to a point in the Catawba River; thence North 42-38 East 896.8 feet to a point on the southern edge of the Catawba River; thence with the southern edge of Mountain Island Lake and the boundary of Duke Power Company's Riverbend Steam Station project at contour elevation 647.5 feet in a northeasterly and then a southeasterly direction as it meanders 6,200 feet more or less to an iron pin on the corner of Crescent Land and Timber Corp. (now or formerly); thence South 12-07 West 2,010.6 feet to a PK nail in the center of the right-of-way of Horseshoe Bend Beach Road (S. R. 1912); thence with the center of S. R. 1912 in a generally westerly direction the following bearings and distances: (1) North 67-12 West 100 feet; (2) North 70-35 West 180.4 feet; (3) North 71-53 West 217.8 feet; (4) North 74-40 West 100 feet; (5) North 81-40 West 100 feet; (6) North 86-20 West 109.5 feet; (7) North 87-08 West 364.4 feet; (8) North 87-37 West 820.5 feet; (9) South 86-57 west 201.4 feet; (10) South 79-42 West 322.8 feet to a point; thence leaving the center of said road

and running thence around the edge of Henderson Cemetery the following bearings and distances: (1) North 5-00 West 221.2 feet; (2) North 5-01 West 117 feet; (3) South 86-00 West 150 feet to an iron pin; (4) South 5-00 East passing through an iron at 192.5 feet and continuing for a total distance of 343.4 feet to a point in the center of the right-of-way of S. R. 1912; thence with the center of S. R. 1912 the following bearings and distances: (1) North 88-22 West 231.8 feet to a point; (2) with the centerline of said S. R. 1912 as it meanders in a westerly direction 1,950 feet to PK nail found being the corner of StoneWater Bay Properties, LLC(Deed Book 2920 at Page 296); thence leaving the centerline of said road North 59-38-41 East 38-86 feet to an iron pin set; thence with the northern edge of the right-of-way for Horseshoe Bend Beach Road (S. R. 1912) the following courses and distances: (1) North 80-17-32 West 177.48 feet to an iron pin set; (2) North 80-32-11 West 50.39 feet to an iron pin; (3) North 82-02-01 West 51.13 feet to an iron pin set; (4) North 86-02-08 West 52.3 feet to an iron pin set; (5) South 87-07-14 West 53.62 feet; (6) South 77-28-52 West 54.29 feet; (7) South 67-06-31 West 54.46 feet; (8) South 57-02-33 West 53.66 feet; (9) South 50-14-46 West 52.58 feet; (10) South 45-03-23 West 51.59 feet; (11) South 42-43-08 West 50.81 feet; (12) South 41-19-06 West 100.34 feet; (13) South 40-01-19 West 2,120.87 feet to the POINT OF BEGINNING. This description taken from a Duke Power Company plat of property entitled "Riverbend Steam Station" Gaston County, North Carolina, dated April 14, 1997, reference Mountain Island File No. 187. Further reference is made to the plat of StoneWater Bay Properties, LLC recorded in Plat Book 55 at Pages 51 and 52 of the Gaston County Registry and an unrecorded survey by CBS Surveying and Mapping dated April 26, 2000.

Tract Two: Mountain Island Power House and Dam (excluding such portion as may lie in Mecklenburg County)

That land upon which is located the Mountain Island Power House and the Mountain Island Dam Facility, excluding such portion of the same which may be located in Mecklenburg County further described as follows:

TO LOCATE THE POINT OF BEGINNING commence at NCGS Grid Coordinates N = 582154.3333 and E = 1409384.3310; said grid coordinates being also located on the easterly bank of the Catawba River in a southwest boundary of the property owned (now or formerly) by Crescent Resources, Inc. as described in Deed Book 1598 at Page 489 and Deed Book 3146 at Page 175 (Mecklenburg County Registry); thence crossing the River S. 71-19-34 W. 656.97 feet to a point on the westerly bank of the Catawba River at NCGS Grid Coordinates N = 581374.9684 and E = 1410492.3466; thence along the westerly bank of the Catawba River the following two (2) courses and distances: (1) N. 34-32-43 W. 476.50 feet to a point; and (2) N. 51-54-56 W. 533.39 feet to the POINT OR PLACE OF BEGINNING; thence from said point of Beginning N. 40-10-36 E. 356.33 feet to a point lying within the Catawba River in the Gaston-Mecklenburg County line; thence with the Gaston-Mecklenburg County line N. 61-29-02 W. 281.16 feet to a point in said County line; thence S. 65-19-02 W 1,577.62 feet to a point in the westerly boundary of Mountain Island Lake; thence S. 23-52-18 W. 360.47 feet to a concrete monument; thence S. 73-36-39 E. 547.44 feet to a point; thence N. 71-01-21 E. 534.95 feet to a concrete monument;

thence N. 79-46-34 E. 284.00 feet to a concrete monument; thence N. 25-31-06 E. 441.61 feet to a concrete monument; thence N. 40-10-36 E. 148.88 feet to the POINT OR PLACE OF BEGINNING containing 22.77 acres, more or less, as shown on that map entitled "Duke Power Company Addition to Mountain Island Steam Station" prepared by the Duke Power Real Estate Department and dated January 9, 1991, last revised June 10, 1993, reference to which survey is hereby made.

Section 4. No portion of the Riverbend Steam Station Property as described in Section 3 of this act and no portion of the Mountain Island Power House and Dam described in Section 3 of this act shall be subject to involuntary annexation, or designation as an urban tax district or otherwise subjected to the power of a municipal taxing authority by the City of Mount Holly or any other town or municipality or consolidated government, if provided under the terms of said agreement as referred to in Section 1 of this act.

Section 5. This act is effective when it becomes law.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

Senate

☒ Committee Substitute for
S.B. 1334 A BILL TO BE ENTITLED AN ACT TO ANNEX CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF TABOR CITY.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 3

SENATE BILL 1334*
State and Local Government Committee Substitute Adopted 5/31/00
Finance Committee Substitute No. 2 Adopted 6/6/00

Short Title: Tabor City Annexation. (Local)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO ANNEX CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF TABOR CITY.

The General Assembly of North Carolina enacts:

Section 1. The following described property is added to the corporate limits of the Town of Tabor City:

Being those tracts or parcels of land located in South Williams Township, Columbus County, North Carolina, and being contained within the following more particular description:

Beginning at a point in the existing northern city limits line near the Southeast corner of Myrtle Green Cemetery and being within the right-of-way of SR 1367, said point being further located South 82 degrees 49 minutes 50 seconds West 961.91 feet from the Northeast corner of the existing city limits. Proceeds from said beginning point with the existing city limit line South 82 degrees 49 minutes 50 seconds West 4600.97 feet to a point on the northern right-of-way (allowing 80 feet for right-of-way) of SR 1377, thence with said right-of-way North 71 degrees 15 minutes 30 seconds East 477.67 feet, thence with a northern line of lands of the Town of Tabor City North 69 degrees 54 minutes 30 seconds East 130.40 feet, thence with the West line of said Town tract North 13 degrees 07 minutes 50 seconds West 401.49 feet, thence with another line of said Town tract North 45 degrees 36 minutes 20 seconds East 213.69

feet, thence with the western lines of Joshua Soles (see DB 179, P 73) and Howard Soles, et ux (see DB 221, P 184 and DB 211, P 453) North 13 degrees 39 minutes 00 seconds East 763.50 feet, thence continuing with line of said Howard Soles, et ux North 4 degrees 19 minutes 30 seconds East 84.00 feet, thence with the western line of Anniebell S. Beck and Wilson Beck (see DB 179, P 71 and DB 201, P 578) North 3 degrees 28 minutes 30 seconds East 511.83 feet, thence with a western line of Joshua Soles (see DB 179, P 73) North 2 degrees 58 minutes 10 seconds East 462.88 feet, thence with the northern line of said Soles and beyond South 78 degrees 07 minutes 40 seconds East 1336.92 feet to the centerline of CSX Railroad, thence to and with the northern line of tract of H. B. Buffkin, Jr. South 78 degrees 07 minutes 40 seconds East 389.40 feet, thence continuing with said Buffkin line South 85 degrees 22 minutes 30 seconds East 82.03 feet, thence with the eastern line of said Buffkin tract South 3 degrees 47 minutes 00 seconds East 626.93 feet, thence with the northern lines of tract of Earl McDaniels, et al. (see DB 314, P 112) the following three (3) courses: North 81 degrees 21 minutes 00 seconds East 721.36 feet; North 3 degrees 25 minutes 20 seconds West 26.85 feet; North 84 degrees 25 minutes 50 seconds East 118.77 feet, thence with the northern line of Terry Lee Phipps (see DB 537, P 406) North 84 degrees 27 minutes 30 seconds East 439.50 feet to the centerline of SR 1300 thence with said centerline the following three (3) courses: South 17 degrees 51 minutes 30 seconds East 219.48 feet; South 16 degrees 39 minutes 50 seconds East 330.01 feet; South 8 degrees 48 minutes 50 seconds East 32.92 feet, thence to and with the northern boundary of Myrtle Green Cemetery tract North 81 degrees 06 minutes 20 seconds East 393.90 feet, thence with the eastern line of said cemetery South 4 degrees 23 minutes 20 seconds East 670.63 feet to the beginning and contains 143 acres, more or less.

Section 2. This act is effective when it becomes law.

MINUTES
HOUSE COMMITTEE ON FINANCE

Monday, June 26, 2000

The House Committee on Finance met on Monday, June 26, 2000 in Room 544 of the Legislative Office Building at 4:00 p.m. The following members were present: Chairs Allen, Luebke and Miller; Vice Chairs Jarrell; Representatives Bridgeman, Brown, Buchanan, Capps, Cox Creech, Decker, Dedmon, Eddins, Edwards, Ford, Gibson, Goodwin, Gray, Hackney, Haire, Hill, McCombs, Pope, Rayfield, Tucker, Weiss, and Wilson. Staff including Cindy Avrette, Richard Bostic, Mary Shuping; Eugene Son and Rebekah Butler, Interns; were in attendance. A visitor Registration List is attached and made a part of these minutes.

Chair Luebke called the meeting to order. Chair Leubke recognized the pages and Sergeant-at-Arms staff and commented briefly on the agenda and proceeded to consider the following bills:

Rep. Miller was recognized to explain HB 1049, A BILL TO BE ENTITLED AN ACT AMENDING THE LAWS RELATED TO THE LICENSURE OF PHYSICIANS IN THIS STATE. Chair Luebke noted that the bill was being heard for discussion only. Rep. Miller sent forth an amendment. Cindy was recognized to explain the amendment. Ms. Avrette stated that the amendment would raise the annual registration fee from not more than $100 to an amount not more than $125. Ms. Avrette noted that the amendment would change the criminal statutes to make practicing without license a Class J felony. Rep. Miller made a motion to adopt the amendment.

Andy Wautry, Executive Director of the North Carolina Medical Board, was recognized to speak on the bill. Mr. Wautry stated that the board never meant to challenge alternative medical practitioners. Mr. Wautry noted that the intent of this bill was to regulate the practice of medicine through the physicians that they license. Mr. Wautry stated that the board supports Rep. Miller's amendment and would support a study committee on this subject.

Rep. Wilson questioned Mr. Wautry as to how many people have been convicted under the current law. Mr. Wautry stated that they did not track prosecutions because the board only has authority over those physicians they license. Mr. Wautry noted that they refer allegations to the State Attorney General" office who refers them to local district attorneys. Mr. Wautry noted that there have only been three or four prosecutions over the past five years.

Rep. Cox asked if there was any opposition to the amendment. There was none. The motion to adopt Rep. Miller's amendment passed. A copy of the bill, amendment and fiscal noted included in the minutes.

Dr. Maurice Werness was recognized to speak on the bill. Dr. Werness stated that naturopathic physicians are required to attend a four-year school that certifies all medical schools in this country. Dr. Werness noted that whereas traditional physicians utilize drugs in their treatment naturopathic physicians depend on diet and nutrients.

Barbara Earls was recognized to speak on the bill. Ms. Earls related a personal story regarding her experience with her homeopathic physician. Ms. Earls supports a patient's right to select their health care provider.

Julie Ensley was recognized to speak on the bill. Ms. Ensley, certified homeopath, stated that she supports freedom to select health care providers. Ms. Ensley recognized several boards that are working to license homeopathic practices. Ms. Ensley noted that homeopathic physicians work in conjunction with traditional physicians.

Dr. Marty Sullivan was recognized to speak on the bill. Dr. Sullivan an Associate Professor of Medicine at Duke University Medical Center, stated that the way the legislature handles this issue will set the tone for health care in North Carolina. Dr. Sullivan noted that it is important to integrate the various forms of health care if they are licensed first.

Dr. Douglas Mann was recognized to speak on the bill. Dr. Mann, Professor of Neurology at the University of North Carolina, stated that the University could serve as a resource to a future study commission on this subject. Dr. Mann noted his support for future certification of practitioners in these fields.

Dr. Crystal McLaughlin was recognized to speak on the bill. Dr. McLaughlin, Naturopathic Physician, state that naturopathic physicians want to work in conjunction with traditional physicians and not exclusive of them. Dr. McLaughlin related a story regarding cross-referencing of patients with a traditional physician.

Chair Luebke stated that the bill would be re-scheduled for Wednesday, June 28, 2000.

There being no further business, the meeting was adjourned at 4:45 p.m.

Respectfully submitted:

Representative Paul Luebke
Chair

Ken Melton
Assistant to the Committee

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Monday, June 26, 2000 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

HB 1049 – PHYSICIAN LICENSURE – REP. MILLER

ADJOURNMENT OF MEETING

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES		6-26														
Allen, Gordon	Chair	X														
Luebke, Paul	Chair	X														
Miller, George	Chair	X														
Jarrell, Mary	Vice-Chair	X														
Wood, Steve	Vice-Chair															
Bridgeman, John		X														
Brown, John		X														
Buchanan, Monroe		X														
Capps, Russell		X														
Church, Walter																
Cox, Leslie		X														
Creech, Billy		X														
Decker, Michael		X														
Dedmon, Andy		X														
Eddins, Rick		X														
Edwards, Zeno		X														
Fitch, Toby																
Ford, Jimmie		X														
Gibson, Pryor		X														
Goodwin, Wayne		X														
Gray, Lyons		X														
Hackney, Joe		X														
Haire, Phillip		X														
Hill, Dewey		X														
Howard, Julia																
McComas, Daniel																

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES	6-26														
McCombs, Eugene	X														
Miner, David															
Morris, Mia															
Pope, Art	X														
Ramsey, Liston															
Rayfield, John	X														
Starnes, Edgar															
Tallent, Tim															
Tucker, Russell	X														
Weiss, Jennifer	X														
Wilson, Connie	X														
Womble, Larry															
Wright, Thomas															
Ex Officio Members:															
Hackney, Pro Tem	X														
Baddour, Majority															
Dedmon, Whip	X														
Earle, Whip															
Cunningham															

VISITOR REGISTRATION SHEET

FIN Committee — June 26, 2000
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
E. Roman	VOTER, distnct 23, KINGSWOOD DR. CH. HILL NC 27514
R. First	VOTER, district 23, KINGSWOOD DR. CH. HILL NC 27514
B. Solow	Independent Newsweekly
Glenn + Cathy Miura	7937 Brandyapple Dr. Raleigh, NC 27615
Janice Hicks	10601 Lake Pl Zebulon 27597
Wanda Boone	PO Box 1816 Wendell, NC 27591
Laura Scott	2417 Constitution Dr., Raleigh, NC 27615
Nancy Stefan	12420 WHARTONS WAY, RALEIGH, NC. 27613
Alpa Bell	77, S. Elliot Rd, Chapel Hill, NC 27514
GASTON R. DESHARNAIS, Ph.D	602 LAFayette DR., Hillsborough NC 27278
GIL ALVARADO, ND, LAc.	230 Landsbury Dr. Durham NC 27707
LINDA RAINSHAW	132 MASONIC ST S. PITTSBORO NC 27312
TRACY RENE HELMS	111 ALLENDALE PITTSBORO NC 27312
Preeta Tim Kuchhar	4505 Fair Meadow Ln, Ste 203, Raleigh, NC 27607
Babs Brown	1604 James St Durham NC 27707
Sarah Palmer	923 Edith St Durham NC 27705
Sharon Harmon	P.O. Box 2598, #544, Chapel Hill, NC 27515
Catherine Molson	312 Vinca Circle Cary, NC 27513
George Smart	5702 Williamsburg Way NC 27713
MARCIA MCKENZIE	6604 CHAMPAIGN PL., RALEIGH, NC 27615
Erika Mangrum	1017 White Crane Way Raleigh NC 27615
BARBARA Foose	1104 N Mangum St. Durham NC 27701
Mary Gilbert Scott	4908 Forestville Rd Ral NC 27616
G.J. Fortune, Ed.D	P.O. Box 185 Saxapahaw, NC 27340

VISITOR REGISTRATION SHEET

Finance — Name of Committee

6-26-2000 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Joe Mitchiner	7909 Hepworth Ct Raleigh NC 27615
Lisa Draper	4004 Old Stones Mill St Ral. NC 27610
Michael C. Pinkerton	94 Cedar Hills Circle, Chapel Hill, NC 27514
Betty Hunt	629 Ramblewood Dr Clayton NC 27520-2132
Jazz Hernandez	7647 Falcon Rest Cir. Raleigh, N.C. 27615
Elizabeth Z Coleman MD	5258 Lower Moncure Rd, Sanford NC 27330
[illegible]	5258 Lower Moncure Rd Sanford NC 27330
Donna Cassilly	2540 Seaforth Rd. Pittsboro, NC 27312
Terry Otto	2540 Seaforth Rd Pittsboro NC 27312
MARY TURNER	309 [illegible] CT RALEIGH NC 27609
Claiborne Holtzman	Religious Conviction 918 Benvenue Rd Rocky Mount 27804
Jennifer Holtzman	Religious conviction 918 Benvenue Rd. Rocky Mount, NC 27804
MARTLYN HARRIS	Religious Conviction 383 Hwy 64 W Plymouth 27962
Allan Lowe	100 Saddle Ridge Ct, Garner, NC 27529
Rachel Blalock	[illegible]
Sonia West	1909 Jo Mac Rd Chapel Hill NC 27516
Bonnie K. Miller	139 Northmont Dr, Statesville NC 28625
Clinton Ray Miller	" " " " "
Ellen Donovan	520 Seven Lakes N, West End NC 27376
[illegible]	635 E Indian Wells Ave Southern Pines
[illegible]	POB 1742 So. Pines, NC. 28388 28387
[illegible]	NCHA (Rep. Alexander)
Barbara Earls	9257 Chapel Hill Rd., Cary NC 27513
Ellen Gill	1003 Mellonsbury Dr Apex, NC 27502
Kathleen Lagnon	604 E. Markham Ave. Durham NC 27704
Boyd Landry	1220 L St. NW, PMB 100-408, Washington, DC 20005
Sarah Avery	NDO
[illegible]	NCAHP

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

HOUSE BILL 1049
Second Edition Engrossed 4/27/99

Short Title: Physician Licensure. (Public)

Sponsors: Representative Miller.

Referred to: Select Committee on Health Care Delivery.

April 14, 1999

A BILL TO BE ENTITLED

AN ACT AMENDING THE LAWS RELATED TO THE LICENSURE OF PHYSICIANS IN THIS STATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-5 reads as rewritten:

"**§ 90-5. Meetings of Board.**

The North Carolina Medical Board shall assemble at least once in every year in the City of ~~Raleigh, and shall remain in session from day to day until all applicants who may present themselves for examination within the first two days of this meeting have been examined and disposed of; other~~ Raleigh. Other meetings in each year may be held at some suitable point in the State if deemed advisable."

Section 2. G.S. 90-9 reads as rewritten:

"**§ 90-9. Examination for license; scope; conditions and prerequisites.**

It is the duty of the North Carolina Medical Board to examine for license to practice medicine or surgery, or any of the branches thereof, ~~every applicant who complies with the following provisions: the applicant shall, before admittance to examination, satisfy the Board of possession of academic education equal to the entrance requirements of the University of North Carolina, or furnish a certificate from the superintendent of public instruction of the county that the applicant has passed an examination upon literary attainments to meet the requirements of entrance in the regular course of the State University. The applicant shall exhibit a diploma or furnish satisfactory proof of graduation from a medical college or an osteopathic college approved by the American Osteopathic Association at the time of~~

~~graduation, dated from January 1, 1960, to the present, and whose medical and osteopathic schools shall require an attendance of not less than four years or for a lesser period of time approved by the Board, and supply these facilities for clinical and scientific instruction as meet the approval of the Board. An applicant shall have graduated from a medical college approved by the Liaison Commission on Medical Education or osteopathic college that has been approved by the American Osteopathic Association; or, if graduated from any other medical or osteopathic college, the applicant shall be enrolled in a graduate medical education and training program in North Carolina that has been approved by the Board. An applicant who has graduated from a medical college not approved by the Liaison Commission on Medical Education or osteopathic college that has not been approved by the American Osteopathic Association and who has not enrolled in a graduate medical education and training program in North Carolina which has been approved by the Board shall satisfy the Board that the applicant has successfully completed three years of graduate medical education in a training program approved by the Board.~~ applicants for a medical license who meet eligibility requirements as provided by Board rules. The Board may contract for the design of, application for, and administration of the licensing examination through the Federation of State Medical Boards of the U.S., Inc., its successor organization, or another organization approved by the Board. No applicant from a medical or osteopathic college that has been disapproved by the Board is eligible to take the examination.

The examination shall cover the branches of medical science and subjects which the Board considers necessary to determine competence to practice medicine. The Board may divide the examination into parts or components.

The Board shall grant the applicant a license authorizing the applicant to practice medicine in any of its branches if the Board determines that the applicant has successfully passed the examination, is of good moral character, satisfies the requirements of the Board's rules, and ~~is:~~ is one of the following:

(1) ~~a~~ A graduate of a medical college approved by the Liaison Commission on Medical Education or an osteopathic college approved by the American Osteopathic Association and has successfully completed one year of training in a medical education program approved by the Board after graduation from medical ~~school;~~ school.

(2) ~~a~~ A graduate of a medical college approved by the Liaison Commission on Medical Education or an osteopathic college approved by the American Osteopathic Association, is a dentist licensed to practice dentistry under Article 2 of Chapter 90 of the General Statutes, and has been certified by the American Board of Oral and Maxillofacial Surgery after having completed a residency in an Oral and Maxillofacial Surgery Residency Program approved by the Board before completion of medical ~~school; or~~ school.

(3) ~~a~~ A graduate of a medical college that has not been approved by the Liaison Commission on Medical Education or an osteopathic

college that has not been approved by the American Osteopathic Association and has successfully completed three years of training in a medical education program approved by the Board after graduation from medical school.

~~Applicants shall be examined by number only; names and other identifying information shall not appear on examination papers.~~"

Section 3. G.S. 90-14 reads as rewritten:

"**§ 90-14. Revocation, suspension, annulment or denial of license.**

(a) The Board shall have the power to deny, annul, suspend, or revoke a license, or other authority to practice medicine in this State, issued by the Board to any person who has been found by the Board to have committed any of the following acts or conduct, or for any of the following reasons:

(1) Immoral or dishonorable conduct.

(2) Producing or attempting to produce an abortion contrary to law.

(3) Made false statements or representations to the Board, or who has willfully concealed from the Board material information in connection with an application for a license.

(4) Repealed by Session Laws 1977, c. 838, s. 3.

(5) Being unable to practice medicine with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of alcohol, drugs, chemicals, or any other type of material or by reason of any physical or mental abnormality. The Board is empowered and authorized to require a physician licensed by it to submit to a mental or physical examination by physicians designated by the Board before or after charges may be presented against the physician, and the results of the examination shall be admissible in evidence in a hearing before the Board.

(6) Unprofessional conduct, including, but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the medical profession, irrespective of whether or not a patient is injured thereby, or the committing of any act contrary to honesty, justice, or good morals, whether the same is committed in the course of the physician's practice or otherwise, and whether committed within or without North Carolina. The Board shall not revoke the license of or deny a license to a person solely because of that person's practice of a therapy that is experimental, nontraditional, or that departs from acceptable and prevailing medical practices unless, by competent evidence, the Board can establish that the treatment has a safety risk greater than the prevailing treatment or that the treatment is generally not effective.

(7) Conviction in any court of a crime involving moral turpitude, or the violation of a law involving the practice of medicine, or a

conviction of a felony; provided that a felony conviction shall be treated as provided in subsection (c) of this section.

(8) By false representations has obtained or attempted to obtain practice, money or anything of value.

(9) Has advertised or publicly professed to treat human ailments under a system or school of treatment or practice other than that for which the physician has been educated.

(10) Adjudication of mental incompetency, which shall automatically suspend a license unless the Board orders otherwise.

(11) Lack of professional competence to practice medicine with a reasonable degree of skill and safety for patients. In this connection the Board may consider repeated acts of a physician indicating the physician's failure to properly treat a patient. The Board may, upon reasonable grounds, require a physician to submit to inquiries or examinations, written or oral, by members of the Board or by other physicians licensed to practice medicine in this State, as the Board deems necessary to determine the professional qualifications of such licensee.

(12) Promotion of the sale of drugs, devices, appliances or goods for a patient, or providing services to a patient, in such a manner as to exploit the patient, and upon a finding of the exploitation, the Board may order restitution be made to the payer of the bill, whether the patient or the insurer, by the physician; provided that a determination of the amount of restitution shall be based on credible testimony in the record.

(13) Having a license to practice medicine or the authority to practice medicine revoked, suspended, restricted, or acted against or having a license to practice medicine denied by the licensing authority of any jurisdiction. For purposes of this subdivision, the licensing authority's acceptance of a license to practice medicine voluntarily relinquished by a physician or relinquished by stipulation, consent order, or other settlement in response to or in anticipation of the filing of administrative charges against the physician's license, is an action against a license to practice medicine.

(14) The failure to respond, within a reasonable period of time and in a reasonable manner as determined by the Board, to inquiries from the Board concerning any matter affecting the license to practice medicine.

(15) The failure to complete an amount not to exceed 150 hours of continuing medical education during any three consecutive calendar years pursuant to rules adopted by the Board.

(16) Aiding in the unlicensed practice of medicine.

(17) Allowing another person or organization to use a license issued by the Board.

(18) The repeated prescribing of controlled substances for personal or family use.
(19) Fee splitting.
(20) Failure to report to the Board disciplinary action in another state.
(21) Failure to make copies of patient records available to another physician when legally requested to do so.

For any of the foregoing reasons, the Board may deny the issuance of a license to an applicant or revoke a license issued to a physician, may suspend such a license for a period of time, and may impose conditions upon the continued practice after such period of suspension as the Board may deem advisable, may limit the accused physician's practice of medicine with respect to the extent, nature or location of the physician's practice as the Board deems advisable. The Board may, in its discretion and upon such terms and conditions and for such period of time as it may prescribe, restore a license so revoked or rescinded, except that no license that has been revoked shall be restored for a period of two years following the date of revocation. In addition to and in conjunction with the actions described above, the Board may make a finding adverse to a licensee or applicant but withhold imposition of judgment and penalty or it may impose judgment and penalty but suspend enforcement thereof and place the licensee on probation, which probation may be vacated upon noncompliance with such reasonable terms as the Board may impose. The Board may administer a public or private reprimand or a private letter of concern and the private reprimand and private letter of concern shall not require a hearing in accordance with G.S. 90-14.2 and shall not be disclosed to any person except the licensee. The Board may require a licensee to: (i) make specific redress or monetary redress; (ii) provide free public or charity service; (iii) complete educational, remedial training, or treatment programs; (iv) pay a fine; and (v) reimburse the Board for disciplinary costs.

(b) The Board ~~shall~~ may refer to the ~~State Medical Society Physician Health and Effectiveness Committee all physicians~~ North Carolina Physicians Health Program any physician or physician assistant whose health and effectiveness have been significantly impaired by alcohol, drug addiction or mental illness.

(c) A felony conviction shall result in the automatic revocation of a license issued by the Board, unless the Board orders otherwise or receives a request for a hearing from the person within 60 days of receiving notice from the Board, after the conviction, of the provisions of this subsection. If the Board receives a timely request for a hearing in such a case, the provisions of G.S. 90-14.2 shall be followed.

(d) The Board and its members and staff may release confidential or nonpublic information to any health care licensure board in this State or another state about the issuance, denial, annulment, suspension, or revocation of a license, or the voluntary surrender of a license by a Board-licensed physician, including the reasons for the action, or an investigative report made by the Board. ~~The Board shall notify the physician within 60 days after the information is transmitted. A summary of the information that is being transmitted shall be furnished to the physician. If the physician requests, in writing, within 30 days after being notified that such~~

~~information has been transmitted, he shall be furnished a copy of all information so transmitted. The notice or copies of the information shall not be provided if the information relates to an ongoing criminal investigation by any law enforcement agency, or authorized Department of Health and Human Services personnel with enforcement or investigative responsibilities.~~

(e) The Board and its members and staff shall not be held liable in any civil or criminal proceeding for exercising, in good faith, the powers and duties authorized by law.

(f) A person, partnership, firm, corporation, association, authority, or other entity shall be immune from civil and criminal liability for (i) reporting or investigating the acts or omissions of a licensee or applicant that violate the provisions of subsection (a) of this section or any other provision of law relating to the fitness of a licensee or applicant to practice medicine and (ii) initiating or conducting proceedings against a licensee or applicant if a complaint is made or action is taken in good faith without fraud or malice. Any person who testifies before the Board in good faith and without fraud or malice in any proceeding involving a violation of subsection (a) of this section or any other law relating to the fitness of an applicant or licensee to practice medicine, or who makes a recommendation to the Board in the nature of peer review, shall be immune from civil and criminal liability."

Section 4. G.S. 90-15.1 reads as rewritten:

"**§ 90-15.1. Registration every year with Board.**

Every person licensed to practice medicine by the North Carolina Medical Board shall register annually with the Board within 30 days of the person's birthday. A person who registers with the Board shall report to the Board the person's name and office and residence address and any other information required by the Board, and shall pay a registration fee fixed by the Board not in excess of ~~one hundred dollars ($100.00).~~ one hundred twenty-five dollars ($125.00). A physician who is not actively engaged in the practice of medicine in North Carolina and who does not wish to register the license may direct the Board to place the license on inactive status. For purposes of annual registration, the Board shall use a simplified registration form which allows registrants to confirm information on file with the Board. A physician who fails to register as required by this section shall pay an additional fee of twenty dollars ($20.00) to the Board. The license of any physician who fails to register and who remains unregistered for a period of 30 days after certified notice of the failure is automatically inactive. A person whose license is inactive shall not practice medicine in North Carolina nor be required to pay the annual registration fee. Upon payment of all accumulated fees and penalties, the license of the physician may be reinstated, subject to the Board requiring the physician to appear before the Board for an interview and to comply with other licensing requirements. The penalty may not exceed the maximum fee for a license under G.S. 90-13."

Section 5. G.S. 90-18 reads as rewritten:

"**§ 90-18. Practicing without license; practicing defined; penalties.**

(a) No person shall practice medicine or surgery, or any of the branches thereof, nor in any case prescribe for the cure of diseases unless the person shall have been

first licensed and registered so to do in the manner provided in this Article, and if any person shall practice medicine or surgery without being duly licensed and registered, as provided in this Article, the person shall not be allowed to maintain any action to collect any fee for such services. The person so practicing without license shall be guilty of a Class ~~1 misdemeanor.~~ I felony.

(b) Any person shall be regarded as practicing medicine or surgery within the meaning of this Article who shall diagnose or attempt to diagnose, treat or attempt to treat, operate or attempt to operate on, or prescribe for or administer to, or profess to treat any human ailment, physical or mental, or any physical injury to or deformity of another person. A person who resides in any state and who, by use of any electronic or other mediums, performs any of the acts described in this subsection shall be regarded as practicing medicine or surgery and shall be subject to the provisions of this Article and appropriate regulation by the North Carolina Medical Board. Any person who has graduated from a medical college or osteopathic college in accordance with G.S. 90-9 and who performs medical precertification, utilization review, or evaluation of the medical management of a patient and the use of resources for patient care shall be regarded as practicing medicine within the meaning of this Article.

(c) The following shall not constitute practicing medicine or surgery as defined in subsection (b) of this section:

(1) The administration of domestic or family remedies in cases of emergency.

(2) The practice of dentistry by any legally licensed dentist engaged in the practice of dentistry and dental surgery.

(3) The practice of pharmacy by any legally licensed pharmacist engaged in the practice of pharmacy.

(4) The practice of medicine and surgery by any surgeon or physician of the United States army, navy, or public health service in the discharge of his official duties.

(5) The treatment of the sick or suffering by mental or spiritual means without the use of any drugs or other material means.

(6) The practice of optometry by any legally licensed optometrist engaged in the practice of optometry.

(7) The practice of midwifery as defined in G.S. 90-178.2.

(8) The practice of chiropody by any legally licensed chiropodist when engaged in the practice of chiropody, and without the use of any drug.

(9) The practice of osteopathy by any legally licensed osteopath when engaged in the practice of osteopathy as defined by law, and especially G.S. 90-129.

(10) The practice of chiropractic by any legally licensed chiropractor when engaged in the practice of chiropractic as defined by law, and without the use of any drug or surgery.

(11) The practice of medicine or surgery by any nonregistered reputable physician or surgeon who comes into this State, either in person or by use of any electronic or other mediums, on an irregular basis, to consult with a resident registered physician or to consult with personnel at a medical school about educational or medical training. This proviso shall not apply to physicians resident in a neighboring state and regularly practicing in this State.

(12) Any person practicing radiology as hereinafter defined shall be deemed to be engaged in the practice of medicine within the meaning of this Article. 'Radiology' shall be defined as, that method of medical practice in which demonstration and examination of the normal and abnormal structures, parts or functions of the human body are made by use of X ray. Any person shall be regarded as engaged in the practice of radiology who makes or offers to make, for a consideration, a demonstration or examination of a human being or a part or parts of a human body by means of fluoroscopic exhibition or by the shadow imagery registered with photographic materials and the use of X rays; or holds himself out to diagnose or able to make or makes any interpretation or explanation by word of mouth, writing or otherwise of the meaning of such fluoroscopic or registered shadow imagery of any part of the human body by use of X rays; or who treats any disease or condition of the human body by the application of X rays or radium. Nothing in this subdivision shall prevent the practice of radiology by any person licensed under the provisions of Articles 2, 7, 8, and 12A of this Chapter.

(13) The performance of any medical acts, tasks, and functions by a licensed physician assistant at the direction or under the supervision of a physician in accordance with rules adopted by the Board. This subdivision shall not limit or prevent any physician from delegating to a qualified person any acts, tasks, and functions that are otherwise permitted by law or established by custom. The Board shall authorize physician assistants licensed in this State or another state to perform specific medical acts, tasks, and functions during a disaster.

(14) The practice of nursing by a registered nurse engaged in the practice of nursing and the performance of acts otherwise constituting medical practice by a registered nurse when performed in accordance with rules and regulations developed by a joint subcommittee of the North Carolina Medical Board and the Board of Nursing and adopted by both boards.

(15) The practice of dietetics/nutrition by a licensed dietitian/nutritionist under the provisions of Article 25 of this Chapter.

(16) The practice of acupuncture by a licensed acupuncturist in accordance with the provisions of Article 30 of this Chapter."

Section 6. G.S. 90-18.1 is amended by adding the following new subsection:

"(g) The provisions of G.S. 90-14 shall apply to physician assistants."

Section 7. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1049

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1049-ARB-6.26D

Date_____,2000

Comm. Sub. []
Amends Title []
Second Edition

Representative _____

moves to amend the bill on page 4, line 42, by deleting that line and by renumbering the remaining subdivisions accordingly;

and on page 7, line 5, by rewriting the line to read: "license shall be guilty of a Class 1 misdemeanor.";

and on page 7, lines 13 through 18, by deleting the underlined text.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1049 (Second Edition)

SHORT TITLE: Physician Licensure

SPONSOR(S): Rep. Miller

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
REVENUES					
Board Operating Account	$732,743	$747,397	$762,345	$777,592	$793,144
EXPENDITURES					
Board Operating Account	Not yet determined				
General Fund AOC	No significant impact				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Medical Board, Administrative Office of the Courts (AOC)

EFFECTIVE DATE: The bill is effective when it becomes law.

BILL SUMMARY: The bill amends various laws pertaining to the licensure of physicians. Included in the changes is an amendment to raise the annual registration fee from not more than $100 to an amount not more than $125. The bill also changes the criminal statutes to make practicing without license a Class J felony.

ASSUMPTIONS AND METHODOLOGY:

Fee Increase

Section 4 of the bill increases the annual registration fee for physicians from $100 to $125. There are currently 28,735 physicians licensed in North Carolina. This number includes 19,638 doctors living in the state and 9,097 living outside the state. Staff of the North Carolina Medical Board estimates that the number of physicians licensed in the state increases 2% a year. The chart

below shows the projected five-year growth in physicians and the increased revenue from the $25 fee increase.

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
Licenses	28,735	29,310	29,896	30,494	31,104	31,726
Fee Increase		$732,743	$747,397	$762,345	$777,592	$793,144

For 1999, the Medical Board's operating expenditures exceeded operating revenues by $52,709. The Board's 1999 budget was balanced with interest income from its cash reserves. As of October 31, 1999, the Medical Board had a total fund balance of $5,543,290 designated as follows:

Designated for litigation	$700,000
Designated for capital purchases	$43,359
Designated for building	$600,000
Undesignated	$4,199,931
Total Fund Balance	$5,543,290

The unrestricted, undesignated fund balance of $4.2 million equals 84.7% of the Medical Board's 1999 operating budget. The Board plans to use part of the increased revenue for additional investigators and attorneys.

Judicial/Corrections

Section 5 of the bill amends G.S. 90-18 to elevate the unlicensed practice of "medicine or surgery, or any branch thereof" to a Class I felony. Under current law, the unlicensed practice of medicine is a Class 1 misdemeanor. The Administrative Office of the Courts (AOC) data does not indicate the number of defendants who might be charged with the more serious felony offense pursuant to the bill, but the AOC does not anticipate a large number of such charges. Additionally, the impact on the court system would be lessened by the fact that misdemeanor violations of G.S. 90-18 are already handled in superior court.

The bill also adds performance of medical precertification, utilization review, or evaluation of medical management of a patient by a medical graduate as "practicing medicine." Though broadening the definition of "practicing medicine" could mean an increase in Class I felony offenses, AOC is unable to estimate the extent to which broadening this definition would impact the courts.

Since this offense appears to infrequently result in charges and/or convictions and since the proposed bill increases the penalty to a Class I felony, the Sentencing and Policy Advisory Commission estimates that it will have no significant impact on prison populations.

TECHNICAL CONSIDERATIONS:

Based an opinion by the Attorney General in 1992, the AOC believes that the acts covered by amended 90-18 (b) do not constitute the "practice of medicine." The amendment states that a person who has graduated from a medical or osteopathic college and who performs certain acts, such as utilization review, shall be regarded as "practicing medicine." Clearly then, the performance of those acts by a graduate without a license would now constitute a felony.

However, the amendment is not clear with regard to whether or not the performance of those acts by someone who is not a medical or osteopathic college graduate would be the practice of medicine.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Kelly Little & Richard Bostic

APPROVED BY:

DATE:

MINUTES
HOUSE COMMITTEE ON FINANCE

Tuesday, June 27, 2000

The House Committee on Finance met on Tuesday, June 27, 2000 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke and Miller; Vice Chairs Jarrell and Wood; Representatives Bridgeman, Brown, Buchanan, Capps, Cox, Decker, Dedmon, Eddins, Edwards, Ford, Gibson, Goodwin, Gray, Hackney, Haire, Hill, McComas, McCombs, Morris, Pope, Rayfield, Starnes, Weiss, Wilson, and Womble. Staff including Cindy Avrette, Richard Bostic, Mary Shuping; Eugene Son and Rebekah Butler, Interns; were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Miller called the meeting to order. Chair Miller recognized the pages and Sargent-at-Arms staff and commented briefly on the agenda and proceeded to consider the following bills:

Senator Kerr was recognized to explain SB 1381, A BILL TO BE ENTITLED AN ACT TO REALLOCATE THE PROCEEDS OF THE CLEAN WATER BONDS. Rep. Allen made a motion to give the bill a favorable report. Chair Miller questioned whether any loans have already been made. Senator Kerr replied that around $20 million in loans have been made. Chair Miller questioned if any problems would arise from the recipients of those loans wanting grants instead. Senator Kerr noted that he believes that would not pose a problem. Bill Holman, Secretary of Environment and Natural Resources, was recognized to speak on the bill. Secretary Holman explained the application process regarding the Clean Water Revolving Loan Funds. There being no further questions, the vote was taken. The motion passed. A copy of the bill, bill analysis, and fiscal note included in the minutes.

Senator Kerr was recognized to explain SB 1477, A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR A NEW, SUSTAINABLY DESIGNED, STATE OFFICE BUILDING AND WILDLIFE EDUCATION CENTER WITH RELATED PARKING FACILITIES, TO BE USED BY THE WILDLIFE RESOURCES COMMISSION, PURSUANT TO AN INSTALLMENT FINANCING CONTRACT IN A PRINCIPAL AMOUNT NOT TO EXCEED THIRTEEN MILLION FIVE HUNDRED THOUSAND DOLLARS, AND TO PROVIDE FOR A NEW EASTERN WILDLIFE EDUCATION CENTER WITH RELATED PARKING FACILITIES, TO BE ADMINISTERED BY THE WILDLIFE RESOURCES COMMISSION, PURSUANT TO AN INSTALLMENT FINANCING CONTRACT IN A PRINCIPAL AMOUNT NOT TO EXCEED FOUR MILLION DOLLARS. Rep. Hackney questioned whether this bill was connected to proposed legislation regarding canoeist-having access to rivers. Dick Hamilton, Assistant Director of the Wildlife Commission, was recognized to speak on the bill. Mr. Hamilton noted that there was a bill in the Transportation Commission. Mr. Hamilton noted that the two bills were not connected. Chair Miller questioned whether boaters had to pay to access the boat ramps. Mr. Hamilton said that all motorboats have to be registered and the fee to access these ramps are derived from the registration fee. Rep. Goodwin made a motion to give the bill a favorable report. Rep. Haire asked what the fee for canoeist would be. Mr. Hamilton replied that the fee would be $5. Rep. Haire asked if this would apply to white water rafting. Mr. Hamilton replied it would be the same. Chair Miller asked if these people could register their watercraft for $25 for three years instead of paying

$5 per visit. Mr. Hamilton said yes. Rep. Gray questioned how much money was in the Wildlife Resources Fund. Mr. Hamilton noted that there was $11 million in the Wildlife Resources Fund and $40 million in the Wildlife Endowment Fund. Rep. Gray asked if you could invade these funds to build buildings. Mr. Hamilton said that a change in the law would be required in order to access the Wildlife Endowment Fund but that the Wildlife Resources Fund could be used in emergency uses as operating reserve. Rep. Hackney asked if the bill could be displaced until the two parties could get together and resolve the differences between these two bills. Rep. Hackney made a motion to displace this bill until tomorrow. The motion passed. A copy of the bill included in the minutes.

Rep. Mitchell recognized to explain HB 1508, A BILL TO BE ENTITLED AN ACT TO ELIMINATE THE FINGERPRINTING REQUIREMENT FOR RENEWAL OF A CONCEALED HANDGUN PERMIT WHERE DOING SO WOULD NOT IMPEDE CRIMINAL RECORD UPDATES; TO DECREASE THE FEE FOR RENEWAL OF A CONCEALED HANDGUN PERMIT; AND TO CLARIFY THAT THE RELEASE FORM SUBMITTED FOR A CONCEALED HANDGUN APPLICANTS MENTAL HEALTH RECORDS MAY BE AN ORIGINAL OR PHOTOCOPIED FORM. Rep. Gibson made a motion to give the bill a favorable report. The motion passed. A copy of the bill, bill analysis and fiscal note included in the minutes.

Senator Dalton was recognized to explain SB 897, A BILL TO BE ENTITLED AN ACT TO PROVIDE TITLE PROTECTION FOR THE SAFETY PROFESSION. Chair Miller sent forth a technical amendment. Rep. Goodwin made a motion to roll the amendment into a Proposed Committee Substitute and give the Proposed Committee Substitute a favorable report and give the original bill an unfavorable report. The motion passed. A copy of the bill, amendment, Proposed Committee Substitute, bill analysis, and fiscal note included in the minutes.

Rep. Gibson was recognized to explain HB 1639, A BILL TO BE ENTITLED AN ACT TO CREATE A TAX INCENTIVE FOR THE REDEVELOPMENT OF BROWNFIELDS PROPERTIES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION. Rep. Gibson sent forth a technical amendment. Staff was recognized to explain the amendment. Rep. Gibson made a motion to roll in the amendment and adopt a Proposed Committee Substitute. The motion passed. Rep. Womble sent forth an amendment. Rep. Gibson made a motion to roll in this amendment and adopt a Proposed Committee Substitute. The motion passed. Rep. Gibson made a motion to give the Proposed Committee Substitute a favorable report and give the original bill an unfavorable report. The motion passed. A copy of the bill, both amendments, Proposed Committee Substitute, bill analysis, and fiscal note included in the minutes.

Senator Clodfelter was recognized to explain SB 1152, A BILL TO BE ENTITLED AN ACT AUTHORIZING CITIES WITH A POPULATION OF MORE THAN TWO HUNDRED THOUSAND, THE CITIES OF WINSTON-SALEM, STATESVILLE, HIGH POINT, THOMASVILLE, MOORESVILLE, HAMLET, LEXINGTON, AND TROUTMAN TO DEMOLISH AND REMOVE CERTAIN NONRESIDENTIAL BUILDINGS AND STRUCTURES TO ENHANCE ECONOMIC DEVELOPMENT EFFORTS. Rep. Hill made a motion to adopt the Proposed Committee Substitute for discussion. The motion passed. Rep. Morris made a motion to give the Proposed Committee Substitute a favorable report and give the original bill an unfavorable

report. The motion passed. A copy of the bill, Proposed Committee Substitute, and bill analysis included in the minutes.

Senator Dalton was recognized to explain SB 1318, A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT AN ENTERPRISE TIER TWO AREA MAY NOT BE REDESIGNATED AS A HIGHER-NUMBERED TIER AREA UNTIL IT HAS BEEN AN ENTERPRISE TIER TWO AREA FOR TWO CONSECUTIVE YEARS. Rep. Dedmon made a motion to give the bill a favorable report. The motion passed. A copy of the bill, bill analysis and fiscal note included in the minutes.

Staff was recognized to explain SB 1293, A BILL TO BE ENTITLED AN ACT TO MODIFY THE TAX LIMIT FOR THE TOWN OF BADIN. Rep. Womble made a motion to give the bill a favorable report. The motion passed. A copy of the bill included in the minutes.

There being no further business, the Chair adjourned the meeting at 9:56 a.m.

Respectfully submitted:

Representative George Miller
Chair

Ken Melton
Assistant to the Committee

VISITOR REGISTRATION SHEET

Finance — 6/27/00

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tom McCleave	McCleave Consulting
Henri McCleave	" " "
[illegible]	DENR
JERRY GARNER, CSP	NORTH STATE ASSOC
[illegible]	ASSE
Natalie English	Charlotte Chamber
Brian Francis	Mecklenburg County
Karl Knapp	City of Winston-Salem
Boyd Cauble	City of Charlotte
[illegible]	[illegible]
Vicky McBride	NCGA
Pam Wescott	SPMT
Margaret Westbrook	KCLH
Ed Regan	N.C.A.C.C
AL ADAMS	PARKER, POE, ADAMS & BERNSTEIN, L.L.P.
Alice Garland	Electricities
Charles Case	Hunton & Williams
Jim Blackburn	gadfly
Jerry Hardesty	NC Park Council
Doug Lassiter	NC Septic Tank Assoc.
BRUCE NICHOLSON	NC DENR / DWM
Jeff Roy	Grass Roots North Carolina
John Palumbo	AT&T
Steve Woodson	NC Forest Business Federation
Jeff VanDyke	BELLSOUTH
Kim Hibbard	NCLM
Alan Miles	Bailey & Dixon LLP

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL
CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Tuesday, June 27, 2000 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

HB 1508 – GUN PERMIT/DECREASE RENEWAL FEE – REP. MITCHELL
HB 1639 – BROWNFIELDS TAX INCENTIVE – REP. McCOMAS
HB 1777 – DARE UTILITY UNDERGROUNDING AMENDMENTS – REP. CULPEPPER
SB 897 – SAFETY PROFESSIONALS – SENATOR DALTON
SB 1152 – NONRESIDENTIAL ABANDONED STRUCTURES – SENATOR CLODFELTER
SB 1293 – TOWN OF BADIN/TAX RATE – SENATOR PURCELL
SB 1318 – AMEND BILL LEE ACT TIER DESIGNATIONS – SENATOR DALTON
SB 1381 – REALLOCATE WATER BOND FUNDS – SENATOR KERR
SB 1477 – FINANCE NEW WILDLIFE CENTERS – SENATOR KERR

ADJOURNMENT OF MEETING

VISITOR REGISTRATION SHEET

June 27, 2000
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
R. Rogers	DENR
Eddie Caldwell	H McCoy C P.A.
Dan M'Lawhan	DENR
Bill Holman	DENR
Lana DeVivo	DENR
Dick Hamilton	NC Wildlife Resources Comm'n
Joan Troy	" "
John F. Lentz	" " " "
Cecilia Edgar	NCWRC
Carl Zepp	OSBM
Kathy Sawyer	Commerce
J. Alexander	City of Fayetteville
Michael E. McNair	City of Fayetteville
Amanda Little	City of Fayetteville
Faith M. Thompson	City of Fayetteville, NC
Sharon Miller	C.U.C.A.
Lennie Collins	NCDOR
Patti Seawell	"
John Bode	Bode Call & Stroupe
John C. Baila	NCDOR
Jonathan Tart	NCDOR
Bruce Thompson	Parker Poe Adams & Bernstein
Mark Memberto	Payne & Gravill

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES		6-27														
Allen, Gordon	Chair	X														
Luebke, Paul	Chair	X														
Miller, George	Chair	X														
Jarrell, Mary	Vice-Chair	X														
Wood, Steve	Vice-Chair	X														
Bridgeman, John		X														
Brown, John		X														
Buchanan, Monroe		X														
Capps, Russell		X														
Church, Walter																
Cox, Leslie		X														
Creech, Billy																
Decker, Michael		X														
Dedmon, Andy		X														
Eddins, Rick		X														
Edwards, Zeno		X														
Fitch, Toby																
Ford, Jimmie		X														
Gibson, Pryor		X														
Goodwin, Wayne		X														
Gray, Lyons		X														
Hackney, Joe		X														
Haire, Phillip		X														
Hill, Dewey		X														
Howard, Julia																
McComas, Daniel		X														

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES	6-27														
McCombs, Eugene	X														
Miner, David															
Morris, Mia	X														
Pope, Art	X														
Ramsey, Liston															
Rayfield, John	X														
Starnes, Edgar	X														
Tallent, Tim															
Tucker, Russell															
Weiss, Jennifer	X														
Wilson, Connie	X														
Womble, Larry															
Wright, Thomas															
Ex Officio Members:															
Hackney, Pro Tem	X														
Baddour, Majority															
Dedmon, Whip	X														
Earle, Whip															
Cunningham															

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 1508 A BILL TO BE ENTITLED AN ACT TO ELIMINATE THE FINGERPRINTING REQUIREMENT FOR RENEWAL OF A CONCEALED HANDGUN PERMIT WHERE DOING SO WOULD NOT IMPEDE CRIMINAL RECORD UPDATES; TO DECREASE THE FEE FOR RENEWAL OF A CONCEALED HANDGUN PERMIT; AND TO CLARIFY THAT THE RELEASE FORM SUBMITTED FOR A CONCEALED HANDGUN APPLICANT'S MENTAL HEALTH RECORDS MAY BE AN ORIGINAL OR PHOTOCOPIED FORM.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

FOR JOURNAL USE ONLY

____ Pursuant to Rule 36(b), the bill is placed on the Calendar of _____.

____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.

____ The bill/resolution is re-referred to the Committee on _____.

____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.

____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. ____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. ____)/resolution is placed on the Unfavorable Calendar.

____ On motion of Rep. _____, (the rules are suspended) (Rule ____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV ____ ____.) ( ) This amendment changes the title.

____ The bill/resolution (, as amended,) passes its second reading (by following vote, ____ ____ RC) (, by EV ____ ____,) and (remains on the Calendar,) (and there being no objection is read a third time).

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, ____ ____ RC) (, by EV ____ ____,) and is ordered
____ sent to the Senate.
____ without engrossment. ____ by Special message.
____ sent to the Senate for concurrence in
_____ House amendment (s).
_____ House committee substitute.
____ enrolled.

____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, ____ ____ RC) (, by EV ____ ____,) and the bill is ordered enrolled.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 1508
Committee Substitute Favorable 6/26/00

Short Title: Gun Permit/Decrease Renewal Fee. (Public)

Sponsors:

Referred to:

May 11, 2000

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE FINGERPRINTING REQUIREMENT FOR RENEWAL OF A CONCEALED HANDGUN PERMIT WHERE DOING SO WOULD NOT IMPEDE CRIMINAL RECORD UPDATES; TO DECREASE THE FEE FOR RENEWAL OF A CONCEALED HANDGUN PERMIT; AND TO CLARIFY THAT THE RELEASE FORM SUBMITTED FOR A CONCEALED HANDGUN APPLICANT'S MENTAL HEALTH RECORDS MAY BE AN ORIGINAL OR PHOTOCOPIED FORM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-415.16 reads as rewritten:

"**§ 14-415.16. Renewal of permit.**

The holder of a permit shall apply to renew the permit at least 30 days prior to its expiration date by filing with the sheriff of the county in which the person resides a renewal form provided by the sheriff's office, a notarized affidavit stating that the permittee remains qualified under the criteria provided in this Article, a newly administered full set of the permittee's fingerprints, and a renewal fee. Upon receipt of the completed renewal application, including the permittee's fingerprints, and the appropriate payment of fees, the sheriff shall determine if the permittee remains qualified to hold a permit in accordance with the provisions of G.S. 14-415.12. The permittee's criminal history shall be updated, and the sheriff may waive the requirement of taking another firearms safety and training course. If the permittee applies for a renewal of the permit within 30 days of its expiration date and if the permittee remains qualified to have a permit under G.S. 14-415.12, the sheriff shall

renew the permit. No fingerprints shall be required for a renewal permit if the applicant's fingerprints were submitted to the State Bureau of Investigation after June 30, 2001, on the Automated Fingerprint Information System (AFIS) as prescribed by the State Bureau of Investigation."

Section 2. G.S. 14-415.19 reads as rewritten:

"**§ 14-415.19. Fees.**

(a) The permit fees assessed under this Article are payable to the sheriff. The sheriff shall transmit the proceeds of these fees to the county finance officer to be remitted or credited by the county finance officer in accordance with the provisions of this subsection. The permit fees are as follows:

Application fee.....	$80.00
Renewal fee.....	~~$80.00~~ $75.00
Duplicate permit fee.....	$15.00

The county finance officer shall remit forty-five dollars ($45.00) of each new application fee ~~or~~ and forty dollars ($40.00) of each renewal fee to the North Carolina Department of Justice for the costs of State and federal criminal record checks performed in connection with processing applications and for the implementation of the provisions of this Article. The remaining thirty-five dollars ($35.00) of each application or renewal fee shall be used by the sheriff to pay the costs of administering this Article and for other law enforcement purposes. The county shall expend the restricted funds for these purposes only.

(b) An additional fee, not to exceed ten dollars ($10.00), shall be collected by the sheriff from an applicant for a permit to pay for the costs of processing the applicant's ~~fingerprints.~~ fingerprints, if fingerprints were required to be taken. This fee shall be retained by the sheriff."

Section 3. G.S. 14-415.14 is amended by adding a new subsection to read:

"(c) Any person or entity who is presented by the applicant or by the sheriff with an original or photocopied release form as described in G.S. 14-415.13(a)(5) shall promptly disclose to the sheriff any records concerning the mental health or capacity of the applicant who signed the form and authorized the release of the records."

Section 4. The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services shall notify by United States mail, telefacsimile, or electronic mail all mental health clinics, hospitals, and licensed mental health professionals in North Carolina about the requirement in Section 3 of this act within 30 days after the effective date of this act.

Section 5. This act becomes effective July 1, 2000.

HOUSE BILL 1508:
Gun Permit/Decrease Renewal Fee

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Representative Mitchell
Date:	June 27, 2000	**Summary by:**	Mary Shuping
Version:	2nd edition		Research Assistant

SUMMARY: ***House Bill 1508, 2nd edition, eliminates the fingerprint requirement for renewal of a concealed handgun permit in certain circumstances; decreases the fee for the renewal of a concealed handgun permit; and requires mental health authorities to disclose to the sheriff the mental health records of an applicant upon the presentation of an original or photocopied release form.***

CURRENT LAW & BILL ANALYSIS:

Section 1. Current law requires a person who holds a concealed handgun permit to apply for renewal at least 30 days prior to the expiration of the permit by filing the following information with the sheriff in the county where the person resides:

- Notarized affidavit stating the person remains qualified to carry a permit.
- Newly administered set of fingerprints (for criminal background checks and criminal records updates).
- Renewal fee.

Section 1 of the bill provides that a new set of fingerprints will not be required for the renewal of a permit if the applicant's fingerprints were submitted to the SBI after June 30, 2001 using the Automated Fingerprint Information System (AFIS).

Section 2 revises the fees for renewal as follows:

Type of Fee	Current Fee	Proposed Fee
Application Fee	$80.00 *($45 to DOJ & $35 to sheriff)*	No Change
Renewal Fee	$80.00 *($45 to DOJ & $35 to sheriff)*	$75.00 *($40 to DOJ & $35 to sheriff)*
Fingerprint Fee	$10.00	$10.00 *Only if new fingerprints are required*

Sections 3 and 4. Current law requires applicants to submit a release form, prescribed by the Administrative Office of the Courts, that authorizes and requires disclosure to the sheriff of any records concerning the applicant's mental health or capacity.

Section 3 requires any person or entity (i.e., mental health provider) who is presented with an original or photocopied release form as described above to promptly disclose the applicant's mental health records to the sheriff.

Section 4 requires the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services in DHHS, to notify all mental health providers in North Carolina of the requirement set forth above within 30 days of the effective date.

EFFECTIVE DATE: July 1, 2000.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: H 1508

SHORT TITLE: Gun Permit/Decrease Renewal Fee

SPONSOR(S): **Representatives Mitchell; Gillespie, and Gulley**

FISCAL IMPACT

Yes (x) **No ( )** **No Estimate Available ( )**

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
REVENUES	(53,352)	(43,117)	(38,586)	(107,185)	(53,352)
EXPENDITURES	-0-	-0-	-0-	-0-	-0-
POSITIONS:	n/a	n/a	n/a	n/a	n/a

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Justice; State Bureau of Investigation

EFFECTIVE DATE: July 1, 2000

BILL SUMMARY: After July 1, 2001, eliminates the requirement to submit new fingerprints as part of the concealed handgun permit renewal process if original fingerprints were collected via AFIS (automated fingerprint information system). Reduces the permit renewal fee from $80 to $75. Reduces the portion of the renewal fee to be remitted to the Department of Justice from $45 to $40.

ASSUMPTIONS AND METHODOLOGY: Estimate assumes that all applicants who received permits beginning in July 1996 will apply for renewal at the end of the four-year permit period. Monthly data on the number of handgun permits issued since January 1996 was used to calculate the impact on future SBI receipts. The decreased revenues reflect the impact of the $5 reduction in the renewal permit fee.

TECHNICAL CONSIDERATIONS: The Federal Bureau of Investigation (FBI) requires that fingerprints be submitted in order to conduct a national criminal background check. This requirement assures that individuals do not use aliases in an attempt to circumscribe the background investigation. If the fingerprint requirement was eliminated from the handgun permit renewal process, no national criminal background checks could be completed.

Therefore, HB 1508 retains the requirement that a national background check be completed as part of the concealed handgun permit process. However, since the original handgun permit legislation was implemented in 1995, an increasing number of county law enforcement agencies have begun to collect fingerprint data using AFIS. The State Bureau of Investigation estimates that from 60 to 70 percent of fingerprints are now submitted via AFIS. Fingerprint data collected via AFIS are of generally high quality and can be retained in a manner which allows the data to be used at later time by the FBI to update an applicant's national criminal information.

The full impact of HB 1508 will be evident in upcoming years, when applicants whose original fingerprints were collected via AFIS, submit permit renewal applications. These applicants will not have to be re-fingerprinted. In the initial years of the proposed statute's implementation, the majority of applicants applying for renewal will be those whose original prints were collected using the manual method. Because of this, these applicants will have to be re-fingerprinted as part of the renewal process. However, the majority of these fingerprints are expected to be collected using the AFIS method. In the out years, only applicants who reside in counties with no AFIS available will have to resubmit fingerprints as part of the handgun permit renewal process.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Denise Thomas

APPROVED BY:

DATE:

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1639 A BILL TO BE ENTITLED AN ACT TO CREATE A TAX INCENTIVE FOR THE REDEVELOPMENT OF BROWNFIELDS PROPERTIES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill (#), ☐ ~~which changes the title~~, unfavorable as to (original bill) (Committee Substitute Bill #), ~~(and recommendation that~~ the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1639*

Short Title: Brownfields Tax Incentive. (Public)

Sponsors: Representatives McComas, Gibson, McMahan; Mitchell and Morris.

Referred to: Finance.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO CREATE A TAX INCENTIVE FOR THE REDEVELOPMENT OF BROWNFIELDS PROPERTIES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-277.13. Taxation of improvements on brownfields.**

(a) Qualifying improvements on brownfields properties are designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and shall be appraised, assessed, and taxed in accordance with this section. An owner of land is entitled to the partial exclusion provided by this section for the first five taxable years beginning after the first completion of any qualifying improvements made after the later of July 1, 2000, or the date of the brownfields agreement. After property has qualified for the exclusion provided by this section, the assessor for the county in which the property is located shall annually appraise the improvements made to the property during the period of time that the owner is entitled to the exclusion.

(b) For the purposes of this section, the terms "qualifying improvements on brownfields properties" and "qualifying improvements" mean improvements made to real property that is subject to a brownfields agreement entered into by the Department of Environment and Natural Resources and the owner pursuant to G.S. 130A-310.32.

(c) The following table establishes the percentage of the appraised value of the qualified improvements that is excluded based on the taxable year:

Year	Percent of Appraised Value Excluded
Year 1	90%
Year 2	75%
Year 3	50%
Year 4	30%
Year 5	10%."

Section 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2001.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1639*
Proposed Committee Substitute H1639-PCS5109-RB

Short Title: Brownfields Tax Incentive. (Public)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO CREATE A TAX INCENTIVE FOR THE REDEVELOPMENT OF BROWNFIELDS PROPERTIES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-277.13. Taxation of improvements on brownfields.**

(a) Qualifying improvements on brownfields properties are designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and shall be appraised, assessed, and taxed in accordance with this section. An owner of land is entitled to the partial exclusion provided by this section for the first five taxable years beginning after completion of qualifying improvements made after the later of July 1, 2000, or the date of the brownfields agreement. After property has qualified for the exclusion provided by this section, the assessor for the county in which the property is located shall annually appraise the improvements made to the property during the period of time that the owner is entitled to the exclusion.

(b) For the purposes of this section, the terms "qualifying improvements on brownfields properties" and "qualifying improvements" mean improvements made to real property that is subject to a brownfields agreement entered into by the Department of Environment and Natural Resources and the owner pursuant to G.S. 130A-310.32.

(c) The following table establishes the percentage of the appraised value of the qualified improvements that is excluded based on the taxable year:

Year	Percent of Appraised Value Excluded
Year 1	90%
Year 2	75%
Year 3	50%
Year 4	30%
Year 5	10%."

Section 2. G.S. 130A-310.34(d) reads as rewritten:

"(d) Prior to entering into a brownfields agreement, the Department shall take into account the comment received during the comment period and at the public meeting if the Department holds a public meeting. The Department shall incorporate into the brownfields agreement provisions that reflect comment received during the comment period and at the public meeting to the extent practical. The Department shall give particular consideration to written comment that is supported by valid scientific and technical information and ~~analysis.~~ analysis and to written comment from the local governments having taxing jurisdiction over the brownfields property."

Section 3. Section 1 of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2001. The remainder of this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1639

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1639-ARB-6.26 Page 1 of __

Date_____,2000

Comm. Sub. []
Amends Title []

Representative_____

moves to amend the bill on page 2, lines 10 and 11, by rewriting the lines to read:

"Section 2. G.S. 130A-310.34(d) reads as rewritten:

'(d) Prior to entering into a brownfields agreement, the Department shall take into account the comment received during the comment period and at the public meeting if the Department holds a public meeting. The Department shall incorporate into the brownfields agreement provisions that reflect comment received during the comment period and at the public meeting to the extent practical. The Department shall give particular consideration to written comment that is supported by valid scientific and technical information and ~~analysis.~~ analysis and to written comment from the local governments having taxing jurisdiction over the brownfields property.'

Section 3. Section 1 of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2001. The remainder of this act is effective when it becomes law.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1639

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1639-ARB-6.27

Page 1 of __

Date_____,2000

Comm. Sub. []
Amends Title []

Representative _____

moves to amend the bill on page 1, line 13, by rewriting the line to read:
"taxable years beginning after completion of qualifying improvements".

SIGNED GIBSON
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 1639:
Brownfields Tax Incentive

BILL ANALYSIS

Committee: House Finance
Date: July 27, 2000
Version: 1st Edition

Introduced by: Rep. McComas
Recommended by Environmental Review Comn.
Summary by: Cindy Avrette
Committee Counsel

SUMMARY: House Bill 1639 allows a partial exclusion over a five-year period from property taxes for qualifying improvements made on brownfields properties. The amount of the exclusion declines from 90% during the first year after the improvement to 10% during year five. The bill is effective for taxes imposed for taxable years beginning on or after July 1, 2001. The bill is a recommendation of the Environmental Review Commission.

CURRENT LAW: In 1997, the General Assembly enacted The Brownfields Property Reuse Act of 1997. Brownfields property is defined in the Act as abandoned, idled, or underused property at which expansion or redevelopment is hindered by actual environmental contamination or the possibility of environmental contamination and that is or may be subject to remediation. Under the Act, the Department of Environment and Natural Resources may enter into a brownsfield agreement with a prospective developer. These brownfields agreements allow a developer to cleanup a contaminated property to a level that is less "clean" than would otherwise be required by law in exchange for subjecting the proeprty to land-use restrictions. A developer who complies with the agreement will not be held liable for clean-up of areas of contaminants identified in the agreement, so long as the activities conducted on the property do not increase the risk of harm to public health or the environment.

BILL ANALYSIS: House Bill 1639 provides that improvements made to real property that is subject to a brownfields agreement will be granted a partial property tax exclusion for the first five taxable years beginning after the first completion of the improvement made after the later of July 1, 2000, or the date of the brownfields agreement. The property entitled to the exclusion must be appraised annually during the period of time that the owner is entitled to the exclusion.

The amount of the exclusion declines over the five-year period as follows:

Year	Percent of appraised value excluded
Year 1	90%
Year 2	75%
Year 3	50%
Year 4	30%
Year 5	10%

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1639 (First Edition)

SHORT TITLE: **Brownfields Tax Incentive**

SPONSOR(S): Representatives McComas, Gibson, and McMahan

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
REVENUES					
Local Governments	See Assumptions and Methodology				
EXPENDITURES					
POSITIONS:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources, County, and Municipal Governments

EFFECTIVE DATE: Effective for taxes imposed for taxable years beginning on or after July 1, 2001.

BILL SUMMARY:

This bill would amend Article 12 of Chapter 105 of the General Statutes (Property Subject to Taxation) by including another section. This section creates a partial tax exemption for the appraised value of qualifying quality improvements on brownfields sites for the first five taxable years. This partial exemption includes any qualified improvements under the brownfields program completed after July 1, 2000. The following table outlines the partial tax exemption schedule:

Year	***Percentage of Appraised Value for Qualified Improvements Excluded***
Year 1	90%
Year 2	75%
Year 3	50%
Year 4	30%
Year 5	10%

BACKGROUND INFORMATION:

Chapter 9 of GS 130A provides for "brownfields agreements" between the Department of Environment and Natural Resources (DENR) and prospective developers of underutilized property. The qualified property under this agreement includes abandoned, idled, or underused property, at which expansion or redevelopment is hindered by potential state or locally mandated remediation of environmental contamination. Under the agreement, the state provides the prospective developer with a covenant not to sue, contingent upon the developer conducting actions outlined in the agreement. Those actions are directed by the DENR, and include a mix of qualifying quality improvements, and enforceable land use restrictions. Qualifying quality improvements by the developer are defined as those site modifications authorized by the DENR, and include the cleanup of environmental contamination, prevention of future contamination, and modifications that would maximize benefit for the public. The restrictions placed upon land use prevent potential risks to public health and safety. Some examples would include the restriction of health care or child care facilities from the premises, as well as restrictions on the use of groundwater and soil from the site.

For entry into the program, prospective developers must show they did not cause or contribute to the contamination of the site, projects must emphasize redevelopment, and they must have public benefit commensurate with the liability relief provided. Projects that have resulted in public benefit are the preservation of an historic mill in Raleigh for mixed residential and commercial use, redevelopment of an abandoned furniture factory that created over 200 jobs in a rural town of 1000, and the construction of an inner city Winston-Salem supermarket. In limiting the liability and remediation costs of the prospective developer, redevelopment projects that would not ordinarily have been able to obtain financing are able to proceed. The money spent by the state on the brownfields program leverages large sums of private investment. On one site, $20,000 spent on state oversight and negotiation resulted in excess of $8 million in private investment for remediation and development.

There are currently 3 completed brownfields agreements and 6 agreements signed and pending. 17 additional applications have been filed and are active. There are

over 1000 potential brownfields sites across the state that are currently underutilized or idle due to real or perceived environmental contamination.

ASSUMPTIONS AND METHODOLOGY:

This bill serves as a tax incentive to encourage additional brownfields development. It is not possible to accurately predict the extent to which this tax exemption will induce new developers to enter the program. Department of Environment and Natural Resources staff feel that this tax incentive will serve as an effective means of attracting additional brownfields site developers, as well as providing an incentive for pending agreements to proceed at a more rapid pace.

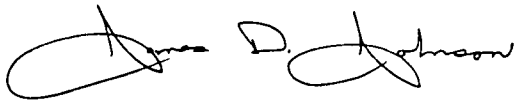
The tax exemption only extends to the tax appraised value of qualifying improvements upon the site, not the value of the entire site. It is not possible to predict the amount that each developer would spend on qualifying improvements, nor the tax assessed value of these improvements. However DENR staff and numerous county tax assessors feel that the additional property tax revenue provided by improvements to sites would be far greater than the combined tax loss over the five-year partial exemption period.

Due to the aforementioned factors, no estimate is available at this time.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic and Eugene Son (Research Assistant)

APPROVED BY: James D. Johnson



DATE: May 25, 2000

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

House

☒ Committee Substitute for
S.B. 897 A BILL TO BE ENTITLED AN ACT TO PROVIDE TITLE PROTECTION FOR THE SAFETY PROFESSION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (# 2), ~~☐ which changes the title~~, unfavorable as to ~~Senate~~ House committee substitute bill.*#1

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 4

SENATE BILL 897*
Judiciary I Committee Substitute Adopted 6/29/99
Third Edition Engrossed 7/8/99
House Committee Substitute Favorable 6/21/00

Short Title: Safety Professionals. (Public)

Sponsors:

Referred to:

April 14, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE TITLE PROTECTION FOR THE SAFETY PROFESSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 37.
"Safety Profession.

"§ 90-646. Definitions.

The following definitions apply in this Article:

(1) Associate Safety Professional (ASP). -- A person who has met the education, experience, and examination requirements established by the Board of Certified Safety Professionals for an Associate Safety Professional.

(2) Board of Certified Safety Professionals (BCSP). -- A nonprofit corporation, incorporated in Illinois in 1969, established to improve the practice and educational standards of the profession of safety by certifying individuals who meet its education, experience, examination, and maintenance requirements.

(3) Certified Safety Professional (CSP). -- A person who has met the education, experience, and examination requirements established

by the Board of Certified Safety Professionals for a Certified Safety Professional.

"**§ 90-647. Unlawful acts; injunctive relief; exclusion.**

(a) No person shall represent himself or herself as a Certified Safety Professional or Associate Safety Professional unless that person is certified by the Board of Certified Safety Professionals and has duly authorized the Board to file with the office of the Secretary of State all information required by G.S. 90-649.

(b) A violation of this section constitutes an unfair trade practice under G.S. 75-1.1, and a court may impose a civil penalty against the defendant and shall be empowered to issue a restraining order to prevent further use of the title.

"**§ 90-648. Exemptions and limitations.**

(a) This Article does not apply to:

(1) A person who holds a license issued by a State board, commission, or other agency, is engaged in activities authorized by his or her license, and does not represent himself or herself as an Associate Safety Professional or Certified Safety Professional.

(2) A person who practices within the scope of safety, injury, or illness prevention and does not use the title 'Associate Safety Professional' or 'Certified Safety Professional', the initials 'ASP' or 'CSP', or otherwise represents himself or herself to the public as an Associate Safety Professional or Certified Safety Professional.

(3) A person who is licensed as an architect under Chapter 83A of the General Statutes or any person working under the supervision of a licensed architect.

(4) A person who is licensed as a professional engineer under Chapter 89C of the General Statutes or any person working under the supervision of a licensed professional engineer.

(b) Nothing in this Article shall permit the practice of engineering by persons who are not licensed under Chapter 89C of the General Statutes.

(c) Nothing in this Article shall permit the practice of architecture by persons not licensed under Chapter 83A of the General Statutes.

"**§ 90-649. Certification registry.**

The Board shall file with the Secretary of State the name, address, telephone number, and date of certification for all Associate Safety Professionals and Certified Safety Professionals. The Board shall remit a filing fee of thirty-five dollars ($35.00) to the Secretary of State with each certification filed. All fees paid to the Department shall be used to pay the costs incurred in administering and enforcing this Article. The Board may require this filing fee to be paid by the person whose certification is being filed. The Board shall promptly notify the Secretary of State when a person's certification is revoked or no longer in effect.

The Secretary of State shall maintain a registry of all current Associate Safety Professionals and Certified Safety Professionals as furnished by the Board."

Section 2. This act becomes effective January 1, 2000, and applies to acts committed on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 4

H. B. No. _____ DATE _____

S. B. No. 897 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) _____
Sen.)

1 moves to amend the bill on page 2, line 43

2 ( ) WHICH CHANGES THE TITLE

3 by deleting the phrase "January 1, 2000" and

4 substituting the phrase "January 1, 2001".

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 897*
Judiciary I Committee Substitute Adopted 6/29/99
Third Edition Engrossed 7/8/99
House Committee Substitute Favorable 6/21/00
Proposed Committee Substitute S897-PCS2858

Short Title: Safety Professionals. (Public)

Sponsors:

Referred to:

April 14, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE TITLE PROTECTION FOR THE SAFETY PROFESSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 37.
"Safety Profession.

"**§ 90-646. Definitions.**

The following definitions apply in this Article:

(1) Associate Safety Professional (ASP). -- A person who has met the education, experience, and examination requirements established by the Board of Certified Safety Professionals for an Associate Safety Professional.

(2) Board of Certified Safety Professionals (BCSP). -- A nonprofit corporation, incorporated in Illinois in 1969, established to improve the practice and educational standards of the profession of safety by certifying individuals who meet its education, experience, examination, and maintenance requirements.

(3) Certified Safety Professional (CSP). -- A person who has met the education, experience, and examination requirements established

by the Board of Certified Safety Professionals for a Certified Safety Professional.

"§ 90-647. Unlawful acts; injunctive relief; exclusion.

(a) No person shall represent himself or herself as a Certified Safety Professional or Associate Safety Professional unless that person is certified by the Board of Certified Safety Professionals and has duly authorized the Board to file with the office of the Secretary of State all information required by G.S. 90-649.

(b) A violation of this section constitutes an unfair trade practice under G.S. 75-1.1, and a court may impose a civil penalty against the defendant and shall be empowered to issue a restraining order to prevent further use of the title.

"§ 90-648. Exemptions and limitations.

(a) This Article does not apply to:

(1) A person who holds a license issued by a State board, commission, or other agency, is engaged in activities authorized by his or her license, and does not represent himself or herself as an Associate Safety Professional or Certified Safety Professional.

(2) A person who practices within the scope of safety, injury, or illness prevention and does not use the title 'Associate Safety Professional' or 'Certified Safety Professional', the initials 'ASP' or 'CSP', or otherwise represents himself or herself to the public as an Associate Safety Professional or Certified Safety Professional.

(3) A person who is licensed as an architect under Chapter 83A of the General Statutes or any person working under the supervision of a licensed architect.

(4) A person who is licensed as a professional engineer under Chapter 89C of the General Statutes or any person working under the supervision of a licensed professional engineer.

(b) Nothing in this Article shall permit the practice of engineering by persons who are not licensed under Chapter 89C of the General Statutes.

(c) Nothing in this Article shall permit the practice of architecture by persons not licensed under Chapter 83A of the General Statutes.

"§ 90-649. Certification registry.

The Board shall file with the Secretary of State the name, address, telephone number, and date of certification for all Associate Safety Professionals and Certified Safety Professionals. The Board shall remit a filing fee of thirty-five dollars ($35.00) to the Secretary of State with each certification filed. All fees paid to the Department shall be used to pay the costs incurred in administering and enforcing this Article. The Board may require this filing fee to be paid by the person whose certification is being filed. The Board shall promptly notify the Secretary of State when a person's certification is revoked or no longer in effect.

The Secretary of State shall maintain a registry of all current Associate Safety Professionals and Certified Safety Professionals as furnished by the Board."

Section 2. This act becomes effective January 1, 2001, and applies to acts committed on or after that date.

SENATE BILL 897:
Safety Professionals

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Dalton
Date:	June 27, 2000	**Summary by:**	Mary Shuping
Version:	4th edition		Research Assistant

SUMMARY: Senate Bill 897 would set up a State-sanctioned certification for safety professionals using the title "Certified Safety Professional" and "Associate Safety Professional". Specifically, safety professionals using those titles must be certified by the private Board of Certified Safety Professionals.

CURRENT LAW: Current law does not provide for the certification of safety professionals as defined in SB 897 nor does the law restrict the use of the title "Certified Safety Professional". SB 897 would make it unlawful for anyone to use the title "Certified Safety Professional" (CSP) or "Associate Safety Professional" (ASP) unless the person has met the requirements of the *private* Board of Certified Safety Professionals (Board).

BILL ANALYSIS: SB 897 adds a new Article entitled "Safety Profession" to Chapter 90 of the General Statues which governs medicine and allied occupations.

A *"safety professional"* is someone who applies the expertise gained from a study of safety science and professional safety experience to develop procedures and practices in order to reduce or control hazards that may harm people property or the environment. (Source: Board of Certified Safety Professionals. *Additional information on the safety profession and the Board is found on page 2.*)

Definitions (G.S. 90-646): Sets forth the definitions for "Associate Safety Professional," "Certified Safety Professional," and "Board of Certified Safety Professionals". An Associate or Certified Safety Professional is defined as a person who has met the education, experience, and examination requirements established by the Board.

Sanctions (G.S. 90-647): This section makes it an unfair trade practice for persons to represent themselves as Certified or Associate Safety Professionals unless they are certified by the Board. The court may impose a civil penalty and/or issue a restraining order against a person who has not been certified by the Board in order to prevent further use of either of the titles.

Exemptions (G.S. 90-648): The following persons are exempt from the Article:

- Persons who are licensed as other professionals and engaged in the practice of that profession and do not hold themselves out to be "Associate Safety Professionals" or "Certified Safety Professionals".
- Persons who practice within the scope of safety, injury, or illness prevention and do not use the title "Certified" or "Associate" Safety Professional.
- Licensed architects and persons working under licensed architects.
- Licensed professional engineers and persons working under licensed professional engineers.

This section also makes it clear that the Article does not permit the practice of engineering or architecture except by persons licensed to do so.

Registration/Fee (G.S. 90-649): This section requires the Board to file with the Secretary of State's office the name, address, telephone number, and date of certification for all ASP's and CSP's. The Board is also required to remit a **$35.00 fee** to the Secretary of State for the cost of administering and enforcing the law and may require this filing fee to be paid by the person whose certification is being filed. The Board is also required to notify the Secretary of State when a person's certification is revoked or no longer in effect.

Bill Gilkeson, Staff Attorney, Research Division, contributed to this summary.

INFORMATION SHEET ON SAFETY PROFESSIONALS*

Prepared for the House Finance Committee

June 27, 2000

A ***"safety professional"*** is someone who applies the expertise gained from the study of safety science and from professional safety experience to create or develop procedures, processes, standards, specifications, and systems to achieve a control of or reduction in hazards or exposures which may harm people, property, or the environment.

Employment of Safety Professionals: Safety professionals are employed in:

- Manufacturing (30%)
- Petro-chemical industry (14%)
- Construction (3%)
- Utilities (3%)
- Insurance (27%)
- Colleges and Universities (3%)
- Government (8%)
- Transportation (2%)

Board of Certified Safety Professionals: The Board of Certified Safety Professionals is a nonprofit organization which was organized as a peer certification board in 1969 with the purpose of certifying practitioners in the safety profession. The Board is comprised of a 13-member Board of Directors representing both the safety profession and the general public. The Board's mission is to establish the educational, experience, and examination criteria for safety practitioners who are responsible for the protection of life, property, and the environment. Specifically, the Board:

- Evaluates the academic and professional experience of safety professionals.
- Administers examinations.
- Certifies professionals who meet the Board's criteria and pass its examinations.

Certified & Associate Safety Professionals: Certified safety professionals (CSP's) are safety professionals who have met and continue to meet all requirements established by the Board and are authorized to use the title *Certified Safety Professional*. To become a CSP, a safety professional must:

- Hold either an Associate degree in safety or a Bachelor's degree in any field from an accredited academic institution: or an acceptable combination of education and experience.
- Have at least 4 years of professional safety practice.
- Pass the Board's 2-part examination: Safety Fundamentals, & Comprehensive Practice.
- Pay all applicable fees.

To retain the CSP designation, a person must:

- Pay the annual renewal fee.
- Meet continuing certification requirements.

The Associate Safety Professional (ASP) is an interim designation denoting progress towards the CSP designation. In order to be an ASP, the person must:

- Meet the academic requirements above.
- Pass the Safety Fundamental portion of the exam.
- Pay all applicable fees.

Certified Safety Professionals in NC: As of 1999, there were 275 certified safety professionals in North Carolina.

---

* Source: Website of the *Board of Certified Safety Professionals*, www.bcsp.org.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 897, 4th Edition of the Bill **DRAFT**

SHORT TITLE: Safety Professionals

SPONSOR(S): Sen. Walter Dalton

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
REVENUES					
Secretary of State	**$9,625**	**$1,330**	**$1,330**	**$1,330**	**$1,330**
EXPENDITURES					
Secretary of State	***See Assumptions and Methodology ***				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Secretary of State.

EFFECTIVE DATE: January 1, 2000 and applies to offenses committed on or after that date.

BILL SUMMARY: The bill creates a new "safety profession" and provides that only those individuals who are certified as either a Certified Safety Professional or an Associate Safety Professional may present themselves as safety professionals in North Carolina. The national, private Board of Certified Safety Professionals must certify these individuals. These individuals must also authorize the national Board to file the appropriate information with the Secretary of State before they can use the safety professional titles. The bill defines the terms "Associate Safety Professional", "Board of Certified Safety Professionals", and "Certified Safety Professional". Under the bill, representing that someone is a safety professional without having the appropriate certification will be considered an unfair trade practice.

The bill exempts from these requirement persons who are licensed in another field, are engaged in the practice of that profession, and do not represent themselves as an Associate Safety Professional or a Certified Safety Professional. Persons who practice in the field of safety, injury or illness prevention and who do not use the titles Associate Safety Professional, Certified Safety Professional, ASP, CSP, or otherwise represent themselves as safety professionals are exempt. Licensed professional engineers, licensed architects, and those under the supervision of these professionals are also exempt. Finally, the bill requires the Board to file with the Secretary of State the name, address, telephone number and date of certification of all certified and associate safety professionals. This listing must be accompanied by $35.00 for each certification. Finally

the bill clarifies that nothing in this Article shall permit the practice of engineering or architecture by persons not licensed under G.S. 83A or G.S. 89C.

ASSUMPTIONS AND METHODOLOGY: The only potential revenue impact of the bill relates to the fee. The Board of Certified Safety Professionals indicates that there were 275 certified safety professionals practicing in North Carolina. The potential revenue is $9,625 (275 certifications * $35 each) for the first fiscal year.

Fiscal Research expects that the revenue generated will decrease significantly in the out years. The Board indicates that they would be able to provide an updated list of professionals via computer disc or e-mail on whatever timetable the Secretary of State and the law deems appropriate. The Board reports that the number of certified professionals in North Carolina has increased from 200 in 1997 to 275 in 1999. Assuming the approximately 38 new professionals are added each year, the potential revenue stream from changes only would be approximately $1,330.

Previously the Secretary of State's Office indicated that they expect some consumer inquiries about the certification registry. They anticipated that the additional workload could be handled by the addition of one part time temporary person (Pay grade 59), to manage the registry data and the consumer inquires. Therefore, the potential cost to the Secretary of State is approximately $9,000 - $10,000 to implement the bill. Because of the uncertainty about the number of consumer inquiries about the certification registry, the Fiscal Research staff believes the initial request for a part-time temporary person a reasonable one. Please note, however, that a year's experience with the bill should reveal what impact, if any, that this bill has on the Department' workload and staffing needs.

Any remaining revenue from this bill, less expenses, will revert to the General Fund.

NOTE: Neither the revenue nor expenditures associated with this bill have been included in the state budget.

TECHNICAL CONSIDERATIONS: As mentioned previously, the bill is unclear about how often the listing will be updated once the initial database is installed. Additional language may be needed to clarify this issue.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps and Marilyn Chism

APPROVED BY:

DATE: June 26, 2000

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

House

☒ Committee Substitute for
S.B. 1152 A BILL TO BE ENTITLED AN ACT AUTHORIZING CITIES WITH A POPULATION OF MORE THAN TWO HUNDRED THOUSAND, THE CITIES OF WINSTON-SALEM, STATESVILLE, HIGH POINT, THOMASVILLE, MOORESVILLE, HAMLET, LEXINGTON, AND TROUTMAN TO DEMOLISH AND REMOVE CERTAIN NONRESIDENTIAL BUILDINGS AND STRUCTURES TO ENHANCE ECONOMIC DEVELOPMENT EFFORTS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (# 2), ☒ which changes the title, unfavorable as to ~~Senate~~ House committee substitute bill.#1

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 4

SENATE BILL 1152
Finance Committee Substitute Adopted 4/28/99
Third Edition Engrossed 4/29/99
House Committee Substitute Favorable 6/21/00

Short Title: Nonresidential Abandoned Structures. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT AUTHORIZING CITIES WITH A POPULATION OF MORE THAN TWO HUNDRED THOUSAND, THE CITIES OF WINSTON-SALEM, STATESVILLE, HIGH POINT, THOMASVILLE, MOORESVILLE, HAMLET, LEXINGTON, AND TROUTMAN TO DEMOLISH AND REMOVE CERTAIN NONRESIDENTIAL BUILDINGS AND STRUCTURES TO ENHANCE ECONOMIC DEVELOPMENT EFFORTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-426 reads as rewritten:

"**§ 160A-426. Unsafe buildings condemned.**

(a) Residential Building. -- Every building which shall appear to the inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes, shall be held to be unsafe, and the inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of said building.

(b) Nonresidential Building or Structure. -- An inspector in a city whose population exceeds 200,000, according to the most recent annual population statistics certified by the State Planning Officer, shall declare a nonresidential building or structure within a community development target area to be unsafe if it meets both of the following conditions:

(1) It appears to the inspector to be vacant or abandoned.
(2) It appears to the inspector to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, fire or safety hazard, to be a danger to children, or to tend to attract persons intent on criminal activities or other activities which would constitute a public nuisance.

If an inspector declares a nonresidential building or structure to be unsafe, the inspector must affix a notice of the unsafe character of the structure to a conspicuous place on the exterior wall of the building. For the purposes of this subsection, the term 'community development target area' means an area that has characteristics of a development zone under G.S. 105-129.3A, a 'nonresidential development area' under G.S. 160A-503(10), or an area with similar characteristics designated by the city council as being in special need of revitalization for the benefit and welfare of its citizens."

Section 2. G.S. 160A-428 reads as rewritten:

"**§ 160A-428. Action in event of failure to take corrective action.**

If the owner of a building or structure that has been condemned as unsafe pursuant to G.S. 160A-426 shall fail to take prompt corrective action, the local inspector shall give him written notice, by certified or registered mail to his last known address or by personal service,

(1) That the building or structure is in a condition that appears to ~~constitute a fire or safety hazard or to be dangerous to life, health, or other property;~~ meet one or more of the following conditions:
   a. Constitutes a fire or safety hazard.
   b. Is dangerous to life, health, or other property.
   c. Is likely to cause or contribute to blight, disease, vagrancy, or danger to children.
   d. Has a tendency to attract persons intent on criminal activities or other activities which would constitute a public nuisance.
(2) That a hearing will be held before the inspector at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
(3) That following the hearing, the inspector may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate.

If the name or whereabouts of the owner cannot after due diligence be discovered, the notice shall be considered properly and adequately served if a copy thereof is posted on the outside of the building or structure in question at least 10 days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the city at least once not later than one week prior to the hearing."

Section 3. G.S. 160A-432 reads as rewritten:

"§ 160A-432. ~~Equitable enforcement.~~ Civil and equitable enforcement.

(a) Civil Enforcement. -- Whenever any violation is denominated a misdemeanor under the provisions of this Part, the city, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved.

(b) Equitable Enforcement. -- In the case of a nonresidential building or structure declared unsafe under G.S. 160A-426(b), a city may, in lieu of taking action under subsection (a), cause the building or structure to be removed or demolished. The amounts incurred by the city in connection with the removal or demolition shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as liens for special assessments provided in Article 10 of this Chapter. If the building or structure is removed or demolished by the city, the city shall sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The city shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the clerk of superior court of the county where the property is located and shall be disbursed by the court to the person found to be entitled thereto by final order or decree of the court.

(c) Nothing in this section shall be construed to impair or limit the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise."

Section 4. Notwithstanding G.S. 160A-426, as enacted in Section 1 of this act, the provisions of this act apply to the cities of Winston-Salem, Statesville, High Point, Thomasville, Mooresville, Hamlet, Lexington, and Troutman.

Section 5. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 4

SENATE BILL 1152
Finance Committee Substitute Adopted 4/28/99
Third Edition Engrossed 4/29/99
House Committee Substitute Favorable 6/21/00
PROPOSED HOUSE FINANCE COMMITTEE SUBSTITUTE
S1152-CSRB-6.26B

Short Title: Nonresidential Abandoned Structures. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT AUTHORIZING CITIES TO DEMOLISH AND REMOVE CERTAIN NONRESIDENTIAL BUILDINGS AND STRUCTURES TO ENHANCE ECONOMIC DEVELOPMENT EFFORTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-426 reads as rewritten:

"**§ 160A-426. Unsafe buildings condemned.**

(a) Residential Building. -- Every building which shall appear to the inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes, shall be held to be unsafe, and the inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of said building.

(b) Nonresidential Building or Structure. -- An inspector may declare a nonresidential building or structure within a community development target area to be unsafe if it meets both of the following conditions:

(1) It appears to the inspector to be vacant or abandoned.

(2) It appears to the inspector to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, fire or safety hazard, to be a danger to children, or to tend to attract persons intent on criminal activities or other activities which would constitute a public nuisance.

If an inspector declares a nonresidential building or structure to be unsafe, the inspector must affix a notice of the unsafe character of the structure to a conspicuous place on the exterior wall of the building. For the purposes of this subsection, the term 'community development target area' means an area that has characteristics of a development zone under G.S. 105-129.3A, a 'nonresidential development area' under G.S. 160A-503(10), or an area with similar characteristics designated by the city council as being in special need of revitalization for the benefit and welfare of its citizens."

Section 2. G.S. 160A-428 reads as rewritten:

"**§ 160A-428. Action in event of failure to take corrective action.**

If the owner of a building or structure that has been condemned as unsafe pursuant to G.S. 160A-426 shall fail to take prompt corrective action, the local inspector shall give him written notice, by certified or registered mail to his last known address or by personal service,

(1) That the building or structure is in a condition that appears to ~~constitute a fire or safety hazard or to be dangerous to life, health, or other property;~~ meet one or more of the following conditions:

a. Constitutes a fire or safety hazard.

b. Is dangerous to life, health, or other property.

c. Is likely to cause or contribute to blight, disease, vagrancy, or danger to children.

d. Has a tendency to attract persons intent on criminal activities or other activities which would constitute a public nuisance.

(2) That a hearing will be held before the inspector at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by

counsel and to present arguments and evidence pertaining to the matter; and

(3) That following the hearing, the inspector may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate.

If the name or whereabouts of the owner cannot after due diligence be discovered, the notice shall be considered properly and adequately served if a copy thereof is posted on the outside of the building or structure in question at least 10 days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the city at least once not later than one week prior to the hearing."

Section 3. G.S. 160A-432 reads as rewritten:

"**§ 160A-432. ~~Equitable enforcement.~~ Civil and equitable enforcement.**

(a) Civil Enforcement. -- Whenever any violation is denominated a misdemeanor under the provisions of this Part, the city, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved.

(b) Equitable Enforcement. -- In the case of a nonresidential building or structure declared unsafe under G.S. 160A-426(b), a city may, in lieu of taking action under subsection (a), cause the building or structure to be removed or demolished. The amounts incurred by the city in connection with the removal or demolition shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as liens for special assessments provided in Article 10 of this Chapter. If the building or structure is removed or demolished by the city, the city shall sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The city shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the clerk of superior court of the county where the property is located and shall be disbursed by the court to the person found to be entitled thereto by final order or decree of the court.

(c) Nothing in this section shall be construed to impair or limit the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise."

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1152
Finance Committee Substitute Adopted 4/28/99
Third Edition Engrossed 4/29/99
House Committee Substitute Favorable 6/21/00
Proposed House Committee Substitute S1152-PCS2857-RB-6.26B

Short Title: Nonresidential Abandoned Structures. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT AUTHORIZING CITIES TO DEMOLISH AND REMOVE CERTAIN NONRESIDENTIAL BUILDINGS AND STRUCTURES TO ENHANCE ECONOMIC DEVELOPMENT EFFORTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-426 reads as rewritten:

"**§ 160A-426. Unsafe buildings condemned.**

(a) Residential Building. -- Every building which shall appear to the inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes, shall be held to be unsafe, and the inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of said building.

(b) Nonresidential Building or Structure. -- An inspector may declare a nonresidential building or structure within a community development target area to be unsafe if it meets both of the following conditions:

(1) It appears to the inspector to be vacant or abandoned.

(2) It appears to the inspector to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, fire or safety hazard, to be a danger to children, or to tend to attract persons

intent on criminal activities or other activities which would constitute a public nuisance.

If an inspector declares a nonresidential building or structure to be unsafe, the inspector must affix a notice of the unsafe character of the structure to a conspicuous place on the exterior wall of the building. For the purposes of this subsection, the term 'community development target area' means an area that has characteristics of a development zone under G.S. 105-129.3A, a 'nonresidential development area' under G.S. 160A-503(10), or an area with similar characteristics designated by the city council as being in special need of revitalization for the benefit and welfare of its citizens."

Section 2. G.S. 160A-428 reads as rewritten:

"**§ 160A-428. Action in event of failure to take corrective action.**

If the owner of a building or structure that has been condemned as unsafe pursuant to G.S. 160A-426 shall fail to take prompt corrective action, the local inspector shall give him written notice, by certified or registered mail to his last known address or by personal service,

(1) That the building or structure is in a condition that appears to ~~constitute a fire or safety hazard or to be dangerous to life, health, or other property;~~ meet one or more of the following conditions:

a. Constitutes a fire or safety hazard.

b. Is dangerous to life, health, or other property.

c. Is likely to cause or contribute to blight, disease, vagrancy, or danger to children.

d. Has a tendency to attract persons intent on criminal activities or other activities which would constitute a public nuisance.

(2) That a hearing will be held before the inspector at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(3) That following the hearing, the inspector may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate.

If the name or whereabouts of the owner cannot after due diligence be discovered, the notice shall be considered properly and adequately served if a copy thereof is posted on the outside of the building or structure in question at least 10 days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the city at least once not later than one week prior to the hearing."

Section 3. G.S. 160A-432 reads as rewritten:

"**§ 160A-432. ~~Equitable enforcement.~~ Civil and equitable enforcement.**

(a) Civil Enforcement. -- Whenever any violation is denominated a misdemeanor under the provisions of this Part, the city, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain,

correct, or abate the violation or to prevent the occupancy of the building or structure involved.

(b) Equitable Enforcement. -- In the case of a nonresidential building or structure declared unsafe under G.S. 160A-426(b), a city may, in lieu of taking action under subsection (a), cause the building or structure to be removed or demolished. The amounts incurred by the city in connection with the removal or demolition shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as liens for special assessments provided in Article 10 of this Chapter. If the building or structure is removed or demolished by the city, the city shall sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The city shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the clerk of superior court of the county where the property is located and shall be disbursed by the court to the person found to be entitled thereto by final order or decree of the court.

(c) Nothing in this section shall be construed to impair or limit the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise."

Section 4. This act is effective when it becomes law.

SENATE BILL 1152:
Nonresidential Abandoned Structures

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Clodfelter
Date:	June 27, 2000	**Summary by:**	Cindy Avrette
Version:	PCS for 4th Edition		Committee Counsel

SUMMARY: ***Senate Bill 1152 authorizes cities with a population of more than 200,000 to demolish and remove certain nonresidential buildings to enhance economic development efforts. It also gives this same authority to the following specified cities: Winston-Salem, Statesville, High Point, Thomasville, Mooresville, Hamlet, Lexington, and Troutman.***

PROPOSED COMMITTEE SUBSTITUTE: The *section granting the authority to specified cities is unconstitutional because the NC Constitution prohibits local acts relating to health, sanitation and the abatement of nuisances. {Article II, Sec. 24(1)(a)} The proposed committee substitute removes this section from the bill and grants the authority to all cities.*

CURRENT LAW: An inspector must declare a building to be unsafe if the building appears to be especially dangerous to life because of its liability to fire or because of the bad condition of its walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other similar causes. If the owner fails to correct the unsafe condition, the city may hold a hearing and thereafter issue an order requiring the owner to repair, close, vacate, or demolish the building. If the owner fails to comply with the order, the owner is guilty of a Class 1 misdemeanor and the city may initiate the appropriate action to abate the violation or to prevent the occupancy of the building.

BILL ANALYSIS: Section 1 of the bill would require an inspector to declare a nonresidential building located in a community development target area to be unsafe if it meets both of the following conditions:

- It is vacant or abandoned.
- It is so dilapidated as to cause blight, disease, vagrancy, fire or safety hazard, to be a danger to children, to attract criminals, or to otherwise constitute a public nuisance.

A "community development target area" is defined as an area that meets at least one of the following conditions:

1. Has characteristics of a development zone under G.S. 105-129.3A. A development zone is an area located in a city with a population of at least 5,000 and the area has a population of at least 1,000, no less than 20 % of which is below the poverty level.
2. Has characteristics of a nonresidential development area as defined in the Urban Redevelopment Law, Article 22 of Chapter 160A.
3. Is designated by the city council as being in need of revitalization for the benefit of its citizens.

Section 2 would make a conforming change.

If the owner of the unsafe nonresidential building fails to comply with an order to take corrective action concerning the building, Section 3 would allow the city to remove or demolish the building. The cost of demolition would become a lien against the property.

Karen Cochrane-Brown, with the Research Division, contributed to this summary.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

☐ Committee Substitute for
S.B. 1293 A BILL TO BE ENTITLED AN ACT TO MODIFY THE TAX LIMIT FOR THE TOWN OF BADIN.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1293

Short Title: Town of Badin/Tax Rate. (Local)

Sponsors: Senators Purcell and Plyler.

Referred to: Finance.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE TAX LIMIT FOR THE TOWN OF BADIN.

The General Assembly of North Carolina enacts:

Section 1. Section 5.3 of the Charter of the Town of Badin, being Chapter 894, Session Laws of 1989, as rewritten by Section 1 of Chapter 827, Session Laws of 1991, reads as rewritten:

"Sec. 5.3. ~~The Town Council may set an ad valorem tax rate in excess of $.25 per $100 valuation only if the rate meets both of the following conditions:~~

~~(1) The percentage increase in the rate from the previous year's rate does not exceed the percentage increase in the Implicit GNP Price Deflator over the preceding year.~~

~~(2) The increase in the rate does not exceed ten percent (10%) of the rate that applied in the next preceding year.~~

The ad valorem tax rate set by the Town Council shall not exceed the previous year's rate by more than ten percent (10%)."

Section 2. This act is effective when it becomes law.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

☐ Committee Substitute for
S.B. 1318 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT AN ENTERPRISE TIER TWO AREA MAY NOT BE REDESIGNATED AS A HIGHER-NUMBERED TIER AREA UNTIL IT HAS BEEN AN ENTERPRISE TIER TWO AREA FOR TWO CONSECUTIVE YEARS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1318

Short Title: Amend Bill Lee Act Tier Designations. (Public)

Sponsors: Senators Dalton; Carpenter, Hartsell, Hoyle, Robinson, and Weinstein.

Referred to: Finance.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT AN ENTERPRISE TIER TWO AREA MAY NOT BE REDESIGNATED AS A HIGHER-NUMBERED TIER AREA UNTIL IT HAS BEEN AN ENTERPRISE TIER TWO AREA FOR TWO CONSECUTIVE YEARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-129.3(c) reads as rewritten:

"(c) Exception for Enterprise Tier One and Two Areas. -- Notwithstanding the provisions of this section, a county designated as an enterprise tier one area or an enterprise tier two area may not be redesignated as a higher-numbered enterprise tier area until it has been ~~an~~ in its enterprise tier ~~one~~ area for at least two consecutive years."

Section 2. This act is effective when it becomes law and, notwithstanding G.S. 105-129.3(b), applies retroactively to designations for the 2000 and later calendar years.

SENATE BILL 1318:
Amend Bill Lee Act Tier Designations

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Dalton
Date:	July 27, 2000	**Summary by:**	Martha K. Walston
Version:	First Edition		Committee Counsel

SUMMARY: ***Senate Bill 1318 provides that an enterprise tier two area may not be redesignated as a higher-numbered tier area until it has been an enterprise tier two area for at least two consecutive years. The act applies retroactively to tier designations for the 2000 and later calendar years.***

CURRENT LAW: Under the Bill Lee Act, all counties are divided into five enterprise tiers, ranked by economic distress as measured by a formula that combines unemployment, per capital income, and population growth. Those counties in lower-numbered tiers receive more favorable incentives than those in higher tiers. For example, enterprise tier one and two counties are the counties considered most in need of economic development based on high unemployment, low per capita income, and low population growth. During the 1999 Session, the Bill Lee Act was amended to provide the following three incentives for development in enterprise tier one and two counties:

- Extended Bill Lee Act credits to electronic mail order houses that create at least 250 jobs in tiers one and two.
- Extended Bill Lee Act credits to customer service centers in tiers one and two.
- Allowed annual refund of 6% sales taxes paid on capitalized machinery and equipment sold to businesses eligible for Bill Lee Act credits and located in tiers one and two.

In 1999, the General Assembly also allowed certain counties to qualify for a lower enterprise tier designation, effective January 1, 2000. The rules for assigning enterprise tier designations were changed to provide that the tier number that would otherwise be assigned by the formula is reduced by one for counties that have a population of less than 50,000 and also have more than 18% of their residents below the federal poverty level. Under this change, Alleghany, Ashe, Beaufort, Cherokee, Perquimans, Scotland, Vance, and Yancey Counties moved from tier two to tier one. Bladen, Hoke, Jones, Madison, Pamlico, and Pasquotank Counties moved from tier three to tier two. The change also provided that a county that has a population of less than 25,000 cannot be designated higher than tier three. Finally the 1999 changes provided that a county is designated as tier one if it has a population of less than 10,000 and also has more than 16% of its residents below the federal poverty level. Under this change, Camden, Clay, and Jones qualified as tier one counties.

BILL ANALYSIS: In 1997, the General Assembly amended the Bill Lee Act to guarantee that a county that obtained a tier one status could not lose that status for two years regardless of what the annual rankings would otherwise require. Senate Bill 1318 extends this guarantee to a county designated as a tier two area, so that a tier two area may not be redesignated as a higher-numbered tier area until it has been a tier two area for two consecutive years.

NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 1318

SHORT TITLE: Amend Bill Lee Act Tier Designations

SPONSORS: Sen. Dalton; et.al.

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
REVENUES					
State General Fund	-	**-111,000**	**-233,000**	**-344,500**	**-456,000**

PRINCIPAL DEPARTMENTS AFFECTED: The tax credits are administered by the Department of Revenue. The Department of Commerce manages the credit application and verification process. The enactment of the bill will not affect the budget requirements of either department.

EFFECTIVE DATE: Applies to tier designations for the 2000 and later tax years.

ISSUE BACKGROUND: The Bill Lee Act is the package of state tax incentives that was first created in 1996 and has been modified in each subsequent year. Examples include a targeted investment tax credit for machinery and equipment, a jobs credit, a research and development credit, and a worker training tax credit. For many of the credits the counties of the State are divided into five economic distress tiers based on the unemployment rate, per capita income, and population growth. In general, **the lower the tier of a county, the more favorable the incentive.**

BILL SUMMARY: The 1997 General Assembly modified the tier determination language to guarantee that a Tier 1 county must remain a Tier 1 county for a minimum of two years. **SB 1318 specifies that a Tier 2 county must remain a Tier 2 county for at least 2 years before moving to a higher tier (with less favorable incentives).**

ASSUMPTIONS AND METHODOLOGY: A review of the 1999 and 2000 tier listings indicates that for 2000 only one county (Rutherford) would be affected by the legislation. Since

the tier determination process each year uses the most recent available data for each of the three factors, it is impossible to know in advance how many counties will be affected in future years.

The first impact of the bill would be the investment tax credit. The calculation of this impact started with the industrial recruitment "announcements" data by county from the Department of Commerce for 1993-98. For each announcement, it was assumed that 70% of the investment would be in machinery and equipment. This assumption is based on discussions with the Department of Commerce about their experience and a review of U.S. Department of Commerce detailed data on business investment. The effect of the bill is to raise the minimum investment threshold for eligible investments from $100,000 to $200,000. The change eliminates a handful of investments and reduces the investment base for credit calculation purposes by $100,000 for the other investments.

The next step was to divide the 7% tax credit impact using Rutherford County data over the 7-year period as required under the Bill Lee Act. The impact of the bill on the investment tax credit is relatively minor because most investments exceed the threshold amounts by a substantial margin. Thus, the $100,000 increment is not a major factor.

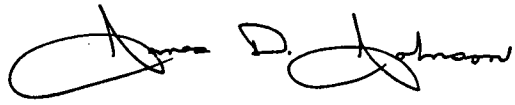
The other impact has to do with the jobs credit. For this estimate the industrial recruitment announcement data on jobs created was used. The data indicated an average of 420 new jobs per year in Rutherford County during the test period. The impact of the bill on the jobs credit is to restore the $1,000 credit advantage of Tier 2 counties over Tier 3 ($4,000 credit per job versus $3,000). The credit change was then divided over a 4-year period as the Bill Lee Act requires.

The provisions have no impact on the 2000-01 fiscal year because the two credits are taken in the year after the investment and job creation activity take place.

FISCAL RESEARCH DIVISION 733-4910

PREPARED BY: David Crotts

APPROVED BY: James D. Johnson



DATE: June 13, 2000

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

☒ Committee Substitute for
S.B. 1381 A BILL TO BE ENTITLED AN ACT TO REALLOCATE THE PROCEEDS OF THE CLEAN WATER BONDS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 3

SENATE BILL 1381
Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/13/00
Third Edition Engrossed 6/19/00

Short Title: Reallocate Water Bond Funds. (Public)

Sponsors:

Referred to:

May 23, 2000

A BILL TO BE ENTITLED

AN ACT TO REALLOCATE THE PROCEEDS OF THE CLEAN WATER BONDS.

The General Assembly of North Carolina enacts:

Section 1. Withdrawal of Loan Funds. -- Pursuant to Section 5.1(i) of S.L. 1998-132, the following amounts of the Clean Water Bond proceeds allocated for loans in Section 5.1(h) of S.L. 1998-132 are withdrawn from allocation under Section 5.1(h) of S.L. 1998-132 and reallocated as provided in Section 2 of this act:

(1) Water supply and distribution systems and water conservation projects:

a. Reserved for loans to local government units whose bond rating is less than 75 or who have no bond rating ..... $ 3,500,000

b. Reserved for loans to local government units whose bond rating is 75 or more ..... $ 90,600,000.

(2) Wastewater collection systems and wastewater treatment works:

a. Reserved for loans to local government units whose bond rating is less than 75 or who have no bond rating ..... $ 7,100,000

b. Reserved for loans to local government units whose bond rating is 75 or more ..... $ 98,800,000

Total Withdrawn for Reallocation ..... $200,000,000.

Section 2.(a) Reallocation for High-Unit Cost Grants. -- Of the funds withdrawn pursuant to Section 1 of this act from allocation under Section 5.1(h) of S.L. 1998-132, the sum of one hundred forty-six million dollars ($146,000,000) shall be used by the Department of Environment and Natural Resources to provide grants to local government units for the same purpose and in accordance with Section 5.1(c) of S.L. 1998-132 and shall be allocated for this purpose as follows:

(1) High-Unit Cost Wastewater Account:

a. Reserved for grants to local government units whose bond rating is less than 75 or who have no bond rating ..... $ 37,960,000

b. Reserved for grants to local government units whose bond rating is 75 or greater ..... $ 35,040,000.

(2) High-Unit Cost Water Supply Account:

a. Reserved for grants to local government units whose bond rating is less than 75 or who have no bond rating ..... $ 37,960,000

b. Reserved for grants to local government units whose bond rating is 75 or greater ..... $ 35,040,000

Total Reallocated for Grants Under Section 5.1(c) ..... $146,000,000.

Section 2.(b) Reallocation for Unsewered Community Grants. -- Of the funds withdrawn pursuant to Section 1 of this act from allocation under Section 5.1(h) of S.L. 1998-132, the sum of twenty-five million nine hundred twenty thousand dollars ($25,920,000) is reallocated to be used to provide unsewered community grants to eligible local government units to assist with wastewater treatment works and wastewater collection systems for the same purpose and in accordance with Section 5.1(g) of S.L. 1998-132. Grants from amounts reallocated shall be awarded and administered by the Rural Economic Development Center in accordance with Section 5.1(g) of S.L. 1998-132. The funds reallocated under this section shall be awarded on the criteria set out in Section 5.1(g) of S.L. 1998-132.

Section 2.(c) Reallocation for Supplemental and Capacity Grants. -- Of the funds withdrawn pursuant to Section 1 of this act from allocation under Section 5.1(h) of S.L. 1998-132, the sum of twenty-eight million eighty thousand dollars ($28,080,000) is reallocated to be used to provide supplemental and capacity grants to eligible local government units to match federal, State, and other grant or loan program funds to plan or improve needed water and sewer projects. Grants from

amounts reallocated shall be awarded and administered by the Rural Economic Development Center in accordance with Section 5.1(f) of S.L. 1998-132 and this section. The proceeds reallocated under this section shall be allocated between supplemental grants and capacity grants as follows:

(1) Supplemental Grants.....$22,460,000
(2) Capacity Grants.....$ 5,620,000

The funds reallocated under this section shall be awarded on the criteria set out in Section 5.1(f) of S.L. 1998-132.

Notwithstanding the provisions of Section 5.1(f) of S.L. 1998-132, a maximum of twelve million dollars ($12,000,000) of supplemental grant funds and a maximum of three million dollars ($3,000,000) of capacity grant funds may be certified by the Rural Economic Development Center to the State Treasurer each fiscal year through June 30, 2005, and the State Treasurer may issue the amount certified up to fifteen million dollars ($15,000,000) each fiscal year through June 30, 2005. Upon certification for the fiscal year ending June 30, 2005, the State Treasurer may issue the remaining balance of the funds allocated under Section 5.1(f) of S.L. 1998-132 and under this section for any purpose authorized under Section 5.1(f) of S.L. 1998-132.

Section 3. G.S. 159G-6(a) reads as rewritten:

"(a) Revolving loans and grants.

(1) All funds appropriated or accruing to the Clean Water Revolving Loan and Grant Fund, other than funds set aside for administrative expenses, shall be used for revolving loans and grants to applicants for construction costs of wastewater treatment works, wastewater collection systems and water supply systems and other assistance as provided in this Chapter.

(2) The maximum principal amount of a revolving loan or a grant may be one hundred percent (100%) of the nonfederal share of the construction costs of any eligible project. The maximum principal amount of revolving loans made to any one applicant during any fiscal year shall be eight million dollars ($8,000,000).

(2a) The maximum principal amount of grants made to any applicant ~~during any fiscal year~~ over a period of three fiscal years shall be three million dollars ($3,000,000). The Department of Environment and Natural Resources may limit the maximum principal amount of the grant to two million dollars ($2,000,000) or two-thirds of the eligible project cost, whichever is less, when the bond rating of the local government unit equals or is greater than 75 during any fiscal year and when one million dollars ($1,000,000) or one-third of the eligible project cost, whichever is less, is available to the local government unit as a loan from any source.

(3) The State Treasurer shall be responsible for investing and distributing all funds appropriated or accruing to the Clean Water Revolving Loan and Grant Fund for revolving loans and grants

under this Chapter. In fulfilling his responsibilities under this section, the State Treasurer shall make a written request to the Department of Environment and Natural Resources to arrange for the appropriated funds to be (i) transferred from the appropriate accounts to an applicant to provide funds for one or more revolving loans or grants or (ii) invested as authorized by this Chapter with the interest on and the principal of such investments to be transferred to the applicant to provide funds for one or more revolving loans or grants."

Section 4. Sections 1, 2, and 4 of this act become effective July 1, 2000. Section 3 of this act is effective retroactively to July 1, 1999, and applies to grants made on or after the date this act becomes law.

SENATE BILL 1381:
Reallocate Water Bond Funds

BILL ANALYSIS

Committee: House Finance
Date: June 27, 2000
Version: 3rd edition

Introduced by: Senator Kerr
Summary by: Mary Shuping
Research Assistant

SUMMARY: ***SL 1998-132 authorized the issuance of $800 million in Clean Water Bonds, which was subsequently approved by the State's voters. Senate Bill 1381, 3rd edition, would reallocate $200 million in Clean Water Bonds proceeds from a program that makes loans to local governments for water and wastewater system upgrades to related grant programs. The bill would also raise annual caps on awards of Supplemental and Capacity Grants administered by the Rural Economic Development Center and further limit the amount of grant funding an applicant could receive from the Clean Water Revolving Loan and Grant Fund.***

BILL ANALYSIS:

WITHDRAWAL OF BOND PROCEEDS:

Section 1 provides for the following withdrawals and reallocations of bond proceeds:

Water Supply and Distribution Systems	
Reserved for local governments w/ bond rating of <75, or who have no bond rating.	$3,500,000
Reserved for loans to local governments w/ bond rating of 75 or more	$90,600,000
Wastewater Collection Systems and Wastewater Treatment Works	
Reserved for local governments w/ bond rating of <75, or who have no bond rating.	$7,100,000
Reserved for loans to local governments w/ bond rating of 75 or more	$98,800,000
TOTAL WITHDRAWN FOR REALLOCATION	**$200,000,000**

Effective Date: July 1, 2000.

REALLOCATION OF BOND PROCEEDS:

High-Unit Cost Grants ***(Sec. 2(a))***:

- Purpose: To provide grants to fund high-unit cost wastewater and water system projects, in accordance with the Clean Water Revolving Loan and Grant Program. A project that would require estimated household water and sewer user fees greater than 1.5% of the median household income is a high-unit cost project.
- Administering Agency: Department of Environment and Natural Resources (DENR)

➢ Allocation of Grants:

High Unit Cost Wastewater Account	
Reserved for local governments w/ bond rating of <75, or who have no bond rating.	$37,960,000
Reserved for loans to local governments w/ bond rating of 75 or more	$35,040,000
High Unit Cost Water Supply Account	
Reserved for local governments w/ bond rating of <75, or who have no bond rating.	$37,960,000
Reserved for loans to local governments w/ bond rating of 75 or more	$35,040,000
Total Reallocated for High Unit Cost Grants	**$146,000,000**

Unsewered Community Grants (Sec. 2(b)):

➢ Purpose: Unsewered Community Grants are provided to units of local government serving small, rural communities not served by centralized sewer systems for wastewater collection systems and treatment projects.
➢ Administering Agency: Rural Economic Development Center.
➢ Total Reallocation : **$25,920,000**

Supplemental and Capacity Grants (Sec. 2(c)):

➢ Purpose: Supplemental grants to local governments are used to match other grant or loan program funds for needed water and wastewater projects. Capacity grants to local governments are used to fund the costs associated with preparing grant and loan applications, capital improvement plans, and other efforts to support growth and development in rural areas.
➢ Administering Agency: Rural Economic Development Center.
➢ Total Reallocation:

Supplemental Grants	$22,460,000
Capacity Grants	$5,620,000
Total Reallocated for Supplemental & Capacity Grants	**$28,080,000**

➢ Increase Yearly Caps: The maximum award for Supplemental Grants is set at $12 million (currently $8 million) and for capacity grants is $3 million (currently $2 million). The new limits would apply to grant awards for fiscal years through June 30, 2005.

Effective Date – Section 2: July 1, 2000.

LIMIT GRANT RECEIPTS FROM THE CLEAN WATER REVOLVING LOAN & GRANT PROGRAM:

Section 3 limits the maximum principal amount of grants an applicant could receive from the Clean Water Revolving Loan and Grant Fund to $3 million over any three year period. The limit in current law is $3 million during any fiscal year.

Effective Date: July 1, 1999, and applies to grants made on or after the date this act becomes law.

Hannah Holm, Research Assistant, Research Division, contributed substantially to this summary.

FISCAL ANALYSIS MEMORANDUM

DATE: June 26, 2000

TO: House Finance Committee

FROM: David Crotts
Fiscal Research Division

RE: SB 1381, Reallocate Water Bond Funds

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-
EXPENDITURES	See Assumptions and Methodology				

PRINCIPAL DEPARTMENT AFFECTED: The loans and grants affected are administered by the Department of Natural and Economic Resources. The enactment of the bill will not affect the budget requirements of the Department.

EFFECTIVE DATE: See "Bill Summary"

BILL SUMMARY: (1) The 1998 Clean Water Bond act allocated $300 million to pass-through loans to local government units whose debt service would be fully repaid by the units applying for the loans. At the present time $285.2 million of the loans remain uncommitted. SB 1381 shifts $200 million of the loan portion of the 1998 bonds to grants, effective July 1, 2000. (2) The bill allocates the $200 million to various water supply and wastewater treatment categories, effective July 1, 2000. (3) Bill language revises the maximum grant award to any applicant from $3 million per fiscal year to $3 million over a period of 3 years.

ASSUMPTIONS AND METHODOLOGY: Under the 1998 authorization State's debt service on the clean water loans would be offset by loan repayments from local units so that there should not be any net debt costs to the State, assuming if the timing of the local repayments matches the State's debt service requirements. By converting the loans to grants, the local government repayment would be eliminated on $200 million of bonds.. Thus, the State's net debt service would increase in the same fashion as if $200 million of new bonds were.

Based on a simulation of potential bond issuance dates, the added debt service requirements would be as follows:

	($Mill.)
2000-01	none
2001-02	$ .9
2002-03	7.5
2003-04	18.6
2004-05	20.4

The issuance dates were based on discussions with the Department of Natural and Economic Resources. The Department based their cash flow needs estimates on many years of experience in administering the grant funds.

The additional net debt service requirements were then determined by prorating the annual clean water bond debt service projections provided by the Department of State Treasurer for the authorized but unissued bonds. This analysis was prepared in connection with the university bond proposal. This Clean Water Bond analysis assumed that the remaining $800 million of bonds would be issued over a 3 year period at an average interest rate of 6.5%.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

SENATE BILL 1477
Finance Committee Substitute Adopted 6/13/00

Short Title: Finance New Wildlife Centers. (Public)

Sponsors:

Referred to:

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A NEW, SUSTAINABLY DESIGNED, STATE OFFICE BUILDING AND WILDLIFE EDUCATION CENTER WITH RELATED PARKING FACILITIES, TO BE USED BY THE WILDLIFE RESOURCES COMMISSION, PURSUANT TO AN INSTALLMENT FINANCING CONTRACT IN A PRINCIPAL AMOUNT NOT TO EXCEED THIRTEEN MILLION FIVE HUNDRED THOUSAND DOLLARS, AND TO PROVIDE FOR A NEW EASTERN WILDLIFE EDUCATION CENTER WITH RELATED PARKING FACILITIES, TO BE ADMINISTERED BY THE WILDLIFE RESOURCES COMMISSION, PURSUANT TO AN INSTALLMENT FINANCING CONTRACT IN A PRINCIPAL AMOUNT NOT TO EXCEED FOUR MILLION DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. Authorization of Projects. -- (a) Raleigh Wildlife Center. -- The Department of Administration is authorized to acquire, construct, and equip a new State administrative office building and wildlife education center, and related parking facilities, to be located on the Centennial Campus of North Carolina State University at Raleigh, in the City of Raleigh, North Carolina, to be used by the Wildlife Resources Commission. Title to these facilities shall be held in the name of the State. The cost of acquiring, constructing, and equipping these facilities shall be financed as provided in this act.

Section 1.(b) Eastern Wildlife Education Center. -- The Department of Administration is authorized to acquire, construct, and equip a new State wildlife

education center, and related parking facilities, to be located in Currituck County and to be administered by the Wildlife Resources Commission. Title to these facilities shall be held in the name of the State. The cost of acquiring, constructing, and equipping these facilities shall be financed as provided in this act.

Section 2. Definitions. -- Unless a different meaning is required by the context, the following definitions apply in this act:

(1) "Certificates of participation" means certificates or other instruments delivered by a special corporation as provided in this act evidencing the assignment of proportionate and undivided interests in the rights to receive installment payments to be made by the State pursuant to a financing contract.

(2) "Cost" includes all of the following, without limiting or restricting any proper definition of this term in financing the cost of a Project as authorized by this act:

a. The cost of acquiring, constructing, and equipping the Project, including the acquisition of rights-of-way, easements, franchises, equipment, furnishings, and other interests in real or personal property acquired or used in connection with the Project.

b. The cost of engineering, architectural, and other consulting services as may be required.

c. Finance charges, reserves for installment payments and interest prior to and during construction and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction.

d. Administrative expenses and charges.

e. The cost of bond insurance, credit and liquidity facilities, interest rate swap agreements, financial and legal consultants, and related costs of financing the Project or delivering and selling certificates of participation, to the extent and as determined by the State Treasurer.

f. The cost of reimbursing the State for any payments made for any cost described above.

g. Any other costs and expenses necessary or incidental to the purposes of this act.

(3) "Credit facility" means an agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider

may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any financing contract or certificates of participation in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(4) "Department of Administration" means the North Carolina Department of Administration, created by Article 36 of Chapter 143 of the General Statutes, or should the Department of Administration be abolished or otherwise divested of its functions under this act, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers, and duties given by this act to the Department of Administration.

(5) "Eastern Wildlife Education Center Project" means the (i) new State wildlife education center to be located in Currituck County, and related parking facilities, and (ii) equipment and furnishings related to the center and parking facilities.

(6) "Financing contract" means an installment financing contract entered into pursuant to the provisions of this act to finance the cost of a Project.

(7) "Office Project" means the (i) new State administrative office building and wildlife education center to be located in Raleigh, and related parking facilities, and (ii) equipment and furnishings related to the building, center, and parking facilities.

(8) "Project" means the Eastern Wildlife Education Center Project, the Office Project, or both.

(9) "Special corporation" means a nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of delivering any certificates of participation provided by this act.

(10) "State" means the State of North Carolina.

(11) "Sustainably designed facility" means a building and surrounding environs designed using features that are energy efficient, incorporate reuseable and renewable resources, provide natural lighting, are nontoxic, require low maintenance, are congruent with the natural characteristics of the site, and cause minimum adverse impact to the environment.

(12) "Wildlife Resources Commission" means the North Carolina Wildlife Commission, created by Article 24 of Chapter 143 of the General Statutes, or should the North Carolina Wildlife Resources Commission be abolished or otherwise divested of its functions

under this act, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers, and duties given by this act to the North Carolina Wildlife Resources Commission.

Section 3. Authorization of Financing Contracts. -- (a) The State, with the prior approval of the Council of State and the State Treasurer as provided in this act, is authorized to execute and deliver a financing contract in a principal amount not to exceed thirteen million five hundred thousand dollars ($13,500,000) in order to provide funds to the Department of Administration and the Wildlife Resources Commission to be used, together with any other available funds, to pay the cost of the Office Project.

Section 3.(b) The State, with the prior approval of the Council of State and the State Treasurer as provided in this act, is authorized to execute and deliver a financing contract in a principal amount not to exceed four million dollars ($4,000,000) in order to provide funds to the Department of Administration and the Wildlife Resources Commission to be used, together with any other available funds, to pay the cost of the Eastern Wildlife Education Center Project.

Section 3.(c) If the State determines that it is in its best interest to do so, the State may enter into one financing contract to finance both of the Projects described in subsections (a) and (b) of this section. The principal amount of the financing contract shall not, however, exceed seventeen million five hundred thousand dollars ($17,500,000).

Section 4. Approval Required. -- (a) A financing contract may not be entered into pursuant to this act unless prior to entering into the financing contract (1) the Council of State, by resolution, approves the execution and delivery of the financing contract, which resolution shall set forth (i) the not to exceed term or final maturity of the financing contract, (ii) the not to exceed interest rate or rates (or the equivalent thereof) with respect to the financing contract, and (iii) the appropriate officers of the State to execute and deliver the financing contract and all other documentation relating to it, and (2) the State Treasurer approves the financing contract and all other documentation related to it, including any deed of trust, security agreement, trust agreement, or credit facility. The resolution of the Council of State shall include any other matters as the Council of State may determine.

Section 4.(b) In determining whether to approve a financing contract, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The principal amount to be advanced to the State under the financing contract is adequate and not excessive for the purpose of paying the cost of the Project.

(2) The increase, if any, in State revenues necessary to pay the sums to become due under the financing contract is not excessive.

(3) The financing contract can be entered into on terms desirable to the State.

(4) In the case of delivery of certificates of participation, the sale of certificates of participation will not have an adverse effect upon any scheduled or proposed sale of obligations of the State or any State agency or of any unit of local government in the State.

Section 5. Security. -- (a) In order to secure the performance by the State of its obligations under a financing contract, the State may grant a lien on, or security interest in, all or any part of the Project or the land upon which the Project is or will be located.

Section 5.(b) No deficiency judgment may be rendered against the State or any agency, department, or commission of the State in any action for breach of any obligation contained in a financing contract entered into under this act or contained in any other related documentation, and the taxing power of the State or any agency, department, or commission of the State is not and may not be pledged directly or indirectly to secure any moneys due under a financing contract authorized by this act. In the event that the General Assembly does not appropriate funds sufficient to make payments required under the financing contract, the net proceeds received from the sale, lease, or other disposition of the Project or the site, or a portion of the Project or the site, subject to a lien or security interest created pursuant to subsection (a) of this section shall be applied to satisfy the payment obligations in accordance with the deed of trust, security agreement, or other documentation creating the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under a financing contract or any other related documentation shall be paid to the State Treasurer for deposit to the General Fund of the State.

Section 5.(c) A financing contract shall not contain a nonsubstitution clause that restricts the right of the State to replace or provide a substitute for the Project.

Section 5.(d) A financing contract may include provisions requesting the Governor to submit in the Governor's budget proposal, or any amendments or supplements to the budget proposal, appropriations necessary to make the payments required under the financing contract.

Section 5.(e) A financing contract may contain any provisions for protecting and enforcing the rights and remedies of the entity advancing moneys or providing funds under the financing contract as may be reasonable, proper, and not in violation of law, including covenants setting forth the duties of the State in respect of the purposes to which the funds advanced under the financing contract may be applied and the duties of the State with respect to the Project, including, without limitation, provisions relating to insuring and maintaining the Project and to the custody, safeguarding, investment, and application of moneys.

Section 5.(f) The interest component of the installment payments to be made under a financing contract may be calculated based upon a fixed or variable interest rate or rates as determined by the State Treasurer.

Section 5.(g) If the State Treasurer determines that it is in the best interest of the State, the State may enter into, or arrange for the delivery of, a credit facility to secure payment of the installment payments under a financing contract or to secure payment of the purchase price of any certificates of participation delivered as provided in this act.

Section 5.(h) The entity entering into a financing contract with the State and any other professionals providing services relating to the financing contract, including, without limitation, the provider of any credit facility and the underwriter or placement agent for any certificates of participation, shall be selected by the State Treasurer pursuant to a competitive bidding process or negotiated process as determined by the State Treasurer.

Section 6. Source of Repayment. -- (a) The payment of amounts payable by the State under a financing contract and other related documentation during any fiscal biennium or fiscal year shall be limited to funds appropriated for that purpose by the General Assembly in its discretion. No provision of this act and no financing contract shall be construed or interpreted as creating a pledge of the faith and credit of the State or any agency, department, or commission of the State within the meaning of any constitutional debt limitation.

Section 6.(b) It is the intent of the General Assembly that the payments due under a financing contract and any other related documentation shall be made from amounts appropriated to and deposited in the Wildlife Resources Fund pursuant to G.S. 143-250 and from funds appropriated to and deposited in the Wildlife Endowment Fund pursuant to G.S. 143-250.1, including investment earnings on these amounts, in each case to the extent the funds may be lawfully applied for this purpose. In the event that funds appropriated to and deposited in the Wildlife Resources Fund and the Wildlife Endowment Fund, including investment earnings on such amounts, are not sufficient to make these payments, the General Assembly is not obligated to appropriate additional funds necessary to make these payments. The General Assembly may, however, in its discretion, appropriate the additional funds.

Section 6.(c) A financing contract entered into pursuant to this act shall incorporate a statement which sets forth a description of the provisions of subsections (a) and (b) of this section.

Section 6.(d) Expenditures during each fiscal biennium or fiscal year from the Wildlife Resources Fund and the Wildlife Endowment Fund shall be administered by the Wildlife Resources Commission in such a manner so as to assure that sufficient amounts shall be available in the Wildlife Resources Fund and the Wildlife Endowment Fund to make the required payments under a financing contract and any other related documentation.

Section 7. Certificates of Participation. -- (a) If certificates of participation are delivered pursuant to this act, a special corporation shall be created for the purpose of entering into a financing contract and executing and delivering certificates of participation. The special corporation shall furnish to the State Treasurer any information and documentation relating to the delivery and sale of the certificates of participation that the State Treasurer requests.

Section 7.(b) Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this act, except that the sale must be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

Section 7.(c) Certificates of participation may be delivered pursuant to a trust agreement with a corporate trustee approved by the State Treasurer. The corporate trustee may be any trust company or bank having the powers of a trust company within or without the State. A trust agreement may (i) provide for security and pledges and assignments with respect to the security as may be permitted under this act and further provide for the enforcement of any lien or security interest created pursuant to Section 5(a) of this act, and (ii) contain any provisions for protecting and enforcing the rights and remedies of the owners of any certificates of participation as may be reasonable, proper, and not in violation of law, as determined by the State Treasurer.

Section 8. Insurance. -- The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, credit facilities, interest rate swap agreements, and any other related instruments that the State Treasurer considers desirable in connection with the financing of a Project as provided in this act.

Section 9. Tax Exemption. -- A financing contract entered into under this act and any certificates of participation relating to it are exempt from all State, county, and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except for inheritance, estate, and gift taxes, income taxes on the gain from the transfer of the financing contract or certificates of participation, and franchise taxes. The interest component of the installment payments made by the State under the financing contract, including the interest component of any certificates of participation, is not subject to taxation as income.

Section 10. Public Contracts. -- The provisions of Articles 3 (Purchase and Contracts), 3B (Energy Conservation in Public Facilities), 3C (Contracts to Obtain Consultant Services), 3D (Procurement of Architectural, Engineering, and Surveying Services), and 8 (Public Contracts) of Chapter 143 of the General Statutes and any other laws, rules, or regulations of the State as relate to the acquisition and construction of State property apply to a Project. It is the intent of the General Assembly that the Office Project should be a sustainably designed facility.

Section 11. Interpretation of Act. -- (a) The foregoing sections of this act provide an additional and alternative method for the doing of the things authorized by the act, are supplemental and additional to powers conferred by other laws, and do not derogate any powers now existing.

Section 11.(b) References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as amended and as they may be amended from time to time by the General Assembly.

Section 11.(c) This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

Section 11.(d) If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

Section 12. Effective Date. -- This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: S.B. 1477 (Second Edition) **Revised**

SHORT TITLE: Finance New Wildlife Centers

SPONSOR(S): Senators Kerr; Albertson and Phillips

FISCAL IMPACT

Yes ( ) **No (X)** **No Estimate Available ( )**

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
REVENUES					
EXPENDITURES					
General Fund	No General Fund Impact				
Wildlife Fund	[See Assumptions and Methodology]				
Wildlife Endowment Fund					
POSITIONS:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Wildlife Resources Commission

EFFECTIVE DATE: The act is effective when it becomes law.

BILL SUMMARY: This bill authorizes the Wildlife Resources Commission (WRC) to enter into a financing contract for $13.5 million for the purposes of constructing a WRC administration building and resources center to be located on the Centennial Campus of North Carolina State University. The bill also authorizes the WRC to finance $4 million for the construction of a new eastern wildlife education center to be located in Currituck County.

ASSUMPTIONS AND METHODOLOGY: The construction financing costs authorized by this bill have no general fund impact, but rather are borne entirely by the Wildlife Resources Commission. The WRC expects to fund the construction of the new administration and education center and the eastern wildlife education center internally, with currently unbudgeted funds.

The anticipated yearly loan payment cost of the $13.5 million administration and education facility at 5.1% for 25 years is $956,495. The annual loan payment for the $4 million eastern wildlife center given the same loan term and interest rate is $283,406. The 5.1% rate of interest is

estimated using the most current seven day average of the open market tax-exempt bond rate. Upon the passing of this bill, the actual financing rate could be slightly higher or lower than the estimated 5.1%. The financing of this bill is to be handled by a consortium of banks and financial institutions as has been the practice in financing previous construction on the Centennial Campus. Though the individual financial institutions handling the financing are currently undecided, it will be a competitive offering with bids reviewed by the State Treasurer, and authorized by the Council of State.

Loan Terms

Estimated Cost of Building	$13,500,000	$4,000,000
Loan Term	25 years	25 years
Current Variable Interest Rate for Tax-Exempt Loans	5.10%	5.10%
Estimated Yearly Loan Payment	$956,495	$283,406

Funding for the yearly estimated loan payment comes from four revenue sources within the WRC. These revenues are outlined in the following table:

Available Funding Sources	WRC Adm. & Educ. Ctr.	Eastern NC Educ. Ctr.
(1) Current Lease Expense	$375,000	
(2) Short Term Interest (STIF) Earned on Wildlife Fund	$470,000	
(3) Sales Tax	$111,495	
(4) Endowment Fund Interest		$283,406
Estimated Yearly Loan Payments	$956,495	$283,406

1) The current WRC lease expense is supported by receipts collected from the sale of hunting and fishing licenses. Monies that are currently allocated toward rent payments would be allocated toward loan payments for the WRC administration center upon the passing of this bill. Therefore, the cost of hunting and fishing licenses to NC residents would be unaffected by this legislation.
2) The Wildlife Fund earns interest in the short term investment fund (STIF) at the Office of the State Treasurer. The projected annual revenue from this fund is approximately $572,000. Of this projected revenue, $470,000 is currently unbudgeted and could be directed towards yearly loan payments on the WRC administration center.
3) Under G.S. 105-633.4B, the Wildlife Fund earns a percentage of the state sales and use tax each year. $111,495 of the Fund balance would be appropriated towards making yearly loan payments for the WRC administration center upon the passing of this bill.
4) The Wildlife Endowment Fund earns interest in the long term investment fund (LTIF) at the Office of the State Treasurer. The estimated monthly interest earned is approximately $259,000 or $3.1 million per year. Each year the commissioners approve one time expenditures from the fund for approved wildlife projects. Receipts from the interest earned

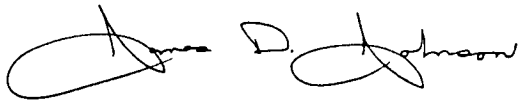
on the endowment fund are not currently budgeted, and could be directed toward payment of the eastern wildlife education center yearly loan payment.

Estimates on the construction costs of the two facilities were made using the Office of State Construction guidelines so that the potential for additional construction expenditures were taken into account. But if the projects were to go over budget, WRC staff are confident that the Endowment Fund interest would cover extra costs, and no additonal appropriations would be requested. The estimated yearly operating costs of the eastern wildlife education center are $45,000. Monies from the Endowment Fund will be appropriated to pay for these operating costs. Similarly, any increase in yearly expenses associated with the Raleigh administration and education center will be paid for with monies from this fund.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic and Eugene Son (Research Assistant)

APPROVED BY: James D. Johnson



DATE: June 6, 2000

MINUTES
HOUSE COMMITTEE ON FINANCE

Wednesday, June 28, 2000

The House Committee on Finance met on Wednesday, June 28, 2000 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke and Miller; Vice Chairs Jarrell and Wood; Representatives Bridgeman, Brown, Buchanan, Capps, Cox, Creech, Decker, Dedmon, Eddins, Edwards, Ford, Gibson, Goodwin, Gray, Hackney, Haire, Hill, Howard, McCombs, Miner, Pope, Rayfield, Starnes, Tucker, Weiss, Wilson, and Womble. Ex Officio members Baddour, Earle, and Cunningham. Staff including Cindy Avrette, Richard Bostic, Martha Harris, Linda Millsaps, Giles Perry, Evan Rodewald, Mary Shuping; Eugene Son and Rebekah Butler, Interns; were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Allen called the meeting to order. Chair Allen commented briefly on the agenda and proceeded to consider the following bills:

Senator Kerr was recognized to continue with SB 1477, A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR A NEW, SUSTAINABLY DESIGNED, STATE OFFICE BUILDING AND WILDLIFE EDUCATION CENTER WITH RELATED PARKING FACILITIES, TO BE USED BY THE WILDLIFE RESOURCES COMMISSION, PURSUANT TO AN INSTALLMENT FINANCING CONTRACT IN A PRINCIPAL AMOUNT NOT TO EXCEED THIRTEEN MILLION FIVE HUNDRED THOUSAND DOLLARS, AND TO PROVIDE FOR A NEW EASTERN WILDLIFE EDUCATION CENTER WITH RELATED PARKING FACILITIES, TO BE ADMINISTERED BY THE WILDLIFE RESOURCES COMMISSION, PURSUANT TO AN INSTALLMENT FINANCING CONTRACT IN A PRINCIPAL AMOUNT NOT TO EXCEED FOUR MILLION DOLLARS. Rep. Buchanan made a motion to adopt a Proposed Committee Substitute for discussion. The motion passed. Rep. Buchanan was recognized to speak on the bill. Rep. Buchanan noted that the Department of Transportation had expressed concern over the ability to finance portions of this bill. Rep. Buchanan stated that he is opposed to this bill. Rep. Luebke made a motion to displace this bill until Rep. Hackney arrived. The motion passed.

Chair Allen recognized the pages and Sargent-at-Arms staff. Chair Allen noted that HB 1049 would not be heard today.

Senator Miller was recognized to explain SB 1481, A BILL TO BE ENTITLED AN ACT TO AMEND THE LEGAL DESCRIPTION OF THE REAL PROPERTY LOCATED WITHIN THE COUNTIES OF DURHAM AND WAKE, AS SET FORTH IN SECTION 2, CHAPTER 435, SESSION LAWS OF 1985, AND AS AMENDED BY SECTION 4, CHAPTER 841, SESSION LAWS OF 1989. Rep. Haire made a motion to give the bill a favorable report. The motion passed. A copy of the bill included in the minutes.

Rep. Crawford was recognized to explain HB 1630, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE CONSTRUCTION OF A PILOT PRIVATELY FUNDED TOLL ROAD OR BRIDGE PROJECT AND TO DIRECT THE DEPARTMENT OF TRANSPORTATION TO

STUDY THE FEASIBILITY OF STATE-OWNED AND OPERATED TOLL ROADS OR BRIDGES. Chair Allen noted that HB 1630 had been scheduled for discussion only but some issues had been worked out and, subsequently; the bill would be heard and voted on. Rep. Bridgeman made a motion to adopt the Proposed Committee Substitute for discussion. The motion passed. Rep. Jarrell asked what would be the advantage of having a toll road. Rep. Crawford stated that the toll road would provide an additional route and also alleviate congestion on existing routes. Rep. Womble asked if state personnel, police and ambulances, would be required to cover this road. Rep. Crawford noted that the state already covers private roads and the Highway Patrol may be an additional fringe cost. Rep. Womble was recognized to speak on the bill. Rep. Womble noted that he would not be able to support the bill in its current form. Rep. Gray made a motion to give the Proposed Committee Substitute a favorable report and give the original bill an unfavorable report. Rep. Creech asked how the potential toll road builder could build this road faster than the state's Department of Transportation can. Rep. Crawford noted that this would be his only project whereas the Department of Transportation works on hundreds of projects simultaneously. Rep. Starnes was recognized to speak on the bill. Rep. Starnes stated that he had a problem turning over the owning and controlling of the state's infrastructure to private entities. Rep. Miller was recognized to speak on the bill. Rep. Miller noted that he spoke against the bill on the floor of the House of Representatives. Rep. Miller stated that the Proposed Committee Substitute has moved in the right direction by limiting this experiment to one toll road. Rep. Miller noted that the state was facing a potential gridlock situation and this experiment may provide an answer. Rep. Cole was recognized to speak on the bill. Rep. Cole, Co-chair of the Transportation Financing Committee, relayed several issues that the committee addressed including emission levels, traffic flow and interviews of Mr. Allen (proposed toll road builder). Jim Harrington, former Secretary of Transportation, was recognized to speak on the bill. Mr. Harrington noted that the Transportation Financing Committee looked at several ways to improve the state's current situation. Mr. Harrington stated that one of the recommendations from this committee was to look at toll roads as a supplementary approach to the problem. Tom Bradshaw, former Secretary of Transportation, was recognized to speak on the bill. Mr. Bradshaw noted examples of toll roads across the country. Mr. Bradshaw stated that the Transportation Financing Committee was recommending this approach as a pilot program and not as a panacea for all of the state's road issues. Mr. Bradshaw noted that technology has made this approach much more feasible than in years past. Ms. Jane Pinsky, with AAA of the Carolinas, was recognized to speak on the bill. Ms. Pinsky noted that her members expressed concerns over diverting state services, police and ambulance, to toll roads and her members were against the bill. Rep. Howard questioned Rep. Crawford as to the exemptions to open bidding regarding the toll road. Rep. Crawford stated that he would get back with her regarding that issue. There being no further questions, a vote was taken. The motion passed. A copy of the Proposed Committee Substitute, bill analysis and fiscal note included in the minutes.

Senator Kerr was recognized to continue with SB 1477. Rep. Hackney made a motion to give the original bill a favorable report. The motion passed. A copy of the bill, and the Proposed Committee Substitute included in the minutes.

Rep. Bonner was recognized to explain HB 1302, A BILL TO BE ENTITLED AN ACT TO EXEMPT FROM TAX MOTOR FUEL SOLD TO CHARTER SCHOOLS. Rep. Gibson made a motion to concur. The motion passed. A copy of the bill, and the bill analysis included in the minutes.

Rep. Brown was recognized to explain SB 1193, A BILL TO BE ENTITLED AN ACT TO RESOLVE A BOUNDARY OVERLAP BETWEEN THE RONDA AND ROARING RIVER VOLUNTEER FIRE TAX DISTRICTS IN WILKES COUNTY AND TO VALIDATE CERTAIN ACTIONS, AND TO EXPAND THE GLENDALE SPRINGS FIRE PROTECTION DISTRICT IN ASHE COUNTY. Rep. Brown made a motion to give the bill a favorable report. The motion passed. A copy of the bill included in the minutes.

Chair Allen noted that the committee would meet tomorrow and continue with the bills from today's agenda.

There being no further business, the Chair adjourned the meeting at 9:58 a.m.

Respectfully submitted:

Representative Gordon Allen
Chair

Ken Melton
Assistant to the Committee

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL
CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Wednesday, June 28, 2000 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

SB 1477 – FINANCE NEW WILDLIFE CENTERS – SENATOR KERR
SB 1481 – RESEARCH TRIANGLE PARK BOUNDARY – SENATOR MILLER

FOR CONCURRENCE ONLY:

HB 1302 – CHARTER FUEL TAX EXEMPTION – REP. BONNER

FOR DISCUSSION ONLY:

HB 1583 – NONHAZARDOUS DRY-CLEANING TECH. – REP. GIBSON
HB 1621 – CREDIT FOR VALUE-ADDED AG. BUSINESS – REP. MITCHELL
HB 1630 – TOLL ROADS – REP. CRAWFORD
HB 1806 – SOME ELECTRICITY EXEMPT – REP. MILLER

ADJOURNMENT OF MEETING

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES		6-28														
Allen, Gordon	Chair	X														
Luebke, Paul	Chair	X														
Miller, George	Chair	X														
Jarrell, Mary	Vice-Chair	X														
Wood, Steve	Vice-Chair	X														
Bridgeman, John		X														
Brown, John		X														
Buchanan, Monroe		X														
Capps, Russell		X														
Church, Walter																
Cox, Leslie		X														
Creech, Billy		X														
Decker, Michael		X														
Dedmon, Andy		X														
Eddins, Rick		X														
Edwards, Zeno		X														
Fitch, Toby																
Ford, Jimmie		X														
Gibson, Pryor		X														
Goodwin, Wayne		X														
Gray, Lyons		X														
Hackney, Joe		X														
Haire, Phillip		X														
Hill, Dewey		X														
Howard, Julia		X														
McComas, Daniel																

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES	6-28														
McCombs, Eugene	X														
Miner, David	X														
Morris, Mia															
Pope, Art	X														
Ramsey, Liston															
Rayfield, John	X														
Starnes, Edgar	X														
Tallent, Tim															
Tucker, Russell	X														
Weiss, Jennifer	X														
Wilson, Connie	X														
Womble, Larry															
Wright, Thomas															
Ex Officio Members:															
Hackney, Pro Tem	X														
Baddour, Majority	X														
Dedmon, Whip	X														
Earle, Whip	X														
Cunningham	X														

1

VISITOR REGISTRATION SHEET

Appropriations — **July 6, 1999**

Name of Committee — Date 6/28/2000

Finance

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Amy Fullbright	Hunton & Williams
Erika Mangrum	IAHRIA
Marilyn Wenig	Homeopathic - consumer
Cara Benedetto	student of homeopathy
Hasije Harris	NCDOR
Greg Radford	NCDOR
Donny Rogers	NCDOT
Phyllis Duncan	citizen
Paul Logan	OSBM
Henry Hatfield	Coca Cola
JANET D'IGNAZIO	NCDOT
Billy Donald	DOR
Joan Troy	NC Wildlife Resources Comm
Cecelia Edgerton	NCWRC
E. Nixon	
Mary Munchmeyer	Poyner & Spruill
Doris Weaver	NC CWA Political Council
JERRY SCHILL	NC FISHERIES ASSN.
Trina Bleuer	NCDMV Jch Legislative
Dianne Johnson	NC DMV
David M. BAILEY	ALLTEL
Jerry Jones	ALLTEL
LOUIS BESSIERE	Citation - Foundry Service Co
BILL VANNESS	" " "
Eugene Schlaman	Arthur Andersen LLP
Chris Wilson	Kobe Copper Products, Pine Hall, NC
Brian Francis	Mecklenburg County
Craig Deal	DENR

VISITOR REGISTRATION SHEET

Appropriations **July 6, 1999**

Name of Committee Date 6/28/2000

Finance

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Fred Allen	A/C Aggregates Ass'n.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

☐ Committee Substitute for
S.B. 1477 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR A NEW, SUSTAINABLY DESIGNED, STATE OFFICE BUILDING AND WILDLIFE EDUCATION CENTER WITH RELATED PARKING FACILITIES, TO BE USED BY THE WILDLIFE RESOURCES COMMISSION, PURSUANT TO AN INSTALLMENT FINANCING CONTRACT IN A PRINCIPAL AMOUNT NOT TO EXCEED THIRTEEN MILLION FIVE HUNDRED THOUSAND DOLLARS, AND TO PROVIDE FOR A NEW EASTERN WILDLIFE EDUCATION CENTER WITH RELATED PARKING FACILITIES, TO BE ADMINISTERED BY THE WILDLIFE RESOURCES COMMISSION, PURSUANT TO AN INSTALLMENT FINANCING CONTRACT IN A PRINCIPAL AMOUNT NOT TO EXCEED FOUR MILLION DOLLARS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1477
Finance Committee Substitute Adopted 6/13/00

Short Title: Finance New Wildlife Centers. (Public)

Sponsors:

Referred to:

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A NEW, SUSTAINABLY DESIGNED, STATE OFFICE BUILDING AND WILDLIFE EDUCATION CENTER WITH RELATED PARKING FACILITIES, TO BE USED BY THE WILDLIFE RESOURCES COMMISSION, PURSUANT TO AN INSTALLMENT FINANCING CONTRACT IN A PRINCIPAL AMOUNT NOT TO EXCEED THIRTEEN MILLION FIVE HUNDRED THOUSAND DOLLARS, AND TO PROVIDE FOR A NEW EASTERN WILDLIFE EDUCATION CENTER WITH RELATED PARKING FACILITIES, TO BE ADMINISTERED BY THE WILDLIFE RESOURCES COMMISSION, PURSUANT TO AN INSTALLMENT FINANCING CONTRACT IN A PRINCIPAL AMOUNT NOT TO EXCEED FOUR MILLION DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. Authorization of Projects. -- (a) Raleigh Wildlife Center. -- The Department of Administration is authorized to acquire, construct, and equip a new State administrative office building and wildlife education center, and related parking facilities, to be located on the Centennial Campus of North Carolina State University at Raleigh, in the City of Raleigh, North Carolina, to be used by the Wildlife Resources Commission. Title to these facilities shall be held in the name of the State. The cost of acquiring, constructing, and equipping these facilities shall be financed as provided in this act.

Section 1.(b) Eastern Wildlife Education Center. -- The Department of Administration is authorized to acquire, construct, and equip a new State wildlife

education center, and related parking facilities, to be located in Currituck County and to be administered by the Wildlife Resources Commission. Title to these facilities shall be held in the name of the State. The cost of acquiring, constructing, and equipping these facilities shall be financed as provided in this act.

Section 2. Definitions. -- Unless a different meaning is required by the context, the following definitions apply in this act:

(1) "Certificates of participation" means certificates or other instruments delivered by a special corporation as provided in this act evidencing the assignment of proportionate and undivided interests in the rights to receive installment payments to be made by the State pursuant to a financing contract.

(2) "Cost" includes all of the following, without limiting or restricting any proper definition of this term in financing the cost of a Project as authorized by this act:

a. The cost of acquiring, constructing, and equipping the Project, including the acquisition of rights-of-way, easements, franchises, equipment, furnishings, and other interests in real or personal property acquired or used in connection with the Project.

b. The cost of engineering, architectural, and other consulting services as may be required.

c. Finance charges, reserves for installment payments and interest prior to and during construction and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction.

d. Administrative expenses and charges.

e. The cost of bond insurance, credit and liquidity facilities, interest rate swap agreements, financial and legal consultants, and related costs of financing the Project or delivering and selling certificates of participation, to the extent and as determined by the State Treasurer.

f. The cost of reimbursing the State for any payments made for any cost described above.

g. Any other costs and expenses necessary or incidental to the purposes of this act.

(3) "Credit facility" means an agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider

may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any financing contract or certificates of participation in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(4) "Department of Administration" means the North Carolina Department of Administration, created by Article 36 of Chapter 143 of the General Statutes, or should the Department of Administration be abolished or otherwise divested of its functions under this act, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers, and duties given by this act to the Department of Administration.

(5) "Eastern Wildlife Education Center Project" means the (i) new State wildlife education center to be located in Currituck County, and related parking facilities, and (ii) equipment and furnishings related to the center and parking facilities.

(6) "Financing contract" means an installment financing contract entered into pursuant to the provisions of this act to finance the cost of a Project.

(7) "Office Project" means the (i) new State administrative office building and wildlife education center to be located in Raleigh, and related parking facilities, and (ii) equipment and furnishings related to the building, center, and parking facilities.

(8) "Project" means the Eastern Wildlife Education Center Project, the Office Project, or both.

(9) "Special corporation" means a nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of delivering any certificates of participation provided by this act.

(10) "State" means the State of North Carolina.

(11) "Sustainably designed facility" means a building and surrounding environs designed using features that are energy efficient, incorporate reuseable and renewable resources, provide natural lighting, are nontoxic, require low maintenance, are congruent with the natural characteristics of the site, and cause minimum adverse impact to the environment.

(12) "Wildlife Resources Commission" means the North Carolina Wildlife Commission, created by Article 24 of Chapter 143 of the General Statutes, or should the North Carolina Wildlife Resources Commission be abolished or otherwise divested of its functions

under this act, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers, and duties given by this act to the North Carolina Wildlife Resources Commission.

Section 3. Authorization of Financing Contracts. -- (a) The State, with the prior approval of the Council of State and the State Treasurer as provided in this act, is authorized to execute and deliver a financing contract in a principal amount not to exceed thirteen million five hundred thousand dollars ($13,500,000) in order to provide funds to the Department of Administration and the Wildlife Resources Commission to be used, together with any other available funds, to pay the cost of the Office Project.

Section 3.(b) The State, with the prior approval of the Council of State and the State Treasurer as provided in this act, is authorized to execute and deliver a financing contract in a principal amount not to exceed four million dollars ($4,000,000) in order to provide funds to the Department of Administration and the Wildlife Resources Commission to be used, together with any other available funds, to pay the cost of the Eastern Wildlife Education Center Project.

Section 3.(c) If the State determines that it is in its best interest to do so, the State may enter into one financing contract to finance both of the Projects described in subsections (a) and (b) of this section. The principal amount of the financing contract shall not, however, exceed seventeen million five hundred thousand dollars ($17,500,000).

Section 4. Approval Required. -- (a) A financing contract may not be entered into pursuant to this act unless prior to entering into the financing contract (1) the Council of State, by resolution, approves the execution and delivery of the financing contract, which resolution shall set forth (i) the not to exceed term or final maturity of the financing contract, (ii) the not to exceed interest rate or rates (or the equivalent thereof) with respect to the financing contract, and (iii) the appropriate officers of the State to execute and deliver the financing contract and all other documentation relating to it, and (2) the State Treasurer approves the financing contract and all other documentation related to it, including any deed of trust, security agreement, trust agreement, or credit facility. The resolution of the Council of State shall include any other matters as the Council of State may determine.

Section 4.(b) In determining whether to approve a financing contract, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The principal amount to be advanced to the State under the financing contract is adequate and not excessive for the purpose of paying the cost of the Project.

(2) The increase, if any, in State revenues necessary to pay the sums to become due under the financing contract is not excessive.

(3) The financing contract can be entered into on terms desirable to the State.

(4) In the case of delivery of certificates of participation, the sale of certificates of participation will not have an adverse effect upon any scheduled or proposed sale of obligations of the State or any State agency or of any unit of local government in the State.

Section 5. Security. -- (a) In order to secure the performance by the State of its obligations under a financing contract, the State may grant a lien on, or security interest in, all or any part of the Project or the land upon which the Project is or will be located.

Section 5.(b) No deficiency judgment may be rendered against the State or any agency, department, or commission of the State in any action for breach of any obligation contained in a financing contract entered into under this act or contained in any other related documentation, and the taxing power of the State or any agency, department, or commission of the State is not and may not be pledged directly or indirectly to secure any moneys due under a financing contract authorized by this act. In the event that the General Assembly does not appropriate funds sufficient to make payments required under the financing contract, the net proceeds received from the sale, lease, or other disposition of the Project or the site, or a portion of the Project or the site, subject to a lien or security interest created pursuant to subsection (a) of this section shall be applied to satisfy the payment obligations in accordance with the deed of trust, security agreement, or other documentation creating the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under a financing contract or any other related documentation shall be paid to the State Treasurer for deposit to the General Fund of the State.

Section 5.(c) A financing contract shall not contain a nonsubstitution clause that restricts the right of the State to replace or provide a substitute for the Project.

Section 5.(d) A financing contract may include provisions requesting the Governor to submit in the Governor's budget proposal, or any amendments or supplements to the budget proposal, appropriations necessary to make the payments required under the financing contract.

Section 5.(e) A financing contract may contain any provisions for protecting and enforcing the rights and remedies of the entity advancing moneys or providing funds under the financing contract as may be reasonable, proper, and not in violation of law, including covenants setting forth the duties of the State in respect of the purposes to which the funds advanced under the financing contract may be applied and the duties of the State with respect to the Project, including, without limitation, provisions relating to insuring and maintaining the Project and to the custody, safeguarding, investment, and application of moneys.

Section 5.(f) The interest component of the installment payments to be made under a financing contract may be calculated based upon a fixed or variable interest rate or rates as determined by the State Treasurer.

Section 5.(g) If the State Treasurer determines that it is in the best interest of the State, the State may enter into, or arrange for the delivery of, a credit facility to secure payment of the installment payments under a financing contract or to secure payment of the purchase price of any certificates of participation delivered as provided in this act.

Section 5.(h) The entity entering into a financing contract with the State and any other professionals providing services relating to the financing contract, including, without limitation, the provider of any credit facility and the underwriter or placement agent for any certificates of participation, shall be selected by the State Treasurer pursuant to a competitive bidding process or negotiated process as determined by the State Treasurer.

Section 6. Source of Repayment. -- (a) The payment of amounts payable by the State under a financing contract and other related documentation during any fiscal biennium or fiscal year shall be limited to funds appropriated for that purpose by the General Assembly in its discretion. No provision of this act and no financing contract shall be construed or interpreted as creating a pledge of the faith and credit of the State or any agency, department, or commission of the State within the meaning of any constitutional debt limitation.

Section 6.(b) It is the intent of the General Assembly that the payments due under a financing contract and any other related documentation shall be made from amounts appropriated to and deposited in the Wildlife Resources Fund pursuant to G.S. 143-250 and from funds appropriated to and deposited in the Wildlife Endowment Fund pursuant to G.S. 143-250.1, including investment earnings on these amounts, in each case to the extent the funds may be lawfully applied for this purpose. In the event that funds appropriated to and deposited in the Wildlife Resources Fund and the Wildlife Endowment Fund, including investment earnings on such amounts, are not sufficient to make these payments, the General Assembly is not obligated to appropriate additional funds necessary to make these payments. The General Assembly may, however, in its discretion, appropriate the additional funds.

Section 6.(c) A financing contract entered into pursuant to this act shall incorporate a statement which sets forth a description of the provisions of subsections (a) and (b) of this section.

Section 6.(d) Expenditures during each fiscal biennium or fiscal year from the Wildlife Resources Fund and the Wildlife Endowment Fund shall be administered by the Wildlife Resources Commission in such a manner so as to assure that sufficient amounts shall be available in the Wildlife Resources Fund and the Wildlife Endowment Fund to make the required payments under a financing contract and any other related documentation.

Section 7. Certificates of Participation. -- (a) If certificates of participation are delivered pursuant to this act, a special corporation shall be created for the purpose of entering into a financing contract and executing and delivering certificates of participation. The special corporation shall furnish to the State Treasurer any information and documentation relating to the delivery and sale of the certificates of participation that the State Treasurer requests.

Section 7.(b) Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this act, except that the sale must be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

Section 7.(c) Certificates of participation may be delivered pursuant to a trust agreement with a corporate trustee approved by the State Treasurer. The corporate trustee may be any trust company or bank having the powers of a trust company within or without the State. A trust agreement may (i) provide for security and pledges and assignments with respect to the security as may be permitted under this act and further provide for the enforcement of any lien or security interest created pursuant to Section 5(a) of this act, and (ii) contain any provisions for protecting and enforcing the rights and remedies of the owners of any certificates of participation as may be reasonable, proper, and not in violation of law, as determined by the State Treasurer.

Section 8. Insurance. -- The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, credit facilities, interest rate swap agreements, and any other related instruments that the State Treasurer considers desirable in connection with the financing of a Project as provided in this act.

Section 9. Tax Exemption. -- A financing contract entered into under this act and any certificates of participation relating to it are exempt from all State, county, and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except for inheritance, estate, and gift taxes, income taxes on the gain from the transfer of the financing contract or certificates of participation, and franchise taxes. The interest component of the installment payments made by the State under the financing contract, including the interest component of any certificates of participation, is not subject to taxation as income.

Section 10. Public Contracts. -- The provisions of Articles 3 (Purchase and Contracts), 3B (Energy Conservation in Public Facilities), 3C (Contracts to Obtain Consultant Services), 3D (Procurement of Architectural, Engineering, and Surveying Services), and 8 (Public Contracts) of Chapter 143 of the General Statutes and any other laws, rules, or regulations of the State as relate to the acquisition and construction of State property apply to a Project. It is the intent of the General Assembly that the Office Project should be a sustainably designed facility.

Section 11. Interpretation of Act. -- (a) The foregoing sections of this act provide an additional and alternative method for the doing of the things authorized by the act, are supplemental and additional to powers conferred by other laws, and do not derogate any powers now existing.

Section 11.(b) References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as amended and as they may be amended from time to time by the General Assembly.

Section 11.(c) This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

Section 11.(d) If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

Section 12. Effective Date. -- This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1477
Finance Committee Substitute Adopted 6/13/00
Proposed House Committee Substitute S1477-PCSA696-RB6.27

Short Title: Finance New Wildlife Centers. (Public)

Sponsors:

Referred to:

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A NEW, SUSTAINABLY DESIGNED, STATE OFFICE BUILDING AND WILDLIFE EDUCATION CENTER WITH RELATED PARKING FACILITIES, TO BE USED BY THE WILDLIFE RESOURCES COMMISSION, PURSUANT TO AN INSTALLMENT FINANCING CONTRACT IN A PRINCIPAL AMOUNT NOT TO EXCEED THIRTEEN MILLION FIVE HUNDRED THOUSAND DOLLARS, AND TO PROVIDE FOR A NEW EASTERN WILDLIFE EDUCATION CENTER WITH RELATED PARKING FACILITIES, TO BE ADMINISTERED BY THE WILDLIFE RESOURCES COMMISSION, PURSUANT TO AN INSTALLMENT FINANCING CONTRACT IN A PRINCIPAL AMOUNT NOT TO EXCEED FOUR MILLION DOLLARS AND TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO CONSTRUCT ACCESS TO RIVERS AND STREAMS.

The General Assembly of North Carolina enacts:

Section 1. Authorization of Projects. -- (a) Raleigh Wildlife Center. -- The Department of Administration is authorized to acquire, construct, and equip a new State administrative office building and wildlife education center, and related parking facilities, to be located on the Centennial Campus of North Carolina State University at Raleigh, in the City of Raleigh, North Carolina, to be used by the Wildlife Resources Commission. Title to these facilities shall be held in the name of the State.

The cost of acquiring, constructing, and equipping these facilities shall be financed as provided in this act.

Section 1.(b) Eastern Wildlife Education Center. -- The Department of Administration is authorized to acquire, construct, and equip a new State wildlife education center, and related parking facilities, to be located in Currituck County and to be administered by the Wildlife Resources Commission. Title to these facilities shall be held in the name of the State. The cost of acquiring, constructing, and equipping these facilities shall be financed as provided in this act.

Section 2. Definitions. -- Unless a different meaning is required by the context, the following definitions apply in this act:

(1) "Certificates of participation" means certificates or other instruments delivered by a special corporation as provided in this act evidencing the assignment of proportionate and undivided interests in the rights to receive installment payments to be made by the State pursuant to a financing contract.

(2) "Cost" includes all of the following, without limiting or restricting any proper definition of this term in financing the cost of a Project as authorized by this act:

a. The cost of acquiring, constructing, and equipping the Project, including the acquisition of rights-of-way, easements, franchises, equipment, furnishings, and other interests in real or personal property acquired or used in connection with the Project.

b. The cost of engineering, architectural, and other consulting services as may be required.

c. Finance charges, reserves for installment payments and interest prior to and during construction and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction.

d. Administrative expenses and charges.

e. The cost of bond insurance, credit and liquidity facilities, interest rate swap agreements, financial and legal consultants, and related costs of financing the Project or delivering and selling certificates of participation, to the extent and as determined by the State Treasurer.

f. The cost of reimbursing the State for any payments made for any cost described above.

g. Any other costs and expenses necessary or incidental to the purposes of this act.

(3) "Credit facility" means an agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other

insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any financing contract or certificates of participation in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(4) "Department of Administration" means the North Carolina Department of Administration, created by Article 36 of Chapter 143 of the General Statutes, or should the Department of Administration be abolished or otherwise divested of its functions under this act, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers, and duties given by this act to the Department of Administration.

(5) "Eastern Wildlife Education Center Project" means the (i) new State wildlife education center to be located in Currituck County, and related parking facilities, and (ii) equipment and furnishings related to the center and parking facilities.

(6) "Financing contract" means an installment financing contract entered into pursuant to the provisions of this act to finance the cost of a Project.

(7) "Office Project" means the (i) new State administrative office building and wildlife education center to be located in Raleigh, and related parking facilities, and (ii) equipment and furnishings related to the building, center, and parking facilities.

(8) "Project" means the Eastern Wildlife Education Center Project, the Office Project, or both.

(9) "Special corporation" means a nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of delivering any certificates of participation provided by this act.

(10) "State" means the State of North Carolina.

(11) "Sustainably designed facility" means a building and surrounding environs designed using features that are energy efficient, incorporate reuseable and renewable resources, provide natural lighting, are nontoxic, require low maintenance, are congruent with the natural characteristics of the site, and cause minimum adverse impact to the environment.

(12) "Wildlife Resources Commission" means the North Carolina Wildlife Commission, created by Article 24 of Chapter 143 of the General Statutes, or should the North Carolina Wildlife Resources Commission be abolished or otherwise divested of its functions under this act, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers, and duties given by this act to the North Carolina Wildlife Resources Commission.

Section 3. Authorization of Financing Contracts. -- (a) The State, with the prior approval of the Council of State and the State Treasurer as provided in this act, is authorized to execute and deliver a financing contract in a principal amount not to exceed thirteen million five hundred thousand dollars ($13,500,000) in order to provide funds to the Department of Administration and the Wildlife Resources Commission to be used, together with any other available funds, to pay the cost of the Office Project.

Section 3.(b) The State, with the prior approval of the Council of State and the State Treasurer as provided in this act, is authorized to execute and deliver a financing contract in a principal amount not to exceed four million dollars ($4,000,000) in order to provide funds to the Department of Administration and the Wildlife Resources Commission to be used, together with any other available funds, to pay the cost of the Eastern Wildlife Education Center Project.

Section 3.(c) If the State determines that it is in its best interest to do so, the State may enter into one financing contract to finance both of the Projects described in subsections (a) and (b) of this section. The principal amount of the financing contract shall not, however, exceed seventeen million five hundred thousand dollars ($17,500,000).

Section 4. Approval Required. -- (a) A financing contract may not be entered into pursuant to this act unless prior to entering into the financing contract (1) the Council of State, by resolution, approves the execution and delivery of the financing contract, which resolution shall set forth (i) the not to exceed term or final maturity of the financing contract, (ii) the not to exceed interest rate or rates (or the equivalent thereof) with respect to the financing contract, and (iii) the appropriate officers of the State to execute and deliver the financing contract and all other documentation relating to it, and (2) the State Treasurer approves the financing contract and all other documentation related to it, including any deed of trust, security agreement, trust agreement, or credit facility. The resolution of the Council of State shall include any other matters as the Council of State may determine.

Section 4.(b) In determining whether to approve a financing contract, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The principal amount to be advanced to the State under the financing contract is adequate and not excessive for the purpose of paying the cost of the Project.

(2) The increase, if any, in State revenues necessary to pay the sums to become due under the financing contract is not excessive.

(3) The financing contract can be entered into on terms desirable to the State.

(4) In the case of delivery of certificates of participation, the sale of certificates of participation will not have an adverse effect upon any scheduled or proposed sale of obligations of the State or any State agency or of any unit of local government in the State.

Section 5. Security. -- (a) In order to secure the performance by the State of its obligations under a financing contract, the State may grant a lien on, or security interest in, all or any part of the Project or the land upon which the Project is or will be located.

Section 5.(b) No deficiency judgment may be rendered against the State or any agency, department, or commission of the State in any action for breach of any obligation contained in a financing contract entered into under this act or contained in any other related documentation, and the taxing power of the State or any agency, department, or commission of the State is not and may not be pledged directly or indirectly to secure any moneys due under a financing contract authorized by this act. In the event that the General Assembly does not appropriate funds sufficient to make payments required under the financing contract, the net proceeds received from the sale, lease, or other disposition of the Project or the site, or a portion of the Project or the site, subject to a lien or security interest created pursuant to subsection (a) of this section shall be applied to satisfy the payment obligations in accordance with the deed of trust, security agreement, or other documentation creating the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under a financing contract or any other related documentation shall be paid to the State Treasurer for deposit to the General Fund of the State.

Section 5.(c) A financing contract shall not contain a nonsubstitution clause that restricts the right of the State to replace or provide a substitute for the Project.

Section 5.(d) A financing contract may include provisions requesting the Governor to submit in the Governor's budget proposal, or any amendments or supplements to the budget proposal, appropriations necessary to make the payments required under the financing contract.

Section 5.(e) A financing contract may contain any provisions for protecting and enforcing the rights and remedies of the entity advancing moneys or providing funds under the financing contract as may be reasonable, proper, and not in violation of law, including covenants setting forth the duties of the State in respect of the purposes to which the funds advanced under the financing contract may be applied and the duties of the State with respect to the Project, including, without limitation, provisions relating to insuring and maintaining the Project and to the custody, safeguarding, investment, and application of moneys.

Section 5.(f) The interest component of the installment payments to be made under a financing contract may be calculated based upon a fixed or variable interest rate or rates as determined by the State Treasurer.

Section 5.(g) If the State Treasurer determines that it is in the best interest of the State, the State may enter into, or arrange for the delivery of, a credit facility to secure payment of the installment payments under a financing contract or to secure payment of the purchase price of any certificates of participation delivered as provided in this act.

Section 5.(h) The entity entering into a financing contract with the State and any other professionals providing services relating to the financing contract, including, without limitation, the provider of any credit facility and the underwriter or placement agent for any certificates of participation, shall be selected by the State Treasurer pursuant to a competitive bidding process or negotiated process as determined by the State Treasurer.

Section 6. Source of Repayment. -- (a) The payment of amounts payable by the State under a financing contract and other related documentation during any fiscal biennium or fiscal year shall be limited to funds appropriated for that purpose by the General Assembly in its discretion. No provision of this act and no financing contract shall be construed or interpreted as creating a pledge of the faith and credit of the State or any agency, department, or commission of the State within the meaning of any constitutional debt limitation.

Section 6.(b) It is the intent of the General Assembly that the payments due under a financing contract and any other related documentation shall be made from amounts appropriated to and deposited in the Wildlife Resources Fund pursuant to G.S. 143-250 and from funds appropriated to and deposited in the Wildlife Endowment Fund pursuant to G.S. 143-250.1, including investment earnings on these amounts, in each case to the extent the funds may be lawfully applied for this purpose. In the event that funds appropriated to and deposited in the Wildlife Resources Fund and the Wildlife Endowment Fund, including investment earnings on such amounts, are not sufficient to make these payments, the General Assembly is not obligated to appropriate additional funds necessary to make these payments. The General Assembly may, however, in its discretion, appropriate the additional funds.

Section 6.(c) A financing contract entered into pursuant to this act shall incorporate a statement which sets forth a description of the provisions of subsections (a) and (b) of this section.

Section 6.(d) Expenditures during each fiscal biennium or fiscal year from the Wildlife Resources Fund and the Wildlife Endowment Fund shall be administered by the Wildlife Resources Commission in such a manner so as to assure that sufficient amounts shall be available in the Wildlife Resources Fund and the Wildlife Endowment Fund to make the required payments under a financing contract and any other related documentation.

Section 7. Certificates of Participation. -- (a) If certificates of participation are delivered pursuant to this act, a special corporation shall be created for the purpose of entering into a financing contract and executing and delivering certificates

of participation. The special corporation shall furnish to the State Treasurer any information and documentation relating to the delivery and sale of the certificates of participation that the State Treasurer requests.

Section 7.(b) Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this act, except that the sale must be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

Section 7.(c) Certificates of participation may be delivered pursuant to a trust agreement with a corporate trustee approved by the State Treasurer. The corporate trustee may be any trust company or bank having the powers of a trust company within or without the State. A trust agreement may (i) provide for security and pledges and assignments with respect to the security as may be permitted under this act and further provide for the enforcement of any lien or security interest created pursuant to Section 5(a) of this act, and (ii) contain any provisions for protecting and enforcing the rights and remedies of the owners of any certificates of participation as may be reasonable, proper, and not in violation of law, as determined by the State Treasurer.

Section 8. Insurance. -- The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, credit facilities, interest rate swap agreements, and any other related instruments that the State Treasurer considers desirable in connection with the financing of a Project as provided in this act.

Section 9. Tax Exemption. -- A financing contract entered into under this act and any certificates of participation relating to it are exempt from all State, county, and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except for inheritance, estate, and gift taxes, income taxes on the gain from the transfer of the financing contract or certificates of participation, and franchise taxes. The interest component of the installment payments made by the State under the financing contract, including the interest component of any certificates of participation, is not subject to taxation as income.

Section 10. Public Contracts. -- The provisions of Articles 3 (Purchase and Contracts), 3B (Energy Conservation in Public Facilities), 3C (Contracts to Obtain Consultant Services), 3D (Procurement of Architectural, Engineering, and Surveying Services), and 8 (Public Contracts) of Chapter 143 of the General Statutes and any other laws, rules, or regulations of the State as relate to the acquisition and construction of State property apply to a Project. It is the intent of the General Assembly that the Office Project should be a sustainably designed facility.

Section 11. Interpretation of Act. -- (a) The foregoing sections of this act provide an additional and alternative method for the doing of the things authorized by the act, are supplemental and additional to powers conferred by other laws, and do not derogate any powers now existing.

Section 11.(b) References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as amended and as they may be amended from time to time by the General Assembly.

Section 11.(c) This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

Section 11.(d) If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

Section 12. Public Access to Rivers and Streams. -- G.S. 136-18(9) reads as rewritten:

"(9) To employ appropriate means for properly selecting, planting and protecting trees, shrubs, vines, grasses or legumes in the highway right-of-way in the promotion of erosion control, landscaping and general protection of said highways; to acquire by gift or otherwise land for and to construct, operate and maintain roadside parks, picnic areas, picnic tables, scenic ~~overlooks~~ overlooks, public access to rivers and streams, and other appropriate turnouts for the safety and convenience of highway users; and to cooperate with municipal or county authorities, federal agencies, civic bodies and individuals in the furtherance of those objectives. None of the roadside parks, picnic areas, picnic tables, scenic overlooks or other turnouts, or any part of the highway right-of-way shall be used for commercial purposes except (i) for materials displayed in welcome centers in accordance with G.S. 136-89.56, and (ii) for vending machines permitted by the Department of Transportation and placed by the Division of Services for the Blind, Department of Health and Human Services, as the State licensing agency designated pursuant to Section 2(a)(5) of the Randolph-Sheppard Act (20 USC 107a(a)(5)). The Department of Transportation shall regulate the placing of the vending machines in highway rest areas and shall regulate the articles to be dispensed. Every other use or attempted use of any of these areas for commercial purposes shall constitute a Class 1 misdemeanor and each day's use shall constitute a separate offense."

Section 13. Effective Date. -- This act is effective when it becomes law.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 1481 A BILL TO BE ENTITLED AN ACT TO AMEND THE LEGAL DESCRIPTION OF THE REAL PROPERTY LOCATED WITHIN THE COUNTIES OF DURHAM AND WAKE, AS SET FORTH IN SECTION 2, CHAPTER 435, SESSION LAWS OF 1985, AND AS AMENDED BY SECTION 4, CHAPTER 841, SESSION LAWS OF 1989.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1481*

Short Title: Research Triangle Park Boundary. (Local)

Sponsors: Senators Miller; Gulley, Lucas, and Reeves.

Referred to: State and Local Government.

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LEGAL DESCRIPTION OF THE REAL PROPERTY LOCATED WITHIN THE COUNTIES OF DURHAM AND WAKE, AS SET FORTH IN SECTION 2, CHAPTER 435, SESSION LAWS OF 1985, AND AS AMENDED BY SECTION 4, CHAPTER 841, SESSION LAWS OF 1989.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 435 of the Session Laws of 1985 (as amended by Section 4 of Chapter 841 of the Session Laws of 1989) is amended by changing the phrase "the following described territory" to the phrase "either of the following described territories" and adding at the end of the section the following:

"As shown on a survey entitled "Survey for Biogen Inc.," dated April 11, 1995, prepared by Greenhorne & O'Mara, Inc., and recorded in Plat Book 138, Page 167, Durham County Registry and Book of Maps 1997, Page 1316, Wake County Registry, and being that property described in that deed recorded in Book 1741, Page 937, Durham County Registry, and in Book 5209, page 771, Wake County Registry, and more particularly described as follows: Beginning at an iron pipe set in the southern right-of-way of Davis Drive, said iron pipe being located South 82__30'21" East 676.43 feet from an existing angle iron, the original northwest corner of W.R. O'Briant Property as shown on a plat recorded in Book of Maps 1960, Page 64 of the Wake County Registry, and in Plat Book 40, Page 80 of the Durham County Registry; running thence from said beginning point South 82__30'21" East 988.66 feet to an existing iron pipe, said pipe being located in the southeastern property line of the Research Triangle Foundation of North Carolina property described in Book 148, Page 331, Durham County Registry, and in the western property line of The Davis

Park Associates, Ltd. property as shown on Plat Book 116, Page 116, Durham County Registry; thence along The Davis Park Associates, Ltd. western property line South 07__02'02" West 579.40 feet to an existing iron pipe located in the northern property line of the Davis Drive Associates No. 2 property as shown on Plat Book 116, Page 115, Durham County Registry; thence along the Davis Drive Associates No. 2 northern and western property lines the following two calls: North 78__07'33" West 331.59 feet to an existing 4-inch channel iron; thence South 09__05'35" West 721.58 feet to an existing iron pipe located in the northwest corner of the property owned now or formerly by Richard J. Thompson, et al as described in Book 2750, Page 748, Wake County Registry; thence along the Thompson, et al, western property line South 09__02'51" West 1,355.84 feet to an existing 4-inch channel iron located in the northern property line of the Research Triangle Foundation of North Carolina property as described in Book 1670, Page 239, Wake County Registry; thence along the northern line of the Research Triangle Foundation of North Carolina property North 78__10'21" West 1,087.20 feet to an existing ½ inch steel rod located in the northeast corner of the Biogen Inc. property as shown on Book of Maps 1994, Page 1560, Wake County Registry; thence along the Biogen Inc. northern property line the following two calls: North 78__10'21" West 56.35 feet to an existing angle iron; thence North 80__01'56" West 156.55 feet to an existing iron pipe located in the eastern property line of the Research Triangle Foundation of North Carolina property as described in Book 1670, Page 239, Wake County Registry; thence along the eastern line of the Research Triangle Foundation of North Carolina property North 07__49'13" East 770.98 feet to a new iron pipe; thence North 55__22'58" West 496.22 feet to a new iron pipe located in the southern right-of-way of Davis Drive; thence along the southern right-of-way of Davis Drive North 34__37'02" East 902.55 feet to an existing rebar and cap North Carolina Department of Transportation right-of-way marker; thence North 33__12'21" East 84.07 feet to an iron pipe set; thence North 33__12'21" East 207.08 feet to an iron pipe set; thence North 46__18'46" East 265.38 feet to an iron pipe set; thence North 59__54'40" East 270.77 feet to an iron pipe set; thence North 71__20'59" East 233.29 feet to an iron pipe set, the point and place of BEGINNING, containing 84.654 acres.

Section 2. This act is effective when it becomes law.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE**.

Senate

☒ Committee Substitute for
H.B. 1302 A BILL TO BE ENTITLED AN ACT TO EXEMPT FROM TAX MOTOR FUEL SOLD TO CHARTER SCHOOLS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☒ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 3

HOUSE BILL 1302
Senate Finance Committee Substitute Adopted 6/13/00
Third Edition Engrossed 6/14/00

Short Title: Charter School Fuel Exemption. (Public)

Sponsors:

Referred to:

April 20, 1999

A BILL TO BE ENTITLED

AN ACT TO EXEMPT FROM TAX MOTOR FUEL SOLD TO CHARTER SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-228.90(b) reads as rewritten:

"(b) Definitions. -- The following definitions apply in this Article:

(1) Charter school. -- A nonprofit corporation that has a charter under G.S. 115C-238.29D to operate a charter school.

~~(1)~~ (1a) City. -- A city as defined by G.S. 160A-1(2). The term also includes an urban service district defined by the governing board of a consolidated city-county, as defined by G.S. 160B-2(1).

~~(1a)~~ (1b) **(See Editor's note)** Code. -- The Internal Revenue Code as enacted as of June 1, 1999, including any provisions enacted as of that date which become effective either before or after that date.

~~(1b)~~ (1c) County. -- Any one of the counties listed in G.S. 153A-10. The term also includes a consolidated city-county as defined by G.S. 160B-2(1).

(2) Reserved.

(3) Electronic Funds Transfer. -- A transfer of funds initiated by using an electronic terminal, a telephone, a computer, or magnetic tape

to instruct or authorize a financial institution or its agent to credit or debit an account.

(4) Reserved.

(5) Person. -- An individual, a fiduciary, a firm, an association, a partnership, a limited liability company, a corporation, a unit of government, or another group acting as a unit. The term includes an officer or employee of a corporation, a member, a manager, or an employee of a limited liability company, and a member or employee of a partnership who, as officer, employee, member, or manager, is under a duty to perform an act in meeting the requirements of Subchapter I, V, or VIII of this Chapter or of Article 3 of Chapter 119 of the General Statutes.

(6) Secretary. -- The Secretary of Revenue.

(7) Tax. -- A tax levied under Subchapter I, V, or VIII of this Chapter or an inspection tax levied under Article 3 of Chapter 119 of the General Statutes. Unless the context clearly requires otherwise, the terms "tax" and "additional tax" include penalties and interest as well as the principal amount.

(8) Taxpayer. -- A person subject to the tax or reporting requirements of Subchapter I, V, or VIII of this Chapter or of Article 3 of Chapter 119 of the General Statutes."

Section 2. G.S. 105-449.88 reads as rewritten:

"**§ 105-449.88. Exemptions from the excise tax.**

The excise tax on motor fuel does not apply to the following:

(1) Motor fuel removed, by transport truck or another means of transfer outside the terminal transfer system, from a terminal for export, if the supplier of the motor fuel collects tax on it at the rate of the motor fuel's destination state.

(2) Motor fuel sold to the federal government for its use.

(3) Motor fuel sold to the State for its use.

(4) Motor fuel sold to a local board of education for use in the public school system.

(5) Diesel that is kerosene and is sold to an airport.

(6) Motor fuel sold to a charter school for use for charter school purposes."

Section 3. G.S. 115C-238.29J is amended by adding a new subsection to read:

"(d) The State Board of Education shall direct the Department of Public Instruction to notify the Department of Revenue when the State Board of Education terminates, fails to renew, or grants a charter for a charter school."

Section 4. This act becomes effective October 1, 2000.

HOUSE BILL 1302:
Charter School Fuel Exemption

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Bonner
Date:	July 28, 2000	**Summary by:**	Cindy Avrette
Version:	3rd Edition		Committee Counsel

HOUSE BILL 1302 IS BACK IN THE HOUSE FOR CONCURRENCE IN THE SENATE CHANGES TO THE BILL.

SUMMARY: ***House Bill 1302 exempts motor fuel sold to a charter school board for use for charter school purposes from the excise tax on motor fuel.***

SENATE CHANGES: The Senate made two changes to the bill:

- It moved the effective date from October 1, 1999, to October 1, 2000, and updated the statutory language in Section 1.
- It added a provision required the State Board of Education to direct the Department of Public Instruction to notify The Department when the State Board terminates, fails to renew, or grants a charter for a charter school. This change will help the Department administer the fuel tax exemption.

CURRENT LAW: The motor fuel excise tax rate has two components: a flat rate plus a variable rate. The flat rate is 17.5¢ per gallon. The variable component may change every six months. It is added to the flat rate. The variable component is equal to the greater of 3.5¢ a gallon or 7% of the weighted average wholesale price of gasoline and No. 2 diesel fuel for the most recent six-month base period. The current motor fuel tax rate is 22¢ a gallon.

One-half cent a gallon of the motor fuel tax revenue is dedicated to the two underground storage tank funds and the water and air quality account. Seventy-five percent (75%) of the remainder of the revenue generated by this tax is allocated to the Highway Fund and the remaining 25% is credited to the Highway Trust Fund.

The motor fuel excise tax does not apply to the following:

- Motor fuel removed in this State for transportation to another state if the supplier collects tax on the motor fuel at the rate of the motor fuel's destination state.
- Motor fuel sold to the federal government for its use.
- Motor fuel sold to the State for its use.
- Motor fuel sold to a local board of education for use in the public school system.
- Diesel that is kerosene and is sold to an airport.

BILL ANALYSIS: House Bill 1302 adds "motor fuel sold to a charter school for use for charter school purposes" to the list of motor fuel tax exemptions. To enable the Department of Revenue to administer the tax exemption and to verify the existence of the applicant for the exemption, the bill requires the State Board of Education to direct the Department of Public Instruction to notify the Department when the State Board terminates, fails to renew, or grants a charter for a charter school.

A charter school is defined as a nonprofit corporation that has a charter under G.S. 115C-238.29D to operate a charter school. G.S. 115C-238.29D limits the number of charter schools to 100 schools statewide. Any person or nonprofit corporation may apply to the State Board of Education to establish a charter school. To be approved as a charter school, the applicant must meet the statutory requirements and the Board must find that the proposed school will provide or achieve improved student learning, increased learning opportunities for all students, the use of different and innovative teaching methods, new professional opportunities for teachers, and expanded educational choices for parents and students.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) ALLEN, LUEBKE AND MILLER for the Committee on FINANCE.

☐ Committee Substitute for
H.B. 1630 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE CONSTRUCTION OF A PILOT PRIVATELY FUNDED TOLL ROAD OR BRIDGE PROJECT AND TO DIRECT THE DEPARTMENT OF TRANSPORTATION TO STUDY THE FEASIBILITY OF STATE-OWNED AND OPERATED TOLL ROADS OR BRIDGES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill (# 2), ☐ ~~which changes the title~~, unfavorable as to (original bill) (Committee Substitute Bill # /), ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

H1630-CSRW-005
PROPOSED COMMITTEE SUBSTITUTE
House Bill 1630
THIS IS A DRAFT 22-JUN-00 11:34:56
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Toll Roads. (Public)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CONSTRUCTION OF A PILOT PRIVATELY FUNDED TOLL ROAD OR BRIDGE PROJECT AND TO DIRECT THE DEPARTMENT OF TRANSPORTATION TO STUDY THE FEASIBILITY OF STATE-OWNED AND OPERATED TOLL ROADS OR BRIDGES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 136 of the General Statutes is amended by adding a new Article 6G to read:

"ARTICLE 6G.

"Private Pilot Toll Project.

"§ 136-89.168. Private Pilot Toll Project.

(a) Authority to License. -- The Department of Transportation is authorized to issue a license to an applicant to finance, design, construct, maintain, improve, own, or operate, or any combination thereof, a pilot toll transportation project within the State of North Carolina. Any license authorized by this section must be issued on or before July 1, 2005.

(b) Requirement for Finding of Need. -- Prior to the issuance of any license under this section, the Department shall make a

written determination that the proposed project is necessary and in the public interest.

(c) Submission of Financial Data. -- A person applying for a license to construct a project under this section shall submit detailed financial data to the Department concerning the ability of applicant to finance the proposed project. The Department shall independently analyze the data submitted for each project proposal.

(d) Terms of License. -- Additional terms and conditions of any license issued pursuant to this section shall be within the discretion of the Department of Transportation, and shall include, in addition to any other requirements:

(1) Provisions establishing minimum design and construction standards for the project.

(2) Provisions establishing minimum maintenance standards for the project.

(3) Provisions requiring that appropriate traffic signs and other traffic control devices be erected and maintained on the project.

(4) Provisions establishing the rights and duties of the parties regarding infrastructure improvements and connections between the project and the State highway system.

(5) Provisions regarding any type of access control, if any, that may be required for the project.

(6) Provisions establishing the relative responsibilities of the licensee and the Department of Transportation to keep the completed project open and accessible to the public.

(7) Provisions concerning location of the project.

(e) Acquisition of Project Property. -- A person licensed to construct a project under this section shall acquire all right-of-way interests required for the project through private negotiation.

(f) Applicability of Other Laws. -- For the purpose of entering into contractual licensing agreements under this section, the Department of Transportation is exempted from any provision of the General Statutes that conflicts with the purposes of this section, specifically including G.S. 136-28.1 and G.S. 143-52. A project licensed under this section shall not be included in the distribution formula under G.S. 136-17.2A but shall require approval of the Board of Transportation under G.S. 143B-350(f)(4). A licensee under this section shall endeavor to comply

with the provisions of G.S. 136-28.4 concerning participation by disadvantaged businesses.

(g) Applicability of Motor Vehicle Laws. -- Any project licensed by the Department of Transportation under the authority granted in this section shall be considered a 'highway' as defined in G.S. 20-4.01(13) and a 'public vehicular area' as defined in G.S. 20-4.01(32). All law enforcement and emergency personnel, including the State Highway Patrol and the Division of Motor Vehicles, shall have the same powers and duties on such projects as on any other highway or public vehicular area.

(h) Resolution of Support Required. -- The Department shall not license any project under this section prior to receiving a resolution of support for the project approved by the county commissioners of each county in which the project will be located.

(i) Exclusive License. -- Upon the issuance of a license by the Department of Transportation, no further license of any type may be required by the State or local government body for the ownership, construction, or operation of the project.

(j) Definitions. -- The following definitions shall apply as used in this section:

(1) 'Person' shall mean any natural person, partnership, corporation, trust, association, sole proprietorship, or any other legal entity other than the State or its agencies, institutions, or political subdivisions.

(2) 'Project' shall mean a privately constructed, maintained, and operated toll highway, road, bridge, or other transportation-related facility.

(3) 'License' shall mean a person authorized through a contractual agreement with the Department of Transportation to finance, design, construct, maintain, improve, own, or operate, or any combination thereof, a project.

(k) Report. -- The Department shall report to the Joint Legislative Transportation Oversight Committee and to the Transportation Appropriations Subcommittee by February 1, 2001, and every year thereafter, on any toll project planning, construction, or operation commenced pursuant to the provisions of this Article."

Section 2. The Department shall study the feasibility of construction of State-owned and operated toll roads and the areas where any State-owned and operated toll roads are proposed and report its findings to the Joint Legislative Transportation

Oversight Committee and to the Transportation Appropriations Subcommittee by February 1, 2001.

Section 3. This act is effective when it becomes law.

HOUSE BILL 1630:
Toll Roads

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Crawford
Date:	July 28, 2000	**Summary by:**	Cindy Avrette
Version:	Proposed Committee Substitute H1630-CSRW-005		Committee Counsel

Summary: ***House Bill 1630 authorizes the construction and operation of three private toll projects in North Carolina and requires the Department of Transportation to study the feasibility of State-owned and operated toll roads. The proposed committee substitute limits the number of private toll projects to one. It also removes from the bill the provision that would allow the Department to exercise its power of eminent domain to acquire property rights for the private toll project and the provision that would allow the Department to transfer its property interest in property to the licensee.***

Bill Analysis:

The Department of Transportation may issue a license to a person to finance, design, construct, maintain, improve, own, or operate a toll highway, road, bridge, or other transportation-related facility. A license authorized by the act must be issued on or before July 1, 2005.

Requirements for Issuance of License

- DOT must make a written determination that the proposed project is necessary and is in the public interest.
- The applicant must submit detailed financial data to DOT showing its ability to finance the project.
- DOT must receive a resolution of support for the project approved by the county commissioners of each county in which the project will be located.

Terms of License – DOT is granted discretion to include conditions in the license issued under this section, but is required to include provisions concerning design, maintenance, connections to the existing highway system, and location of the project.

Methods of Acquiring Project Property – A licensee must acquire all right-of–way interests required for the project through private negotiation.

Exemptions -- DOT is exempted from conflicting laws (bidding requirements and advertisement) for the purpose of entering into contractual licensing agreements.

Motor Vehicle laws would apply on a project licensed under this section. The Highway Patrol and Division of Motor Vehicles would have the same powers on a project licensed under this section as any other road.

Reporting Requirements – DOT must report to the Joint Legislative Transportation Oversight Committee and to the Transportation Appropriations Subcommittee by February 1, 2001, and every year thereafter on any toll project.

Giles Perry, Counsel to the Transportation Committee, contributed substantially to this summary.

FISCAL ANALYSIS MEMORANDUM

DATE: June 27, 2000

TO: House Finance Committee

FROM: Evan Rodewald
Fiscal Research Division

RE: House Bill 1630 (Proposed Committee Substitute, CSRW-005) – Toll Roads

---

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (x)**

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
REVENUES					
EXPENDITURES					
POSITIONS:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation

EFFECTIVE DATE: When bill becomes law

BILL SUMMARY:

House Bill 1630 authorizes the construction and operation of a pilot toll project.

Private Toll Projects

The Department of Transportation may issue a license to persons to finance, design, construct, maintain, improve, own, or operate a toll highway, road, bridge, or other transportation-related facility.

Requirements for Issuance of License

- DOT must make written determination that proposed project is necessary, in the public interest.
- Applicant must submit detailed financial data to DOT showing ability to finance the project

DOT must receive a resolution of support for the project approved by the county commissioners of each county in which the project will be located.

Terms of License – DOT is granted discretion to include conditions in any license issued under this section, but is required to include provisions concerning design, maintenance, connections to the existing highway system, and location of the project.

Methods of Acquiring Project Property – A licensee must acquire all right-of–way interests required for the project through private negotiation.

Exemptions -- DOT is exempted from conflicting laws (bidding requirements and advertisement) for the purpose of entering into contractual licensing agreements.

Motor Vehicle laws -- would apply on any project licensed under this section. The Highway Patrol and Division of Motor Vehicles would have the same powers on a project licensed under this section as any other road.

Reporting Requirements – DOT must report to Joint Legislative Transportation Oversight Committee and to the Transportation Appropriations Subcommittee by February 1, 2001 and every year thereafter on any toll project.

State-Owned and Operated Toll Projects

DOT shall study the feasibility of Stateowned and operated toll roads and report its findings to the Joint Legislative Transportation Oversight Committee.

ASSUMPTIONS AND METHODOLOGY:

A private toll road built under this law would be funded by private sources, and would not require construction funds from the State. Consequently, a private toll road would have no direct fiscal impact on the State. Over time, a private toll road could impact the State budget indirectly. For example, a private toll road could lead to more travelling from motorists, higher fuel consumption and increased gas tax revenues. Similarly, an additional road could result in a need for more law enforcement personnel to patrol the road. The indirect fiscal impact of a private toll road would be complex and would depend on the specifics of the road built, such as its length and the amount of traffic it carried. Because we have no way of anticipating these specifics, we cannot estimate the fiscal impact of this bill.

TECHNICAL CONSIDERATIONS: None

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

☐ Committee Substitute for
S.B. 1193 A BILL TO BE ENTITLED AN ACT TO RESOLVE A BOUNDARY OVERLAP BETWEEN THE RONDA AND ROARING RIVER VOLUNTEER FIRE TAX DISTRICTS IN WILKES COUNTY AND TO VALIDATE CERTAIN ACTIONS, AND TO EXPAND THE GLENDALE SPRINGS FIRE PROTECTION DISTRICT IN ASHE COUNTY.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1193
Finance Committee Substitute Adopted 6/20/00

Short Title: Wilkes and Glendale Springs Fire District. (Local)

Sponsors:

Referred to:

May 10, 2000

A BILL TO BE ENTITLED

AN ACT TO RESOLVE A BOUNDARY OVERLAP BETWEEN THE RONDA AND ROARING RIVER VOLUNTEER FIRE TAX DISTRICTS IN WILKES COUNTY AND TO VALIDATE CERTAIN ACTIONS, AND TO EXPAND THE GLENDALE SPRINGS FIRE PROTECTION DISTRICT IN ASHE COUNTY.

The General Assembly of North Carolina enacts:

Section 1.(a) The newly agreed boundary line for the Roaring River Fire Tax District in the area from the intersection of Poplar Springs Road and North Ridge Road south to Old U.S. Highway 421 shall be as follows:

BEGINNING at the intersection of S.R. 1924 (Poplar Springs Road) and S.R. 2015 (North Ridge Road), thence in a southeasterly direction with S.R. 2015 to the intersection of S.R. 2015 and N.C. Highway 268, including all property with primary access from S.R. 2015 between this and the preceding point; thence in a southerly direction in a straight line to a point on S.R. 2321 (Old 60) .2 miles west of Gray's Creek Bridge; thence in a southerly direction in a straight line to the intersection of S.R. 2318 (Mathis Mill Road), S.R. 2319 (South Plum Ridge Road), and S.R. 2320 (North Plum Ridge Road); thence in a southerly direction with S.R. 2319 to the intersection of S.R. 2319 and U.S. Highway 421, including all property adjacent to or accessed from S.R. 2319 between this and the preceding point; thence in an easterly direction following the centerline of U.S. Highway 421 to the intersection of U.S. 421 and S.R. 2346 (Old U.S. Highway 421); thence in a westerly direction with S.R. 2346 to a point 1.1 miles west of said intersection, including all property on both sides of

S.R. 2346 adjacent to or accessed from S.R. 2346. The foregoing description for said boundary line shall not be affected or altered in any way by the widening, relocation, or four-laning of U.S. Highway 421.

Section 1.(b) The newly agreed boundary line for the Ronda Fire Tax District in the area from the intersection of Poplar Springs Road and North Ridge Road south to Old U.S. Highway 421 shall be as follows:

BEGINNING at the intersection of S.R. 1924 (Poplar Springs Road) and S.R. 2015 (North Ridge Road), thence in a southeasterly direction with S.R. 2015 to the intersection of S.R. 2015 and N.C. Highway 268, excluding all property with primary access from S.R. 2015 between this and the preceding point; thence in a southerly direction in a straight line to a point on S.R. 2321 (Old 60) .2 miles west of Gray's Creek Bridge; thence in a southerly direction in a straight line to the intersection of S.R. 2318 (Mathis Mill Road), S.R. 2319 (South Plum Ridge Road), and S.R. 2320 (North Plum Ridge Road); thence in a southerly direction with S.R. 2319 to the intersection of S.R. 2319 and U.S. Highway 421, excluding all property adjacent to or accessed from S.R. 2319 between this and the preceding point; thence in an easterly direction following the centerline of U.S. Highway 421 to the intersection of U.S. 421 and S.R. 2346 (Old U.S. Highway 421); thence in a westerly direction with S.R. 2346 to a point 1.1 miles west of said intersection, excluding all property on both sides of S.R. 2346 adjacent to or accessed from S.R. 2346. The foregoing description for said boundary line shall not be affected or altered in any way by the widening, relocation, or four-laning of U.S. Highway 421.

Section 2. Subject to the new boundary line as provided in this act, the 1985 extensions of the Ronda and Roaring River Fire Tax districts in Wilkes County are valid and lawful. All collections of fire tax revenues by Wilkes County since 1985 in the areas subject to the extensions are valid and lawful, without regard to which fire tax district (and corresponding fire tax rate) those revenues were collected from, and without regard to which volunteer fire department those revenues were allocated to.

Section 3. The boundaries of the Glendale Springs Fire Protection District established under Article 3A of Chapter 69 of the General Statutes are as follows:

Beginning at the intersection of NC 88 and Low Gap Road running west to where NC 88 intersects with Ebenezer Road, labeled as point 2 on the exhibit. From there the line goes south - southeast along Ebenezer and taking an overland route to the east of and encompassing all of Roe Hunt Road to a point on the Blue Ridge Parkway labeled as point 3 on the exhibit. From there the line runs southwest - south along the county boundary line to a point east of the Blue Ridge Parkway labeled as point 4 on the exhibit. From there the line runs in a westerly direction along the county boundary line to a point on the Blue Ridge Parkway just west of its intersection with Park Vista Road, labeled as point 5 on the exhibit. From there the boundary line travels northwesterly for a short distance, encompassing both sides of Park Vista Road, before turning northward in an overland line to the intersection of Canoe Gap and Idlewild Road, labeled as point 6 on the exhibit. The boundary line

continues northward to the intersection of Canoe Gap Road and Hartsog Ford Road, labeled as point 7 on the exhibit. From there the line runs slightly northeast to a point where the river bridge crosses NC 163, labeled as point 8 on the exhibit. From there the boundary line takes a meandering path along the east side of the New River to a point where the river runs beside Boggs Road, labeled as point 9 on the exhibit. From there the boundary line runs slightly northeast to a point where Cox Road runs beside the New River, labeled as point 10 on the exhibit. From there, the line runs along the New River to a point where NC 16 intersects with NC 88, labeled as point 11 on the exhibit. From there, the line runs along NC 88, encompassing the southern portion of the road, until it intersects with Low Gap, labeled as point 1.

Section 4. Section 3 becomes effective June 30, 2000. The remainder of this act is effective when it becomes law.

MINUTES
HOUSE COMMITTEE ON FINANCE

Thursday, June 29, 2000

The House Committee on Finance met on Thursday, June 29, 2000 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke and Miller; Vice Chairs Jarrell and Wood; Representatives Bridgeman, Brown, Buchanan, Capps, Cox, Creech, Decker, Dedmon, Eddins, Edwards, Ford, Gibson, Goodwin, Gray, Hackney, Haire, Hill, Howard, McCombs, Miner, Pope, Rayfield, Starnes, Tucker, Weiss, Wilson, and Womble. Ex Officio members Baddour, Earle, and Cunningham. Staff including Cindy Avrette, Richard Bostic, Erika Churchill, David Crotts, Linda Millsaps, Mary Shuping; Eugene Son and Rebekah Butler, Interns; were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Luebke called the meeting to order. Chair Luebke recognized the pages and Sargent-at-Arms staff and commented briefly on the agenda and proceeded to consider the following bills:

Senator Hartsell was recognized to explain SB 1305, A BILL TO BE ENTITLED AN ACT TO ENACT REVISED ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE, CONFORMING AMENDMENTS TO OTHER ARTICLES OF THE UNIFORM COMMERCIAL CODE, AND CONFORMING AMENDMENTS TO OTHER SECTIONS OF THE GENERAL STATUTES AND TO INCREASE CERTAIN FEES UNDER CURRENT ARTICLE 9, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION. Rep. Womble asked where the fees would be going. Senator Hartsell stated that the fees would go to the same places they are going now. Senator Hartsell noted that in the short-term, the fees would double; whereas in the long-term, the fees would probably reduce. Senator Hartsell stated that as of now, one would pay $15 in two places and in the future one would pay $30 in only one place. Senator Hartsell stated that for debtors whom had multiple locations, they currently have to file with the Secretary of State, at a cost of $15, and also file in each county in which the debtor has a location, often multiply counties at a cost of $15 per county (particularly in a commercial context). Senator Hartsell noted that currently this could cost up to hundreds of dollars and multiply filings, under the proposed legislation it would be reduced to one filing of $30. Professor Caroline Brown, with the University of North Carolina's School of Law, was recognized to speak on the bill. Professor Brown stated that the new statute would be more consumer-friendly than the old one was. Professor Brown noted that old filing could involve multiple states and multiple counties under the proposed legislation they need only be filed once. Rep. Brown made a motion to give the bill a favorable report. Rep. Capps asked if the revenues in the ensuing years produce $8 million while expenditures are only $1 million. Senator Hartsell noted that there is some uncertainty as to actual cost. Rep. Capps asked if the excess fees could be used for other purposes in the General Fund. Richard Bostic, Fiscal Analyst, was recognized to explain. Mr. Bostic stated that it is a General Fund revenue, it's not controlled by the Secretary of State. Mr. Bostic noted that the Appropriations Committee has to appropriate them funds so the money would go to other uses as deemed by the Appropriations Committee. Rep. Decker asked why county revenues were going down while state revenues were doubling. Senator Hartsell stated that the number of filings would be reducing. Professor Brown was recognized to explain the fee issue. Professor Brown stated that

the Register of Deeds officials that have worked with the drafting committee have expressed concern over the loss of revenue. Professor Brown stated that the cost to debtors is enormously less. Professor Brown noted that bankers estimate that they could save around two thousand dollars per transaction with a debtor (two thousand dollars in filing fees). Professor Brown stated that the $30 fee was chosen to allow Registers of Deeds to offset future revenue losses and to begin computerization of their filing systems. Rep. Capps asked if Senator Hartsell would be open to an amendment to put excess funds into the Rainy Day Fund. Senator Hartsell noted that the uncertainty of the time requirements, training and informing the public make that difficult. Rep. Capps asked staff if this amendment could be done. Richard Bostic stated that Marvin Dorman, Office of State Budget and Management, could take money from the receipts and place it in the Rainy Day Fund. Rep. Capps requested that the amendment be prepared. Rep. Cox asked if the Committee could hear from the Secretary of State's office regarding the bill. Scott Templeton, Deputy Secretary of State, was recognized to speak on the bill. Mr. Templeton stated that the Secretary of State's office has worked closely with the members of the General Statutes drafting committee on this bill. Mr. Templeton noted that the Secretary of State's office is comfortable with this bill. Rep. Eddins asked if the Secretary of State's office was aware of any opposition to this bill. Mr. Templeton stated that their office has dealt with one person and has worked to explain the outcome of this bill if enacted. Rep. Capps was recognized to send forth an amendment. Cindy Avrette was recognized to explain the amendment. Rep. Creech asked if it was the state's responsibility to fund the county's computerization. Senator Hartsell stated that he felt it was the county's responsibility. Rep. Creech asked if the counties would be required to maintain records for a set period of time, would this amendment become an unfunded mandate to the counties. Senator Hartsell stated that it would a reverse unfunded mandate. Senator Hartsell noted that long-term it would reduce the cost to counties after the transitional period. Chair Luebke noted that it might be appropriate to displace this bill until these questions can be answered. Rep. McComas was recognized to speak on the bill. Rep. McComas stated that he supported the bill. Rep. McComas noted that this bill would streamline the system and also cut down on the bureaucracy. Rep. Brown was recognized to speak on the bill. Rep. Brown stated that he was in support of the bill and felt that the Committee was ready to vote on it. Rep. Weiss was recognized to speak on the bill. Rep. Weiss stated that she was in support of the bill in its original form. There being no further questions a vote was taken. Division being noted, members were requested to raise their hands. The amendment was defeated 11-13. Rep. Pope was recognized to send forth an amendment. Rep. Pope was recognized to explain the amendment. Rep. Pope stated that the amendment would reduce the fee increase to $15-$20. Senator Hartsell asked if the amendment would reduce the fee going to the Register of Deeds. Cindy Avrette stated that it would reduce the fees going to the state as well as the county by $10. Rep. Pope was recognized to speak on the amendment. Rep. Pope stated that the initial transaction cost is in the filing but this would give the counties an increase over their current fee. Rep. Weiss was recognized to question staff. Rep. Weiss asked where the initial $30 fee come from. Senator Hartsell noted that currently the county fee is $15 and the state fee is $15 and thus, by combining them they derived the $30 fee. There being no further questions on the amendment a vote was taken. The amendment was defeated. Rep. Eddins requested the ayes and nayes on the vote on the bill. Chair Luebke noted that the remaining bills on the calendar would be heard at tomorrow's meeting. The roll was called. The bill passed by a count of 20 ayes and 1 nay. The motion passed. A copy of the bill, amendments, bill analysis, fiscal note and roll call included in the minutes.

Chair Luebke noted that there was time to hear one more bill.

Rep. Insko was recognized to explain HB 1768, A BILL TO BE ENTITLED AN ACT MAKING OMNIBUS CHANGES TO CERTAIN GENERAL AND LOCAL LAWS AFFECTING ORANGE COUNTY. Rep. Gibson was recognized to speak on the bill. Rep. Gibson noted that he had received some concerns on this bill. Rep. Allen made a motion to give the bill a favorable report. Rep. Creech was recognized to speak on the bill. Rep. Creech stated that he has received some concerns over this bill. Rep. Allen removed his motion on the bill. Chair Luebke moved to displace the bill until tomorrow's meeting.

There being no further business, the Chair adjourned the meeting at 9:51 a.m.

Respectfully submitted:

Representative Paul Luebke
Chair

Ken Melton
Assistant to the Committee

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Thursday, June 29, 2000 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

HB 1566 -- TEMP. MV LIEN FILING – REP. COLE
HB 1583 – NONHAZARDOUS DRY-CLEANING TECH. – REP. GIBSON
HB 1768 – ORANGE/CHATHAM OMNIBUS ACT – REP. INSKO
SB 1184 – SPAY/NEUTER PROGRAM – SENATOR KINNAIRD
SB 1210 – SPECIAL REGISTRATION PLATES – SENATOR ODOM
SB 1305 – REVISE ARTICLE 9 OF THE UCC – SENATOR HARTSELL
SB 1354 – INDEP. LIVING FUNDS/COUNTY MATCH. – SENATOR ODOM

FOR DISCUSSION ONLY:

HB 1806 – SOME ELECTRICITY EXEMPT – REP. MILLER

ADJOURNMENT OF MEETING

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES		6-29														
Allen, Gordon	Chair	X														
Luebke, Paul	Chair	X														
Miller, George	Chair	X														
Jarrell, Mary	Vice-Chair	X														
Wood, Steve	Vice-Chair															
Bridgeman, John		X														
Brown, John		X														
Buchanan, Monroe		X														
Capps, Russell		X														
Church, Walter		X														
Cox, Leslie		X														
Creech, Billy		X														
Decker, Michael		X														
Dedmon, Andy		X														
Eddins, Rick		X														
Edwards, Zeno		X														
Fitch, Toby																
Ford, Jimmie		X														
Gibson, Pryor		X														
Goodwin, Wayne		X														
Gray, Lyons		X														
Hackney, Joe		X														
Haire, Phillip																
Hill, Dewey		X														
Howard, Julia																
McComas, Daniel		X														

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES	6-29														
McCombs, Eugene	X														
Miner, David															
Morris, Mia															
Pope, Art	X														
Ramsey, Liston															
Rayfield, John	X														
Starnes, Edgar															
Tallent, Tim															
Tucker, Russell	X														
Weiss, Jennifer	X														
Wilson, Connie	X														
Womble, Larry															
Wright, Thomas															
Ex Officio Members:															
Hackney, Pro Tem	X														
Baddour, Majority															
Dedmon, Whip	X														
Earle, Whip															
Cunningham															

VISITOR REGISTRATION SHEET

FINANCE — Name of Committee

6/29/00 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
R. Paul WICMS	NCHBA
Geoffrey Gledhill	Orange County Atty
Mac Mumbetta	Poyner & Spruill
ROBERT GLOVER	NC Auto Dealers
SAM JOHNSON	ATTY
Glenn Dunn	Poyner & Spruill
Diane Johnson	DOT-DMV
Carl Piggott	DMV Enforcement
Phil LeBlanc	NC AG.O
Paul Stock	NC Bankers Assn.
Alice Garland	Electri Cities
Alan Miles	Bonby & Dixon LLP
Charles Case	Hunton & Williams
Sharon Miller	CUCA
Jon Carr	Jordan Price
Tom Anderson	Womble Carlyle Sandridge & Rice
Caroline-Brown	UNC School of Laws (GSC Drafting Comm.)
Floyd M. Lewis	General Statutes Commission
BILL SOOGGIN	KENNEDY COVINGTON
Stephanie Montgomery	Secretary of State
Scott Temple	Sec State G O
Paul Begin	OSBM
Hasije Harris	NCDOR
Eugene H Schlamm	Arthur Andersen LLP
Greg Radford	NCDOR
Larry Heckner	Household Financial Group
VE OBBS	NCHMA
Estherene Davis	ElectriCities

VISITOR REGISTRATION SHEET

FINANCE
Name of Committee

6/29/00
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Steve Woodson	NC Farm Bureau
Tom McKillop	Moore Va. Allen
BRUCE THOMPSON	PARKER, POE, ADAMS & BERNSTEIN

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 1305 A BILL TO BE ENTITLED AN ACT TO ENACT REVISED ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE, CONFORMING AMENDMENTS TO OTHER ARTICLES OF THE UNIFORM COMMERCIAL CODE, AND CONFORMING AMENDMENTS TO OTHER SECTIONS OF THE GENERAL STATUTES AND TO INCREASE CERTAIN FEES UNDER CURRENT ARTICLE 9, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1305*
Second Edition Engrossed 6/20/00

Short Title: Revise Article 9 of the UCC. (Public)

Sponsors: Senator Hartsell.

Referred to: Judiciary I.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO ENACT REVISED ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE, CONFORMING AMENDMENTS TO OTHER ARTICLES OF THE UNIFORM COMMERCIAL CODE, AND CONFORMING AMENDMENTS TO OTHER SECTIONS OF THE GENERAL STATUTES AND TO INCREASE CERTAIN FEES UNDER CURRENT ARTICLE 9, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

PART I. REVISED ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE.

Section 1. Article 9 of Chapter 25 of the General Statutes is rewritten to read:

"ARTICLE 9.

"Secured Transactions.

"PART 1.

"GENERAL PROVISIONS.

"SUBPART 1. SHORT TITLE, DEFINITIONS, AND GENERAL CONCEPTS.

"§ 25-9-101. Short title.

This Article may be cited as Uniform Commercial Code-Secured Transactions.

"§ 25-9-102. Definitions and index of definitions.

(a) Article 9 definitions. -- In this Article:

(1) 'Accession' means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(2) 'Account', except as used in 'account for', means a right to payment of a monetary obligation, whether or not earned by performance, (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health-care-insurance receivables. The term does not include (i) rights to payment evidenced by chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

(3) 'Account debtor' means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(4) 'Accounting', except as used in 'accounting for', means a record:

a. Authenticated by a secured party;

b. Indicating the aggregate unpaid secured obligations as of a date not more than 35 days earlier or 35 days later than the date of the record; and

c. Identifying the components of the obligations in reasonable detail.

(5) 'Agricultural lien' means an interest, other than a security interest, in farm products:

a. Which secures payment or performance of an obligation for:

1. Goods or services furnished in connection with a debtor's farming operation; or

2. Rent on real property leased by a debtor in connection with its farming operation;

b. Which is created by statute in favor of a person that:

1. In the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or
2. Leased real property to a debtor in connection with the debtor's farming operation; and

c. Whose effectiveness does not depend on the person's possession of the personal property.

(6) 'As-extracted collateral' means:

a. Oil, gas, or other minerals that are subject to a security interest that:
1. Is created by a debtor having an interest in the minerals before extraction; and
2. Attaches to the minerals as extracted; or

b. Accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(7) 'Authenticate' means:

a. To sign; or

b. To execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record.

(8) 'Bank' means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.

(9) 'Cash proceeds' means proceeds that are money, checks, deposit accounts, or the like.

(10) 'Certificate of title' means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

(11) 'Chattel paper' means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this subdivision, 'monetary obligation' means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include (i) charters or other contracts involving the use or hire of a vessel or (ii) records that evidence a right to payment arising out of the use of a credit or charge card or information

contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

(12) 'Collateral' means the property subject to a security interest or agricultural lien. The term includes:

a. Proceeds to which a security interest attaches;

b. Accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

c. Goods that are the subject of a consignment.

(13) 'Commercial tort claim' means a claim arising in tort with respect to which:

a. The claimant is an organization; or

b. The claimant is an individual and the claim:

1. Arose in the course of the claimant's business or profession; and

2. Does not include damages arising out of personal injury to or the death of an individual.

(14) 'Commodity account' means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(15) 'Commodity contract' means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

a. Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

b. Traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(16) 'Commodity customer' means a person for which a commodity intermediary carries a commodity contract on its books.

(17) 'Commodity intermediary' means a person that:

a. Is registered as a futures commission merchant under federal commodities law; or

b. In the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(18) 'Communicate' means:

a. To send a written or other tangible record;

b. To transmit a record by any means agreed upon by the persons sending and receiving the record; or

c. In the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.

(19) 'Consignee' means a merchant to which goods are delivered in a consignment.

(20) 'Consignment' means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

a. The merchant:

1. Deals in goods of that kind under a name other than the name of the person making delivery;

2. Is not an auctioneer; and

3. Is not generally known by its creditors to be substantially engaged in selling the goods of others;

b. With respect to each delivery, the aggregate value of the goods is one thousand dollars ($1,000) or more at the time of delivery;

c. The goods are not consumer goods immediately before delivery; and

d. The transaction does not create a security interest that secures an obligation.

(21) 'Consignor' means a person that delivers goods to a consignee in a consignment.

(22) 'Consumer debtor' means a debtor in a consumer transaction.

(23) 'Consumer goods' means goods that are used or bought for use primarily for personal, family, or household purposes.

(24) 'Consumer-goods transaction' means a consumer transaction in which:

a. An individual incurs an obligation primarily for personal, family, or household purposes; and

b. A security interest in consumer goods secures the obligation.

(25) 'Consumer obligor' means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes.

(26) 'Consumer transaction' means a transaction in which (i) an individual incurs an obligation primarily for personal, family, or household purposes, (ii) a security interest secures the obligation, and (iii) the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer-goods transactions.

(27) 'Continuation statement' means an amendment of a financing statement which:

a. Identifies, by its file number, the initial financing statement to which it relates; and

b. Indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(28) 'Debtor' means:

a. A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

b. A seller of accounts, chattel paper, payment intangibles, or promissory notes; or

c. A consignee.

(29) 'Deposit account' means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.

(30) 'Document' means a document of title or a receipt of the type described in G.S. 25-7-201(2).

(31) 'Electronic chattel paper' means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

(32) 'Encumbrance' means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

(33) 'Equipment' means goods other than inventory, farm products, or consumer goods.

(34) 'Farm products' means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

a. Crops grown, growing, or to be grown, including:

1. Crops produced on trees, vines, and bushes; and

2. Aquatic goods produced in aquacultural operations;

b. Livestock, born or unborn, including aquatic goods produced in aquacultural operations;

c. Supplies used or produced in a farming operation; or

d. Products of crops or livestock in their unmanufactured states.

(35) 'Farming operation' means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(36) 'File number' means the number assigned to an initial financing statement pursuant to G.S. 25-9-519(a).

(37) 'Filing office' means an office designated in G.S. 25-9-501 as the place to file a financing statement.

(38) 'Filing-office rule' means a rule adopted pursuant to G.S. 25-9-526.

(39) 'Financing statement' means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

(40) 'Fixture filing' means the filing of a financing statement covering goods that are or are to become fixtures and satisfying G.S. 25-9-502(a) and (b). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

(41) 'Fixtures' means goods that have become so related to particular real property that an interest in them arises under real property law.

(42) 'General intangible' means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.

(43) 'Good faith' means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(44) 'Goods' means all things that are movable when a security interest attaches. The term includes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, and (v) manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if (i) the program is associated with the goods in such a manner that it customarily is considered part of the goods, or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

(45) 'Governmental unit' means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

(46) 'Health-care-insurance receivable' means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided.

(47) 'Instrument' means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include (i) investment property, (ii) letters of credit, or (iii) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(48) 'Inventory' means goods, other than farm products, which:

a. Are leased by a person as lessor;

b. Are held by a person for sale or lease or to be furnished under a contract of service;

c. Are furnished by a person under a contract of service; or

d. Consist of raw materials, work in process, or materials used or consumed in a business.

(49) 'Investment property' means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

(50) 'Jurisdiction of organization', with respect to a registered organization, means the jurisdiction under whose law the organization is organized.

(51) 'Letter-of-credit right' means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(52) 'Lien creditor' means:

a. A creditor that has acquired a lien on the property involved by attachment, levy, or the like;

b. An assignee for benefit of creditors from the time of assignment;

c. A trustee in bankruptcy from the date of the filing of the petition; or

d. A receiver in equity from the time of appointment.

(53) 'Manufactured home' means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and

electrical systems contained therein. The term includes any structure that meets all of the requirements of this subdivision except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code.

(54) 'Manufactured-home transaction' means a secured transaction:

a. That creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

b. In which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

(55) 'Mortgage' means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation.

(56) 'New debtor' means a person that becomes bound as debtor under G.S. 25-9-203(d) by a security agreement previously entered into by another person.

(57) 'New value' means (i) money, (ii) money's worth in property, services, or new credit, or (iii) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

(58) 'Noncash proceeds' means proceeds other than cash proceeds.

(59) 'Obligor' means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, (i) owes payment or other performance of the obligation, (ii) has provided property other than the collateral to secure payment or other performance of the obligation, or (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.

(60) 'Original debtor', except as used in G.S. 25-9-310(c), means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under G.S. 25-9-203(d).

(61) 'Payment intangible' means a general intangible under which the account debtor's principal obligation is a monetary obligation.

(62) 'Person related to', with respect to an individual, means:

a. The spouse of the individual;

b. A brother, brother-in-law, sister, or sister-in-law of the individual;

c. An ancestor or lineal descendant of the individual or the individual's spouse; or

d. Any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

(63) 'Person related to', with respect to an organization, means:

a. A person directly or indirectly controlling, controlled by, or under common control with the organization;

b. An officer or director of, or a person performing similar functions with respect to, the organization;

c. An officer or director of, or a person performing similar functions with respect to, a person described in sub-subdivision a. of this subdivision;

d. The spouse of an individual described in sub-subdivision a., b., or c. of this subdivision; or

e. An individual who is related by blood or marriage to an individual described in sub-subdivision a., b., c., or d. of this subdivision and shares the same home with the individual.

(64) 'Proceeds', except as used in G.S. 25-9-609(b), means the following property:

a. Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;

b. Whatever is collected on, or distributed on account of, collateral;

c. Rights arising out of collateral;

d. To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

e. To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

(65) 'Production-money crops' means crops that secure a production-money obligation incurred with respect to the production of those crops.

(66) 'Production-money obligation' means an obligation of an obligor incurred for new value given to enable the debtor to produce crops if the value is in fact used for the production of the crops.

(67) 'Production of crops' includes tilling and otherwise preparing land for growing, planting, cultivating, fertilizing, irrigating, harvesting, gathering, and curing crops, and protecting them from damage or disease.

(68) 'Promissory note' means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and

does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(69) 'Proposal' means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to G.S. 25-9-620, 25-9-621, and 25-9-622.

(70) 'Public-finance transaction' means a secured transaction in connection with which:

a. Debt securities are issued;

b. All or a portion of the securities issued have an initial stated maturity of at least 20 years; and

c. The debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.

(71) 'Pursuant to commitment', with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

(72) 'Record', except as used in 'for record', 'of record', 'record or legal title', and 'record owner', means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(73) 'Registered organization' means an organization organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized.

(74) 'Secondary obligor' means an obligor to the extent that:

a. The obligor's obligation is secondary; or

b. The obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(75) 'Secured party' means:

a. A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

b. A person that holds an agricultural lien;

c. A consignor;

d. A person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

e. A trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

f. A person that holds a security interest arising under G.S. 25-2-401, 25-2-505, 25-2-711(3), 25-2A-508(5), 25-4-208, or 25-5-118.

(76) 'Security agreement' means an agreement that creates or provides for a security interest.

(77) 'Send', in connection with a record or notification, means:

a. To deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

b. To cause the record or notification to be received within the time that it would have been received if properly sent under sub-subdivision a. of this subdivision.

(78) 'Software' means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

(79) 'State' means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(80) 'Supporting obligation' means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

(81) 'Tangible chattel paper' means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

(82) 'Termination statement' means an amendment of a financing statement which:

a. Identifies, by its file number, the initial financing statement to which it relates; and

b. Indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(83) 'Transmitting utility' means a person primarily engaged in the business of:

a. Operating a railroad, subway, street railway, or trolley bus;

b. Transmitting communications electrically, electromagnetically, or by light;

c. Transmitting goods by pipeline or sewer; or

d. Transmitting or producing and transmitting electricity, steam, gas, or water.

(b) Definitions in other articles. -- The following definitions in other Articles of this Chapter apply to this Article:

'Applicant' G.S. 25-5-102.

'Beneficiary'	G.S. 25-5-102.
'Broker'	G.S. 25-8-102.
'Certificated security'	G.S. 25-8-102.
'Check'	G.S. 25-3-104.
'Clearing corporation'	G.S. 25-8-102.
'Contract for sale'	G.S. 25-2-106.
'Customer'	G.S. 25-4-104.
'Entitlement holder'	G.S. 25-8-102.
'Financial asset'	G.S. 25-8-102.
'Holder in due course'	G.S. 25-3-302.
'Issuer' (with respect to a letter of credit or letter-of-credit right)	G.S. 25-5-102.
'Issuer' (with respect to a security)	G.S. 25-8-201.
'Lease'	G.S. 25-2A-103.
'Lease agreement'	G.S. 25-2A-103.
'Lease contract'	G.S. 25-2A-103.
'Leasehold interest'	G.S. 25-2A-103.
'Lessee'	G.S. 25-2A-103.
'Lessee in ordinary course of business'	G.S. 25-2A-103.
'Lessor'	G.S. 25-2A-103.
'Lessor's residual interest'	G.S. 25-2A-103.
'Letter of credit'	G.S. 25-5-102.
'Merchant'	G.S. 25-2-104.
'Negotiable instrument'	G.S. 25-3-104.
'Nominated person'	G.S. 25-5-102.
'Note'	G.S. 25-3-104.
'Proceeds of a letter of credit'	G.S. 25-5-114.
'Prove'	G.S. 25-3-103.
'Sale'	G.S. 25-2-106.
'Securities account'	G.S. 25-8-501.
'Securities intermediary'	G.S. 25-8-102.
'Security'	G.S. 25-8-102.
'Security certificate'	G.S. 25-8-102.
'Security entitlement'	G.S. 25-8-102.
'Uncertificated security'	G.S. 25-8-102.

(c) Article 1 definitions and principles. -- Article 1 of this Chapter contains general definitions and principles of construction and interpretation applicable throughout this Article.

"§ 25-9-103. Purchase-money security interest; application of payments; burden of establishing.

(a) Definitions. -- In this section:

(1) 'Purchase-money collateral' means goods or software that secures a purchase-money obligation incurred with respect to that collateral; and

(2) 'Purchase-money obligation' means an obligation of an obligor incurred as all or part of the price of the collateral or for value given to enable the debtor to acquire rights in or the use of the collateral if the value is in fact so used.

(b) Purchase-money security interest in goods. -- A security interest in goods is a purchase-money security interest:

(1) To the extent that the goods are purchase-money collateral with respect to that security interest;

(2) If the security interest is in inventory that is or was purchase-money collateral, also to the extent that the security interest secures a purchase-money obligation incurred with respect to other inventory in which the secured party holds or held a purchase-money security interest; and

(3) Also to the extent that the security interest secures a purchase-money obligation incurred with respect to software in which the secured party holds or held a purchase-money security interest.

(c) Purchase-money security interest in software. -- A security interest in software is a purchase-money security interest to the extent that the security interest also secures a purchase-money obligation incurred with respect to goods in which the secured party holds or held a purchase-money security interest if:

(1) The debtor acquired its interest in the software in an integrated transaction in which it acquired an interest in the goods; and

(2) The debtor acquired its interest in the software for the principal purpose of using the software in the goods.

(d) Consignor's inventory purchase-money security interest. -- The security interest of a consignor in goods that are the subject of a consignment is a purchase-money security interest in inventory.

(e) Application of payment in non-consumer-goods transaction. -- In a transaction other than a consumer-goods transaction, if the extent to which a security interest is a purchase-money security interest depends on the application of a payment to a particular obligation, the payment must be applied:

(1) In accordance with any reasonable method of application to which the parties agree;

(2) In the absence of the parties' agreement to a reasonable method, in accordance with any intention of the obligor manifested at or before the time of payment; or

(3) In the absence of an agreement to a reasonable method and a timely manifestation of the obligor's intention, in the following order:

a. To obligations that are not secured; and

b. If more than one obligation is secured, to obligations secured by purchase-money security interests in the order in which those obligations were incurred.

(f) No loss of status of purchase-money security interest in non-consumer-goods transaction. -- In a transaction other than a consumer-goods transaction, a purchase-money security interest does not lose its status as such, even if:

(1) The purchase-money collateral also secures an obligation that is not a purchase-money obligation;

(2) Collateral that is not purchase-money collateral also secures the purchase-money obligation; or

(3) The purchase-money obligation has been renewed, refinanced, consolidated, or restructured.

(g) Burden of proof in non-consumer-goods transaction. -- In a transaction other than a consumer-goods transaction, a secured party claiming a purchase-money security interest has the burden of establishing the extent to which the security interest is a purchase-money security interest.

(h) Non-consumer-goods transactions; no inference. -- The limitation of the rules in subsections (e), (f), and (g) of this section to transactions other than consumer-goods transactions is intended to leave to the court the determination of the proper rules in consumer-goods transactions. The court may not infer from that limitation the nature of the proper rule in consumer-goods transactions and may continue to apply established approaches.

"§ 25-9-103.1. Production-money crops; production-money obligation; production-money security interest; burden of establishing.

(a) Production-money crops. -- A security interest in crops is a production-money security interest to the extent that the crops are production-money crops.

(b) Production-money obligation. -- If the extent to which a security interest is a production-money security interest depends on the application of a payment to a particular obligation, the payment must be applied:

(1) In accordance with any reasonable method of application to which the parties agree;

(2) In the absence of the parties' agreement to a reasonable method, in accordance with any intention of the obligor manifested at or before the time of payment; or

(3) In the absence of an agreement to a reasonable method and a timely manifestation of the obligor's intention, in the following order:

a. To obligations that are not secured; and

b. If more than one obligation is secured, to obligations secured by production-money security interests in the order in which those obligations were incurred.

(c) Production-money security interest. -- A production-money security interest does not lose its status as such, even if:

(1) The production-money crops also secure an obligation that is not a production-money obligation;
(2) Collateral that is not production-money crops also secures the production-money obligation; or
(3) The production-money obligation has been renewed, refinanced, or restructured.

(d) Burden of proof. -- A secured party claiming a production-money security interest has the burden of establishing the extent to which the security interest is a production-money security interest.

"**§ 25-9-104. Control of deposit account.**

(a) Requirements for control. -- A secured party has control of a deposit account if:
(1) The secured party is the bank with which the deposit account is maintained;
(2) The debtor, secured party, and bank have agreed in an authenticated record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the deposit account without further consent by the debtor; or
(3) The secured party becomes the bank's customer with respect to the deposit account.

(b) Debtor's right to direct disposition. -- A secured party that has satisfied subsection (a) of this section has control, even if the debtor retains the right to direct the disposition of funds from the deposit account.

"**§ 25-9-105. Control of electronic chattel paper.**

A secured party has control of electronic chattel paper if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that:
(1) A single authoritative copy of the record or records exists which is unique, identifiable and, except as otherwise provided in subdivisions (4), (5), and (6) of this section, unalterable;
(2) The authoritative copy identifies the secured party as the assignee of the record or records;
(3) The authoritative copy is communicated to and maintained by the secured party or its designated custodian;
(4) Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the participation of the secured party;
(5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and
(6) Any revision of the authoritative copy is readily identifiable as an authorized or unauthorized revision.

"**§ 25-9-106. Control of investment property.**

(a) Control under G.S. 25-8-106. -- A person has control of a certificated security, uncertificated security, or security entitlement as provided in G.S. 25-8-106.

(b) Control of commodity contract. -- A secured party has control of a commodity contract if:

(1) The secured party is the commodity intermediary with which the commodity contract is carried; or

(2) The commodity customer, secured party, and commodity intermediary have agreed that the commodity intermediary will apply any value distributed on account of the commodity contract as directed by the secured party without further consent by the commodity customer.

(c) Effect of control of securities account or commodity account. -- A secured party having control of all security entitlements or commodity contracts carried in a securities account or commodity account has control over the securities account or commodity account.

"§ 25-9-107. Control of letter-of-credit right.

A secured party has control of a letter-of-credit right to the extent of any right to payment or performance by the issuer or any nominated person if the issuer or nominated person has consented to an assignment of proceeds of the letter of credit under G.S. 25-5-114(c) or otherwise applicable law or practice.

"§ 25-9-108. Sufficiency of description.

(a) Sufficiency of description. -- Except as otherwise provided in subsections (c), (d), and (e) of this section, a description of personal or real property is sufficient, whether or not it is specific, if it reasonably identifies what is described.

(b) Examples of reasonable identification. -- Except as otherwise provided in subsection (d) of this section, a description of collateral reasonably identifies the collateral if it identifies the collateral by:

(1) Specific listing;

(2) Category;

(3) Except as otherwise provided in subsection (e) of this section, a type of collateral defined in this Chapter;

(4) Quantity;

(5) Computational or allocational formula or procedure; or

(6) Except as otherwise provided in subsection (c) of this section, any other method, if the identity of the collateral is objectively determinable.

(c) Supergeneric description not sufficient. -- A description of collateral as 'all the debtor's assets' or 'all the debtor's personal property' or using words of similar import does not reasonably identify the collateral.

(d) Investment property. -- Except as otherwise provided in subsection (e) of this section, a description of a security entitlement, securities account, or commodity account is sufficient if it describes:

(1) The collateral by those terms or as investment property; or

(2) The underlying financial asset or commodity contract.

(e) When description by type insufficient. -- A description only by type of collateral defined in this Chapter is an insufficient description of:

(1) A commercial tort claim; or
(2) In a consumer transaction, consumer goods, a security entitlement, a securities account, or a commodity account.

"SUBPART 2. APPLICABILITY OF ARTICLE.

"**§ 25-9-109. Scope.**

(a) General scope of Article. -- Except as otherwise provided in subsections (c) and (d) of this section, this Article applies to:
(1) A transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;
(2) An agricultural lien;
(3) A sale of accounts, chattel paper, payment intangibles, or promissory notes;
(4) A consignment;
(5) A security interest arising under G.S. 25-2-401, 25-2-505, 25-2-711(3), or 25-2A-508(5), as provided in G.S. 25-9-110; and
(6) A security interest arising under G.S. 25-4-208 or G.S. 25-5-118.

(b) Security interest in secured obligation. -- The application of this Article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this Article does not apply.

(c) Extent to which Article does not apply. -- This Article does not apply to the extent that:
(1) A statute, regulation, or treaty of the United States preempts this Article;
(2) Another statute of this State expressly governs the creation, perfection, priority, or enforcement of a security interest created by this State or a governmental unit of this State;
(3) A statute of another state, a foreign country, or a governmental unit of another state or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority, or enforcement of a security interest created by the state, country, or governmental unit; or
(4) The rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under G.S. 25-5-114.

(d) Inapplicability of Article. -- This Article does not apply to:
(1) A landlord's lien, other than an agricultural lien;
(2) A lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but G.S. 25-9-333 applies with respect to priority of the lien;
(3) An assignment of a claim for wages, salary, or other compensation of an employee;
(4) A sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose;

(5) An assignment of accounts, chattel paper, payment intangibles, or promissory notes which is for the purpose of collection only;

(6) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;

(7) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;

(8) A transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but G.S. 25-9-315 and G.S. 25-9-322 apply with respect to proceeds and priorities in proceeds;

(9) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;

(10) A right of recoupment or setoff, but:

a. G.S. 25-9-340 applies with respect to the effectiveness of rights of recoupment or setoff against deposit accounts; and

b. G.S. 25-9-404 applies with respect to defenses or claims of an account debtor;

(11) The creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:

a. Liens on real property in G.S. 25-9-203 and G.S. 25-9-308;

b. Fixtures in G.S. 25-9-334;

c. Fixture filings in G.S. 25-9-501, 25-9-502, 25-9-512, 25-9-516, and 25-9-519; and

d. Security agreements covering personal and real property in G.S. 25-9-604;

(12) An assignment of a claim arising in tort, other than a commercial tort claim, but G.S. 25-9-315 and G.S. 25-9-322 apply with respect to proceeds and priorities in proceeds; or

(13) An assignment of a deposit account in a consumer transaction, but G.S. 25-9-315 and G.S. 25-9-322 apply with respect to proceeds and priorities in proceeds.

"**§ 25-9-110. Security interests arising under Article 2 or 2A of this Chapter.**

A security interest arising under G.S. 25-2-401, 25-2-505, 25-2-711(3), or 25-2A-508(5) is subject to this Article. However, until the debtor obtains possession of the goods:

(1) The security interest is enforceable, even if G.S. 25-9-203(b)(3) has not been satisfied;

(2) Filing is not required to perfect the security interest;

(3) The rights of the secured party after default by the debtor are governed by Article 2 or 2A of this Chapter; and

(4) The security interest has priority over a conflicting security interest created by the debtor.

"PART 2.
"EFFECTIVENESS OF SECURITY AGREEMENT;
ATTACHMENT OF SECURITY INTEREST;
RIGHTS OF PARTIES TO SECURITY AGREEMENT.
"SUBPART 1. EFFECTIVENESS AND ATTACHMENT.

"§ 25-9-201. General effectiveness of security agreement.

(a) General effectiveness. -- Except as otherwise provided in this Chapter, a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

(b) Applicable consumer laws and other law. -- A transaction subject to this Article is subject to any applicable rule of law which establishes a different rule for consumers, to any other statute, rule, or regulation of this State that regulates the rates, charges, agreements, and practices for loans, credit sales, or other extensions of credit, and to any consumer-protection statute, rule, or regulation of this State, including Chapter 24 of the General Statutes, the Retail Installment Sales Act (Chapter 25A of the General Statutes), the North Carolina Consumer Finance Act (Article 15 of Chapter 53 of the General Statutes), and the Pawnbrokers Modernization Act of 1989 (Chapter 91A of the General Statutes).

(c) Other applicable law controls. -- In case of conflict between this Article and a rule of law, statute, or regulation described in subsection (b) of this section, the rule of law, statute, or regulation controls. Failure to comply with a statute or regulation described in subsection (b) of this section has only the effect the statute or regulation specifies.

(d) Further deference to other applicable law. -- This Article does not:

(1) Validate any rate, charge, agreement, or practice that violates a rule of law, statute, or regulation described in subsection (b) of this section; or

(2) Extend the application of the rule of law, statute, or regulation to a transaction not otherwise subject to it.

"§ 25-9-202. Title to collateral immaterial.

Except as otherwise provided with respect to consignments or sales of accounts, chattel paper, payment intangibles, or promissory notes, the provisions of this Article with regard to rights and obligations apply whether title to collateral is in the secured party or the debtor.

"§ 25-9-203. Attachment and enforceability of security interest; proceeds; supporting obligations; formal requisites.

(a) Attachment. -- A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

(b) Enforceability. -- Except as otherwise provided in subsections (c) through (i) of this section, a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

(1) Value has been given;
(2) The debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and
(3) One of the following conditions is met:
a. The debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;
b. The collateral is not a certificated security and is in the possession of the secured party under G.S. 25-9-313 pursuant to the debtor's security agreement;
c. The collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under G.S. 25-8-301 pursuant to the debtor's security agreement; or
d. The collateral is deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights, and the secured party has control under G.S. 25-9-104, 25-9-105, 25-9-106, or 25-9-107 pursuant to the debtor's security agreement.

(c) Other UCC provisions. -- Subsection (b) of this section is subject to G.S. 25-4-208 on the security interest of a collecting bank, G.S. 25-5-118 on the security interest of a letter-of-credit issuer or nominated person, G.S. 25-9-110 on a security interest arising under Article 2 or 2A of this Chapter, and G.S. 25-9-206 on security interests in investment property.

(d) When person becomes bound by another person's security agreement. -- A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than this Article or by contract:
(1) The security agreement becomes effective to create a security interest in the person's property; or
(2) The person becomes generally obligated for the obligations of the other person, including the obligation secured under the security agreement, and acquires or succeeds to all or substantially all of the assets of the other person.

(e) Effect of new debtor becoming bound. -- If a new debtor becomes bound as debtor by a security agreement entered into by another person:
(1) The agreement satisfies subdivision (b)(3) of this section with respect to existing or after-acquired property of the new debtor to the extent the property is described in the agreement; and
(2) Another agreement is not necessary to make a security interest in the property enforceable.

(f) Proceeds and supporting obligations. -- The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by G.S. 25-9-315

and is also attachment of a security interest in a supporting obligation for the collateral.

(g) Lien securing right to payment. -- The attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage, or other lien.

(h) Security entitlement carried in securities account. -- The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

(i) Commodity contracts carried in commodity account. -- The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contracts carried in the commodity account.

"§ 25-9-204. After-acquired property; future advances.

(a) After-acquired collateral. -- Except as otherwise provided in subsection (b) of this section, a security agreement may create or provide for a security interest in after-acquired collateral.

(b) When after-acquired property clause not effective. -- A security interest does not attach under a term constituting an after-acquired property clause to:

(1) Consumer goods, other than an accession when given as additional security, unless the debtor acquires rights in them within 10 days after the secured party gives value; or

(2) A commercial tort claim.

(c) Future advances and other value. -- A security agreement may provide that collateral secures, or that accounts, chattel paper, payment intangibles, or promissory notes are sold in connection with future advances or other value, whether or not the advances or value are given pursuant to commitment.

"§ 25-9-205. Use or disposition of collateral permissible.

(a) When security interest not invalid or fraudulent. -- A security interest is not invalid or fraudulent against creditors solely because:

(1) The debtor has the right or ability to:

a. Use, commingle, or dispose of all or part of the collateral, including returned or repossessed goods;

b. Collect, compromise, enforce, or otherwise deal with collateral;

c. Accept the return of collateral or make repossessions; or

d. Use, commingle, or dispose of proceeds; or

(2) The secured party fails to require the debtor to account for proceeds or replace collateral.

(b) Requirements of possession not relaxed. -- This section does not relax the requirements of possession if attachment, perfection, or enforcement of a security interest depends upon possession of the collateral by the secured party.

"§ 25-9-206. Security interest arising in purchase or delivery of financial asset.

(a) Security interest when person buys through securities intermediary. -- A security interest in favor of a securities intermediary attaches to a person's security entitlement if:

(1) The person buys a financial asset through the securities intermediary in a transaction in which the person is obligated to pay the purchase price to the securities intermediary at the time of the purchase; and

(2) The securities intermediary credits the financial asset to the buyer's securities account before the buyer pays the securities intermediary.

(b) Security interest secures obligation to pay for financial asset. -- The security interest described in subsection (a) of this section secures the person's obligation to pay for the financial asset.

(c) Security interest in payment against delivery transaction. -- A security interest in favor of a person that delivers a certificated security or other financial asset represented by a writing attaches to the security or other financial asset if:

(1) The security or other financial asset:

a. In the ordinary course of business is transferred by delivery with any necessary indorsement or assignment; and

b. Is delivered under an agreement between persons in the business of dealing with such securities or financial assets; and

(2) The agreement calls for delivery against payment.

(d) Security interest secures obligation to pay for delivery. -- The security interest described in subsection (c) of this section secures the obligation to make payment for the delivery.

"SUBPART 2. RIGHTS AND DUTIES.

"§ 25-9-207. Rights and duties of secured party having possession or control of collateral.

(a) Duty of care when secured party in possession. -- Except as otherwise provided in subsection (d) of this section, a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(b) Expenses, risks, duties, and rights when secured party in possession. -- Except as otherwise provided in subsection (d) of this section, if a secured party has possession of collateral:

(1) Reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use, or operation of the collateral are chargeable to the debtor and are secured by the collateral;

(2) The risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage;

(3) The secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

(4) The secured party may use or operate the collateral:

a. For the purpose of preserving the collateral or its value;

b. As permitted by an order of a court having competent jurisdiction; or

c. Except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(c) Rights and duties when secured party in possession or control. -- Except as otherwise provided in subsection (d) of this section, a secured party having possession of collateral or control of collateral under G.S. 25-9-104, 25-9-105, 25-9-106, or 25-9-107:

(1) May hold as additional security any proceeds, except money or funds, received from the collateral;

(2) Shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(3) May create a security interest in the collateral.

(d) Buyer of certain rights to payment. -- If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor:

(1) Subsection (a) of this section does not apply unless the secured party is entitled under an agreement:

a. To charge back uncollected collateral; or

b. Otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(2) Subsections (b) and (c) of this section do not apply.

"**§ 25-9-208. Additional duties of secured party having control of collateral.**

(a) Applicability of section. -- This section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations, or otherwise give value.

(b) Duties of secured party after receiving demand from debtor. -- Within 10 days after receiving an authenticated demand by the debtor:

(1) A secured party having control of a deposit account under G.S. 25-9-104(a)(2) shall send to the bank with which the deposit account is maintained an authenticated statement that releases the bank from any further obligation to comply with instructions originated by the secured party;

(2) A secured party having control of a deposit account under G.S. 25-9-104(a)(3) shall:

a. Pay the debtor the balance on deposit in the deposit account; or

b. Transfer the balance on deposit into a deposit account in the debtor's name;

(3) A secured party, other than a buyer, having control of electronic chattel paper under G.S. 25-9-105 shall:

a. Communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian;

b. If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

c. Take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party;

(4) A secured party having control of investment property under G.S. 25-8-106(d)(2) or G.S. 25-9-106(b) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party; and

(5) A secured party having control of a letter-of-credit right under G.S. 25-9-107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party.

"§ 25-9-209. Duties of secured party if account debtor has been notified of assignment.

(a) Applicability of section. -- Except as otherwise provided in subsection (c) of this section, this section applies if:

(1) There is no outstanding secured obligation; and

(2) The secured party is not committed to make advances, incur obligations, or otherwise give value.

(b) Duties of secured party after receiving demand from debtor. -- Within 10 days after receiving an authenticated demand by the debtor, a secured party shall send to an account debtor that has received notification of an assignment to the secured party as assignee under G.S. 25-9-406(a) an authenticated record that releases the account debtor from any further obligation to the secured party.

(c) Inapplicability to sales. -- This section does not apply to an assignment constituting the sale of an account, chattel paper, or payment intangible.

"**§ 25-9-210. Request for accounting; request regarding list of collateral or statement of account.**

(a) Definitions. -- In this section:

(1) 'Request' means a record of a type described in subdivision (2), (3), or (4) of this subsection.

(2) 'Request for an accounting' means a record authenticated by a debtor requesting that the recipient provide an accounting of the unpaid obligations secured by collateral and reasonably identifying the transaction or relationship that is the subject of the request.

(3) 'Request regarding a list of collateral' means a record authenticated by a debtor requesting that the recipient approve or correct a list of what the debtor believes to be the collateral securing an obligation and reasonably identifying the transaction or relationship that is the subject of the request.

(4) 'Request regarding a statement of account' means a record authenticated by a debtor requesting that the recipient approve or correct a statement indicating what the debtor believes to be the aggregate amount of unpaid obligations secured by collateral as of a specified date and reasonably identifying the transaction or relationship that is the subject of the request.

(b) Duty to respond to requests. -- Subject to subsections (c), (d), (e), and (f) of this section, a secured party, other than a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor, shall comply with a request within 14 days after receipt:

(1) In the case of a request for an accounting, by authenticating and sending to the debtor an accounting; and

(2) In the case of a request regarding a list of collateral or a request regarding a statement of account, by authenticating and sending to the debtor an approval or correction.

(c) Request regarding list of collateral; statement concerning type of collateral. -- A secured party that claims a security interest in all of a particular type of collateral owned by the debtor may comply with a request regarding a list of collateral by sending to the debtor an authenticated record including a statement to that effect within 14 days after receipt.

(d) Request regarding list of collateral; no interest claimed. -- A person that receives a request regarding a list of collateral, claims no interest in the collateral when it receives the request, and claimed an interest in the collateral at an earlier time shall comply with the request within 14 days after receipt by sending to the debtor an authenticated record:

(1) Disclaiming any interest in the collateral; and

(2) If known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the collateral.

(e) Request for accounting or regarding statement of account; no interest in obligation claimed. -- A person that receives a request for an accounting or a request regarding a statement of account, claims no interest in the obligations when it receives the request, and claimed an interest in the obligations at an earlier time shall comply with the request within 14 days after receipt by sending to the debtor an authenticated record:

(1) Disclaiming any interest in the obligations; and

(2) If known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the obligations.

(f) Charges for responses. -- A debtor is entitled without charge to one response to a request under this section during any six-month period. The secured party may require payment of a charge not exceeding twenty-five dollars ($25.00) for each additional response.

"PART 3.

"PERFECTION AND PRIORITY.

"SUBPART 1. LAW GOVERNING PERFECTION AND PRIORITY.

"§ 25-9-301. Law governing perfection and priority of security interests.

Except as otherwise provided in G.S. 25-9-303 through G.S. 25-9-306, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

(1) Except as otherwise provided in this section, while a debtor is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral.

(2) While collateral is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a possessory security interest in that collateral.

(3) Except as otherwise provided in subdivision (4) of this section, while negotiable documents, goods, instruments, money, or tangible chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

a. Perfection of a security interest in the goods by filing a fixture filing;

b. Perfection of a security interest in timber to be cut; and

c. The effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.

(4) The local law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or

nonperfection, and the priority of a security interest in as-extracted collateral.

"§ 25-9-302. Law governing perfection and priority of agricultural liens.

While farm products are located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of an agricultural lien on the farm products.

"§ 25-9-303. Law governing perfection and priority of security interests in goods covered by a certificate of title.

(a) Applicability of section. -- This section applies to goods covered by a certificate of title, even if there is no other relationship between the jurisdiction under whose certificate of title the goods are covered and the goods or the debtor.

(b) When goods covered by certificate of title. -- Goods become covered by a certificate of title when a valid application for the certificate of title and the applicable fee are delivered to the appropriate authority. Goods cease to be covered by a certificate of title at the earlier of the time the certificate of title ceases to be effective under the law of the issuing jurisdiction or the time the goods become covered subsequently by a certificate of title issued by another jurisdiction.

(c) Applicable law. -- The local law of the jurisdiction under whose certificate of title the goods are covered governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in goods covered by a certificate of title from the time the goods become covered by the certificate of title until the goods cease to be covered by the certificate of title.

"§ 25-9-304. Law governing perfection and priority of security interests in deposit accounts.

(a) Law of bank's jurisdiction governs. -- The local law of a bank's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a deposit account maintained with that bank.

(b) Bank's jurisdiction. -- The following rules determine a bank's jurisdiction for purposes of this Part:

(1) If an agreement between the bank and the debtor governing the deposit account expressly provides that a particular jurisdiction is the bank's jurisdiction for purposes of this Part, this Article, or this Chapter, that jurisdiction is the bank's jurisdiction.

(2) If subdivision (1) of this subsection does not apply and an agreement between the bank and its customer governing the deposit account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(3) If neither subdivision (1) nor subdivision (2) of this subsection applies and an agreement between the bank and its customer governing the deposit account expressly provides that the deposit account is maintained at an office in a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(4) If none of subdivisions (1), (2), and (3) of this subsection applies, the bank's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the customer's account is located.

(5) If none of subdivisions (1), (2), (3), and (4) of this subsection applies, the bank's jurisdiction is the jurisdiction in which the chief executive office of the bank is located.

"§ 25-9-305. Law governing perfection and priority of security interests in investment property.

(a) Governing law: general rules. -- Except as otherwise provided in subsection (c) of this section, the following rules apply:

(1) While a security certificate is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in the certificated security represented thereby.

(2) The local law of the issuer's jurisdiction as specified in G.S. 25-8-110(d) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security.

(3) The local law of the securities intermediary's jurisdiction as specified in G.S. 25-8-110(e) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account.

(4) The local law of the commodity intermediary's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account.

(b) Commodity intermediary's jurisdiction. -- The following rules determine a commodity intermediary's jurisdiction for purposes of this Part:

(1) If an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction for purposes of this Part, this Article, or this Chapter, that jurisdiction is the commodity intermediary's jurisdiction.

(2) If subdivision (1) of this subsection does not apply and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(3) If neither subdivision (1) nor subdivision (2) of this subsection applies and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the commodity account is maintained at an

office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(4) If none of subdivisions (1), (2), and (3) of this subsection applies, the commodity intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the commodity customer's account is located.

(5) If none of subdivisions (1), (2), (3), and (4) of this subsection applies, the commodity intermediary's jurisdiction is the jurisdiction in which the chief executive office of the commodity intermediary is located.

(c) When perfection governed by law of jurisdiction where debtor located. -- The local law of the jurisdiction in which the debtor is located governs:

(1) Perfection of a security interest in investment property by filing;

(2) Automatic perfection of a security interest in investment property created by a broker or securities intermediary; and

(3) Automatic perfection of a security interest in a commodity contract or commodity account created by a commodity intermediary.

"§ 25-9-306. Law governing perfection and priority of security interests in letter-of-credit rights.

(a) Governing law: issuer's or nominated person's jurisdiction. -- Subject to subsection (c) of this section, the local law of the issuer's jurisdiction or a nominated person's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a letter-of-credit right if the issuer's jurisdiction or nominated person's jurisdiction is a state.

(b) Issuer's or nominated person's jurisdiction. -- For purposes of this Part, an issuer's jurisdiction or nominated person's jurisdiction is the jurisdiction whose law governs the liability of the issuer or nominated person with respect to the letter-of-credit right as provided in G.S. 25-5-116.

(c) When section not applicable. -- This section does not apply to a security interest that is perfected only under G.S. 25-9-308(d).

"§ 25-9-307. Location of debtor.

(a) 'Place of business.' -- In this section, 'place of business' means a place where a debtor conducts its affairs.

(b) Debtor's location: general rules. -- Except as otherwise provided in this section, the following rules determine a debtor's location:

(1) A debtor who is an individual is located at the individual's principal residence.

(2) A debtor that is an organization and has only one place of business is located at its place of business.

(3) A debtor that is an organization and has more than one place of business is located at its chief executive office.

(c) Limitation of applicability of subsection (b). -- Subsection (b) of this section applies only if a debtor's residence, place of business, or chief executive office, as applicable, is located in a jurisdiction whose law generally requires information

concerning the existence of a nonpossessory security interest to be made generally available in a filing, recording, or registration system as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. If subsection (b) of this section does not apply, the debtor is located in the District of Columbia.

(d) Continuation of location: cessation of existence, etc. -- A person that ceases to exist, have a residence, or have a place of business continues to be located in the jurisdiction specified by subsections (b) and (c) of this section.

(e) Location of registered organization organized under state law. -- A registered organization that is organized under the law of a state is located in that state.

(f) Location of registered organization organized under federal law; bank branches and agencies. -- Except as otherwise provided in subsection (i) of this section, a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located:

(1) In the state that the law of the United States designates, if the law designates a state of location;

(2) In the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location; or

(3) In the District of Columbia, if neither subdivision (1) nor subdivision (2) of this subsection applies.

(g) Continuation of location: change in status of registered organization. -- A registered organization continues to be located in the jurisdiction specified by subsection (e) or (f) of this section notwithstanding:

(1) The suspension, revocation, forfeiture, or lapse of the registered organization's status as such in its jurisdiction of organization; or

(2) The dissolution, winding up, or cancellation of the existence of the registered organization.

(h) Location of United States. -- The United States is located in the District of Columbia.

(i) Location of foreign bank branch or agency if licensed in only one state. -- A branch or agency of a bank that is not organized under the law of the United States or a state is located in the state in which the branch or agency is licensed, if all branches and agencies of the bank are licensed in only one state.

(j) Location of foreign air carrier. -- A foreign air carrier under the Federal Aviation Act of 1958, as amended, is located at the designated office of the agent upon which service of process may be made on behalf of the carrier.

(k) Section applies only to this Part. -- This section applies only for purposes of this Part.

"SUBPART 2. PERFECTION.

"§ 25-9-308. When security interest or agricultural lien is perfected; continuity of perfection.

(a) Perfection of security interest. -- Except as otherwise provided in this section and G.S. 25-9-309, a security interest is perfected if it has attached and all of the applicable requirements for perfection in G.S. 25-9-310 through G.S. 25-9-316 have been satisfied. A security interest is perfected when it attaches if the applicable requirements are satisfied before the security interest attaches.

(b) Perfection of agricultural lien. -- An agricultural lien is perfected if it has become effective and all of the applicable requirements for perfection in G.S. 25-9-310 have been satisfied. An agricultural lien is perfected when it becomes effective if the applicable requirements are satisfied before the agricultural lien becomes effective.

(c) Continuous perfection; perfection by different methods. -- A security interest or agricultural lien is perfected continuously if it is originally perfected by one method under this Article and is later perfected by another method under this Article, without an intermediate period when it was unperfected.

(d) Supporting obligation. -- Perfection of a security interest in collateral also perfects a security interest in a supporting obligation for the collateral.

(e) Lien securing right to payment. -- Perfection of a security interest in a right to payment or performance also perfects a security interest in a security interest, mortgage, or other lien on personal or real property securing the right.

(f) Security entitlement carried in securities account. -- Perfection of a security interest in a securities account also perfects a security interest in the security entitlements carried in the securities account.

(g) Commodity contract carried in commodity account. -- Perfection of a security interest in a commodity account also perfects a security interest in the commodity contracts carried in the commodity account.

"**§ 25-9-309. Security interest perfected upon attachment.** The following security interests are perfected when they attach:

(1) A purchase-money security interest in consumer goods, except as otherwise provided in G.S. 25-9-311(b) with respect to consumer goods that are subject to a statute or treaty described in G.S. 25-9-311(a);

(2) An assignment of accounts or payment intangibles which does not by itself or in conjunction with other assignments to the same assignee transfer a significant part of the assignor's outstanding accounts or payment intangibles;

(3) A sale of a payment intangible;

(4) A sale of a promissory note;

(5) A security interest created by the assignment of a health-care-insurance receivable to the provider of the health-care goods or services;

(6) A security interest arising under G.S. 25-2-401, 25-2-505, 25-2-711(3), or 25-2A-508(5), until the debtor obtains possession of the collateral;

(7) A security interest of a collecting bank arising under G.S. 25-4-208;

(8) A security interest of an issuer or nominated person arising under G.S. 25-5-118;
(9) A security interest arising in the delivery of a financial asset under G.S. 25-9-206(c);
(10) A security interest in investment property created by a broker or securities intermediary;
(11) A security interest in a commodity contract or a commodity account created by a commodity intermediary;
(12) An assignment for the benefit of all creditors of the transferor and subsequent transfers by the assignee thereunder; and
(13) A security interest created by an assignment of a beneficial interest in a decedent's estate.

"§ 25-9-310. When filing required to perfect security interest or agricultural lien; security interests and agricultural liens to which filing provisions do not apply.

(a) General rule: perfection by filing. -- Except as otherwise provided in subsection (b) of this section and G.S. 25-9-312(b), a financing statement must be filed to perfect all security interests and agricultural liens.

(b) Exceptions: filing not necessary. -- The filing of a financing statement is not necessary to perfect a security interest:

(1) That is perfected under G.S. 25-9-308(d), (e), (f), or (g);
(2) That is perfected under G.S. 25-9-309 when it attaches;
(3) In property subject to a statute, regulation, or treaty described in G.S. 25-9-311(a);
(4) In goods in possession of a bailee which is perfected under G.S. 25-9-312(d)(1) or (2);
(5) In certificated securities, documents, goods, or instruments which is perfected without filing or possession under G.S. 25-9-312(e), (f), or (g);
(6) In collateral in the secured party's possession under G.S. 25-9-313;
(7) In a certificated security which is perfected by delivery of the security certificate to the secured party under G.S. 25-9-313;
(8) In deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights which is perfected by control under G.S. 25-9-314;
(9) In proceeds which is perfected under G.S. 25-9-315;
(10) That is perfected under G.S. 25-9-316; or
(11) Created in connection with the issuance of any bond, note, or other evidence of indebtedness for borrowed money by this State or any political subdivision or agency thereof, except as provided in G.S. 63A-11(e), 143B-456.1(f), 159C-28, and 159D-23.

(c) Assignment of perfected security interest. -- If a secured party assigns a perfected security interest or agricultural lien, a filing under this Article is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

"**§ 25-9-311. Perfection of security interests in property subject to certain statutes, regulations, and treaties.**

(a) Security interest subject to other law. -- Except as otherwise provided in subsection (d) of this section, the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(1) A statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt G.S. 25-9-310(a);

(2) A certificate-of-title statute of this State covering automobiles or other goods that provides for a security interest to be indicated on the certificate as a condition to or result of perfection of the security interest, including G.S. 20-58 and G.S. 75A-41; or

(3) A certificate-of-title statute of another jurisdiction which provides for a security interest to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(b) Compliance with other law. -- Compliance with the requirements of a statute, regulation, or treaty described in subsection (a) of this section for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this Article. Except as otherwise provided in subsection (d) of this section and G.S. 25-9-313 and G.S. 25-9-316(d) and (e) for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (a) of this section may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(c) Duration and renewal of perfection. -- Except as otherwise provided in subsection (d) of this section and G.S. 25-9-316(d) and (e), duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (a) of this section are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to this Article.

(d) Inapplicability to certain inventory. -- During any period in which collateral subject to a statute specified in subdivision (a)(2) of this section is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person.

"**§ 25-9-312. Perfection of security interests in chattel paper, deposit accounts, documents, goods covered by documents, instruments, investment property, letter-of-credit rights, and money; perfection by permissive filing; temporary perfection without filing or transfer of possession.**

(a) Perfection by filing permitted. -- A security interest in chattel paper, negotiable documents, instruments, or investment property may be perfected by filing.

(b) Control or possession of certain collateral. -- Except as otherwise provided in G.S. 25-9-315(c) and (d) for proceeds:

(1) A security interest in a deposit account may be perfected only by control under G.S. 25-9-314;

(2) And except as otherwise provided in G.S. 25-9-308(d), a security interest in a letter-of-credit right may be perfected only by control under G.S. 25-9-314; and

(3) A security interest in money may be perfected only by the secured party's taking possession under G.S. 25-9-313.

(c) Goods covered by negotiable document. -- While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

(1) A security interest in the goods may be perfected by perfecting a security interest in the document; and

(2) A security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

(d) Goods covered by nonnegotiable document. -- While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

(1) Issuance of a document in the name of the secured party;

(2) The bailee's receipt of notification of the secured party's interest; or

(3) Filing as to the goods.

(e) Temporary perfection: new value. -- A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession for a period of 20 days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement.

(f) Temporary perfection: goods or documents made available to debtor. -- A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for 20 days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

(1) Ultimate sale or exchange; or

(2) Loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange.

(g) Temporary perfection: delivery of security certificate or instrument to debtor. -- A perfected security interest in a certificated security or instrument remains perfected for 20 days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

(1) Ultimate sale or exchange; or

(2) Presentation, collection, enforcement, renewal, or registration of transfer.

(h) Expiration of temporary perfection. -- After the 20-day period specified in subsection (e), (f), or (g) of this section expires, perfection depends upon compliance with this Article.

"§ 25-9-313. When possession by or delivery to secured party perfects security interest without filing.

(a) Perfection by possession or delivery. -- Except as otherwise provided in subsection (b) of this section, a secured party may perfect a security interest in negotiable documents, goods, instruments, money, or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under G.S. 25-8-301.

(b) Goods covered by certificate of title. -- With respect to goods covered by a certificate of title issued by this State, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in G.S. 25-9-316(d).

(c) Collateral in possession of person other than debtor. -- With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when:

(1) The person in possession authenticates a record acknowledging that it holds possession of the collateral for the secured party's benefit; or

(2) The person takes possession of the collateral after having authenticated a record acknowledging that it will hold possession of collateral for the secured party's benefit.

(d) Time of perfection by possession; continuation of perfection. -- If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs no earlier than the time the secured party takes possession and continues only while the secured party retains possession.

(e) Time of perfection by delivery; continuation of perfection. -- A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under G.S. 25-8-301 and remains perfected by delivery until the debtor obtains possession of the security certificate.

(f) Acknowledgment not required. -- A person in possession of collateral is not required to acknowledge that it holds possession for a secured party's benefit.

(g) Effectiveness of acknowledgment; no duties or confirmation. -- If a person acknowledges that it holds possession for the secured party's benefit:

(1) The acknowledgment is effective under subsection (c) of this section or G.S. 25-8-301(a), even if the acknowledgment violates the rights of a debtor; and

(2) Unless the person otherwise agrees or law other than this Article otherwise provides, the person does not owe any duty to the

secured party and is not required to confirm the acknowledgment to another person.

(h) Secured party's delivery to person other than debtor. -- A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery:

(1) To hold possession of the collateral for the secured party's benefit; or

(2) To redeliver the collateral to the secured party.

(i) Effect of delivery under subsection (h); no duties or confirmation. -- A secured party does not relinquish possession, even if a delivery under subsection (h) of this section violates the rights of a debtor. A person to which collateral is delivered under subsection (h) of this section does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than this Article otherwise provides.

"§ 25-9-314. Perfection by control.

(a) Perfection by control. -- A security interest in investment property, deposit accounts, letter-of-credit rights, or electronic chattel paper may be perfected by control of the collateral under G.S. 25-9-104, 25-9-105, 25-9-106, or 25-9-107.

(b) Specified collateral; time of perfection by control; continuation of perfection. -- A security interest in deposit accounts, electronic chattel paper, or letter-of-credit rights is perfected by control under G.S. 25-9-104, 25-9-105, or 25-9-107 when the secured party obtains control and remains perfected by control only while the secured party retains control.

(c) Investment property: time of perfection by control; continuation of perfection. -- A security interest in investment property is perfected by control under G.S. 25-9-106 from the time the secured party obtains control and remains perfected by control until:

(1) The secured party does not have control; and

(2) One of the following occurs:

a. If the collateral is a certificated security, the debtor has or acquires possession of the security certificate;

b. If the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner; or

c. If the collateral is a security entitlement, the debtor is or becomes the entitlement holder.

"§ 25-9-315. Secured party's rights on disposition of collateral and in proceeds.

(a) Disposition of collateral: continuation of security interest or agricultural lien; proceeds. -- Except as otherwise provided in this Article and in G.S. 25-2-403(2):

(1) A security interest or agricultural lien continues in collateral notwithstanding sale, lease, license, exchange, or other disposition thereof unless the secured party authorized the disposition free of the security interest or agricultural lien; and

(2) A security interest attaches to any identifiable proceeds of collateral.

(b) When commingled proceeds identifiable. -- Proceeds that are commingled with other property are identifiable proceeds:

(1) If the proceeds are goods, to the extent provided by G.S. 25-9-336; and

(2) If the proceeds are not goods, to the extent that the secured party identifies the proceeds by a method of tracing, including application of equitable principles, that is permitted under law other than this Article with respect to commingled property of the type involved.

(c) Perfection of security interest in proceeds. -- A security interest in proceeds is a perfected security interest if the security interest in the original collateral was perfected.

(d) Continuation of perfection. -- A perfected security interest in proceeds becomes unperfected on the twenty-first day after the security interest attaches to the proceeds unless:

(1) The following conditions are satisfied:

a. A filed financing statement covers the original collateral;

b. The proceeds are collateral in which a security interest may be perfected by filing in the office in which the financing statement has been filed; and

c. The proceeds are not acquired with cash proceeds;

(2) The proceeds are identifiable cash proceeds; or

(3) The security interest in the proceeds is perfected other than under subsection (c) of this section when the security interest attaches to the proceeds or within 20 days thereafter.

(e) When perfected security interest in proceeds becomes unperfected. -- If a filed financing statement covers the original collateral, a security interest in proceeds which remains perfected under subdivision (d)(1) of this section becomes unperfected at the later of:

(1) When the effectiveness of the filed financing statement lapses under G.S. 25-9-515 or is terminated under G.S. 25-9-513; or

(2) The twenty-first day after the security interest attaches to the proceeds.

"§ 25-9-316. Continued perfection of security interest following change in governing law.

(a) General rule: effect on perfection of change in governing law. -- A security interest perfected pursuant to the law of the jurisdiction designated in G.S. 25-9-301(1) or G.S. 25-9-305(c) remains perfected until the earliest of:

(1) The time perfection would have ceased under the law of that jurisdiction;

(2) The expiration of four months after a change of the debtor's location to another jurisdiction; or

(3) The expiration of one year after a transfer of collateral to a person that thereby becomes a debtor and is located in another jurisdiction.

(b) Security interest perfected or unperfected under law of new jurisdiction. -- If a security interest described in subsection (a) of this section becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(c) Possessory security interest in collateral moved to new jurisdiction. -- A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

(1) The collateral is located in one jurisdiction and subject to a security interest perfected under the law of that jurisdiction;

(2) Thereafter the collateral is brought into another jurisdiction; and

(3) Upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

(d) Goods covered by certificate of title from this State. -- Except as otherwise provided in subsection (e) of this section, a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this State remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(e) When subsection (d) security interest becomes unperfected against purchasers. -- A security interest described in subsection (d) of this section becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under G.S. 25-9-311(b) or G.S. 25-9-313 are not satisfied before the earlier of:

(1) The time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this State; or

(2) The expiration of four months after the goods had become so covered.

(f) Change in jurisdiction of bank, issuer, nominated person, securities intermediary, or commodity intermediary. -- A security interest in deposit accounts, letter-of-credit rights, or investment property which is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

(1) The time the security interest would have become unperfected under the law of that jurisdiction; or

(2) The expiration of four months after a change of the applicable jurisdiction to another jurisdiction.

(g) Subsection (f) security interest perfected or unperfected under law of new jurisdiction. -- If a security interest described in subsection (f) of this section becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

"SUBPART 3. PRIORITY.

"§ 25-9-317. Interests that take priority over or take free of security interest or agricultural lien.

(a) Conflicting security interests and rights of lien creditors. -- A security interest or agricultural lien is subordinate to the rights of:

(1) A person entitled to priority under G.S. 25-9-322; and

(2) Except as otherwise provided in subsection (e) of this section, a person that becomes a lien creditor before the earlier of the time:

a. The security interest or agricultural lien is perfected; or

b. One of the conditions specified in G.S. 25-9-203(b)(3) is met and a financing statement covering the collateral is filed.

(b) Buyers that receive delivery. -- Except as otherwise provided in subsection (e) of this section, a buyer, other than a secured party, of tangible chattel paper, documents, goods, instruments, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) Lessees that receive delivery. -- Except as otherwise provided in subsection (e) of this section, a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) Licensees and buyers of certain collateral. -- A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, general intangibles, or investment property other than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) Purchase-money security interest. -- Except as otherwise provided in G.S. 25-9-320 and G.S. 25-9-321, if a person files a financing statement with respect to a purchase-money security interest before or within 20 days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

"§ 25-9-318. No interest retained in right to payment that is sold; rights and title of seller of account or chattel paper with respect to creditors and purchasers.

(a) Seller retains no interest. -- A debtor that has sold an account, chattel paper, payment intangible, or promissory note does not retain a legal or equitable interest in the collateral sold.

(b) Deemed rights of debtor if buyer's security interest unperfected. -- For purposes of determining the rights of creditors of, and purchasers for value of an account or chattel paper from, a debtor that has sold an account or chattel paper, while the buyer's security interest is unperfected, the debtor is deemed to have rights and title to the account or chattel paper identical to those the debtor sold.

"§ 25-9-319. Rights and title of consignee with respect to creditors and purchasers.

(a) Consignee has consignor's rights. -- Except as otherwise provided in subsection (b) of this section, for purposes of determining the rights of creditors of, and purchasers for value of goods from, a consignee, while the goods are in the possession of the consignee, the consignee is deemed to have rights and title to the goods identical to those the consignor had or had power to transfer.

(b) Applicability of other law. -- For purposes of determining the rights of a creditor of a consignee, law other than this Article determines the rights and title of a consignee while goods are in the consignee's possession if, under this Part, a perfected security interest held by the consignor would have priority over the rights of the creditor.

"§ 25-9-320. Buyer of goods.

(a) Buyer in ordinary course of business. -- Except as otherwise provided in subsection (e) of this section, a buyer in ordinary course of business, other than a person buying farm products from a person engaged in farming operations, takes free of a security interest created by the buyer's seller, even if the security interest is perfected and the buyer knows of its existence.

(b) Buyer of consumer goods. -- Except as otherwise provided in subsection (e) of this section, a buyer of goods from a person who used or bought the goods for use primarily for personal, family, or household purposes takes free of a security interest, even if perfected, if the buyer buys:

(1) Without knowledge of the security interest;

(2) For value;

(3) Primarily for the buyer's personal, family, or household purposes; and

(4) Before the filing of a financing statement covering the goods.

(c) Effectiveness of filing for subsection (b). -- To the extent that it affects the priority of a security interest over a buyer of goods under subsection (b) of this section, the period of effectiveness of a filing made in the jurisdiction in which the seller is located is governed by G.S. 25-9-316(a) and (b).

(d) Buyer in ordinary course of business at wellhead or minehead. -- A buyer in ordinary course of business buying oil, gas, or other minerals at the wellhead or minehead or after extraction takes free of an interest arising out of an encumbrance.

(e) Possessory security interest not affected. -- Subsections (a) and (b) of this section do not affect a security interest in goods in the possession of the secured party under G.S. 25-9-313.

"§ 25-9-321. Licensee of general intangible and lessee of goods in ordinary course of business.

(a) 'Licensee in ordinary course of business'. -- In this section, 'licensee in ordinary course of business' means a person that becomes a licensee of a general intangible in good faith, without knowledge that the license violates the rights of another person in the general intangible, and in the ordinary course from a person in the business of licensing general intangibles of that kind. A person becomes a licensee in the ordinary course if the license to the person comports with the usual or customary practices in the kind of business in which the licensor is engaged or with the licensor's own usual or customary practices.

(b) Rights of licensee in ordinary course of business. -- A licensee in ordinary course of business takes its rights under a nonexclusive license free of a security interest in the general intangible created by the licensor, even if the security interest is perfected and the licensee knows of its existence.

(c) Rights of lessee in ordinary course of business. -- A lessee in ordinary course of business takes its leasehold interest free of a security interest in the goods created by the lessor, even if the security interest is perfected and the lessee knows of its existence.

"§ 25-9-322. Priorities among conflicting security interests in and agricultural liens on same collateral.

(a) General priority rules. -- Except as otherwise provided in this section, priority among conflicting security interests and agricultural liens in the same collateral is determined according to the following rules:

(1) Conflicting perfected security interests and agricultural liens rank according to priority in time of filing or perfection. Priority dates from the earlier of the time a filing covering the collateral is first made or the security interest or agricultural lien is first perfected, if there is no period thereafter when there is neither filing nor perfection.

(2) A perfected security interest or agricultural lien has priority over a conflicting unperfected security interest or agricultural lien.

(3) The first security interest or agricultural lien to attach or become effective has priority if conflicting security interests and agricultural liens are unperfected.

(b) Time of perfection: proceeds and supporting obligations. -- For the purposes of subdivision (a)(1) of this section:

(1) The time of filing or perfection as to a security interest in collateral is also the time of filing or perfection as to a security interest in proceeds; and

(2) The time of filing or perfection as to a security interest in collateral supported by a supporting obligation is also the time of filing or perfection as to a security interest in the supporting obligation.

(c) Special priority rules: proceeds and supporting obligations. -- Except as otherwise provided in subsection (f) of this section, a security interest in collateral

which qualifies for priority over a conflicting security interest under G.S. 25-9-327, 25-9-328, 25-9-329, 25-9-330, or 25-9-331 also has priority over a conflicting security interest in:

(1) Any supporting obligation for the collateral; and

(2) Proceeds of the collateral if:

a. The security interest in proceeds is perfected;

b. The proceeds are cash proceeds or of the same type as the collateral; and

c. In the case of proceeds that are proceeds of proceeds, all intervening proceeds are cash proceeds, proceeds of the same type as the collateral, or an account relating to the collateral.

(d) First-to-file priority rule for certain collateral. -- Subject to subsection (e) of this section and except as otherwise provided in subsection (f) of this section, if a security interest in chattel paper, deposit accounts, negotiable documents, instruments, investment property, or letter-of-credit rights is perfected by a method other than filing, conflicting perfected security interests in proceeds of the collateral rank according to priority in time of filing.

(e) Applicability of subsection (d). -- Subsection (d) of this section applies only if the proceeds of the collateral are not cash proceeds, chattel paper, negotiable documents, instruments, investment property, or letter-of-credit rights.

(f) Limitations on subsections (a) through (e). -- Subsections (a) through (e) of this section are subject to:

(1) Subsection (g) of this section and the other provisions of this Part;

(2) G.S. 25-4-208 with respect to a security interest of a collecting bank;

(3) G.S. 25-5-118 with respect to a security interest of an issuer or nominated person; and

(4) G.S. 25-9-110 with respect to a security interest arising under Article 2 or 2A of this Chapter.

(g) Priority under agricultural lien statute. -- A perfected agricultural lien on collateral has priority over a conflicting security interest in or agricultural lien on the same collateral if the statute creating the agricultural lien so provides.

"§ 25-9-323. Future advances.

(a) When priority based on time of advance. -- Except as otherwise provided in subsection (c) of this section, for purposes of determining the priority of a perfected security interest under G.S. 25-9-322(a)(1), perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:

(1) Is made while the security interest is perfected only:

a. Under G.S. 25-9-309 when it attaches; or

b. Temporarily under G.S. 25-9-312(e), (f), or (g); and

(2) Is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under G.S. 25-9-309 or G.S. 25-9-312(e), (f), or (g).

(b) Lien creditor. -- Except as otherwise provided in subsection (c) of this section, a security interest is subordinate to the rights of a person that becomes a lien creditor to the extent that the security interest secures an advance made more than 45 days after the person becomes a lien creditor unless the advance is made:

(1) Without knowledge of the lien; or

(2) Pursuant to a commitment entered into without knowledge of the lien.

(c) Buyer of receivables. -- Subsections (a) and (b) of this section do not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor.

(d) Buyer of goods. -- Except as otherwise provided in subsection (e) of this section, a buyer of goods other than a buyer in ordinary course of business takes free of a security interest to the extent that it secures advances made after the earlier of:

(1) The time the secured party acquires knowledge of the buyer's purchase; or

(2) 45 days after the purchase.

(e) Advances made pursuant to commitment: priority of buyer of goods. -- Subsection (d) of this section does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the 45-day period.

(f) Lessee of goods. -- Except as otherwise provided in subsection (g) of this section, a lessee of goods, other than a lessee in ordinary course of business, takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of:

(1) The time the secured party acquires knowledge of the lease; or

(2) 45 days after the lease contract becomes enforceable.

(g) Advances made pursuant to commitment: priority of lessee of goods. -- Subsection (f) of this section does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the 45-day period.

"**§ 25-9-324. Priority of purchase-money security interests.**

(a) General rule: purchase-money priority. -- Except as otherwise provided in subsection (g) of this section, a perfected purchase-money security interest in goods other than inventory or livestock has priority over a conflicting security interest in the same goods, and, except as otherwise provided in G.S. 25-9-327, a perfected security interest in its identifiable proceeds also has priority, if the purchase-money security interest is perfected when the debtor receives possession of the collateral or within 20 days thereafter.

(b) Inventory purchase-money priority. -- Subject to subsection (c) of this section and except as otherwise provided in subsection (g) of this section, a perfected purchase-money security interest in inventory has priority over a conflicting security

interest in the same inventory, has priority over a conflicting security interest in chattel paper or an instrument constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in G.S. 25-9-330, and, except as otherwise provided in G.S. 25-9-327, also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or before the delivery of the inventory to a buyer, if:

(1) The purchase-money security interest is perfected when the debtor receives possession of the inventory;

(2) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(3) The holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory; and

(4) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in inventory of the debtor and describes the inventory.

(c) Holders of conflicting inventory security interests to be notified. -- Subdivisions (b)(2) through (b)(4) of this section apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of inventory:

(1) If the purchase-money security interest is perfected by filing, before the date of the filing; or

(2) If the purchase-money security interest is temporarily perfected without filing or possession under G.S. 25-9-312(f), before the beginning of the 20-day period thereunder.

(d) Livestock purchase-money priority. -- Subject to subsection (e) of this section and except as otherwise provided in subsection (g) of this section, a perfected purchase-money security interest in livestock that are farm products has priority over a conflicting security interest in the same livestock, and, except as otherwise provided in G.S. 25-9-327, a perfected security interest in their identifiable proceeds and identifiable products in their unmanufactured states also has priority, if:

(1) The purchase-money security interest is perfected when the debtor receives possession of the livestock;

(2) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(3) The holder of the conflicting security interest receives the notification within six months before the debtor receives possession of the livestock; and

(4) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in livestock of the debtor and describes the livestock.

(e) Holders of conflicting livestock security interests to be notified. -- Subdivisions (d)(2) through (d)(4) of this section apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of livestock:

(1) If the purchase-money security interest is perfected by filing, before the date of the filing; or

(2) If the purchase-money security interest is temporarily perfected without filing or possession under G.S. 25-9-312(f), before the beginning of the 20-day period thereunder.

(f) Software purchase-money priority. -- Except as otherwise provided in subsection (g) of this section, a perfected purchase-money security interest in software has priority over a conflicting security interest in the same collateral, and, except as otherwise provided in G.S. 25-9-327, a perfected security interest in its identifiable proceeds also has priority, to the extent that the purchase-money security interest in the goods in which the software was acquired for use has priority in the goods and proceeds of the goods under this section.

(g) Conflicting purchase-money security interests. -- If more than one security interest qualifies for priority in the same collateral under subsection (a), (b), (d), or (f) of this section:

(1) A security interest securing an obligation incurred as all or part of the price of the collateral has priority over a security interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral; and

(2) In all other cases, G.S. 25-9-322(a) applies to the qualifying security interests.

"**§ 25-9-324.1. Priority of production-money security interests and agricultural liens.**

(a) Priority over conflicting security interests. -- Except as otherwise provided in subsections (c), (d), and (e) of this section, if the requirements of subsection (b) of this section are satisfied, a perfected production-money security interest in production-money crops has priority over a conflicting security interest in the same crops and, except as otherwise provided in G.S. 25-9-327, also has priority in their identifiable proceeds.

(b) Requirements for priority. -- A production-money security interest has priority under subsection (a) of this section if:

(1) The production-money security interest is perfected by filing when the production-money secured party first gives new value to enable the debtor to produce the crops;

(2) The production-money secured party sends an authenticated notification to the holder of the conflicting security interest not less than 10 or more than 30 days before the production-money secured party first gives new value to enable the debtor to produce the crops if the holder had filed a financing statement covering the crops before the date of the filing made by the production-money secured party; and

(3) The notification states that the production-money secured party has or expects to acquire a production-money security interest in the debtor's crops and provides a description of the crops.

(c) Multiple production-money security interests. -- Except as otherwise provided in subsection (d) or (e) of this section, if more than one security interest qualifies for priority in the same collateral under subsection (a) of this section, the security interests rank according to priority in time of filing under G.S. 25-9-322(a).

(d) New value to produce production-money crops. -- To the extent that a person holding a perfected security interest in production-money crops that are the subject of a production-money security interest gives new value to enable the debtor to produce the production-money crops and the value is in fact used for the production of the production-money crops, the security interests rank according to priority in time of filing under G.S. 25-9-322(a).

(e) Holder of agricultural lien and production-money security interest. -- To the extent that a person holds both an agricultural lien and a production-money security interest in the same collateral securing the same obligations, the rules of priority applicable to agricultural liens govern priority.

(f) Creating or perfecting production-money security interest not to operate as default or accelerating event. -- Creating or perfecting a production-money security interest shall not operate under any circumstances as a default on, an accelerating event under, or otherwise as a breach of any note or other instrument or agreement of any kind or nature to pay debt, any loan or credit agreement, or any security agreement or arrangement of any kind or nature where the collateral is real or personal property.

"§ 25-9-325. Priority of security interests in transferred collateral.

(a) Subordination of security interest in transferred collateral. -- Except as otherwise provided in subsection (b) of this section, a security interest created by a debtor is subordinate to a security interest in the same collateral created by another person if:

(1) The debtor acquired the collateral subject to the security interest created by the other person;

(2) The security interest created by the other person was perfected when the debtor acquired the collateral; and

(3) There is no period thereafter when the security interest is unperfected.

(b) Limitation of subsection (a) subordination. -- Subsection (a) of this section subordinates a security interest only if the security interest:

(1) Otherwise would have priority solely under G.S. 25-9-322(a) or G.S. 25-9-324; or

(2) Arose solely under G.S. 25-2-711(3) or G.S. 25-2A-508(5).

"§ 25-9-326. Priority of security interests created by new debtor.

(a) Subordination of security interest created by new debtor. -- Subject to subsection (b) of this section, a security interest created by a new debtor which is perfected by a filed financing statement that is effective solely under G.S. 25-9-508 in collateral in which a new debtor has or acquires rights is subordinate to a security interest in the same collateral which is perfected other than by a filed financing statement that is effective solely under G.S. 25-9-508.

(b) Priority under other provisions; multiple original debtors. -- The other provisions of this Part determine the priority among conflicting security interests in the same collateral perfected by filed financing statements that are effective solely under G.S. 25-9-508. However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

"§ 25-9-327. Priority of security interests in deposit account.

The following rules govern priority among conflicting security interests in the same deposit account:

(1) A security interest held by a secured party having control of the deposit account under G.S. 25-9-104 has priority over a conflicting security interest held by a secured party that does not have control.

(2) Except as otherwise provided in subdivisions (3) and (4) of this section, security interests perfected by control under G.S. 25-9-314 rank according to priority in time of obtaining control.

(3) Except as otherwise provided in subdivision (4) of this section, a security interest held by the bank with which the deposit account is maintained has priority over a conflicting security interest held by another secured party.

(4) A security interest perfected by control under G.S. 25-9-104(a)(3) has priority over a security interest held by the bank with which the deposit account is maintained.

"§ 25-9-328. Priority of security interests in investment property.

The following rules govern priority among conflicting security interests in the same investment property:

(1) A security interest held by a secured party having control of investment property under G.S. 25-9-106 has priority over a security interest held by a secured party that does not have control of the investment property.

(2) Except as otherwise provided in subdivisions (3) and (4) of this section, conflicting security interests held by secured parties each of which has control under G.S. 25-9-106 rank according to priority in time of:

a. If the collateral is a security, obtaining control;

b. If the collateral is a security entitlement carried in a securities account and:

1. If the secured party obtained control under G.S. 25-8-106(d)(1), the secured party's becoming the person for which the securities account is maintained;

2. If the secured party obtained control under G.S. 25-8-106(d)(2), the securities intermediary's agreement to comply with the secured party's entitlement orders

with respect to security entitlements carried or to be carried in the securities account; or

3. If the secured party obtained control through another person under G.S. 25-8-106(d)(3), the time on which priority would be based under this subdivision if the other person were the secured party; or

c. If the collateral is a commodity contract carried with a commodity intermediary, the satisfaction of the requirement for control specified in G.S. 25-9-106(b)(2) with respect to commodity contracts carried or to be carried with the commodity intermediary.

(3) A security interest held by a securities intermediary in a security entitlement or a securities account maintained with the securities intermediary has priority over a conflicting security interest held by another secured party.

(4) A security interest held by a commodity intermediary in a commodity contract or a commodity account maintained with the commodity intermediary has priority over a conflicting security interest held by another secured party.

(5) A security interest in a certificated security in registered form which is perfected by taking delivery under G.S. 25-9-313(a) and not by control under G.S. 25-9-314 has priority over a conflicting security interest perfected by a method other than control.

(6) Conflicting security interests created by a broker, securities intermediary, or commodity intermediary which are perfected without control under G.S. 25-9-106 rank equally.

(7) In all other cases, priority among conflicting security interests in investment property is governed by G.S. 25-9-322 and G.S. 25-9-323.

"§ 25-9-329. Priority of security interests in letter-of-credit right.

The following rules govern priority among conflicting security interests in the same letter-of-credit right:

(1) A security interest held by a secured party having control of the letter-of-credit right under G.S. 25-9-107 has priority to the extent of its control over a conflicting security interest held by a secured party that does not have control.

(2) Security interests perfected by control under G.S. 25-9-314 rank according to priority in time of obtaining control.

"§ 25-9-330. Priority of purchaser of chattel paper or instrument.

(a) Purchaser's priority: security interest claimed merely as proceeds. -- A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of inventory subject to a security interest if:

(1) In good faith and in the ordinary course of the purchaser's business, the purchaser gives new value and takes possession of the

chattel paper or obtains control of the chattel paper under G.S. 25-9-105; and

(2) The chattel paper does not indicate that it has been assigned to an identified assignee other than the purchaser.

(b) Purchaser's priority: other security interests. -- A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under G.S. 25-9-105 in good faith, in the ordinary course of the purchaser's business, and without knowledge that the purchase violates the rights of the secured party.

(c) Chattel paper purchaser's priority in proceeds. -- Except as otherwise provided in G.S. 25-9-327, a purchaser having priority in chattel paper under subsection (a) or (b) of this section also has priority in proceeds of the chattel paper to the extent that:

(1) G.S. 25-9-322 provides for priority in the proceeds; or

(2) The proceeds consist of the specific goods covered by the chattel paper or cash proceeds of the specific goods, even if the purchaser's security interest in the proceeds is unperfected.

(d) Instrument purchaser's priority. -- Except as otherwise provided in G.S. 25-9-331(a), a purchaser of an instrument has priority over a security interest in the instrument perfected by a method other than possession if the purchaser gives value and takes possession of the instrument in good faith and without knowledge that the purchase violates the rights of the secured party.

(e) Holder of purchase-money security interest gives new value. -- For purposes of subsections (a) and (b) of this section, the holder of a purchase-money security interest in inventory gives new value for chattel paper constituting proceeds of the inventory.

(f) Indication of assignment gives knowledge. -- For purposes of subsections (b) and (d) of this section, if chattel paper or an instrument indicates that it has been assigned to an identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase violates the rights of the secured party.

"§ 25-9-331. Priority of rights of purchasers of instruments, documents, and securities under other Articles; priority of interests in financial assets and security entitlements under Article 8.

(a) Rights under Articles 3, 7, and 8 not limited. -- This Article does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, or a protected purchaser of a security. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in Articles 3, 7, and 8 of this Chapter.

(b) Protection under Article 8. -- This Article does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of a claim under Article 8 of this Chapter.

(c) Filing not notice. -- Filing under this Article does not constitute notice of a claim or defense to the holders, or purchasers, or persons described in subsections (a) and (b) of this section.

"§ 25-9-332. Transfer of money; transfer of funds from deposit account.

(a) Transferee of money. -- A transferee of money takes the money free of a security interest unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

(b) Transferee of funds from deposit account. -- A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

"§ 25-9-333. Priority of certain liens arising by operation of law.

(a) 'Possessory lien.' -- In this section, 'possessory lien' means an interest, other than a security interest or an agricultural lien:

(1) Which secures payment or performance of an obligation for services or materials furnished with respect to goods by a person in the ordinary course of the person's business;

(2) Which is created by statute or rule of law in favor of the person; and

(3) Whose effectiveness depends on the person's possession of the goods.

(b) Priority of possessory lien. -- A possessory lien on goods has priority over a security interest in the goods unless the lien is created by a statute that expressly provides otherwise.

"§ 25-9-334. Priority of security interests in fixtures and crops.

(a) Security interest in fixtures under this Article. -- A security interest under this Article may be created in goods that are fixtures or may continue in goods that become fixtures. A security interest does not exist under this Article in ordinary building materials incorporated into an improvement on land.

(b) Security interest in fixtures under real-property law. -- This Article does not prevent creation of an encumbrance upon fixtures under real property law.

(c) General rule: subordination of security interest in fixtures. -- In cases not governed by subsections (d) through (h) of this section, a security interest in fixtures is subordinate to a conflicting interest of an encumbrancer or owner of the related real property other than the debtor.

(d) Fixtures purchase-money priority. -- Except as otherwise provided in subsection (h) of this section, a perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property and:

(1) The security interest is a purchase-money security interest;

(2) The interest of the encumbrancer or owner arises before the goods become fixtures; and

(3) The security interest is perfected by a fixture filing before the goods become fixtures or within 20 days thereafter.

(e) Priority of security interest in fixtures over interests in real property. -- A perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(1) The debtor has an interest of record in the real property or is in possession of the real property and the security interest:

a. Is perfected by a fixture filing before the interest of the encumbrancer or owner is of record; and

b. Has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner;

(2) Before the goods become fixtures, the security interest is perfected by any method permitted by this Article and the fixtures are readily removable:

a. Factory or office machines;

b. Equipment that is not primarily used or leased for use in the operation of the real property; or

c. Replacements of domestic appliances that are consumer goods;

(3) The conflicting interest is a lien on the real property obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this Article; or

(4) The security interest is:

a. Created in a manufactured home in a manufactured-home transaction; and

b. Perfected pursuant to a statute described in G.S. 25-9-311(a)(2).

(f) Priority based on consent, disclaimer, or right to remove. -- A security interest in fixtures, whether or not perfected, has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(1) The encumbrancer or owner has, in an authenticated record, consented to the security interest or disclaimed an interest in the goods as fixtures; or

(2) The debtor has a right to remove the goods as against the encumbrancer or owner.

(g) Continuation of subdivision (f)(2) priority. -- The priority of the security interest under subdivision (f)(2) of this section continues for a reasonable time if the debtor's right to remove the goods as against the encumbrancer or owner terminates.

(h) Priority of construction mortgage. -- A mortgage is a construction mortgage to the extent that it secures an obligation incurred for the construction of an improvement on land, including the acquisition cost of the land, if a recorded record of the mortgage so indicates. Except as otherwise provided in subsections (e) and (f) of this section, a security interest in fixtures is subordinate to a construction mortgage if a record of the mortgage is recorded before the goods become fixtures and the goods become fixtures before the completion of the construction. A mortgage has

this priority to the same extent as a construction mortgage to the extent that it is given to refinance a construction mortgage.

(i) Priority of security interest in crops. -- Except as provided in G.S. 42-15, a perfected security interest in crops growing on real property has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property.

"§ 25-9-335. Accessions.

(a) Creation of security interest in accession. -- A security interest may be created in an accession and continues in collateral that becomes an accession.

(b) Perfection of security interest. -- If a security interest is perfected when the collateral becomes an accession, the security interest remains perfected in the collateral.

(c) Priority of security interest. -- Except as otherwise provided in subsection (d) of this section, the other provisions of this Part determine the priority of a security interest in an accession.

(d) Compliance with certificate-of-title statute. -- A security interest in an accession is subordinate to a security interest in the whole which is perfected by compliance with the requirements of a certificate-of-title statute under G.S. 25-9-311(b).

(e) Removal of accession after default. -- After default, subject to Part 6 of this Article, a secured party may remove an accession from other goods if the security interest in the accession has priority over the claims of every person having an interest in the whole.

(f) Reimbursement following removal. -- A secured party that removes an accession from other goods under subsection (e) of this section shall promptly reimburse any holder of a security interest or other lien on, or owner of, the whole or of the other goods, other than the debtor, for the cost of repair of any physical injury to the whole or the other goods. The secured party need not reimburse the holder or owner for any diminution in value of the whole or the other goods caused by the absence of the accession removed or by any necessity for replacing it. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

"§ 25-9-336. Commingled goods.

(a) 'Commingled goods.' -- In this section, 'commingled goods' means goods that are physically united with other goods in such a manner that their identity is lost in a product or mass.

(b) No security interest in commingled goods as such. -- A security interest does not exist in commingled goods as such. However, a security interest may attach to a product or mass that results when goods become commingled goods.

(c) Attachment of security interest to product or mass. -- If collateral becomes commingled goods, a security interest attaches to the product or mass.

(d) Perfection of security interest. -- If a security interest in collateral is perfected before the collateral becomes commingled goods, the security interest that attaches to the product or mass under subsection (c) of this section is perfected.

(e) Priority of security interest. -- Except as otherwise provided in subsection (f) of this section, the other provisions of this Part determine the priority of a security interest that attaches to the product or mass under subsection (c) of this section.

(f) Conflicting security interests in product or mass. -- If more than one security interest attaches to the product or mass under subsection (c) of this section, the following rules determine priority:

(1) A security interest that is perfected under subsection (d) of this section has priority over a security interest that is unperfected at the time the collateral becomes commingled goods.

(2) If more than one security interest is perfected under subsection (d) of this section, the security interests rank equally in proportion to the value of the collateral at the time it became commingled goods.

"**§ 25-9-337. Priority of security interests in goods covered by certificate of title.**

If, while a security interest in goods is perfected by any method under the law of another jurisdiction, this State issues a certificate of title that does not show that the goods are subject to the security interest or contain a statement that they may be subject to security interests not shown on the certificate:

(1) A buyer of the goods, other than a person in the business of selling goods of that kind, takes free of the security interest if the buyer gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest; and

(2) The security interest is subordinate to a conflicting security interest in the goods that attaches, and is perfected under G.S. 25-9-311(b), after issuance of the certificate and without the conflicting secured party's knowledge of the security interest.

"**§ 25-9-338. Priority of security interest or agricultural lien perfected by filed financing statement providing certain incorrect information.**

If a security interest or agricultural lien is perfected by a filed financing statement providing information described in G.S. 25-9-516(b)(5) which is incorrect at the time the financing statement is filed:

(1) The security interest or agricultural lien is subordinate to a conflicting perfected security interest in the collateral to the extent that the holder of the conflicting security interest gives value in reasonable reliance upon the incorrect information; and

(2) A purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of chattel paper, documents, goods, instruments, or a security certificate, receives delivery of the collateral.

"**§ 25-9-339. Priority subject to subordination.**

This Article does not preclude subordination by agreement by a person entitled to priority.

"SUBPART 4. RIGHTS OF BANK.

"**§ 25-9-340. Effectiveness of right of recoupment or setoff against deposit account.**

(a) Exercise of recoupment or setoff. -- Except as otherwise provided in subsection (c) of this section, a bank with which a deposit account is maintained may exercise any right of recoupment or setoff against a secured party that holds a security interest in the deposit account.

(b) Recoupment or setoff not affected by security interest. -- Except as otherwise provided in subsection (c) of this section, the application of this Article to a security interest in a deposit account does not affect a right of recoupment or setoff of the secured party as to a deposit account maintained with the secured party.

(c) When setoff ineffective. -- The exercise by a bank of a setoff against a deposit account is ineffective against a secured party that holds a security interest in the deposit account which is perfected by control under G.S. 25-9-104(a)(3), if the setoff is based on a claim against the debtor.

"**§ 25-9-341. Bank's rights and duties with respect to deposit account.**

Except as otherwise provided in G.S. 25-9-340(c), and unless the bank otherwise agrees in an authenticated record, a bank's rights and duties with respect to a deposit account maintained with the bank are not terminated, suspended, or modified by:

(1) The creation, attachment, or perfection of a security interest in the deposit account;

(2) The bank's knowledge of the security interest; or

(3) The bank's receipt of instructions from the secured party.

"**§ 25-9-342. Bank's right to refuse to enter into or disclose existence of control agreement.**

This Article does not require a bank to enter into an agreement of the kind described in G.S. 25-9-104(a)(2), even if its customer so requests or directs. A bank that has entered into such an agreement is not required to confirm the existence of the agreement to another person unless requested to do so by its customer.

"PART 4.

"RIGHTS OF THIRD PARTIES.

"**§ 25-9-401. Alienability of debtor's rights.**

(a) Other law governs alienability; exceptions. -- Except as otherwise provided in subsection (b) of this section and G.S. 25-9-406, 25-9-407, 25-9-408, and 25-9-409, whether a debtor's rights in collateral may be voluntarily or involuntarily transferred is governed by law other than this Article.

(b) Agreement does not prevent transfer. -- An agreement between the debtor and secured party which prohibits a transfer of the debtor's rights in collateral or makes the transfer a default does not prevent the transfer from taking effect.

"**§ 25-9-402. Secured party not obligated on contract of debtor or in tort.**

The existence of a security interest, agricultural lien, or authority given to a debtor to dispose of or use collateral, without more, does not subject a secured party to liability in contract or tort for the debtor's acts or omissions.

"**§ 25-9-403. Agreement not to assert defenses against assignee.**

(a) 'Value.' -- In this section, 'value' has the meaning provided in G.S. 25-3-303(a).

(b) Agreement not to assert claim or defense. -- Except as otherwise provided in this section, an agreement between an account debtor and an assignor not to assert against an assignee any claim or defense that the account debtor may have against the assignor is enforceable by an assignee that takes an assignment:

(1) For value;

(2) In good faith;

(3) Without notice of a claim of a property or possessory right to the property assigned; and

(4) Without notice of a defense or claim in recoupment of the type that may be asserted against a person entitled to enforce a negotiable instrument under G.S. 25-3-305(a).

(c) When subsection (b) not applicable. -- Subsection (b) of this section does not apply to defenses of a type that may be asserted against a holder in due course of a negotiable instrument under G.S. 25-3-305(b).

(d) Omission of required statement in consumer transaction. -- In a consumer transaction, if a record evidences the account debtor's obligation, law other than this Article requires that the record include a statement to the effect that the rights of an assignee are subject to claims or defenses that the account debtor could assert against the original obligee, and the record does not include such a statement:

(1) The record has the same effect as if the record included such a statement; and

(2) The account debtor may assert against an assignee those claims and defenses that would have been available if the record included such a statement.

(e) Rule for individual under other law. -- This section is subject to law other than this Article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(f) Other law not displaced. -- Except as otherwise provided in subsection (d) of this section, this section does not displace law other than this Article which gives effect to an agreement by an account debtor not to assert a claim or defense against an assignee.

"§ 25-9-404. Rights acquired by assignee; claims and defenses against assignee.

(a) Assignee's rights subject to terms, claims, and defenses; exceptions. -- Unless an account debtor has made an enforceable agreement not to assert defenses or claims, and subject to subsections (b) through (e) of this section, the rights of an assignee are subject to:

(1) All terms of the agreement between the account debtor and assignor and any defense or claim in recoupment arising from the transaction that gave rise to the contract; and

(2) Any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives a notification of the assignment authenticated by the assignor or the assignee.

(b) Account debtor's claim reduces amount owed to assignee. -- Subject to subsection (c) of this section and except as otherwise provided in subsection (d) of this section, the claim of an account debtor against an assignor may be asserted against an assignee under subsection (a) of this section only to reduce the amount the account debtor owes.

(c) Rule for individual under other law. -- This section is subject to law other than this Article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(d) Omission of required statement in consumer transaction. -- In a consumer transaction, if a record evidences the account debtor's obligation, law other than this Article requires that the record include a statement to the effect that the account debtor's recovery against an assignee with respect to claims and defenses against the assignor may not exceed amounts paid by the account debtor under the record, and the record does not include such a statement, the extent to which a claim of an account debtor against the assignor may be asserted against an assignee is determined as if the record included such a statement.

(e) Inapplicability to health-care-insurance receivable. -- This section does not apply to an assignment of a health-care-insurance receivable.

"§ 25-9-405. Modification of assigned contract.

(a) Effect of modification on assignee. -- A modification of or substitution for an assigned contract is effective against an assignee if made in good faith. The assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that the modification or substitution is a breach of contract by the assignor. This subsection is subject to subsections (b) through (d) of this section.

(b) Applicability of subsection (a). -- Subsection (a) of this section applies to the extent that:

(1) The right to payment or a part thereof under an assigned contract has not been fully earned by performance; or

(2) The right to payment or a part thereof has been fully earned by performance and the account debtor has not received notification of the assignment under G.S. 25-9-406(a).

(c) Rule for individual under other law. -- This section is subject to law other than this Article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(d) Inapplicability to health-care-insurance receivable. -- This section does not apply to an assignment of a health-care-insurance receivable.

"§ 25-9-406. Discharge of account debtor; notification of assignment; identification and proof of assignment; restrictions on assignment of accounts, chattel paper, payment intangibles, and promissory notes ineffective.

(a) Discharge of account debtor; effect of notification. -- Subject to subsections (b) through (i) of this section, an account debtor on an account, chattel paper, or a

payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(b) When notification ineffective. -- Subject to subsection (h) of this section, notification is ineffective under subsection (a) of this section:

(1) If it does not reasonably identify the rights assigned;

(2) To the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this Article; or

(3) At the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

a. Only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee;

b. A portion has been assigned to another assignee; or

c. The account debtor knows that the assignment to that assignee is limited.

(c) Proof of assignment. -- Subject to subsection (h) of this section, if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (a) of this section.

(d) Term restricting assignment generally ineffective. -- Except as otherwise provided in subsection (e) of this section and G.S. 25-2A-303 and G.S. 25-9-407 and subject to subsection (h) of this section, a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

(1) Prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or

(2) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(e) Inapplicability of subsection (d) to certain sales. -- Subsection (d) of this section does not apply to the sale of a payment intangible or promissory note.

(f) Legal restrictions on assignment generally ineffective. -- Except as otherwise provided in G.S. 25-2A-303 and G.S. 25-9-407 and subject to subsections (h) and (i)

of this section, a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

(1) Prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in the account or chattel paper; or

(2) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

(g) Subdivision (b)(3) not waivable. -- Subject to subsection (h) of this section, an account debtor may not waive or vary its option under subdivision (b)(3) of this section.

(h) Rule for individual under other law. -- This section is subject to law other than this Article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(i) Inapplicability. -- This section does not apply to an assignment of a health-care-insurance receivable. Subsection (f) of this section does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a right the transfer of which is prohibited or restricted by any of the following statutes to the extent that the statute is inconsistent with subsection (f) of this section: North Carolina Structured Settlement Act (Article 44B of Chapter 1 of the General Statutes); North Carolina Crime Victims Compensation Act (Chapter 15B of the General Statutes); North Carolina Consumer Finance Act (Article 15 of Chapter 53 of the General Statutes); North Carolina Firemen's and Rescue Squad Workers' Pension Fund (Article 86 of Chapter 58 of the General Statutes); Employment Security Law (Chapter 96 of the General Statutes); North Carolina Workers' Compensation Act (Article 1 of Chapter 97 of the General Statutes); and Programs of Public Assistance (Article 2 of Chapter 108A of the General Statutes).

(j) Section prevails over specified inconsistent law. -- Except to the extent otherwise provided in subsection (i) of this section, this section prevails over any inconsistent provision of an existing or future statute, rule, or regulation of this State unless the provision is contained in a statute of this State, refers expressly to this section, and states that the provision prevails over this section.

"§ 25-9-407. Restrictions on creation or enforcement of security interest in leasehold interest or in lessor's residual interest.

(a) Term restricting assignment generally ineffective. -- Except as otherwise provided in subsection (b) of this section, a term in a lease agreement is ineffective to the extent that it:

(1) Prohibits, restricts, or requires the consent of a party to the lease to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, an interest of a party under the lease contract or in the lessor's residual interest in the goods; or

(2) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the lease.

(b) Effectiveness of certain terms. -- Except as otherwise provided in G.S. 25-2A-303(7), a term described in subdivision (a)(2) of this section is effective to the extent that there is:

(1) A transfer by the lessee of the lessee's right of possession or use of the goods in violation of the term; or

(2) A delegation of a material performance of either party to the lease contract in violation of the term.

(c) Security interest not material impairment. -- The creation, attachment, perfection, or enforcement of a security interest in the lessor's interest under the lease contract or the lessor's residual interest in the goods is not a transfer that materially impairs the lessee's prospect of obtaining return performance or materially changes the duty of or materially increases the burden or risk imposed on the lessee within the purview of G.S. 25-2A-303(4) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the lessor.

"§ 25-9-408. Restrictions on assignment of promissory notes, health-care-insurance receivables, and certain general intangibles ineffective.

(a) Term restricting assignment generally ineffective. -- Except as otherwise provided in subsection (b) of this section, a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

(1) Would impair the creation, attachment, or perfection of a security interest; or

(2) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(b) Applicability of subsection (a) to sales of certain rights to payment. -- Subsection (a) of this section applies to a security interest in a payment intangible or

promissory note only if the security interest arises out of a sale of the payment intangible or promissory note.

(c) Legal restrictions on assignment generally ineffective. -- A rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

(1) Would impair the creation, attachment, or perfection of a security interest; or

(2) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(d) Limitation on ineffectiveness under subsections (a) and (c). -- To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (c) of this section would be effective under law other than this Article but is ineffective under subsection (a) or (c) of this section, the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

(1) Is not enforceable against the person obligated on the promissory note or the account debtor;

(2) Does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

(3) Does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;

(4) Does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;

(5) Does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(6) Does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

(e) Section prevails over specified inconsistent law. -- Except to the extent otherwise provided in subsection (f) of this section, this section prevails over any inconsistent provision of an existing or future statute, rule, or regulation of this State unless the provision is contained in a statute of this State, refers expressly to this section, and states that the provision prevails over this section.

(f) Inapplicability. -- Subsection (c) of this section does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a right the transfer of which is prohibited or restricted by any of the following statutes to the extent that the statute is inconsistent with subsection (c) of this section: North Carolina Structured Settlement Act (Article 44B of Chapter 1 of the General Statutes); North Carolina Crime Victims Compensation Act (Chapter 15B of the General Statutes); North Carolina Consumer Finance Act (Article 15 of Chapter 53 of the General Statutes); North Carolina Firemen's and Rescue Squad Workers' Pension Fund (Article 86 of Chapter 58 of the General Statutes); Employment Security Law (Chapter 96 of the General Statutes); North Carolina Workers' Compensation Act (Article 1 of Chapter 97 of the General Statutes); and Programs of Public Assistance (Article 2 of Chapter 108A of the General Statutes).

"**§ 25-9-409. Restrictions on assignment of letter-of-credit rights ineffective.**

(a) Term or law restricting assignment generally ineffective. -- A term in a letter of credit or a rule of law, statute, regulation, custom, or practice applicable to the letter of credit which prohibits, restricts, or requires the consent of an applicant, issuer, or nominated person to a beneficiary's assignment of or creation of a security interest in a letter-of-credit right is ineffective to the extent that the term or rule of law, statute, regulation, custom, or practice:

(1) Would impair the creation, attachment, or perfection of a security interest in the letter-of-credit right; or

(2) Provides that the assignment or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the letter-of-credit right.

(b) Limitation on ineffectiveness under subsection (a). -- To the extent that a term in a letter of credit is ineffective under subsection (a) of this section but would be effective under law other than this Article or a custom or practice applicable to the letter of credit, to the transfer of a right to draw or otherwise demand performance under the letter of credit, or to the assignment of a right to proceeds of the letter of credit, the creation, attachment, or perfection of a security interest in the letter-of-credit right:

(1) Is not enforceable against the applicant, issuer, nominated person, or transferee beneficiary;

(2) Imposes no duties or obligations on the applicant, issuer, nominated person, or transferee beneficiary; and

(3) Does not require the applicant, issuer, nominated person, or transferee beneficiary to recognize the security interest, pay or

render performance to the secured party, or accept payment or other performance from the secured party.

"PART 5.
"FILING.

"SUBPART 1. FILING OFFICE; CONTENTS AND EFFECTIVENESS OF FINANCING STATEMENT.

"§ 25-9-501. Filing offices.

(a) Filing offices. -- Except as otherwise provided in subsection (b) of this section, if the local law of this State governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:

(1) The office designated for the filing or recording of a record of a mortgage on the related real property, if:

a. The collateral is as-extracted collateral or timber to be cut; or

b. The financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or

(2) The office of the Secretary of State, in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.

(b) Filing office for transmitting utilities. -- The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the Secretary of State. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.

"§ 25-9-502. Contents of financing statement; record of mortgage as financing statement; time of filing financing statement.

(a) Sufficiency of financing statement. -- Subject to subsection (b) of this section, a financing statement is sufficient only if it:

(1) Provides the name of the debtor;

(2) Provides the name of the secured party or a representative of the secured party; and

(3) Indicates the collateral covered by the financing statement.

(b) Real-property-related financing statements. -- Except as otherwise provided in G.S. 25-9-501(b), to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection (a) of this section and also:

(1) Indicate that it covers this type of collateral;

(2) Indicate that it is to be filed in the real property records;

(3) Provide a description of the real property to which the collateral is related; and

(4) If the debtor does not have an interest of record in the real property, provide the name of a record owner.

(c) Record of mortgage as financing statement. -- A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

(1) The record indicates the goods or accounts that it covers;

(2) The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;

(3) The record satisfies the requirements for a financing statement in this section other than an indication that it is to be filed in the real property records; and

(4) The record is duly recorded.

(d) Filing before security agreement or attachment. -- A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

"**§ 25-9-503. Name of debtor and secured party.**

(a) Sufficiency of debtor's name. -- A financing statement sufficiently provides the name of the debtor:

(1) If the debtor is a registered organization, only if the financing statement provides the name of the debtor indicated on the public record of the debtor's jurisdiction of organization which shows the debtor to have been organized;

(2) If the debtor is a decedent's estate, only if the financing statement provides the name of the decedent and indicates that the debtor is an estate;

(3) If the debtor is a trust or a trustee acting with respect to property held in trust, only if the financing statement:

a. Provides the name specified for the trust in its organic documents or, if no name is specified, provides the name of the settlor and additional information sufficient to distinguish the debtor from other trusts having one or more of the same settlors; and

b. Indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust; and

(4) In other cases:

a. If the debtor has a name, only if it provides the individual or organizational name of the debtor; and

b. If the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor.

(b) Additional debtor-related information. -- A financing statement that provides the name of the debtor in accordance with subsection (a) of this section is not rendered ineffective by the absence of:

(1) A trade name or other name of the debtor; or

(2) Unless required under sub-subdivision (a)(4)b. of this section, names of partners, members, associates, or other persons comprising the debtor.

(c) Debtor's trade name insufficient. -- A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

(d) Representative capacity. -- Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

(e) Multiple debtors and secured parties. -- A financing statement may provide the name of more than one debtor and the name of more than one secured party.

"§ 25-9-504. Indication of collateral.

A financing statement sufficiently indicates the collateral that it covers if the financing statement provides:

(1) A description of the collateral pursuant to G.S. 25-9-108; or

(2) An indication that the financing statement covers all assets or all personal property.

"§ 25-9-505. Filing and compliance with other statutes and treaties for consignments, leases, other bailments, and other transactions.

(a) Use of terms other than 'debtor' and 'secured party.' -- A consignor, lessor, or other bailor of goods, a licensor, or a buyer of a payment intangible or promissory note may file a financing statement, or may comply with a statute or treaty described in G.S. 25-9-311(a), using the terms 'consignor', 'consignee', 'lessor', 'lessee', 'bailor', 'bailee', 'licensor', 'licensee', 'owner', 'registered owner', 'buyer', 'seller', or words of similar import, instead of the terms 'secured party' and 'debtor'.

(b) Effect of financing statement under subsection (a). -- This Part applies to the filing of a financing statement under subsection (a) of this section and, as appropriate, to compliance that is equivalent to filing a financing statement under G.S. 25-9-311(b), but the filing or compliance is not of itself a factor in determining whether the collateral secures an obligation. If it is determined for another reason that the collateral secures an obligation, a security interest held by the consignor, lessor, bailor, licensor, owner, or buyer which attaches to the collateral is perfected by the filing or compliance.

"§ 25-9-506. Effect of errors or omissions.

(a) Minor errors and omissions. -- A financing statement substantially satisfying the requirements of this Part is effective, even if it has minor errors or omissions, unless the errors or omissions make the financing statement seriously misleading.

(b) Financing statement seriously misleading. -- Except as otherwise provided in subsection (c) of this section, a financing statement that fails sufficiently to provide the name of the debtor in accordance with G.S. 25-9-503(a) is seriously misleading.

(c) Financing statement not seriously misleading. -- If a search of the records of the filing office under the debtor's correct name, using the filing office's standard search logic, if any, would disclose a financing statement that fails sufficiently to provide the name of the debtor in accordance with G.S. 25-9-503(a), the name provided does not make the financing statement seriously misleading.

(d) 'Debtor's correct name.' -- For purposes of G.S. 25-9-508(b), the 'debtor's correct name' in subsection (c) of this section means the correct name of the new debtor.

"§ 25-9-507. Effect of certain events on effectiveness of financing statement.

(a) Disposition. -- A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

(b) Information becoming seriously misleading. -- Except as otherwise provided in subsection (c) of this section and G.S. 25-9-508, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under G.S. 25-9-506.

(c) Change in debtor's name. -- If a debtor so changes its name that a filed financing statement becomes seriously misleading under G.S. 25-9-506:

(1) The financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within four months after, the change; and

(2) The financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within four months after the change.

"§ 25-9-508. Effectiveness of financing statement if new debtor becomes bound by security agreement.

(a) Financing statement naming original debtor. -- Except as otherwise provided in this section, a filed financing statement naming an original debtor is effective to perfect a security interest in collateral in which a new debtor has or acquires rights to the extent that the financing statement would have been effective had the original debtor acquired rights in the collateral.

(b) Financing statement becoming seriously misleading. -- If the difference between the name of the original debtor and that of the new debtor causes a filed financing statement that is effective under subsection (a) of this section to be seriously misleading under G.S. 25-9-506:

(1) The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within four months after, the new debtor becomes bound under G.S. 25-9-203(d); and

(2) The financing statement is not effective to perfect a security interest in collateral acquired by the new debtor more than four months after the new debtor becomes bound under G.S. 25-9-203(d) unless an initial financing statement providing the name of the new debtor is filed before the expiration of that time.

(c) When section not applicable. -- This section does not apply to collateral as to which a filed financing statement remains effective against the new debtor under G.S. 25-9-507(a).

"§ 25-9-509. Persons entitled to file a record.

(a) Person entitled to file record. -- A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if:

(1) The debtor authorizes the filing in an authenticated record or pursuant to subsection (b) or (c) of this section; or

(2) The person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien.

(b) Security agreement as authorization. -- By authenticating or becoming bound as debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

(1) The collateral described in the security agreement; and

(2) Property that becomes collateral under G.S. 25-9-315(a)(2), whether or not the security agreement expressly covers proceeds.

(c) Acquisition of collateral as authorization. -- By acquiring collateral in which a security interest or agricultural lien continues under G.S. 25-9-315(a)(1), a debtor authorizes the filing of an initial financing statement, and an amendment, covering the collateral and property that becomes collateral under G.S. 25-9-315(a)(2).

(d) Person entitled to file certain amendments. -- A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:

(1) The secured party of record authorizes the filing; or

(2) The amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by G.S. 25-9-513(a) or (c), the debtor authorizes the filing, and the termination statement indicates that the debtor authorized it to be filed.

(e) Multiple secured parties of record. -- If there is more than one secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection (d) of this section.

"§ 25-9-510. Effectiveness of filed record.

(a) Filed record effective if authorized. -- A filed record is effective only to the extent that it was filed by a person that may file it under G.S. 25-9-509.

(b) Authorization by one secured party of record. -- A record authorized by one secured party of record does not affect the financing statement with respect to another secured party of record.

(c) Continuation statement not timely filed. -- A continuation statement that is not filed within the six-month period prescribed by G.S. 25-9-515(d) is ineffective.

"§ 25-9-511. Secured party of record.

(a) Secured party of record. -- A secured party of record with respect to a financing statement is a person whose name is provided as the name of the secured party or a representative of the secured party in an initial financing statement that has been filed. If an initial financing statement is filed under G.S. 25-9-514(a), the assignee named in the initial financing statement is the secured party of record with respect to the financing statement.

(b) Amendment naming secured party of record. -- If an amendment of a financing statement which provides the name of a person as a secured party or a representative of a secured party is filed, the person named in the amendment is a secured party of record. If an amendment is filed under G.S. 25-9-514(b), the assignee named in the amendment is a secured party of record.

(c) Amendment deleting secured party of record. -- A person remains a secured party of record until the filing of an amendment of the financing statement which deletes the person.

"**§ 25-9-512. Amendment of financing statement.**

(a) Amendment of information in financing statement. -- Subject to G.S. 25-9-509, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or, subject to subsection (e) of this section, otherwise amend the information provided in, a financing statement by filing an amendment that:

(1) Identifies, by its file number, the initial financing statement to which the amendment relates; and

(2) If the amendment relates to an initial financing statement filed in a filing office described in G.S. 25-9-501(a)(1), provides the name of the debtor and the information specified in G.S. 25-9-502(b).

(b) Period of effectiveness not affected. -- Except as otherwise provided in G.S. 25-9-515, the filing of an amendment does not extend the period of effectiveness of the financing statement.

(c) Effectiveness of amendment adding collateral. -- A financing statement that is amended by an amendment that adds collateral is effective as to the added collateral only from the date of the filing of the amendment.

(d) Effectiveness of amendment adding debtor. -- A financing statement that is amended by an amendment that adds a debtor is effective as to the added debtor only from the date of the filing of the amendment.

(e) Certain amendments ineffective. -- An amendment is ineffective to the extent it:

(1) Purports to delete all debtors and fails to provide the name of a debtor to be covered by the financing statement; or

(2) Purports to delete all secured parties of record and fails to provide the name of a new secured party of record.

"**§ 25-9-513. Termination statement.**

(a) Consumer goods. -- A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:

(1) There is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(2) The debtor did not authorize the filing of the initial financing statement.

(b) Time for compliance with subsection (a). -- To comply with subsection (a) of this section, a secured party shall cause the secured party of record to file the termination statement:

(1) Within one month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(2) If earlier, within 20 days after the secured party receives an authenticated demand from a debtor.

(c) Other collateral. -- In cases not governed by subsection (a) of this section, within 20 days after a secured party receives an authenticated demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if:

(1) Except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value;

(2) The financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;

(3) The financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or

(4) The debtor did not authorize the filing of the initial financing statement.

(d) Effect of filing termination statement. -- Except as otherwise provided in G.S. 25-9-510, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. Except as otherwise provided in G.S. 25-9-510, for purposes of G.S. 25-9-519(g), 25-9-522(a), and 25-9-523(c), the filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.

"**§ 25-9-514. Assignment of powers of secured party of record.**

(a) Assignment reflected on initial financing statement. -- Except as otherwise provided in subsection (c) of this section, an initial financing statement may reflect an assignment of all of the secured party's power to authorize an amendment to the

financing statement by providing the name and mailing address of the assignee as the name and address of the secured party.

(b) Assignment of filed financing statement. -- Except as otherwise provided in subsection (c) of this section, a secured party of record may assign of record all or part of its power to authorize an amendment to a financing statement by filing in the filing office an amendment of the financing statement which:

(1) Identifies, by its file number, the initial financing statement to which it relates;

(2) Provides the name of the assignor; and

(3) Provides the name and mailing address of the assignee.

(c) Assignment of record of mortgage. -- An assignment of record of a security interest in a fixture covered by a record of a mortgage which is effective as a financing statement filed as a fixture filing under G.S. 25-9-502(c) may be made only by an assignment of record of the mortgage in the manner provided by law of this State other than this Chapter.

"**§ 25-9-515. Duration and effectiveness of financing statement; effect of lapsed financing statement.**

(a) Five-year effectiveness. -- Except as otherwise provided in subsections (b), (e), (f), and (g) of this section, a filed financing statement is effective for a period of five years after the date of filing.

(b) Public-finance or manufactured-home transaction. -- Except as otherwise provided in subsections (e), (f), and (g) of this section, an initial financing statement filed in connection with a public-finance transaction or manufactured-home transaction is effective for a period of 30 years after the date of filing if it indicates that it is filed in connection with a public-finance transaction or manufactured-home transaction.

(c) Lapse and continuation of financing statement. -- The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless before the lapse a continuation statement is filed pursuant to subsection (d) of this section. Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected otherwise. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.

(d) When continuation statement may be filed. -- A continuation statement may be filed only within six months before the expiration of the five-year period specified in subsection (a) of this section or the 30-year period specified in subsection (b) of this section, whichever is applicable.

(e) Effect of filing continuation statement. -- Except as otherwise provided in G.S. 25-9-510, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of five years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the five-year period, the financing statement lapses in the same manner as provided in subsection (c) of this section, unless, before the

lapse, another continuation statement is filed pursuant to subsection (d) of this section. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

(f) Transmitting utility financing statement. -- If a debtor is a transmitting utility and a filed financing statement so indicates, the financing statement is effective until a termination statement is filed.

(g) Record of mortgage as financing statement. -- A record of a mortgage that is effective as a financing statement filed as a fixture filing under G.S. 25-9-502(c) remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

"§ 25-9-516. What constitutes filing; effectiveness of filing.

(a) What constitutes filing. -- Except as otherwise provided in subsection (b) of this section, communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(b) Refusal to accept record; filing does not occur. -- Filing does not occur with respect to a record that a filing office refuses to accept because:

(1) The record is not communicated by a method or medium of communication authorized by the filing office;

(2) An amount equal to or greater than the applicable filing fee is not tendered;

(3) The filing office is unable to index the record because:

a. In the case of an initial financing statement, the record does not provide a name for the debtor;

b. In the case of an amendment or correction statement, the record:

1. Does not identify the initial financing statement as required by G.S. 25-9-512 or G.S. 25-9-518, as applicable; or

2. Identifies an initial financing statement whose effectiveness has lapsed under G.S. 25-9-515;

c. In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; or

d. In the case of a record filed in the filing office described in G.S. 25-9-501(a)(1), the record does not provide a sufficient description of the real property to which it relates;

(4) In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;

(5) In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:

a. Provide a mailing address for the debtor;

b. Indicate whether the debtor is an individual or an organization; or

c. If the financing statement indicates that the debtor is an organization, provide:

1. A type of organization for the debtor;

2. A jurisdiction of organization for the debtor; or

3. An organizational identification number for the debtor or indicate that the debtor has none;

(6) In the case of an assignment reflected in an initial financing statement under G.S. 25-9-514(a) or an amendment filed under G.S. 25-9-514(b), the record does not provide a name and mailing address for the assignee; or

(7) In the case of a continuation statement, the record is not filed within the six-month period prescribed by G.S. 25-9-515(d).

(c) Rules applicable to subsection (b). -- For purposes of subsection (b) of this section:

(1) A record does not provide information if the filing office is unable to read or decipher the information; and

(2) A record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by G.S. 25-9-512, 25-9-514, or 25-9-518, is an initial financing statement.

(d) Refusal to accept record; record effective as filed record. -- A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in subsection (b) of this section, is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

"§ 25-9-517. Effect of indexing errors.

The failure of the filing office to index a record correctly does not affect the effectiveness of the filed record.

"§ 25-9-518. Claim concerning inaccurate or wrongfully filed record.

(a) Correction statement. -- A person may file in the filing office a correction statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

(b) Sufficiency of correction statement. -- A correction statement must:

(1) Identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;

(2) Indicate that it is a correction statement; and

(3) Provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

(c) Record not affected by correction statement. -- The filing of a correction statement does not affect the effectiveness of an initial financing statement or other filed record.

"SUBPART 2. DUTIES AND OPERATION OF FILING OFFICE.

"§ 25-9-519. Numbering, maintaining, and indexing records; communicating information provided in records.

(a) Filing office duties. -- For each record filed in a filing office, the filing office shall:

(1) Assign a unique number to the filed record;

(2) Create a record that bears the number assigned to the filed record and the date and time of filing;

(3) Maintain the filed record for public inspection; and

(4) Index the filed record in accordance with subsections (c), (d), and (e) of this section.

(b) File number. -- Except as otherwise provided in subsection (i) of this section, a file number assigned after January 1, 2003, must include a digit that:

(1) Is mathematically derived from or related to the other digits of the file number; and

(2) Aids the filing office in determining whether a number communicated as the file number includes a single-digit or transpositional error.

(c) Indexing: general. -- Except as otherwise provided in subsections (d) and (e) of this section, the filing office shall:

(1) Index an initial financing statement according to the name of the debtor and index all filed records relating to the initial financing statement in a manner that associates with one another an initial financing statement and all filed records relating to the initial financing statement; and

(2) Index a record that provides a name of a debtor which was not previously provided in the financing statement to which the record relates also according to the name that was not previously provided.

(d) Indexing: real-property-related financing statement. -- If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index it:

(1) Under the names of the debtor and of each owner of record shown on the financing statement as if they were the mortgagors under a mortgage of the real property described; and

(2) To the extent that the law of this State provides for indexing of records of mortgages under the name of the mortgagee, under the name of the secured party as if the secured party were the mortgagee thereunder, or, if indexing is by description, as if the financing statement were a record of a mortgage of the real property described.

(e) Indexing: real-property-related assignment. -- If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index an assignment filed under G.S. 25-9-514(a) or an amendment filed under G.S. 25-9-514(b):

(1) Under the name of the assignor as grantor; and

(2) To the extent that the law of this State provides for indexing a record of the assignment of a mortgage under the name of the assignee, under the name of the assignee.

(f) Retrieval and association capability. -- The filing office shall maintain a capability:

(1) To retrieve a record by the name of the debtor and by the file number assigned to the initial financing statement to which the record relates; and

(2) To associate and retrieve with one another an initial financing statement and each filed record relating to the initial financing statement.

(g) Removal of debtor's name. -- The filing office may not remove a debtor's name from the index until one year after the effectiveness of a financing statement naming the debtor lapses under G.S. 25-9-515 with respect to all secured parties of record.

(h) Timeliness of filing office performance. -- The filing office shall perform the acts required by subsections (a) through (e) of this section at the time and in the manner prescribed by filing-office rule, but after January 1, 2003, not later than three business days after the filing office receives the record in question.

(i) Inapplicability to real-property-related filing office. -- Subsection (b) of this section does not apply to a filing office described in G.S. 25-9-501(a)(1).

"§ 25-9-520. Acceptance and refusal to accept record.

(a) Mandatory refusal to accept record. -- A filing office shall refuse to accept a record for filing for a reason set forth in G.S. 25-9-516(b) and may refuse to accept a record for filing only for a reason set forth in G.S. 25-9-516(b).

(b) Communication concerning refusal. -- If a filing office refuses to accept a record for filing, it shall communicate to the person that presented the record the fact of and reason for the refusal and the date and time the record would have been filed had the filing office accepted it. The communication must be made at the time and in the manner prescribed by filing-office rule but in no event more than three business days after the filing office receives the record.

(c) When filed financing statement effective. -- A filed financing statement satisfying G.S. 25-9-502(a) and (b) is effective, even if the filing office is required to

refuse to accept it for filing under subsection (a) of this section. However, G.S. 25-9-338 applies to a filed financing statement providing information described in G.S. 25-9-516(b)(5) which is incorrect at the time the financing statement is filed.

(d) Separate application to multiple debtors. -- If a record communicated to a filing office provides information that relates to more than one debtor, this Part applies as to each debtor separately.

"**§ 25-9-521.** Reserved.

"**§ 25-9-522. Maintenance and destruction of records.**

(a) Post-lapse maintenance and retrieval of information. -- The filing office shall maintain a record of the information provided in a filed financing statement for at least one year after the effectiveness of the financing statement has lapsed under G.S. 25-9-515 with respect to all secured parties of record. The record must be retrievable by using the name of the debtor and by using the file number assigned to the initial financing statement to which the record relates.

(b) Destruction of written records. -- Except to the extent that a statute governing disposition of public records provides otherwise, the filing office immediately may destroy any written record evidencing a financing statement. However, if the filing office destroys a written record, it shall maintain another record of the financing statement which complies with subsection (a) of this section.

"**§ 25-9-523. Information from filing office.**

(a) Acknowledgment of filing written record. -- If a person that files a written record requests an acknowledgment of the filing, the filing office shall send to the person an image of the record showing the number assigned to the record pursuant to G.S. 25-9-519(a)(1) and the date and time of the filing of the record. However, if the person furnishes a copy of the record to the filing office, the filing office may instead:

(1) Note upon the copy the number assigned to the record pursuant to G.S. 25-9-519(a)(1) and the date and time of the filing of the record; and

(2) Send the copy to the person.

(b) Acknowledgment of filing other record. -- If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides:

(1) The information in the record;

(2) The number assigned to the record pursuant to G.S. 25-9-519(a)(1); and

(3) The date and time of the filing of the record.

(c) Communication of requested information. -- Except as otherwise provided in subsection (g) of this section, the filing office shall communicate or otherwise make available in a record, for which it shall not be liable, the following information to any person that requests it:

(1) Whether there is on file on a date and time specified by the filing office, but not a date earlier than three business days before the filing office receives the request, any financing statement that:

a. Designates a particular debtor;

b. Has not lapsed under G.S. 25-9-515 with respect to all secured parties of record; and

c. If the request so states, has lapsed under G.S. 25-9-515 and a record of which is maintained by the filing office under G.S. 25-9-522(a);

(2) The date and time of filing of each financing statement; and

(3) The information provided in each financing statement.

(d) Medium for communicating information. -- In complying with its duty under subsection (c) of this section, the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing a record that can be admitted into evidence in the courts of this State without extrinsic evidence of its authenticity.

(e) Timeliness of filing office performance. -- The filing office shall perform the acts required by subsections (a) through (d) of this section at the time and in the manner prescribed by filing-office rule, but after January 1, 2003, for a filing office described in G.S. 25-9-501(a)(2), not later than three business days after the filing office receives the request.

(f) Reserved.

(g) Inapplicability to real-property-related filing office. -- Subsection (c) of this section does not apply to a filing office described in G.S. 25-9-501(a)(1) with respect to financing statements filed on or after the effective date of this act.

"**§ 25-9-524. Delay by filing office.**

Delay by the filing office beyond a time limit prescribed by this Part is excused if:

(1) The delay is caused by interruption of communication or computer facilities, war, emergency conditions, failure of equipment, or other circumstances beyond control of the filing office; and

(2) The filing office exercises reasonable diligence under the circumstances.

"**§ 25-9-525. Fees.**

(a) Initial financing statement or other record: general rule. -- Except as otherwise provided in subsection (e) of this section, the fee for filing and indexing a record under this Part is:

(1) Thirty dollars ($30.00) if the record is communicated in writing and consists of one or two pages;

(2) Forty-five dollars ($45.00) if the record is communicated in writing and consists of more than two pages, plus two dollars ($2.00) for each page over 10 pages; and

(3) Thirty dollars ($30.00) if the record is communicated by another medium authorized by filing-office rule.

(b) Reserved.

(c) Number of names. -- The number of names required to be indexed does not affect the amount of the fee in subsection (a) of this section.

(d) Response to information request. -- The fee for responding to a request for information from the filing office, including for communicating whether there is on file any financing statement naming a particular debtor, is:

(1) Thirty dollars ($30.00) if the request is communicated in writing; and

(2) Thirty dollars ($30.00) if the request is communicated by another medium authorized by filing-office rule.

Upon request the filing office shall furnish a copy of any filed financing statement or statement of assignment for a uniform fee of two dollars ($2.00) per page. This subsection does not require that a fee be charged for remote access searching of the filing office database.

(e) Record of mortgage. -- This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under G.S. 25-9-502(c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

"**§ 25-9-526. Filing-office rules.**

(a) Adoption of filing-office rules. -- The Secretary of State shall adopt and publish rules to implement the Secretary of State's responsibilities under this Part. The filing-office rules must be consistent with this Article.

(b) Harmonization of rules. -- To keep the filing-office rules and practices of the filing office in harmony with the rules and practices of filing offices in other jurisdictions that enact substantially this Part, and to keep the technology used by the filing office compatible with the technology used by filing offices in other jurisdictions that enact substantially this Part, the Secretary of State, so far as is consistent with the purposes, policies, and provisions of this Article, in adopting, amending, and repealing filing-office rules, may:

(1) Consult with filing offices in other jurisdictions that enact substantially this Part;

(2) Consult the most recent version of the Model Rules promulgated by the International Association of Corporate Administrators or any successor organization; and

(3) Take into consideration the rules and practices of, and the technology used by, filing offices in other jurisdictions that enact substantially this Part.

"PART 6.

"DEFAULT.

"SUBPART 1. DEFAULT AND ENFORCEMENT OF SECURITY INTEREST.

"**§ 25-9-601. Rights after default; judicial enforcement; consignor or buyer of accounts, chattel paper, payment intangibles, or promissory notes.**

(a) Rights of secured party after default. -- After default, a secured party has the rights provided in this Part and, except as otherwise provided in G.S. 25-9-602, those provided by agreement of the parties. A secured party:

(1) May reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and

(2) If the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(b) Rights and duties of secured party in possession or control. -- A secured party in possession of collateral or control of collateral under G.S. 25-9-104, 25-9-105, 25-9-106, or 25-9-107 has the rights and duties provided in G.S. 25-9-207.

(c) Rights cumulative; simultaneous exercise. -- The rights under subsections (a) and (b) of this section are cumulative and may be exercised simultaneously.

(d) Rights of debtor and obligor. -- Except as otherwise provided in subsection (g) of this section and G.S. 25-9-605, after default, a debtor and an obligor have the rights provided in this Part and by agreement of the parties.

(e) Lien of levy after judgment. -- If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

(1) The date of perfection of the security interest or agricultural lien in the collateral;

(2) The date of filing a financing statement covering the collateral; or

(3) Any date specified in a statute under which the agricultural lien was created.

(f) Execution sale. -- A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this Article.

(g) Consignor or buyer of certain rights to payment. -- Except as otherwise provided in G.S. 25-9-607(c), this Part imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

"**§ 25-9-602. Waiver and variance of rights and duties.**

Except as otherwise provided in G.S. 25-9-624, to the extent that they give rights to a debtor or obligor and impose duties on a secured party, the debtor or obligor may not waive or vary the rules stated in the following listed sections:

(1) G.S. 25-9-207(b)(4)c., which deals with use and operation of the collateral by the secured party;

(2) G.S. 25-9-210, which deals with requests for an accounting and requests concerning a list of collateral and statement of account;

(3) G.S. 25-9-607(c), which deals with collection and enforcement of collateral;

(4) G.S. 25-9-608(a) and G.S. 25-9-615(c) to the extent that they deal with application or payment of noncash proceeds of collection, enforcement, or disposition;

(5) G.S. 25-9-608(a) and G.S. 25-9-615(d) to the extent that they require accounting for or payment of surplus proceeds of collateral;

(6) G.S. 25-9-609 to the extent that it imposes upon a secured party that takes possession of collateral without judicial process the duty to do so without breach of the peace;

(7) G.S. 25-9-610(b), 25-9-611, 25-9-613, and 25-9-614, which deal with disposition of collateral;

(8) G.S. 25-9-615(f), which deals with calculation of a deficiency or surplus when a disposition is made to the secured party, a person related to the secured party, or a secondary obligor;

(9) G.S. 25-9-616, which deals with explanation of the calculation of a surplus or deficiency;

(10) G.S. 25-9-620, 25-9-621, and 25-9-622, which deal with acceptance of collateral in satisfaction of obligation;

(11) G.S. 25-9-623, which deals with redemption of collateral;

(12) G.S. 25-9-624, which deals with permissible waivers; and

(13) G.S. 25-9-625 and G.S. 25-9-626, which deal with the secured party's liability for failure to comply with this Article.

"§ 25-9-603. Agreement on standards concerning rights and duties.

(a) Agreed standards. -- The parties may determine by agreement the standards measuring the fulfillment of the rights of a debtor or obligor and the duties of a secured party under a rule stated in G.S. 25-9-602 if the standards are not manifestly unreasonable.

(b) Agreed standards inapplicable to breach of peace. -- Subsection (a) of this section does not apply to the duty under G.S. 25-9-609 to refrain from breaching the peace.

"§ 25-9-604. Procedure if security agreement covers real property or fixtures.

(a) Enforcement: personal and real property. -- If a security agreement covers both personal and real property, a secured party may proceed:

(1) Under this Part as to the personal property without prejudicing any rights with respect to the real property; or

(2) As to both the personal property and the real property in accordance with the rights with respect to the real property, in which case the other provisions of this Part do not apply.

(b) Enforcement: fixtures. -- Subject to subsection (c) of this section, if a security agreement covers goods that are or become fixtures, a secured party may proceed:

(1) Under this Part; or

(2) In accordance with the rights with respect to real property, in which case the other provisions of this Part do not apply.

(c) Removal of fixtures. -- Subject to the other provisions of this Part, if a secured party holding a security interest in fixtures has priority over all owners and encumbrancers of the real property, the secured party, after default, may remove the collateral from the real property.

(d) Injury caused by removal. -- A secured party that removes collateral shall promptly reimburse any encumbrancer or owner of the real property, other than the debtor, for the cost of repair of any physical injury caused by the removal. The secured party need not reimburse the encumbrancer or owner for any diminution in value of the real property caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

"§ 25-9-605. Unknown debtor or secondary obligor.

A secured party does not owe a duty based on its status as secured party:

(1) To a person that is a debtor or obligor, unless the secured party knows:

a. That the person is a debtor or obligor;

b. The identity of the person; and

c. How to communicate with the person; or

(2) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

a. That the person is a debtor; and

b. The identity of the person.

"§ 25-9-606. Time of default for agricultural lien.

For purposes of this Part, a default occurs in connection with an agricultural lien at the time the secured party becomes entitled to enforce the lien in accordance with the statute under which it was created.

"§ 25-9-607. Collection and enforcement by secured party.

(a) Collection and enforcement generally. -- If so agreed, and in any event after default, a secured party:

(1) May notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party;

(2) May take any proceeds to which the secured party is entitled under G.S. 25-9-315;

(3) May enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the obligation of the account debtor or other person obligated on collateral to make payment or otherwise render performance to the debtor, and with respect to any property that secures the obligations of the account debtor or other person obligated on the collateral;

(4) If it holds a security interest in a deposit account perfected by control under G.S. 25-9-104(a)(1), may apply the balance of the deposit account to the obligation secured by the deposit account; and

(5) If it holds a security interest in a deposit account perfected by control under G.S. 25-9-104(a)(2) or (a)(3), may instruct the bank

to pay the balance of the deposit account to or for the benefit of the secured party.

(b) Nonjudicial enforcement of mortgage. -- If necessary to enable a secured party to exercise under subdivision (a)(3) of this section the right of a debtor to enforce a mortgage nonjudicially, the secured party may record in the office in which a record of the mortgage is recorded:

(1) A copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and

(2) The secured party's sworn affidavit in recordable form stating that:

a. A default has occurred; and

b. The secured party is entitled to enforce the mortgage nonjudicially.

(c) Commercially reasonable collection and enforcement. -- A secured party shall proceed in a commercially reasonable manner if the secured party:

(1) Undertakes to collect from or enforce an obligation of an account debtor or other person obligated on collateral; and

(2) Is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor.

(d) Expenses of collection and enforcement. -- A secured party may deduct from the collections made pursuant to subsection (c) of this section reasonable expenses of collection and enforcement, including reasonable attorney's fees and legal expenses incurred by the secured party.

(e) Duties to secured party not affected. -- This section does not determine whether an account debtor, bank, or other person obligated on collateral owes a duty to a secured party.

"§ 25-9-608. Application of proceeds of collection or enforcement; liability for deficiency and right to surplus.

(a) Application of proceeds, surplus, and deficiency if obligation secured. -- If a security interest or agricultural lien secures payment or performance of an obligation, the following rules apply:

(1) A secured party shall apply or pay over for application the cash proceeds of collection or enforcement under G.S. 25-9-607 in the following order to:

a. The reasonable expenses of collection and enforcement and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

b. The satisfaction of obligations secured by the security interest or agricultural lien under which the collection or enforcement is made; and

c. The satisfaction of obligations secured by any subordinate security interest in or other lien on the collateral subject to the security interest or agricultural lien under which the collection or enforcement is made if the secured party

receives an authenticated demand for proceeds before distribution of the proceeds is completed.

(2) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder complies, the secured party need not comply with the holder's demand under sub-subdivision (a)(1)c. of this section.

(3) A secured party need not apply or pay over for application noncash proceeds of collection and enforcement under G.S. 25-9-607 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(4) A secured party shall account to and pay a debtor for any surplus, and the obligor is liable for any deficiency.

(b) No surplus or deficiency in sales of certain rights to payment. -- If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any deficiency.

"**§ 25-9-609. Secured party's right to take possession after default.**

(a) Possession; rendering equipment unusable; disposition on debtor's premises. -- After default, a secured party:

(1) May take possession of the collateral; and

(2) Without removal, may render equipment unusable and dispose of collateral on a debtor's premises under G.S. 25-9-610.

(b) Judicial and nonjudicial process. -- A secured party may proceed under subsection (a) of this section:

(1) Pursuant to judicial process; or

(2) Without judicial process, if it proceeds without breach of the peace.

(c) Assembly of collateral. -- If so agreed, and in any event after default, a secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties.

"**§ 25-9-610. Disposition of collateral after default.**

(a) Disposition after default. -- After default, a secured party may sell, lease, license, or otherwise dispose of any or all of the collateral in its present condition or following any commercially reasonable preparation or processing.

(b) Commercially reasonable disposition. -- Every aspect of a disposition of collateral, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a secured party may dispose of collateral by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(c) Purchase by secured party. -- A secured party may purchase collateral:

(1) At a public disposition; or

(2) At a private disposition only if the collateral is of a kind that is customarily sold on a recognized market or the subject of widely distributed standard price quotations.

(d) Warranties on disposition. -- A contract for sale, lease, license, or other disposition includes the warranties relating to title, possession, quiet enjoyment, and the like which by operation of law accompany a voluntary disposition of property of the kind subject to the contract.

(e) Disclaimer of warranties. -- A secured party may disclaim or modify warranties under subsection (d) of this section:

(1) In a manner that would be effective to disclaim or modify the warranties in a voluntary disposition of property of the kind subject to the contract of disposition; or

(2) By communicating to the purchaser a record evidencing the contract for disposition and including an express disclaimer or modification of the warranties.

(f) Record sufficient to disclaim warranties. -- A record is sufficient to disclaim warranties under subsection (e) of this section if it indicates 'There is no warranty relating to title, possession, quiet enjoyment, or the like in this disposition' or uses words of similar import.

"**§ 25-9-611. Notification before disposition of collateral.**

(a) 'Notification date.' -- In this section, 'notification date' means the earlier of the date on which:

(1) A secured party sends to the debtor and any secondary obligor an authenticated notification of disposition; or

(2) The debtor and any secondary obligor waive the right to notification.

(b) Notification of disposition required. -- Except as otherwise provided in subsection (d) of this section, a secured party that disposes of collateral under G.S. 25-9-610 shall send to the persons specified in subsection (c) of this section a reasonable authenticated notification of disposition.

(c) Persons to be notified. -- To comply with subsection (b) of this section, the secured party shall send an authenticated notification of disposition to:

(1) The debtor;

(2) Any secondary obligor; and

(3) If the collateral is other than consumer goods:

a. Any other person from which the secured party has received, before the notification date, an authenticated notification of a claim of an interest in the collateral;

b. Any other secured party or lienholder that, 10 days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

1. Identified the collateral;

2. Was indexed under the debtor's name as of that date; and
3. Was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date; and

c. Any other secured party that, 10 days before the notification date, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in G.S. 25-9-311(a).

(d) Subsection (b) inapplicable: perishable collateral; recognized market. -- Subsection (b) of this section does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market.

(e) Compliance with sub-subdivision (c)(3)b. -- A secured party complies with the requirement for notification prescribed by sub-subdivision (c)(3)b. of this section if:

(1) Not later than 20 days or earlier than 30 days before the notification date, the secured party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor's name in the office indicated in sub-subdivision (c)(3)b. of this section; and

(2) Before the notification date, the secured party:

a. Did not receive a response to the request for information; or

b. Received a response to the request for information and sent an authenticated notification of disposition to each secured party or other lienholder named in that response whose financing statement covered the collateral.

"§ 25-9-612. Timeliness of notification before disposition of collateral.

(a) Reasonable time is question of fact. -- Except as otherwise provided in subsection (b) of this section, whether a notification is sent within a reasonable time is a question of fact.

(b) Ten-day period sufficient in nonconsumer transaction. -- In a transaction other than a consumer transaction, a notification of disposition sent after default and 10 days or more before the earliest time of disposition set forth in the notification is sent within a reasonable time before the disposition.

"§ 25-9-613. Contents and form of notification before disposition of collateral: general.

Except in a consumer-goods transaction, the following rules apply:

(1) The contents of a notification of disposition are sufficient if the notification:

a. Describes the debtor and the secured party;

b. Describes the collateral that is the subject of the intended disposition;

c. States the method of intended disposition;

d. States that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and

e. States the time and place of a public disposition or the time after which any other disposition is to be made.

(2) Whether the contents of a notification that lacks any of the information specified in subdivision (1) of this section are nevertheless sufficient is a question of fact.

(3) The contents of a notification providing substantially the information specified in subdivision (1) of this section are sufficient, even if the notification includes:

a. Information not specified by that subdivision; or

b. Minor errors that are not seriously misleading.

(4) A particular phrasing of the notification is not required.

(5) The following form of notification and the form appearing in G.S. 25-9-614(3), when completed, each provides sufficient information:

NOTIFICATION OF DISPOSITION OF COLLATERAL

To: [Name of debtor, obligor, or other person to which the notification is sent]

From: [Name, address, and telephone number of secured party]

Name of Debtor(s): [Include only if debtor(s) is/are not an addressee]

[For a public disposition:]

We will sell [or lease or license, as applicable] the [describe collateral] [to the highest qualified bidder] in public as follows:

Day and Date: _____

Time: _____

Place: _____

[For a private disposition:]

We will sell [or lease or license, as applicable] the [describe collateral] privately sometime after [day and date].

You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell [or lease or license, as applicable] [for a charge of $_____].

You may request an accounting by calling us at [telephone number]

"§ 25-9-614. Contents and form of notification before disposition of collateral: consumer-goods transaction.

In a consumer-goods transaction, the following rules apply:

(1) A notification of disposition must provide the following information:

a. The information specified in G.S. 25-9-613(1);

b. A description of any liability for a deficiency of the person to which the notification is sent;

c. A telephone number from which the amount that must be paid to the secured party to redeem the collateral under G.S. 25-9-623 is available; and

d. A telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available.

(2) A particular phrasing of the notification is not required.

(3) The following form of notification, when completed, provides sufficient information:

[Name and address of secured party]

[Date]

NOTICE OF OUR PLAN TO SELL PROPERTY

[Name and address of any obligor who is also a debtor]

Subject: [Identification of Transaction]

We have your [describe collateral], because you broke promises in our agreement.

[For a public disposition:]

We will sell [describe collateral] at public sale. A sale could include a lease or license. The sale will be held as follows:

Date: _____

Time: _____

Place: _____

You may attend the sale and bring bidders if you want.

[For a private disposition:]

We will sell [describe collateral] at private sale sometime after [date]. A sale could include a lease or license.

The money that we get from the sale (after paying our costs) will reduce the amount you owe. If we get less money than you owe, you [will or will not, as applicable] still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

You can get the property back at any time before we sell it by paying us the full amount you owe (not just the past due payments), including our expenses. To learn the exact amount you must pay, call us at [telephone number].

If you want us to explain to you in writing how we have figured the amount that you owe us, you may call us at [telephone number] or write us at [secured party's address] and request a written explanation. [We will charge you $_____

for the explanation if we sent you another written explanation of the amount you owe us within the last six months.]

If you need more information about the sale call us at [telephone number] [or write us at [secured party's address]].

We are sending this notice to the following other people who have an interest in [describe collateral] or who owe money under your agreement:
[Names of all other debtors and obligors, if any]

(4) A notification in the form of subdivision (3) of this section is sufficient, even if additional information appears at the end of the form.

(5) A notification in the form of subdivision (3) of this section is sufficient, even if it includes errors in information not required by subdivision (1) of this section, unless the error is misleading with respect to rights arising under this Article.

(6) If a notification under this section is not in the form of subdivision (3) of this section, law other than this Article determines the effect of including information not required by subdivision (1) of this section.

"§ 25-9-615. Application of proceeds of disposition; liability for deficiency and right to surplus.

(a) Application of proceeds. -- A secured party shall apply or pay over for application the cash proceeds of disposition under G.S. 25-9-610 in the following order to:

(1) The reasonable expenses of retaking, holding, preparing for disposition, processing, and disposing, and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

(2) The satisfaction of obligations secured by the security interest or agricultural lien under which the disposition is made;

(3) The satisfaction of obligations secured by any subordinate security interest in or other subordinate lien on the collateral if:

a. The secured party receives from the holder of the subordinate security interest or other lien an authenticated demand for proceeds before distribution of the proceeds is completed; and

b. In a case in which a consignor has an interest in the collateral, the subordinate security interest or other lien is senior to the interest of the consignor; and

(4) A secured party that is a consignor of the collateral if the secured party receives from the consignor an authenticated demand for proceeds before distribution of the proceeds is completed.

(b) Proof of subordinate interest. -- If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder does so, the secured party need not comply with the holder's demand under subdivision (a)(3) of this section.

(c) Application of noncash proceeds. -- A secured party need not apply or pay over for application noncash proceeds of disposition under G.S. 25-9-610 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(d) Surplus or deficiency if obligation secured. -- If the security interest under which a disposition is made secures payment or performance of an obligation, after making the payments and applications required by subsection (a) of this section and permitted by subsection (c) of this section:

(1) Unless subdivision (a)(4) of this section requires the secured party to apply or pay over cash proceeds to a consignor, the secured party shall account to and pay a debtor for any surplus; and

(2) The obligor is liable for any deficiency.

(e) No surplus or deficiency in sales of certain rights to payment. -- If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes:

(1) The debtor is not entitled to any surplus; and

(2) The obligor is not liable for any deficiency.

(f) Calculation of surplus or deficiency in disposition to person related to secured party. -- The surplus or deficiency following a disposition is calculated based on the amount of proceeds that would have been realized in a disposition complying with this Part to a transferee other than the secured party, a person related to the secured party, or a secondary obligor if:

(1) The transferee in the disposition is the secured party, a person related to the secured party, or a secondary obligor; and

(2) The amount of proceeds of the disposition is significantly below the range of proceeds that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(g) Cash proceeds received by junior secured party. -- A secured party that receives cash proceeds of a disposition in good faith and without knowledge that the receipt violates the rights of the holder of a security interest or other lien that is not subordinate to the security interest or agricultural lien under which the disposition is made:

(1) Takes the cash proceeds free of the security interest or other lien;

(2) Is not obligated to apply the proceeds of the disposition to the satisfaction of obligations secured by the security interest or other lien; and

(3) Is not obligated to account to or pay the holder of the security interest or other lien for any surplus.

"**§ 25-9-616. Explanation of calculation of surplus or deficiency.**

(a) Definitions. -- In this section:

(1) 'Explanation' means a writing that:

a. States the amount of the surplus or deficiency;

b. Provides an explanation in accordance with subsection (c) of this section of how the secured party calculated the surplus or deficiency;

c. States, if applicable, that future debits, credits, charges, including additional credit service charges or interest, rebates, and expenses may affect the amount of the surplus or deficiency; and

d. Provides a telephone number or mailing address from which additional information concerning the transaction is available.

(2) 'Request' means a record:

a. Authenticated by a debtor or consumer obligor;

b. Requesting that the recipient provide an explanation; and

c. Sent after disposition of the collateral under G.S. 25-9-610.

(b) Explanation of calculation. -- In a consumer-goods transaction in which the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under G.S. 25-9-615, the secured party shall:

(1) Send an explanation to the debtor or consumer obligor, as applicable, after the disposition and:

a. Before or when the secured party accounts to the debtor and pays any surplus or first makes written demand on the consumer obligor after the disposition for payment of the deficiency; and

b. Within 14 days after receipt of a request; or

(2) In the case of a consumer obligor who is liable for a deficiency, within 14 days after receipt of a request, send to the consumer obligor a record waiving the secured party's right to a deficiency.

(c) Required information. -- To comply with sub-subdivision (a)(1)b. of this section, a writing must provide the following information in the following order:

(1) The aggregate amount of obligations secured by the security interest under which the disposition was made, and, if the amount reflects a rebate of unearned interest or credit service charge, an indication of that fact, calculated as of a specified date:

a. If the secured party takes or receives possession of the collateral after default, not more than 35 days before the secured party takes or receives possession; or

b. If the secured party takes or receives possession of the collateral before default or does not take possession of the collateral, not more than 35 days before the disposition;

(2) The amount of proceeds of the disposition;

(3) The aggregate amount of the obligations after deducting the amount of proceeds;

(4) The amount, in the aggregate or by type, and types of expenses, including expenses of retaking, holding, preparing for disposition, processing, and disposing of the collateral, and attorney's fees secured by the collateral which are known to the secured party and relate to the current disposition;

(5) The amount, in the aggregate or by type, and types of credits, including rebates of interest or credit service charges, to which the obligor is known to be entitled and which are not reflected in the amount in subdivision (1) of this subsection; and

(6) The amount of the surplus or deficiency.

(d) Substantial compliance. -- A particular phrasing of the explanation is not required. An explanation complying substantially with the requirements of subsection (a) of this section is sufficient, even if it includes minor errors that are not seriously misleading.

(e) Charges for responses. -- A debtor or consumer obligor is entitled without charge to one response to a request under this section during any six-month period in which the secured party did not send to the debtor or consumer obligor an explanation pursuant to subdivision (b)(1) of this section. The secured party may require payment of a charge not exceeding twenty-five dollars ($25.00) for each additional response.

"§ 25-9-617. Rights of transferee of collateral.

(a) Effects of disposition. -- A secured party's disposition of collateral after default:

(1) Transfers to a transferee for value all of the debtor's rights in the collateral;

(2) Discharges the security interest under which the disposition is made; and

(3) Discharges any subordinate security interest or other subordinate lien.

(b) Rights of good-faith transferee. -- A transferee that acts in good faith takes free of the rights and interests described in subsection (a) of this section, even if the secured party fails to comply with this Article or the requirements of any judicial proceeding.

(c) Rights of other transferee. -- If a transferee does not take free of the rights and interests described in subsection (a) of this section, the transferee takes the collateral subject to:

(1) The debtor's rights in the collateral;

(2) The security interest or agricultural lien under which the disposition is made; and

(3) Any other security interest or other lien.

"§ 25-9-618. Rights and duties of certain secondary obligors.

(a) Rights and duties of secondary obligor. -- A secondary obligor acquires the rights and becomes obligated to perform the duties of the secured party after the secondary obligor:

(1) Receives an assignment of a secured obligation from the secured party;

(2) Receives a transfer of collateral from the secured party and agrees to accept the rights and assume the duties of the secured party; or

(3) Is subrogated to the rights of a secured party with respect to collateral.

(b) Effect of assignment, transfer, or subrogation. -- An assignment, transfer, or subrogation described in subsection (a) of this section:

(1) Is not a disposition of collateral under G.S. 25-9-610; and

(2) Relieves the secured party of further duties under this Article.

"**§ 25-9-619. Transfer of record or legal title.**

(a) 'Transfer statement.' -- In this section, 'transfer statement' means a record authenticated by a secured party stating:

(1) That the debtor has defaulted in connection with an obligation secured by specified collateral;

(2) That the secured party has exercised its postdefault remedies with respect to the collateral;

(3) That, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral; and

(4) The name and mailing address of the secured party, debtor, and transferee.

(b) Effect of transfer statement. -- A transfer statement entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official filing, recording, registration, or certificate-of-title system covering the collateral. If a transfer statement is presented with the applicable fee and request form to the official or office responsible for maintaining the system, the official or office shall:

(1) Accept the transfer statement;

(2) Promptly amend its records to reflect the transfer; and

(3) If applicable, issue a new appropriate certificate of title in the name of the transferee.

(c) Transfer not a disposition; no relief of secured party's duties. -- A transfer of the record or legal title to collateral to a secured party under subsection (b) of this section or otherwise is not of itself a disposition of collateral under this Article and does not of itself relieve the secured party of its duties under this Article.

"**§ 25-9-620. Acceptance of collateral in full or partial satisfaction of obligation; compulsory disposition of collateral.**

(a) Conditions to acceptance in satisfaction. -- Except as otherwise provided in subsection (g) of this section, a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

(1) The debtor consents to the acceptance under subsection (c) of this section;

(2) The secured party does not receive, within the time set forth in subsection (d) of this section, a notification of objection to the proposal authenticated by:

a. A person to which the secured party was required to send a proposal under G.S. 25-9-621; or

b. Any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal;

(3) If the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance; and

(4) Subsection (e) of this section does not require the secured party to dispose of the collateral or the debtor waives the requirement pursuant to G.S. 25-9-624.

(b) Purported acceptance ineffective. -- A purported or apparent acceptance of collateral under this section is ineffective unless:

(1) The secured party consents to the acceptance in an authenticated record or sends a proposal to the debtor; and

(2) The conditions of subsection (a) of this section are met.

(c) Debtor's consent. -- For purposes of this section:

(1) A debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default; and

(2) A debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default or the secured party:

a. Sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

b. In the proposal, proposes to accept collateral in full satisfaction of the obligation it secures; and

c. Does not receive a notification of objection authenticated by the debtor within 20 days after the proposal is sent.

(d) Effectiveness of notification. -- To be effective under subdivision (a)(2) of this section, a notification of objection must be received by the secured party:

(1) In the case of a person to which the proposal was sent pursuant to G.S. 25-9-621, within 20 days after notification was sent to that person; and

(2) In other cases:

a. Within 20 days after the last notification was sent pursuant to G.S. 25-9-621; or

b. If a notification was not sent, before the debtor consents to the acceptance under subsection (c) of this section.

(e) Mandatory disposition of consumer goods. -- A secured party that has taken possession of collateral shall dispose of the collateral pursuant to G.S. 25-9-610 within the time specified in subsection (f) of this section if:

(1) Sixty percent (60%) of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

(2) Sixty percent (60%) of the principal amount of the obligation secured has been paid in the case of a non-purchase-money security interest in consumer goods.

(f) Compliance with mandatory disposition requirement. -- To comply with subsection (e) of this section, the secured party shall dispose of the collateral:

(1) Within 90 days after taking possession; or

(2) Within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and authenticated after default.

(g) No partial satisfaction in consumer transaction. -- In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures.

"**§ 25-9-621. Notification of proposal to accept collateral.**

(a) Persons to which proposal to be sent. -- A secured party that desires to accept collateral in full or partial satisfaction of the obligation it secures shall send its proposal to:

(1) Any person from which the secured party has received, before the debtor consented to the acceptance, an authenticated notification of a claim of an interest in the collateral;

(2) Any other secured party or lienholder that, 10 days before the debtor consented to the acceptance, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

a. Identified the collateral;

b. Was indexed under the debtor's name as of that date; and

c. Was filed in the office or offices in which to file a financing statement against the debtor covering the collateral as of that date; and

(3) Any other secured party that, 10 days before the debtor consented to the acceptance, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in G.S. 25-9-311(a).

(b) Proposal to be sent to secondary obligor in partial satisfaction. -- A secured party that desires to accept collateral in partial satisfaction of the obligation it secures

shall send its proposal to any secondary obligor in addition to the persons described in subsection (a) of this section.

"§ 25-9-622. Effect of acceptance of collateral.

(a) Effect of acceptance. -- A secured party's acceptance of collateral in full or partial satisfaction of the obligation it secures:

(1) Discharges the obligation to the extent consented to by the debtor;

(2) Transfers to the secured party all of a debtor's rights in the collateral;

(3) Discharges the security interest or agricultural lien that is the subject of the debtor's consent and any subordinate security interest or other subordinate lien; and

(4) Terminates any other subordinate interest.

(b) Discharge of subordinate interest notwithstanding noncompliance. -- A subordinate interest is discharged or terminated under subsection (a) of this section, even if the secured party fails to comply with this Article.

"§ 25-9-623. Right to redeem collateral.

(a) Persons that may redeem. -- A debtor, any secondary obligor, or any other secured party or lienholder may redeem collateral.

(b) Requirements for redemption. -- To redeem collateral, a person shall tender:

(1) Fulfillment of all obligations secured by the collateral; and

(2) The reasonable expenses and attorney's fees described in G.S. 25-9-615(a)(1).

(c) When redemption may occur. -- A redemption may occur at any time before a secured party:

(1) Has collected collateral under G.S. 25-9-607;

(2) Has disposed of collateral or entered into a contract for its disposition under G.S. 25-9-610; or

(3) Has accepted collateral in full or partial satisfaction of the obligation it secures under G.S. 25-9-622.

"§ 25-9-624. Waiver.

(a) Waiver of disposition notification. -- A debtor or secondary obligor may waive the right to notification of disposition of collateral under G.S. 25-9-611 only by an agreement to that effect entered into and authenticated after default.

(b) Waiver of mandatory disposition. -- A debtor may waive the right to require disposition of collateral under G.S. 25-9-620(e) only by an agreement to that effect entered into and authenticated after default.

(c) Waiver of redemption right. -- Except in a consumer-goods transaction, a debtor or secondary obligor may waive the right to redeem collateral under G.S. 25-9-623 only by an agreement to that effect entered into and authenticated after default.

"SUBPART 2. NONCOMPLIANCE WITH ARTICLE.

"§ 25-9-625. Remedies for secured party's failure to comply with Article.

(a) Judicial orders concerning noncompliance. -- If it is established that a secured party is not proceeding in accordance with this Article, a court may order or restrain

collection, enforcement, or disposition of collateral on appropriate terms and conditions.

(b) Damages for noncompliance. -- Subject to subsections (c), (d), and (f) of this section, a person is liable for damages in the amount of any loss caused by a failure to comply with this Article. Loss caused by a failure to comply may include loss resulting from the debtor's inability to obtain, or increased costs of, alternative financing.

(c) Persons entitled to recover damages; statutory damages in consumer-goods transaction. -- Except as otherwise provided in G.S. 25-9-628:

(1) A person that, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under subsection (b) of this section for its loss; and

(2) If the collateral is consumer goods, a person that was a debtor or a secondary obligor at the time a secured party failed to comply with this Part may recover for that failure in any event an amount not less than the credit service charge plus ten percent (10%) of the principal amount of the obligation or the time-price differential plus ten percent (10%) of the cash price.

(d) Recovery when deficiency eliminated or reduced. -- A debtor whose deficiency is eliminated under G.S. 25-9-626 may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under G.S. 25-9-626 may not otherwise recover under subsection (b) of this section for noncompliance with the provisions of this Part relating to collection, enforcement, disposition, or acceptance.

(e) Statutory damages: noncompliance with specified provisions. -- In addition to any damages recoverable under subsection (b) of this section, the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover five hundred dollars ($500.00) in each case from a person that:

(1) Fails to comply with G.S. 25-9-208;

(2) Fails to comply with G.S. 25-9-209;

(3) Files a record that the person is not entitled to file under G.S. 25-9-509(a);

(4) Fails to cause the secured party of record to file or send a termination statement as required by G.S. 25-9-513(a) or (c);

(5) Fails to comply with G.S. 25-9-616(b)(1) and whose failure is part of a pattern, or consistent with a practice, of noncompliance; or

(6) Fails to comply with G.S. 25-9-616(b)(2).

(f) Statutory damages: noncompliance with G.S. 25-9-210. -- A debtor or consumer obligor may recover damages under subsection (b) of this section and, in addition, five hundred dollars ($500.00) in each case from a person that, without reasonable cause, fails to comply with a request under G.S. 25-9-210. A recipient of a request under G.S. 25-9-210 which never claimed an interest in the collateral or

obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

(g) Limitation of security interest: noncompliance with G.S. 25-9-210. -- If a secured party fails to comply with a request regarding a list of collateral or a statement of account under G.S. 25-9-210, the secured party may claim a security interest only as shown in the list or statement included in the request as against a person that is reasonably misled by the failure.

"**§ 25-9-626. Action in which deficiency or surplus is in issue.**

(a) Applicable rules if amount of deficiency or surplus in issue. -- In an action arising from a transaction, other than a consumer transaction, in which the amount of a deficiency or surplus is in issue, the following rules apply:

(1) A secured party need not prove compliance with the provisions of this Part relating to collection, enforcement, disposition, or acceptance unless the debtor or a secondary obligor places the secured party's compliance in issue.

(2) If the secured party's compliance is placed in issue, the secured party has the burden of establishing that the collection, enforcement, disposition, or acceptance was conducted in accordance with this Part.

(3) Except as otherwise provided in G.S. 25-9-628, if a secured party fails to prove that the collection, enforcement, disposition, or acceptance was conducted in accordance with the provisions of this Part relating to collection, enforcement, disposition, or acceptance, the liability of a debtor or a secondary obligor for a deficiency is limited to an amount by which the sum of the secured obligation, expenses, and attorney's fees exceeds the greater of:

a. The proceeds of the collection, enforcement, disposition, or acceptance; or

b. The amount of proceeds that would have been realized had the noncomplying secured party proceeded in accordance with the provisions of this Part relating to collection, enforcement, disposition, or acceptance.

(4) For purposes of sub-subdivision (a)(3)b. of this section, the amount of proceeds that would have been realized is equal to the sum of the secured obligation, expenses, and attorney's fees unless the secured party proves that the amount is less than that sum.

(5) If a deficiency or surplus is calculated under G.S. 25-9-615(f), the debtor or obligor has the burden of establishing that the amount of proceeds of the disposition is significantly below the range of prices that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(b) Nonconsumer transactions; no inference. -- The limitation of the rules in subsection (a) of this section to transactions other than consumer transactions is

intended to leave to the court the determination of the proper rules in consumer transactions. The court may not infer from that limitation the nature of the proper rule in consumer transactions and may continue to apply established approaches.

"**§ 25-9-627. Determination of whether conduct was commercially reasonable.**

(a) Greater amount obtainable under other circumstances; no preclusion of commercial reasonableness. -- The fact that a greater amount could have been obtained by a collection, enforcement, disposition, or acceptance at a different time or in a different method from that selected by the secured party is not of itself sufficient to preclude the secured party from establishing that the collection, enforcement, disposition, or acceptance was made in a commercially reasonable manner.

(b) Dispositions that are commercially reasonable. -- A disposition of collateral is made in a commercially reasonable manner if the disposition is made:

(1) In the usual manner on any recognized market;

(2) At the price current in any recognized market at the time of the disposition; or

(3) Otherwise in conformity with reasonable commercial practices among dealers in the type of property that was the subject of the disposition.

(c) Approval by court or on behalf of creditors. -- A collection, enforcement, disposition, or acceptance is commercially reasonable if it has been approved:

(1) In a judicial proceeding;

(2) By a bona fide creditors' committee;

(3) By a representative of creditors; or

(4) By an assignee for the benefit of creditors.

(d) Approval under subsection (c) of this section not necessary; absence of approval has no effect. -- Approval under subsection (c) of this section need not be obtained, and lack of approval does not mean that the collection, enforcement, disposition, or acceptance is not commercially reasonable.

"**§ 25-9-628. Nonliability and limitation on liability of secured party; liability of secondary obligor.**

(a) Limitation of liability of secured party for noncompliance with Article. -- Unless a secured party knows that a person is a debtor or obligor, knows the identity of the person, and knows how to communicate with the person:

(1) The secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against the person, for failure to comply with this Article; and

(2) The secured party's failure to comply with this Article does not affect the liability of the person for a deficiency.

(b) Limitation of liability based on status as secured party. -- A secured party is not liable because of its status as secured party:

(1) To a person that is a debtor or obligor, unless the secured party knows:

a. That the person is a debtor or obligor;

b. The identity of the person; and
c. How to communicate with the person; or

(2) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:
a. That the person is a debtor; and
b. The identity of the person.

(c) Limitation of liability if reasonable belief that transaction not a consumer-goods transaction or consumer transaction. -- A secured party is not liable to any person, and a person's liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is not a consumer-goods transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on:

(1) A debtor's representation concerning the purpose for which collateral was to be used, acquired, or held; or

(2) An obligor's representation concerning the purpose for which a secured obligation was incurred.

(d) Limitation of liability for statutory damages. -- A secured party is not liable to any person under G.S. 25-9-625(c)(2) for its failure to comply with G.S. 25-9-616.

(e) Limitation of multiple liability for statutory damages. -- A secured party is not liable under G.S. 25-9-625(c)(2) more than once with respect to any one secured obligation.

"PART 7.
"TRANSITION.

"§ 25-9-701. Effective date.

This act takes effect on July 1, 2001. References in this Part to 'this act' refer to PARTS I, II, and III of the session law by which this Part is added to Article 9 of Chapter 25 of the General Statutes. References in this Part to 'former Article 9' are to Article 9 of Chapter 25 of the General Statutes as in effect immediately before the effective date of this act.

"§ 25-9-702. Savings clause.

(a) Pre-effective-date transactions or liens. -- Except as otherwise provided in this Part, this act applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before the effective date of this act.

(b) Continuing validity. -- Except as otherwise provided in subsection (c) of this section and G.S. 25-9-703 through G.S. 25-9-709:

(1) Transactions and liens that were not governed by former Article 9, were validly entered into or created before the effective date of this act, and would be subject to this act if they had been entered into or created after the effective date of this act, and the rights, duties, and interests flowing from those transactions and liens remain valid after the effective date of this act; and

(2) The transactions and liens described in subdivision (1) of this subsection may be terminated, completed, consummated, and

enforced as required or permitted by this act or by the law that otherwise would apply if this act had not taken effect.

(c) Pre-effective-date proceedings. -- This act does not affect an action, case, or proceeding commenced before the effective date of this act.

"§ 25-9-703. Security interest perfected before effective date.

(a) Continuing priority over lien creditor: perfection requirements satisfied. -- A security interest that is enforceable immediately before the effective date of this act and would have priority over the rights of a person that becomes a lien creditor at that time is a perfected security interest under this act if, on the effective date of this act, the applicable requirements for enforceability and perfection under this act are satisfied without further action.

(b) Continuing priority over lien creditor: perfection requirements not satisfied. -- Except as otherwise provided in G.S. 25-9-705, if, immediately before the effective date of this act, a security interest is enforceable and would have priority over the rights of a person that becomes a lien creditor at that time, but the applicable requirements for enforceability or perfection under this act are not satisfied on the effective date of this act, the security interest:

(1) Is a perfected security interest for one year after the effective date of this act;

(2) Remains enforceable thereafter only if the security interest becomes enforceable under G.S. 25-9-203 before the year expires; and

(3) Remains perfected thereafter only if the applicable requirements for perfection under this act are satisfied before the year expires.

"§ 25-9-704. Security interest unperfected before effective date.

A security interest that is enforceable immediately before the effective date of this act but which would be subordinate to the rights of a person that becomes a lien creditor at that time:

(1) Remains an enforceable security interest for one year after the effective date of this act;

(2) Remains enforceable thereafter if the security interest becomes enforceable under G.S. 25-9-203 on the effective date of this act or within one year thereafter; and

(3) Becomes perfected:

a. Without further action, on the effective date of this act if the applicable requirements for perfection under this act are satisfied before or at that time; or

b. When the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

"§ 25-9-705. Effectiveness of action taken before effective date.

(a) Pre-effective-date action; one-year perfection period unless reperfected. -- If action, other than the filing of a financing statement, is taken before the effective date of this act and the action would have resulted in priority of a security interest over the rights of a person that becomes a lien creditor had the security interest become

enforceable before the effective date of this act, the action is effective to perfect a security interest that attaches under this act within one year after the effective date of this act. An attached security interest becomes unperfected one year after the effective date of this act unless the security interest becomes a perfected security interest under this act before the expiration of that period.

(b) Pre-effective-date filing. -- The filing of a financing statement before the effective date of this act is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this act.

(c) Pre-effective-date filing in jurisdiction formerly governing perfection. -- This act does not render ineffective an effective financing statement that, before the effective date of this act, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in G.S. 25-9-103 of former Article 9. However, except as otherwise provided in subsections (d) and (e) of this section and G.S. 25-9-706, the financing statement ceases to be effective at the earlier of:

(1) The time the financing statement would have ceased to be effective under the law of the jurisdiction in which it is filed; and

(2) June 30, 2006.

(d) Continuation statement. -- The filing of a continuation statement after the effective date of this act does not continue the effectiveness of the financing statement filed before the effective date of this act. However, upon the timely filing of a continuation statement after the effective date of this act and in accordance with the law of the jurisdiction governing perfection as provided in Part 3 of this Article, the effectiveness of a financing statement filed in the same office in that jurisdiction before the effective date of this act continues for the period provided by the law of that jurisdiction.

(e) Application of subdivision (c)(2) to transmitting utility financing statement. -- Subdivision (c)(2) of this section applies to a financing statement that, before the effective date of this act, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in G.S. 25-9-103 of former Article 9 only to the extent that Part 3 of this Article provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(f) Application of Part 5. -- A financing statement that includes a financing statement filed before the effective date of this act and a continuation statement filed after the effective date of this act is effective only to the extent that it satisfies the requirements of Part 5 of this Article for an initial financing statement.

"§ 25-9-706. When initial financing statement suffices to continue effectiveness of financing statement.

(a) Initial financing statement in lieu of continuation statement. -- The filing of an initial financing statement in the office specified in G.S. 25-9-501 continues the effectiveness of a financing statement filed before the effective date of this act if:

(1) The filing of an initial financing statement in that office would be effective to perfect a security interest under this act;

(2) The pre-effective-date financing statement was filed in an office in another state or another office in this State; and

(3) The initial financing statement satisfies subsection (c) of this section.

(b) Period of continued effectiveness. -- The filing of an initial financing statement under subsection (a) of this section continues the effectiveness of the pre-effective-date financing statement:

(1) If the initial financing statement is filed before the effective date of this act, for the period provided in G.S. 25-9-403 of former Article 9 with respect to a financing statement; and

(2) If the initial financing statement is filed after the effective date of this act, for the period provided in G.S. 25-9-515 with respect to an initial financing statement.

(c) Requirement for initial financing statement under subsection (a). -- To be effective for purposes of subsection (a) of this section, an initial financing statement must:

(1) Satisfy the requirements of Part 5 of this Article for an initial financing statement;

(2) Identify the pre-effective-date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and

(3) Indicate that the pre-effective-date financing statement remains effective.

"§ 25-9-707. Amendment of pre-effective-date financing statement.

(a) 'Pre-effective-date financing statement'. -- In this section, 'pre-effective-date financing statement' means a financing statement filed before the effective date of this act.

(b) Applicable law. -- After the effective date of this act, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in Part 3 of this Article. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(c) Method of amending: general rule. -- Except as otherwise provided in subsection (d) of this section, if the law of this State governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended after the effective date of this act only if:

(1) The pre-effective-date financing statement and an amendment are filed in the office specified in G.S. 25-9-501;

(2) An amendment is filed in the office specified in G.S. 25-9-501 concurrently with, or after the filing in that office of, an initial financing statement that satisfies G.S. 25-9-706(c); or

(3) An initial financing statement that provides the information as amended and satisfies G.S. 25-9-706(c) is filed in the office specified in G.S. 25-9-501.

(d) Method of amending: continuation. -- If the law of this State governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under G.S. 25-9-705(d) and (f) or G.S. 25-9-706.

(e) Reserved.

(f) Method of amending: termination. -- If the law of this State governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be terminated after the effective date of this act only if:

(1) The pre-effective-date financing statement and a termination statement are filed in the office specified in G.S. 25-9-501; or

(2) A termination statement is filed in the office specified in G.S. 25-9-501 concurrently with the filing in that office of an initial financing statement that satisfies G.S. 25-9-706(c). Under this subsection, no separate fee shall be charged for the filing or indexing of the termination statement.

"§ 25-9-708. Persons entitled to file initial financing statement or continuation statement.

A person may file an initial financing statement or a continuation statement under this Part if:

(1) The secured party of record authorizes the filing; and

(2) The filing is necessary under this Part:

a. To continue the effectiveness of a financing statement filed before the effective date of this act; or

b. To perfect or continue the perfection of a security interest.

"§ 25-9-709. Priority.

(a) Law governing priority. -- This act determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before the effective date of this act, former Article 9 determines priority.

(b) Priority if security interest becomes enforceable under G.S. 25-9-203. -- For purposes of G.S. 25-9-322(a), the priority of a security interest that becomes enforceable under G.S. 25-9-203 dates from the effective date of this act if the security interest is perfected under this act by the filing of a financing statement before the effective date of this act which would not have been effective to perfect the security interest under former Article 9. This subsection does not apply to conflicting security interests each of which is perfected by the filing of such a financing statement.

"§ 25-9-710. Special transitional provision for maintaining and searching local-filing office records.

(a) In this section:

(1) 'Former-Article-9 records' means:
a. Financing statements and other records that have been filed in the local-filing office before July 1, 2001, and that are, or upon processing and indexing will be, reflected in the index maintained, as of June 30, 2001, by the local-filing office for financing statements and other records filed in the local-filing office before July 1, 2001; and
b. The index as of June 30, 2001.
The term does not include records presented to a local-filing office for filing after June 30, 2001, whether or not the records relate to financing statements filed in the local-filing office before July 1, 2001.
(2) 'Local-filing office' means a filing office, other than the office of the Secretary of State, that is designated as the proper place to file a financing statement under G.S. 25-9-401(1) of former Article 9. The term applies only with respect to a record that covers a type of collateral as to which the filing office is designated in that section as the proper place to file.

(b) A local-filing office must not accept for filing a record presented after June 30, 2001, whether or not the record relates to a financing statement filed in the local-filing office before July 1, 2001.

(c) Until July 1, 2008, each local-filing office must maintain all former Article 9 records in accordance with former Article 9. A former Article 9 record that is not reflected on the index maintained at June 30, 2001, by the local-filing office must be processed and indexed, and reflected on the index as of June 30, 2001, as soon as practicable but in any event no later than July 30, 2001.

(d) Until at least June 30, 2008, each local-filing office must respond to requests for information with respect to former Article 9 records relating to a debtor and issue certificates, in accordance with former Article 9. The fees charged for responding to requests for information relating to a debtor and issuing certificates with respect to former-Article-9 records must be the fees in effect under former Article 9 on June 30, 2001.

(e) After June 30, 2008, each local-filing office may remove and destroy, in accordance with any then applicable record retention law of this State, all former-Article-9 records, including the related index.

(f) This section does not apply, with respect to financing statements and other records, to a filing office in which mortgages or records of mortgages on real property are required to be filed or recorded, if:
(1) The collateral is timber to be cut or as-extracted collateral, or
(2) The record is or relates to a financing statement filed as a fixture and the collateral is goods that are or are to become fixtures."

Section 2.(a) Article 9 of Chapter 25 of the General Statutes, as enacted by Section 1 of this act, is amended by adding the following new section to read:
"**§ 25-9-521. Uniform form of written financing statement and amendment.**

(a) Initial financing statement form. -- A filing office that accepts written records may not refuse to accept a written initial financing statement in the following form and format except for a reason set forth in G.S. 25-9-516(b):

(b) Amendment form. -- A filing office that accepts written records may not refuse to accept a written record in the following form and format except for a reason set forth in G.S. 25-9-516(b)."

Section 2.(b) The Revisor of Statutes shall cause to be printed in G.S. 25-9-521(a), as enacted by subsection (a) of this section, the "National UCC Financing Statement (Form UCC1) (Rev. 07/29/98)" and the "National UCC Financing Statement Addendum (Form UCC1 Ad) (Rev. 07/29/98)" as reproduced in the official text of U.C.C. Article 9 (1999), which are hereby incorporated by reference into G.S. 25-9-521(a).

Section 2.(c) The Revisor of Statutes shall cause to be printed in G.S. 25-9-521(b), as enacted by subsection (a) of this section, the "National UCC Financing Statement Amendment (Form UCC3) (Rev. 07/29/98)" and the "National UCC Financing Statement Amendment Addendum (Form UCC3 Ad) (Rev. 07/29/98)" as reproduced in the official text of U.C.C. Article 9 (1999), which are hereby incorporated by reference into G.S. 25-9-521(b).

PART II. CONFORMING AMENDMENTS TO OTHER ARTICLES OF THE UNIFORM COMMERCIAL CODE.

Section 3. G.S. 25-1-105(2) reads as rewritten:

"(2) Where one of the following provisions of this Chapter specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

Rights of creditors against sold goods. (G.S. 25-2-402).

Applicability of the article on bank deposits and collections. (G.S. 25-4-102).

Governing law in the article on Funds Transfers. (G.S. 25-4A-507).

Letters of Credit. (G.S. 25-5-116).

Bulk transfers subject to the article on bulk transfers. (G.S. 25-6-102).

Applicability of the article on investment securities. (G.S. 25-8-110).

~~Perfection provisions of the article on secured transactions. (G.S. 25-9-103).~~

Law governing perfection, the effect of perfection or nonperfection, and the priority of security interests and agricultural liens. (G.S. 25-9-301 through G.S. 25-9-307).

~~Governing law in the article on Funds Transfers. (G.S. 25-4A-507).~~

~~Letters of Credit. (G.S. 25-5-116).~~"

Section 4. G.S. 25-1-109 reads as rewritten:

"**§ 25-1-109. Section captions.**

Section captions are parts of this chapter. The subsection headings in Article 9 of this Chapter are not parts of this Chapter."

Section 5. G.S. 25-1-201(9) reads as rewritten:

"(9) 'Buyer in ordinary course of business' means a person ~~who~~ that buys goods in good ~~faith and~~ faith, without knowledge that the sale ~~to him is in violation of~~ violates the ~~ownership~~ rights ~~or security interest~~ of ~~a third party~~ another person in the ~~goods~~ goods, and ~~buys~~ in the ordinary course from a ~~person~~ person, other than a pawnbroker, in the business of selling goods of that ~~kind but does not include a pawnbroker. All persons who sell minerals or the like (including oil and gas) at wellhead or minehead shall be deemed to be persons~~ kind. A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or minehead is a person in the business of selling goods of that kind. ~~"Buying"~~ A buyer in ordinary course of business may ~~be~~ buy for ~~cash~~ cash, ~~or~~ by exchange of other ~~property~~ property, or on secured or unsecured ~~credit~~ credit, and ~~includes receiving~~ may acquire goods or documents of title under a preexisting contract for ~~sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.~~ sale. Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under Article 2 of this Chapter may be a buyer in ordinary course of business. A person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt is not a buyer in ordinary course of business."

Section 6. G.S. 25-1-201(32) reads as rewritten:

"(32) 'Purchase' includes taking by sale, discount, negotiation, mortgage, pledge, lien, security interest, issue or re-issue, gift or any other voluntary transaction creating an interest in property."

Section 7. G.S. 25-1-201(37) reads as rewritten:

"(37) 'Security interest' means an interest in personal property or fixtures which secures payment or performance of an obligation. ~~The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (G.S. 25-2-401) is limited in effect to a reservation of a "security interest".~~ The term also includes any interest of a consignor and a buyer of ~~accounts or~~ accounts, chattel ~~paper which~~ paper, a payment intangible, or a promissory note in a transaction that is subject to Article 9 of this Chapter. The special property interest of a buyer of goods on identification of those goods to a contract for sale under G.S. 25-2-401 is not a 'security interest,' but a buyer may also acquire a 'security interest' by complying with Article 9 of this Chapter. ~~Unless a consignment is intended as security, reservation~~

~~of title thereunder is not a "security interest" but a consignment is in any event subject to the provisions on consignment sales (G.S. 25-2-326).~~ Except as otherwise provided in G.S. 25-2-505, the right of a seller or lessor of goods under Article 2 or 2A of this Chapter to retain or acquire possession of the goods is not a 'security interest', but a seller or lessor may also acquire a 'security interest' by complying with Article 9 of this Chapter. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (G.S. 25-2-401) is limited in effect to a reservation of a 'security interest'.

(a) Whether a transaction creates a lease or security interest is determined by the facts of each case; however, a transaction creates a security interest ~~if:~~ if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee, and:

(i) The original term of the lease is equal to or greater than the remaining economic life of the goods, or

(ii) The lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods, or

(iii) The lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement, or

(iv) The lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

(b) A transaction does not create a security interest merely because it provides that:

(i) The present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into,

(ii) The lessee assumes risk of loss of the goods, or agrees to pay taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods,

(iii) The lessee has an option to renew the lease or to become the owner of the goods,

(iv) The lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed, or

(v) The lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

(c) For purposes of this subsection (37):

(i) Additional consideration is not nominal if (i) when the option to renew the lease is granted to the lessee the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed, or (ii) when the option to become the owner of the goods is granted to the lessee the price is stated to be the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised;

(ii) 'Reasonably predictable' and 'remaining economic life of the goods' are to be determined with reference to the facts and circumstances at the time the transaction is entered into; and

(iii) 'Present value' means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into."

Section 8. G.S. 25-2-103(3) reads as rewritten:

"(3) The following definitions in other articles apply to this article:

'Check.' G.S. 25-3-104.

'Consignee.' G.S. 25-7-102.

'Consignor.' G.S. 25-7-102.

'Consumer goods.' ~~G.S. 25-9-109.~~ G.S. 25-9-102.

'Dishonor.' ~~G.S. 25-3-507.~~ G.S. 25-3-502.

'Draft.' G.S. 25-3-104."

Section 9. G.S. 25-2-210 reads as rewritten:

"**§ 25-2-210. Delegation of performance; assignment of rights.**

~~(1) A party may perform his duty through a delegate unless otherwise agreed or unless the other party has a substantial interest in having his original promisor perform or control the acts required by the contract. No delegation of performance relieves the party delegating of any duty to perform or any liability for breach.~~

~~(2) Unless otherwise agreed all rights of either seller or buyer can be assigned except where the assignment would materially change the duty of the other party, or increase materially the burden or risk imposed on him by his contract, or impair materially his chance of obtaining return performance. A right to damages for breach of the whole contract, or a right arising out of the assignor's due performance of his entire obligation can be assigned despite agreement otherwise.~~

~~(3) Unless the circumstances indicate the contrary a prohibition of assignment of "the contract" is to be construed as barring only the delegation to the assignee of the assignor's performance.~~

~~(4) An assignment of "the contract" or of "all my rights under the contract" or an assignment in similar general terms is an assignment of rights and unless the language or the circumstances (as in an assignment for security) indicate the contrary, it is a delegation of performance of the duties of the assignor and its acceptance by the assignee constitutes a promise by him to perform those duties. This promise is enforceable by either the assignor or the other party to the original contract.~~

~~(5) The other party may treat any assignment which delegates performance as creating reasonable grounds for insecurity and may without prejudice to his rights against the assignor demand assurances from the assignee.~~

(1) A party may perform his duty through a delegate unless otherwise agreed or unless the other party has a substantial interest in having his original promisor perform or control the acts required by the contract. No delegation of performance relieves the party delegating of any duty to perform or any liability for breach.

(2) Except as otherwise provided in G.S. 25-9-406, unless otherwise agreed, all rights of either seller or buyer can be assigned except where the assignment would materially change the duty of the other party, or increase materially the burden or risk imposed on him by his contract, or impair materially his chance of obtaining return performance. A right to damages for breach of the whole contract or a right arising out of the assignor's due performance of his entire obligation can be assigned despite agreement otherwise.

(3) The creation, attachment, perfection, or enforcement of a security interest in the seller's interest under a contract is not a transfer that materially changes the duty of or increases materially the burden or risk imposed on the buyer or impairs materially the buyer's chance of obtaining return performance within the purview of subsection (2) of this section unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the seller. Even in that event, the creation, attachment, perfection, and enforcement of the security interest remain effective, but (i) the seller is liable to the buyer for damages caused by the delegation to the extent that the damages could not reasonably be prevented by the buyer, and (ii) a court having jurisdiction may grant other appropriate relief,

including cancellation of the contract for sale or an injunction against enforcement of the security interest or consummation of the enforcement.

(4) Unless the circumstances indicate the contrary, a prohibition of assignment of 'the contract' is to be construed as barring only the delegation to the assignee of the assignor's performance.

(5) An assignment of 'the contract' or of 'all my rights under the contract' or an assignment in similar general terms is an assignment of rights and unless the language or the circumstances (as in an assignment for security) indicate the contrary, it is a delegation of performance of the duties of the assignor and its acceptance by the assignee constitutes a promise by him to perform those duties. This promise is enforceable by either the assignor or the other party to the original contract.

(6) The other party may treat any assignment which delegates performance as creating reasonable grounds for insecurity and may without prejudice to his rights against the assignor demand assurances from the assignee."

Section 10. G.S. 25-2-326 reads as rewritten:

"**§ 25-2-326. Sale on approval and sale or return; ~~consignment sales and~~ rights of creditors.**

~~(1) Unless otherwise agreed, if delivered goods may be returned by the buyer even though they conform to the contract, the transaction is~~

~~(a) a "sale on approval" if the goods are delivered primarily for use, and~~

~~(b) a "sale or return" if the goods are delivered primarily for resale.~~

~~(2) Except as provided in subsection (3), goods held on approval are not subject to the claims of the buyer's creditors until acceptance; goods held on sale or return are subject to such claims while in the buyer's possession.~~

~~(3) Where goods are delivered to a person for sale and such person maintains a place of business at which he deals in goods of the kind involved, under a name other than the name of the person making delivery, then with respect to claims of creditors of the person conducting the business the goods are deemed to be on sale or return. The provisions of this subsection are applicable even though an agreement purports to reserve title to the person making delivery until payment or resale or uses such words as "on consignment" or "on memorandum." However, this subsection is not applicable if the person making delivery~~

~~(a) complies with an applicable law providing for a consignor's interest or the like to be evidenced by a sign, or~~

~~(b) establishes that the person conducting the business is generally known by his creditors to be substantially engaged in selling the goods of others, or~~

~~(c) complies with the filing provisions of the article on secured transactions (article 9).~~

~~(4) Any "or return" term of a contract for sale is to be treated as a separate contract for sale within the statute of frauds section of this article (G.S. 25-2-201) and as contradicting the sale aspect of the contract within the provisions of this article on parol or extrinsic evidence (G.S. 25-2-202).~~

(1) Unless otherwise agreed, if delivered goods may be returned by the buyer even though they conform to the contract, the transaction is:

(a) a 'sale on approval' if the goods are delivered primarily for use, and

(b) a 'sale or return' if the goods are delivered primarily for resale.

(2) Goods held on approval are not subject to the claims of the buyer's creditors until acceptance; goods held on sale or return are subject to such claims while in the buyer's possession.

(3) Any 'or return' term of a contract for sale is to be treated as a separate contract for sale within the statute of frauds section of this article (G.S. 25-2-201) and as contradicting the sale aspect of the contract within the provisions of this article on parol or extrinsic evidence (G.S. 25-2-202)."

Section 11. G.S. 25-2-502 reads as rewritten:

"**§ 25-2-502. Buyer's right to goods on seller's repudiation, failure to deliver, or insolvency.**

~~(1) Subject to subsection (2) and even though the goods have not been shipped a buyer who has paid a part or all of the price of goods in which he has a special property under the provisions of the immediately preceding section [G.S. 25-2-501] may on making and keeping good a tender of any unpaid portion of their price recover them from the seller if the seller becomes insolvent within ten days after receipt of the first installment on their price.~~

~~(2) If the identification creating his special property has been made by the buyer he acquires the right to recover the goods only if they conform to the contract for sale.~~

(1) Subject to subsections (2) and (3) of this section and even though the goods have not been shipped, a buyer who has paid a part or all of the price of goods in which he has a special property under G.S. 25-2-501 may, on making and keeping good a tender of any unpaid portion of their price, recover them from the seller if:

a. in the case of goods bought for personal, family, or household purposes, the seller repudiates or fails to deliver as required by the contract; or

b. in all cases, the seller becomes insolvent within 10 days after receipt of the first installment on their price.

(2) The buyer's right to recover the goods under subdivision (1)a. of this section vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver.

(3) If the identification creating his special property has been made by the buyer, he acquires the right to recover the goods only if they conform to the contract for sale."

Section 12. G.S. 25-2-716(3) reads as rewritten:

"(3) The buyer has a right of replevin for goods identified to the contract if after reasonable effort he is unable to effect cover for such goods or the circumstances reasonably indicate that such effort will be unavailing or if the goods have been shipped under reservation and satisfaction of the security interest in them has been made or tendered. In the case of goods bought for personal,

family, or household purposes, the buyer's right of replevin vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver."

Section 13. G.S. 25-2A-103(3) reads as rewritten:

"(3) The following definitions in other Articles apply to this Article:

'Account'. ~~G.S. 25-9-106.~~ G.S. 25-9-102(a)(2).

'Between merchants'. G.S. 25-2-104(3).

'Buyer'. G.S. 25-2-103(1)(a).

'Chattel paper'. ~~G.S. 25-9-105(1)(b).~~ G.S. 25-9-102(a)(11).

'Consumer goods'. ~~G.S. 25-9-109(1).~~ G.S. 25-9-102(a)(23).

'Document'. ~~G.S. 25-9-105(1)(f).~~ G.S. 25-9-102(a)(30).

'Entrusting'. G.S. 25-2-403(3).

~~'General intangibles'. G.S. 25-9-106.~~

'General intangible'. G.S. 25-9-102(a)(42).

'Good faith'. G.S. 25-2-103(1)(b).

'Instrument'. ~~G.S. 25-9-105(1)(i).~~ G.S. 25-9-102(a)(47).

'Merchant'. G.S. 25-2-104(1).

'Mortgage'. ~~G.S. 25-9-105(1)(j).~~ G.S. 25-9-102(a)(55).

'Pursuant to commitment'. ~~G.S. 25-9-105(1)(k).~~ G.S. 25-9-102(a)(68).

'Receipt. G.S. 25-2-103(1)(c).

'Sale'. G.S. 25-2-106(1).

'Sale on approval'. G.S. 25-2-326.

'Sale or return'. G.S. 25-2-326.

'Seller'. G.S. 25-2-103(1)(d)."

Section 14. G.S. 25-2A-303 reads as rewritten:

"§ 25-2A-303. Alienability of party's interest under lease contract or of lessor's residual interest in goods; delegation of performance; transfer of rights.

~~(1) As used in this section, "creation of a security interest" includes the sale of a lease contract that is subject to Article 9 of this Chapter, Secured Transactions, by reason of G.S. 25-9-102(1)(b).~~

~~(2) Except as provided in subsections (3) and (4) of this section, a provision in a lease agreement which (i) prohibits the voluntary or involuntary transfer, including a transfer by sale, sublease, creation, or enforcement of a security interest, or attachment, levy, or other judicial process, of an interest of a party under the lease contract or of the lessor's residual interest in the goods; or (ii) makes such a transfer an event of default, gives rise to the rights and remedies provided in subsection (5) of this section, but a transfer that is prohibited or is an event of default under the lease agreement is otherwise effective.~~

~~(3) A provision in a lease agreement which (i) prohibits the creation or enforcement of a security interest in an interest of a party under the lease contract or in the lessor's residual interest in the goods, or (ii) makes such a transfer an event of default, is not enforceable unless, and then only to the extent that, there is an actual transfer by the lessee of the lessee's right of possession or use of the goods in violation of the provision or an actual delegation of a material performance of either~~

~~party to the lease contract in violation of the provision. Neither the granting nor the enforcement of a security interest in (i) the lessor's interest under the lease contract or (ii) the lessor's residual interest in the goods is a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the lessee within the purview of subsection (5) of this section unless, and then only to the extent that, there is an actual delegation of a material performance of the lessor.~~

~~(4) A provision in a lease agreement which (i) prohibits a transfer of a right to damages for default with respect to the whole lease contract or of a right to payment arising out of the transferor's due performance of the transferor's entire obligation, or (ii) makes such a transfer an event of default, is not enforceable, and such a transfer is not a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract within the purview of subsection (5) of this section.~~

~~(5) Subject to subsections (3) and (4) of this section:~~

~~(a) if a transfer is made which is made an event of default under a lease agreement, the party to the lease contract not making the transfer, unless that party waives the default or otherwise agrees, has the rights and remedies described in G.S. 25-2A-501(2);~~

~~(b) if paragraph (a) is not applicable and if a transfer is made that (i) is prohibited under a lease agreement or (ii) materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract, unless the party not making the transfer agrees at any time to the transfer in the lease contract or otherwise, then, except as limited by contract, (i) the transferor is liable to the party not making the transfer for damages caused by the transfer to the extent that the damages could not reasonably be prevented by the party not making the transfer and (ii) a court having jurisdiction may grant other appropriate relief, including cancellation of the lease contract or an injunction against the transfer.~~

~~(6) A transfer of "the lease" or of "all my rights under the lease", or a transfer in similar general terms, is a transfer of rights and, unless the language or the circumstances, as in a transfer for security, indicate the contrary, the transfer is a delegation of duties by the transferor to the transferee. Acceptance by the transferee constitutes a promise by the transferee to perform those duties. The promise is enforceable by either the transferor or the other party to the lease contract.~~

~~(7) Unless otherwise agreed by the lessor and the lessee, a delegation of performance does not relieve the transferor as against the other party of any duty to perform or of any liability for default.~~

~~(8) In a consumer lease, to prohibit the transfer of an interest of a party under the lease contract or to make a transfer an event of default, the language must be specific, by a writing, and conspicuous.~~

(1) As used in this section, 'creation of a security interest' includes the sale of a lease contract that is subject to Article 9 of this Chapter, Secured Transactions, by reason of G.S. 25-9-109(a)(3).

(2) Except as provided in subsection (3) of this section and G.S. 25-9-407, a provision in a lease agreement which (i) prohibits the voluntary or involuntary transfer, including a transfer by sale, sublease, creation, or enforcement of a security interest, or attachment, levy, or other judicial process, of an interest of a party under the lease contract or of the lessor's residual interest in the goods; or (ii) makes such a transfer an event of default, gives rise to the rights and remedies provided in subsection (4) of this section, but a transfer that is prohibited or is an event of default under the lease agreement is otherwise effective.

(3) A provision in a lease agreement which (i) prohibits a transfer of a right to damages for default with respect to the whole lease contract or of a right to payment arising out of the transferor's due performance of the transferor's entire obligation, or (ii) makes such a transfer an event of default, is not enforceable, and such a transfer is not a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract within the purview of subsection (4) of this section.

(4) Subject to subsection (3) of this section and G.S. 25-9-407:

(a) if a transfer is made which is made an event of default under a lease agreement, the party to the lease contract not making the transfer, unless that party waives the default or otherwise agrees, has the rights and remedies described in G.S. 25-2A-501(2);

(b) if paragraph (a) is not applicable and if a transfer is made that (i) is prohibited under a lease agreement or (ii) materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract, unless the party not making the transfer agrees at any time to the transfer in the lease contract or otherwise, then, except as limited by contract, (i) the transferor is liable to the party not making the transfer for damages caused by the transfer to the extent that the damages could not reasonably be prevented by the party not making the transfer and (ii) a court having jurisdiction may grant other appropriate relief, including cancellation of the lease contract or an injunction against the transfer.

(5) A transfer of 'the lease' or of 'all my rights under the lease', or a transfer in similar general terms, is a transfer of rights and, unless the language or the circumstances, as in a transfer for security, indicate the contrary, the transfer is a delegation of duties by the transferor to the transferee. Acceptance by the transferee

constitutes a promise by the transferee to perform those duties. The promise is enforceable by either the transferor or the other party to the lease contract.

(6) Unless otherwise agreed by the lessor and the lessee, a delegation of performance does not relieve the transferor as against the other party of any duty to perform or of any liability for default.

(7) In a consumer lease, to prohibit the transfer of an interest of a party under the lease contract or to make a transfer an event of default, the language must be specific, by a writing, and conspicuous."

Section 15. G.S. 25-2A-307 reads as rewritten:

"**§ 25-2A-307. Priority of liens arising by attachment or levy on, security interests in, and other claims to goods.**

~~(1) Except as otherwise provided in G.S. 25-2A-306, a creditor of a lessee takes subject to the lease contract.~~

~~(2) Except as otherwise provided in subsections (3) and (4) of this section and in G.S. 25-2A-306 and G.S. 25-2A-308, a creditor of a lessor takes subject to the lease contract unless:~~

~~(a) the creditor holds a lien that attached to the goods before the lease contract became enforceable;~~

~~(b) the creditor holds a security interest in the goods and the lessee did not give value and receive delivery of the goods without knowledge of the security interest; or~~

~~(c) the creditor holds a security interest in the goods which was perfected (G.S. 25-9-303) before the lease contract became enforceable.~~

~~(3) A lessee in the ordinary course of business takes the leasehold interest free of a security interest in the goods created by the lessor even though the security interest is perfected (G.S. 25-9-303) and the lessee knows of its existence.~~

~~(4) A lessee other than a lessee in the ordinary course of business takes the leasehold interest free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the lease or more than 45 days after the lease contract becomes enforceable, whichever first occurs, unless the future advances are made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the 45-day period.~~

(1) Except as otherwise provided in G.S. 25-2A-306, a creditor of a lessee takes subject to the lease contract.

(2) Except as otherwise provided in subsection (3) of this section and in G.S. 25-2A-306 and G.S. 25-2A-308, a creditor of a lessor takes subject to the lease contract unless the creditor holds a lien that attached to the goods before the lease contract became enforceable.

(3) Except as otherwise provided in G.S. 25-9-317, 25-9-321, and 25-9-323, a lessee takes a leasehold interest subject to a security interest held by a creditor of the lessor."

Section 16. G.S. 25-2A-309(1)(b) reads as rewritten:

"(b) a 'fixture filing' is the filing, in the office where a record of a mortgage on the real estate would be filed or recorded, of a financing statement covering goods that are or are to become fixtures and conforming to the requirements of ~~G.S. 25-9-402(5);~~ G.S. 25-9-502(a) and (b);"

Section 17. G.S. 25-4-208(c) reads as rewritten:

"(c) Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents, and proceeds. So long as the bank does not receive final settlement for the item or give up possession of the item or accompanying documents for purposes other than collection, the security interest continues to that extent and is subject to Article 9, but:

(1) No security agreement is necessary to make the security interest enforceable ~~(G.S. 25-9-203(1)(a);~~ (G.S. 25-9-203(b)(3)a.);

(2) No filing is required to perfect the security interest; and

(3) The security interest has priority over conflicting perfected security interests in the item, accompanying documents or proceeds."

Section 18. Article 5 of Chapter 25 of the General Statutes is amended by adding a new section to read:

"**§ 25-5-118. Security interest of issuer or nominated person.**

(a) An issuer or nominated person has a security interest in a document presented under a letter of credit to the extent that the issuer or nominated person honors or gives value for the presentation.

(b) So long as and to the extent that an issuer or nominated person has not been reimbursed or has not otherwise recovered the value given with respect to a security interest in a document under subsection (a) of this section, the security interest continues and is subject to Article 9 of this Chapter, but:

(1) A security agreement is not necessary to make the security interest enforceable under G.S. 25-9-203(b)(3);

(2) If the document is presented in a medium other than a written or other tangible medium, the security interest is perfected; and

(3) If the document is presented in a written or other tangible medium and is not a certificated security, chattel paper, a document of title, an instrument, or a letter of credit, the security interest is perfected and has priority over a conflicting security interest in the document so long as the debtor does not have possession of the document."

Section 19. G.S. 25-6-102 reads as rewritten:

"**§ 25-6-102. 'Bulk transfers'; transfers of equipment; enterprises subject to this article; bulk transfers subject to this article.**

(1) A 'bulk transfer' is any transfer in bulk and not in the ordinary course of the transferor's business of a major part of the materials, supplies, merchandise or other inventory ~~(G.S. 25-9-109)~~ (G.S. 25-9-102) of an enterprise subject to this article.

(2) A transfer of a substantial part of the equipment ~~(G.S. 25-9-109)~~ (G.S. 25-9-102) of such an enterprise is a bulk transfer if it is made in connection with a bulk transfer of inventory, but not otherwise.

(3) The enterprises subject to this article are all those whose principal business is the sale of merchandise from stock, including those who manufacture what they sell.

(4) Except as limited by ~~the following section [G.S. 25-6-103]~~ G.S. 25-6-103 all bulk transfers of goods located within this State are subject to this article."

Section 20. G.S. 25-7-503(1) reads as rewritten:

"(1) A document of title confers no right in goods against a person who before issuance of the document had a legal interest or a perfected security interest in them and who neither

(a) delivered or entrusted them or any document of title covering them to the bailor or his nominee with actual or apparent authority to ship, store or sell or with power to obtain delivery under this article (G.S. 25-7-403) or with power of disposition under this chapter (G.S. 25-2-403 and ~~25-9-307)~~ G.S. 25-9-320) or other statute or rule of law; nor

(b) acquiesced in the procurement by the bailor or his nominee of any document of title."

Section 21. G.S. 25-8-103(f) reads as rewritten:

"(f) A commodity contract, as defined in ~~G.S. 25-9-115,~~ G.S. 25-9-102(a)(15), is not a security or financial asset."

Section 22. G.S. 25-8-106 reads as rewritten:

"**§ 25-8-106. Control.**

(a) A purchaser has 'control' of a certificated security in bearer form if the certificated security is delivered to the purchaser.

(b) A purchaser has 'control' of a certificated security in registered form if the certificated security is delivered to the purchaser, and:

(1) The certificate is endorsed to the purchaser or in blank by an effective endorsement; or

(2) The certificate is registered in the name of the purchaser, upon original issue or registration of transfer by the issuer.

(c) A purchaser has 'control' of an uncertificated security if:

(1) The uncertificated security is delivered to the purchaser; or

(2) The issuer has agreed that it will comply with instructions originated by the purchaser without further consent by the registered owner.

(d) A purchaser has 'control' of a security entitlement if:

(1) The purchaser becomes the entitlement holder; ~~or~~

(2) The securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement ~~holder.~~ holder; or

(3) Another person has control of the security entitlement on behalf of the purchaser or, having previously acquired control of the security entitlement, acknowledges that it has control on behalf of the purchaser.

(e) If an interest in a security entitlement is granted by the entitlement holder to the entitlement holder's own securities intermediary, the securities intermediary has control.

(f) A purchaser who has satisfied the requirements of ~~subdivision (c) (2) or (d) (2)~~ subsection (c) or (d) of this section has ~~control~~ control, even if the registered owner in the case of ~~subdivision (c) (2)~~ subsection (c) of this section or the entitlement holder in the case of ~~subdivision (d) (2)~~ subsection (d) of this section retains the right to make substitutions for the uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

(g) An issuer or a securities intermediary may not enter into an agreement of the kind described in subdivision (c) (2) or (d) (2) of this section without the consent of the registered owner or entitlement holder, but an issuer or a securities intermediary is not required to enter into such an agreement even though the registered owner or entitlement holder so directs. An issuer or securities intermediary that has entered into such an agreement is not required to confirm the existence of the agreement to another party unless requested to do so by the registered owner or entitlement holder."

Section 23. G.S. 25-8-110(e) reads as rewritten:

"~~(e) The following rules determine a 'securities intermediary's jurisdiction' for purposes of this section:~~

~~(1) If an agreement between the securities intermediary and its entitlement holder specifies that it is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.~~

~~(2) If an agreement between the securities intermediary and its entitlement holder does not specify the governing law as provided in subdivision (1) of this subsection, but expressly specifies that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.~~

~~(3) If an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in subdivision (1) or (2) of this subsection, the securities intermediary's jurisdiction is the jurisdiction in which is located the office identified in an account statement as the office serving the entitlement holder's account.~~

~~(4) If an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in subdivision (1) or (2) of this subsection and an account statement does not identify an office serving the entitlement holder's account as provided in subdivision (3) of this subsection, the securities intermediary's jurisdiction is the jurisdiction in which is located the chief executive office of the securities intermediary.~~

(e) The following rules determine a 'securities intermediary's jurisdiction' for purposes of this section:

(1) If an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that a particular jurisdiction is the securities intermediary's jurisdiction for purposes of this Part, this Article, or this Chapter, that jurisdiction is the securities intermediary's jurisdiction.

(2) If subdivision (1) of this subsection does not apply and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(3) If neither subdivision (1) nor subdivision (2) of this section applies and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(4) If none of the preceding subdivisions applies, the securities intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the entitlement holder's account is located.

(5) If none of the preceding subdivisions applies, the securities intermediary's jurisdiction is the jurisdiction in which the chief executive office of the securities intermediary is located."

Section 24. G.S. 25-8-301(a) reads as rewritten:

"(a) Delivery of a certificated security to a purchaser occurs when:

(1) The purchaser acquires possession of the security certificate;

(2) Another person, other than a securities intermediary, either acquires possession of the security certificate on behalf of the purchaser or, having previously acquired possession of the certificate, acknowledges that it holds for the purchaser; or

(3) A securities intermediary acting on behalf of the purchaser acquires possession of the security certificate, only if the certificate is in registered form and ~~has been~~ is (i) registered in the name of the purchaser, (ii) payable to the order of the purchaser, or (iii) specially indorse to the purchaser by an effective ~~indorsement.~~ indorsement and has not been indorsed to the securities intermediary or in blank."

Section 25. G.S. 25-8-302(a) reads as rewritten:

"(a) Except as otherwise provided in subsections (b) and (c) of this section, ~~upon delivery~~ a purchaser of a certificated or uncertificated security ~~to a purchaser, the~~

~~purchaser~~ acquires all rights in the security that the transferor had or had power to transfer."

Section 26. G.S. 25-8-510 reads as rewritten:

"**§ 25-8-510. Rights of purchaser of security entitlement from entitlement holder.**

(a) ~~An~~ In a case not covered by the priority rules in Article 9 of this Chapter or the rules stated in subsection (c) of this section, an action based on an adverse claim to a financial asset or security entitlement, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a person who purchases a security entitlement, or an interest therein, from an entitlement holder if the purchaser gives value, does not have notice of the adverse claim, and obtains control.

(b) If an adverse claim could not have been asserted against an entitlement holder under G.S. 25-8-502, the adverse claim cannot be asserted against a person who purchases a security entitlement, or an interest therein, from the entitlement holder.

(c) In a case not covered by the priority rules in ~~Article 9,~~ Article 9 of this Chapter, a purchaser for value of a security entitlement, or an interest therein, who obtains control has priority over a purchaser of a security entitlement, or an interest therein, who does not obtain control. ~~Purchasers~~ Except as otherwise provided in subsection (d) of this section, purchasers who have control rank ~~equally, except that a~~ according to priority in time of:

(1) The purchaser's becoming the person for whom the securities account, in which the security entitlement is carried, is maintained, if the purchaser obtained control under G.S. 25-8-106(d)(1);

(2) The securities intermediary's agreement to comply with the purchaser's entitlement orders with respect to security entitlements carried or to be carried in the securities account in which the security entitlement is carried, if the purchaser obtained control under G.S. 25-8-106(d)(2); or

(3) If the purchaser obtained control through another person under G.S. 25-8-106(d)(3), the time on which priority would be based under this subsection if the other person were the secured party.

(d) A securities intermediary as purchaser has priority over a conflicting purchaser who has control unless otherwise agreed by the securities intermediary."

PART III. CONFORMING AMENDMENTS TO OTHER SECTIONS OF THE GENERAL STATUTES.

Section 27. G.S. 6-21.2(5) reads as rewritten:

"(5) The holder of an unsecured note or other writing(s) evidencing an unsecured debt, and/or the holder of a note and chattel mortgage or other security agreement and/or the holder of a conditional sale contract or any other such security agreement which evidences both a monetary obligation and a security interest in or a lease of specific goods, or his attorney at law, shall, after maturity of the obligation by default or otherwise, notify the maker, debtor,

account debtor, endorser or party sought to be held on said obligation that the provisions relative to payment of attorneys' fees in addition to the "outstanding balance" shall be enforced and that such maker, debtor, account debtor, endorser or party sought to be held on said obligation has five days from the mailing of such notice to pay the "outstanding balance" without the attorneys' fees. If such party shall pay the "outstanding balance" in full before the expiration of such time, then the obligation to pay the attorneys' fees shall be void, and no court shall enforce such provisions.

Notwithstanding the foregoing, however, if debtor has defaulted or violated the terms of the security agreement and has refused, on demand, to surrender possession of the collateral to the secured party as authorized by ~~§ 25-9-503,~~ G.S. 25-9-609, with the result that said secured party is required to institute an ancillary claim and delivery proceeding to secure possession of said collateral; no such written notice shall be required before enforcement of the provisions relative to payment of attorneys' fees in addition to the "outstanding balance."

Section 28. G.S. 20-28.2(f)(5) reads as rewritten:

"(5) The lienholder agrees to sell the motor vehicle in accordance with the terms of its agreement and pursuant to the provisions of ~~Part 5~~ Part 6 of Article 9 of Chapter 25 of the General Statutes. Upon the sale of the motor vehicle, the lienholder will pay to the clerk of court of the county in which the vehicle was forfeited all proceeds from the sale, less the amount of the lien in favor of the lienholder, and any towing and storage costs paid by the lienholder."

Section 29. G.S. 20-28.3(e3)(1) reads as rewritten:

"(1) A lienholder may file a petition with the clerk of court requesting the court to order pretrial release of a seized motor vehicle. The lienholder shall serve a copy of the petition on all interested parties which shall include the registered owner, the titled owner, the district attorney, and the county board of education attorney. Upon 10 days' prior notice of the date, time, and location of the hearing sent by the lienholder to all interested parties, a judge, after a hearing, shall order a seized motor vehicle released to the lienholder conditioned upon payment of all towing and storage costs incurred as a result of the seizure and impoundment of the motor vehicle if the judge determines, by the greater weight of the evidence, that:

a. Default on the obligation secured by the motor vehicle has occurred;

b. As a consequence of default, the lienholder is entitled to possession of the motor vehicle;

c. The lienholder agrees to sell the motor vehicle in accordance with the terms of its agreement and pursuant to the provisions of ~~Part 5~~ Part 6 of Article 9 of Chapter 25 of the General Statutes. Upon sale of the motor vehicle, the lienholder will pay to the clerk of court of the county in which the driver was charged all proceeds from the sale, less the amount of the lien in favor of the lienholder, and any towing and storage costs paid by the lienholder;

d. The lienholder agrees not to sell, give, or otherwise transfer possession of the seized motor vehicle while the motor vehicle is subject to forfeiture, or the forfeited motor vehicle after the forfeiture hearing, to the defendant or the motor vehicle owner; and

e. The seized motor vehicle while the motor vehicle is subject to forfeiture, or the forfeited motor vehicle after the forfeiture hearing, had not previously been released to the lienholder as a result of a prior seizure involving the same defendant or motor vehicle owner."

Section 30. G.S. 20-58.8 reads as rewritten:

"§ 20-58.8. Applicability of §§ 20-58 to 20-58.8; use of term 'lien'.

~~(a) The provisions of G.S. 20-58 through 20-58.8 apply to the perfection of security interests pursuant to G.S. 25-9-302.~~

(b) The provisions of G.S. 20-58 through 20-58.8 inclusive shall not apply to or affect:

(1) A lien given by statute or rule of law for storage of a motor vehicle or to a supplier of services or materials for a vehicle;

(2) A lien arising by virtue of a statute in favor of the United States, this State or any political subdivision of this State; or

(3) A security interest in a vehicle created by a manufacturer or by a dealer in new or used vehicles who holds the vehicle in his inventory. ~~Such security interests shall be perfected by filing a financing statement under Article 9 of the Uniform Commercial Code.~~

(c) When the term "lien" is used in other sections of this Chapter, or has been used prior to October 1, 1969, with reference to transactions governed by G.S. 20-58 through 20-58.8, to describe contractual agreements creating security interests in personal property, the term "lien" shall be construed to refer to a "security interest" as the term is used in G.S. 20-58 through 20-58.8 and the Uniform Commercial Code."

Section 31. G.S. 25A-16 reads as rewritten:

"§ 25A-16. Transfer of equity.

If a buyer voluntarily transfers his rights in collateral pursuant to ~~G.S. 25-9-311~~ applicable law and the seller agrees, the seller may impose a transfer fee not to

exceed ten percent (10%) of the unpaid balance of the debt or thirty-five dollars ($35.00), whichever is less."

Section 32. G.S. 25A-22(b) reads as rewritten:

"(b) Upon the payment of all sums for which the buyer is obligated under a consumer credit sale, the seller shall promptly release any security interest in accordance with the terms of ~~G.S. 25-9-404~~ G.S. 25-9-513 or G.S. 20-58.4, whichever is applicable. In the event a security interest in real property is involved, the seller shall take such action as is necessary to enable the lien to be discharged of record under the provisions of G.S. 45-37."

Section 33. G.S. 44-68.14(a)(1) reads as rewritten:

"(1) The Secretary of State, he shall cause the notice to be ~~marked, held, and indexed~~ numbered, maintained, and indexed in accordance with ~~the provisions of G.S. 25-9-403(4),~~ G.S. 25-9-519, as if the notice were a financing statement within the meaning of the Uniform Commercial Code, Chapter 25 of the General Statutes; or".

Section 34. G.S. 44-68.14(b) reads as rewritten:

"(b) If a certificate of release, nonattachment, discharge, or subordination of any lien is presented to the Secretary of State for filing he shall cause:

(1) A record of a certificate of release or nonattachment to be ~~marked, held, and indexed~~ numbered, maintained, and indexed as if a record of the certificate were a termination statement within the meaning of the Uniform Commercial Code, Chapter 25 of the General Statutes, but the record of the notice of lien to which the certificate relates may not be removed from the files; and

(2) A record of a certificate of discharge or subordination to be ~~marked, held, and indexed~~ numbered, maintained, and indexed as if the record of the certificate were a release of collateral within the meaning of the Uniform Commercial Code, Chapter 25 of the General Statutes."

Section 35. G.S. 47-20(b)(1) reads as rewritten:

"(1) 'Rents, issues, or profits' means all amounts payable by or on behalf of any lessee, tenant, or other person having a possessory interest in real estate on account of or pursuant to any written or oral lease or other instrument evidencing a possessory interest in real property or pursuant to any form of tenancy implied by law, and all amounts payable by or on behalf of any licensee or permittee or other person occupying or using real property under license or permission from the owner or person entitled to possession. The term shall not include farm products as defined in ~~G.S. 25-9-109(3),~~ G.S. 25-9-102(34), timber, the proceeds from the sale of farm products or timber, or the proceeds from the recovery or severance of any mineral deposits located on or under real property."

Section 36. G.S. 53-177 reads as rewritten:

"**§ 53-177. Recording fees.**

The licensee may collect from the borrower the amount of any fees necessary to file or record its security interest with any public official or agency of a county or the State as may be required pursuant to ~~G.S. 25-9-302 et seq.~~ Article 9 of Chapter 25 of the General Statutes or G.S. 20-58 **et seq.** Upon full disclosure to the borrower on how the fees will be applied, such fees may either (i) be paid by the licensee to such public official or agency of the county or State, or (ii) in lieu of recording or filing, applied by the licensee to purchase nonfiling or nonrecording insurance on the instrument securing the loan, or (iii) be retained by a licensee that elects to self insure against the loss of a security interest by reason of not filing or recording its security instrument: Provided, however, the amount collected by the licensee from the borrower for the purchase of a nonfiling or nonrecording insurance policy, or for self insurance, shall be the premium amount for such insurance as fixed by the Commissioner of Insurance. Such premium shall be at least one dollar ($1.00) less than the cost of recording or filing a security interest. Provided further, a licensee shall not collect or permit to be collected any notary fee in connection with any loan made under this Article, nor may a licensee collect any fee from the borrower for the cost of releasing a security interest except such fee as actually paid to any public official or agency of the county or State for such purpose."

Section 37. G.S. 63A-11(e) reads as rewritten:

"(e) ~~The provisions of G.S. 25-9-104(e) and G.S. 25-9-302(6) to the contrary notwithstanding, the provisions of Article 9 of the North Carolina Uniform Commercial Code, G.S. 25-9-101 to G.S. 25-9-607 inclusive, shall apply to transactions under this section, but not to transactions involving the issuance of bonds for airport projects, to the same extent the provisions of Article 9 would apply were G.S. 25-9-104(e) and G.S. 25-9-302(6) repealed.~~ Article 9 of Chapter 25 of the General Statutes applies to transactions under this section but not to transactions involving the issuance of bonds for airport projects."

Section 38. G.S. 75A-41 reads as rewritten:

"**§ 75A-41. Security interests subsequently created.**

~~Security interests, other than a security interest in inventory held for sale to be perfected only as provided in G.S. 25-9-301 to G.S. 25-9-408,~~ Except for security interests in watercraft that are inventory held for sale, security interests created in watercraft by the voluntary act of the owner after the original issue of title to the owner must be shown on the certificate of title. In such cases, the owner shall file an application with the Commission on a blank furnished for that purpose, setting forth the security interests and other information as the Commission requires. The Commission, if satisfied that it is proper that the same be recorded and upon surrender of the certificate of title covering the watercraft, shall thereupon issue a new certificate of title showing their security interests in the order of the priority according to the date of the filing of the application. For the purpose of recording the subsequent security interest, the Commission may require any secured party to deliver the certificate of title to the Commission. The newly issued certificate shall

be sent or delivered to the secured party from whom the prior certificate was obtained."

Section 39. G.S. 75A-42 reads as rewritten:

"**§ 75A-42. Certificate as notice of security interest.**

A certificate of title, when issued by the Commission showing a security interest, shall be deemed adequate notice to the State, creditors, and purchasers that a security interest in the watercraft exists and the recording or filing of the creation or reservation of a security interest in the county or city wherein the purchaser or debtor resides or elsewhere is not necessary and shall not be required. Watercraft, other than those that are inventory held for sale, for which a certificate of title is currently in ~~effect,~~ effect shall be exempt from the provisions of ~~G.S. 25-9-302, 25-9-304, 25-9-307, 25-9-309, 25-9-312, 25-9-318, and 25-9-401 to 25-9-408~~ G.S. 25-9-309, 25-9-310, 25-9-312, 25-9-320, 25-9-322, 25-9-323, 25-9-324, 25-9-331, 25-9-404, 25-9-405, 25-9-406, and 25-9-501 to 25-9-526 for so long as the certificate of title remains in effect."

Section 40. G.S. 75A-44 reads as rewritten:

"**§ 75A-44. Priority of security interests shown on certificates.**

~~The security interests, except security interests in watercraft which are inventory held for sale and which are perfected under G.S. 25-9-301 to 25-9-408,~~ Except for security interests in watercraft that are inventory held for sale, security interests shown upon the certificates of title issued by the Commission pursuant to applications for certificates shall have priority over any other liens or security interests against the watercraft however created and recorded, except for a mechanics lien for repairs, provided that the mechanic furnishes the holder of any recorded lien who may request it with an itemized sworn statement of the work done and materials supplied for which the lien is claimed."

Section 41. G.S. 143B-456.1(f) reads as rewritten:

"(f) ~~The provisions of G.S. 25-9-104(e) and G.S. 25-9-302(6) to the contrary notwithstanding, the provisions of Article 9 of the North Carolina Uniform Commercial Code, being G.S. 25-9-101 to G.S. 25-9-607, inclusive, shall apply to transactions under this section to the same extent the provisions of such Article 9 would apply were G.S. 25-9-104(e) and G.S. 25-9-302(6) hereby repealed.~~ Article 9 of Chapter 25 of the General Statutes applies to transactions under this section."

Section 42. G.S. 159C-28 reads as rewritten:

"**§ 159C-28. Application of the U.C.C.**

~~The provisions of G.S. 25-9-104(e) and 25-9-302(6) to the contrary notwithstanding, the provisions of Article 9 of the North Carolina Uniform Commercial Code, being G.S. 25-9-101 to 25-9-607, inclusive, shall apply to transactions under Chapter 159C to the same extent the provisions of such Article 9 would apply were G.S. 25-9- 104(e) and 25-9-302(6) hereby repealed.~~ Article 9 of Chapter 25 of the General Statutes applies to transactions under this Chapter."

Section 43. G.S. 159D-23 reads as rewritten:

"**§ 159D-23. Application of Article 9 of Chapter 25.**

~~The provisions of G.S. 25-9-104(e) and 25-9-302(6) to the contrary notwithstanding, the provisions of Article 9 of North Carolina Uniform Commercial Code, being G.S. 25-9-101 to 25-9-607, inclusive, shall apply [to] transactions under this Chapter 159D to the same extent the provisions of such Article 9 would apply were G.S. 25-9-104(e) and 25-9-302(6) hereby repealed.~~ Article 9 of Chapter 25 of the General Statutes applies to transactions under this Chapter."

Section 44. G.S. 161-10(a)(13) reads as rewritten:

"(13) Uniform Commercial Code. -- Such fees as are provided for in Chapter 25, Article 9, ~~Part 4,~~ Part 5, of the General Statutes."

PART IV. UCC ARTICLE 9 FILING FEES INCREASE.

Section 45. G.S. 25-9-403(5) reads as rewritten:

"(5) The uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement or for a continuation statement is ~~fifteen dollars ($15.00).~~ thirty dollars ($30.00)."

Section 46. G.S. 25-9-405 reads as rewritten:

"**§ 25-9-405. Assignment of security interest; duties of filing officer; fees.**

(1) A financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in G.S. 25-9-403(4). The uniform fee for filing, indexing, and furnishing filing data for a financing statement so indicating an assignment is ~~fifteen dollars ($15.00).~~ thirty dollars ($30.00).

(2) A secured party may assign of record all or part of his rights under a financing statement by the filing in the place where the original financing statement was filed of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and also the most current file number if it has been continued and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. He shall note the assignment on the Uniform Commercial Code index of the financing statement, and in the case of a fixture filing, or a filing covering timber to be cut, or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of G.S. 25-9-103, he shall index in the real estate index the assignment under the name of the assignor as grantor and, to the extent that the law of this State provides for indexing the assignment of a mortgage under the name of the assignee, he shall index the assignment of the financing statement under the name of the assignee. The uniform fee for filing, indexing, and furnishing filing data about such a separate statement of

assignment is ~~fifteen dollars ($15.00).~~ thirty dollars ($30.00). Notwithstanding the provisions of this subsection, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing (subsection (6) of G.S. 25-9-402) may be made only by an assignment of the mortgage in the manner provided by the law of the State other than this Chapter.

(3) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record."

Section 47. G.S. 25-9-406 reads as rewritten:

"**§ 25-9-406. Release of collateral; duties of filing officer; fees.**

A secured party of record may, by his signed statement, release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of G.S. 25-9-405, including payment of the required fee. Upon presentation of such a statement of release to the filing officer he shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. The uniform fee for filing and noting such a statement of release is ~~fifteen dollars ($15.00).~~ thirty dollars ($30.00)."

Section 48. G.S. 25-9-407 reads as rewritten:

"**§ 25-9-407. Information from filing officer.**

(1) If the person filing any financing statement, termination statement, statement of assignment or statement of release furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.

(2) Upon request of any person, the filing officer shall issue his certificate for which he shall not be liable showing whether there is on file, on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be ~~fifteen dollars ($15.00).~~ thirty dollars ($30.00). Where the Uniform Commercial Code index has been automated, the filing officer shall issue a computer printout of the index entries for a particular debtor for a fee of ~~fifteen dollars ($15.00).~~ thirty dollars ($30.00). Upon request the filing officer shall furnish a copy of any filed financing statement or statement of assignment for a uniform fee of one dollar ($1.00) per page."

PART V. DIRECTIONS AND EFFECTIVE DATE.

Section 49. The Revisor of Statutes shall cause to be printed along with this act all relevant portions of the official comments to the Uniform Commercial Code, Revised Article 9 and conforming amendments to Articles 1, 2, 2A, 4, 5, 6, 7,

and 8 and all explanatory comments of the drafters of this act as the Revisor deems appropriate.

Section 50. The Department of the Secretary of State shall study the issue of fraudulent filings under Article 9 of Chapter 25 of the General Statutes that are intended to hinder, harass, delay, or otherwise interfere with public employees in the performance of their lawful duties. The Department shall report to the General Assembly by January 1, 2001, with any recommendations which may include the creation of civil or criminal sanctions or remedies related to these filings.

Section 51. Parts I, II, and III of this act become effective July 1, 2001. Part IV of this act becomes effective September 1, 2000, and applies to fees paid on or after that date. The remainder of this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. 1305 V2 Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) [redacted] Pope

Sen.)

moves to amend the bill on page 125, line 15-16, 25-26,

( ) WHICH CHANGES THE TITLE

~~By~~ and on page 126, lines 1, 21, 33-34, by deleting "thirty dollars ($30.00)" and substituting "twenty dollars ($20.00)";

and on page 76, line 33 and 38, and on page 77, line 4 and 6, by deleting "thirty dollars ($30.00)" and substituting "twenty dollars ($20.00)";

and on page 76, line 35, by deleting ~~for~~ "forty-five dollars ($45.00)" and substituting ~~for, line~~ "thirty-five dollars ($35.00)".

SIGNED _____

ADOPTED _____ FAILED ✓ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. 1305 V2 Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) Sen.) Capps

moves to amend the bill on page _____, line _____

( ) WHICH CHANGES THE TITLE

by _____

Section 51. The Director of the Budget shall monitor the revenues generated under Article 9 of Chapter 25, by the filing fees imposed and the revenue generated by these fees payable to the State exceed the State cost of [illegible] program, as the Director of Budget determines, the fees that exceed this costs shall be credited to the Savings Reserve Account.

and by renumbering the remaining section accordingly.

SIGNED _____

ADOPTED _____ FAILED ✓ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

STATE OF NORTH CAROLINA
GENERAL STATUTES COMMISSION
POST OFFICE BOX 629
RALEIGH, NORTH CAROLINA 27602
(919) 716-6800

MEMORANDUM

TO: House Finance Committee

FROM: General Statutes Commission

DATE: June 28, 2000

RE: **Senate Bill 1305 (Revise Article 9 of the UCC)**

Senate Bill 1305 is based on Uniform Commercial Code Revised Article 9 (Secured Transactions), which was approved in 1998 and amended in 1999 by the National Conference of Commissioners on Uniform State Laws in conjunction with the American Law Institute to update the statutory framework that governs security interests in personal property and fixtures. Revised Article 9 expands the scope of property and transactions covered by current Article 9, modifies as well as creates definitions, modernizes the filing system for financing statements, simplifies methods of perfection and increases the certainty of priority rules, formulates clearer rules for the enforcement of security interests, and provides specific transition rules. About 25 states have already enacted Revised Article 9 to become effective on the uniform effective date of July 1, 2001.

Senate Bill 1305 consists of five parts. Part I is based on Revised Article 9. Part II makes conforming amendments to other articles of the Uniform Commercial Code. Part III makes conforming and clarifying amendments to other sections of the General Statutes. Part IV increases certain fees in current Article 9 from $15.00 to $30.00 to provide revenue for use in the implementation of Revised Article 9. Part V authorizes the printing of drafters' comments, provides a delayed effective date of September 1, 2000, for the increases in current fees, and provides a delayed effective date of July 1, 2001, for Revised Article 9 and the conforming and clarifying amendments. The Senate amended Part V to authorize the Secretary of State to "study the issue of fraudulent filings under Article 9 of Chapter 25 of the General Statutes that are intended to hinder, harass, delay or otherwise interfere with public employees in the performance of their lawful duties" and to report to the General Assembly by January 1, 2001.

Revised Article 9 supports commerce by reducing costs and uncertainty of financing personal property, including the modern form of asset securitization. It accomplishes this by, among other things:

- Scope and definitional provisions that bring within Revised Article 9 several kinds of collateral formerly left to the uncertainties of common law, e.g., health care receivables, deposit accounts in nonconsumer transactions, commercial tort claims, and proceeds which are stock dividends and licensing royalties. Revised Article 9 also applies to the perfection and priority of agricultural liens.

- Filing rules that require only one filing for each debtor in most financing transactions, no matter how many items or kinds of collateral are involved. Revised Article 9 provides for central filing in the Secretary of State's office for filings other than fixture filings and filings with respect to timber to be cut and "as-extracted collateral", which will continue to be filed in the register of deeds' office.

- Requiring most filings to be made at the location of the debtor, e.g., state of formation for a registered entity, rather than where the collateral is located. Thus the filer knows just where to file and the searcher knows exactly where to look.

- Timing standards for performance by filing offices.

- Vastly simplified rules that determine which state's law controls.

- Simplified formalities such as allowing electronic "signatures" on the security agreement and permitting very broad description of collateral in filings.

- Facilitation of electronic filing by providing uniform statutory forms for filing and eliminating the requirement that the debtor sign an authorized financing statement.

- Providing for perfection by "control" rather than filing or possession of collateral, for deposit accounts, letter of credit rights, and electronic chattel paper as well as investment property.

- Priority and foreclosure rules that settle existing uncertainties and enhance purchase money security.

- Elimination of North Carolina's nonuniform Part 6 (Public Sale Procedures) of current UCC Article 9 and providing a uniform "safe harbor" form for giving notice to the debtor of a private or public foreclosure sale.

- Additional protection of consumer debtors in foreclosure by additional disclosure requirements.

- Transition rules that provide detailed guidelines, including time frames, for creditors whose security interests are already perfected under existing law. Under these rules, creditors will be able to determine when and how they must act to continue, amend or terminate perfection.

These and other changes made by Revised Article 9 eliminate much risk and cost associated with secured financing. North Carolina's prestige as a major banking and financial center makes passage in time for the uniform effective date of July 1, 2001, extremely urgent.

The strategy of Revised Article 9 is to create a nationwide mechanism for secured transactions. For this reason, uniformity is more than usually important. However, some variations of a local nature have seemed advisable, which include:

- Incorporating Revised Article 9's optional set of model provisions for priority of production-money security interests in crops.

- Providing that Revised Article 9's provisions, which render ineffective any legal restrictions on the assignment of rights to payment, do not apply to certain specified statutory restrictions on assignments, e.g., structured settlement payment rights, workers' compensation claims, and crime victims award payments.

- Postponing to January 1, 2003, the date after which filings in the Secretary of State's office are required to have assigned file numbers that include a verification number, commonly known as a "check digit".

- Changing from two business days to three business days the time period in which filing offices are required to perform the duties imposed by §§ 25-9-519 and 25-9-523 and providing a delayed effective date of January 1, 2003, for compliance with the time period.

- Requiring a filing office to communicate its refusal to accept a record for filing within three business days rather than two business days after receipt of the record.

- Bringing forward the current nonliability provision for the information communicated by a filing office in responding to a request for information.

- Deleting the requirement that filing offices make copies of all filed records available to the public because the public records law already covers access to these records.

- Deleting the provision for an increased fee for filing and indexing a record of a mortgage as an initial financing statement where the financing statement indicates that it is filed in connection with either a public-finance transaction or a manufactured-home transaction.

- Deleting the requirement of an annual report to the Governor and the Legislature on filing office operations.

- Providing that a financing statement filed before July 1, 2001, may be terminated only by filing in the office specified in § 25-9-501. (§ 25-9-706(c)).

The following materials from the Uniform Law Commissioners' information kit on Revised Article 9 are attached for informational purposes: (1) a facts sheet stating Revised Article 9's purpose, origin, and legislative activity in other jurisdictions; (2) a statement of reasons why states should adopt Revised Article 9; and (3) a summary highlighting significant changes made by Revised Article 9. The Official Comments to Revised Article 9 are available and will be published in the General Statutes as annotations if Senate Bill 1305 is enacted.

Attachments

A Few Facts About
REVISED UCC ARTICLE 9, SECURED TRANSACTIONS (1999)

PURPOSE: Updates UCC Article 9, last revised in 1972 and adopted in every state. Article 9 provides a statutory framework that governs secured transactions—transactions which involve the granting of credit secured by personal property.

ORIGIN: Completed by the Uniform Law Commissioners, in conjunction with the American Law Institute, in 1999.

ENDORSED BY: American Bar Association

STATE ADOPTIONS:

Alaska*
Arizona
California
Hawaii*
Illinois **
Indiana *
Iowa *
Kansas *
Kentucky *
Maine *
Maryland
Minnesota *
Montana
Nebraska
Nevada
Oklahoma *
Rhode Island **
South Dakota *
Tennessee *
Texas
Utah *
Vermont*
Virginia *
Washington *
West Virginia *

2000 INTRODUCTIONS:

Colorado
Delaware
District of Columbia
Florida
Idaho
Massachusetts
Michigan
Mississippi
Missouri
New Jersey
New Mexico
New York
North Carolina
South Carolina
Wyoming

For any further information regarding the Revision of UCC Article 9, Secured Transactions, please contact John McCabe or Katie Robinson at 312-915-0195.

** 2000 Enactment*
*** Awaiting Governor's Signature*

(6/22/00)

(Please note: this information can also be found on our Website at www.nccusl.org)

WHY STATES SHOULD ADOPT UNIFORM COMMERCIAL CODE ARTICLE 9 - SECURED TRANSACTIONS

Trillions of dollars of commercial and consumer credit are granted each year in secured transactions under Article 9 of the Uniform Commercial Code -- a manufacturer finances the acquisition of machinery and raw materials, a retailer finances inventory, a consumer finances furniture for a new house. The manufacturer, the retailer, and the consumer all depend upon Article 9 of the Uniform Commercial Code to make it possible for them to obtain the credit they need. Their creditors get assurance, in the form of the collateral that secures the granting of credit, that it will cushion the risk of default in the event the debtor does not pay the debt. Article 9 of the Uniform Commercial Code is absolutely necessary to economic function in the United States. It is the crankshaft for the American economic engine, and it is the envy of the rest of the world, which often struggles with the mechanics of credit granting and enforcement of creditor's rights.

Major revisions to Article 9 were completed in 1998. These revisions bring Article 9 into the 21st Century. There are many reasons that Revised Article 9 should be adopted in every state.

Technology. Paper-based transactions are giving way to electronic transactions. Revised Article 9 makes way for this revolution.

Volume. Article 9 was first proposed in 1951. Its last update was in 1972. Since 1972 the volume of commerce and the volume of credit has increased exponentially. Volume of secured transactions increases proportionately and directly with increase in economic activity in the United States. *The filing system revisions are particularly necessary to meet the problem of increased volume.*

New Collateral. New kinds of property and transactions have been developed since Article 9 was last amended. The *scope* of Article 9 expands to keep up and the 1998 revisions meet the needs for collateral into the new millennium. Examples of specific new collateral are deposit accounts and health insurance receivables.

Certainty of Perfection. Uncertainties about where to perfect a security interest under old Article 9 are overcome by the new basic rule in the 1998 revisions that makes the location of the debtor the place where the creditor will perfect the security interest.

New Liens. Statutory, non-possessory liens have proliferated since Article 9 was originally approved. Such liens represent a risk for creditors, and a potential conflict with security interests in collateral, if there is no public notice of their existence. Article 9 includes certain statutory, non-possessory liens for the purposes of providing public notice and setting priorities between creditors.

Clarification of Rules. Over time, provisions of Article 9 have been interpreted by courts, sometimes in conflicting ways. Some decisions deal with issues that were not expressly addressed in original Article 9. The result is ambiguity in the application of some rules. The revisions to Article 9 address and cure the accrued ambiguity problems.

Consumer Impact. Revised Article 9 addresses consumer issues that were not addressed in original Article 9.

Commitment to Uniformity. Amendments to Article 9 from state to state have created differences that impair interstate transactions. The revisions address specific kinds of secured transactions in oil and gas and agriculture in an effort to re-establish uniformity of law governing these kinds of transactions.

UNIFORM COMMERCIAL CODE
REVISED ARTICLE 9, SECURED TRANSACTIONS (1998)

- A Summary -

The Uniform Commercial Code has eleven substantive articles. Article 9, Secured Transactions, may be the most important of the eleven. Article 9 provides the rules governing any transaction (other than a finance lease) that couples a debt with a creditor's interest in a debtor's personal property. If the debtor defaults, the creditor may repossess and sell the property (generally called collateral) to satisfy the debt. The creditor's interest is called a "security interest." Article 9 also covers certain kinds of sales that look like a grant of a security interest.

The operation of Article 9 appears deceptively simple. There are two key concepts: "attachment" and "perfection." These terms describe the two key events in the creation of a "security interest." Attachment generally occurs when the security interest is effective between the creditor and the debtor, and that usually happens when their agreement provides that it take place. Perfection occurs when the creditor establishes his or her "priority" in relation to other creditors of the debtor in the same collateral. The creditor with "priority" may use the collateral to satisfy the debtor's obligation when the debtor defaults before other creditors subsequent in priority may do so. Perfection occurs usually when a "financing statement" is filed in the appropriate public record. Generally, the first to file has the first priority, and so on.

Article 9 relies on the public record because it provides the means for creditors to determine if there is any security interest that precedes theirs—a notice function. A subsequent secured creditor cannot complain that his or her grant of credit was made in ignorance of the prior security interests easily found in the public record, and cannot complain of the priority of the prior interests as a result. Every secured creditor has a priority over any unsecured creditor.

The somewhat simple description in the prior paragraphs should not mislead anyone. Article 9 is not simple. There are substantial exceptions to the above-stated perfection rule, for example. Filing is not the only method for perfection. Much depends upon the kind of property that is collateral. Possession of collateral by the secured party is an alternative method of perfection for many kinds of collateral. For some kinds of property, control (a defined term) either perfects the interest or provides a better priority than filing does. There are kinds of transactions for which attachment is perfection. Priority is, also, not always a matter of perfecting a security interest first in time.

The following numbered topics highlight Article 9 as revised in 1998. They are not a treatise on Revised Article 9, but are a schematic summary of its relevant changes.

1. **The Scope Issue.** The 1998 revision expands the "scope" of Article 9. What this means literally is that the kinds of property in which a security interest can be taken by a creditor under Article 9 increases over those available in Article 9 before revision. Also, certain kinds of transactions that did not come under Article 9 before, now come under Article 9. These are some of the kinds of collateral that are included in Revised Article 9 that are not in original Article 9: sales of payment intangibles and promissory notes; security interests created by governmental debtors; health insurance receivables; consignments; and commercial tort claims. Nonpossessory, statutory agricultural liens come under Article 9 for determination of perfection and priority, generally the same as security interests come under it for those purposes.

2. **Perfection.** Filing a financing statement remains the dominant way to perfect a security interest in most kinds of property. It is clearer in Revised Article 9 that filing a financing statement will perfect a security interest, even if there is another method of perfection. "Control" is the method of perfection for letter of credit rights and deposit accounts, as well as for investment property. Control was available only to perfect security interests in investment property under old Article 9. A creditor has control when the debtor cannot transfer the property without the creditor's consent. Possession, as an alternative method to filing a financing statement to perfect a security interest, is the only method for perfecting a security interest in money that is not proceeds of sale from property subject to a security interest. Automatic perfection for a purchase money security interest is increased from ten days in old Article 9 to twenty days in Revised Article 9. Attachment of a purchase money security interest is perfection, at least for the twenty-day period. Then another method of perfection is necessary to continue the perfected security interest. However, a purchase money security interest in consumer goods remains perfected automatically for the duration of the security interest.

3. **Choice of Law.** In interstate secured transactions, it is necessary to determine which state's laws apply to perfection, the effect of perfection and the priority of security interests. It is particularly important to know where to file a financing statement. The 1998 revisions to Article 9 make two fundamental changes from old Article 9. In old Article 9, the basic rule chooses the law of the state in which the collateral is found as the law that governs perfection, effect of perfection,

and a creditor's priority. In Revised Article 9, the new rule chooses the state that is the location of the debtor. Further, if the debtor is an entity created by registration in a state, the location of the debtor is the location in which the entity is created by registration. If an entity is a corporation, for example, the location of the debtor is the state in which the corporate charter is filed or registered. In old Article 9, the entity that is a debtor is located in the state in which it has its chief executive office. These changes in basic choice of law rules will change the place in which a financing statement is filed in a great many instances from the place it would have been filed under old Article 9. At the same time, the location of the debtor establishes a more certain place to perfect than the old rule does. Collateral shifts location much easier than the debtors do.

4. **The Filing System.** Improvements in the filing system in the 1998 revisions to Article 9 include a full commitment to centralized filing—one place in every state in which financing statements are filed, and a filing system that escorts filing from the world of filed documents to the world of electronic communications and records. Under Revised Article 9, the only local filing of financing statements occurs in the real estate records for fixtures. Fixtures are items of personal property that become physically part of the real estate, and are treated as part of the real estate until severed from it. It is anticipated that electronic filing of financing statements will replace the filing of paper. Paper filing of financing statements is already disappearing in many states in 1998, as Revised Article 9 becomes available to them. Revised Article 9 definitions and provisions allow this transition from paper to electronic filing without further revision of the law. Revised Article 9 makes filing office operations more ministerial than old Article 9 did. The office that files financing statements has no responsibility for the accuracy of information on the statements and is fully absolved from any liability for the contents of any statements received and filed. Financing statements may, therefore, be considerably simplified. There is no signature requirement, for example, for a financing statement.

5. **Consumer Transactions.** Revised Article 9 makes a clearer distinction between transactions in which the debtor is a consumer than prior Article 9 did. Enforcement of a security interest that is included in a consumer transaction is handled differently in certain respects in the 1998 revisions to Article 9 than it was pre-1998. Examples of consumer provisions are: a consumer cannot waive redemption rights in a financing agreement; a consumer buyer of goods who pre-pays in whole or in part, has an enforceable interest in the purchased goods and may obtain the goods as a remedy; a consumer is entitled to disclosure of the amount of any deficiency assessed against him

or her, and the method for calculating the deficiency; and, a secured creditor may not accept collateral as partial satisfaction of a consumer obligation, so that choosing strict foreclosure as a remedy means that no deficiency may be assessed against the debtor. Although it governs more than consumer transactions, the good faith standard becomes the objective standard of commercial reasonableness in the 1998 revisions to Article 9.

6. **Default and Enforcement.** Article 9 provisions on default and enforcement deal generally with the procedures for obtaining property in which a creditor has a security interest and selling it to satisfy the debt, when the debtor is in default. Normally, the creditor has the right to repossess the property. Revised Article 9 includes new rules dealing with "secondary" obligors (guarantors), new special rules for some of the new kinds of property subject to security interests, new rules for the interests of subordinate creditors with security interests in the same property, and new rules for aspects of enforcement when the debtor is a consumer debtor. These are some of the specific new rules: a secured party (creditor with security interest) is obliged to notify a secondary obligor when there is a default, and a secondary obligor generally cannot waive rights by becoming a secondary obligor; a secured party who repossesses goods and sells them is subject to the usual warranties that are part of any sale; junior secured creditors (subsequent in priority) and lienholders who have filed financing statements, must be notified when a secured party repossesses collateral; and, if a secured party sells collateral at a low price to an insider buyer, the price that the goods should have obtained in a commercially reasonable sale, rather than the actual price, is the price that will be used in calculating the deficiency.

Founded in 1892, the National Conference of Commissioners on Uniform State Laws is a confederation of state commissioners on uniform laws. Its membership comprises more than 300 attorneys, judges, and law professors, who are appointed by each of the 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands, to draft uniform and model state laws and work toward their enactment.

Negative Ramifications if Revised UCC Article 9 is not Enacted in North Carolina

The incompatibility of North Carolina's present Article 9 of the Uniform Commercial Code ("present Article 9") and Revised Article 9 of the Uniform Commercial Code ("Revised Article 9"), which most other states are adopting, leaves creditors with unanswerable questions about where to file and about which state's law will govern a transaction's outcome. To be protected, a creditor whose business might invoke North Carolina law may well have to file in many states AND counties, and often in different places for each of many debtors and items of collateral. The cost and confusion are huge. It is conceivable that the cost may range into thousands of dollars for one transaction.

There are other differences between present Article 9 and Revised Article 9. For example, in multi-state transactions, the following issues could arise:

- Some terms that were defined in present Article 9 have been re-defined in Revised Article 9 (e.g., "accounts"), which could create ambiguity regarding what collateral is covered.

- Revised Article 9 is much more expansive in coverage. The parties would be able to secure and perfect a security interest in a greater variety of assets in states that had enacted Revised Article 9, as opposed to those that had not enacted Revised Article 9. Therefore, the same security agreement could be applied and interpreted differently in different states.

- How collateral can be described in financing statements has been changed in Revised Article 9 (e.g., supergeneric descriptions of property are allowed). This again could result in inconsistent results from state to state.

Present Article 9 leaves uncertain and risky the position of those engaging in asset securitization--a major trend in modern financing. Revised Article 9 makes a real difference for securitization.

Revised Article 9 expressly provides for the use of electronic media. Present Article 9 leaves this huge issue unresolved and open to litigation.

When the debtor and the collateral are in a state that has enacted Revised Article 9, possible bankruptcy jurisdiction in a state that has not enacted Revised Article 9 makes even perfection of those security interests uncertain. A bankruptcy court in a state that has not enacted Revised Article 9 may have the ability to void the perfection that is valid in the state in which the interest is perfected under Revised Article 9. This uncertainty will also increase the cost of secured loans for all involved.

The bottom line is that North Carolina's commercial credibility and the welfare not only of its creditor population, but also of its debtors who ultimately pay, are greatly enhanced by enactment of Revised Article 9.

[redacted]

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME

OR

1b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

1c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

1d. TAX ID #: SSN OR EIN | ADD'L INFO RE ORGANIZATION DEBTOR | 1e. TYPE OF ORGANIZATION | 1f. JURISDICTION OF ORGANIZATION | 1g. ORGANIZATIONAL ID #, if any ☐ NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR

2b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

2c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

2d. TAX ID #: SSN OR EIN | ADD'L INFO RE ORGANIZATION DEBTOR | 2e. TYPE OF ORGANIZATION | 2f. JURISDICTION OF ORGANIZATION | 2g. ORGANIZATIONAL ID #, if any ☐ NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME

OR

3b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

3c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

4. This FINANCING STATEMENT covers the following collateral:

5. ALTERNATIVE DESIGNATION [if applicable]: ☐ LESSEE/LESSOR ☐ CONSIGNEE/CONSIGNOR ☐ BAILEE/BAILOR ☐ SELLER/BUYER ☐ AG. LIEN ☐ NON-UCC FILING

6. ☐ This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum [if applicable] | 7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) [ADDITIONAL FEE] [optional] ☐ All Debtors ☐ Debtor 1 ☐ Debtor 2

8. OPTIONAL FILER REFERENCE DATA

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a. ORGANIZATION'S NAME

OR

9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME,SUFFIX

10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one name (11a or 11b) - do not abbreviate or combine names

11a. ORGANIZATION'S NAME

OR

11b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

11c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

11d. TAX ID #: SSN OR EIN	ADD'L INFO RE ORGANIZATION DEBTOR	11e. TYPE OF ORGANIZATION	11f. JURISDICTION OF ORGANIZATION	11g. ORGANIZATIONAL ID #, if any
				☐ NONE

12. ☐ ADDITIONAL SECURED PARTY'S or ☐ ASSIGNOR S/P'S NAME - insert only one name (12a or 12b)

12a. ORGANIZATION'S NAME

OR

12b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

12c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

13. This FINANCING STATEMENT covers ☐ timber to be cut or ☐ as-extracted collateral, or is filed as a ☐ fixture filing.

14. Description of real estate:

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest):

16. Additional collateral description:

17. Check only if applicable and check only one box.

Debtor is a ☐ Trust or ☐ Trustee acting with respect to property held in trust or ☐ Decedent's Estate

18. Check only if applicable and check only one box.

☐ Debtor is a TRANSMITTING UTILITY

☐ Filed in connection with a Manufactured-Home Transaction — effective 30 years

☐ Filed in connection with a Public-Finance Transaction — effective 30 years

[redacted]

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional)

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #

1b. ☐ This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS.

2. ☐ TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3. ☐ CONTINUATION: Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4. ☐ ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.

5. AMENDMENT (PARTY INFORMATION): This Amendment affects ☐ Debtor or ☐ Secured Party of record. Check only one of these two boxes.

Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

☐ CHANGE name and/or address: Give current record name in item 6a or 6b; also give new name (if name change) in item 7a or 7b and/or new address (if address change) in item 7c. ☐ DELETE name: Give record name to be deleted in item 6a or 6b. ☐ ADD name: Complete item 7a or 7b, and also item 7c; also complete items 7d-7g (if applicable).

6. CURRENT RECORD INFORMATION:

6a. ORGANIZATION'S NAME

OR

6b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

7d. TAX ID #: SSN OR EIN	ADDL INFO RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION	7g. ORGANIZATIONAL ID #, if any
				☐ NONE

8. AMENDMENT (COLLATERAL CHANGE): check only one box.

Describe collateral ☐ deleted or ☐ added, or give entire ☐ restated collateral description, or describe collateral ☐ assigned.

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here ☐ and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME

OR

9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

10. OPTIONAL FILER REFERENCE DATA

UCC FINANCING STATEMENT AMENDMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

11. INITIAL FINANCING STATEMENT FILE # (same as item 1a on Amendment form)

12. NAME OF PARTY AUTHORIZING THIS AMENDMENT (same as item 9 on Amendment form)

12a. ORGANIZATION'S NAME

OR

12b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME,SUFFIX

13. Use this space for additional information

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 1305 (Second Edition)

SHORT TITLE: Revise Article 9 of the UCC

SPONSOR(S): Senator Hartsell

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
REVENUES					
General Fund					
Secretary of State	$3,926,055	$8,804,529	$8,804,529	$8,804,529	$8,804,529
County revenues	($240,155)	($1,915,067)	($1,915,067)	($1,915,067)	($1,915,067)
EXPENDITURES					
General Fund					
Secretary of State	$868,664 R $1,891,004 NR	$1,804,557	$1,804,557	$1,804,557	$1,804,557
Total G.F.	$2,759,668	$1,804,557	$1,804,557	$1,804,557	$1,804,557
POSITIONS:	41	41	41	41	41

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of the Secretary of State; County Registers of Deeds

EFFECTIVE DATE: Part IV (fee increase) is effective September 1, 2000 and applies to fees paid on or after that date. Parts I, II, and III become effective July 1, 2001. The remainder of the bill is effective when it becomes law.

BILL SUMMARY: This bill rewrites Article 9 of the Uniform Commercial Code to conform state law to revisions adopted by the National Conference of Commissioners on Uniform State Laws. One major change is a requirement that all financing statements be filed with the Secretary of State except for fixture filings, which will continue to be filed with county Registers of Deeds. The bill also increases filing fees from $15 to $30.

ASSUMPTIONS AND METHODOLOGY:

EXPENDITURES:

This bill will transfer all of the Uniform Commercial Code (UCC) filings except fixture and timber/mineral filings from the county Registers of Deeds to the Secretary of State. The North Carolina Association of Register of Deeds (NCARD) reported 209,635 UCC filings in county offices in FY 1998-99. The Secretary of State sampled 10,000 filings in eight counties and determined that they receive approximately 24% of the filings made in the counties. Also, NCARD estimates that 31,405 (or 15%) of the county filings are the fixture and timber/mineral filings which will continue to be filed in the counties. Accordingly, the Secretary of State expects they will receive an additional 61% (100% - 24% duplicates – 15% retained in the county) or 127,713 of the filings that under current law are filed in the counties. In addition, SB 1305 also requires the Secretary of State to file liens on manufactured housing. The Secretary of State estimates based on discussions with the Department of Motor Vehicles they would receive approximately 50,000 manufactured housing filings. The 127,713 filings transferred from the counties and the new manufactured housing filings total 177,713. The UCC Section within Secretary of State's Certification and Filing Division currently processes 140,000 filings per year. The 177,713 projected increase is a 127% increase over the existing workload.

Currently, there are 29 employees in the UCC section. Twenty-five of the employees process the 140,000 annual filings. This equates to 5,600 filings per employee. The remaining 4 employees provide management and support services. To handle the increased workload in a timely manner, the Secretary of State estimates it will need 45 additional positions in the UCC section beginning January 1, 2001 for a total UCC staff of 74. Of the 74 employees, 11 will provide management and program support and 63 will process the estimated 317,713 annual filings. This equates to 5,043 filings per employee, a 10% decrease from the current ratio. Because the Secretary of State plans to implement double-key verification as recommended by the model rules, the turnaround time for processing each filing will increase. Therefore, the filing per employee ratio for their requested level of staffing is lower than the existing ratio.

The requested staffing of the UCC section would be as follows:

Positions	Current	Additional	Total
Director	0	1	1
Assistant Director	0	1	1
Executive Assistant	0	1	1
Applications Analyst Programmer	0	1	1
Administrative Assistant	2	3	5
Staff Development Specialist	0	1	1
Administrative Officer	2	3	5
Information Processing Technician		8	8
Processing Assistant V	25	25	50
Mail Clerk	0	1	1
Total	29	45	74

To house and equip UCC staff, the Secretary of State requests the following one-time expenditures:

Computers	$398,504
Office Equipment	$61,264
Contractual Services (programming, etc.)	$351,490
Rent/Lease Building	$231,500
Office Furniture	$955,772
Total	**$1,998,530**

The first year and annualized recurring cost for the 45 positions is as follows:

	2000-2001	**2001-2002**
Salaries	$621,166	$1,242,332
Benefits	$153,377	$306,752
Office equipment	$30,600	$30,600
Telephone service	$19,500	$39,000
Office supplies	$10,325	$20,650
Rent/Lease	$112,500	$225,000
Contractual services	$40,000	$40,000
Maintenance agreement	$40,000	$40,000
Travel	$15,500	$10,000
Total	**$1,042,968**	
Total	**$3,041,498**	**$1,954,334**

Some of the major components of the nonrecurring costs include

- Computer cost for 51 computer systems for the 45 new positions and six for public use ($187,629); 15 laser printers ($3,375), 2 high volume scanners ($20,000), and 25 desktop scanners ($37,500);

- Office equipment cost for 2 copiers ($31,500), a fax machine ($2,500), 5 reader printers ($30,600), 74 telephones ($22,000);

- Office furniture cost for upfitting 12 offices ($194,699), 67 cubicles ($550,364), a training room ($44,335), a smaller conference room ($8,115), a public reception/work area and a break area ($70,389), and vendor charges for design, delivery installation, and taxes ($87,867): and

- Contractual services for electronic data interchange programming, implementation, and software.

The Secretary of State has been advised that there is no additional space in state owned buildings. Thus the estimate as summarized above includes the lease, contractual service, equipment, and furniture cost of leasing space effective January 1, 2001, moving the existing employees to the new facility and outfitting the location. Also, the estimate includes the cost of implementing an electronic data interchange system that would allow for the electronic vs. paper

submission of financing statements and the cost to convert microfilm to optical images that can be accessed via the Internet.

The Fiscal Research Division believes the driving cost factor in this bill is the number of additional filings at the state level. We further believe that the method by which the Secretary of State projected the increased number of filings is reasonable. However, there are unknown factors that may impact the actual increase in workload. For example, SB 1305 will eliminate the need to file in this state if the debtor is not a resident of the state, thereby decreasing the number of filings. It will also transfer to the state filings of resident debtors who have property located outside of the state, thereby increasing the number of filings. We have no data to indicate the impact this will have on the number of filings. Also, the Secretary of State's sample data indicates that 24% of the current county filings are duplicated at the state level. However, the sample data revealed that duplicate filings in the 8 counties sampled range from 11% to as high as 55%. Thus, it is possible that the number of duplicate filings may be somewhat higher than the estimated 24% upon which the increased filing projection is based. If this were so, the additional workload would be less than expected. Notwithstanding these unknown factors, we believe the projected increase in filings is reasonable based on the best available data and that only actual experience with the bill will reveal the true extent of its impact on the workload.

Because the projections indicate a substantial increase (approximately 127%) in the Secretary of State's workload, Fiscal Research believes that it is imperative that the office is reasonably prepared to handle the increase. It is necessary to hire and train staff before the bill is implemented. We believe that 41 additional positions will provide adequate staffing to handle the anticipated increased workload. Considering the July 1, 2001 effective date of the bill and the pre-filings, which are expected to start in January 2001, we believe that funding should be provided to allow the Secretary of State to establish the positions in phases. The 41 positions along with the recommended effective hiring dates are noted in the table below.

Positions	FRD's Additional Staffing Recommendation	Effective Date	Total Including Existing Staff
Director	1	Oct 1, 2000	1
Assistant Director	0		0
Executive Assistant	1	Oct 1, 2000	1
Applications Analyst Programmer	1	Oct 1, 2000	1
Administrative Assistant	2	Jan 1/Apr 1	4
Staff Development Specialist	1	Oct 1, 2000	1
Administrative Officer	2	Jan 1/Apr 1	4
Information Processing Technician	8	Jan 1/Apr 1	8
Processing Assistant V	24	Jan 1/Apr 1	49
Mail Clerk	1	Jan 1, 2001	1
Total	**41**		**70**

We believe the management and support positions for the director, the executive assistant, the applications analyst programmer and the staff development specialist should be effective October 1, 2000. This will allow the critical management and support positions to participate in the development of the department's plan for implementing the bill, training, hiring, making

necessary programming changes and developing/testing/implementing the electronic data interchange system prior to the start of the increased workflow. We also recommend establishing 1 administrative assistant position, 1 administrative officer position, 4 information processing technicians, 12 processing assistant IVs, and the mail clerk position with an effective date of January 1, 2001 to handle the increased workload from the pre-filings. The remaining administrative assistant position, administrative officer position, 4 information processing technicians, and 12 processing assistant IVs should be established with an effective date no earlier than April 1, 2001. We believe this phase-in will enable to the Department to handle pre-filings and it will also allow time for the staff to receive adequate training before the bill becomes effective.

The total number of recommended positions is 4 less than the Department's estimate. We are not recommending funding for the assistant director position at this time. Further, we are recommending funding for two administrative assistants instead of three, two administrative officers instead of three, and 24 processing assistants instead of 25. This level of additional staff along with the existing staff would provide 61 employees to process filings, 4 management staff and 5 support positions. This equates to a 1 to 15 management to staff ratio and a 1 to 15 support to staff ratio. These ratios are just slightly higher than the existing ratio. Also, the filing/employee ratio would be approximately 5,208 per employee. This ratio is slightly higher than the 5,043 filings per employee ratio with the staff level as requested by the Secretary of State. However, the ratio is lower than the existing ratio and we believe it will facilitate a timely turnaround time with double-key verification.

We have adjusted the Secretary of State's estimate to reflect the number of positions noted and the effective dates. The total of the personnel cost would be $600,239 recurring the first year and $1,399,307 in subsequent years. We estimate the nonrecurring operating cost to be $1,891,004 and the recurring cost to be $268,425 the first year and $405,250 in subsequent years. These costs are summarized in the table below.

	FY 2000-2001	FY 2001-2002
Salaries	$482,224	$1,121,534
Benefits	$118,015	$277,773
Total Personnel	**$600,239**	**$1,399,307**
Operating Cost		
Recurring	$268,425	$405,250
Nonrecurring	$1,891,004	
Total Operating	**$2,159,429**	**$405,250**
Total Cost	**$2,759,668**	**$1,804,557**

As noted above, we believe the driving cost factor in this bill is the number of additional filings which will be made at the state level. Though, we believe the projected number of additional filings is reasonable, we believe also that only actual experience with the bill will reveal the true extent of the increased workload. Experience will also reveal the actual level of staff needed to process the filings in a timely manner and to provide an adequate level of management and support. Because actual staffing needs based on experience may vary from the projected staffing needs, we recommend that the Secretary of State consider establishing a number of temporary or

time limited positions until experience with the bill reveals what the true filing activity will be. This will eliminate having an excess number of permanent positions should experience reveal a lower staffing need. We further recommend that the Secretary of State report on its experience with the bill to the Joint Legislative Commission on Governmental Operations on a quarterly basis beginning no later than October 1, 2000. The report should include, but is not limited to, the following: the status of filling the positions, the number of filings, the turnaround time for processing the filings, the filings per employee ratio, any needed adjustments to the staffing level, and the projected revenue from the filing fees.

REVENUE:

I. Counties

As stated above, there were 209,365 UCC filings in county offices in FY 1998-99. SB 1305 will transfer all filings except fixtures and timber/minerals filings from the counties to the Secretary of State. Ann Shaw, President of the North Carolina Association of Registers of Deeds, estimates that counties will retain only 15% of the current UCC filings. The 209,365 UCC filings in FY 1998-99 generated $2,857,217 (9% of the filings were terminations that were charged no fee). After the transfer to the state, it is estimated that only 31,405 filings will remain in the counties for revenues of $471,075. This is a loss of $2,386,142 to county general funds. Part of the loss is offset by an increase in the fee from $15 to $30. The counties will recoup $471, 075 from the fee increase. The net impact to counties is $1.9 million per year. Additional fees could be received from multiple page filings, but there is no data on the number of such filings in the counties.

One complication is that the bill allows pre-filing of documents prior to July 1, 2001. State and county officials cannot estimate the impact of this provision. This memo assumes half of those that usually file in the county will chose to file with the state in FY 2000-01. Counties will receive the new fee for half the non-fixture filings (88,980) for additional revenue of $1,334,700 in FY 2000-01. Adjusting this for the September effective date (10 months) gives a revenue projection of $2,617,062. The net revenue loss for FY 2000-01 is $240,155.

II. Secretary of State

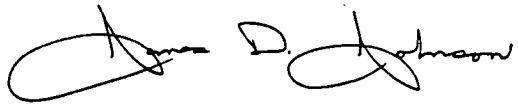
The Secretary of State currently has 140,000 UCC filings. Of this total, 80% are charged $15 and 20% are charged no fee. The approximate revenues are $1,680,000. Under SB 1305, the Secretary of State will receive 317,713 filings annually. At a minimum of $30 per filing, this workload will generate $9,531,390 in revenue. It is estimated that 20% of these filings will have additional pages that will require an additional $15 fee. This would yield an additional $953,139 in revenue. The net increase for the General Fund will be approximately $8,804,529.

As stated above, half the filings now done in the counties will be pre-filed with the Secretary of State thus new revenues in FY 2000-01 will be $1,915,695 (63,857 filings X $30). The Secretary of State will also receive a fee increase starting in September 2000. The current 140,000 filings charged a fee of $30 will produce $4.2 million. The prefilings plus the increased fee revenue minus the current revenue of $1.68 million yields net revenue of $4.44 million in FY 2000-01. Adjusting the 203,857 estimated filings for only ten months of increased fees in FY 2000-01 reduces additional first year revenues to $3.9 million.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Marilyn Chism and Richard Bostic

APPROVED BY: James D. Johnson



DATE: June 28, 2000

ROLL CALL VOTE

25 YES 1 NO = _____(TOTAL)

HB# ____
SB# 1305

HOUSE STANDING COMMITTEE ON FINANCE

House Subcommittee on _____

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
___	___	MILLER, GEORGE-CHAIR	___	___	HOWARD, JULIA
✓	___	LUEBKE, PAUL-CHAIR	___	___	McALLISTER; MARY
✓	___	ALLEN, GORDON-CHAIR	✓	___	McCOMAS, DANNY
✓	___	JARRELL, MARY- V.C.	✓	___	McCOMBS, GENE
___	___	WOOD, STEVE-V.C.	___	___	MINER, DAVID
✓	___	BRIDGEMAN, JOHN	___	___	MORRIS, MIA
✓	___	BROWN, JOHN	✓	___	POPE, ART
✓	___	BUCHANAN, MONROE	___	___	RAMSEY, LISTON
✓	___	CAPPS, RUSSELL	✓	___	RAYFIELD, JOHN
✓	___	CHURCH, WALT	___	___	STARNES, EDGAR
✓	___	COX, LESLIE	___	___	TALLENT, TIM
✓	___	CREECH, BILLY	✓	___	TUCKER, RUSSELL
✓	___	DECKER, MIKE	✓	___	WEISS, JENNIFER
✓	___	DEDMON, ANDY	___	___	WILSON, CONNIE
___	✓	EDDINS, RICK	✓	___	WOMBLE, LARRY
✓	___	EDWARDS, ZENO	___	___	WRIGHT, TOM
___	___	FITCH, TOBY	___	___	
✓	___	FORD, JIMMIE	___	___	
✓	___	GIBSON, PRYOR	___	___	
✓	___	GOODWIN, WAYNE	___	___	
✓	___	GRAY, LYONS	Ex officio Members		
___	___	HACKNEY, JOE	___	___	CUNNINGHAM
___	___	HAIRE, PHILLIP	___	___	Majority Leader BADDOUR
✓	___	HILL, DEWEY	___	___	Majority Whip EARLE

MINUTES
HOUSE COMMITTEE ON FINANCE

Friday, June 30, 2000

The House Committee on Finance met on Friday, June 30, 2000 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke and Miller; Vice Chairs Jarrell and Wood; Representatives Bridgeman, Brown, Buchanan, Capps, Cox, Creech, Decker, Dedmon, Eddins, Edwards, Ford, Gibson, Goodwin, Gray, Hackney, Haire, Hill, Howard, McComas, McCombs, Morris, Pope, Rayfield, Starnes, Tucker, Weiss, and Womble; and Ex Officio member Cunningham. Staff including Cindy Avrette, Richard Bostic, Erika Churchill, Linda Millsaps, Mary Shuping; Eugene Son and Rebekah Butler, Interns; were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Allen called the meeting to order. Chair Allen recognized the pages and Sargent-at-Arms staff and commented briefly on the agenda and proceeded to consider the following bills:

Rep. Smith was recognized to explain SB 1210, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SUPPORT PUBLIC SCHOOLS SPECIAL REGISTRATION PLATES, DUCKS UNLIMITED SPECIAL REGISTRATION PLATES, OMEGA PSI PHI FRATERNITY SPECIAL REGISTRATION PLATES, TOBACCO HERITAGE SPECIAL REGISTRATION PLATES, "N.C. MARITIME MUSEUM" SPECIAL REGISTRATION PLATES, AND LITTER PREVENTION SPECIAL REGISTRATION PLATES; TO CREATE THE FUND FOR THE REDUCTION OF CLASS SIZE IN PUBLIC SCHOOLS; AND TO REMOVE THE SPECIAL REGISTRATION PLATE ACCOUNT FEE FROM THE LEGION OF VALOR SPECIAL REGISTRATION PLATES, CONGRESSIONAL MEDAL OF HONOR SPECIAL REGISTRATION PLATES, 100% DISABLED VETERAN SPECIAL REGISTRATION PLATES, EX-PRISONER OF WAR SPECIAL REGISTRATION PLATES, AND TO MODIFY THE BASIS FOR ISSUING PERMANENT PLATES TO CHURCH BUSES. Rep. Buchanan made a motion to adopt a Proposed Committee Substitute. The motion passed. Chair Allen temporarily displaced the bill.

Rep. Gibson was recognized to explain HB 1583, A BILL TO BE ENTITLED AN ACT TO PROVIDE A NEW TAX CREDIT AS AN INCENTIVE FOR INVESTING IN DRY-CLEANING EQUIPMENT THAT DOES NOT USE HAZARDOUS SUBSTANCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION. Rep. Hill made a motion to give the Proposed Committee Substitute a favorable report and give the original bill an unfavorable report. The motion passed. A copy of the bill, Proposed Committee Substitute, bill analysis, and fiscal note included in the minutes.

Rep. Smith was recognized to continue with SB 1210. Rep. Dedmon sent forth an amendment. Staff was recognized to explain the amendment. Rep. Dedmon made a motion to adopt the amendment. The motion passed. Rep. Hill made a motion to give the Proposed Committee Substitute a favorable report and give the original bill an unfavorable report. Chair Allen temporarily displaced the bill.

Rep. Insko was recognized to explain HB 1768 A BILL TO BE ENTITLED AN ACT MAKING OMINIBUS CHANGES TO CERTAIN GENERAL AND LOCAL LAWS AFFECTING ORANGE COUNTY. Rep. Buchanan made a motion to adopt a Proposed Committee Substitute. The motion passed. Rep. Hackney made a motion to give the Proposed Committee Substitute a favorable report and give the original bill an unfavorable report. A copy of the bill, Proposed Committee Substitute included in the minutes.

Rep. Smith was recognized to continue with SB 1210. Rep. Hill was recognized to withdraw his motion. Rep. Morris sent forth an amendment. Rep. Bridgeman made a motion to adopt the amendment. The motion passed. Rep. Hill made a motion to give the Proposed Committee Substitute a favorable report and give the original bill an unfavorable report. The motion passed. A copy of the bill, Proposed Committee Substitutes, amendments and bill analysis included in the minutes.

Rep. Cole was recognized to explain HB 1566, A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR A PROCEDURE FOR CREATION OF A TEMPORARY LIEN ON A MOTOR VEHICLE WHEN A MANUFACTURER'S STATEMENT OF ORIGIN OR AN EXISTING CERTIFICATE OF TITLE ON A MOTOR VEHICLE IS UNAVAILABLE AND TO MAKE OTHER CONFORMING CHANGES. Rep. Dedmon sent forth an amendment. Staff was recognized to explain the amendment. Rep. Dedmon made a motion to adopt the amendment. The motion passed. Rep. Womble asked if there was any opposition to the bill. Rep. Cole noted that he was unaware of any opposition. Rep. Womble asked if anyone from the Department of Motor Vehicles was present to comment on the bill. Captain Pickford, with the Department of Motor Vehicles, was recognized to speak on the bill. Captain Pickford stated that the Department was in support of the bill but noted that there was a concern over fully protecting the consumer. Rep. Womble responded that he too had received comments concerning consumer protection issues. Rep. Womble asked if staff could provide additional wording in the bill to clear up these concerns. Chair Allen temporarily displaced the bill.

Senator Rand was recognized to explain SB 1472, A BILL TO BE ENTITLED AN ACT TO PROVIDE REVENUE BOND FINANCING OF CERTAIN PRIVATE PROJECTS THAT PERFORM A PUBLIC PURPOSE AND TO REORGANIZE THE INDUSTRIAL FACILITIES AND POLLUTION CONTROL FINANCING AUTHORITY. Rep. Hackney sent forth an amendment. Staff was recognized to explain the amendment. Rep. Hackney made a motion to adopt the amendment. The motion passed. Rep. Goodwin made a motion to give the bill a favorable report as amended. Rep. Luebke asked how much of an expansion in the Local Government Commission does this represent. Bob High, with the Department of State Treasurer, was recognized to speak on the bill. Mr. High stated that this bill would make the current work easier and would make only minimal increases. Rep. Luebke asked if anything being consolidated in this bill would escape the review of the Local Government Commission. Mr. High stated that there wasn't to the best of his knowledge. Rep. Weiss asked if religious organizations were allowed to use this. Mr. High said in very limited situations that follow certain guidelines and standards. Rep. Decker asked if there was any limit to the amount of money issued by these bonds in one year. Mr. High stated that there wasn't to the best of his knowledge. Mr. High noted that these were self-liquidating projects; therefore, the real limitation was the ability to repay and the ability to market

the debt. There being no further questions on the bill, a vote was taken. The motion passed. A copy of the bill, amendment and bill analysis included in the minutes.

Senator Kinnaird was recognized to explain SB 1184, A BILL TO BE ENTITLED AN ACT TO ESTABLISH A VOLUNTARILY FUNDED STATEWIDE SPAY/NEUTER PROGRAM TO PROVIDE EDUCATION ON THE BENEFITS OF SPAYING AND NEUTERING PETS AND TO PROVIDE FINANCIAL ASSISTANCE TO COUNTIES AND CITIES OFFERING LOW-INCOME PERSONS REDUCED-COST SPAY/NEUTER SERVICES FOR DOGS AND CATS. Rep. Hill sent forth an amendment. Staff was recognized to explain the amendment. Rep. Hill made a motion to adopt the amendment. The motion passed. Rep. Womble made a motion to give the bill a favorable report. Rep. Decker asked what criteria would be used to determine low-income people. Senator Kinnaird stated that certain services such as free lunches, work first, food stamps, disabled and elderly. Rep. Decker mentioned that in his county, a property tax is charged on a person's dog or cat and he wondered if there was a way to check if a person had paid that tax before receiving the shot. Senator Kinnaird stated that the program would be run through the counties and it would be up to the counties. Rep. Decker asked if staff could draft an amendment. Chair Allen temporarily displaced the bill.

Rep. Cole was recognized to continue with HB 1566. Staff was recognized to explain the amendment. Rep. Womble was recognized to speak on the amendment. Rep. Womble made a motion to adopt the amendment. Rep. Brown made a motion to give the Proposed Committee Substitute a favorable report and give the original bill an unfavorable report. The motion passed. A copy of the Bill, Proposed Committee Substitute, amendments, bill analysis and fiscal note included in the minutes.

Senator Kinnaird was recognized to continue with SB 1184. Rep. Decker sent forth an amendment. Staff was recognized to explain the amendment. Rep. Hackney noted that this would increase the workload for the counties and asked if there was anyone representing the counties to speak on this bill. Ron Aycock, with the County Commissioners Association, was recognized to speak on the bill. Mr. Aycock noted that there may be some administrative burdens on the counties if this amendment passed. Senator Kinnaird asked if a process similar to the vehicle tax could be done. Mr. Aycock stated that he was not sure how difficult that would be. Rep. Goodwin asked if this would be an unfunded mandate. Mr. Aycock noted that it would be similar if not the same. Rep. McComas was recognized to speak on the bill. Rep. McComas stated that in Wrightsville Beach after a person pays their pet fee/tax, they receive a tag to put on the pet's collar.

Chair Allen noted the time and stated that the Committee would go into recess at 9:51 a.m. until after session.

The House Committee on Finance reconvened on Friday, June 30, 2000 in Room 544 of the Legislative Office Building at 1:05 p.m. The following members were present: Chairs Allen, Luebke and Miller; Vice Chairs Jarrell and Wood; Representatives Bridgeman, Brown, Buchanan, Capps, Cox, Creech, Decker, Dedmon, Eddins, Edwards, Ford, Gibson, Goodwin, Gray, Hackney, Haire, Hill, Howard, McComas, McCombs, Morris, Pope, Rayfield, Starnes, Tucker, Weiss, and Womble; and Ex Officio member Cunningham. Staff including Cindy Avrette, Richard Bostic, Erika Churchill, Linda Millsaps, Mary Shuping; Eugene Son and Rebekah Butler, Interns; were in attendance

Chair Allen called the meeting to order.

Rep. Hill was recognized to continue with SB 1184. Rep. Hill was recognized to speak on the amendment. Rep. Hill stated that he was opposed to the amendment. Rep. Rayfield asked if this amendment would require a tax increase. Rep. Hill stated that if the amendment were defeated there would be no tax required. There being no further questions on the amendment a vote was taken. The amendment was defeated. Rep. Hill made a motion to give the bill a favorable report. Rep. Tucker was recognized to speak on the bill. Rep. Tucker noted that he could not support the bill due to the possibility of a tax increase. Rep. Weiss noted that taxpayers are already paying for the care and capture of stray animals and this bill give the county commissioners a voluntary spay/neuter option. Rep. Capps was recognized to speak on the bill. Rep. Capps stated that he did not trust the county commissioners to do the right thing. Chair Allen temporarily displaced the bill.

Senator Kinnaird was recognized to explain SB 1448, A BILL TO BE ENTITLED AN ACT TO REMOVE FROM THE CORPORATE LIMITS OF THE TOWN OF HILLSBOROUGH AN AREA PREVIOUSLY ANNEXED BY THE TOWN UNDER THE VOLUNTARY ANNEXATION PROVISIONS OF PART 4 (ANNEXATION OF NONCONTIGUOUS AREAS) OF ARTICLE 4A OF CHAPTER 160A OF THE GENERAL STATUTES. Rep. Brown made a motion to give the bill a favorable report. The motion passed. A copy of the bill included in the minutes.

Rep. McMahan was recognized to explain SB 1354, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE MECKLENBURG COUNTY TO MATCH FEDERAL INDEPENDENT LIVING FUNDS IN THE EVENT THE STATE DOES NOT PROVIDE MATCHING FUNDS. Rep. Capps made a motion to give the bill a favorable report. The motion passed. A copy of the bill included in the minutes.

Rep. Owens was recognized to explain SB 1460, A BILL TO BE ENTITLED AN ACT TO PROVIDE INCENTIVES FOR DEVELOPMENT OF THE FILM INDUSTRY IN NORTH CAROLINA. Rep. Luebke made a motion to adopt a Proposed Committee Substitute. The motion passed. Rep. Morris made a motion to give the Proposed Committee Substitute a favorable report and give the original bill an unfavorable report. Rep. Pope was recognized to speak on the bill. Rep. Pope stated that motion pictures are for-profit businesses and he doesn't believe that grants should be made available for these endeavors. Rep. Luebke sent forth an amendment. Rep. Luebke made a motion to adopt the amendment. The motion passed. Rep. Morris made a motion to give the Proposed Committee Substitute a favorable report and give the original bill an

unfavorable report. The motion passed. A copy of the bill, Proposed Committee Substitute and bill analysis included in the minutes.

Rep. Luebke was recognized to explain HB 1559, A BILL TO BE ENTITLED AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DEFINING AND DETERMINING CERTAIN STATE TAX PROVISIONS, TO CONFORM TO FEDERAL LAW REGARDING PENSION TAX WITHHOLDING AND DEADLINES FOR PAYMENTS OF CERTAIN ESTIMATED INCOME TAXES, TO CLARIFY THE SALES FACTOR FOR DETERMINATION OF STATE CORPORATE INCOME AND FRANCHISE TAX, AND TO ENABLE THE COLLECTION OF TAX DEBT OWED TO NORTH CAROLINA THROUGH THE FEDERAL TREASURY OFFSET PROGRAM. Rep. Cunningham made a motion to concur. The motion passed. A copy of the bill, bill analysis and fiscal note included in the minutes.

Rep. Miller was recognized to explain HB 1806, A BILL TO BE ENTITLED AN ACT TO EXEMPT SALES TO MANUFACTURERS OF ELECTRICITY USED IN ARC FURNACES, INDUCTION FURNACES, AND ALUMINUM MANUFACTURING PROCESSES FROM THE SALES AND USE TAX. Chair Allen noted that this bill would be heard for discussion only. Sharon Miller, with the Carolina Utility Customer's Association, was recognized to speak on the bill. Ms. Miller stated that her organization supports this bill and feels that without this legislation members of her organization would be facing a tax increase. Rep. Capps asked if this bill would restore the exemptions to the previous form. Ms. Miller stated that would be unconstitutional and that this legislation would include the arc furnaces and the induction furnaces. Rep. Hackney asked who would actually pay the tax. Richard Bostic, Fiscal Analyst, was recognized to respond. Mr. Bostic stated that the manufacturer would pay the tax to the utilities and the utility would pass it along to Department of Revenue. Charles Francis, with Wood and Francis representing Alcoa, was recognized to speak on the bill. Mr. Francis stated that the electricity used is not the electricity to run the plant it is used in order to make a product. Mr. Francis noted that it is similar to thread being used to make ties. Chair Allen ended the discussion on this bill. A copy of the bill, bill analysis and fiscal note included in the minutes.

Senator Kinnaird was recognized to continue with SB 1184. Rep. Capps sent forth an amendment. Rep. Capps made a motion to adopt the amendment. The motion passed. Rep. Rayfield sent forth an amendment. Rep. Rayfield made a motion to adopt the amendment. Rep. Rayfield was recognized to speak on the amendment. There being no further questions on the amendment a vote was taken. The motion was defeated. Rep. Womble made a motion to give the Proposed Committee Substitute a favorable report and give the original bill an unfavorable report. The motion passed. A copy of the bill, Proposed Committee Substitute, amendments, bill analysis and fiscal note included in the minutes.

There being no further business, the Chair adjourned the meeting at 2:18 p.m.

Respectfully submitted:

Representative Gordon Allen
Chair

Ken Melton
Assistant to the Committee

MINUTES
HOUSE COMMITTEE ON FINANCE

Friday, June 30, 2000

The House Committee on Finance met on Friday, June 30, 2000 in the Chamber of the House of Representatives at 8:30 p.m.

Chair Luebke called the meeting to order. With a quorum being present, Chair Luebke commented briefly and proceeded to consider the following bills:

Rep. Miller was recognized to explain HB 1854, A BILL TO BE ENTITLED AN ACT TO SET THE PUBLIC UTILITY REGULATORY FEES AND THE INSURANCE REGULATORY CHARGE, TO INCREASE COURT COSTS, TO INCREASE JAIL FEES FOR PERSONS PAYING JAIL FEES PURSUANT TO PROBATIONARY SENTENCES, TO INCREASE THE FEE IMPOSED FOR EMERGENCY PLANNING, TO AUTHORIZE CERTAIN CHANGES IN PERMITS FOR OVERSIZE LOADS AND ESTABLISH PENALTIES FOR PERMIT VIOLATIONS, TO AUTHORIZE AGENCIES TO PROVIDE ACCESS TO SERVICES THROUGH ELECTRONIC AND DIGITAL TRANSACTIONS AND TO IMPOSE A FEE FOR THOSE TRANSACTIONS, AND TO REPEAL THE SUNSET OF THE WHITE GOODS TAX AND DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY ISSUES RELATED TO THE SCRAP TIRE DISPOSAL TAX AND THE WHITE GOODS DISPOSALS TAX. Rep. Miller made a motion not to concur and to request conferees. The motion passed. A copy of the bill and bill analysis included in the minutes.

Rep. Allen was recognized to explain SB 1300, A BILL TO BE ENTITLED AN ACT TO INCORPORATE THE TOWN OF MIDLAND, SUBJECT TO A REFERENDUM. Rep. Sossman, in whose district Midland is located, spoke in support of SB 1300. Rep. Allen made a motion to give the bill a favorable report. The motion passed. A copy of the bill included in the minutes.

There being no further business, the Chair adjourned the meeting at 8:35 p.m.

Respectfully submitted:

Representative Paul Luebke
Chair

Ken Melton
Assistant to the Committee

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Friday, June 30, 2000 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

HB 1566 -- TEMP. MV LIEN FILING – REP. COLE
HB 1583 – NONHAZARDOUS DRY-CLEANING TECH. – REP. GIBSON
HB 1768 – ORANGE/CHATHAM OMNIBUS ACT – REP. INSKO
SB 1184 – SPAY/NEUTER PROGRAM – SENATOR KINNAIRD
SB 1210 – SPECIAL REGISTRATION PLATES – SENATOR ODOM
SB 1354 – INDEP. LIVING FUNDS/COUNTY MATCH. – SENATOR ODOM
SB 1472 – CONDUIT AGENCY FINANCING – SENATOR RAND

FOR DISCUSSION ONLY:

HB 1806 – SOME ELECTRICITY EXEMPT – REP. MILLER

ADJOURNMENT OF MEETING

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES		6-30														
Allen, Gordon	Chair	X														
Luebke, Paul	Chair	X														
Miller, George	Chair	X														
Jarrell, Mary	Vice-Chair	X														
Wood, Steve	Vice-Chair	X														
Bridgeman, John		X														
Brown, John		X														
Buchanan, Monroe		X														
Capps, Russell		X														
Church, Walter																
Cox, Leslie		X														
Creech, Billy		X														
Decker, Michael		X														
Dedmon, Andy		X														
Eddins, Rick		X														
Edwards, Zeno		X														
Fitch, Toby																
Ford, Jimmie		X														
Gibson, Pryor		X														
Goodwin, Wayne		X														
Gray, Lyons		X														
Hackney, Joe		X														
Haire, Phillip		X														
Hill, Dewey		X														
Howard, Julia		X														
McComas, Daniel		X														

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES	6-30														
McCombs, Eugene	X														
Miner, David															
Morris, Mia	X														
Pope, Art	X														
Ramsey, Liston															
Rayfield, John	X														
Starnes, Edgar	X														
Tallent, Tim															
Tucker, Russell	X														
Weiss, Jennifer	X														
Wilson, Connie															
Womble, Larry	X														
Wright, Thomas															
Ex Officio Members:															
Hackney, Pro Tem	X														
Baddour, Majority															
Dedmon, Whip	X														
Earle, Whip															
Cunningham	X														

VISITOR REGISTRATION SHEET

FINANCE
Name of Committee

6/30/00
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Hasije Harris	NCDOR
ROGER SHEATS	RURAL CENTER
Geoffrey Gledhill	Orange County Atty
Sam Covey	BBSHL
[illegible]	Progress Energy
Eileen Deegan	" "
Carl Bayford	DMV Enforcement
Phil Lehman	NC ABC
Brian Francis	Mecklenburg County
Doris Weaver	NC CWA Political Council
SAM JOHNSON	acty
Robert Glaser	NCADA
Alan Miles	Baker & Dawson
Shaun Miller	CUCA
Mike Carpenter	NCHOA
Penny Wiens	"
John Bode	Bode Call & Stroupe
Bob Hall	Dept of State Treas
Chris Fetter	Bone & Associates

VISITOR REGISTRATION SHEET

FINANCE
Name of Committee

6/30/00
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ken Kaylor	Kaylor Law Firm
Carol Mahmud	CP&L
Frank Gray	N.C. Man. Housing Assn.
STEVE VARNEDOE	NCDOT
Jerry Jones	Attorney - Raleigh
Lilly Fussell	DHHS
Glenn Wells	DHHS
Alan Mikas	Bailey & Dixon LLP
Charles Thomas	Attorney at Law
Sharon Miller	CUCA

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

☒ Committee Substitute for
H.B. 1559 A BILL TO BE ENTITLED AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DEFINING AND DETERMINING CERTAIN STATE TAX PROVISIONS, TO CONFORM TO FEDERAL LAW REGARDING PENSION TAX WITHHOLDING AND DEADLINES FOR PAYMENTS OF CERTAIN ESTIMATED INCOME TAXES, TO CLARIFY THE SALES FACTOR FOR DETERMINATION OF STATE CORPORATE INCOME AND FRANCHISE TAX, AND TO ENABLE THE COLLECTION OF TAX DEBT OWED TO NORTH CAROLINA THROUGH THE FEDERAL TREASURY OFFSET PROGRAM.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☒ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 3

HOUSE BILL 1559
Senate Finance Committee Substitute Adopted 6/22/00
Third Edition Engrossed 6/28/00

Short Title: Conform with Federal Law. (Public)

Sponsors:

Referred to:

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DEFINING AND DETERMINING CERTAIN STATE TAX PROVISIONS, TO CONFORM TO FEDERAL LAW REGARDING PENSION TAX WITHHOLDING AND DEADLINES FOR PAYMENTS OF CERTAIN ESTIMATED INCOME TAXES, TO CLARIFY THE SALES FACTOR FOR DETERMINATION OF STATE CORPORATE INCOME AND FRANCHISE TAX, AND TO ENABLE THE COLLECTION OF TAX DEBT OWED TO NORTH CAROLINA THROUGH THE FEDERAL TREASURY OFFSET PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-228.90(b)(1a) reads as rewritten:

"(b) Definitions. -- The following definitions apply in this Article:

. . .

(1a) Code. -- The Internal Revenue Code as enacted as of ~~June 1, 1999~~, January 1, 2000, including any provisions enacted as of that date which become effective either before or after that date."

Section 2. G.S. 105-163.1(11b) reads as rewritten:

"(11b) **(Effective January 1, 2001)** Pension payment. -- A periodic payment or a nonperiodic distribution ~~that is not an eligible~~

~~rollover distribution,~~ as those terms are defined in section 3405 of the Code."

Section 3. G.S. 105-163.2A(d) reads as rewritten:

"(d) Election of No Withholding. -- The recipient may elect not to have taxes withheld under this ~~section.~~ section to the extent permitted by section 3405 of the Code. The election must be in the form required by the Secretary. In the case of periodic payments, the election remains in effect until revoked by the recipient. In the case of a nonperiodic distribution, the election applies on a distribution-by-distribution basis unless it meets conditions prescribed by the Secretary for it to apply to subsequent nonperiodic distributions by the pension payer.

A pension payer must notify each recipient of the right to elect not to have taxes withheld under this section. The notice must comply with the requirements of section 3405 of the Code and any additional requirements prescribed by the Secretary.

A recipient's election not to have taxes withheld under this section is void if the recipient fails to furnish the recipient's tax identification number to the pension payer, or the Secretary has notified the pension payer that the tax identification number furnished by the recipient is incorrect."

Section 4. G.S. 105-163.15(i) reads as rewritten:

"(i) Notwithstanding ~~the other provisions~~ subsections (c), (d), (e), and (h) of this section, an individual who is a farmer or fisherman for a taxable year is subject to the provisions of this subsection.

(1) One installment. -- The individual is required to make only one installment payment of tax for that taxable year. This installment is due on or before January 15 of the following taxable ~~year but may be paid without penalty or interest on or before March 1 of that~~ year. The amount of the installment payment ~~shall~~ must be the lesser of:

~~(1)~~ a. Sixty-six and two-thirds percent (66 2/3%) of the tax shown on the return for the taxable year, or, if no return is filed, sixty-six and two-thirds percent (66 2/3%) of the tax for that year; or

~~(2)~~ b. One hundred percent (100%) of the tax shown on the return of the individual for the preceding taxable year, if the preceding taxable year was a taxable year of 12 months and the individual filed a return for that year.

(2) Exception. -- If, on or before March 1 of the following taxable year, the taxpayer files a return for the taxable year and pays in full the amount computed on the return as payable, no addition to tax is imposed under subsection (a) of this section with respect to any underpayment of the required installment for the taxable year.

(3) Eligibility. -- An individual is a farmer or fisherman for any taxable year if the individual's gross income from farming or

fishing, including oyster farming, for the taxable year is at least sixty-six and two-thirds percent (66 2/3%) of the total gross income from all sources for the taxable year, or the individual's gross income from farming or fishing, including oyster farming, shown on the return of the individual for the preceding taxable year is at least sixty-six and two-thirds percent (66 2/3%) of the total gross income from all sources shown on the return."

Section 5. G.S. 105-130.4(a)(7) reads as rewritten:

"(a) As used in this section, unless the context otherwise requires:

. . .

(7) "Sales" means all gross receipts of the corporation except ~~receipts~~ for the following receipts:

a. Receipts from ~~any~~ a casual sale of ~~property and except receipts~~ property.

b. Receipts allocated under subsections (c) through (h) of this section.

c. Receipts exempt from taxation.

d. The portion of receipts realized from the sale or maturity of securities or other obligations that represents a return of principal."

Section 6. G.S. 105A-13 reads as rewritten:

"§ 105A-13. Collection assistance fees.

(a) State Setoff. -- To recover the costs incurred by the Department in collecting debts under this Chapter, a collection assistance fee of no more than fifteen dollars ($15.00) is imposed on each debt collected through setoff. The Department must collect this fee as part of the debt and retain it. The Department must set the amount of the collection assistance fee based on its actual cost of collection under this Chapter for the immediately preceding year. If the Department is able to collect only part of a debt through setoff, the collection assistance fee has priority over the remainder of the debt. The collection assistance fee shall not be added to child support debts or collected as part of child support debts. Instead, the Department shall retain from collections under Division II of Article 4 of Chapter 105 of the General Statutes the cost of collecting child support debts under this Chapter.

(b) Federal Setoff. -- A collection assistance fee of fifteen dollars ($15.00) applies to a setoff made by the United States Department of the Treasury to recover tax owed to North Carolina. The Department of Revenue must add the fee to the amount of the tax liability submitted to the United States Department of the Treasury for setoff. The Department of Revenue must collect the fee as part of the debt and retain it. If a federal setoff covers only part of the tax due, the collection assistance fee has priority over the tax due."

Section 7. Notwithstanding Section 1 of this bill, any amendments to the Internal Revenue Code enacted in 1999 that increase North Carolina taxable

income for the 1999 taxable year become effective for taxable years beginning on or after January 1, 2000.

Section 8. Sections 2 and 3 of this act become effective January 1, 2001. The remainder of this act is effective when it becomes law.

HOUSE BILL 1559:
Conform with Federal Law

BILL ANALYSIS

Committee: House Finance
FOR CONCURRENCE
Date: June 30, 2000
Version: 3rd Edition

Introduced by: Rep. Luebke
Recommended by Revenue Laws
Summary by: Cindy Avrette
Committee Counsel

SUMMARY: House Bill 1559 is a recommendation of the Revenue Laws Study Commission. The bill passed House Finance on May 31st and was passed by the House on June 7th. It makes three tax law changes:

- *It rewrites the definition of the Internal Revenue Code used in the State tax statutes to change the reference date from June 1, 1999, to January 1, 2000. Updating the Internal Revenue Code reference makes recent amendments to the Code applicable to the State to the extent that State tax law previously tracked federal law. (Sections 1 and 7)*
- *It returns the withholding law for farmers and fishers to conformity with federal law, correcting an inadvertent change made in 1985. Federal law forgives the penalty for farmers' and fishers' late payment of estimated taxes if the final return is filed, with taxes paid in full, by March 1 following the end of the taxable year. (Section 4)*
- *It amends the definition of "sales" for purposes of the apportionment formula to clarify that the receipts of a multi-state corporation should only include the net gain realized from the sale or maturity of securities, not the rolled over capital or return of principal and not receipts otherwise exempt from tax. (Section 5)*

THE SENATE FINANCE COMMITTEE SUBSTITUTE ADDED TWO PROVISIONS TO THE BILL:

- **CONFORM PENSION TAX WITHHOLDING:** *It incorporated the provisions of Senate Bill 1309, Pension Tax Withholding, which was also recommended by the Revenue Laws Study Committee. It requires withholding of State income taxes on an eligible rollover distribution to the extent permitted under federal law. This section would become effective January 1, 2001. (Sections 2 and 3)*

  Under federal law, withholding is required on pensions, annuities, and certain deferred income, including IRAs, unless the taxpayer makes an election not to have the tax withheld. There is one exception to this rule: withholding is required on an eligible rollover distribution[1], and a taxpayer may not elect not to have the tax withheld.

  In 1999, the General Assembly passed House Bill 1466 (S.L. 1999-414) which tracks part of the federal law. Under current State tax law, a pension payer must withhold State income tax on a pension payment, other than an eligible rollover distribution, if the pension payer was withholding

[1] For practical purposes, an eligible rollover distribution is a distribution from a pension plan before retirement that is includable in gross income and that is not a payment required under federal law (such as a death benefit). The payment must be eligible for rollover into another 401(k) or IRA. Generally, an eligible rollover distribution occurs when an individual changes jobs.

federal income tax on the payment. As under federal law, a recipient of a pension payment that is not an eligible rollover distribution may elect not to have tax withheld from the pension payment. Unlike federal law, S.L. 1999-414 does not require that tax be withheld from an eligible rollover distribution.

Sections 2 and 3 of this bill would require that North Carolina tax be withheld on eligible rollover distributions to the same extent as required under federal law. The effect of this change would be to conform North Carolina law to federal law in this regard.

- **TREASURY OFFSET PROGRAM:** ***It enabled the Department of Revenue to collect delinquent tax debts owed to the State through the Treasury Offset Program by providing for the imposition of a collection assistance fee. (Section 6)***

The Department of Revenue may collect delinquent tax debts owed to the State through the Treasury Offset Program. To participate in the program, the State must pay a fee of $9.65 to the Treasury Offset Program, send a certified letter to the taxpayer at a cost of $3.01, plus incur other incidental expenses. Section 7 enables the Department to impose a $15.00 collection assistance fee on each tax debt collected through the Treasury Offset Program. The State also imposes a collection assistance fee on debts collected through the State debt setoff collection act. The amount of that fee cannot exceed $15.00. The collection assistance fee is added to the amount of the tax liability submitted to the United State Department of the Treasury for setoff. As under the State setoff debt collection act, the collection assistance fee has priority over the debt setoff. Therefore, if the federal setoff covers only part of the tax due, the collection assistance fee has priority over the tax due.

[2] For practical purposes, an eligible rollover distribution is a distribution from a pension plan before retirement that is includable in gross income and that is not a payment required under federal law (such as a death benefit). The payment must be eligible for rollover into another 401(k) or IRA. Generally, an eligible rollover distribution occurs when an individual changes jobs.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1559 (Senate Finance Committee Substitute)

SHORT TITLE: Conform with Federal Law

SPONSOR(S): Representative Luebke, et al.

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

($ million)

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
REVENUES					
General Fund					
Conform Tax Deadline			No fiscal impact		
Clarify Sales Factor			No fiscal impact		
IRC Update *	-2.03	-4.35	.65	.85	.60
Pension Tax Withholding			No estimate available (small gain possible)		
Treasury Offset Program			No estimate available (potential revenue gain)		

* Due to the timing of estimated payments of corporations and high-income individuals, the $1.37 million revenue gain anticipated in FY 1999-00 may carry forward to FY 2000-01.

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: Sections 2 and 3 (pension tax withholding) of the bill are effective January 1, 2001. The remainder of the act is effective when it becomes law.

BILL SUMMARY:

Section one of the bill updates the reference to the Internal Revenue Code used in state tax provisions from June 1, 1999, to January 1, 2000. Sections two and three conform state pension tax withholding provisions to federal law. Section four conforms state statutes with federal law regarding deadlines for payments of certain estimated income taxes. Section five clarifies in the corporate apportionment formula that receipts of a multistate corporation should only include the net gain realized from the sale or maturity of securities, not the rolled over capital or return of principal. Section 6 allows the Department of Revenue to collect delinquent tax debts with the assistance of the U.S. Department of the Treasury and allows the Department to charge a $15 collection assistance fee to the taxpayer owing the debt.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 1566 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR A PROCEDURE FOR CREATION OF A TEMPORARY LIEN ON A MOTOR VEHICLE WHEN A MANUFACTURER'S STATEMENT OF ORIGIN OR AN EXISTING CERTIFICATE OF TITLE ON A MOTOR VEHICLE IS UNAVAILABLE AND TO MAKE OTHER CONFORMING CHANGES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill (# 2), ☐ ~~which changes the title~~, unfavorable as to (original bill) (Committee Substitute Bill # 1), ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

2

HOUSE BILL 1566
Committee Substitute Favorable 6/26/00

Short Title: Temp. MV Lien Filing. (Public)

Sponsors:

Referred to:

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A PROCEDURE FOR CREATION OF A TEMPORARY LIEN ON A MOTOR VEHICLE WHEN A MANUFACTURER'S STATEMENT OF ORIGIN OR AN EXISTING CERTIFICATE OF TITLE ON A MOTOR VEHICLE IS UNAVAILABLE AND TO MAKE OTHER CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-52.1 reads as rewritten:

"**§ 20-52.1. Manufacturer's certificate of transfer of new motor vehicle.**

(a) Any manufacturer transferring a new motor vehicle to another shall, at the time of the transfer, supply the transferee with a manufacturer's certificate of origin assigned to the transferee.

(b) Any dealer transferring a new vehicle to another dealer shall, at the time of transfer, give such transferee the proper manufacturer's certificate assigned to the transferee.

(c) Upon sale of a new vehicle by a dealer to a consumer-purchaser, the dealer shall execute in the presence of a person authorized to administer oaths an assignment of the manufacturer's certificate of origin for the vehicle, including in such assignment the name and address of the transferee and no title to a new motor vehicle acquired by a dealer under the provisions of subsections (a) and (b) of this section shall pass or vest until such assignment is executed and the motor vehicle delivered to the transferee.

Any dealer transferring title to, or an interest in, a new vehicle shall deliver the manufacturer's certificate of origin duly assigned in accordance with the foregoing provision to the transferee at the time of delivering the vehicle, except that where a security interest is obtained in the motor vehicle from the transferee in payment of the purchase price or otherwise, the transferor shall deliver the manufacturer's certificate of origin to the lienholder and the lienholder shall forthwith forward the manufacturer's certificate of origin together with the transferee's application for certificate of title and necessary fees to the Division. Any person who delivers or accepts a manufacturer's certificate of origin assigned in blank shall be guilty of a Class 2 ~~misdemeanor.~~ misdemeanor, unless done in accordance with subsection (d) of this section.

(d) When a manufacturer's statement of origin or an existing certificate of title on a motor vehicle is unavailable, a motor vehicle dealer licensed under Article 12 of this Chapter may also transfer title to another by certifying in writing to the Division that all prior perfected liens on the vehicle have been paid and that the motor vehicle dealer, despite having used reasonable diligence, is unable to obtain the vehicle's statement of origin or certificate of title. The Division is authorized to develop a form for this purpose."

Section 2. G.S. 20-58 reads as rewritten:

"**§ 20-58. Perfection by indication of security interest on certificate of title.**

(a) Except as provided in G.S. 20-58.8, a security interest in a vehicle of a type for which a certificate of title is required shall be perfected only as hereinafter provided.

(1) If the vehicle is not registered in this State, the application for notation of a security interest shall be the application for certificate of title provided for in G.S. 20-52.

(2) If the vehicle is registered in this State, the application for notation of a security interest shall be in the form prescribed by the Division, signed by the debtor, and contain the date of application of each security interest, and name and address of the secured party from whom information concerning the security interest may be obtained. The application must be accompanied by the existing certificate of title unless in the possession of a prior secured party. If there is an existing certificate of title issued by this or any other jurisdiction in the possession of a prior secured party, the application for notation of the security interest shall in addition contain the name and address of such prior secured party. An application for notation of a security interest may be signed by the secured party instead of the debtor when the application is accompanied by documentary evidence of the applicant's security interest in that motor vehicle signed by the debtor and by affidavit of the applicant stating the reason the debtor did not sign the application. In the event the certificate cannot be obtained for recordation of the security interest, when title remains in the name

of the debtor, the Division shall cancel the certificate and issue a new certificate of title listing all the respective security interests.

(3) If the application for notation of security interest is made in order to continue the perfection of a security interest perfected in another jurisdiction, it may be signed by the secured party instead of the debtor. Such application shall be accompanied by documentary evidence of a perfected security interest. No such application shall be valid unless an application for a certificate of title has been made in North Carolina. The security interest perfected herein shall be subject to the provisions set forth in G.S. 20-58.5.

(b) When a manufacturer's statement of origin or an existing certificate of title on a motor vehicle is unavailable, a first lienholder who holds a valid license as a motor vehicle dealer issued by the Commissioner under Article 12 of this Chapter or his designee may file a notarized copy of an instrument creating and evidencing a security interest in the motor vehicle with the Division of Motor Vehicles. A filing pursuant to this subsection shall constitute constructive notice to all persons of the security interest in the motor vehicle described in the filing. The constructive notice shall be effective from the date of the filing if the filing is made within 20 days after the date of the security agreement. The constructive notice shall date from the date of the filing with the Division if it is made more than 20 days after the date of the security agreement. The notation of a security interest created under this subsection shall automatically expire 60 days after the date of the creation of the security interest, or upon perfection of the security interest as provided in subsection (a) of this section. A security interest notation made under this subsection and then later perfected under subsection (a) of this section shall be presumed to have been perfected on the date of the earlier filing. The Division may charge a fee not to exceed ten dollars ($10.00) for each notation of security interest filed pursuant to this subsection."

Section 3. G.S. 20-63(h) reads as rewritten:

"(h) Commission Contracts for Issuance of Plates and Certificates. -- All registration plates, registration certificates and certificates of title issued by the Division, outside of those issued from the Raleigh offices of the said Division and those issued and handled through the United States mail, shall be issued insofar as practicable and possible through commission contracts entered into by the Division for the issuance of such plates and certificates in localities throughout North Carolina with persons, firms, corporations or governmental subdivisions of the State of North Carolina and the Division shall make a reasonable effort in every locality, except as hereinbefore noted, to enter into a commission contract for the issuance of such plates and certificates and a record of these efforts shall be maintained in the Division. In the event the Division is unsuccessful in making commission contracts as hereinbefore set out it shall then issue said plates and certificates through the regular employees of the Division. Whenever registration plates, registration certificates and certificates of title are issued by the Division through commission contract

arrangements, the Division shall provide proper supervision of such distribution. Commission contracts entered under this subsection shall provide for the payment of compensation for all transactions as set forth below. Nothing contained in this subsection will allow or permit the operation of fewer outlets in any county in this State than are now being operated.

A transaction is any of the following activities:

(1) Issuance of a registration plate, a registration card, a registration renewal sticker, or a certificate of title.

(2) Issuance of a handicapped placard or handicapped identification card.

(3) Acceptance of an application for a personalized registration plate.

(4) Acceptance of a surrendered registration plate, registration card, or registration renewal sticker, or acceptance of an affidavit stating why a person cannot surrender a registration plate, registration card, or registration renewal sticker.

(5) Cancellation of a title because the vehicle has been junked.

(6) Acceptance of an application for, or issuance of, a refund for a fee or a tax, other than the highway use tax.

(7) Receipt of the civil penalty imposed by G.S. 20-309 for a lapse in financial responsibility or receipt of the restoration fee imposed by that statute.

(8) Acceptance of a notice of failure to maintain financial responsibility for a motor vehicle.

(8a) Collection of civil penalties imposed for violations of G.S. 20-183.8A.

(8b) Sale of one or more inspection stickers in a single transaction to a licensed inspection station.

(9) Collection of the highway use tax.

(10) Acceptance of a temporary lien filing.

Performance at the same time of any combination of the items that are listed within each subdivision or are listed within subdivisions (1) through (8b) of this section is a single transaction for which a dollar and thirty-five cent ($1.35) compensation shall be paid. Performance of the item listed in subdivision (9) of this subsection in combination with any other items listed in this subsection is a separate transaction for which a one dollar and twenty cent ($1.20) compensation shall be paid."

Section 4. G.S. 20-72(b) reads as rewritten:

"(b) In order to assign or transfer title or interest in any motor vehicle registered under the provisions of this Article, the owner shall execute in the presence of a person authorized to administer oaths an assignment and warranty of title on the reverse of the certificate of title in form approved by the Division, including in such assignment the name and address of the transferee; and no title to any motor vehicle shall pass or vest until such assignment is executed and the motor vehicle delivered to the transferee. The provisions of this section shall not apply to any foreclosure or

repossession under a chattel mortgage or conditional sales contract or any judicial sale.

When a manufacturer's statement of origin or an existing certifcate of title on a motor vehicle is unavailable, a motor vehicle dealer licensed under Article 12 of this Chapter may also transfer title to another by certifying in writing to the Division that all prior perfected liens on the vehicle have been paid and that the motor vehicle dealer, despite having used reasonable diligence, is unable to obtain the vehicle's statement of origin or certificate of title. The Division is authorized to develop a form for this purpose.

Any person transferring title or interest in a motor vehicle shall deliver the certificate of title duly assigned in accordance with the foregoing provision to the transferee at the time of delivering the vehicle, except that where a security interest is obtained in the motor vehicle from the transferee in payment of the purchase price or otherwise, the transferor shall deliver the certificate of title to the lienholder and the lienholder shall forward the certificate of title together with the transferee's application for new title and necessary fees to the Division within 20 days. Any person who delivers or accepts a certificate of title assigned in blank shall be guilty of a Class 2 misdemeanor.

The title to a salvage vehicle shall be forwarded to the Division as provided in G.S. 20-109.1."

Section 5. G.S. 20-79.1(h) reads as rewritten:

"(h) Temporary registration plates or markers shall expire and become void upon the receipt of the annual registration plates from the Division, or upon the rescission of a contract to purchase a motor vehicle, or upon the expiration of 30 days from the date of issuance, depending upon whichever event shall first occur. No refund or credit or fees paid by dealers to the Division for temporary registration plates or markers shall be allowed, except in the event that the Division discontinues the issuance of temporary registration plates or markers or unless the dealer discontinues business. In this event the unissued registration plates or markers with the unissued registration certificates shall be returned to the Division and the dealer may petition for a refund. Upon the expiration of the 30 days from the date of issuance, a second 30-day temporary registration plate or marker may be issued by the dealer upon showing the vehicle has been sold, a temporary lien has been filed as provided in G.S. 20-58, and that the dealer, having used reasonable diligence, is unable to obtain the vehicle's statement of origin or certificate of title so that the lien may be perfected."

Section 6. This act becomes effective May 1, 2001.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1566
Committee Substitute Favorable 6/26/00
Proposed Committee Substitute H1566-PCSA265

Short Title: Temp. MV Lien Filing. (Public)

Sponsors:

Referred to:

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A PROCEDURE FOR CREATION OF A TEMPORARY LIEN ON A MOTOR VEHICLE WHEN A MANUFACTURER'S STATEMENT OF ORIGIN OR AN EXISTING CERTIFICATE OF TITLE ON A MOTOR VEHICLE IS UNAVAILABLE AND TO MAKE OTHER CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-52.1 reads as rewritten:

"**§ 20-52.1. Manufacturer's certificate of transfer of new motor vehicle.**

(a) Any manufacturer transferring a new motor vehicle to another shall, at the time of the transfer, supply the transferee with a manufacturer's certificate of origin assigned to the transferee.

(b) Any dealer transferring a new vehicle to another dealer shall, at the time of transfer, give such transferee the proper manufacturer's certificate assigned to the transferee.

(c) Upon sale of a new vehicle by a dealer to a consumer-purchaser, the dealer shall execute in the presence of a person authorized to administer oaths an assignment of the manufacturer's certificate of origin for the vehicle, including in such assignment the name and address of the transferee and no title to a new motor vehicle acquired by a dealer under the provisions of subsections (a) and (b) of this section shall pass or vest until such assignment is executed and the motor vehicle delivered to the transferee.

Any dealer transferring title to, or an interest in, a new vehicle shall deliver the manufacturer's certificate of origin duly assigned in accordance with the foregoing provision to the transferee at the time of delivering the vehicle, except that where a security interest is obtained in the motor vehicle from the transferee in payment of the purchase price or otherwise, the transferor shall deliver the manufacturer's certificate of origin to the lienholder and the lienholder shall forthwith forward the manufacturer's certificate of origin together with the transferee's application for certificate of title and necessary fees to the Division. Any person who delivers or accepts a manufacturer's certificate of origin assigned in blank shall be guilty of a Class 2 ~~misdemeanor.~~ misdemeanor, unless done in accordance with subsection (d) of this section.

(d) When a manufacturer's statement of origin or an existing certificate of title on a motor vehicle is unavailable, a motor vehicle dealer licensed under Article 12 of this Chapter may also transfer title to another by certifying in writing in a sworn statement to the Division that all prior perfected liens on the vehicle have been paid and that the motor vehicle dealer, despite having used reasonable diligence, is unable to obtain the vehicle's statement of origin or certificate of title. The Division is authorized to develop a form for this purpose."

Section 2. G.S. 20-58 reads as rewritten:

"**§ 20-58. Perfection by indication of security interest on certificate of title.**

(a) Except as provided in G.S. 20-58.8, a security interest in a vehicle of a type for which a certificate of title is required shall be perfected only as hereinafter provided.

(1) If the vehicle is not registered in this State, the application for notation of a security interest shall be the application for certificate of title provided for in G.S. 20-52.

(2) If the vehicle is registered in this State, the application for notation of a security interest shall be in the form prescribed by the Division, signed by the debtor, and contain the date of application of each security interest, and name and address of the secured party from whom information concerning the security interest may be obtained. The application must be accompanied by the existing certificate of title unless in the possession of a prior secured party. If there is an existing certificate of title issued by this or any other jurisdiction in the possession of a prior secured party, the application for notation of the security interest shall in addition contain the name and address of such prior secured party. An application for notation of a security interest may be signed by the secured party instead of the debtor when the application is accompanied by documentary evidence of the applicant's security interest in that motor vehicle signed by the debtor and by affidavit of the applicant stating the reason the debtor did not sign the application. In the event the certificate cannot be obtained for recordation of the security interest, when title remains in the name

of the debtor, the Division shall cancel the certificate and issue a new certificate of title listing all the respective security interests.

(3) If the application for notation of security interest is made in order to continue the perfection of a security interest perfected in another jurisdiction, it may be signed by the secured party instead of the debtor. Such application shall be accompanied by documentary evidence of a perfected security interest. No such application shall be valid unless an application for a certificate of title has been made in North Carolina. The security interest perfected herein shall be subject to the provisions set forth in G.S. 20-58.5.

(b) When a manufacturer's statement of origin or an existing certificate of title on a motor vehicle is unavailable, a first lienholder who holds a valid license as a motor vehicle dealer issued by the Commissioner under Article 12 of this Chapter or his designee may file a notarized copy of an instrument creating and evidencing a security interest in the motor vehicle with the Division of Motor Vehicles. A filing pursuant to this subsection shall constitute constructive notice to all persons of the security interest in the motor vehicle described in the filing. The constructive notice shall be effective from the date of the filing if the filing is made within 20 days after the date of the security agreement. The constructive notice shall date from the date of the filing with the Division if it is made more than 20 days after the date of the security agreement. The notation of a security interest created under this subsection shall automatically expire 60 days after the date of the creation of the security interest, or upon perfection of the security interest as provided in subsection (a) of this section. A security interest notation made under this subsection and then later perfected under subsection (a) of this section shall be presumed to have been perfected on the date of the earlier filing. The Division may charge a fee not to exceed ten dollars ($10.00) for each notation of security interest filed pursuant to this subsection."

Section 3. G.S. 20-63(h) reads as rewritten:

"(h) Commission Contracts for Issuance of Plates and Certificates. -- All registration plates, registration certificates and certificates of title issued by the Division, outside of those issued from the Raleigh offices of the said Division and those issued and handled through the United States mail, shall be issued insofar as practicable and possible through commission contracts entered into by the Division for the issuance of such plates and certificates in localities throughout North Carolina with persons, firms, corporations or governmental subdivisions of the State of North Carolina and the Division shall make a reasonable effort in every locality, except as hereinbefore noted, to enter into a commission contract for the issuance of such plates and certificates and a record of these efforts shall be maintained in the Division. In the event the Division is unsuccessful in making commission contracts as hereinbefore set out it shall then issue said plates and certificates through the regular employees of the Division. Whenever registration plates, registration certificates and certificates of title are issued by the Division through commission contract

arrangements, the Division shall provide proper supervision of such distribution. Commission contracts entered under this subsection shall provide for the payment of compensation for all transactions as set forth below. Nothing contained in this subsection will allow or permit the operation of fewer outlets in any county in this State than are now being operated.

A transaction is any of the following activities:

(1) Issuance of a registration plate, a registration card, a registration renewal sticker, or a certificate of title.

(2) Issuance of a handicapped placard or handicapped identification card.

(3) Acceptance of an application for a personalized registration plate.

(4) Acceptance of a surrendered registration plate, registration card, or registration renewal sticker, or acceptance of an affidavit stating why a person cannot surrender a registration plate, registration card, or registration renewal sticker.

(5) Cancellation of a title because the vehicle has been junked.

(6) Acceptance of an application for, or issuance of, a refund for a fee or a tax, other than the highway use tax.

(7) Receipt of the civil penalty imposed by G.S. 20-309 for a lapse in financial responsibility or receipt of the restoration fee imposed by that statute.

(8) Acceptance of a notice of failure to maintain financial responsibility for a motor vehicle.

(8a) Collection of civil penalties imposed for violations of G.S. 20-183.8A.

(8b) Sale of one or more inspection stickers in a single transaction to a licensed inspection station.

(9) Collection of the highway use tax.

(10) Acceptance of a temporary lien filing.

Performance at the same time of any combination of the items that are listed within each subdivision or are listed within subdivisions (1) through (8b) of this section is a single transaction for which a dollar and thirty-five cent ($1.35) compensation shall be paid. Performance of the item listed in subdivision (9) of this subsection in combination with any other items listed in this subsection is a separate transaction for which a one dollar and twenty cent ($1.20) compensation shall be paid."

Section 4. G.S. 20-72(b) reads as rewritten:

"(b) In order to assign or transfer title or interest in any motor vehicle registered under the provisions of this Article, the owner shall execute in the presence of a person authorized to administer oaths an assignment and warranty of title on the reverse of the certificate of title in form approved by the Division, including in such assignment the name and address of the transferee; and no title to any motor vehicle shall pass or vest until such assignment is executed and the motor vehicle delivered to the transferee. The provisions of this section shall not apply to any foreclosure or

repossession under a chattel mortgage or conditional sales contract or any judicial sale.

When a manufacturer's statement of origin or an existing certificate of title on a motor vehicle is unavailable, a motor vehicle dealer licensed under Article 12 of this Chapter may also transfer title to another by certifying in writing in a sworn statement to the Division that all prior perfected liens on the vehicle have been paid and that the motor vehicle dealer, despite having used reasonable diligence, is unable to obtain the vehicle's statement of origin or certificate of title. The Division is authorized to develop a form for this purpose.

Any person transferring title or interest in a motor vehicle shall deliver the certificate of title duly assigned in accordance with the foregoing provision to the transferee at the time of delivering the vehicle, except that where a security interest is obtained in the motor vehicle from the transferee in payment of the purchase price or otherwise, the transferor shall deliver the certificate of title to the lienholder and the lienholder shall forward the certificate of title together with the transferee's application for new title and necessary fees to the Division within 20 days. Any person who delivers or accepts a certificate of title assigned in blank shall be guilty of a Class 2 misdemeanor.

The title to a salvage vehicle shall be forwarded to the Division as provided in G.S. 20-109.1."

Section 5. G.S. 20-79.1(h) reads as rewritten:

"(h) Temporary registration plates or markers shall expire and become void upon the receipt of the annual registration plates from the Division, or upon the rescission of a contract to purchase a motor vehicle, or upon the expiration of 30 days from the date of issuance, depending upon whichever event shall first occur. No refund or credit or fees paid by dealers to the Division for temporary registration plates or markers shall be allowed, except in the event that the Division discontinues the issuance of temporary registration plates or markers or unless the dealer discontinues business. In this event the unissued registration plates or markers with the unissued registration certificates shall be returned to the Division and the dealer may petition for a refund. Upon the expiration of the 30 days from the date of issuance, a second 30-day temporary registration plate or marker may be issued by the dealer upon showing the vehicle has been sold, a temporary lien has been filed as provided in G.S. 20-58, and that the dealer, having used reasonable diligence, is unable to obtain the vehicle's statement of origin or certificate of title so that the lien may be perfected."

Section 6. This act becomes effective May 1, 2001.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) _____
Sen.)

1 moves to amend the bill on page _____, line _____

2 ( ) WHICH CHANGES THE TITLE

3 by _____

4 _____

5 _____

6 _____

7 _____

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

COMMITTEE CLERK

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1566

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1566-ASU-100 Page 1 of __

Date_____,2000

Comm. Sub. [YES]
Amends Title [YES]

moves to amend the bill on page 1, line 6, by rewriting the line to read:
"CONFORMING CHANGES; AND TO REQUIRE RED LENSES ON BRAKE LIGHTS.";

and on page 5, lines 36-37, by adding between the lines a new section to read:

"Section 6. G.S. 20-129.1(9) reads as rewritten:
'Brake lights (and/or brake reflectors) on the rear of a motor vehicle shall ~~be red.~~ have red lenses so that the light displayed is red. The light illuminating the license plate shall be white. All other lights shall be white, amber, yellow, clear or red.'";
and by renumbering the remaining section accordingly.

SIGNED Andy D Johnson
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1566

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1566-ARB-6.29

Page 1 of __

Date_____,2000

Comm. Sub. [YES]
Amends Title []
Second Edition

Representative_____

moves to amend the bill on page 3, line 29, by rewriting the line to read:
"subsection. The fee shall be credited to the Highway Fund.'";

and on page 5, line 37, by deleting "May 1" and substituting "February 1".

SIGNED Andy Dashmer
Amendment Sponsor

SIGNED _____
Committee Chair if **Senate** Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 1566:
Temp. MV Lien Filing

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Representative Cole
Date:	June 29, 2000	**Summary by:**	Wendy L. Graf
Version:	2nd Edition		Staff Attorney

SUMMARY: ***House Bill 1566 creates a procedure by which a first lienholder or his designee may file an application with the DMV for a temporary lien on a motor vehicle in cases where a manufacturer's statement of origin or an existing certificate of title on a motor vehicle is unavailable. The act becomes effective May 1, 2001.***

CURRENT LAW: Under current law (G.S. 20-58) there are three ways to perfect a security interest in a vehicle for which a certificate of title is required. In order to perfect a security interest by any of these methods, G.S. 20-58.2 requires that the DMV be provided with the application for notation of security interest within 20 days after the date of the security agreement in order for the date of perfection to relate back to the date of the execution of the security agreement. Otherwise, the interest is perfected when the application is delivered to the DMV. Therefore, if a manufacturer's statement of origin or certificate of title on a motor vehicle is unavailable until after that 20 day period has passed, a first lienholder's interest would not be perfected until he was able to provide that paper work to the DMV.

BILL ANALYSIS: House Bill 1566 changes the current law by adding a subsection to G.S. 20-58 which would allow a first lienholder to provide the DMV with an instrument, other than the manufacturer's statement of origin or certificate of title, evidencing a security interest in a motor vehicle within 20 days after the date of the security agreement. This would create a temporary notation of a security interest that would automatically expire 60 days after the security interest was created, or upon perfection of the security interest by any of the methods existing under current law. Perfection of a security interest under this subsection would also relate back to the date of the execution of the security agreement.

The bill also makes conforming changes to other sections of the General Statutes that would be affected by the changes made to G.S. 20-58. Those changes include:

* G.S. 20-72(b) allows a dealer to transfer title on a motor vehicle by certifying in writing to the DMV that all prior perfected liens have been paid and that the dealer is unable to obtain the vehicles statement of origin or certificate of title.

* G.S. 20-52.1 provides a procedure by which a dealer may transfer title to another when he is unable to obtain the vehicle's statement of origin or certificate of title, without being subject to the criminal penalty that one who delivers or accepts a certificate of origin assigned in blank would otherwise be guilty of.

* G.S. 20-79.1(h) allows the dealer to issue a second temporary registration plate, upon expiration of the first, upon showing that a temporary lien has been properly filed.

* G.S. 20-63(h) adds the issuance of a second temporary plate to the list of transactions for which commission contracts may be entered into by the DMV.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: H.B. 1566 **DRAFT**

SHORT TITLE: Temporary Motor Vehicle Lien Filing

SPONSOR(S): Rep. Cole

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
REVENUES					
Highway Fund	130,000	780,000	780,000	780,000	780,000
EXPENDITURES					
Highway Fund	280,740	129,290	129,290	129,290	129,290

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: The Department of Transportation, Motor Vehicles Division.

EFFECTIVE DATE: May 1, 2001.

BILL SUMMARY: Under current law a manufacturer's statement of origin or a certificate of title is needed when transferring ownership in a vehicle. The bill provides alternative methods of transfer when the manufacturer's statement of origin or an existing certificate of title is not available in a timely fashion. Under the bill, when these documents are not available, a licensed motor vehicle dealer can transfer title by certifying in writing to DMV that 1) all prior perfect liens on the vehicle have been paid and 2) despite "reasonable diligence" these documents are unavailable. Similarly, a dealer who is the first lienholder may file a notarized copy of an instrument creating and evidencing a security interest in the vehicle with the DMV. The notation of security interest is time limited. The DMV can charge a fee of up to $10.00 for each notation of security interest filed. Finally the bill authorizes a dealer to issue a second thirty day temporary plate if the vehicle has been sold, a temporary lien has been filed, and the dealer is unable to obtain the vehicle's statement of origin or certificate of title, making the dealer unable to perfect the lien.

ASSUMPTIONS AND METHODOLOGY: Under federal law titles and statements of origin must be transferred within 20 days to remain valid and enforceable. According to industry experts, automobile dealers and others transferring a vehicle are often unable to transfer the appropriate paperwork within that time period. The temporary lien system in the bill is an attempt to address this issue.

Tennessee has a temporary lien program similar to that developed in the bill. The Tennessee Secretary of State's office that administers the program estimates that they process between 200 and 250 temporary lien applications a day, or approximately 52,000 to 65,000 per year. According to the U.S. Department of Transportation, North Carolina has approximately 50% more registered vehicles than Tennessee. Using this percentage as a proxy suggests that North Carolina could expect to see approximately 300-375 temporary lien applications each day. The lower estimate of 300 per day or 78,000 per year is used for a revenue estimate.

Assuming the $10.00 fee is charged for each application, the bill will generate approximately $780,000 annually.

The Division of Motor Vehicles believes they will need one additional staff person (Grade 57) to implement the provisions of the bill. They also suggest that a high speed scanner, personal computer, software and associated hardware are needed. The MIS Division also estimates that three (3) additional FTEs will be needed in 2000-01 to rewrite their STARS database, plus $14,880 to cover ITS charges. DMV's total estimated costs are as follows:

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
DMV Personnel	3998	23990	23990	23990	23990
Scanner & other software and equipment	60315				
MIS Personnel	176000				
ITS Charges	14880				
TOTAL	255193	23990	23990	23990	2399

In addition, DMV reports that they would contract with the local tag agents to process the applications. The Department believes they will pay the tag agents $1.35 per temporary lien or $105,300 per year.

The overall anticipated revenues and expenditures are as follows:

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
Revenues					
Application Fees @ $10.00 each	130,000	780,000	780,000	780,000	780,000
Expenditures					
DMV and MIS Start-up Combined	263190	23990	23990	23990	23990
Tag Agent Fees	17550	105300	105300	105300	105300
Total Expenditures	280740	129290	129290	129290	129290
NET REVENUES	-150,740	650,710	650,710	650,710	650,710

While Tennessee's permanent personnel costs are significantly higher (their program uses twelve full time equivalents) Fiscal Research Appropriations staff believes North Carolina's use of tag agents makes the lower personnel cost estimates from DMV reasonable.

TECHNICAL CONSIDERATIONS: The bill does not specify which fund will benefit from the $10.00. Fiscal staff recommends that the bill be revised to clarify that the revenues and expenditures for this program should be a part of the Highway Fund.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Linda Struyk Millsaps and Bob Weiss

APPROVED BY:

DATE: June 27, 2000

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 1583 A BILL TO BE ENTITLED AN ACT TO PROVIDE A NEW TAX CREDIT AS AN INCENTIVE FOR INVESTING IN DRY-CLEANING EQUIPMENT THAT DOES NOT USE HAZARDOUS SUBSTANCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill (# 2), ☐ ~~which changes the title,~~ unfavorable as to ~~(original bill)~~ (Committee Substitute Bill # /), ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 1583*
Committee Substitute Favorable 6/20/00

Short Title: Nonhaz. Dry-Cleaning Technology Incentive. (Public)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A NEW TAX CREDIT AS AN INCENTIVE FOR INVESTING IN DRY-CLEANING EQUIPMENT THAT DOES NOT USE HAZARDOUS SUBSTANCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.16C. Credit for investing in dry-cleaning equipment that does not use a hazardous substance.**

(a) Credit. -- If a taxpayer that has purchased or leased qualified dry-cleaning equipment places it in service in this State for commercial purposes during the taxable year, the taxpayer is allowed a credit equal to thirty-five percent (35%) of the cost of the equipment. To support the credit allowed by this section, the taxpayer must file with the tax return for the taxable year in which the credit is claimed a certification by the Department of Environment and Natural Resources that the equipment purchased or leased by the taxpayer is qualified dry-cleaning equipment.

(b) Restrictions. -- No credit is allowed under this section to the extent the cost of the equipment was paid with public funds. A taxpayer that claims any other credit allowed under this Chapter with respect to qualified dry-cleaning equipment may not take the credit allowed in this section with respect to the same equipment.

(c) Definitions. -- The following definitions apply only in this section:

(1) Hazardous solvent. -- A solvent any portion of which consists of a chlorine-based solvent, a hydrocarbon-based solvent, a hazardous substance as defined in G.S. 130A-310(2), or any substance determined by the Administrator of the Environmental Protection Agency or the Director of the National Institute of Occupational Safety and Health to possess carcinogenic potential to humans.

(2) Qualified dry-cleaning equipment. -- Equipment that is designed and used primarily to dry-clean clothing and other fabric and does not use any hazardous solvent or any other substance that the Department of Environment and Natural Resources determines to pose a threat to human health or the environment."

Section 2. This act is effective for taxable years beginning on or after July 1, 2001.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1583*
Committee Substitute Favorable 6/20/00
Proposed Committee Substitute H1583-PCSA262

Short Title: Nonhaz. Dry-Cleaning Technology Incentive. (Public)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A NEW TAX CREDIT AS AN INCENTIVE FOR INVESTING IN DRY-CLEANING EQUIPMENT THAT DOES NOT USE HAZARDOUS SUBSTANCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.16C. Credit for investing in dry-cleaning equipment that does not use a hazardous substance.**

(a) Credit. -- If a taxpayer that has purchased or leased qualified dry-cleaning equipment, places it in service in this State for commercial purposes during the taxable year, the taxpayer is allowed a credit equal to twenty percent (20%) of the cost of the equipment. To support the credit allowed by this section, the taxpayer must file with the tax return for the taxable year in which the credit is claimed a certification by the Department of Environment and Natural Resources that the equipment purchased or leased by the taxpayer is qualified dry-cleaning equipment.

(b) Restrictions. -- No credit is allowed under this section to the extent the cost of the equipment was paid with public funds. A taxpayer that claims any other credit allowed under this Chapter with respect to qualified dry-cleaning equipment may not take the credit allowed in this section with respect to the same equipment.

(c) Definitions. -- The following definitions apply only in this section:

(1) Hazardous solvent. -- A solvent, any portion of which consists of a chlorine-based solvent, a hydrocarbon-based solvent, a hazardous substance as defined in G.S. 130A-310(2), or any substance determined by the Administrator of the Environmental Protection Agency or the Director of the National Institute of Occupational Safety and Health to possess carcinogenic potential to humans.

(2) Qualified dry-cleaning equipment. -- Equipment that is designed and used primarily to dry-clean clothing and other fabric and does not use any hazardous solvent or any other substance that the Department of Environment and Natural Resources determines to pose a threat to human health or the environment."

Section 2. This act is effective for taxable years beginning on or after July 1, 2001.

HOUSE BILL 1583:
Nonhazardous Dry Cleaning Tech. Incentive

BILL ANALYSIS

Committee:	House Finance	Sponsor:	Representative Pryor Gibson
Date:	June 28, 2000		
Version:	Proposed Committee Substitute for the Second Edition	Analysis by:	Rick Zechini, Staff Attorney

SUMMARY: The Proposed Committee Substitute for the Second Edition of House Bill 1583 provides a tax credit for commercial dry-cleaners who invest in environmentally friendly dry-cleaning equipment, effective July 1, 2001.

BILL ANALYSIS: The Proposed Committee Substitute for the Second Edition of House Bill 1583 adds a new section to Article 3B of Chapter 105 of the General Statutes, which currently provides tax credits for investing in general business property, renewable energy property, and low-income housing. The new section provides a tax credit for commercial dry-cleaners who buy or lease "qualified dry-cleaning equipment." "Qualified dry-cleaning equipment" is defined as dry-cleaning equipment that does not use any of the following:

- A chlorine-based solvent.
- A hydrocarbon-based solvent.
- A solvent that contains a hazardous substance as defined in the federal Comprehensive Environmental Response, Compensation, and Liability Act.
- A solvent that contains a substance determined by the Environmental Protection Agency or the National Institute of Occupational Safety and Health to possess carcinogenic potential to humans.
- A substance that the Department of Environment and Natural Resources (DENR) determines to pose a threat to human health or the environment.

It is estimated that 99% of the State's dry-cleaners currently use chlorine-based or hydrocarbon-based solvent. Use of these solvents has led to soil and groundwater contamination.

The new credit, which is similar to the renewable energy credit that was enacted in 1999, provides a credit for equipment placed in service in this State equal to 20% of the taxpayer's cost. Like the other credits in Article 3B, it may be taken against corporate or individual income tax or corporate franchise tax, at the taxpayer's choice; it may not exceed 50% of the taxpayer's tax liability in any given year; and any excess over this limit may be carried forward for up to five years. Article 3B requires the taxpayer to maintain and make available in case of audit any records necessary to determine and verify the amount of the credit to which the taxpayer is entitled. A taxpayer claiming the credit allowed under the new section must file with the tax

return a certification by DENR that the equipment purchased or leased by the taxpayer is "qualified dry-cleaning equipment."

The Environmental Review Commission recommended this proposal to the 2000 Regular Session of the 1999 General Assembly for its consideration.

The Proposed Committee Substitute amends the Second Edition of the bill by reducing the amount of the credit to 20% of the cost of the qualified dry-cleaning equipment from 35% of the cost of the qualified dry-cleaning equipment.

EFFECTIVE DATE: The Proposed Committee Substitute for the Second Edition of House Bill 1583 is effective for taxable years beginning on or after July 1, 2001.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1583 (House Finance Committee Substitute)

SHORT TITLE: Nonhazardous Dry-Cleaning Technology Incentive

SPONSOR(S):

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
REVENUES					
General Fund		($584,100)	($423,000)	($507,600)	($625,200)
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: This act is effective for taxable years beginning on or after July 1, 2001.

BILL SUMMARY: This bill provides a tax credit equal to 20% of the cost of purchasing or leasing nonhazardous dry cleaning equipment. To qualify as nonhazardous, the equipment must not use chlorine-based solvents, hydrocarbon-based solvents, or any other substance deemed hazardous by the Environmental Protection Agency or the Director of the National Institute of Occupational Safety and Health. In addition to not using any hazardous solvent, the equipment must be designed primarily to dry-clean clothes.

ASSUMPTIONS AND METHODOLOGY:

SOLVENTS

Hazardous dry cleaning solvents include hydrocarbon or petroleum based products and chlorine based solvents such as perchloroethylene. According to the National Institute of Environmental Health Sciences, 80% to 85% of the dry cleaners in the U.S. use perchloroethylene (commonly called perc). The Executive Director of the North Carolina Association of Launderers and Cleaners estimates that 84% of the dry cleaners in this state use perc and 15% use petroleum products. The remaining 1% of the state's dry cleaners use nonhazardous materials such as liquid carbon dioxide, Rynex, silicon based Green Earth, and water (wet cleaning). Although regulated as a hazardous material by the EPA, perc has been the solvent of choice because it can be used on all common textiles and fibers without risk of fabric shrinkage or faded dyes. Perc is also very

effective at removing fats, oils and grease out of clothes. While remaining the dominant dry cleaning solvent, perc use has declined 70% over the past decade due to innovations in equipment design, better operation and maintenance of equipment, and better training of employees.

NC DRYCLEANING MARKET

Growth in the dry cleaning industry was stagnant in the 1990's and is not expected to improve in the next five years. Economic census reports reveal that from 1992 to 1997, the number of dry cleaning plants in NC grew .56% a year. Meanwhile, the state's population grew 1.75% a year in the same five-year period. An analyst with the International Fabricare Institute said there were too many cleaners in the industry making the business very competitive. This was confirmed by the EPA Office of Compliance Sector Notebook Project: Profile of the Dry Cleaning Industry when it reported in September 1995 that "commercial dry cleaning is not a high profit business and many dry cleaners are barely able to stay in business." Sixty three percent of dry cleaners in 1993 had annual revenue of $113,000 or less. Sole proprietorship returns in 1997, showed that 74.3 % of dry cleaners were profitable and the net income for dry cleaners was $12,432 a year (Summer 1999 SOI Bulletin).

In 1997, the US Census Bureau published an Economic Census for North Carolina that listed 696 dry cleaning plants in the state. The Executive Director of the North Carolina Association of Launderers and Cleaners estimates that the average number of dry cleaning machines per facility is 1.1 due to the large number of small operations. Using the 696 plants reported in 1997 times 1.1 machines per facility equals 766 dry cleaning machines in North Carolina. The estimated life span of these machines is 12 to 15 years. Assuming an equal number of machines are retired each year, then between 51 (every 12 years) and 64 machines (every 15 years) will be purchased. This projection is in line with the Association of Launderers and Cleaners' estimate that 50 to 60 dry cleaning machines will be replaced in each of the next five years. Some of the replacement equipment may go into large central operations as the result of consolidation among smaller shops.

SWITCH TO NONHAZARDOUS SOLVENTS

As mentioned above, nonhazardous dry cleaners make up about 1% of the dry cleaning market. A Raleigh dry cleaner is one of 32 test sites in the world for silicone based Green Earth solution. Micell Technologies uses liquid carbon dioxide in its Hangers franchises in Wilmington, Morrisville, and Greensboro. Under a license agreement with Global Technologies, Sail Star USA will begin assembly of carbon dioxide dry cleaning machines in Charlotte this year. No advance orders have been received from North Carolina dry cleaning plants.

While nonhazardous dry cleaning machines are available, there has been no stampede to invest in the new technologies. Price is one obstacle. Given the low profit margins of many dry cleaning operations, many cannot afford the new technology. The cost of a new perc machine can range from $35,000 to $60,000, with an average of $50,000 for a 50 pound load machine. The carbon dioxide machines offered by Micell Technologies have an average cost of $165,000 plus a franchise requirement that cost $25,000 and a pledge of 5% of gross revenue as a royalty. The carbon dioxide machines built by Sail Star USA will cost between $80,000 to $120,000, but can be purchased without franchise obligations. Green Earth machines are not yet in full production but are estimated to cost between $40,000 to $60,000. (Hydrocarbon machines can be retrofitted to use Green Earth solution for less than $5000.)

Another obstacle to conversion to new technologies is the reluctance to invest in a technology that does not have a proven track record. Dr. Manfred Wentz, visiting professor at N.C. State University College of Textiles, said the new technologies have not reached maturity and that skeptics abound in the dry cleaning industry. A dry cleaning equipment dealer in Raleigh said the new technologies need a two or three year "shake out period" and that many dry cleaning operators may wait to see if the prices go down. The CEO of the Neighborhood Cleaners Institute said that carbon dioxide machines "have promise", but that the technology is "not all there yet". Some cleaners use wet cleaning in conjunction with their dry cleaning operation. Research by the International Fabricare Institute found "that up to 40 percent of garments could be wetcleaned quite readily but that it takes a serious commitment to proper training of employees to clean 60 to 80 percent of all garments." Wet cleaning machines can clean most garments but cannot adequately dissolve lipophilic stains such as oils, greases, fats and waxes.

Another hurdle to conversion in the short run is that many dry cleaning operators have invested in new perc machines in response to EPA regulations on hazardous solvents. These operators will get the maximum use of these machines before buying a new one. These new machines have reduced solvent use while providing the operators with the best and most consistent cleaner.

TAX CREDIT

In the short run, Micell Technologies seems to be the only nonhazardous solvent dry cleaning equipment company in position to capture a share of the new and replacement market of dry cleaning machines. Micell Technologies has estimated that it will sell 10 machines in North Carolina in 2001, 8 in 2002, and 7 in 2003 without the tax credit. With the tax credit, the company expects a 50% boost in sales to 15 in 2001, 12 in 2002, and 11 in 2003. Bank of America's announcement on April 22, 2000 that it would finance the purchase of Hangers franchises in conjunction with the Small Business Administration should make Micell's market projections more achievable.

By 2003 and 2004, the other nonhazardous solvent equipment manufacturers will have completed several years of tests and should produce enough machines to be more price competitive with perc and petroleum machines. Sail Star USA in Charlotte projects total production for the US market will increase from 150 units in year 2000 to maximum of 4,000 units in 2003. By 2003, the cost of each Sail Star unit could be as low as $60,000, a price competitive with perc. By 2003, Green Earth machines will have had three to four years of market experience and if the results are positive, the machine's $50,000 price tag will make it competitive in the market place.

This fiscal note assumes that 60 dry cleaning machines will be purchased each year from 2000 to 2005. The note assumes that Micell machines will be the only nonhazardous solvent machines sold until 2003. Beginning in 2003, it is assumed that all new and replacement dry cleaning machines will use nonhazardous solvents due to EPA and state environmental regulations. It is assumed that half of these dry cleaning machines will be purchased in the first six months of the fiscal year and half will be purchased in the second half of the fiscal year. (The exception is in 2001 when dry cleaners can be expected to delay purchase of Micell equipment until July 1 to get the 20% credit and use 100% of the credit in the tax year and fiscal year.) The dry cleaning companies will deduct the 20% tax credit from quarterly estimated income tax payments. In order to calculate fiscal year impact, it is assumed that 45% of the tax credit will be taken within the first 6 months (two quarters) of the purchase and 55% in the following two quarters. It is

assumed that the companies purchasing Micell equipment and Hangers franchise will be able to use the full tax credit in the year the equipment is purchased or leased. (For leased property, the tax credit is applied to eight times the annual rental rate.) For those purchasing or leasing other equipment, primarily replacement machines, it is assumed that they will be small businesses that do not have sufficient income to absorb the full tax credit and thus the credit will be carried forward for five years. To calculate the impact by fiscal year, the credit is divided equally over a five-year period. The chart below shows how the fiscal impact is calculated.

		FY 2000-01		FY 2001-02		FY 2002-03	
		July-Dec 2000	Jan - June 2001	July-Dec 2001	Jan - June 2002	July-Dec 2002	Jan - June 2003
Micell							
Cost/ #machines	$165,000	0	0	15	6	6	6
20% tax credit	$33,000			$495,000	$198,000	$198,000	$198,000
Estimated payments				$495,000	$89,100	$198,000	$198,000
Green Earth/ Sail Star/other							
Cost/ #machines	$60,000	0	0	0	0	0	25
20% tax credit	$12,000						$300,000
Estimated payments							$135,000
5 year carry forward							$27,000
Sum				$495,000	$89,100	$198,000	$225,000
Fiscal Year Total					$584,100		$423,000

	FY 2003-04		FY 2004-05		FY 2005-06	
	July-Dec 2003	Jan - June 2004	July-Dec 2004	Jan - June 2005	July-Dec 2005	Jan - June 2006
Micell						
#machines	5	6	5	6	5	6
20% tax credit	$165,000	$198,000	$165,000	$198,000	$165,000	$198,000
Estimated payments	$183,150	$179,850	$183,150	$179,850	$183,150	$179,850
Green Earth/ Sail Star/other						
#machines	24	25	24	25	24	25
20% tax credit	$288,000	$300,000	$288,000	$300,000	$288,000	$300,000
Estimated payments	$294,600	$293,400	$294,600	$293,400	$294,600	$293,400
5 year carry forward		$27,000		$27,000		$27,000
	$58,920		$58,920		$58,920	
		$58,680		$58,680		$58,680
			$58,920		$58,920	
				$58,680		$58,680
					$58,920	
						$58,680
Sum	$242,070	$265,530	$300,990	$324,210	$359,910	$382,890
Fiscal Year Total		$507,600		$625,200		$742,800

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY:

DATE:

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1768 A BILL TO BE ENTITLED AN ACT MAKING OMNIBUS CHANGES TO CERTAIN GENERAL AND LOCAL LAWS AFFECTING ORANGE COUNTY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill (#), ☐ ~~which changes the title~~, unfavorable as to ~~(~~original bill~~)~~ ~~(Committee Substitute Bill #)~~, ~~(~~and ~~recommendation that the~~ committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1768

Short Title: Orange/Chatham Omnibus Act. (Local)

Sponsors: Representatives Insko and Hackney.

Referred to: Local Government I.

May 25, 2000

A BILL TO BE ENTITLED

AN ACT MAKING OMNIBUS CHANGES TO CERTAIN GENERAL AND LOCAL LAWS AFFECTING ORANGE COUNTY.

The General Assembly of North Carolina enacts:

PART I. ORANGE COUNTY ADDED TO THOSE COUNTIES USING ATTACHMENT AND GARNISHMENT IN THE COLLECTION OF AMBULANCE SERVICE FEES

Section 1. G.S. 44-51.8 reads as rewritten:

"**§ 44-51.8. Counties to which Article applies.**

The provisions of this Article shall apply only to Alamance, Alexander, Alleghany, Anson, Ashe, Beaufort, Bladen, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Caswell, Catawba, Chatham, Cherokee, Chowan, Cleveland, Columbus, Craven, Cumberland, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Graham, Granville, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hertford, Hoke, Hyde, Iredell, Johnston, Jones, Lee, Lenoir, Lincoln, McDowell, Macon, Madison, Mecklenburg, Mitchell, Montgomery, Moore, Nash, New Hanover, Onslow, Orange, Pasquotank, Person, Pitt, Polk, Randolph, Richmond, Robeson, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly, Stokes, Surry, Swain, Transylvania, Tyrrell, Union, Vance, Wake, Warren, Washington, Watauga, Wilkes, Wilson, Yadkin and Yancey Counties."

PART II. REGULATION OF OPEN BURNING

Section 2. G.S. 153A-136 reads as rewritten:

"**§ 153A-136. Regulation of solid wastes.**

(a) A county may by ordinance regulate the storage, collection, transportation, use, disposal, and other disposition of solid wastes. Such an ordinance may:

(1) Regulate the activities of persons, firms, and corporations, both public and private.

(2) Require each person wishing to commercially collect or dispose of solid wastes to secure a license from the county and prohibit any person from commercially collecting or disposing of solid wastes without a license. A fee may be charged for a license.

(3) Grant a franchise to one or more persons for the exclusive right to commercially collect or dispose of solid wastes within all or a defined portion of the county and prohibit any other person from commercially collecting or disposing of solid wastes in that area. The board of commissioners may set the terms of any franchise, except that no franchise may be granted for a period exceeding 30 years, nor may any franchise by its terms impair the authority of the board of commissioners to regulate fees as authorized by this section.

(4) Regulate the fees, if any, that may be charged by licensed or franchised persons for collecting or disposing of solid wastes.

(5) Require the source separation of materials prior to collection of solid waste for disposal.

(6) Require participation in a recycling program by requiring separation of designated materials by the owner or occupant of the property prior to disposal. An owner of recovered materials as defined by G.S. 130A-290(a)(24) retains ownership of the recovered materials until the owner conveys, sells, donates, or otherwise transfers the recovered materials to a person, firm, company, corporation, or unit of local government. A county may not require an owner to convey, sell, donate, or otherwise transfer recovered materials to the county or its designee. If an owner places recovered materials in receptacles or delivers recovered materials to specific locations, receptacles, and facilities that are owned or operated by the county or its designee, then ownership of these materials is transferred to the county or its designee.

(7) Include any other proper matter.

(b) Any ordinance adopted pursuant to this section shall be consistent with and supplementary to any rules adopted by the Commission for Health Services or the Department of Environment and Natural Resources.

(c) The board of commissioners of a county shall consider alternative sites and socioeconomic and demographic data and shall hold a public hearing prior to selecting or approving a site for a new sanitary landfill that receives residential solid

waste that is located within one mile of an existing sanitary landfill within the State. The distance between an existing and a proposed site shall be determined by measurement between the closest points on the outer boundary of each site. The definitions set out in G.S. 130A-290 apply to this subsection. As used in this subsection:

(1) "Approving a site" refers to prior approval of a site under G.S. 130A-294(a)(4).

(2) "Existing sanitary landfill" means a sanitary landfill that is in operation or that has been in operation within the five-year period immediately prior to the date on which an application for a permit is submitted.

(3) "New sanitary landfill" means a sanitary landfill that includes areas not within the legal description of an existing sanitary landfill as set out in the permit for the existing sanitary landfill.

(4) "Socioeconomic and demographic data" means the most recent socioeconomic and demographic data compiled by the United States Bureau of the Census and any additional socioeconomic and demographic data submitted at the public hearing.

(d) As used in this section, "solid waste" means nonhazardous solid waste, that is, solid waste as defined in G.S. 130A-290 but not including hazardous waste.

(e) A county may by ordinance regulate and prohibit the open burning of trees, limbs, stumps, and construction debris. A county may, as a condition of approval of any permit for a subdivision, clearing, and development of land or construction of buildings within the planning jurisdiction of the county, regulate and prohibit the open burning of trees, limbs, stumps, and construction debris associated with the permitted activity."

PART III. APPLICABILITY AND EFFECTIVE DATE

Section 3. This act applies to Orange County only.

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1768
Proposed Committee Substitute H1768-PCS5115-LB

Short Title: Orange Omnibus Act. (Local)

Sponsors:

Referred to:

May 25, 2000

A BILL TO BE ENTITLED

AN ACT MAKING OMNIBUS CHANGES TO CERTAIN GENERAL AND LOCAL LAWS AFFECTING ORANGE COUNTY.

The General Assembly of North Carolina enacts:

PART I. ORANGE COUNTY ADDED TO THOSE COUNTIES USING ATTACHMENT AND GARNISHMENT IN THE COLLECTION OF AMBULANCE SERVICE FEES

Section 1. G.S. 44-51.8 reads as rewritten:

"**§ 44-51.8. Counties to which Article applies.**

The provisions of this Article shall apply only to Alamance, Alexander, Alleghany, Anson, Ashe, Beaufort, Bladen, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Caswell, Catawba, Chatham, Cherokee, Chowan, Cleveland, Columbus, Craven, Cumberland, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Graham, Granville, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hertford, Hoke, Hyde, Iredell, Johnston, Jones, Lee, Lenoir, Lincoln, McDowell, Macon, Madison, Mecklenburg, Mitchell, Montgomery, Moore, Nash, New Hanover, Onslow, Orange, Pasquotank, Person, Pitt, Polk, Randolph, Richmond, Robeson, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly, Stokes, Surry, Swain, Transylvania, Tyrrell, Union, Vance, Wake, Warren, Washington, Watauga, Wilkes, Wilson, Yadkin and Yancey Counties."

PART II. REGULATION OF OPEN BURNING

Section 2. G.S. 153A-136 reads as rewritten:

"**§ 153A-136. Regulation of solid wastes.**

(a) A county may by ordinance regulate the storage, collection, transportation, use, disposal, and other disposition of solid wastes. Such an ordinance may:

(1) Regulate the activities of persons, firms, and corporations, both public and private.

(2) Require each person wishing to commercially collect or dispose of solid wastes to secure a license from the county and prohibit any person from commercially collecting or disposing of solid wastes without a license. A fee may be charged for a license.

(3) Grant a franchise to one or more persons for the exclusive right to commercially collect or dispose of solid wastes within all or a defined portion of the county and prohibit any other person from commercially collecting or disposing of solid wastes in that area. The board of commissioners may set the terms of any franchise, except that no franchise may be granted for a period exceeding 30 years, nor may any franchise by its terms impair the authority of the board of commissioners to regulate fees as authorized by this section.

(4) Regulate the fees, if any, that may be charged by licensed or franchised persons for collecting or disposing of solid wastes.

(5) Require the source separation of materials prior to collection of solid waste for disposal.

(6) Require participation in a recycling program by requiring separation of designated materials by the owner or occupant of the property prior to disposal. An owner of recovered materials as defined by G.S. 130A-290(a)(24) retains ownership of the recovered materials until the owner conveys, sells, donates, or otherwise transfers the recovered materials to a person, firm, company, corporation, or unit of local government. A county may not require an owner to convey, sell, donate, or otherwise transfer recovered materials to the county or its designee. If an owner places recovered materials in receptacles or delivers recovered materials to specific locations, receptacles, and facilities that are owned or operated by the county or its designee, then ownership of these materials is transferred to the county or its designee.

(7) Include any other proper matter.

(b) Any ordinance adopted pursuant to this section shall be consistent with and supplementary to any rules adopted by the Commission for Health Services or the Department of Environment and Natural Resources.

(c) The board of commissioners of a county shall consider alternative sites and socioeconomic and demographic data and shall hold a public hearing prior to

selecting or approving a site for a new sanitary landfill that receives residential solid waste that is located within one mile of an existing sanitary landfill within the State. The distance between an existing and a proposed site shall be determined by measurement between the closest points on the outer boundary of each site. The definitions set out in G.S. 130A-290 apply to this subsection. As used in this subsection:

(1) "Approving a site" refers to prior approval of a site under G.S. 130A-294(a)(4).

(2) "Existing sanitary landfill" means a sanitary landfill that is in operation or that has been in operation within the five-year period immediately prior to the date on which an application for a permit is submitted.

(3) "New sanitary landfill" means a sanitary landfill that includes areas not within the legal description of an existing sanitary landfill as set out in the permit for the existing sanitary landfill.

(4) "Socioeconomic and demographic data" means the most recent socioeconomic and demographic data compiled by the United States Bureau of the Census and any additional socioeconomic and demographic data submitted at the public hearing.

(d) As used in this section, "solid waste" means nonhazardous solid waste, that is, solid waste as defined in G.S. 130A-290 but not including hazardous waste.

(e) A county may, as a condition of approval of any permit for a subdivision, clearing, and development of land or construction of buildings within the planning jurisdiction of the county, regulate and prohibit the open burning of trees, limbs, stumps, and construction debris associated with the permitted activity. Agricultural, horticultural, and silvacultural activities which are exempt by law from requirements of a county permit for subdivision, clearing, and development of land or construction of buildings within the planning jurisdiction of the county are not made subject to such permitting by this subsection."

PART III. APPLICABILITY AND EFFECTIVE DATE

Section 3. This act applies to Orange County only.

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

HOUSE BILL 1806

Short Title: Some Electricity Tax Exempt. (Public)

Sponsors: Representative Miller.

Referred to: Finance.

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO EXEMPT SALES TO MANUFACTURERS OF ELECTRICITY USED IN ARC FURNACES, INDUCTION FURNACES, AND ALUMINUM MANUFACTURING PROCESSES FROM THE SALES AND USE TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.13 is amended by adding a new subdivision to read:

"(8b) Sales to a manufacturer of electricity that enters into and is used in the operation of arc furnaces, induction furnaces, and aluminum manufacturing processes."

Section 2. This act becomes effective March 1, 2000, and applies to sales made on or after that date.

Bill Analysis
House Bill 1806: Some Electricity Tax Exempt

To: Finance Committee Chairs and Bill Sponsor
From: Muriel K. Offerman, Secretary of Revenue
Date: June 27, 2000

Bill Summary

The proposed bill exempts sales of electricity made to a manufacturer that enters into or is used in the operation of arc furnaces, induction furnaces, and aluminum manufacturing processes.

The act is effective March 1, 2000, and applies to sales made on or after this date.

Sales of electricity are subject to the 2.83% or 3% rate of sales tax unless specifically exempted. Sales of electricity to manufacturing industries and manufacturing plants for use in connection with the operation of the industries and plants other than sales of electricity to be used for residential heating purposes are subject to the 2.83% rate of tax.

Department's Comments

Since the imposition of sales tax on sales of electricity effective January 1, 1985, the Sales and Use Tax Division has issued private letter rulings to several types of manufacturers advising that a portion of the firms' purchases of electricity was not subject to sales or use tax pursuant to G.S. 105-164.13(8) based on the Division's interpretation that the electricity purchased entered into the manufacturers' products. The types of manufacturers include the following: operators of arc furnaces, aluminum manufacturers, and battery manufacturers. The Division has issued private letter rulings that held that the exemption did not apply to electricity used to operate an induction furnace.

In a decision rendered on February 14, 2000, the Department's Hearings Officer concluded that the exemption provided under G.S. 105-164.13(8) for tangible personal property that entered into or became an ingredient or component part of a product did not apply to the sale of electricity to manufacturers that operate an arc or an induction furnace.

Based on the findings and conclusions of the Hearings Officer with regard to the nature of electricity, the Division issued Directive SD-00-01 on February 16, 2000, which provided that as of March 1, 2000, sales of electricity to

manufacturers were taxable at either the 2.83% or 3% rate, notwithstanding that a taxpayer had received a prior written ruling from the Division advising that the manufacturer's purchases of electricity were exempt from tax.

The proposed bill would exempt sales of electricity to most of the firms that otherwise would be taxable as of March 1, 2000 as a result of the decision of the Hearings Officer. Sales tax would continue to be due on sales of electricity to manufacturers when used in a manner other than to operate an arc furnace, induction furnace, or aluminum manufacturing process.

Department's Concerns

(1) The exemption is not uniform in that only certain manufacturers that had received rulings from the Division regarding their electricity purchases will be entitled to the exemption and the other firms will be liable for sales or use tax on all their purchases of electricity.

(2) Only electricity purchased for a use set out in the bill is exempt from tax; electricity used by manufacturers for other purposes at a plant will be subject to tax at the rate of 2.83%. In order to provide a means to account for taxable and nontaxable electricity purchases, we recommend that the exemption apply to electricity used for the denoted purposes as measured by a separate meter or another separate device. Similar provisions are included in G.S. 105-164.4(a)(1f), which is the subsection that provides for the reduced rate of tax on sales of electricity to farmers, manufacturers, and commercial laundries.

Distribution:
Representative Gordon P. Allen
Representative Paul Luebke
Representative George W. Miller, Jr.
Senator John H. Kerr, III
Senator David W. Hoyle

Cc: Michael S. Hodges
Bernice W. Thomas
Sabra J. Faires

NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1806 (First Edition)

SHORT TITLE: Some Electricity Tax Exempt

SPONSOR(S): Representative Miller

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
REVENUES					
General Fund	($1,687,500)	($1,350,000)	($1,350,000)	($1,350,000)	($1,350,000)
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue – Sales and Use Tax Division

EFFECTIVE DATE: The act becomes effective March 1, 2000, and applies to sales made on after that date.

BILL SUMMARY: The bill exempts sales to manufacturers of electricity used in arc furnaces, induction furnaces, and aluminum manufacturing processes from the sales and use tax.

BACKGROUND: The Secretary of Revenue issued a Directive on February 14, 2000 that ruled electricity is not "an ingredient or component part of the materials being produced by a manufacturer in the operation of an arc furnace or an induction furnace". The Secretary determined that electricity is a form of energy, not a form of matter or tangible property that the Legislature intended to exempt from tax. The Directive overruled previous private letter rulings from the Sales and Use Tax Division of the Department of Revenue that allowed a sales tax exemption for arc furnaces. Effective March 1, 2000, electricity used in arc furnaces is once again subject to the 2.83% sales tax (3% is not separately metered). The Directive clarified that electricity used in induction furnaces is not tax exempt.

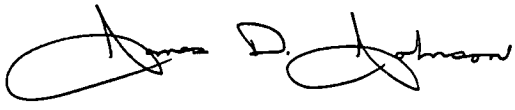
ASSUMPTIONS AND METHODOLOGY:
The Tax Research Division of the Department of Revenue estimates a General Fund revenue loss of $1.35 million a year if HB 1806 is approved. The estimate of tax paid on electricity used in arc furnaces, induction furnaces, and aluminum manufacturing processes is based on information

taken from sales and use tax returns and from requests for refund of sales and use tax paid. Due to a March 1, 2000 effective date, the Department will also refund $337,500 in FY 2000-01 for three months of collections in the last quarter of FY 1999-00.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY: James D. Johnson



DATE: June 19, 2000

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 1184 A BILL TO BE ENTITLED AN ACT TO ESTABLISH A VOLUNTARILY FUNDED STATEWIDE SPAY/NEUTER PROGRAM TO PROVIDE EDUCATION ON THE BENEFITS OF SPAYING AND NEUTERING PETS AND TO PROVIDE FINANCIAL ASSISTANCE TO COUNTIES AND CITIES OFFERING LOW-INCOME PERSONS REDUCED-COST SPAY/NEUTER SERVICES FOR DOGS AND CATS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to House committee substitute bill (# 1), ☐ ~~which changes the title~~, unfavorable as to ~~(original bill)~~ (Senate Committee Substitute Bill #), ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 3

SENATE BILL 1184*
Finance Committee Substitute Adopted 5/25/00
Third Edition Engrossed 6/21/00

Short Title: Spay/Neuter Program. (Public)

Sponsors:

Referred to:

May 9, 2000

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A VOLUNTARILY FUNDED STATEWIDE SPAY/NEUTER PROGRAM TO PROVIDE EDUCATION ON THE BENEFITS OF SPAYING AND NEUTERING PETS AND TO PROVIDE FINANCIAL ASSISTANCE TO COUNTIES AND CITIES OFFERING LOW-INCOME PERSONS REDUCED-COST SPAY/NEUTER SERVICES FOR DOGS AND CATS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 19A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 5.

"Spay/Neuter Program.

"**§ 19A-50. Legislative findings.**

The General Assembly finds that the uncontrolled breeding of cats and dogs in the State has led to unacceptable numbers of unwanted dogs, puppies and cats and kittens. These unwanted animals become strays and constitute a public nuisance and a public health hazard. The animals themselves suffer privation and death, are impounded, and most are destroyed at great expense to local governments. It is the intention of the General Assembly to provide a voluntary means of funding a spay/neuter program to provide financial assistance to local governments offering low-income persons reduced-cost spay/neuter services for their dogs and cats and to provide a statewide education program on the benefits of spaying and neutering pets.

" **§ 19A-51. Spay/Neuter Program established.**

There is established in the Department of Health and Human Services a statewide program to foster the spaying and neutering of dogs and cats for the purpose of reducing the population of unwanted animals in the State. The program shall consist of the following components:

(a) Education Program. -- The Department shall establish a statewide program to educate the public about the benefits of having cats and dogs spayed and neutered. The Department may work cooperatively on the program with the North Carolina School of Veterinary Medicine, other State agencies and departments, county and city health departments and animal control agencies, and statewide and local humane organizations. The Department may employ outside consultants to assist with the education program.

(b) Local Spay/Neuter Assistance Program. -- The Department shall administer the Spay/Neuter Account established in G.S. 19A-52. Monies deposited in the account shall be available to reimburse eligible counties and cities for the direct costs of spay/neuter surgeries for cats and dogs made available to low-income persons.

"**§ 19A-52. Spay/Neuter Account established.**

(a) Creation. -- The Spay/Neuter Account is established as a nonreverting special revenue account in the Department of Health and Human Services. The Account consists of the following:

(1) Fifty cents (50¢) of the fee imposed by G.S. 130A-190(c) on the costs of obtaining rabies vaccination tags from the Department of Health and Human Services.

(2) Ten dollars ($10.00) of the additional fee imposed by G.S. 20-79.7 for an Animal Lovers special license plate.

(3) Any other funds available from appropriations by the General Assembly or from contributions and grants from public or private sources.

(b) Use. -- The revenue in the Account shall be used by the Department of Health and Human Services as follows:

(1) Twenty percent (20%) shall be used to develop and implement the statewide education program component of the Spay/Neuter Program established in G.S. 19A-51(a).

(2) Up to twenty percent (20%) of the money in the Account may be used to defray the costs of administering the Spay/Neuter Program established in this Article.

(3) Funds remaining after deductions for the education program and administrative expenses shall be distributed quarterly to eligible counties and cities seeking reimbursement for reduced-cost spay/neuter surgeries performed during the previous year.

"**§ 19A-53. Eligibility for distributions from Spay/Neuter Account.**

(a) A county or city is eligible for reimbursement from the Spay/Neuter Account if it meets both of the following conditions:

(1) The county or city levies an animal tax on dogs and cats under either G.S. 153A-153 or G.S. 160A-212, and the amount of the tax levied on a dog or cat that has not been spayed or neutered is at least three times higher than the amount of the tax levied on a dog or cat that has been spayed or neutered; provided that the total amount of the tax levied shall not exceed twenty-five dollars ($25.00). A county or city may exempt from the higher tax rate a person who owns five or more dogs or five or more cats and has registered with the county or city as a dog breeder or a cat breeder. Registration shall be on forms provided by the county or city and accompanied by a registration fee of twenty-five dollars ($25.00). Any tax owed by a registered dog breeder or registered cat breeder pursuant to G.S. 153A-153 or G.S. 160A-212 during the 12-month period following registration shall be calculated as if the dogs or cats owned by the registrant were spayed or neutered.

(2) The county or city offers one or more of the following programs to low-income persons on a year-round basis for the purpose of reducing the cost of spaying and neutering procedures for dogs and cats:

a. A spay/neuter clinic operated by the county or city.

b. A spay/neuter clinic operated by a private organization under contract or other arrangement with the county or city.

c. A contract or contracts with one or more veterinarians, whether or not located within the county, to provide reduced-cost spaying and neutering procedures.

d. Subvention of the spaying and neutering costs incurred by low-income pet owners through the use of vouchers or other procedure that provides a discount of the cost of the spaying or neutering procedure fixed by a participating veterinarian or other provider.

e. Subvention of the spaying and neutering costs incurred by persons who adopt a pet from an animal shelter operated by or under contract with the county or city.

(b) For purposes of this Article, the term "low-income person" shall mean an individual who qualifies for one or more of the programs of public assistance administered by the Department pursuant to Chapter 108A of the General Statutes.

"**§ 19A-54. Distributions to counties and cities from Spay/Neuter Account.**

(a) Reimbursable Costs. -- Counties and cities eligible for distributions from the Spay/Neuter Account may receive reimbursement for the direct costs of a spay/neuter surgical procedure for a dog or cat owned by a low-income person meeting the Department's eligibility requirements for spay/neuter services. Reimbursable costs shall include anesthesia, medication, and veterinary services. Counties and cities shall not be reimbursed for the administrative costs of providing reduced-cost

spay/neuter services or capital expenditures for facilities and equipment associated with the provision of such services.

(b) Application. -- A county or city eligible for reimbursement of spaying and neutering costs from the Spay/Neuter Account shall apply to the Department of Health and Human Services by the last day of January, April, July, and October of each year to receive a distribution from the Account for that quarter. The application shall be submitted in the form required by the Department and shall include an itemized listing of the costs for which reimbursement is sought.

(c) Distribution. -- The Department shall make payments from the Spay/Neuter Account to eligible counties and cities who have made timely application for reimbursement within 30 days of the closing date for receipt of applications for that quarter. In the event that total requests for reimbursement exceed the amounts available in the Spay/Neuter Account for distribution, the monies available will be distributed as follows:

(1) Fifty percent (50%) of the monies available in the Spay/Neuter Account shall be reserved for reimbursement for eligible applicants within enterprise tier one, two, and three areas as defined in G.S. 105-129.3. The remaining fifty percent (50%) of the funds shall be used to fund reimbursement requests from eligible applicants in enterprise tier four and five areas as defined in G.S. 105-129.3.

(2) Among the eligible counties and cities in enterprise tier one, two, and three areas, reimbursement shall be made to each eligible county or city in proportion to the number of dogs and cats that have received rabies vaccinations during the preceding fiscal year in that county or city as compared to the number of dogs and cats that have received rabies vaccinations during the preceding fiscal year by all of the eligible applicants in enterprise tier one, two, or three areas.

(3) Among the eligible counties and cities in enterprise tier four and five areas, reimbursement shall be made to each eligible county or city in proportion to the number of dogs and cats that have received rabies vaccinations during the preceding fiscal year in that county or city as compared to the number of dogs and cats that have received rabies vaccinations during the preceeding fiscal year by all of the eligible applicants in enterprise tier four and five areas.

(4) Should funds remain available from the fifty percent (50%) of the Spay/Neuter Account designated for enterprise tier one, two, or three areas after reimbursement of all claims by eligible applicants in those areas, the remaining funds shall be made available to reimburse eligible applicants in enterprise tier four and five areas."

Section 2. G.S. 130A-190 reads as rewritten:

"**§ 130A-190. Rabies vaccination tags.**

(a) A licensed veterinarian or a certified rabies vaccinator who administers rabies vaccine to a dog or cat shall issue a rabies vaccination tag to the owner of the animal. The rabies vaccination tag shall show the year issued, a vaccination number, the words "North Carolina" or the initials "N.C." and the words "rabies vaccine." Dogs and cats shall wear rabies vaccination tags at all times. However, cats may be exempted from wearing the tags by local ordinance. ~~Rabies~~

(b) Rabies vaccination tags, links and rivets may be obtained from the Department. The Secretary is authorized to establish by rule a fee for the rabies tags, links and rivets. Except as otherwise authorized in this section, the fee shall not exceed the actual cost of the rabies tags, links and rivets, plus transportation costs. The Secretary may increase the fee beyond the actual cost plus transportation, by an amount not to exceed five cents ($.05) per tag, to fund rabies education and prevention programs.

(c) The Department shall make available a special edition rabies tag to be known as the "I Care" tag. This tag shall be different in shape from the standard tag and shall carry the inscription "I Care" in addition to the information required by subsection (a) of this section. The Secretary is authorized to establish a fee for the "I Care" rabies tag equal to the amount set forth in subsection (b) of this section plus an additional fifty cents ($.50). The additional fifty cents ($.50) shall be credited to the Spay/Neuter Account established in G.S. 19A-52."

Section 3. G.S. 20-81.12(b10) reads as rewritten:

"(b10) Animal Lovers Plates. -- The Division must receive 300 or more applications before an animal lovers plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the animal lovers plate to the ~~Department of Health and Human Services to create a statewide program to promote spaying and neutering of dogs and cats.~~ Spay/Neuter Account established in G.S. 19A-50."

Section 4. G.S. 130A-197 reads as rewritten:

"§ 130A-197. Infected dogs and cats to be destroyed; protection of vaccinated dogs and cats.

~~A~~ When the local health director reasonably suspects that a dog or cat ~~bitten by~~ has been exposed to the saliva or nervous tissue of a proven rabid animal or animal reasonably suspected of having rabies that is not available for laboratory ~~diagnosis~~ diagnosis, the dog or cat shall be considered to have been exposed to rabies. A dog or cat exposed to rabies shall be destroyed immediately by its owner, the county Animal Control Officer or a peace officer unless the dog or cat has been vaccinated against rabies in accordance with this Part and the rules of the Commission more than three weeks prior to being ~~bitten,~~ exposed, and is given a booster dose of rabies vaccine within three days of the ~~bite.~~ exposure. As an alternative to destruction, the dog or cat may be quarantined at a veterinary hospital or animal control facility for a period of six months at the discretion of, and under conditions imposed by, the local health director."

Section 5. Every county or city animal shelter, or animal shelter operated under contract with a county or city or otherwise in receipt of State or local funding

shall prepare an annual report setting forth the numbers, by species, of animals received into the shelter, the number adopted out, the number returned to owner, and the number destroyed. The report shall also contain the total operating expenses of the shelter and the cost per animal handled. The report shall be filed with the Department of Health and Human Services by August 1 of each year.

Section 6. The Department of Health and Human Services shall establish a pilot program for animal control in one of the counties within the enterprise tier one area, as defined in G.S. 105-29.3, that does not have an existing animal control program and that meets the qualifications established in this section.

The Department shall select a county to participate from among those counties applying to the Department for consideration for the pilot program. Counties wishing to participate should submit a written application to the Department describing in detail the animal control problems in the county, the proposed animal control program to be implemented with the funding available through the pilot program, and the expected results from the program. The Department shall make its selection based on its determination of where the pilot program would most effectively reduce the population of unwanted cats and dogs and enhance public health and safety. The decision of the Department as to the county chosen to participate in the pilot program shall be final.

To qualify to participate in the program, a county shall establish a differentiated tax on dogs and cats and offer a reduced cost spay/neuter program to low-income persons as provided in G.S. 19A-53(a). The county selected shall be required to provide a fifty percent (50%) match to any State funds that are allocated for the local animal control program. The county shall keep records of the number of cats and dogs spayed and neutered under the reduced cost spay/neuter program and shall report the results of the pilot program on animal control problems in the county to the Department on a semiannual basis.

Funding for the program shall be from the Spay/Neuter Account established pursuant to G.S. 19A-52 from funds received from the sale of Animal Lovers special license plates pursuant to G.S. 20-79.7 and shall not exceed fifty percent (50%) of the funds available from the sale of the special license plate or fifty thousand dollars ($50,000), whichever is less.

Section 7. This act becomes effective January 1, 2001.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) _____
Sen.)

1 moves to amend the bill on page _____, line _____

2 ( ) WHICH CHANGES THE TITLE

3 by _____

4 _____

5 _____

6 _____

7 _____

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

COMMITTEE CLERK

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1184

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S1184-ASC-001(6.30) Page 1 of __

Date 6/30 ,2000

Comm. Sub. []
Amends Title []
Third Edition

Representative Hill :

moves to amend the bill on page 2, line 6, by deleting the letter "(a)", and substituting the number "(1)", and making the proper indentations; and,

on page 2, line 13, by deleting the letter "(b)", and substituting the number "(2)", and making the proper indentations.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) _____
Sen.)

1 moves to amend the bill on page _____, line _____

2 ( ) WHICH CHANGES THE TITLE

3 by _____

4 _____

5 _____

6 _____

7 _____

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

NEWS MEDIA

SENATE BILL 1184:
Spay/Neuter Program (study bill)

BILL ANALYSIS

Committee: House Finance
Date: June 28, 2000
Version: 3rd Edition

Introduced by: Senator Kinnaird
Summary by: Mary Shuping
Research Assistant

SUMMARY: ***SB 1184 is the recommendation of the LRC Animal Treatment Procedures Committee. The bill establishes a voluntarily funded statewide spay/neuter program to provide education on the benefits of spaying and neutering pets and to provide financial assistance to counties and cities offering low-income persons reduced cost spay/neuter services for dogs and cats. The bill is effective January 1, 2001.***

BILL ANALYSIS:

Section 1

Creation of Voluntarily Funded Statewide Spay/Neuter Program to provide two services:

- Financial assistance to local governments that offer low-income persons reduced cost spay/neuter services for their dogs and cats. (A "low-income person" is defined as one who qualifies for one or more of the programs of public assistance administered by the Department of Health and Human Services. These programs include Work First, State-County Special Assistance for Adults, Foster Care and Adoption Assistance Payments, Food Stamp Program, and Medical Assistance Program.)
- Statewide program to educate the public on the benefits of spaying and neutering.

Funding for statewide program

The bill establishes a non-reverting special revenue Spay/Neuter Account in the Department of Health and Human Services to fund the above two services. Revenue for the Account comes from the following:

- An additional 50 cent fee on the cost of obtaining a special rabies tag. This special tag is an alternative to the standard tag and is a different shape and carries the designation "I Care".
- $10 of the additional fee for the purchase of Animal Lovers special license plates.
- Any appropriations by the General Assembly or contributions and grants.

Use of revenues in Account

- 20% to develop and implement the statewide education program.
- Up to 20% to defray costs of administering the Spay/Neuter Program. In the first year the fund is operational, the Department will use lapsed salary dollars to fund a position to administer the Program. In subsequent years, lapsed salary dollars will be used to supplement funding for administration of the program if revenue from the Spay/Neuter Account is insufficient.
- Remaining funds distributed quarterly to counties and cities seeking reimbursement for reduced-cost spay/neuter surgeries performed the previous year.

Eligibility for distribution

A county or city must meet two eligibility requirements for reimbursement:

1. Levy an annual animal tax on dogs and cats. The tax on animals that are not spayed or neutered must be at least three times the tax levied for pets that have been spayed or neutered (The county or city may exempt from the higher tax rate a person who owns five or more dogs or five or more cats and has registered with the county or city as a dog breeder or cat breeder. The registration fee may not exceed $25.)
2. Offer to low-income persons a year round, reduced cost spay/neuter program. Eligible local programs include a spay-neuter clinic operated by the local government or under contract with the local government; contracts with one or more veterinarians to provide low cost spay neuter procedures; subsidization of spay/neuter costs for low income pet owners through the use of vouchers; or subsidies of the spay/neuter costs for pets adopted from the local animal shelter

Reimbursable Costs & Method of Distribution

Reimbursements to eligible counties and cities are for the direct costs of a spay/neuter surgical procedure for a dog or cat owned by a low-income person. Reimbursable costs include anesthesia, medication and veterinary services. Reimbursable costs do *not* include administrative costs or capital expenditures.

Of the funds available in the Account, 50% will be reserved for reimbursement to eligible counties in enterprise tier one, two, or three areas. The remaining 50% will be available to eligible counties in tier four and five areas. Of the money available to enterprise tier one, two and three areas, the funds shall be distributed to each eligible county or city in proportion to the number of dogs and cats that have received a vaccination during the preceding fiscal year as compared to the number of vaccinations given throughout the enterprise tier one, two, and three areas. Of the money available for the remaining eligible counties and cities, the monies will also be distributed proportionally according to the numbers of vaccinations given in the previous fiscal year.

Section 2 establishes the special edition of the rabies tag ("I Care" tag) which costs an additional 50 cents. The additional charge is credited to the Spay/Neuter Account.

Section 3 clarifies that $10 of the fee from the "Animal Lovers" special license plate will be deposited in the Spay/Neuter Account. (Under current law, the $10/plate is deposited with the DHHS to create a statewide program for spaying and neutering of dogs and cats.)

Section 4 of the bill amends G.S. 130A-197 to allow, as an alternative to destruction, a six months quarantine of unvaccinated animals that have been exposed to rabies. The section also deletes reference to "bitten by" a proven rabid animal and substitutes "exposed to the saliva or nervous tissue" of a proven rabid animal.

Section 5 of the bill requires city and county animal shelters to make annual reports to DHHS on the number of animals received, adopted out, returned to owners, and destroyed, along with total operating expenses.

Section 6 of the bill directs the Department to establish a pilot animal control program in an enterprise tier one county that does not currently have a program meeting the standards of the act. The selected county must provide a 50% match to State funds allocated for the pilot program. The State funds will come from money in the Spay/Neuter Account from the sale of the Animal Lovers license plates, but the amount cannot exceed the lesser of 50% of this money or $50,000.

EFFECTIVE DATE: January 1, 2001.

Martha Walston, Staff Attorney, Fiscal Research Division, contributed substantially to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 1184 (First Edition)

SHORT TITLE: Spay/Neuter Program

SPONSOR(S): Senator Kinnaird, et al

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
REVENUES					
Spay/Neuter Account					
"I Care" Rabies Tags	see Assumptions and Methodology				
License Plates	Minimum of $5,920 each year				
Local Governments	No impact, but must levy animal tax to qualify for aid				
EXPENDITURES					
Dept. of HHS					
General Fund *	$26,499	$21,886	$22,577	$23,329	$24,162
Spay/Neuter Account	no estimate available				
POSITIONS					
Dept. of HHS	.5	.5	.5	.5	.5

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Health and Human Services (HHS) – Public Health Division; Local governments

EFFECTIVE DATE: This act becomes effective January 1, 2001.

* Reversions from lapsed salaries (General Fund) may be used if funds are insufficient in the Spay/Neuter Account to fund administrative expenses.

BILL SUMMARY: This bill establishes a spay/neuter program in the North Carolina Department of Health and Human Services (HHS) – Division of Public Health. HHS will develop a statewide program to educate the public about the benefits of spaying and neutering cats and dogs. HHS will also create a Local Spay/Neuter Assistance Program to reimburse cities and counties for costs of performing spaying and neutering of pets belonging to low income persons. These spay/neuter programs are funded by 1) a voluntarily paid 50 cents fee on rabies

vaccination tags, 2) $10 from the sale of each Animal Lovers license plate, and 3) any appropriations or contributions. All revenues are paid into a Spay/Neuter Account that is then allocated 20% to statewide education, 20% to administration, and 60% to aid local governments.

ASSUMPTIONS AND METHODOLOGY:

REVENUE

Staff for the Veterinary Public Health Program in the Department of Health and Human Services estimates that one million rabies tags are sold annually to veterinarians. These tags provide proof of a rabies vaccination. Although not all tags are used in a year, it is the best indicator available for rabies vaccinations. SB 1184 makes available a special edition "I Care" rabies tag for an additional 50 cents. This additional fee is deposited into a new Spay/Neuter Account. Given that the purchase of "I Care" tags is voluntary, it is unknown what the annual revenue will be. The maximum revenue that can be obtained from this voluntary fee is $500,000 per year. The minimum revenue is zero.

SB 1184 transfers the future proceeds of the Animal Lovers special license plates into the Spay/Neuter Account. Since HB 1246 was approved on July 21, 1999, 592 persons have purchased the "I Care" animal lovers plate. $10 of the $20 special plate fee has gone to the Department of Health and Human Services for the spay/neuter program. At a minimum, the Spay/Neuter account will receive $5,920 from the renewal of these plates each year. With less than one year of experience with this tag, there is no reasonable method to estimate growth in plate sales.

Although SB 1184 does not mandate a local animal tax on dogs and cats, it does require local governments to have enacted this tax in order to qualify for grants from the Spay/Neuter Account. This animal tax must be three times higher for cats and dogs that have not been spayed or neutered than for cats and dogs that have been spayed or neutered. Some local governments may adopt this tax or amend their existing animal tax to qualify for the grant program. Twenty three counties reported an animal tax ordinance in a 1997 survey conducted by the North Carolina Association of County Commissioners, but it is not known whether these counties meet the tax standard in SB 1184. No similar survey is available for municipalities, but 47 towns and cities did report revenue from an animal tax in their 1997 AFIR (Annual Financial Information Report).

EXPENDITURE

1. A ½ FTE position titled Vet Tech II is needed to develop educational activities and to administer grant funds to counties for the surgical procedures. The position is also needed to establish a procedure with each licensed veterinarian and licensed certified rabies vaccinator in the state's 760 veterinary facilities for collecting and submitting the "I Care" tag fee.

2. In addition to the position, $12,505 will be needed for supplies, postage announcing the program and office equipment for the first year and $7,222 for the second year.

3. It is assumed that the inflation factor for the salary of the position will increase as follows: FY2002 - 3.6%, FY2003 - 3.5%, FY2004 - 3.7%, and FY2005 - 4.0%.

4. It is assumed that the inflation factor for general supplies will increase as follows:

FY2003 - 2.5%, FY2004 - 2.6%, and FY2005 - 2.7%.

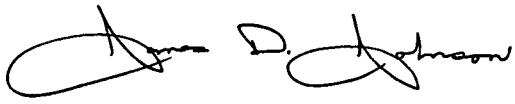
TECHNICAL CONSIDERATIONS:

1. The bill explicitly states that 20% of the Spay/Neuter Account revenues will be used for administration and the difference of the revenues and actual costs of administration is to be funded from lapsed salaries. Lapsed salaries are unspent salary funds created by a vacant position. Since positions are budgeted for 100% of the fiscal year, each day that a position is left vacant results in unspent wages and fringe benefits for that day. Typically, these funds revert at the end of the year or are used in an approved transfer during the year. Due to the uncertainty of rabies tag receipts in the first year of the program, earmarking of lapsed salaries is equal to an appropriation of General Fund reversions in FY 2000-01. Furthermore, there is no guarantee that funds will be available during the fiscal year to cover the administrative cost of the program.

2. Reference on page 2, lines 10 and 11 to the North Carolina School of Veterinary Medicine should be changed to the North Carolina State University College of Veterinary Medicine.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Lisa Hollowell & Richard Bostic

APPROVED BY: James D. Johnson



DATE: May 18, 2000

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

HOUSE ☒ Committee Substitute for
S.B. 1210 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SUPPORT PUBLIC SCHOOLS SPECIAL REGISTRATION PLATES, DUCKS UNLIMITED SPECIAL REGISTRATION PLATES, OMEGA PSI PHI FRATERNITY SPECIAL REGISTRATION PLATES, TOBACCO HERITAGE SPECIAL REGISTRATION PLATES, "N.C. MARITIME MUSEUM" SPECIAL REGISTRATION PLATES, AND LITTER PREVENTION SPECIAL REGISTRATION PLATES; TO CREATE THE FUND FOR THE REDUCTION OF CLASS SIZE IN PUBLIC SCHOOLS; AND TO REMOVE THE SPECIAL REGISTRATION PLATE ACCOUNT FEE FROM THE LEGION OF VALOR SPECIAL REGISTRATION PLATES, CONGRESSIONAL MEDAL OF HONOR SPECIAL REGISTRATION PLATES, 100% DISABLED VETERAN SPECIAL REGISTRATION PLATES, EX-PRISONER OF WAR SPECIAL REGISTRATION PLATES, AND TO MODIFY THE BASIS FOR ISSUING PERMANENT PLATES TO CHURCH BUSES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill (# House 2), ☒ which changes the title, unfavorable as to ~~(original bill)~~ (House Committee Substitute Bill # 1), ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 3

SENATE BILL 1210
Finance Committee Substitute Adopted 6/5/00
House Committee Substitute Reported Without Prejudice 6/27/00

Short Title: Special Registration Plates. (Public)

Sponsors:

Referred to:

May 11, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SUPPORT PUBLIC SCHOOLS SPECIAL REGISTRATION PLATES, DUCKS UNLIMITED SPECIAL REGISTRATION PLATES, OMEGA PSI PHI FRATERNITY SPECIAL REGISTRATION PLATES, TOBACCO HERITAGE SPECIAL REGISTRATION PLATES, "N.C. MARITIME MUSEUM" SPECIAL REGISTRATION PLATES, AND LITTER PREVENTION SPECIAL REGISTRATION PLATES; TO CREATE THE FUND FOR THE REDUCTION OF CLASS SIZE IN PUBLIC SCHOOLS; AND TO REMOVE THE SPECIAL REGISTRATION PLATE ACCOUNT FEE FROM THE LEGION OF VALOR SPECIAL REGISTRATION PLATES, CONGRESSIONAL MEDAL OF HONOR SPECIAL REGISTRATION PLATES, 100% DISABLED VETERAN SPECIAL REGISTRATION PLATES, EX-PRISONER OF WAR SPECIAL REGISTRATION PLATES, AND TO MODIFY THE BASIS FOR ISSUING PERMANENT PLATES TO CHURCH BUSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-79.4(b)(13a) is recodified as G.S. 20-79.4(b)(13b).

Section 2. G.S. 20-79.4(b) is amended by adding the following new subdivisions to read:

"(b) Types. -- The Division shall issue the following types of special registration plates:

. . .

(13a) Ducks Unlimited. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the logo of Ducks Unlimited, Inc., and shall bear the words: 'Ducks Unlimited'.

. . .

(22a) Litter Prevention. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase and picture appropriate to the subject of litter prevention in North Carolina.

. . .

(29a) Omega Psi Phi Fraternity. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the fraternity's symbol and name.

. . .

(45a) Support Public Schools. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear a picture representing an old-time one-room schoolhouse and shall bear the words: 'Support Our Public Schools'.

(45b) Tobacco Heritage. -- Issuable to the registered owner of a motor vehicle. The plate shall bear a picture of a tobacco leaf and plow. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate."

Section 3. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. -- Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration ~~plates~~ plates, including additional Congressional Medal of Honor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Historical Attraction	$30.00
State Attraction	$30.00
Collegiate Insignia	$25.00
Kids First	$25.00
Olympic Games	$25.00
Special Olympics	$25.00
University Health Systems of Eastern Carolina	$25.00
Animal Lovers	$20.00
Litter Prevention	$15.00
Ducks Unlimited	$20.00
March of Dimes	$20.00
Omega Psi Phi Fraternity	$20.00
Scenic Rivers	$20.00

School Technology	$20.00
Soil and Water Conservation	$20.00
Support Public Schools	$20.00
Wildlife Resources	$20.00
Personalized	$20.00
Active Member of the National Guard	None
Congressional Medal of Honor	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
All Other Special Plates	$10.00."

Section 4. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. -- The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

Special Plate	SRPA	CCAPA	NHTF
Animal Lovers	$10	$10	0
Litter Prevention	$ 5	$10	0
Historical Attraction	$10	$20	0
In-State Collegiate Insignia	$10	$15	0
Kids First	$10	$15	0
Out-of-state Collegiate Insignia	$10	0	$15
Personalized	$10	0	$10
Special Olympics	$10	$15	0
Olympic Games	$10	$15	0
State Attraction	$10	$20	0
Ducks Unlimited	$10	$10	0
March of Dimes	$10	$10	0
Omega Psi Phi Fraternity	$10	$10	0
Scenic Rivers	$10	$10	0
School Technology	$10	$10	0
Soil and Water Conservation	$10	$10	0
Support Public Schools	$10	$10	0
University Health Systems of Eastern Carolina	$10	$15	0
Wildlife Resources	$10	$10	0
All other Special Plates	$10	0	0".

Section 5. G.S. 20-81.12 is amended by adding the following new subsections to read:

"(b12) Support Public Schools Plates. -- The Division must receive 300 or more applications for a Support Public Schools plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Support Public Schools plates to the Fund for the Reduction of Class Size in Public Schools created pursuant to G.S. 115C-472.10.

(b13) Ducks Unlimited Plates. -- The Division must receive 300 or more applications for a Ducks Unlimited plate and receive any necessary licenses from Ducks Unlimited, Inc., for use of their logo before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Ducks Unlimited plates to the Wildlife Resources Commission to be used to support the conservation programs of Ducks Unlimited, Inc., in this State.

(b14) Omega Psi Phi Fraternity Plates. -- The Division must receive 300 or more applications for an Omega Psi Phi Fraternity plate and receive any necessary licenses, without charge, from Omega Psi Phi Fraternity, Incorporated, before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Omega Psi Phi Fraternity plates to the United Negro College Fund, Inc., through the Winston-Salem Area Office for the benefit of UNCF colleges in this State.

(b15) Litter Prevention Plates. -- The Division shall develop a litter prevention plate regardless of the number of applications for the plate that the Division receives. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of litter prevention plates to the Litter Prevention Account created pursuant to G.S. 136-125.1."

Section 6. Chapter 115C of the General Statutes is amended by adding a new Article to read:

"ARTICLE 32C.

"Fund for the Reduction of Class Size in Public Schools.

"§ 115C-472.10. Establishment of the Fund for the Reduction of Class Size in Public Schools.

(a) There is established under the control and direction of the State Board of Education the Fund for the Reduction of Class Size in Public Schools. This fund shall be a nonreverting special revenue fund consisting of moneys credited to it under G.S. 20-81.12(b12) from the sale of special registration plates to support the public schools.

(b) The State Board of Education shall allocate funds in the Fund for the Reduction of Class Size in Public Schools to local school administrative units to reduce class size in public schools."

Section 7. G.S. 20-81.12(b2) is amended by adding the following new subdivision:

"(b2) State Attraction Plates. -- The Division must receive 300 or more applications for a State attraction plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction

Plate Account derived from the sale of State attraction plates to the organizations named below in proportion to the number of State attraction plates sold representing that organization:

. . .

(1b) The North Carolina Maritime Museum. -- The revenue derived from the special plate shall be transferred quarterly to Friends of the Museum, North Carolina Maritime Museum, Inc., to be used for educational programs and conservation programs and for operating expenses of the North Carolina Maritime Museum."

Section 8. G.S. 20-84(b)(9) reads as rewritten:

"(b) Permanent Registration Plates. -- The Division may issue permanent plates for the following motor vehicles:

. . .

(9) A bus owned by a church and used exclusively for transporting individuals to Sunday ~~school and~~ school, to church ~~services.~~ services, and to other church related activities."

Section 9.(a) Chapter 136 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 10A.

"Litter Prevention Account.

"§ 136-125.1. Litter Prevention Account.

There is established under the control and direction of the Department of Transportation the Litter Prevention Account. The Account shall be a nonreverting special revenue account within the Highway Fund and shall consist of moneys credited to the Account under G.S. 20-81.12(b12) from the sale of litter prevention special registration plates. The Department of Transportation shall allocate the funds in the Account to reduce litter in the State.

"§ 136-125.2. Report.

The Department of Transportation shall report no later than October 1 of each year to the Joint Legislative Transportation Oversight Committee and the Environmental Review Commission regarding the allocation of funds from the Litter Prevention Account. The report shall include all receipts to and allocations from the Account made during the previous fiscal year and shall explain how each allocation serves to reduce litter in the State."

Section 9.(b) The first report required by G.S. 136-125.2, as enacted by subsection (a) of this section, is due no later than October 1, 2002.

Section 9.(c) The Department of Transportation, the Department of Environment and Natural Resources, and the Department of Public Instruction shall cooperatively develop the phrase and picture to be used on the litter prevention special registration plate authorized by G.S. 20-79.6(b)(22a), as enacted by this act.

Section 9.(d) The Legislative Research Commission shall study issues related to the prevention and removal of litter. The Commission shall make a final report of its recommendations regarding the prevention and removal of litter, including any proposed legislation, to the 2001 General Assembly.

Section 10. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1210
Finance Committee Substitute Adopted 6/5/00
House Committee Substitute Reported Without Prejudice 6/27/00
PROPOSED HOUSE FINANCE COMMITTEE SUBSTITUTE
S1210-CSRB-6.29

Short Title: Special Registration Plates. (Public)

Sponsors:

Referred to:

May 11, 2000

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE BASIS FOR ISSUING PERMANENT PLATES TO CHURCH BUSES; TO CREATE THE FUND FOR THE REDUCTION OF CLASS SIZE IN PUBLIC SCHOOLS AND THE LITTER PREVENTION ACCOUNT; TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SEVEN NEW SPECIAL REGISTRATION PLATES; AND TO EXEMPT THE FOLLOWING SPECIAL PLATES FROM THE TEN DOLLAR ADDITIONAL FEE IMPOSED FOR A SPECIAL REGISTRATION PLATE: LEGION OF VALOR, 100% DISABLED VETERAN, AND EX-PRISONER OF WAR."

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-79.4(b)(13a) is recodified as G.S. 20-79.4(b)(13b).

Section 2. G.S. 20-79.4(b) is amended by adding the following new subdivisions to read:

"(b) Types. -- The Division shall issue the following types of special registration plates:

. . .

(13a) Ducks Unlimited. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the logo of Ducks Unlimited, Inc., and shall bear the words: 'Ducks Unlimited'.

. . .

(16b) Goodness Grows. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the 'Goodness Grows in North Carolina' logo and the phrase 'Agriculture: NC's #1 Industry'.

...

(22a) Litter Prevention. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase and picture appropriate to the subject of litter prevention in North Carolina.

. . .

(29a) Omega Psi Phi Fraternity. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the fraternity's symbol and name.

. . .

(45a) Support Public Schools. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear a picture representing an old-time one-room schoolhouse and shall bear the words: 'Support Our Public Schools'.

(45b) Tobacco Heritage. -- Issuable to the registered owner of a motor vehicle. The plate shall bear a picture of a tobacco leaf and plow. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate."

Section 3. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. -- Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration ~~plates~~ plates, including additional Congressional Medal of Honor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Historical Attraction	$30.00
State Attraction	$30.00
Collegiate Insignia	$25.00
Goodness Grows	$25.00
Kids First	$25.00
Olympic Games	$25.00
Special Olympics	$25.00
University Health Systems of Eastern Carolina	$25.00
Animal Lovers	$20.00
Ducks Unlimited	$20.00
Litter Prevention	$20.00
March of Dimes	$20.00

Omega Psi Phi Fraternity	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
Soil and Water Conservation	$20.00
Support Public Schools	$20.00
Wildlife Resources	$20.00
Personalized	$20.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
All Other Special Plates	$10.00."

Section 4. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. -- The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

Special Plate	SRPA	CCAPA	NHTF
Animal Lovers	$10	$10	0
Ducks Unlimited	$10	$10	0
Goodness Grows	$10	$10	0
Historical Attraction	$10	$20	0
In-State Collegiate Insignia	$10	$15	0
Kids First	$10	$15	0
Litter Prevention	$10	$10	0
March of Dimes	$10	$10	0
Olympic Games	$10	$15	0
Omega Psi Phi Fraternity	$10	$10	0
Out-of-state Collegiate Insignia	$10	0	$15
Personalized	$10	0	$10
~~Special Olympics~~	~~$10~~	~~$15~~	~~0~~
~~Olympic Games~~	~~$10~~	~~$15~~	~~0~~
~~State Attraction~~	~~$10~~	~~$20~~	~~0~~
~~March of Dimes~~	~~$10~~	~~$10~~	~~0~~
Scenic Rivers	$10	$10	0
School Technology	$10	$10	0
Soil and Water Conservation	$10	$10	0
Special Olympics	$10	$10	0
State Attraction	$10	$20	0
Support Public Schools	$10	$10	0
University Health Systems of			

Eastern Carolina	$10	$15	0
Wildlife Resources	$10	$10	0
All other Special Plates	$10	0	0".

Section 5. G.S. 20-81.12 is amended by adding the following new subsections to read:

"(b12) Support Public Schools Plates. -- The Division must receive 300 or more applications for a Support Public Schools plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Support Public Schools plates to the Fund for the Reduction of Class Size in Public Schools created pursuant to G.S. 115C-472.10.

(b13) Ducks Unlimited Plates. -- The Division must receive 300 or more applications for a Ducks Unlimited plate and receive any necessary licenses from Ducks Unlimited, Inc., for use of their logo before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Ducks Unlimited plates to the Wildlife Resources Commission to be used to support the conservation programs of Ducks Unlimited, Inc., in this State.

(b14) Omega Psi Phi Fraternity Plates. -- The Division must receive 300 or more applications for an Omega Psi Phi Fraternity plate and receive any necessary licenses, without charge, from Omega Psi Phi Fraternity, Incorporated, before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Omega Psi Phi Fraternity plates to the United Negro College Fund, Inc., through the Winston-Salem Area Office for the benefit of UNCF colleges in this State.

(b15) Litter Prevention Plates. -- The Division must receive 300 or more applications for a Litter Prevention plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the litter prevention plates to the Litter Prevention Account created pursuant to G.S. 136-125.1.

(b16) Goodness Grows Plates. -- The Division must receive 300 or more applications for a Goodness Grows plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Goodness Grows plates to the North Carolina Agricultural Promotions, Inc., to be used to promote the sale of North Carolina agricultural products."

Section 6. G.S. 20-81.12(b2) is amended by adding the following new subdivision:

"(b2) State Attraction Plates. -- The Division must receive 300 or more applications for a State attraction plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of State attraction plates to the organizations named below in proportion to the number of State attraction plates sold representing that organization:

. . .

(1b) The North Carolina Maritime Museum. -- The revenue derived from the special plate shall be transferred quarterly to Friends of the Museum, North Carolina Maritime Museum, Inc., to be used for educational programs and conservation programs and for operating expenses of the North Carolina Maritime Museum."

Section 7. G.S. 20-84(b)(9) reads as rewritten:

"(b) Permanent Registration Plates. -- The Division may issue permanent plates for the following motor vehicles:

. . .

(9) A bus owned by a church and used exclusively for transporting individuals to Sunday ~~school and~~ school, to church ~~services.~~ services, and to other church related activities."

Section 8. Chapter 115C of the General Statutes is amended by adding a new Article to read:

"ARTICLE 32C.

"Fund for the Reduction of Class Size in Public Schools.

"§ 115C-472.10. Establishment of the Fund for the Reduction of Class Size in Public Schools.

(a) There is established under the control and direction of the State Board of Education the Fund for the Reduction of Class Size in Public Schools. This fund shall be a nonreverting special revenue fund consisting of moneys credited to it under G.S. 20-81.12(b12) from the sale of special registration plates to support the public schools.

(b) The State Board of Education shall allocate funds in the Fund for the Reduction of Class Size in Public Schools to local school administrative units to reduce class size in public schools."

Section 9.(a) Chapter 136 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 10A.

"Litter Prevention Account.

"§ 136-125.1. Litter Prevention Account.

There is established under the control and direction of the Department of Transportation the Litter Prevention Account. The Account shall be a nonreverting special revenue account within the Highway Fund and shall consist of moneys credited to the Account under G.S. 20-81.12(b15) from the sale of litter prevention special registration plates. The Department of Transportation shall allocate the funds in the Account to reduce litter in the State.

"§ 136-125.2. Report.

The Department of Transportation shall report no later than October 1 of each year to the Joint Legislative Transportation Oversight Committee and the Environmental Review Commission regarding the allocation of funds from the Litter Prevention Account. The report shall include all receipts to and allocations from the

Account made during the previous fiscal year and shall explain how each allocation serves to reduce litter in the State."

Section 9.(b) Notwithstanding G.S. 136-125.2, as enacted by this act, the first report required under G.S. 136-125.2 is due no later than October 1, 2002.

Section 9.(c) The Department of Transportation, the Department of Environment and Natural Resources, and the Department of Public Instruction shall cooperatively develop the phrase and picture to be used on the litter prevention special registration plate authorized by G.S. 20-79.6(b)(22a), as enacted by this act.

Section 9.(d) The Legislative Research Commission shall study issues related to the prevention and removal of litter. The Commission shall make a final report of its recommendations regarding the prevention and removal of litter, including any proposed legislation, to the 2001 General Assembly.

Section 10. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1210
Finance Committee Substitute Adopted 6/5/00
House Committee Substitute Reported Without Prejudice 6/27/00
Proposed House Committee Substitute S1210-PCS8676-RB

Short Title: Special Registration Plates. (Public)

Sponsors:

Referred to:

May 11, 2000

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE BASIS FOR ISSUING PERMANENT PLATES TO CHURCH BUSES; TO CREATE THE FUND FOR THE REDUCTION OF CLASS SIZE IN PUBLIC SCHOOLS AND THE LITTER PREVENTION ACCOUNT; TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SEVEN NEW SPECIAL REGISTRATION PLATES; AND TO EXEMPT THE FOLLOWING SPECIAL PLATES FROM THE TEN DOLLAR ADDITIONAL FEE IMPOSED FOR A SPECIAL REGISTRATION PLATE: LEGION OF VALOR, SILVER STAR RECIPIENT, 100% DISABLED VETERAN, AND EX-PRISONER OF WAR; AND TO REQUIRE RED LENSES ON BRAKE LIGHTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-79.4(b)(13a) is recodified as G.S. 20-79.4(b)(13b).

Section 2. G.S. 20-79.4(b) is amended by adding the following new subdivisions to read:

"(b) Types. -- The Division shall issue the following types of special registration plates:

. . .

(13a) Ducks Unlimited. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the

logo of Ducks Unlimited, Inc., and shall bear the words: 'Ducks Unlimited'.

. . .

(16b) Goodness Grows. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the 'Goodness Grows in North Carolina' logo and the phrase 'Agriculture: NC's #1 Industry'.

. . .

(22a) Litter Prevention. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase and picture appropriate to the subject of litter prevention in North Carolina.

. . .

(29a) Omega Psi Phi Fraternity. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the fraternity's symbol and name.

. . .

(45a) Support Public Schools. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear a picture representing an old-time one-room schoolhouse and shall bear the words: 'Support Our Public Schools'.

(45b) Tobacco Heritage. -- Issuable to the registered owner of a motor vehicle. The plate shall bear a picture of a tobacco leaf and plow. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate."

Section 3. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. -- Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration ~~plates~~ plates, including additional Congressional Medal of Honor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Historical Attraction	$30.00
State Attraction	$30.00
Collegiate Insignia	$25.00
Goodness Grows	$25.00
Kids First	$25.00
Olympic Games	$25.00
Special Olympics	$25.00
University Health Systems of Eastern Carolina	$25.00
Animal Lovers	$20.00
Ducks Unlimited	$20.00

Litter Prevention	$20.00
March of Dimes	$20.00
Omega Psi Phi Fraternity	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
Soil and Water Conservation	$20.00
Support Public Schools	$20.00
Wildlife Resources	$20.00
Personalized	$20.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	$10.00."

Section 4. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. -- The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

Special Plate	SRPA	CCAPA	NHTF
Animal Lovers	$10	$10	0
Ducks Unlimited	$10	$10	0
Goodness Grows	$10	$10	0
Historical Attraction	$10	$20	0
In-State Collegiate Insignia	$10	$15	0
Kids First	$10	$15	0
Litter Prevention	$10	$10	0
March of Dimes	$10	$10	0
Olympic Games	$10	$15	0
Omega Psi Phi Fraternity	$10	$10	0
Out-of-state Collegiate Insignia	$10	0	$15
Personalized	$10	0	$10
~~Special Olympics~~	~~$10~~	~~$15~~	~~0~~
~~Olympic Games~~	~~$10~~	~~$15~~	~~0~~
~~State Attraction~~	~~$10~~	~~$20~~	~~0~~
~~March of Dimes~~	~~$10~~	~~$10~~	~~0~~
Scenic Rivers	$10	$10	0
School Technology	$10	$10	0
Soil and Water Conservation	$10	$10	0
Special Olympics	$10	$10	0

State Attraction	$10	$20	0
Support Public Schools	$10	$10	0
University Health Systems of Eastern Carolina	$10	$15	0
Wildlife Resources	$10	$10	0
All other Special Plates	$10	0	0".

Section 5. G.S. 20-81.12 is amended by adding the following new subsections to read:

"(b12) Support Public Schools Plates. -- The Division must receive 300 or more applications for a Support Public Schools plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Support Public Schools plates to the Fund for the Reduction of Class Size in Public Schools created pursuant to G.S. 115C-472.10.

(b13) Ducks Unlimited Plates. -- The Division must receive 300 or more applications for a Ducks Unlimited plate and receive any necessary licenses from Ducks Unlimited, Inc., for use of their logo before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Ducks Unlimited plates to the Wildlife Resources Commission to be used to support the conservation programs of Ducks Unlimited, Inc., in this State.

(b14) Omega Psi Phi Fraternity Plates. -- The Division must receive 300 or more applications for an Omega Psi Phi Fraternity plate and receive any necessary licenses, without charge, from Omega Psi Phi Fraternity, Incorporated, before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Omega Psi Phi Fraternity plates to the United Negro College Fund, Inc., through the Winston-Salem Area Office for the benefit of UNCF colleges in this State.

(b15) Litter Prevention Plates. -- The Division must receive 300 or more applications for a Litter Prevention plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the litter prevention plates to the Litter Prevention Account created pursuant to G.S. 136-125.1.

(b16) Goodness Grows Plates. -- The Division must receive 300 or more applications for a Goodness Grows plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Goodness Grows plates to the North Carolina Agricultural Promotions, Inc., to be used to promote the sale of North Carolina agricultural products."

Section 6. G.S. 20-81.12(b2) is amended by adding the following new subdivision:

"(b2) State Attraction Plates. -- The Division must receive 300 or more applications for a State attraction plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction

Plate Account derived from the sale of State attraction plates to the organizations named below in proportion to the number of State attraction plates sold representing that organization:

. . .

(1b) The North Carolina Maritime Museum. -- The revenue derived from the special plate shall be transferred quarterly to Friends of the Museum, North Carolina Maritime Museum, Inc., to be used for educational programs and conservation programs and for operating expenses of the North Carolina Maritime Museum."

Section 7. G.S. 20-84(b)(9) reads as rewritten:

"(b) Permanent Registration Plates. -- The Division may issue permanent plates for the following motor vehicles:

. . .

(9) A bus owned by a church and used exclusively for transporting individuals to Sunday ~~school and~~ school, to church ~~services.~~ services, and to other church related activities."

Section 8. Chapter 115C of the General Statutes is amended by adding a new Article to read:

"ARTICLE 32C.

"Fund for the Reduction of Class Size in Public Schools.

"§ 115C-472.10. Establishment of the Fund for the Reduction of Class Size in Public Schools.

(a) There is established under the control and direction of the State Board of Education the Fund for the Reduction of Class Size in Public Schools. This fund shall be a nonreverting special revenue fund consisting of moneys credited to it under G.S. 20-81.12(b12) from the sale of special registration plates to support the public schools.

(b) The State Board of Education shall allocate funds in the Fund for the Reduction of Class Size in Public Schools to local school administrative units to reduce class size in public schools."

Section 9.(a) Chapter 136 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 10A.

"Litter Prevention Account.

"§ 136-125.1. Litter Prevention Account.

There is established under the control and direction of the Department of Transportation the Litter Prevention Account. The Account shall be a nonreverting special revenue account within the Highway Fund and shall consist of moneys credited to the Account under G.S. 20-81.12(b15) from the sale of litter prevention special registration plates. The Department of Transportation shall allocate the funds in the Account to reduce litter in the State.

"§ 136-125.2. Report.

The Department of Transportation shall report no later than October 1 of each year to the Joint Legislative Transportation Oversight Committee and the

Environmental Review Commission regarding the allocation of funds from the Litter Prevention Account. The report shall include all receipts to and allocations from the Account made during the previous fiscal year and shall explain how each allocation serves to reduce litter in the State."

Section 9.(b) Notwithstanding G.S. 136-125.2, as enacted by this act, the first report required under G.S. 136-125.2 is due no later than October 1, 2002.

Section 9.(c) The Department of Transportation, the Department of Environment and Natural Resources, and the Department of Public Instruction shall cooperatively develop the phrase and picture to be used on the litter prevention special registration plate authorized by G.S. 20-79.6(b)(22a), as enacted by this act.

Section 9.(d) The Legislative Research Commission shall study issues related to the prevention and removal of litter. The Commission shall make a final report of its recommendations regarding the prevention and removal of litter, including any proposed legislation, to the 2001 General Assembly.

Section 10. G.S. 20-129.1(9) reads as rewritten:

"(9) Brake lights (and/or brake reflectors) on the rear of a motor vehicle shall ~~be red.~~ have red lenses so that the light displayed is red. The light illuminating the license plate shall be white. All other lights shall be white, amber, yellow, clear or red."

Section 11. Section 10 of this act becomes effective May 1, 2001. The remainder of this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1210

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S1210-ASU-001 Page 1 of __

Date_____,2000

Comm. Sub. [YES]
Amends Title [YES]
S1210-CSRB-6.29

moves to amend the bill on page 1, line 9,
by rewriting the line to read:
"LEGION OF VALOR, SILVER STAR RECIPIENT, 100% DISABLED VETERAN, AND
EX-PRISONER OF"

and on page 3, lines 11-12, by adding between the lines a new line
to read:
"Silver Star Recipient None"

SIGNED Morris
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1210

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S1210-ARB-6.29T

Date_____,2000

Comm. Sub. [YES]
Amends Title []
Third Edition

Representative _____

moves to amend the bill on page 3, line 7, by deleting that line;

and on page 2, line 40, by deleting that line;

and on page 3, lines 5 and 6, by inserting between the lines the following:

Litter Prevention $15.00";

and on page 5, line 25, by deleting "G.S. 20-81.12(b12)" and inserting "G.S. 20-81.12(b15)";

and on page 5, line 40, by deleting "G.S. 20-79.6(b)(22a)" and substituting "G.S. 20-79.6(b)".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1210

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S1210-ARB-6.29L

Date_____,2000

Comm. Sub. [YES]
Amends Title []
Third Edition

Representative _____

moves to amend the bill on page 3, line 22, by deleting that line;

and on page 3, lines 40 and 41, by inserting between those lines the following: "Litter Prevention $10 $5 0";

and on page 4, lines 21 and 22, by rewriting the lines to read:
"(b15) Litter Prevention Plates. -- The Division must receive 300 or more applications for a Litter Prevention plate before the plate may be developed.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

SENATE BILL 1210:
Special Registration Plates

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Odom
Date:	June 29, 2000	**Summary by:**	Cindy Avrette
Version:	PCS for 2nd Edition S1210-CSRB-6.29		Committee Counsel

SUMMARY: The proposed committee substitute for Senate Bill 1210 does four things:

- ***It expands the purposes for which a church bus may be used and still qualify to receive a permanent registration plate. The expanded purpose is the transporting of individuals to church related activities. Under current law, the bus may only be used to transport individuals to Sunday school and church.***
- ***It removes the additional $10 fee imposed for special registration plates from the Legion of Valor special registration plate.***
- ***Current law gives one special registration plate, free of charge, to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. This bill provides that these persons may receive additional special plates without paying the $10 additional special registration plate fee.***
- ***It authorizes DMV to issue seven <u>new</u> special registration plates.***

BILL ANALYSIS: DMV may issue a permanent registration plate to for a bus owned b a church and used exclusively for transporting individuals to Sunday school and church. A permanent registration plate costs $6.00. Senate Bill 1210 expands the purposes for which a church may use a bus and still be eligible for the permanent registration plate. The expanded use is the transporting of individuals to church-related activities.

The bill adds Legion of Valor plates to the list of plates that may be obtained without paying the additional $10 fee. The Legion of Valor plate is issuable to a recipient of one of the following military decorations: The Congressional Medal of Honor, the Distinguished Service Cross, the Navy Cross, or the Air Force Cross.

A recipient of the Congressional Medal of Honor, as well as a 100% disabled veteran and an ex-prisoner of war, may obtain one special registration plate free of charge. The bill provides that these people may obtain additional special registration plates without paying the additional $10 fee. The regular registration plate fee would be imposed for the additional plates.

Lastly, the bill creates seven new special registration plates. Before the plates may be issued, DMV would need to receive at least 300 applications for the plate. The cost of the special registration plates would be the regular registration plate fee plus an additional amount. All six of the new plates are subject to the $10 special registration plate fee. The revenue from that portion of the fee would be distributed as outlined above. Five of the plates are subject to an additional amount that may be used for specified purposes. The chart on back lists the six new plates, the additional fee amount imposed for each new plate, and the distribution of the fee revenues, and it gives a brief description of the plate:

Name of Plate	Fee Amount	$10 goes to the Special Registration Plate Fund: Distribution of Remainder	Brief Description
Ducks Unlimited	$20.00	Wildlife Resources Commission to be used to support the conservation programs of Ducks Unlimited, Inc., in this State.	Ducks Unlimited logo and the words "Ducks Unlimited".
Goodness Grows	$20.00	North Carolina Agricultural Promotions, Inc., to be sued to promote the sale of North Carolna agricultural products.	Logo for "Goodness Grows in North Carolina" and the phrase "Agriculture: NC's #1 Industry".
Litter Prevention	$20.00	Litter Prevention Account. *The bill creates the Account as a nonreverting special revenue account within the Highway Fund. The money in the Account may only be used to reduce litter in the State.	DOT, DENR, and DPI must cooperatively develop the phrase and picture to be used. The phrase and picture must be appropriate to the subject of litter prevention.
NC Maritime Museum	$30.00	Friends of the Museum, North Carolina Maritime Museum, Inc., to be used for educational programs and conservation programs and for operating expenses of the Museum.	Phrase or an insignia representing the NC Maritime Museum.
Omega Psi Phi Fraternity	$20.00	United Negro College Fund, Inc., through the Winston-Salem Area Office for the benefit of UNCF colleges in this State.	Omega Psi Phi Fraternity symbol and name.
Support Public Schools	$20.00	Fund for the Reduction of Class Size in Public Schools. *The bill creates this fund as a nonreverting special revenue fund. The State Board of Education must allocate the revenue in the Fund to local school administrative units to reduce class size in public schools.	A picture representing an old-time one-room schoolhouse and the words "Support Our Public Schools."
Tobacco Heritage	----------	----------	A picture of a tobacco leaf and plow.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

☐ Committee Substitute for
S.B. 1354 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE MECKLENBURG COUNTY TO MATCH FEDERAL INDEPENDENT LIVING FUNDS IN THE EVENT THE STATE DOES NOT PROVIDE MATCHING FUNDS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendatic.. that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1354

Short Title: Indep. Living Funds/County Match. (Local)

Sponsors: Senators Odom; Clodfelter, Dannelly, and Rucho.

Referred to: State and Local Government.

May 22, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE MECKLENBURG COUNTY TO MATCH FEDERAL INDEPENDENT LIVING FUNDS IN THE EVENT THE STATE DOES NOT PROVIDE MATCHING FUNDS.

The General Assembly of North Carolina enacts:

Section 1. If the State does not provide State funds to match federal funds for the Independent Living Program, then a county board of commissioners may use county funds to match federal funds for the Independent Living Program.

Section 2. This act applies only to Mecklenburg County.

Section 3. This act is effective when it becomes law.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

☒ Committee Substitute for
S.B. 1448 A BILL TO BE ENTITLED AN ACT TO REMOVE FROM THE CORPORATE LIMITS OF THE TOWN OF HILLSBOROUGH AN AREA PREVIOUSLY ANNEXED BY THE TOWN UNDER THE VOLUNTARY ANNEXATION PROVISIONS OF PART 4 (ANNEXATION OF NONCONTIGUOUS AREAS) OF ARTICLE 4A OF CHAPTER 160A OF THE GENERAL STATUTES.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1448
Finance Committee Substitute Adopted 6/27/00

Short Title: Hillsborough Deannexation. (Local)

Sponsors:

Referred to:

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO REMOVE FROM THE CORPORATE LIMITS OF THE TOWN OF HILLSBOROUGH AN AREA PREVIOUSLY ANNEXED BY THE TOWN UNDER THE VOLUNTARY ANNEXATION PROVISIONS OF PART 4 (ANNEXATION OF NONCONTIGUOUS AREAS) OF ARTICLE 4A OF CHAPTER 160A OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. The following described property, being approximately 105.63 acres annexed to and made a part of the Town of Hillsborough by Ordinance No. 980310-1, duly adopted by the Board of Commissioners for the Town of Hillsborough on April 14, 1998, all in accordance with the provisions of law applicable to the voluntary annexation of noncontiguous areas set forth in Part 4 of Article 4A of Chapter 160A of the General Statutes, is removed from the corporate limits of the Town of Hillsborough, effective June 30, 2000:

Commencing at the northeast corner of lot 51 of Phase One - Section C "Fox Hill Farm" as shown on plat recorded in Plat Book 74, page 136, Orange County Registry, said corner having NC Grid coordinates: North 858,812.08, East 1,980,350.98, (NAD 83 in feet) and being designated as Point A on the plat: "-Annexation Map - Fox Hill Farm" dated January 22, 1998, as prepared by ENT Land Surveys, Inc., and then running from said corner N 77-48-05 E 296.84 feet to the point and place of BEGINNING. Thence from said point of beginning the following courses and distances:

N 33-02-04 E 200.00 feet to a point and S 56-57-56 E 761.06 feet to a point

N 17-01-12 E 1994.73 feet to a point and S 82-36-08 W 1301.53 feet to a point
N 04-19-00 E 204.24 feet to a point and N 82-36-08 E 1267.48 feet to a point
N 29-15-14 W 1394.92 feet to a point and N 60-44-46 E 200.00 feet to a point
S 29-15-14 E 737.11 feet to a point and N 60-44-46 E 1410.01 feet to a point
S 29-15-14 E 200.00 feet to a point and S 60-44-46 W 1410.01 feet to a point
S 29-15-14 E 564.79 feet to a point and S 73-42-47 E 932.56 feet to a point
S 16-17-13 W 200.00 feet to a point and N 73-42-47 W 874.70 feet to a point
S 17-01-12 W 917.30 feet to a point and S 36-39-05 E 1498.66 feet to a point
S 53-20-55 W 200.00 feet to a point and N 36-39-05 W 1351.59 feet to a point
S 17-01-12 W 917.30 feet to a point and S 22-46-56 E 1598.31 feet to a point
S 33-31-03 E 1039.76 feet to a point and N 89-08-18 E 1306.85 feet to a point
in the center of New Sharon Church Road.
Thence continuing N 89-08-18 E 1141.03 feet to a point
N 45-02-22 E 1932.26 feet to a point and S 44-57-38 E 200.00 feet to a point
S 45-02-22 W 1725.86 feet to a point and N 89-08-18 E 1155.45 feet to a point
S 00-12-52 E 200.01 feet to a point and S 89-08-18 W 1177.25 feet to a point
S 21-15-48 W 2521.31 feet to a point and N 68-44-12 W 200.00 feet to a point
N 21-15-48 E 2440.00 feet to a point and S 89-08-18 W 1188.64 feet to a point
in the center of New Sharon Church Road.
Thence continuing S 89-08-18 W 1337.50 feet to a point
S 62-17-34 W 1024.10 feet to a point and N 27-42-26 W 200.00 feet to a point
N 62-17-34 E 937.27 feet to a point and N 33-31-03 W 890.93 feet to a point
S 82-45-50 W 1491.98 feet to a point and N 07-14-10 W 200.00 feet to a point
N 82-45-50 E 1414.78 feet to a point and N 22-46-56 W 1407.72 feet to a point
N 56-57-56 W 937.00 feet
to the point and place of beginning, and containing 105.63 acres, and being a portion of the property described in Record Book 872 page 513.

Section 2. Taxes on real and personal property within the above-described area due and payable to the Town of Hillsborough for fiscal years up through and including fiscal year 1999-2000 shall remain due and payable and shall be collected in accordance with applicable provisions of law if not paid in full prior to the effective date of this act. No taxes on the real or personal property within the above-described area shall be due to the Town of Hillsborough for fiscal year 2000-2001 or thereafter unless and until this property is again brought within the corporate limits of the Town of Hillsborough.

Section 3. From and after June 30, 2000, the Orange County zoning district classification applicable to the property, i.e., Agricultural Residential (A/R), that surrounds the above-described property shall be applicable to this property, unless and until such classification is changed by Orange County pursuant to law.

Section 4. This act is effective when it becomes law.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

☒ Committee Substitute for
S.B. 1460 A BILL TO BE ENTITLED AN ACT TO PROVIDE INCENTIVES FOR DEVELOPMENT OF THE FILM INDUSTRY IN NORTH CAROLINA.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to House committee substitute bill (# 1), ☐ ~~which changes the title~~, unfavorable as to (original bill / Senate Committee Substitute Bill # 1), ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1460
Finance Committee Substitute Adopted 6/21/00
Third Edition Engrossed 6/28/00
Proposed Committee Substitute S1460-PCS3992-SC

Short Title: Film Industry Incentives. (Public)

Sponsors:

Referred to:

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO PROVIDE INCENTIVES FOR DEVELOPMENT OF THE FILM INDUSTRY IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Part 2 of Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-434.3. Film Industry Development Account.**

(a) Creation and Purpose of Account. -- There is created in the Department of Commerce, Division of Travel and Tourism, the Film Industry Development Account to provide annual grants as incentives to production companies that engage in production activities in this State. The Division of Travel and Tourism shall administer this program in accordance with the following provisions:

(1) To be eligible for a grant, a production company must engage in production activities in this State. A grant may not be used for political or issue advertising.

(2) A grant may not exceed fifteen percent (15%) of the amount the production company spends for goods and services in this State during the calendar year.

(3) A grant may not exceed two hundred thousand dollars ($200,000) per production.

(b) Production Company Defined. -- As used in this section, the term 'production company' has the meaning provided in G.S. 105-164.3.

(c) Reports. -- The Department of Commerce shall report annually to the General Assembly concerning the applications made to the account, the payments made from the account, and the effect of the payments on job creation in the State. The Department of Commerce shall also report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of the moneys in the account, including information regarding to whom payments were made and in what amounts."

Section 2. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"**§ 143-341. Powers and duties of Department.**

The Department of Administration has the following powers and duties:

. . .

(4) Real Property Control:

. . .

o. To provide that no fee, other than reimbursement of actual costs incurred and actual revenues lost by the State, shall be charged when State buildings are made available to a production company for a production. As used in this subdivision, the term 'production company' has the meaning provided in G.S. 105-164.3.

. . . ."

Section 3. Article 10 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-162.2. Use of public property by production companies.**

If a State agency makes real property available to a production company for a production, it shall not charge any fee other than reimbursement of actual costs incurred and actual revenues lost by the agency. As used in this section, the term 'production company' has the meaning provided in G.S. 105-164.3. This section does not require a State agency to make real property available to a production company for a production."

Section 4. G.S. 105-164.3 is amended by adding a new subdivision to read:

"(11c) 'Production company' means a person engaged in the business of making original motion picture, television, or radio images for theatrical, commercial, advertising, or educational purposes."

Section 5. G.S. 105-164.13(22a) reads as rewritten:

"(22a) Sales of audiovisual masters made or used by a production company in making visual and audio images for first generation reproduction. For the purpose of this subdivision, an "audiovisual master" is an audio or video film, tape, or disk or another audio or video storage device from which all other copies are made. ~~For the purpose of this subdivision, a production company is a person~~

~~engaged in the business of making motion picture, television, or radio images for theatrical, commercial, advertising, or educational purposes.~~"

Section 6. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1460
Finance Committee Substitute Adopted 6/21/00
Third Edition Engrossed 6/28/00
PROPOSED HOUSE FINANCE COMMITTEE SUBSTITUTE
S1460-PCSSC-6.30

Short Title: Film Industry Incentives. (Public)

Sponsors:

Referred to:

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO PROVIDE INCENTIVES FOR DEVELOPMENT OF THE FILM INDUSTRY IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Part 2 of Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-434.3. Film Industry Development Account.**

(a) Creation and Purpose of Account. -- There is created in the Department of Commerce, Division of Travel and Tourism, the Film Industry Development Account to provide annual grants as incentives to production companies that engage in production activities in this State. The Division of Travel and Tourism shall administer this program in accordance with the following provisions:

(1) To be eligible for a grant, a production company must engage in production activities in this State. A grant may not be used for political or issue advertising.

(2) A grant may not exceed fifteen percent (15%) of the amount the production company spends for goods and services in this State during the calendar year.

(3) A grant may not exceed two hundred thousand dollars ($200,000) per production.

(b) Production Company Defined. -- As used in this section, the term 'production company' has the meaning provided in G.S. 105-164.3.

(c) Reports. -- The Department of Commerce shall report annually to the General Assembly concerning the applications made to the account, the payments made from the account, and the effect of the payments on job creation in the State. The Department of Commerce shall also report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of the moneys in the account, including information regarding to whom payments were made and in what amounts."

Section 2. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"**§ 143-341. Powers and duties of Department.**

The Department of Administration has the following powers and duties:

. . .

(4) Real Property Control:

. . .

o. To provide that no fee, other than reimbursement of actual costs incurred and actual revenues lost by the State, shall be charged when State buildings are made available to a production company for a production. As used in this subdivision, the term 'production company' has the meaning provided in G.S. 105-164.3.

. . . ."

Section 3. Article 10 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-162.2. Use of public property by production companies.**

If a State agency makes real property available to a production company for a production, it shall not charge any fee other than reimbursement of actual costs incurred and actual revenues lost by the agency. As used in this subdivision, the term 'production company' has the meaning provided in G.S. 105-164.3. This section does not require a State agency to make real property available to a production company for a production."

Section 4. G.S. 105-164.3 is amended by adding a new subdivision to read:

"(11c 'Production company' means a person engaged in the business of making original motion picture, television, or radio images for theatrical, commercial, advertising, or educational purposes."

Section 5. G.S. 105-164.13(22a) reads as rewritten:

"(22a) Sales of audiovisual masters made or used by a production company in making visual and audio images for first generation reproduction. For the purpose of this subdivision, an "audiovisual master" is an audio or video film, tape, or disk or another audio or video storage device from which all other copies are made. ~~For the purpose of this subdivision, a production company is a person~~

~~engaged in the business of making motion picture, television, or radio images for theatrical, commercial, advertising, or educational purposes.~~"

Section 6. Section 1 of this act becomes effective July 1, 2000. The remainder of this act is effective when it becomes law.

SENATE BILL 1460:
Film Industry Incentives

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Lee
Date:	June 30, 2000	**Summary by:**	Martha K. Walston
Version:	PCS for 3rd edition		Staff Atty. & Mary Shuping,
	S1460-PCSSC-6.30		Research Asst.

SUMMARY: ***Senate Bill 1460 creates the Film Industry Development Account within the Department of Commerce, Division of Travel and Tourism to provide annual grants as incentives to production companies that engage in production activities in the State. The grant may not exceed 15% of the amount the production company spends for goods and services in the State during a calendar year. The bill provides other economic and tax incentives to production companies.***

<u>The Proposed House Finance Committee Substitute</u> does the following:

Removes the provision that would have allowed a production company an annual refund of the State sales tax it paid on the rental of transient accommodations for occupancy of its employees.

BILL ANALYSIS: Senate Bill 1460 provides the following economic and tax incentives to the film industry in the State:

- Creates the Film Industry Development Account within the Department of Commerce, Division of Travel and Tourism. This Account will provide annual grants to production companies that engage in production activities in the State. The grant may not exceed 15% of the amount the production company spends for goods and services in the State during a calendar year, and the grant may not exceed $200,000 per production. This part of the bill becomes effective July 1, 2000.
- Defines "production company" as a person engaged in the business of making original motion picture, television, or radio images for theatrical, commercial, advertising, or educational purposes. This part of the bill is effective when it becomes law.
- Requires the Department of Commerce to make annual reports to the General Assembly regarding the activities of the Film Industry Development Account, and to make quarterly reports to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on the use of the moneys in the Account. This part of the bill becomes effective July 1, 2000.
- Authorizes the Department of Administration to provide that a production company will only be charged reimbursement of actual costs incurred and actual revenues lost by the State, when State buildings are made available to a production company for a production. If any State agency makes real property available to a production company for production, the same limitations on fees apply. This part of the bill is effective when it becomes law.
- Allows a production company an annual refund of the State sales tax it pays on the rental of transient accommodations for occupancy of its employees. The refund of the State sales tax paid on the rental for the entire rental period is allowed if the employee occupies a transient accommodation for a continuous period of more than 30 days but less than 90 days. The request for refund must be in writing and is barred if applied for later than six months after the end of the State's fiscal year. This part of the bill becomes effective October 1, 2000, and applies to taxes paid on or after that date.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 1472 A BILL TO BE ENTITLED AN ACT TO PROVIDE REVENUE BOND FINANCING OF CERTAIN PRIVATE PROJECTS THAT PERFORM A PUBLIC PURPOSE AND TO REORGANIZE THE INDUSTRIAL FACILITIES AND POLLUTION CONTROL FINANCING AUTHORITY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

SENATE BILL 1472
Finance Committee Substitute Adopted 6/20/00
Third Edition Engrossed 6/22/00

Short Title: Conduit Agency Financing. (Public)

Sponsors:

Referred to:

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO PROVIDE REVENUE BOND FINANCING OF CERTAIN PRIVATE PROJECTS THAT PERFORM A PUBLIC PURPOSE AND TO REORGANIZE THE INDUSTRIAL FACILITIES AND POLLUTION CONTROL FINANCING AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 115E of the General Statutes is recodified as Article 2 of Chapter 159D of the General Statutes.

Section 2. Chapter 159D of the General Statutes, as amended by this act, reads as rewritten:

"Chapter 159D.

"The North Carolina ~~Industrial and Pollution Control~~ Capital Facilities ~~Pool Program~~ Financing Act.

"ARTICLE 1.

"Industrial and Pollution Control Facilities Financing.

"§ 159D-1. Short title.

This ~~chapter~~ Article may be referred to as "The North Carolina Industrial and Pollution Control Facilities ~~Pool Program~~ Financing Act."

"§ 159D-2. Legislative findings and purposes.

(a) The General Assembly finds and determines that there exists in the State a critical condition of unemployment and a scarcity of employment opportunities; that the economic insecurity which results from such unemployment and scarcity of

employment opportunities constitutes a serious menace to the safety, morals and general welfare of the entire State; that such unemployment and scarcity of employment opportunities have caused many workers and their families, including young adults upon whom future economic prosperity is dependent, to migrate elsewhere to find employment and establish homes; that such emigration has resulted in a reduced rate of growth in the tax base of the counties and other local governmental units of the State which impairs the financial ability of such counties and other local governmental units to support education and other local governmental services; that such unemployment results in obligations to grant public assistance and to pay unemployment compensation; that the aforesaid conditions can best be remedied by the attraction, stimulation, expansion and rehabilitation and revitalization of industrial and manufacturing facilities for industry in the State; and that there is a need to stimulate a larger flow of private investment funds into industrial building programs ~~into [in]~~ in the State.

(b) The General Assembly further finds and determines that the development and expansion of industry within the State, which are essential to the economic growth of the State, and to the full employment and prosperity of its people, are accompanied by the increased production and discharge of gaseous, liquid, and solid pollution and wastes which threaten and endanger the health, welfare and safety of the inhabitants of the State by polluting the air, land and waters of the State; that in order to reduce, control, and prevent such environmental pollution, it is imperative that action be taken at various levels of government to require the provision of devices, equipment and facilities for the collection, reduction, treatment, and disposal of such pollution and wastes; that the assistance provided in this ~~Chapter,~~ Article, especially with respect to financing, is therefore in the public interest and serves a public purpose of the State in promoting the health, welfare and safety of the inhabitants of the State not only physically by collecting, reducing, treating and preventing environmental pollution but also economically by securing and retaining private industry thereby maintaining a higher level of employment and economic activity and stability.

~~(c) The General Assembly further finds that the federal government and its agencies have established, and may in the future establish, programs to promote gainful employment opportunity and the prevention and control of the pollution of air, land and waters of the United States through assistance in the financing of industrial and manufacturing facilities and pollution control facilities for industry and that the economical implementation of such programs in the State of North Carolina may require the financing of such facilities through a uniform statewide program.~~

~~(c1) The General Assembly further finds that certain provisions of federal tax law, economies of scale and credit market conditions make it advantageous for counties in North Carolina to be authorized to create a single authority with the legal capacity to combine separate financings into one or more pools that may be offered for sale on more favorable terms than any single financing standing alone.~~

~~(d) It is therefore declared to be the policy of the State to promote the right to gainful employment opportunity, private industry, the prevention and control of the pollution of the air, land and waters of the State, and the safety, morals and health of~~

~~the people of the State, and thereby promote general welfare of the people of the State, by authorizing counties to create an authority which shall be a political subdivision and body corporate and politic of the State. This body is to be formed (i) to aid in the financing of industrial and manufacturing facilities for the purpose of alleviating unemployment or raising below average manufacturing wages by financing industrial and manufacturing facilities which provide job opportunities or pay better wages than those prevalent in the area and (ii) to aid in financing pollution control facilities for industry in connection with manufacturing and industrial facilities, in each case in connection with pool programs to effect such purposes; provided, however, that it is the policy of the State to finance only those facilities where there is a direct or indirect favorable impact on employment or an improvement in the degree of prevention or control of pollution commensurate with the size and cost of the facilities.~~

"§ 159D-3. Definitions.

The following terms, whenever used or referred to in this ~~Chapter;~~ Article, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(1) ~~"Agency" shall include any agency, bureau, commission, department or instrumentality.~~
'Agency' means the North Carolina Capital Facilities Finance Agency, an agency of the State created pursuant to G.S. 159D-38 of the North Carolina Capital Facilities Finance Act, codified as Article 2 of this Chapter.

(2) 'Air pollution control facility' shall mean any structure, equipment or other facility for, including any increment in the cost of any structure, equipment or facility attributable to, the purpose of treating, neutralizing or reducing gaseous industrial waste and other air pollutants, including recovery, treatment, neutralizing or stabilizing plants and equipment and their appurtenances, which shall have been certified by the agency having jurisdiction to be in furtherance of the purpose of abating or controlling atmospheric pollutants or contaminants.

(3) 'Authority' shall mean The North Carolina Industrial and Pollution Control Facilities Financing Authority, a political subdivision and body politic of the State, ~~which may be~~ created pursuant to the provisions of this ~~Chapter and which shall have the powers and authority specified in and by this Chapter.~~ Article.

(4) 'Bonds' shall mean revenue bonds ~~of an authority~~ issued under the provisions of this ~~Chapter.~~ Article.

(5) 'Cost' as applied to any project shall embrace all capital costs thereof, including the cost of construction, the cost of acquisition of all property, including rights in land and other property, both real and personal and improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on

lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all machinery and equipment, installation, start-up expenses, financing charges, interest prior to, during and for a period not exceeding one year after completion of construction, the cost of engineering and architectural surveys, plans and specifications, the cost of consultants' and legal services, other expenses necessary or incident to determining the feasibility or practicability of such project, administrative and other expenses necessary or incident to the acquisition or construction of such project and the financing of the acquisition and construction thereof, including a reserve for debt services.

~~(6) 'Pool program" shall mean a program of the authority whereby separate financings for obligors are combined into one or more pools for purposes of sale. The credit of such financings or the pool may be enhanced by participation in a federal program, by a guaranty such as a surety bond, insurance or a letter of credit, by additional collateral or by any other device, fund or guaranty by any person other than the authority, agency, under which payment of bonds or the obligations of an obligor under a financing agreement shall be guaranteed, in whole or in part, by such person or persons.~~

(7) 'Financing agreement' shall mean a written instrument establishing the rights and responsibilities of the ~~authority~~ agency and the operator with respect to a project financed by the issue of bonds.

(8) 'Governing body' shall mean the board, commission, council or other body in which the general legislative powers of any county or other political subdivision are vested.

(9) 'Obligor' shall mean collectively the operator and any others (including, but not by way of limitation, any other person, collateral device or fund that shall be obligated to pay) who or which shall be obligated under a financing agreement or guaranty agreement or other contract or agreement to make payments to, or for the benefit of, the holders of bonds of the ~~authority.~~ agency. Any requirement of an obligor may be satisfied by any one or more persons who are defined collectively by this ~~Chapter~~ Article as the obligor.

(10) 'Operator' shall mean the person entitled to the use or occupancy of a project.

(11) 'Political subdivision' shall mean any county, city, town, other unit of local government or any other governmental corporation, ~~agency,~~ entity, authority or instrumentality of the State now or hereafter existing.

(12) 'Pollution and pollutants' shall mean any noxious or deleterious substances in any air or waters of or adjacent to the State of North Carolina or affecting the physical, chemical or biological properties of any air or waters of or adjacent to the State of North Carolina in a manner and to an extent which renders or is likely to render such air or waters harmful or inimical to the public health, safety or welfare, or to animal, bird or aquatic life, or to the use of such air or waters for domestic, industrial or agricultural purposes or recreation.

(13) 'Project' shall mean any land, equipment or any one or more buildings or other structures, whether or not on the same site or sites, and any rehabilitation, improvement, renovation or enlargement of, or any addition to, any building or structure for use as or in connection with (i) any industrial project for industry which project may be any industrial or manufacturing factory, mill, assembly plant or fabricating plant, or freight terminal, or industrial research, development or laboratory facility or industrial processing facility for industrial or manufactured products, or (ii) any pollution control project for industry which project may be any air pollution control facility, water pollution control facility, or solid waste disposal facility in connection with any factory, mill, plant, terminal or facility described in clause (i) of this subdivision, or (iii) any combination of projects mentioned in clauses (i) and (ii) of this subdivision. Any project may include all appurtenances and incidental facilities such as land, headquarters or office facilities, warehouses, distribution centers, access roads, sidewalks, utilities, railway sidings, trucking and similar facilities, parking facilities, landing strips and other facilities for aircraft, waterways, docks, wharves and other improvements necessary or convenient for the construction, maintenance and operation of any building or structure, or addition thereto.

(14) 'Revenues' shall mean, with respect to any project, the rents, fees, charges, payments, proceeds and other income or profit derived therefrom or from the financing agreement or security document in connection therewith.

(15) 'Security document' shall mean a written instrument or instruments establishing the rights and responsibilities of the ~~authority~~ agency and the holders of bonds issued to finance a project, and may provide for, or be in the form of an agreement with, a trustee for the benefit of such bondholders. A security document may contain an assignment, pledge, mortgage or other encumbrance of all or part of the ~~authority's~~ agency's interest in, or right to receive revenues with respect to, a project and any other property provided by the operator or other obligor under a

financing agreement and may bear any appropriate title. A financing agreement and a security document may be combined as one instrument.

(16) 'Solid waste' shall mean solid waste materials resulting from any industrial or manufacturing activities or from any pollution control facility.

(17) 'Solid waste disposal facility' shall mean a facility for the purpose of treating, burning, compacting, composting, storing or disposing of solid waste.

(18) 'Water pollution control facility' shall mean any structure, equipment or other facility for, including any increment in the cost of any structure, equipment or facility attributable to, the purpose of treating, neutralizing or reducing liquid industrial waste and other water pollution, including collecting, treating, neutralizing, stabilizing, cooling, segregating, holding, recycling, or disposing of liquid industrial waste and other water pollution, including necessary collector, interceptor, and outfall lines and pumping stations, which ~~shall have~~ has been certified by the ~~agency~~ entity exercising jurisdiction to be in furtherance of the purpose of abating or controlling water pollution.

~~"§ 159D-4. Creation of the authority.~~

~~(a) The governing bodies of two or more counties are hereby authorized to create by resolution a political subdivision and body corporate and politic of the State known as "The North Carolina Industrial Facilities and Pollution Control Financing Authority", in order to effectuate in the most economical manner the acquisition, construction and financing of projects through pool programs.~~

~~If each governing body shall determine that it is in the best interest of the county to cause to be created and to become a member of the authority, each governing body shall adopt a resolution so finding and setting forth the names of the counties which are proposed to be initial members of the authority. The governing body of the county shall thereupon by ordinance or resolution appoint one commissioner of the authority.~~

~~Any two or more commissioners so named may file with the Secretary of State an application signed by them setting forth (i) the names of all the proposed member counties; (ii) the name and official residence of each of the commissioners so far as known to them; (iii) a certified copy of the appointment evidencing their right to office; (iv) a statement that each governing body of each respective county appointing a commissioner has made the aforesaid determination; and (v) the desire that an authority be organized as a political subdivision and a body corporate and politic under this Chapter.~~

~~The application shall be subscribed and sworn to by such commissioners before an officer or officers authorized by the laws of the State to administer and certify oaths.~~

~~The Secretary of State shall examine the application and, if he finds that the name proposed for the authority is not identical with that of any other corporation of this~~

~~State or of any agency or instrumentality thereof, or so nearly similar as to lead to confusion and uncertainty, he shall receive and file it and shall record it in an appropriate book of record in his office.~~

~~When the application has been made, filed and recorded as herein provided, the authority shall constitute a political subdivision and a body corporate and politic under the name proposed in the application. The Secretary of State shall make and issue to the commissioners executing the application a certificate of incorporation pursuant to this Chapter under the seal of the State, and shall record the same with the application. The certificate shall set forth the names of the member counties.~~

~~In any suit, action or proceeding involving the validity or enforcement of, or relating to, any contract of the authority, the authority, in the absence of establishing fraud in the premises, shall be conclusively deemed to have been established in accordance with the provisions of this Chapter upon proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such certificate, duly certified by the Secretary of State, shall be admissible in evidence in any such suit, action or proceeding, and shall be conclusive proof of the filing and contents thereof.~~

~~Notice of the issuance of such certificate shall be given to all of the proposed member counties by the Secretary of State. If a commissioner of any such county has not signed the application to the Secretary of State and such county does not notify the Secretary of State of the appointment of a commissioner within 40 days after receipt of such notice, such county shall be deemed to have elected not to be a member of the authority. As soon as practicable after the expiration of such 40-day period, the Secretary of State shall issue a new certificate of incorporation, if necessary, setting forth the names of those counties which have elected to become members of the authority. The failure of any proposed member to become a member shall not affect the validity of the corporate existence of the authority.~~

~~(b) After the creation of the authority, any county may become a member thereof upon application to the authority after adoption of a resolution or ordinance by the governing body of the county setting forth the determination and finding prescribed in paragraph (a) of this G.S. 159D-4, and authorizing said county to participate. Any county may withdraw from membership in the authority, provided, however, that all contractual rights acquired and obligations incurred while a county was a member shall remain in full force and effect.~~

~~(c) The authority shall consist of a board of commissioners appointed by the respective governing bodies of the counties which are members of the authority. Each commissioner shall have one vote. Each commissioner shall serve at the pleasure of the governing body by which he was appointed. Each appointed commissioner before entering upon his duties shall take and subscribe to an oath before some person authorized by law to administer oaths to execute the duties of his office faithfully and impartially, and a record of such oath shall be filed with the governing body of the appointing municipality and spread upon its minutes.~~

~~(d) The board of commissioners of the authority shall annually elect from its membership a chairman and a vice-chairman and another person or persons, who may but need not be commissioners, as treasurer, secretary and, if desired, assistant~~

~~secretary. The position of secretary and treasurer or assistant secretary and treasurer may be held by the same person. The secretary of the authority shall keep a record of the proceedings of the authority and shall be the custodian of all books, documents and papers filed with the authority, the minute book or journal of the authority and its official seal. Either the secretary or the assistant secretary of the authority may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates.~~

~~(c) A majority of the commissioners of the authority then in office shall constitute a quorum. Except as provided in subsection (f) of this G.S. 159D-4, the affirmative vote of a majority of all the commissioners of the authority shall be necessary for any action of the board. A vacancy in the board of commissioners of the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Any action taken by the authority under the provisions of this Chapter may be authorized by resolution at any regular or special meeting, and each resolution shall take effect immediately and need not be published or posted. No bonds shall be issued under the provisions of this Chapter unless the issuance thereof shall have been approved by the governing body of the county in which the project with respect to which the bonds were issued is located.~~

~~(f) If at any time there shall be more than seven counties which are members of the authority, the board of commissioners of the authority may create an executive committee of the board of commissioners. The board may provide for the composition of the executive committee so as to afford, in its judgment, fair representation of the member counties. Any power of the authority under the provisions of this Chapter may be exercised by the executive committee of the authority between meetings of the authority, except that the executive committee may not overrule, reverse or disregard any action of the board of commissioners of the authority. The membership of the executive committee, terms of office of members thereof and the method of filling vacancies therein shall be fixed by the rules or bylaws of the board of commissioners.~~

~~(g) No commissioner of an authority shall receive any compensation for the performance of his duties under this Chapter, provided, however, that each commissioner shall be reimbursed for his necessary expenses incurred while engaged in the performance of duties but only from moneys provided by obligors.~~

~~(h) Within 30 days of the date of creation of the authority, the authority shall advise the Department of Commerce and the Local Government Commission that an authority has been formed. The authority shall also furnish such Department and such Commission with (i) a list of its commissioners and its officers and (ii) a description of any projects that are under consideration by the authority. The authority shall, from time to time, notify the Department of Commerce and the Local Government Commission of changes in the commissioners and officers, of counties which have become members of the authority and of new projects under consideration by the authority.~~

"§ 159D-4.1. Jurisdiction of the agency.

All actions taken by counties, local officials, the Secretary of State, the State Treasurer, and other interested parties to create and organize The North Carolina Industrial Facilities and Pollution Control Financing Authority are ratified and confirmed. All duties, powers, jurisdiction, and responsibilities vested by statute or by contract in the authority are transferred to and vested in the North Carolina Capital Facilities Finance Agency, subject to the provisions of this Article. Upon this transfer, the agency is responsible for all duties and obligations of the authority entered into or incurred, by contract or otherwise, before the transfer. Particularly, the agency is responsible for all matters relating to any outstanding bonds of the authority to the same extent that the authority was responsible for them before the date of transfer. The agency for all purposes assumes the role and is the legal successor of the authority. Upon this transfer, the authority is dissolved.

"**§ 159D-5. General powers.**

The ~~authority~~ agency shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this ~~Chapter;~~ Article, ~~including, but without limiting the generality of the foregoing, the powers:~~ including all of the following:

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties;

(2) To adopt an official seal and alter the same at pleasure;

(3) To maintain an office at such place or places as it may determine;

(4) To sue and be sued in its own name, plead and be impleaded;

(5) To receive, administer and comply with the conditions and requirements respecting any gift, grant or donation of any property or money;

(6) To make and execute financing agreements, security documents and other contracts and instruments necessary or convenient in the exercise of the powers and functions of the ~~authority~~ agency under this ~~Chapter;~~ Article;

(7) To acquire by purchase, lease, gift or otherwise, but not by eminent domain, or to obtain options for the acquisition of any property, real or personal, improved or unimproved, and interests in land less than the fee thereof, for the construction, operation or maintenance of any project;

(8) To sell, lease, exchange, transfer or otherwise dispose of, or to grant options for any such purposes with respect to, any real or personal property or interest therein;

(9) To pledge or assign revenues of the ~~authority;~~ agency;

(10) To construct, acquire, own, repair, maintain, extend, improve, rehabilitate, renovate, furnish and equip one or more projects and to pay all or any part of the costs thereof from the proceeds of bonds of the ~~authority~~ agency or from any contribution, gift or

donation or other funds made available to the ~~authority~~ agency for such purpose;

(11) To fix, charge and collect revenues with respect to any project;

(12) To employ consulting engineers, architects, attorneys, real estate counselors, appraisers and such other consultants and employees as may be required in the judgment of the ~~authority~~ agency and to fix and pay their compensation from funds available to the ~~authority~~ agency therefor and to select and retain subject to approval of the Local Government Commission the financial consultants, underwriters and bond attorneys to be associated with the issuance of any bonds and to pay for services rendered by underwriters, financial consultants or bond attorneys out of the proceeds of any such issue with regard to which the services were performed; and

(13) To do all acts and things necessary, convenient or desirable to carry out the purposes, and to exercise the powers ~~herein granted.~~ granted in this Article.

"**§ 159D-6. Bonds.**

(a) The ~~authority~~ agency is ~~hereby~~ authorized to provide for the issuance, at one time or from time to time, of bonds of the ~~authority~~ agency for the purpose of paying all or any part of the cost of any project. The principal of, the interest on and any premium payable under the redemption of such bonds shall be payable solely from the funds herein authorized for such payment. The bonds of each issue shall bear interest as may be determined by the Local Government Commission of North Carolina with the approval of the ~~authority~~ agency and the obligor irrespective of the limitations of G.S. 24-1.1, as amended, and successor provisions. The bonds of each issue shall be dated, shall mature at such time or times not exceeding 30 years from the date of their issuance, and may be made redeemable before maturity at such price or prices and under such terms and conditions, as may be fixed by the ~~authority~~ agency prior to the issuance of the bonds. The ~~authority~~ agency shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest. In case any officer whose signature or a facsimile of whose signature ~~shall appear~~ appears on any bonds or coupons ~~shall cease~~ ceases to be ~~such~~ that officer before the delivery of ~~such~~ the bonds, ~~such~~ the signature or ~~such~~ the facsimile shall nevertheless be valid and sufficient for all purposes the same as if ~~he~~ the officer had remained in office until such delivery. The ~~authority~~ agency may also provide for the authentication of the bonds by a trustee or fiscal agent. ~~The bonds may be issued in coupon or in fully registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds.~~

(b) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the project or projects, or a portion thereof, for which ~~such~~ the bonds ~~shall have been~~ were issued, and shall be disbursed in such manner and under such restrictions, if any, as the ~~authority~~ agency may provide in the financing agreement and the security document. If the proceeds of the bonds of any issue, by reason of increased construction costs or error in estimates or otherwise, ~~shall be~~ are less than such cost, additional bonds may in like manner be issued to provide the amount of such deficiency.

(c) The proceeds of bonds issued pursuant to this Article shall not be used to refinance the cost of a project. For the purposes of this section, a cost of a project is considered refinanced if both of the following conditions are met:

(1) The cost is initially paid from sources other than bond proceeds, and the original expenditure is to be reimbursed from bond proceeds.

(2) The original expenditure was paid more than 60 days before the agency took some action indicating its intent that the expenditure would be financed or reimbursed from bond proceeds.

(d) Notwithstanding subsection (c) of this section, preliminary expenditures that are incurred prior to the commencement of the acquisition, construction, or rehabilitation of a project, such as architectural costs, engineering costs, surveying costs, soil testing costs, bond issuance costs, and other similar costs, may be reimbursed from bond proceeds even if these costs are incurred or paid more than 60 days prior to the agency's action. This exception that allows preliminary expenditures to be reimbursed from bond proceeds, whether or not they are incurred or paid within 60 days of the agency's action, does not include costs that are incurred incident to the commencement of the construction of a project, such as expenditures for land acquisition and site preparation. In any event, an expenditure originally paid before the agency took some action indicating its intent that the expenditures would be financed or reimbursed from bond proceeds may be reimbursed from bond proceeds only if the agency finds that reimbursing those costs from bond proceeds will promote the purposes of this Article.

~~The authority may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.~~

(e) Bonds may be issued under the provisions of this ~~Chapter~~ Article without obtaining, except as otherwise expressly provided in this ~~Chapter,~~ Article, the consent of the ~~State or of any political subdivision or of any agency of either thereof,~~ State or of any political subdivision and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions or things ~~which are~~ specifically required by this ~~Chapter~~ Article and the provisions of the financing agreement and security document authorizing the issuance of such bonds and securing the same.

"**§ 159D-7. Approval of ~~project.~~ project by Secretary of Commerce.**

(a) Approval Required. -- No bonds may be issued by the ~~authority~~ agency pursuant to this Article unless the project for which ~~the~~ their issuance ~~thereof~~ is proposed is first approved by the Secretary of Commerce. The ~~authority~~ agency shall file an application for approval of its proposed project with the Secretary of Commerce, and shall notify the Local Government Commission of such filing.

(b) Findings. -- The Secretary shall not approve any proposed project unless ~~he shall make~~ the Secretary makes all of the following, applicable findings:

(1) In the case of a proposed industrial project,

a. That the operator of the proposed project pays, or has agreed to pay thereafter, an average weekly manufacturing wage that (i) ~~which~~ is above the average weekly manufacturing wage paid in the county in which the project is to be located or (ii) ~~which~~ is not less than ten percent (10%) above the average weekly manufacturing wage paid in the State; and

b. That the proposed project will not have a materially adverse effect on the ~~environment;~~ environment.

(2) In the case of a proposed pollution control project, that such project will have a materially favorable impact on the environment or will prevent or diminish materially the impact of pollution which would otherwise ~~occur; and~~ occur.

(2a) In the case of a hazardous waste facility or low-level radioactive waste facility ~~which~~ that is used as a reduction, recovery or recycling facility, that such project will further the waste management goals of North Carolina and will not have an adverse effect upon public health or a significant adverse effect on the ~~environment; and~~ environment.

(3) In any case (whether the proposed project is an industrial or a pollution control project),

a. That the jobs to be generated or saved, directly or indirectly, by the proposed project will be large enough in number to have a measurable impact on the area immediately surrounding the proposed project and will be commensurate with the size and cost of the proposed project,

b. That the proposed operator of the proposed project has demonstrated or can demonstrate the capability to operate such project, and

c. That the financing of such project by the ~~authority~~ agency will not cause or result in the abandonment of an existing industrial or manufacturing facility of the proposed operator or an affiliate elsewhere within the State unless the facility is to be abandoned because of obsolescence, lack of available labor in the area, or site limitations.

(c) Initial Operator. -- ~~In no case shall the Secretary of Commerce~~ If the initial proposed operator of a project is not expected to be the operator for the term of the bonds proposed to be issued, the Secretary may make the findings required pursuant to subdivisions (b)(1)a. and (3)b. of this section only with respect to the initial operator. The initial operator shall be identified in the application for approval of the proposed project.

(d) Public Hearing. -- The Secretary of Commerce shall not approve any proposed project pursuant to this section unless the governing body of the county in which the project is located has first conducted a public hearing and, at or after the public hearing, approved in principle the issuance of bonds under this Article for the purpose of paying all or part of the cost of the proposed project. Notice of the public hearing shall be published at least once in at least one newspaper of general circulation in the county not less than 14 days before the public hearing. The notice shall describe generally the bonds proposed to be issued and the proposed project, including its general location, and any other information the governing body considers appropriate or the Secretary of Commerce prescribes for the purpose of providing the Secretary with the views of the community. The notice shall also state that following the public hearing the agency intends to file an application for approval of the proposed project with the Secretary of Commerce.

(e) Certificate of Department of Environment and Natural Resources. -- The Secretary of Commerce shall not make the findings required by subdivisions (b)(1)b and (2) of this section unless ~~he shall have~~ the Secretary has first received a certification from the Department of Environment and Natural Resources that, in the case of a proposed industrial project, the proposed project will not have a materially adverse effect on the environment and that, in the case of a proposed pollution control project, the proposed project will have a materially favorable impact on the environment or will prevent or diminish materially the impact of pollution which would otherwise occur. ~~In no case shall the~~ The Secretary ~~of Commerce~~ shall not make the findings required by subdivision (b)(2a) of this section unless ~~he shall have~~ the Secretary has first received a certification from the Department of Environment and Natural Resources that the proposed project is environmentally sound, will not have an adverse effect on public health and will further the waste management goals of North Carolina. ~~In any case where the Secretary shall make~~ The Secretary of Commerce shall deliver a copy of the application to the Department of Environment and Natural Resources. The Department of Environment and Natural Resources shall provide each certification to the Secretary of Commerce within seven days after the applicant satisfactorily demonstrates to it that all permits, including environmental permits, necessary for the construction of the proposed project have been obtained, unless the agency consents to a longer period of time.

(f) Waiver of Wage Requirement. -- If the Secretary of Commerce has made all of the required findings respecting a proposed industrial project, except that prescribed in subdivision (b)(1)a of this section, the Secretary may, in ~~his~~ the Secretary's discretion, approve the proposed project if ~~he shall have~~ the Secretary has received (i) a resolution of the governing body of the county in which the proposed project is

to be located requesting that the proposed project be approved notwithstanding that the operator will not pay an average weekly manufacturing wage above the average weekly manufacturing wage in the county and (ii) a letter from an appropriate State official, selected by the Secretary, to the effect that unemployment in the county is especially severe.

(g) Rules. -- To facilitate ~~his~~ the Secretary's review of each proposed project, the Secretary may require the ~~authority~~ agency to obtain and submit such data and information about such project as the Secretary may prescribe. ~~In addition, the Secretary may, in his discretion, request the authority to hold a public hearing on the proposed project for the purpose of providing the Secretary directly with the views of the community to be affected.~~ The Secretary may also prescribe such forms and such rules ~~and regulations~~ as ~~he shall deem~~ the Secretary considers reasonably necessary to implement the provisions of this section.

(h) Certificate of Approval. -- If the Secretary approves the proposed project, ~~he~~ the Secretary shall prepare a certificate of approval evidencing such approval and setting forth ~~his~~ the findings and shall cause ~~said~~ the certificate of approval to be published in a newspaper of general circulation within the county in which the proposed project is to be located. Any such approval shall be reviewable as provided in Article 4 of Chapter 150B of the General Statutes ~~of North Carolina~~ only by an action filed, within 30 days after notice of such findings and approval shall have been so published, in the Superior Court of Wake County. ~~Such~~ The superior court is hereby vested with jurisdiction to hear such action, but if no such action is filed within the 30 days herein prescribed, the validity of such approval shall be conclusively presumed, and no court shall have authority to inquire into such approval. Copies of the certificate of approval of the proposed project will be given to the ~~authority,~~ agency, the governing body of the county in which the proposed project is to be located and the secretary of the Local Government Commission.

~~Such~~ The certificate of approval shall become effective immediately following the expiration of ~~such~~ the 30-day period or the expiration of any appeal period after a final determination by any court of any action timely filed pursuant to this section. ~~Such~~ The certificate shall expire one year after its date unless extended by the Secretary who shall not extend ~~such~~ the certificate unless ~~he shall~~ the Secretary again ~~approve~~ approves the proposed project as provided in this section. If bonds are issued within that year pursuant to the authorization of this Article or Chapter 159C of the General Statutes to pay all or part of the costs of the project, however, the certificate expires three years after the date of the first issuance of the bonds.

(i) Certificate Issued Under Chapter 159C Effective. -- Any certificate of approval with respect to a project which has become effective pursuant to G.S. 159C-7 ~~shall be deemed to satisfy~~ satisfies the requirements of this section to the extent that the findings made by the Secretary pursuant to G.S. 159C-7 are consistent with the findings required to be made by the Secretary pursuant ~~hereto.~~ to this section.

"§ 159D-8. Approval of bonds.

(a) No bonds may be issued by the ~~authority~~ agency pursuant to this Article unless the issuance ~~thereof~~ is first approved by the Local Government Commission.

The ~~authority~~ agency shall file an application for approval of its proposed bond issue with the secretary of the Local Government Commission, and shall notify the Secretary of the Department of Commerce of such filing.

(b) In determining whether a proposed bond issue should be approved, the Local Government Commission may consider, without limitation, the following:

(1) Whether the proposed operator and obligor have demonstrated or can demonstrate the financial responsibility and capability to fulfill their obligations with respect to the financing agreement. In making such determination, the commission may consider the operator's experience and the obligor's ratio of current assets to current liabilities, net worth, earnings trends and coverage of fixed charges, the nature of the industry or business involved and its stability and any additional security such as insurance, guaranties or property to be pledged or secure such bonds.

(2) Whether the political subdivisions in or near which the proposed project is to be located have the ability to cope satisfactorily with the impact of such project and to provide, or cause to be provided, the public facilities and services, including utilities, that will be necessary for such project and on account of any increase in population which are expected to result therefrom.

(3) Whether the proposed date and manner of sale will have an adverse effect upon any scheduled or anticipated sale of obligations by the State or any political subdivision or any agency of either of them.

(c) To facilitate the review of the proposed bond issue by the commission, the Secretary may require the ~~authority~~ agency to obtain and submit such financial data and information about the proposed bond issue and the security therefor, including the proposed prospectus or offering circular, the proposed financing agreement and security document and annual and other financial reports and statements of the obligor, as the Secretary may prescribe. The Secretary may also prescribe ~~such~~ forms and ~~such~~ rules ~~and regulations as he shall deem~~ that the Secretary considers reasonably necessary to implement the provisions of this section.

"§ 159D-9. Sale of bonds.

Bonds issued under this Article may be sold in such manner, either at public or private sale, and for such price as the Local Government Commission ~~shall determine~~ determines to be for the best interests of the ~~authority~~ agency and effectuate best the purposes of this ~~Chapter~~ Article irrespective of the interest limitations set forth in G.S. 24-1.1, as amended, and successor ~~provisions provided that such sale shall be~~ provisions, as long as the sale is approved by the ~~authority~~ agency and the obligor.

"§ 159D-10. Location of projects.

~~Except as provided in this section, any~~ Any project of the ~~authority~~ agency shall be located within the boundaries of ~~a county which is a member of the authority. A portion or portions of any project including, but not limited to, any real or personal property or improvements necessary or convenient for the construction, maintenance,~~

~~and operation of the project, may be located in a county or counties other than the county in which the principal part of the project is located so long as the additional portion or portions constitute functionally appurtenant or incidental facilities and the governing body of each other county in which the additional portion or portions of the project is or are located approves the project.~~ the State. Bonds may not be issued to finance any project or group of projects in any county of the State unless the board of commissioners for the county in which the project is located has consented to the location of the project within the county.

"**§ 159D-11. Financing agreements.**

(a) Every financing agreement shall provide that:

(1) Repealed by Session Laws 1987, c. 517, s. 7.

(2) The amounts payable under the financing agreement shall be sufficient to pay all of the principal of and interest and redemption premium, if any, and interest on the bonds ~~that shall be~~ issued by the ~~authority~~ agency to pay the cost of the project as ~~the same shall~~ they respectively become due;

(3) The obligor shall pay all costs incurred by the ~~authority~~ agency in connection with the financing and administration of the project, except as may be paid out of the proceeds of bonds or otherwise, including, but without limitation, insurance costs, the cost of administering the financing agreement and the security document and the fees and expenses of the fiscal agent or trustee, paying agents, attorneys, consultants and others;

(4) The obligor shall pay all the costs and expenses of operation, maintenance and upkeep of the project; and

(5) The obligor's obligation to provide for the payment of the bonds in full shall not be subject to cancellation, termination or abatement until ~~such~~ payment of the bonds or provision for payment has been ~~therefor shall be~~ made.

(b) The financing agreement may be in the nature of:

(1) A sale and leaseback,

(2) A lease purchase,

(3) A conditional sale,

(4) An installment sale,

(5) A secured or unsecured loan,

(6) A loan and mortgage, or

(7) Another ~~Other~~ similar transaction.

(c) The financing agreement, if in the nature of a lease agreement, shall either provide that the obligor ~~shall have~~ has an option to purchase, or require that the obligor purchase, the project upon the expiration or termination of the financing agreement subject to the condition that payment in full of the principal of, and the interest and any redemption premium on, the bonds, or provision for payment has ~~therefor, shall have~~ been made.

(d) The financing agreement may provide the ~~authority~~ agency with rights and remedies in the event of a default by the obligor ~~thereunder~~ under it including, without limitation, any one or more of the following:

(1) Acceleration of all amounts payable under the financing agreement;

(2) Reentry and repossession of the project;

(3) Termination of the financing agreement;

(4) Leasing or sale or ~~fore-closure [sic]~~ foreclosure of the project to others; and

(5) Taking whatever actions at law or in equity may appear necessary or desirable to collect the amounts payable under, and to enforce covenants made in, the financing agreement.

(e) The ~~authority's~~ agency's interest in a project under a financing agreement may be that of owner, lessor, lessee, conditional or installment vendor, mortgagor, mortgagee, secured party or otherwise, but the ~~authority~~ agency need not have any ownership or possessory interest in the project.

(f) The ~~authority~~ agency may assign all or any of its rights and remedies under the financing agreement to the trustee or bondholders under the security document.

(g) ~~Any such~~ The financing agreement may contain ~~such~~ any additional provisions ~~as in the determination of the authority~~ the agency considers ~~are~~ necessary or convenient to effectuate the purposes of this ~~Chapter.~~ Article.

"§ 159D-12. Security documents.

(a) Bonds issued under the provisions of this ~~Chapter~~ Article may be secured by a security document which may be a trust instrument between the ~~authority~~ agency and a bank or trust company or individual within the State, or a bank or a trust company without the State, as trustee. Such security document may pledge and assign the revenues provided for the security of the bonds, including proceeds from the sale of any project, or part thereof, insurance proceeds and condemnation awards, and may convey or mortgage the project and other property to secure a bond issue.

The revenues and other funds derived from the project, except ~~such part thereof as may be necessary to provide reserves therefor, if any,~~ any part necessary to provide reserves shall be set aside at such regular intervals as may be provided in such security document in a sinking fund which may be ~~thereby~~ pledged to, and charged with, the payment of the principal of and the interest on such bonds as ~~the same shall~~ they become due and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. The revenues so pledged and thereafter received by the ~~authority~~ agency shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the ~~authority,~~ agency, irrespective of whether such parties have notice thereof. The use and disposition of money to the credit of such sinking fund shall be subject to the provisions of the security document. Such security document may contain such provisions for protecting and enforcing the rights and remedies of

the bondholders as may be reasonable and proper and not in violation of law, including, without limitation, any one or more of the following:

(1) Acceleration of all amounts payable under the security document;

(2) Appointment of a receiver to manage the project and any other property mortgaged or assigned as security for the bonds;

(3) Foreclosure and sale of the project and any other property mortgaged or assigned as security for the bonds; and

(4) Rights to bring and maintain such other actions at law or in equity as may appear necessary or desirable to collect the amounts payable under, or to enforce the covenants made in, the security document.

(b) It ~~shall be~~ is lawful for any bank or trust company incorporated under the laws of this State which may act as depositary of the proceeds of bonds, revenues or other funds provided under this ~~Chapter~~ Article to furnish such indemnifying bonds or to pledge such securities as may be required by the ~~authority.~~ agency. All expenses incurred in carrying out the provisions of such security document may be treated as a part of the cost of the project in connection with which bonds are issued or as an expense of administration of such project.

The ~~authority~~ agency may subordinate the bonds or its rights under the financing agreement or otherwise to any prior, contemporaneous or future securities or obligations or lien, mortgage or other security interest.

Any such security document may contain such additional provisions as in the determination of the ~~authority~~ agency are necessary or convenient or effectuate the purposes of this ~~Chapter.~~ Article.

"§ 159D-13. Trust funds.

Notwithstanding any other provisions of law to the contrary, all money received pursuant to the authority of this ~~Chapter,~~ Article, whether as proceeds from the sale of bonds or as revenues, ~~shall be deemed to be~~ are trust funds to be held and applied solely as provided in this ~~Chapter.~~ Article. The security document may provide that any of ~~such moneys~~ the money may be temporarily invested and reinvested pending ~~the~~ its disbursement ~~thereof~~ in ~~such~~ any securities and other investments as ~~shall be~~ provided in such security document, and shall provide that any officer with whom, or any bank or trust company with which, ~~such moneys shall be~~ the money is deposited shall act as trustee ~~of such moneys~~ and shall hold and apply ~~the same~~ it for the purpose ~~hereof,~~ of this Article, subject to ~~such~~ any regulations ~~as~~ this ~~Chapter~~ Article and ~~such~~ the security document ~~may~~ provide.

"§ 159D-14. Tax exemption.

The ~~authority~~ agency ~~shall not be~~ is not required to pay any taxes on any project or on any other property owned by the ~~authority~~ agency under the provisions of this ~~Chapter~~ Article or upon the income ~~therefrom.~~ from the property.

The interest on bonds issued by the ~~authority~~ agency ~~shall be~~ is exempt from all income taxes within the State.

All projects and all transactions ~~therefor shall be~~ for them are subject to taxation to the extent ~~such projects and transactions~~ they would be subject to taxation if no public body were involved ~~therewith.~~ with them.

"§ 159D-15. Construction contracts.

The ~~authority~~ agency may agree with the prospective operator that all contracts relating to the acquisition, construction, installation and equipping of a project shall be solicited, negotiated, awarded and executed by the prospective operator and its agents subject only to such approval by the ~~authority~~ agency as the ~~authority~~ agency may require in such agreement. Such agreement may provide that the ~~authority~~ agency may, out of the proceeds of bonds, make advances to or reimburse the operator for all or a portion of its costs incurred in connection with such contracts.

"§ 159D-16. Conflict of interest.

If any officer, commissioner or employee of the ~~authority~~ agency ~~shall be~~ is interested either directly or indirectly in any contract with the ~~authority,~~ agency, such interest shall be disclosed to the ~~authority~~ agency and shall be set forth in the minutes of the ~~authority,~~ agency, and the officer, commissioner, employee or member having such interest ~~therein~~ shall not participate on behalf of the ~~authority~~ agency in the authorization of ~~any such contract, provided, however, that this section shall~~ the project. This section does not apply to the ownership of less than one ~~per centum~~ percent (1%) of the stock of any operator or obligor. Failure to take any or all actions necessary to carry out the purposes of this section ~~shall~~ does not affect the validity of bonds issued pursuant to the provisions of this ~~Chapter.~~ Article.

"§ 159D-17. Credit of State not pledged.

Bonds issued under the provisions of this ~~Chapter~~ Article ~~shall~~ do not ~~not be deemed to~~ constitute a debt of the State or any political subdivision ~~or any agency thereof~~ or a pledge of the faith and credit of the State or any political ~~subdivision or any such agency,~~ subdivisions, but shall be payable solely from the revenues and other funds provided ~~therefor.~~ for payment. Each bond issued under this Chapter shall contain on ~~the face thereof~~ its face a statement to the effect that the ~~authority~~ agency shall not be obligated to pay the ~~same~~ bonds or the interest ~~thereon~~ on it except from the revenues and other funds pledged ~~therefor~~ for payment and that neither the faith and credit nor the taxing power of the State or any political subdivision ~~or any agency thereof~~ is pledged to the payment of the principal of or the interest on ~~such~~ the bonds.

"§ 159D-18. Bonds eligible for investment.

Bonds issued by ~~an authority~~ the agency under the provisions of this ~~Chapter~~ Article are ~~hereby made~~ securities in which all public officers and agencies of the State and all political subdivisions, and all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them.

"§ 159D-19. Revenue refunding bonds.

(a) The ~~authority~~ agency is ~~hereby~~ authorized to provide by resolution for the issuance of refunding bonds of the ~~authority~~ agency for the purpose of refunding any

bonds then outstanding ~~which~~ that ~~shall~~ have been issued under the provisions of this ~~Chapter,~~ Article, or under the provisions of Chapter 159C of the General Statutes, including the payment of any redemption premium ~~thereon~~ and any interest accrued or to accrue to the date of redemption of such bonds, and, if ~~deemed~~ considered advisable by the ~~authority,~~ agency, for either or both of the following additional purposes:

(1) Constructing improvements, additions, extensions or enlargements of the project or projects in connection with which the bonds to be refunded shall have been issued; and

(2) Paying all or any part of the cost of any additional project or projects.

(a1) The issuance of ~~such~~ bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the ~~authority~~ agency in respect to the ~~same shall be~~ bonds are governed by the provisions of this ~~Chapter which~~ Article that relate to the issuance of ~~bonds, insofar as such provisions may be appropriate therefor.~~ bonds.

The approvals required by G.S. 159D-7 and G.S. 159D-8 shall be obtained prior to the issuance of any refunding ~~bonds; provided, however,~~ bonds, except that in the case where the refunding bonds of all or a portion of an issue are to be issued solely for the purpose of refunding outstanding bonds issued under this ~~Chapter,~~ Article, the approval required by G.S. 159D-7 ~~shall not be~~ is not required as to the project financed with the bonds to be refunded.

(b) Refunding bonds issued under this section may be sold or exchanged for outstanding bonds issued under this ~~Chapter~~ Article and, if sold, the proceeds ~~thereof~~ may be applied, in addition to any other authorized purposes, to the purchase, redemption or payment of such outstanding bonds. Refunding bonds may be issued, in the determination of the ~~authority,~~ agency, at any time not more than five years prior to the date of maturity or maturities or the date selected for the redemption of the bonds being refunded thereby. Pending the application of the proceeds of such refunding bonds, with any other available funds, to the payment of the principal of and accrued interest and any redemption premium on the bonds being refunded, and, if so provided or permitted in the security document securing the ~~same,~~ bonds to the payment of any interest on such refunding bonds, such proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America ~~which shall~~ if these obligations mature or ~~which shall be~~ are subject to redemption by the ~~holder thereof, at the option of such holder,~~ holder, at the holder's option not later than the respective dates when the proceeds, together with the interest accruing ~~thereon~~ on them will be required for the purposes intended.

"§ 159D-20. No power of eminent domain.

The ~~authority~~ agency shall not have any right or power to acquire any property through the exercise of eminent domain or any proceedings in the nature of eminent domain.

~~"§ 159D-21. Dissolution of the authority.~~

~~Whenever the board of commissioners of the authority and the governing bodies of two-thirds of the counties which are then members of the authority shall by joint resolution determine that the purposes for which the authority was formed have been substantially fulfilled and that all bonds theretofore issued and all other obligations theretofore incurred by the authority have been fully paid or satisfied, such board of commissioners and governing bodies may declare the authority to be dissolved. On the effective date of such joint resolution, the title to all funds and other property owned by the authority at the time of such dissolution shall vest as provided in said joint resolution, and possession of such funds and other property shall forthwith be delivered as provided in said joint resolution.~~

~~"§ 159D-22. Annual reports; application of Article 3, Subchapter III of Chapter 159.~~

~~The authority shall, promptly following the close of each calendar year, submit an annual report of its activities for the preceding year to the governing bodies of the counties which are then members of the authority. Each such report shall set forth a complete operating and financial statement covering the operations of the authority during such year.~~

~~The provisions of Article 3, Subchapter III of Chapter 159 of the General Statutes of North Carolina entitled 'The Local Government Budget and Fiscal Control Act' shall have no application to the authority.~~

"§ 159D-23. Application of Article 9 of Chapter 25.

The provisions of G.S. 25-9-104(e) and G.S. 25-9-302(6) to the contrary notwithstanding, the provisions of Article 9 of North Carolina Uniform Commercial ~~Code, being G.S. 25-9-101 to 25-9-607, inclusive, shall apply [to]~~ Code apply to transactions under this ~~Chapter 159D~~ Article to the same extent ~~the provisions of such Article 9 would apply were~~ as if G.S. 25-9-104(e) and G.S. 25-9-302(6) ~~hereby~~ were repealed.

"§ 159D-24. Officers not liable.

No ~~commissioner of any authority~~ member of the Board of Directors of the agency shall be subject to any personal liability or accountability by reason of ~~his~~ the issuance or execution of any ~~bonds or the issuance thereof.~~ bonds.

"§ 159D-25. Additional method.

The foregoing sections of this ~~Chapter~~ Article ~~shall be deemed to~~ provide an additional and alternative method for the doing of the things authorized ~~thereby~~ and ~~shall be regarded as~~ are supplemental and additional to powers conferred by other ~~laws, and shall not be regarded as in derogation of any powers now existing; provided, however, that the~~ laws. They do not derogate any other powers. The issuance of bonds or refunding bonds under the provisions of this ~~Chapter~~ Article need not comply with the requirements of any other law applicable to the issuance of bonds.

"§ 159D-26. Liberal construction.

This ~~Chapter,~~ Article, being necessary for the prosperity and welfare of the State and its inhabitants, shall be liberally construed to effect ~~the purposes hereof.~~ its purposes.

"§ 159D-27. Inconsistent laws inapplicable.

Insofar as the provisions of this ~~Chapter~~ Article are inconsistent with the provisions of any general, special or local laws, or parts thereof, the provisions of this ~~Chapter~~ Article shall be controlling.

"ARTICLE 2.

"Private ~~Educational~~ Capital Facilities Finance Act.

"§ 159D-35. Short title.

This ~~Chapter~~ Article shall be known, and may be cited, as the 'Private ~~Educational~~ Capital Facilities Finance Act.'

"§ 159D-36. Legislative findings.

It is ~~hereby~~ declared that for the benefit of the people of the State of North Carolina, the increase of their commerce, welfare and prosperity and the improvement of their health and living conditions it is essential that they be given the fullest opportunity to learn and to develop their intellectual capacities; that it is essential for institutions for higher education and institutions for elementary and secondary education within the State to be able to construct and renovate facilities to assist its citizens in achieving the fullest development of their intellectual capacities; and that it is the purpose of this ~~Chapter~~ Article to provide a measure of assistance and an alternative method to enable private institutions for higher education and institutions for elementary and secondary education in the State to provide the facilities and the structures that are needed to accomplish the purposes of this ~~Chapter,~~ Article, all to the public benefit and good, to the extent and in the manner provided ~~herein.~~ in this Article.

It is ~~hereby~~ further declared that this purpose will benefit the people as a way to improve student learning, increase learning opportunities for all students, encourage the use of different and innovative teaching methods, create new professional opportunities for teachers, provide parents and students with expanded choices in the types of educational opportunities that are available, and lower the overall cost of education to the State and to parents and students.

The General Assembly also finds that the private sector often provides services and opportunities to the people of the State of North Carolina in activities that constitute a public purpose, and that these activities by the private sector are to be fostered and encouraged. The people of the State of North Carolina will benefit from the enactment of laws and creation of programs that assist the private sector in obtaining financing for capital improvements of facilities that will be used in conducting these activities.

"§ 159D-37. Definitions.

As used or referred to in this ~~Chapter,~~ Article, the following words and terms ~~shall~~ have the following meanings, unless the context clearly indicates otherwise:

(1) 'Agency' means the North Carolina ~~Educational~~ Capital Facilities Finance Agency ~~created by this Chapter,~~ or, should ~~said~~ this agency be abolished or otherwise divested of its functions under this ~~Chapter,~~ Article, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers and duties given by this ~~Chapter~~ Article to the agency.

(1a) 'Bonds' or 'notes' means the revenue bonds or bond anticipation notes, respectively, authorized to be issued by the agency under this Article, including revenue refunding bonds, notwithstanding that they may be secured by a deed of trust or the full faith and credit of a participating institution or any other lawfully pledged security of a participating institution.

(2) 'Cost', as applied to any project or any portion ~~thereof~~ of a project financed under the provisions of this ~~Chapter,~~ Article, means all or any part of the cost of construction, acquisition, alteration, enlargement, reconstruction and remodeling of a project, including all lands, structures, real or personal property, rights, rights-of-way, franchises, easements and interests acquired or used for or in connection with a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to and during construction and, if deemed advisable by the agency, for a period not exceeding two years after the estimated date of completion of construction, the cost of engineering and architectural surveys, plans and specifications, the cost of consulting and legal services and other expenses necessary or incident to determining the feasibility or practicability of constructing or equipping a project, the cost of administrative and other expenses necessary or incident to the construction or acquisition of a project and the financing of the construction or acquisition thereof, including reasonable provision for working capital and a reserve for debt service, and the cost of reimbursing any participating institution for any payments made for any cost described above or the refinancing of any cost described above, including any evidence of indebtedness incurred to finance such cost; provided, however, that no payment shall be reimbursed or any cost or indebtedness be refinanced if such payment was made or such cost or indebtedness was incurred before November 25, 1981.

~~(3) "Project" means any one or more buildings, structures, improvements, additions, extensions, enlargements or other facilities for use primarily as a dormitory or other housing facility, including housing facilities for student nurses, a dining hall and other food preparation and food service facilities, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, laundry facility, and maintenance, storage or utility facility and other structures or facilities related thereto or required or useful for the instruction of students or the conducting of research or the~~

~~operation of an institution for higher education or an institution for elementary and secondary education, including parking and other facilities or structures essential or convenient for the orderly conduct of such an institution, or any combination of the foregoing, and shall also include landscaping, site preparation, furniture, equipment and machinery and other similar items necessary or convenient for the operation of an institution for higher education or an institution for elementary and secondary education or a particular facility, building or structure thereof in the manner for which its use is intended but shall not include such items as books, fuel, supplies or other items the costs of which are customarily deemed to result in a current operating charge, and shall not include any facility used or to be used for sectarian instruction or as a place of religious worship nor any facility that is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination.~~

~~(4) 'Bonds' or 'notes' means the revenue bonds or bond anticipation notes, respectively, authorized to be issued by the agency under this Chapter, including revenue refunding bonds, notwithstanding that the same may be secured by a deed of trust or the full faith and credit of a participating institution or any other lawfully pledged security of a participating institution.~~

(4a) 'Institution for elementary and secondary education' means a nonprofit institution within the State of North Carolina authorized by law and engaged or to be engaged in the providing of kindergarten, elementary, or secondary education, or any combination ~~thereof.~~ of these.

(5) 'Institution for higher education' means a nonprofit private educational institution within the State of North Carolina authorized by law to provide a program of education beyond the high school level.

(6) 'Participating institution' means an institution for higher ~~education or~~ education, an institution for elementary and secondary ~~education~~ education, or a special purpose institution that, pursuant to the provisions of this ~~Chapter,~~ Article, undertakes the financing, refinancing, acquiring, constructing, equipping, providing, owning, repairing, maintaining, extending, improving, rehabilitating, ~~renovating~~ renovating, or furnishing of a project or undertakes the refunding or refinancing of obligations or of a deed of trust or a mortgage or of advances as provided in this ~~Chapter.~~ Article.

(6a) 'Project' means any one or more buildings, structures, equipment, improvements, additions, extensions, enlargements, or other facilities comprising any of the following:

a. Educational facilities used by an institution for higher education or an institution for elementary and secondary education, including dormitories and other housing facilities, housing facilities for student nurses, dining halls and other food preparation and food service facilities, student unions, administration buildings, academic buildings, libraries, laboratories, research facilities, classrooms, athletic facilities, health care facilities, laundry facilities, and other structures or facilities related to these facilities or required or useful for the instruction of students, the conducting of research, or the operation of the institution.

b. Student housing facilities to be owned or operated by an owner or operator other than an institution for higher education or an institution for elementary and secondary education.

c. A special purpose project as defined in G.S. 159C-3.

The term 'project' also includes landscaping, site preparation, furniture, equipment and machinery, and other similar items necessary or convenient for operation of a particular facility, building, or structure in the manner for which its use is intended, and maintenance, storage, or utility facilities and other structures or facilities related to, required, or useful for the operation of the facilities, including parking and other facilities or structures essential or convenient for the orderly conduct of the facility. The term 'project' does not include such items as books, fuel, or supplies or other items the costs of which customarily result in a current operating charge. The term does not include any facility used or to be used for sectarian instruction or as a place of religious worship nor any facility that is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination.

(6b) 'Special purpose institution' means a for-profit or not-for-profit corporation or similar entity that undertakes any of the activities set forth in sub-subdivisions (6a)b. and (6a)c. of this section.

(7) 'State' means the State of North Carolina.

"**§ 159D-38. ~~Educational~~ Capital facilities finance agency.**

(a) There is ~~hereby~~ created a body politic and corporate to be known as 'North Carolina ~~Educational~~ Capital Facilities Finance Agency' which shall be constituted a public agency and an instrumentality of the State for the performance of essential public functions. The agency shall be governed by a board of directors composed of seven members. Two of the members of ~~said~~ the board shall be the State Treasurer and the State Auditor, both of whom shall serve ex officio. The remaining directors of the agency shall be residents of the State and shall not hold other public office. The General Assembly upon the recommendation of the President Pro Tempore of

the Senate shall appoint one director in accordance with G.S. 120-121, the General Assembly upon the recommendation of the Speaker of the House of Representatives shall appoint one director in accordance with G.S. 120-121, and the Governor shall appoint three ~~of the~~ directors of the agency. The five appointive directors of the agency shall be appointed for staggered four-year terms, two being appointed initially for one year by the President of the Senate and the Speaker of the House, respectively, and one for two years, one for three years and one for four years, respectively, as designated by the Governor. Each ~~Governor, and each~~ director shall continue in office until ~~his~~ a successor ~~shall be~~ is duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any vacancy in a position held by an appointive member shall be filled by a new appointment made by the officer who originally made ~~such~~ the appointment. Any member of the board of directors ~~shall be~~ is eligible for reappointment. Each appointive member of the board of directors may be removed by the Governor for misfeasance, malfeasance or neglect of duty after reasonable notice and a public hearing, unless the ~~same~~ notice and hearing are in writing expressly waived. Each appointive member of the board of directors ~~before entering upon his duties~~ shall take an oath of office to administer the duties of ~~his~~ office faithfully and impartially and a record of ~~such~~ the oath shall be filed in the office of the Secretary of State. The Governor shall designate from among the members of the board of directors a ~~chairman and a vice-chairman. The terms of the chairman and vice-chairman shall~~ chair and a vice-chair, whose terms extend to the earlier of either two years or the date of expiration of their then current terms as members of the board of directors of the agency. The board of directors shall elect and appoint and prescribe the duties of a secretary-treasurer and ~~such~~ any other officers ~~as it shall deem~~ it considers necessary or advisable, which officers need not be members of the board of directors.

(b) No part of the revenues or assets of the agency shall inure to the benefit of or be distributable to its members or officers or other private persons. The members of the agency shall receive no compensation for their services but shall be entitled to receive, for attendance at meetings of the agency or any committee thereof and for other services for the agency, reimbursement for such actual expenses as may be incurred for travel and subsistence in the performance of official duties and such per diem as is allowed by law for members of other State boards, commissions and committees.

(c) The secretary-treasurer of the agency shall keep a record of the proceedings of the agency and shall be custodian of all books, documents and papers filed with the agency, the minute book or journal of the agency and its official seal. ~~He~~ The secretary-treasurer shall have authority to cause copies to be made of all minutes and other records and documents of the agency and to give certificates under the official seal of the agency to the effect that such copies are true copies, and all persons dealing with the agency may rely upon such certificates.

(d) Four members of the board of directors of the agency shall constitute a quorum and the affirmative vote of a majority of the members present at a meeting of the board of directors duly called and held shall be necessary for any action taken by

the board of directors of the ~~agency; provided, however, that the~~ agency. The board of directors ~~may~~ may, however, appoint an executive committee to act on behalf of ~~said~~ the board during the period between regular meetings of said board, and said committee shall have full power to act upon the vote of a majority of its members. No vacancy in the membership of the agency ~~shall impair~~ impairs the rights of a quorum to exercise all the rights and to perform all the duties of the agency.

(e) The North Carolina ~~Educational~~ Capital Facilities Finance Agency shall be contained within the Department of State Treasurer as if it had been transferred to that department by a Type II transfer as defined in G.S. 143A-6(b).

"**§ 159D-39. General powers.**

The agency shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this ~~Chapter;~~ Article, ~~including, but without limiting the generality of the foregoing, the power:~~ including all of the following:

(1) To make and execute contracts and agreements necessary or incidental to the exercise of its powers and duties under this ~~Chapter;~~ Article, including loan agreements and agreements of sale or leases with, mortgages and deeds of trust and conveyances to participating institutions, persons, firms, corporations, governmental agencies and others and including credit enhancement ~~agreements;~~ agreements.

(2) To acquire by purchase, lease, gift or otherwise, or to obtain options for the acquisition of any property, real or personal, improved or unimproved, including interests in land in fee or less than fee for any project, upon such terms and at such cost as shall be agreed upon by the owner and the ~~agency;~~ agency.

(3) To arrange or contract with any county, city, town or other political subdivision or instrumentality of the State for the opening or closing of streets or for the furnishing of utility or other services to any ~~project;~~ project.

(4) To sell, convey, lease as lessor, mortgage, exchange, transfer, grant a deed of trust in, or otherwise dispose of or to grant options for ~~any such~~ these purposes with respect to, any real or personal property or interest ~~therein;~~ in property.

(5) To pledge or assign any money, purchase price payments, rents, loan repayments, charges, fees or other revenues, including any federally guaranteed securities and moneys received ~~therefrom~~ from them whether ~~such~~ the securities are initially acquired by the agency or a participating institution, and any proceeds derived by the agency from sales of property, insurance, condemnation awards or other ~~sources;~~ sources.

(6) To pledge or assign the revenues and receipts from any project and from any loan agreement, agreement of ~~sale~~ sale, or ~~lease of the~~ lease, including any loan repayments, purchase price payments,

~~rent and~~ rent, or other income received ~~thereunder;~~ under a loan agreement, agreement of sale, or lease.

(7) To borrow money as ~~herein~~ provided in this Article to carry out and effectuate its corporate purposes and to issue ~~in evidence thereof~~ bonds and notes for the purpose of providing funds to pay all or any part of the cost of any project, to lend money to any participating institution for the acquisition of any federally guaranteed ~~securities~~ securities, and to issue revenue refunding ~~bonds;~~ bonds.

(8) To finance, refinance, acquire, construct, equip, provide, operate, own, repair, maintain, extend, improve, rehabilitate, renovate and furnish any project and to pay all or any part of the cost thereof from the proceeds of bonds or notes or from any contribution, gift or donation or other funds available to the agency for ~~such purpose;~~ this purpose.

(9) To fix, revise, charge and collect or cause to be fixed, revised, charged and collected purchase price payments, rents, loan repayments, fees, rates and charges for the use of, or services rendered by, any ~~project;~~ project.

(10) To employ fiscal consultants, consulting engineers, architects, attorneys, feasibility consultants, appraisers and ~~such~~ any other consultants and employees as may be required in the judgment of the agency and to fix and pay their compensation from funds available to the ~~agency therefor;~~ agency.

(11) To conduct studies and surveys respecting the need for projects and their location, financing and ~~construction;~~ construction.

(12) To apply for, accept, receive and agree to and comply with the terms and conditions governing grants, loans, advances, contributions, interest subsidies and other aid with respect to any project from federal and State agencies or ~~instrumentalities;~~ instrumentalities.

(13) To sue and be sued in its own name, plead and be ~~impleaded;~~ impleaded.

(14) To acquire and enter into commitments to acquire any federally guaranteed security or federally insured mortgage note and to pledge or otherwise use ~~any such~~ the federally guaranteed security or federally insured mortgage note ~~in such manner as the agency deems~~ as the agency considers in its best interest to secure or otherwise provide a source of repayment on any of its bonds or notes issued on behalf of any participating institution to finance or refinance the cost of any ~~project;~~ project.

(15) To make loans to any participating institution for the cost of a project in accordance with an agreement between the agency and the participating ~~institution;~~ institution.

(16) To make loans to a participating institution to refund outstanding loans, obligations, deeds of trust or advances issued, made or given by ~~such~~ the participating institutions for the cost of a ~~project;~~ project.

(17) To charge and to apportion among participating institutions its administrative costs and expenses incurred in the exercise of its powers and duties conferred by this ~~Chapter;~~ Article.

(18) To adopt an official seal and alter ~~the same at pleasure; and~~ it at pleasure.

(19) To do all other things necessary or convenient to carry out the purposes of this ~~Chapter.~~ Article.

"§ 159D-40. Criteria and requirements.

(a) In undertaking any project pursuant to this ~~Chapter;~~ Article, the agency shall be guided by and shall observe the following criteria and ~~requirements; provided that the~~ requirements listed below. The determination of the agency as to its compliance with ~~such~~ these criteria and requirements ~~shall be final and conclusive.~~ is conclusive.

(1) No project shall be sold or leased nor any loan made to any participating institution ~~for higher education or any institution for elementary and secondary education~~ that is not financially responsible and capable of fulfilling its obligations, including its obligations under an agreement of sale or lease or a loan agreement to make purchase price payments, to pay rent, to make loan repayments, to operate, repair and maintain at its own expense the project and to discharge ~~such~~ any other responsibilities ~~as may be~~ imposed under the agreement of sale or lease or loan ~~agreement;~~ agreement.

(2) Adequate provision shall be made for the payment of the principal of and the interest on the bonds and any necessary reserves ~~therefor~~ for payment and for the operation, repair and maintenance of the project at the expense of the participating ~~institution;~~ institution.

(3) The public facilities, including utilities, and public services necessary for the project will be made ~~available; and~~ available.

(4) The projects shall be operated to serve and benefit the public and there shall be no discrimination against any person based on race, creed, ~~color~~ color, or national origin.

(b) In making these determinations, the agency may consider the participating institution's experience and ratio of current assets to current liabilities; the participating institution's net worth, earnings trends, and coverage of fixed charges; the nature of the project involved; and any additional security for payment of the bonds and performance of the participating institution's obligations under the agreement of sale or lease or loan agreement, such as credit enhancement, insurance, guaranties, or property pledged to secure the payment and performance.

"§ 159D-41. Procedural requirements.

Any participating institution ~~for higher education or any institution for elementary and secondary education~~ may submit to the agency, and the agency may consider, a proposal for financing a project using ~~such~~ forms and following ~~such~~ instructions ~~as may be~~ prescribed by the agency. ~~Such~~ The proposal shall set forth the type and location of the project and may include other information and data ~~available to the institution for higher education or the institution for elementary and secondary education~~ respecting the project and the extent to which ~~such~~ the project conforms to the criteria and requirements set forth in this ~~Chapter.~~ Article. The agency may request the ~~institution for higher education or the institution for elementary and secondary education~~ applicant to provide additional information and data respecting the project. The agency is authorized to make or cause to be made ~~such~~ any investigation, surveys, studies, reports and reviews as in its judgment are necessary and desirable to determine the feasibility and desirability of the project, the extent to which the project will contribute to the health and welfare of the area in which it will be located, the powers, experience, background, financial condition, record of service and capability of the management of the ~~institution for higher education or the institution for elementary and secondary education,~~ applicant, the extent to which the project otherwise conforms to the criteria and requirements of this ~~Chapter;~~ Article, and ~~such~~ any other factors ~~as may be deemed~~ the agency considers relevant or convenient in carrying out the purposes of this ~~Chapter.~~ Article.

"§ 159D-42. Operations of projects; agreements of sale on leases; conveyance of interest in projects.

(a) The agency may sell or lease any project to a participating institution for operation and maintenance or lend money to any participating institution ~~in such manner as shall~~ to effectuate the purposes of this ~~Chapter;~~ Article, under a loan agreement or an agreement of sale or lease in form and substance not inconsistent ~~herewith. Any such~~ with this Article. The loan agreement or agreement of sale or lease may include provisions that:

(1) The participating institution shall, at its own expense, operate, repair and maintain the project covered by ~~such agreement;~~ the agreement.

(2) The purchase price payments to be made under the agreement of sale, the rent payable under the agreement of lease or the loan repayments under the loan agreement shall in the aggregate be not less than an amount sufficient to pay all of the interest, principal and any redemption premium on the bonds or notes issued by the agency to pay the cost of the project sold or leased ~~thereunder~~ or with respect to which the loan was ~~made;~~ made.

(3) The participating institution shall pay all other costs incurred by the agency in connection with the providing of the project covered by any ~~such~~ agreement, except ~~such~~ costs ~~as may be~~ paid out of the proceeds of bonds or notes or otherwise, ~~including, but without limitation,~~ including insurance costs, the cost of administering the resolution authorizing the issuance of, or any trust agreement

securing, ~~such~~ the bonds or notes and the fees and expenses of trustees, paying agents, attorneys, ~~consultants and others;~~ consultants, and others.

(4) The loan agreement or the agreement of sale or lease shall terminate not earlier than the date on which all ~~such~~ bonds and all other obligations incurred by the agency in connection with the project covered by ~~any such~~ the agreement are retired or provision for ~~such~~ their retirement is ~~made; and~~ made.

(5) The obligation of the participating institution to make loan repayments or purchase price payments or to pay rent shall not be subject to cancellation, termination or abatement by the participating institution until the bonds have been retired or provision has been made for ~~such~~ their retirement.

(b) If the agency has acquired a possessory or ownership interest in any project it has undertaken on behalf of a participating institution, it shall promptly convey, without the payment of any consideration, all its right, title and interest in ~~such~~ the project to ~~such~~ that participating institution upon the retirement or provision for the retirement of all bonds or notes issued and obligations incurred by the agency in connection with ~~such~~ that project.

"§ 159D-43. Construction contracts.

If the agency determines that the purposes of this ~~Chapter~~ Article will be more effectively served, the agency in its discretion may award or cause to be awarded contracts for the construction of any project on behalf of a participating institution upon a negotiated basis as determined by the agency. The agency shall prescribe ~~such~~ any bid security requirements and other procedures in connection with the award of ~~such~~ the contracts as in its judgment ~~shall~~ will protect the public interest. The agency may by written contract engage the services of the participating institution in the construction of ~~such~~ the project and may provide in ~~any such~~ the contract that ~~such~~ the participating institution, subject to ~~such~~ any conditions and requirements consistent with the provisions of this ~~Chapter~~ Article ~~as shall be~~ prescribed in ~~such~~ the contract, may act as an agent of, or an independent contractor for, the agency for the performance of the functions described ~~therein,~~ in the contract including the acquisition of the site and other real property for ~~such~~ the project, the preparation of plans, specifications and contract documents, the award of construction and other contracts upon a competitive or negotiated basis, the construction of ~~such~~ the project directly by ~~such~~ the participating institution, the inspection and supervision of construction, the employment of engineers, architects, builders and other contractors and the provision of money to pay the cost ~~thereof~~ of these functions pending reimbursement by the agency. ~~Any such~~ The contract may provide that the agency may, out of proceeds of bonds or notes, make advances to or reimburse the participating institution for its costs incurred in the performance of ~~such~~ these functions, and shall set forth the supporting documents required to be submitted to the agency and the reviews, examinations and audits that ~~shall be~~ are required in

connection ~~therewith~~ to assure compliance with the provisions of this ~~Chapter~~ Article and ~~such~~ the contract.

"§ 159D-44. Credit of State not pledged.

Bonds or notes issued under the provisions of this ~~Chapter~~ Article shall not be secured by a pledge of the faith and credit of the State or of any political subdivision ~~thereof or be deemed to~~ of the State, or create an indebtedness of the State, or of any ~~such~~ political subdivision ~~thereof,~~ of the State requiring any voter approval, but shall be payable solely from the revenues and other funds provided ~~therefor.~~ for payment. Each bond or note issued under this ~~Chapter~~ Article shall contain on ~~the face thereof~~ its face a statement to the effect that the agency ~~shall not be~~ is not obligated to pay ~~the same~~ it nor the interest ~~thereon~~ on it except from the revenues and other funds pledged ~~therefor~~ for its payment and that neither the faith and credit nor the taxing power of the State or of any political subdivision ~~thereof~~ of the State is pledged as security for the payment of the principal of or the interest on ~~such~~ the bond or note.

Expenses incurred by the agency in carrying out the provisions of this ~~Chapter~~ Article may be made payable from funds provided pursuant to, or made available for use under, this ~~Chapter~~ Article and no liability shall be incurred by the agency ~~hereunder~~ under this Article beyond the extent to which moneys ~~shall~~ have been so provided.

"§ 159D-45. Bonds and notes.

(a) The agency is ~~hereby~~ authorized to provide for the issuance, at one time or from time to time, of bonds, or notes in anticipation of the issuance of bonds, of the agency to carry out and effectuate its corporate purposes. The principal of and the interest on such bonds or notes shall be payable solely from funds provided under this ~~Chapter~~ Article for such payment. Any such notes may be made payable from the proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are not available, such notes may be paid from any available revenues or other funds provided therefor. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the agency at such price or prices and upon such terms and conditions as may be determined by the agency. The bonds may also be made payable from time to time on demand or tender for purchase by the owner upon such terms and conditions as may be determined by the agency. Any such bonds or notes shall bear interest at such rate or rates (including variable rates) as may be determined by the Local Government Commission ~~of North Carolina~~ with the approval of the agency. Notes shall mature at such time or times not exceeding 10 years from their date or dates and bonds shall mature at such time or times not exceeding 40 years from their date or dates, as may be determined by the agency. The agency shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature ~~shall appear~~ appears on any bonds or notes or coupons attached ~~thereto shall cease to be such~~ to them ceases to be that officer before ~~the delivery thereof, such~~ their delivery, the

signature or ~~such~~ facsimile shall nevertheless be valid and sufficient for all purposes the same as if ~~he~~ the officer had remained in office until ~~such~~ delivery. The agency may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the agency may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. No bonds or notes may be issued by the agency under this ~~Chapter~~ Article unless the issuance thereof is approved by the Local Government ~~Commission of North Carolina.~~ Commission.

(b) The agency shall file with the Secretary of the Local Government Commission an application requesting approval of the issuance of ~~such~~ the bonds or ~~notes which shall contain such~~ notes. The application must include any information and ~~have attached to it such~~ documents concerning the proposed financing and prospective borrower, vendee or lessee ~~as the Secretary may require.~~ required by the Secretary.

In determining whether a proposed bond or note issue should be approved, the Local Government Commission may consider, in addition to the criteria and requirements ~~mentioned~~ in this ~~Chapter,~~ Article, the effect of the proposed financing upon any scheduled or proposed sale of tax-exempt obligations by the State or any of its agencies or departments or by any unit of local government in the State.

The Local Government Commission shall approve the issuance of ~~such~~ the bonds or notes if, upon the information and evidence it receives, it finds ~~and determines~~ that the proposed financing will effectuate the purposes of this ~~Chapter.~~ Article.

Upon the filing with the Local Government Commission of a resolution of the agency requesting that its bonds or notes be sold, ~~such~~ the bonds or notes may be sold in such manner, either at public or private sale, and for such price as the Local Government Commission ~~shall determine~~ determines to be for the best interests of the agency and to effectuate best the purposes of this ~~Chapter;~~ Article, ~~provided that such sale shall be~~ as long as the sale is approved by the agency.

(c) The proceeds of any bonds or notes shall be used solely for the purposes for which issued and shall be disbursed in such manner and under such restrictions, if any, as the agency may provide in the resolution authorizing the issuance of, or any trust agreement securing, ~~such~~ the bonds or notes.

(d) Prior to the preparation of definitive bonds, the agency may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds, when ~~such bonds shall~~ the bonds have been executed and are available for delivery. The agency may also provide for the replacement of any bonds or notes which ~~shall~~ become mutilated or ~~shall be~~ are destroyed or lost.

(e) Bonds or notes may be issued under the provisions of this ~~Chapter~~ Article without obtaining, except as otherwise expressly provided in this ~~Chapter,~~ Article, the consent of any department, division, commission, board, body, bureau or agency of the State, and without any other proceedings or the happening of any conditions or

things other than those proceedings, conditions or things ~~which are~~ specifically required by this ~~Chapter~~ Article and the provisions of the resolution authorizing the issuance of, or any trust agreement securing, ~~such~~ the bonds or notes.

(f) Before the issuance of bonds pursuant to this Article to finance a project, the Agency shall hold a public hearing with respect to the proposed project and the issuance of the bonds to finance the proposed project. The public hearing may be held at any location designated by the Agency, including at the offices of the Agency in Raleigh, North Carolina.

The public hearing may be conducted by the Agency or by a hearing officer designated by the Agency to conduct public hearings. Notice of the public hearing must be published at least once in at least one newspaper of general circulation in the county where the proposed project is to be located not less than 14 days before the public hearing. The notice must describe generally the bonds proposed to be issued and the proposed project, including its general location, and any other information the Agency considers appropriate. A copy of the notice of public hearing must be mailed to the clerk of the Board of Commissioners of the county in which the proposed project is to be located and to the governing body of any city or town in which the proposed project is to be operated.

"§ 159D-46. Trust agreement or resolution.

In the discretion of the agency any bonds or notes issued under the provisions of this ~~Chapter~~ Article may be secured by a trust agreement by and between the agency and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. Such trust agreement or the resolution authorizing the issuance of such bonds or notes may pledge or assign all or any part of the revenues of the agency received pursuant to this ~~Chapter,~~ Article, including, without limitation, fees, loan repayments, purchase price payments, rents, charges, insurance proceeds, condemnation awards and any other revenues and funds received in connection with any project and may grant a deed of trust or a mortgage on any project. Such trust agreement or resolution may contain such provisions for protecting and enforcing the rights and remedies of the holders of any such bonds or notes as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the agency in relation to the purposes to which bond or note proceeds may be applied, the disposition or pledging of the revenues of the agency, including any payments in respect of any federally guaranteed security or any federally insured mortgage note, the duties of the agency with respect to the acquisition, construction, maintenance, repair and operation of any project, the fees, loan repayments, purchase price payments, rents and charges to be fixed and collected in connection therewith, the terms and conditions for the issuance of additional bonds or notes, and the custody, safeguarding and application of all moneys. All bonds issued under this ~~Chapter~~ Article shall be equally and ratably secured by a pledge, charge, and lien upon revenues provided for in such trust agreement or resolution, without priority by reason of number, or of dates of bonds, execution, or delivery, in accordance with the provisions of this ~~Chapter~~ Article and of such trust agreement or resolution; except that the agency may provide in such

trust agreement or resolution that bonds issued pursuant thereto shall to the extent and in the manner prescribed in such trust agreement or resolution be subordinated and junior in standing, with respect to the payment of principal and interest and the security thereof, to any other bonds. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depositary of the proceeds of bonds or notes, revenues or other money hereunder to furnish such indemnifying bonds or to pledge such securities as may be required by the agency. Any such trust agreement or resolution may set off the rights and remedies, including foreclosure of any deed of trust or mortgage, of the holders of any bonds or notes and of the trustee, and may restrict the individual right of action by any such holders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the agency ~~may deem~~ considers reasonable and proper for the security of the holders of any bonds or notes. Expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of any project or paid from the revenues pledged or assigned to the payment of the principal of and the interest on bonds or notes or from any other funds available to the agency.

"**§ 159D-47. Revenues; pledges of revenues.**

(a) The agency is ~~hereby~~ authorized to fix and to collect fees, loan repayments, purchase price payments, rents and charges for the use of any project, and any part or section ~~thereof,~~ of the project and to contract with any participating institution for ~~the use thereof.~~ its use. The agency may require that the participating institution ~~shall~~ operate, repair or maintain such project and ~~shall~~ bear the cost ~~thereof~~ and other costs of the agency in connection ~~therewith,~~ with the project all as may be provided in the agreement of sale or lease, loan agreement or other contract with the agency, in addition to other obligations imposed under ~~such~~ the agreement or contract.

(b) The fees, loan repayments, purchase price payments, rents and charges shall be fixed so as to provide a fund sufficient, with any other available funds, ~~such other funds as may be made available therefor,~~ (i) to pay the costs of operating, repairing and maintaining the project to the extent that adequate provision for the payment of such costs has not otherwise been provided for, (ii) to pay the principal of and the interest on all bonds or notes as ~~the same shall~~ they become due and payable and (iii) to create and maintain any reserves provided for in the resolution authorizing the issuance of, or any trust agreement securing, ~~such bonds, and such~~ the bonds. The fees, loan repayments, purchase price payments, rents and charges may be applied or pledged to the payment of debt service on the bonds prior to the payment of the costs of operating, repairing and maintaining the project.

(c) All pledges of fees, loan repayments, purchase price payments, rents, charges and other revenues under the provisions of this ~~Chapter~~ Article ~~shall be~~ are valid and binding from the time when ~~such pledges~~ they are made. All ~~such~~ revenues so pledged and thereafter received by the agency ~~shall~~ are immediately ~~be~~ subject to the lien of ~~such~~ the pledge without any physical delivery ~~thereof~~ or further act, and the lien of ~~any such~~ the pledge ~~shall be~~ is valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the agency, irrespective of whether ~~such~~ the parties have notice ~~thereof.~~ of it. The resolution or any trust

agreement by which a pledge is created or any loan agreement, agreement of sale or lease need not be filed or recorded except in the records of the agency.

(d) The State of North Carolina ~~does pledge to and agree~~ pledges to and agrees with the holders of any bonds or notes issued by the agency that so long as any of ~~such~~ the bonds or notes are outstanding and unpaid the State will not limit or alter the rights vested in the agency at the time of issuance of the bonds or notes to fix, revise, charge, and collect or cause to be fixed, revised, charged and collected loan repayments, purchase price payments, rents, fees and charges for the use of or services rendered by any project in connection with which the bonds or notes were issued, so as to provide a fund sufficient, with ~~such other funds as may be made available therefor,~~ any other available funds to pay the costs of operating, repairing and maintaining the project, to pay the principal of and the interest on all bonds and notes as ~~the same shall~~ they become due and ~~payable and~~ payable, to create and maintain any reserves provided ~~therefor~~ for their payment, and to fulfill the terms of any agreements made with the bondholders or ~~noteholders, nor will the State~~ noteholders. The State will not in any way impair the rights and remedies of the bondholders or noteholders until the bonds or notes and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders or noteholders, are fully paid, met and discharged.

"**§ 159D-48. Trust funds.**

Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this ~~Chapter,~~ Article, ~~including, without limitation,~~ including fees, loan repayments, purchase price payments, rents, charges, insurance proceeds, condemnation awards and any other revenues and funds received in connection with any project, ~~shall be deemed to be~~ are trust funds to be held and applied solely as provided in this ~~Chapter.~~ Article. The resolution authorizing the issuance of, or any trust agreement securing, any bonds or notes may provide that any of ~~such~~ these moneys may be temporarily invested pending ~~the~~ their disbursement ~~thereof~~ and shall provide that any officer with whom, or any bank or trust company with which, such moneys ~~shall be~~ are deposited shall act as trustee of such moneys and shall hold and apply ~~the same~~ them for the purposes of this ~~Chapter,~~ Article, subject to ~~such~~ any limitations ~~as~~ provided in this ~~Chapter~~ Article and ~~such~~ in the resolution or trust ~~agreement may provide. Any such~~ agreement. The moneys may be invested as provided in G.S. 159-30, as it may from time to time be amended.

"**§ 159D-49. Remedies.**

Any holder of bonds or notes issued under the provisions of this ~~Chapter~~ Article or any coupons appertaining thereto, and the trustee under any trust agreement or resolution authorizing the issuance of such bonds or notes, except to the extent the rights herein given may be restricted by such trust agreement or resolution, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the State or granted hereunder or under such trust agreement or resolution, or under any other contract executed by the agency pursuant to this ~~Chapter,~~ Article, and may enforce and compel the

performance of all duties required by this ~~Chapter~~ Article or by such trust agreement or resolution to be performed by the agency or by any officer ~~thereof.~~ of the agency.

"**§ 159D-50. Investment securities.**

All bonds, notes and interest coupons ~~appertaining thereto~~ issued under this ~~Chapter~~ Article are ~~hereby made~~ investment securities within the meaning of and for all the purposes of Article 8 of the Uniform Commercial Code as enacted in this State, whether or not they are of such form and character as to be investment securities under ~~said Article 8,~~ that Article, subject only to the provisions of the bonds and notes pertaining to registration.

"**§ 159D-51. Bonds or notes eligible for investment.**

Bonds or notes issued under the provisions of this ~~Chapter~~ Article are ~~hereby made~~ securities in which all public officers and public bodies of the State and its political subdivisions, and all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. ~~Such~~ These bonds or notes are ~~hereby made~~ securities which may properly and legally be deposited with and received by any State or municipal officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds, notes or obligations of this State is ~~now or may hereafter be~~ authorized by law.

"**§ 159D-52. Refunding bonds or notes.**

(a) The agency is ~~hereby~~ authorized to provide for the issuance of refunding bonds or notes for the purpose of refunding any bonds or notes then outstanding which ~~shall~~ have been issued under the provisions of this ~~Chapter,~~ Article, including the payment of any redemption premium ~~thereon~~ and any interest accrued or to accrue to the date of redemption of ~~such~~ the bonds or notes and, if ~~deemed~~ considered advisable by the agency, for any corporate purpose of the agency, including, without limitation:

(1) Constructing improvements, additions, extensions or enlargements of the project in connection with which the bonds or notes to be refunded shall have been issued, and

(2) Paying all or any part of the cost of any additional project.

(b) The issuance of ~~such~~ refunding bonds or notes, ~~the~~ their maturities and other ~~details thereof,~~ details the rights of ~~the holders thereof,~~ their holders, and the rights, duties and obligations of the agency ~~in respect of the same shall be~~ are governed by the provisions of this ~~Chapter~~ Article which relate to the issuance of bonds or notes, ~~insofar as such provisions may be appropriate therefor.~~ as appropriate.

Refunding bonds ~~or notes~~ may be sold or exchanged for outstanding bonds ~~or notes~~ issued under this ~~Chapter~~ Article and, if sold, ~~the proceeds thereof~~ their proceeds, and investment earnings on them, may be applied, ~~in addition to any other authorized purposes,~~ with any other available funds, to the purchase, ~~redemption~~ redemption, or payment of ~~such~~ the bonds ~~or notes, with any other available funds,~~ being refunded, to the payment of ~~the principal, accrued interest and any redemption premium on the bonds or notes being refunded, and, if so provided or permitted in~~

~~the resolution authorizing the issuance of, or in the trust agreement securing, such bonds or notes, to the payment of~~ any interest on ~~such~~ the refunding ~~bonds or notes~~ bonds, and to the payment of any expenses in connection with ~~such~~ the refunding. ~~Such~~ The proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America ~~which shall~~ if the obligations mature or ~~which shall be~~ are subject to redemption by ~~the holders thereof, at the option of such holders,~~ the holders, at their option not later than the respective dates when the proceeds, together with the interest accrued thereon, will be required for the purposes intended.

"§ 159D-53. Annual report.

The agency shall, promptly following the close of each fiscal year, submit an annual report of its activities under this ~~Chapter~~ Article for the preceding year to the Governor, the State Auditor, the General Assembly, the Advisory Budget Commission and the Local Government Commission. The agency shall cause an audit of its books and accounts relating to its activities under this ~~Chapter~~ Article to be made at least once in each year by an independent certified public accountant and the cost ~~thereof~~ of the audit may be paid from any available moneys of the agency.

"§ 159D-54. Officers not liable.

No member or officer of the agency shall be subject to any personal liability or accountability by reason of ~~his~~ the issuance or execution of any bonds or ~~notes or the issuance thereof.~~ notes.

"§ 159D-55. Tax exemption.

The exercise of the powers granted by this ~~Chapter~~ Article will be in all respects for the benefit of the people of the State and will promote their health and ~~welfare, and no tax or assessment shall be levied upon any project undertaken by the agency prior to the retirement or provision for the retirement of all bonds or notes issued and obligations incurred by the agency in connection with such project.~~ welfare.

Any bonds or notes issued by the agency under the provisions of this ~~Chapter~~ Article ~~shall~~ are at all times be free from taxation by the State or any local unit or political subdivision or other instrumentality of the State, excepting inheritance or gift taxes, income taxes on the gain from the transfer of the bonds and notes, and franchise taxes. The interest on the bonds and notes is not subject to taxation as income.

"§ 159D-56. Conflict of interest.

If any member, officer or employee of the agency ~~shall be~~ is interested either directly or indirectly, or ~~shall be~~ is an officer or employee of or ~~have~~ has an ownership interest in any firm or corporation interested directly or indirectly, in any contract with the agency, ~~such~~ this interest shall be disclosed to the agency and shall be set forth in the minutes of the agency, and the member, officer or employee having ~~such~~ an interest ~~therein~~ in a contract shall not participate on behalf of the agency in the authorization of ~~any such~~ the contract.

"§ 159D-57. Additional method.

The foregoing sections of this ~~Chapter~~ Article ~~shall be deemed to~~ provide an additional and alternative method for the doing of the things authorized ~~thereby and~~

~~shall be regarded as~~ and are supplemental and additional to powers conferred by other ~~laws;~~ laws. ~~and shall not be regarded as in derogation of any powers now existing; provided, however, that the~~ This Article does not derogate any existing powers. The issuance of bonds or notes under the provisions of this ~~Chapter~~ Article need not comply with the requirements of any other law applicable to the issuance of bonds or notes."

Section 3. G.S. 159C-3 reads as rewritten:

"**§ 159C-3. Definitions.**

The following ~~terms, whenever used or referred to in this Chapter, shall have the following respective meanings, unless a different meaning clearly appears from the context:~~ definitions apply in this Chapter:

(1) ~~"Agency" shall include any~~ Agency. -- Any agency, bureau, commission, ~~department~~ department, or instrumentality.

(2) ~~"Air pollution control facility" shall mean any~~ Air pollution control facility. -- Any structure, ~~equipment~~ equipment, or other facility for, including any increment in the cost of any structure, ~~equipment~~ equipment, or facility attributable to, the purpose of treating, ~~neutralizing~~ neutralizing, or reducing gaseous industrial waste and other air pollutants, including recovery, treatment, ~~neutralizing~~ neutralizing, or stabilizing plants and equipment and their appurtenances, which ~~shall~~ have been certified by the ~~agency~~ government entity having jurisdiction to be in furtherance of the purpose of abating or controlling atmospheric pollutants or contaminants.

(3) ~~"Bonds" shall mean revenue~~ Bonds. -- Revenue bonds of an authority issued under the provisions of this Chapter.

(4) ~~"Cost"~~ Cost. -- This term as applied to any project ~~shall embrace~~ embraces all capital costs ~~thereof,~~ of the project, including ~~the~~ all of the following:

a. The cost of ~~construction, the~~ construction.

b. The cost of acquisition of all property, including rights in land and other property, ~~both~~ real and personal and improved and ~~unimproved, the~~ unimproved.

c. The cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which ~~such~~ those buildings or structures may be moved or ~~relocated, the~~ relocated.

d. The cost of all machinery and equipment, installation, start-up expenses, financing charges, and interest prior to, during and for a period not exceeding one year after completion of ~~construction, the~~ construction.

e. The cost of engineering and architectural surveys, plans and ~~specifications, the~~ specifications.

f. The cost of consultants' and legal services, other expenses necessary or incident to determining the feasibility or practicability of ~~such~~ the project, administrative and other expenses necessary or incident to the acquisition or construction of ~~such~~ the project and the financing of the acquisition and construction ~~thereof.~~ of the project.

~~(5) "Governing body" shall mean the board, commission, council or other body in which the general legislative powers of any county or other political subdivision are vested.~~

(6) ~~"Financing agreement" shall mean a~~ Financing agreement. -- A written instrument establishing the rights and responsibilities of the authority, operator, and obligor with respect to a project financed by the issuance of bonds. A financing agreement may be in the nature of a lease, a lease and leaseback, a sale and leaseback, a lease purchase, an installment sale and purchase agreement, a conditional sales agreement, a secured or unsecured loan agreement or other similar contract and may involve property in addition to the property financed with the bonds.

(6a) Governing body. -- The board, commission, council, or other body in which the general legislative powers of any county or other political subdivision are vested.

(6b) Industrial project. -- Any industrial or manufacturing factory, mill, assembly plant, or fabricating plant; freight terminal; industrial research, development, or laboratory facility; industrial processing facility; or distribution facility for industrial or manufactured products.

(7) ~~"Obligor" shall mean any person or persons;~~ Obligor. -- Any person, which may include the operator, who ~~shall be~~ is obligated under a financing agreement or guaranty agreement or other contract or agreement to make payments to, or for the benefit of, the holders of bonds of the authority. Any requirement of an obligor may be satisfied by any one or more persons who are defined collectively by this Chapter as the obligor.

(8) ~~"Operator" shall mean the~~ Operator. -- The person entitled to the use or occupancy of a project.

(9) ~~"Political subdivision" shall mean any~~ Political subdivision. -- Any county, city, town, other unit of local government or any other governmental corporation, ~~agency, authority~~ authority, or instrumentality of the State now or hereafter existing.

(10) ~~"Pollution" and "pollutants" shall mean any~~ Pollution or pollutants. -- Any noxious or deleterious substances in any air or waters of or adjacent to the State of North Carolina or affecting the physical, chemical or biological properties of any air or waters of or adjacent to the State of North Carolina in a manner and to

an extent which renders or is likely to render ~~such~~ the air or waters harmful or inimical to the public health, safety or welfare, or to animal, bird or aquatic life, or to the use of such air or waters for domestic, industrial or agricultural purposes or recreation.

(10a) Pollution control project. -- Any air pollution control facility, water pollution control facility, or solid waste disposal facility if the facility is in connection with either an industrial project or a public utility plant.

(11) ~~"Project" shall mean any land, equipment or any~~ Project. -- Any land or equipment or one or more buildings or other structures, whether or not on the same site or sites, and any rehabilitation, improvement, renovation or enlargement of, or any addition to, any building or structure for use as or in connection with (i) any industrial ~~project for industry which project may be any industrial or manufacturing factory, mill, assembly plant or fabricating plant, or freight terminal, or industrial research, development or laboratory facility, or industrial processing facility or distribution facility for industrial or manufactured products, or~~ project, (ii) any pollution control project for industry or for public ~~utilities which project may be any air pollution control facility, water pollution control facility, or solid waste disposal facility in connection with any factory, mill or plant described in clause (i) of this subdivision or in connection with a public utility plant, or (iii)~~ utilities, (iii) any special purpose project, or (iv) any combination of projects mentioned in clauses ~~(i) and (ii)~~ (i) through (iii) of this subdivision. Any project may include all appurtenances and incidental facilities such as land, headquarters or office facilities, warehouses, distribution centers, access roads, sidewalks, utilities, railway sidings, trucking and similar facilities, parking facilities, landing strips and other facilities for aircraft, waterways, docks, wharves and other improvements necessary or convenient for the construction, maintenance and operation of any building or structure, or addition ~~thereto.~~ to it.

(12) ~~"Revenues" shall mean, with~~ Revenues. -- With respect to any project, the rents, fees, charges, payments, proceeds and other income or profit derived ~~therefrom~~ from the project or from the financing agreement or security document in connection ~~therewith.~~ with the project.

(13) ~~"Security document" shall mean a~~ Security document. -- A written instrument ~~or instruments~~ establishing the rights and responsibilities of the authority and the holders of bonds issued to finance a project, ~~and~~ which may provide for, or be in the form of an agreement with, a trustee for the benefit of ~~such~~ the bondholders. A security document may contain an assignment,

pledge, mortgage or other encumbrance of all or part of the authority's interest in, or right to receive revenues with respect to, a project and any other property provided by the operator or other obligor under a financing agreement and may bear any appropriate title. A financing agreement and a security document may be combined as one instrument.

(14) ~~"Solid waste" shall mean solid~~ Solid waste. -- Solid waste materials resulting from any industrial or manufacturing activities or from any pollution control facility.

(15) ~~"Solid waste disposal facility" shall mean a~~ Solid waste disposal facility. -- A facility for the purpose of treating, burning, compacting, composting, storing or disposing of solid waste.

(15a) Special purpose project. -- Any structure, equipment, or other facility for any one or more of the following purposes:

a. Water systems or facilities, including all plants, works, instrumentalities, and properties used or useful in obtaining, conserving, treating, and distributing water for domestic or industrial use, irrigation, sanitation, fire protection, or any other public or private use.

b. Sewage disposal systems or facilities, including all plants, works, instrumentalities, and properties used or useful in the collection, treatment, purification, or disposal of sewage, other than facilities constituting a water pollution control facility.

c. Public transportation systems, facilities, or equipment, including bus, truck, ferry, and railroad terminals, depots, trackages, vehicles, and ferries, and mass transit systems.

d. Public parking lots, areas, garages, and other public vehicular parking structures and facilities.

e. Public auditoriums, gymnasiums, stadiums, and convention centers.

f. Recreational facilities.

g. Land, equipment, and facilities for the disposal, treatment, or recycling of solid waste that are described in G.S. 159I-8.

h. Facilities for the provision of rehabilitation services, education, training, and employment opportunities for persons with disabilities and the disadvantaged. The term does not include a retail facility, however, unless the proposed operator of the facility certifies that at least seventy-five percent (75%) of its employees will be disadvantaged or disabled persons and at least seventy-five percent (75%) of its inventory will be composed of used, donated items and items manufactured by disadvantaged or disabled persons.

(16) ~~"Water pollution control facility" shall mean any~~ Water pollution control facility. -- Any structure, equipment or other facility for, including any increment in the cost of any structure, equipment or facility attributable to, the purpose of treating, neutralizing or reducing liquid industrial waste and other water pollution, including collecting, treating, neutralizing, stabilizing, cooling, segregating, holding, recycling, or disposing of liquid industrial waste and other water pollution, including necessary collector, interceptor, and outfall lines and pumping stations, which ~~shall~~ have been certified by the agency exercising jurisdiction to be in furtherance of the purpose of abating or controlling water pollution."

Section 4. G.S. 159C-5 is amended by adding a new subdivision to read:

"**§ 159C-5. General powers.**

Each authority shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Chapter, including, but without limiting the generality of the foregoing, the powers:

. . .

(7a) To acquire by purchase, lease, gift, or otherwise, but not by eminent domain, or to obtain options for the acquisition of, any property, real or personal, improved or unimproved, and interests in land less than the fee interest, for the construction, operation, or maintenance of any project;

. . . ."

Section 5. G.S. 159C-6 reads as rewritten:

"**§ 159C-6. Bonds.**

(a) Each authority is authorized to provide for the issuance, at one time or from time to time, of bonds of the authority for the purpose of paying all or any part of the cost of any project. The principal of, the interest on and any premium payable upon the redemption of ~~such~~ the bonds shall be payable solely from the funds ~~herein authorized for such~~ authorized in this Article for their payment. The bonds of each issue shall bear interest as may be determined by the Local Government Commission ~~of North Carolina~~ with the approval of the authority and the obligor irrespective of the limitations of G.S. 24-1.1, as amended, and successor provisions. The bonds of each issue shall be dated, shall mature at ~~such~~ any time or times not exceeding 35 years after the date of their issuance, and may be made redeemable before maturity at ~~such~~ any price or prices and under ~~such~~ any terms and conditions, as may be fixed by the authority ~~prior to~~ before the issuance of the bonds. The authority shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached ~~thereto,~~ to them, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest. In case any officer whose signature ~~or a facsimile of whose signature appears on any bonds or coupons ceases to be that officer before the delivery of the bonds, the signature or the facsimile shall nevertheless be valid and sufficient for all purposes the same as if the~~

~~person had remained in office until such delivery.~~ or a facsimile of whose signature appears on any bonds or coupons ceases to be that officer before the delivery of the bonds, the signature or the facsimile shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until the delivery. The authority may also provide for the authentication of the bonds by a trustee or fiscal agent. The bonds may be issued in coupon or in fully registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds.

(b) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of ~~the project or projects, or a portion thereof,~~ all or part of the project for which the bonds were issued, and shall be disbursed in ~~such~~ any manner and under ~~such~~ any restrictions, ~~if any,~~ as the authority may provide in the financing agreement and the security document. If the proceeds of the bonds of any issue, by reason of increased construction costs or error in estimates or otherwise, are less than ~~such~~ this cost, additional bonds may in like manner be issued to provide the amount of the deficiency.

(c) The proceeds of bonds shall not be used to refinance the cost of ~~a~~ an industrial project or a pollution control project. For the purposes of this section, a cost of ~~a~~ an industrial project or a pollution control project is considered refinanced if both of the following conditions are met:

(1) The cost is initially paid from sources other than bond proceeds, and the original expenditure is to be reimbursed from bond proceeds.

(2) The original expenditure was paid more than 60 days before the authority took some action indicating its intent that the expenditure would be financed or reimbursed from bond proceeds.

(d) ~~However,~~ Notwithstanding subsection (c) of this section, preliminary expenditures that are incurred prior to the commencement of the acquisition, construction, or rehabilitation of ~~a~~ an industrial project or a pollution control project, such as architectural costs, engineering costs, surveying costs, soil testing costs, bond issuance costs, and other similar costs, may be reimbursed from bond proceeds even if these costs are incurred or paid more than 60 days prior to the authority's action. This exception that allows preliminary expenditures to be reimbursed from bond proceeds, regardless of whether or not they are incurred or paid within 60 days of the authority's action, does not include costs that are incurred incident to the commencement of the construction of ~~a~~ an industrial project or a pollution control project, such as expenditures for land acquisition and site preparation. In any event, an expenditure in connection with an industrial project or a pollution control project originally paid before the authority took some action indicating its intent that the expenditures would be financed or reimbursed from bond proceeds may ~~only~~ be reimbursed from bond proceeds only if the authority finds that reimbursing those costs from bond proceeds will promote the purposes of this Chapter.

(e) An authority may make loans to an obligor to refund outstanding loans, obligations, deeds of trust, or advances issued, made, or given by the obligor for the cost of a special purpose project.

(f) The authority may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when ~~such~~ the bonds have been executed and are available for delivery. The authority may also provide for the replacement of any bonds that become mutilated or are destroyed or lost.

(g) Bonds may be issued under the provisions of this Chapter without obtaining, except as otherwise expressly provided in this Chapter, the consent of the State or of any political subdivision or of any agency of either, and without any other proceedings or the happening of any conditions or things other than those proceedings, ~~conditions~~ conditions, or things ~~which~~ that are specifically required by this Chapter and the provisions of the financing agreement and security document authorizing the issuance of ~~such bonds and securing the same.~~ the bonds and securing the bonds."

Section 6. G.S. 159C-7 reads as rewritten:

"**§ 159C-7. Approval of ~~project~~ industrial projects and pollution control projects by Secretary of Commerce.**

(a) Approval Required. -- No bonds may be issued by an authority to finance an industrial project or a pollution control project unless the project for which their issuance is proposed is first approved by the Secretary of Commerce. The authority shall file an application for approval of its proposed industrial project or pollution control project with the Secretary of Commerce, and shall notify the Local Government Commission of ~~such~~ the filing.

(b) Findings. -- The Secretary shall not approve any proposed industrial project or pollution control project unless the Secretary makes all of the following, applicable findings:

(1) In the case of a proposed industrial project,

a. That the operator of the proposed project pays, or has agreed to pay thereafter, an average weekly manufacturing wage that (i) is above the average weekly manufacturing wage paid in the county, or (ii) is not less than ten percent (10%) above the average weekly manufacturing wage paid in the State, and

b. That the proposed project will not have a materially adverse effect on the environment.

(2) In the case of a proposed pollution control project, that ~~such~~ the project will have a materially favorable impact on the environment or will prevent or diminish materially the impact of pollution which would otherwise occur.

(2a) In the case of a hazardous waste facility or low-level radioactive waste facility that is used as a reduction, recovery or recycling facility, that such project will further the waste management goals

of North Carolina and will not have an adverse effect upon public health or a significant adverse effect on the environment.

(3) In ~~any case (whether the proposed project is~~ the case of an industrial project or a pollution control ~~project),~~ project, except a pollution control project for a public utility,

a. That the jobs to be generated or saved, directly or indirectly, by the proposed project will be large enough in number to have a measurable impact on the area immediately surrounding the proposed project and will be commensurate with the size and cost of the proposed project,

b. That the proposed operator of the proposed project has demonstrated or can demonstrate the capability to operate ~~such~~ the project, and

c. That the financing of ~~such~~ the project by the authority will not cause or result in the abandonment of an existing industrial or manufacturing facility of the proposed operator or an affiliate elsewhere within the State unless the facility is to be abandoned because of obsolescence, lack of available labor in the area, or site limitations.

(b1) Initial Operator. -- If the initial proposed operator of ~~a~~ an industrial project or a pollution control project is not expected to be the operator for the term of the bonds proposed to be issued, the Secretary may make the findings required pursuant to subdivisions ~~(1)a.~~ (b)(1)a. and (3)b. of this section only with respect to the initial operator. The initial operator shall be identified in the application for approval of the proposed project.

(c) Public Hearing. -- The Secretary of Commerce shall not approve any proposed industrial project or pollution control project pursuant to this section unless the governing body of the county in which the project is located has first conducted a public hearing and, at or after the public hearing, approved in principle the issuance of bonds under this Chapter for the purpose of paying all or part of the cost of the proposed project. Notice of the public hearing shall be published at least once in at least one newspaper of general circulation in the county not less than 14 days before the public hearing. The notice shall describe generally the bonds proposed to be issued and the proposed project, including its general location, and any other information the governing body considers appropriate or the Secretary of Commerce prescribes for the purpose of providing the Secretary with the views of the community. The notice shall also state that following the public hearing the authority intends to file an application for approval of the proposed project with the Secretary of Commerce.

(d) Certificate of Department of Environment and Natural Resources. -- The Secretary of Commerce shall not make the findings required by subdivisions (b)(1)b and (2) of this section unless the Secretary has first received a certification from the Department of Environment and Natural Resources that, in the case of a proposed industrial project, the proposed project will not have a materially adverse effect on

the environment and that, in the case of a proposed pollution control project, the proposed project will have a materially favorable impact on the environment or will prevent or diminish materially the impact of pollution which would otherwise occur. The Secretary of Commerce shall not make the findings required by subdivision (2a) unless the Secretary has first received a certification from the Department of Environment and Natural Resources that the proposed project is environmentally sound, will not have an adverse effect on public health and will further the waste management goals of North Carolina. The Secretary of Commerce shall deliver a copy of the application to the Department of Environment and Natural Resources. The Department of Environment and Natural Resources shall provide each certification to the Secretary of Commerce within seven days after the applicant satisfactorily demonstrates to it that all permits, including environmental permits, necessary for the construction of the proposed project have been obtained, unless the authority consents to a longer period of time.

(e) Waiver of Wage Requirement. -- If the Secretary of Commerce has made all of the required findings respecting a proposed industrial project except that prescribed in ~~subparagraph~~ subdivision (b)(1)a of this section, the Secretary may, in the Secretary's discretion, approve the proposed industrial project if the Secretary has received (i) a resolution of the governing body of the county requesting that the proposed industrial project be approved notwithstanding that the operator will not pay an average weekly manufacturing wage above the average weekly manufacturing wage in the county and (ii) a letter from an appropriate State official, selected by the Secretary, to the effect that unemployment in the county is especially severe.

(f) Rules. -- To facilitate review of each proposed industrial project or pollution control project, the Secretary may require the authority to obtain and submit ~~such~~ any data and information about ~~such~~ the project ~~as~~ the Secretary may prescribe. The Secretary may also prescribe ~~such~~ forms and ~~such~~ rules ~~as~~ the Secretary considers reasonably necessary to implement the provisions of this section.

(g) Certificate of Approval. -- If the Secretary approves the proposed industrial project or pollution control project, the Secretary shall prepare a certificate of approval evidencing ~~such~~ the approval and setting forth the findings and shall cause the certificate of approval to be published in a newspaper of general circulation within the county. ~~Any such~~ This approval shall be reviewable as provided in Article 4 of Chapter 150B of the General Statutes ~~of North Carolina~~ only by an action filed, within 30 days after notice of ~~such~~ the findings and approval ~~shall~~ have been so published, in the Superior Court of Wake County. The superior court is ~~hereby~~ vested with jurisdiction to hear ~~such~~ the action, but if no ~~such~~ action is filed within the 30 days ~~herein~~ prescribed, the validity of ~~such~~ the approval ~~shall be~~ is conclusively presumed, and no court ~~shall have~~ has authority to inquire into ~~such~~ the approval. Copies of the certificate of approval of the proposed industrial project or pollution control project will be given to the authority, the ~~governing body of the county~~ board of county commissioners, and the Secretary of the Local Government Commission.

The certificate of approval ~~shall become~~ becomes effective immediately following the expiration of the 30-day period or the expiration of any appeal period after a final determination by any court of any action timely filed pursuant to this section. The certificate ~~shall expire~~ expires one year after its date unless extended by the Secretary who shall not extend the certificate unless the Secretary again approves the proposed industrial project or pollution control project as provided in this section. If bonds are issued within that year pursuant to the authorization of this Chapter to pay all or part of the costs of the industrial project or pollution control project, however, the certificate ~~shall expire~~ expires three years after the date of the first issuance of the bonds."

Section 7. G.S. 159C-8 reads as rewritten:

"**§ 159C-8. Approval of bonds.**

(a) No bonds may be issued by an authority unless the issuance ~~thereof~~ of the bonds is first approved by the Local Government Commission.

The authority shall file an application for approval of its proposed bond issue with the Secretary of the Local Government Commission, and shall notify the Secretary of ~~the Department of~~ Commerce of ~~such filing.~~ the filing if the project is an industrial project or pollution control project.

(b) In determining whether a proposed bond issue should be approved, the Local Government Commission may ~~consider, without limitation,~~ consider any of the following:

(1) Whether the proposed operator and obligor have demonstrated or can demonstrate the financial responsibility and capability to fulfill their obligations with respect to the financing agreement. In making such determination, the Commission may consider the operator's experience and the obligor's ratio of current assets to current liabilities, net worth, earnings trends and coverage of fixed charges, the nature of the industry or business involved and its stability and any additional security such as credit enhancement, insurance, guaranties or property to be pledged to secure such bonds.

(2) Whether the political subdivisions in or near which the proposed project is to be located have the ability to cope satisfactorily with the impact of ~~such~~ the project and to provide, or cause to be provided, the public facilities and services, including utilities, that will be necessary for ~~such~~ the project and on account of any increase in population which are expected to result ~~therefrom.~~ from the project.

(3) Whether the proposed date and manner of sale will have an adverse effect upon any scheduled or anticipated sale of obligations by the State or any political subdivision or any agency of either of them.

(4) Any other factors the Commission considers relevant.

(c) The Local Government Commission shall not approve the issuance of bonds for a special purpose project unless the governing body of the county in which the special purpose project is located has conducted a public hearing and, at or after the public hearing, approved in principle the issuance of bonds under this Chapter for the purposes of paying all or a part of the proposed special purpose project. Notice of the public hearing must be published at least once in at least one newspaper of general circulation in the county not less than 14 days before the public hearing. The notice must describe generally the bonds proposed to be issued and the proposed special purpose project, including its general location, and any other information the governing body considers appropriate.

(d) If the initial proposed operator of the project is not expected to be the operator for the term of the bonds proposed to be issued, the Local Government Commission may consider the matters required under subdivision ~~(1)~~ (b)(1) of this section only with respect to the initial operator. The obligor shall be obligated to perform all of the duties of the obligor required hereunder during the term the bonds are outstanding. The Local Government Commission shall evaluate the obligor's ability to perform these duties without regard to whether the initial proposed operator of the project is expected to be the operator for the term of the bonds proposed to be issued. To facilitate the review of the proposed bond issue by the Commission, the Secretary may require the authority to obtain and submit ~~such~~ any financial data and information about the proposed bond issue and the security ~~therefor,~~ for it, including the proposed prospectus or offering circular, the proposed financing agreement and security document and annual and other financial reports and statements of the obligor, as the Secretary may prescribe. The Secretary may also prescribe ~~such forms and such rules and regulations as he shall deem~~ any forms and rules the Secretary considers reasonably necessary to implement the provisions of this section. "

Section 8. G.S. 159C-11 reads as rewritten:

"**§ 159C-11. Financing agreements.**

(a) Every financing agreement shall provide that:

(1) The amounts payable under the financing agreement shall be sufficient to pay all of the principal of and redemption premium, if any, and interest on the bonds ~~that shall be~~ issued by the authority to pay the cost of the project as ~~the same shall~~ they respectively become ~~due;~~ due.

(2) The obligor shall pay all costs incurred by the authority in connection with the financing and administration of the project, except as may be paid out of the proceeds of bonds or otherwise, ~~including, but without limitation,~~ including insurance costs, the cost of administering the financing agreement and the security document and the fees and expenses of the fiscal agent or trustee, paying agents, attorneys, consultants and ~~others;~~ others.

(3) The obligor shall pay all the costs and expenses of operation, maintenance and upkeep of the ~~project; and~~ project.

(4) The obligor's obligation to provide for the payment of the bonds in full ~~shall not be~~ is not subject to cancellation, termination or abatement until ~~such~~ payment of the bonds or provision for their payment has been ~~therefor shall be~~ made.

(5) If the proposed initial operator of the project is not expected to be the operator for the term of the bonds proposed to be issued, the financing agreement shall require that the obligor attempt to arrange for a new operator when the current operator discontinues serving as operator. The new operator is subject to the approval of the Secretary under subdivisions (b)(1)a. and (3)b. of G.S. 159C-7 ~~and~~ if the project is an industrial project or a pollution control project, and is subject in any event to the approval of the Local Government Commission under G.S. 159C-8.

(b) The financing agreement, if in the nature of a lease agreement, shall either provide that the obligor ~~shall have~~ has an option to purchase, or require that the obligor purchase, the project upon the expiration or termination of the financing agreement subject to the condition that payment in full of the principal of, and the interest and any redemption premium on, the bonds, or provision ~~therefor, shall have~~ for payment, has been made.

The financing agreement may provide the authority with rights and remedies in the event of a default by the obligor ~~thereunder including, without limitation,~~ under the agreement, including any one or more of the following:

(1) Acceleration of all amounts payable under the financing agreement;

(2) Reentry and repossession of the project;

(3) Termination of the financing agreement;

(4) Leasing or sale or foreclosure of the project to others; and

(5) Taking whatever actions at law or in equity may appear necessary or desirable to collect the amounts payable under, and to enforce covenants made in, the financing agreement.

(c) The authority's interest in a project under a financing agreement may be that of owner, lessor, lessee, conditional or installment vendor, mortgagor, mortgagee, secured party or otherwise, but the authority need not have any ownership or possessory interest in the project.

The authority may assign all or any of its rights and remedies under the financing agreement to the trustee or the bondholders under a security document.

~~Any such~~ The financing agreement may contain ~~such~~ any additional provisions ~~as in the determination of~~ the authority ~~are~~ considers necessary or convenient to effectuate the purposes of this Chapter."

Section 9. G.S. 159C-19 reads as rewritten:

"**§ 159C-19. Revenue refunding bonds.**

(a) Each authority is ~~hereby~~ authorized to provide by resolution for the issuance of refunding bonds of the authority for the purpose of refunding any bonds then outstanding that have been issued under the provisions of this Chapter, including the

payment of any redemption premium ~~thereon~~ on them and any interest accrued or to accrue to the date of redemption of ~~such~~ the bonds, and, if deemed advisable by the authority, for either or both of the following additional purposes:

(1) Constructing improvements, additions, extensions or enlargements of the project or projects in connection with which the bonds to be refunded have been issued, and

(2) Paying all or any part of the cost of any additional project or projects.

(a1) The issuance of ~~such~~ these bonds, ~~the~~ their maturities and other ~~details thereof,~~ details, the rights of ~~the holders thereof,~~ their holders, and the rights, ~~duties~~ duties, and obligations of the authority in respect to ~~the same~~ them shall be governed by the provisions of this Chapter that relate to the issuance of bonds, ~~insofar as such provisions may be appropriate therefor,~~ to the extent appropriate, including that ~~any such~~ the bonds may have a single maturity within the limit prescribed by G.S. 159C-6.

The approvals required by G.S. 159C-7 and 159C-8 shall be obtained prior to the issuance of any refunding ~~bonds; provided, however, that in the case where~~ bonds, except that if the refunding bonds of all or a portion of an issue are to be issued solely for the purpose of refunding outstanding bonds issued under this Chapter, the approval required by G.S. 159C-7 ~~shall not be~~ is not required as to the project financed with the bonds to be refunded.

(b) Refunding bonds issued under this section may be sold or exchanged for outstanding bonds issued under this Chapter and, if sold, ~~the proceeds thereof~~ their proceeds may be applied, in addition to any other authorized purposes, to the purchase, ~~redemption~~ redemption, or payment of ~~such~~ the outstanding bonds. Refunding bonds may be issued, in the determination of the authority, at any time ~~not more than five years prior to~~ before the date of maturity or maturities or the date selected for the redemption of the bonds being refunded ~~thereby.~~ by them. Pending the application of the proceeds of ~~such~~ the refunding bonds, with any other available funds, to the payment of the principal of and accrued interest and any redemption premium on the bonds being refunded, and, if so provided or permitted in the security document securing ~~the same,~~ them, to the payment of any interest on ~~such~~ the refunding bonds and any expenses in connection with ~~such~~ the refunding, ~~such~~ the proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America ~~which shall mature or which shall be~~ that mature or are subject to redemption by the ~~holder thereof,~~ holder, at the option of such holder, not later than the respective dates when the proceeds, together with the interest accruing ~~thereon,~~ on them, will be required for the purposes intended."

Section 10. The amendments to G.S. 159D-55, as recodified by this act, become effective with respect to obligations issued on or after August 1, 2000. The remainder of this act becomes effective July 1, 2000.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1472

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S1472-ALC-6/27

Date_____, 200__

Comm. Sub. [YES]
Amends Title []
Third Edition

Rep._____

moves to amend the bill on page 42, line 34,
by adding the phrase "or other" after the word "solid".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

SENATE BILL 1472:
Conduit Agency Financing

BILL ANALYSIS

Committee:	House Finance	Sponsor:	Senator Rand
Date:	June 29, 2000	Analysis by:	Martha H. Harris*
Version:	Third Edition		Staff Attorney

SUMMARY: Senate Bill 1472 makes the following changes regarding revenue bonds issued on behalf of private entities:

- *Expands the NC Educational Facilities Finance Agency to become the NC Capital Facilities Finance Agency, and authorizes the agency to issue bonds on behalf of private entities for various projects that have a public purpose ("special purpose projects"). (Section 1; Section 2, pages 22 through 39)*
- *Authorizes County Industrial Facilities and Pollution Control Financing Authorities to issue bonds on behalf of private entities for various projects that have a public purpose. (Sections 3 through 9, pages 39 to end)*
- *Dissolves the NC Industrial Facilities and Pollution Control Financing Authority and transfers its powers and duties to the NC Capital Facilities Finance Agency. (Section 2, pages 1 through 21)*

Background. In a conduit financing, a governmental entity issues its bonds to finance facilities for a private party, then receives payments from the private party to service the bonds. If the federal tax law permits tax-exempt bond issues for the type of facility financed, the private party is able to borrow at tax-exempt rates. Under current law, conduit financing is authorized for private industrial and pollution facilities through county authorities (Chapter 159C of the General Statutes) and through a State authority (Chapter 159D of the General Statutes) and for private educational facilities through a State agency (Chapter 115E of the General Statutes). Counties and cities may also provide conduit financing directly.

Federal law allows tax-exempt conduit financing for a variety of projects beyond the industrial, pollution control, and educational projects currently authorized in Chapters 159C, 159D, and 115E of the General Statutes. Recent financings have been proposed and entered into for new types of projects, such as recreational facilities to be leased to or operated by a YMCA. The Treasurer's Office had two concerns about the expansion of the type of projects being financed under current law. First, although the projects have a public purpose and satisfy federal requirements, the current North Carolina statutes do not clearly authorize conduit financing for these types of projects. Second, to the extent the conduit financing is conducted directly by a local government, rather than a special purpose authority, the local government's credit rating is at risk if the private entity were to go into default.

---

*G. Thomas Lee of Poyner and Spruill contributed background information for this analysis.

Senate Bill 1472 would address these concerns by providing specific statutory authority for conduit financing of "special purpose projects," a variety of private, public purpose projects, through the following limited purpose agencies: County Industrial Facilities and Pollution Control Financing Authorities and the North Carolina Educational Facilities Finance Agency, which would be renamed the North Carolina Capital Facilities Finance Agency to reflect its broader financing authority. The types of projects that the bill would give these entities the power to finance are:

- water systems and facilities
- sewage disposal systems or facilities
- public transportation systems, facilities, or equipment
- public parking facilities
- public auditoriums and similar facilities
- recreational facilities
- solid waste facilities
- facilities for persons with disabilities and for the disadvantaged, such as Goodwill stores and sheltered workshops, but not including retail establishments unless 75% of the inventory is used, donated goods and 75% of the employees will be disadvantaged or disabled persons

Student housing facilities owned by entities other than educational institutions would also be authorized for the Capital Facilities Financing Agency. The Treasurer's office has identified these types of projects as those for which the private sector currently seeks conduit financing, or is expected to seek conduit financing in the foreseeable future.

The bill authorizes both the initial financing of special purpose projects and the refinancing of pre-existing debt for special purpose projects.

Multi-County Projects. County Industrial Facilities and Pollution Control Financing Authorities are created by county governments and thus have limited ability to finance multi-county projects. Authorizing the North Carolina Educational Facilities Finance Agency to provide conduit financing would allow financing of multi-county projects, such as a proposed multi-county recreational facility to be operated by a YMCA near Winston-Salem. As part of expanding and renaming the Agency, its statutes are recodified from Chapter 115E of the General Statutes to Article 2 of Chapter 159D of the General Statutes.

Private Student Housing. By authorizing the North Carolina Educational Facilities Finance Agency to provide conduit financing for student housing that is not owned or operated by an educational institution, the bill would address current proposals to finance private, nonprofit housing for students at various universities, including Appalachian State University, Fayetteville State University, and North Carolina Agricultural and Technical State University.

Clean-up Amendments. This bill also makes "clean-up" amendments concerning the North Carolina Industrial Facilities and Pollution Control Financing Authority, created in Chapter 159D of the General Statutes. This authority is a State entity that issued bonds in the late 1980s and early 1990s for purposes similar to those provided for County Industrial Facilities and

Pollution Control Financing Authorities in Chapter 159C. The State authority is moribund at this time due to loss of records regarding its creation and membership. From time to time, administrative duties arise regarding its outstanding bonds. This bill would authorize the North Carolina Educational Facilities Finance Agency to take over the remaining responsibilities of the Industrial Facilities and Pollution Control Financing Authority, which would be dissolved. Although additional bonds are not expected to be issued under Chapter 159D for industrial or pollution control projects, the bill makes a few changes to conform the provisions to those governing County Industrial Facilities and Pollution Control Financing Authorities in Chapter 159C, and to delete obsolete provisions.

Conduit Financing Procedure. Under the bill, a private entity (either nonprofit or for-profit) could obtain financing from a County Industrial Facilities and Pollution Control Financing Authority or from the North Carolina Capital Facilities Finance Agency in order to acquire, construct, and improve a public purpose project. The financing would usually be tax-exempt under federal law and could include revenue bonds or other forms of debt, but would not include any financing that pledges the faith or credit of the State, a local government, or any political subdivision. The advantage to private entities of tax-exempt financing is that interest rates on tax-exempt financing are significantly lower than on taxable financing. The private entity must pay for the entire cost of the financing and of the facility being financed.

The bill makes tax-exempt financing available for capital facilities for the following public purpose projects: water systems, sewage disposal systems, public transportation systems, public parking facilities, public auditoriums and convention centers, recreational facilities, solid waste facilities, and facilities for persons with disabilities and for the disadvantaged. In the case of the Capital Facilities Finance Agency, student housing may also be financed. Under current law, the Agency may finance facilities related to educational institutions, including student housing, but only on behalf of an educational institution and not on behalf of other entities.

In addition to a building, the financing could cover land acquisition, landscaping, site preparation, furniture, and machinery and equipment, as well as engineering and architectural services and other administrative expenses related to construction or acquisition of a project. Financing from the Capital Facilities Finance Agency is not available for projects that discriminate based on race, creed, color, or national origin. The law governing County Industrial Facilities and Pollution Control Financing Authorities does not contain a similar restriction.

Conduit financing through the State would be administered by the Capital Facilities Finance Agency (currently called the Educational Facilities Finance Agency), which is located in the Department of State Treasurer. The Agency has seven members: the State Treasurer, the State Auditor, one member appointed upon the recommendation of the President Pro Tempore of the Senate, one member appointed upon the recommendation of the Speaker of the House of Representatives, and three members appointed by the Governor. The appointive members must be residents of North Carolina and cannot hold other public office. The Agency is audited annually and submits an annual report to the Governor and the General Assembly.

A private entity could qualify for financing only if the Agency found it to be financially responsible and capable of fulfilling its obligations. Before financing is approved, the Agency must find that the entity has provided adequately for the payment of principal and interest on the bonds and for the operation, repair, and maintenance of the facility to be financed. The bill clarifies that the Agency, in making this finding, may consider whether the private entity on behalf of whom the bonds will be issued has arranged for delivery of a letter of credit or for any other credit enhancement to secure the obligations. Similar provisions are found in the current law governing County Industrial Facilities and Pollution Control Financing Authorities.

Public notice and a public hearing are required before the bonds may be approved. The governing body of the county, and of any municipality, in which the project will be located must be notified of the hearing.

The Agency may issue bonds only if they are approved by the Local Government Commission. The Local Government Commission sets the interest rates on the bonds and administers their sale. The bonds may be secured by a trust agreement with a corporate trustee, such as a bank. The Agency will require the private entity to pay fees, loan repayments, rents, or other charges sufficient to cover the payment of principal and interest on the bonds and the operation, repair, and maintenance of the facility to be financed, and the bonds will be secured by the pledge of these revenues.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

☒ Committee Substitute for #2
H.B. 1854 A BILL TO BE ENTITLED AN ACT TO SET THE PUBLIC UTILITY REGULATORY FEES AND THE INSURANCE REGULATORY CHARGE, TO INCREASE COURT COSTS, TO INCREASE JAIL FEES FOR PERSONS PAYING JAIL FEES PURSUANT TO PROBATIONARY SENTENCES, TO INCREASE THE FEE IMPOSED FOR EMERGENCY PLANNING, TO AUTHORIZE CERTAIN CHANGES IN PERMITS FOR OVERSIZE LOADS AND ESTABLISH PENALTIES FOR PERMIT VIOLATIONS, TO AUTHORIZE AGENCIES TO PROVIDE ACCESS TO SERVICES THROUGH ELECTRONIC AND DIGITAL TRANSACTIONS AND TO IMPOSE A FEE FOR THOSE TRANSACTIONS, AND TO REPEAL THE SUNSET OF THE WHITE GOODS TAX AND DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY ISSUES RELATED TO THE SCRAP TIRE DISPOSAL TAX AND THE WHITE GOODS DISPOSALS TAX.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☒ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 5

HOUSE BILL 1854*
Committee Substitute Favorable 6/7/00
Senate Finance Committee Substitute Adopted 6/21/00
Senate Finance Committee Substitute No. 2 Adopted 6/22/00
Fifth Edition Engrossed 6/28/00

Short Title: 2000 Fee Bill. (Public)

Sponsors:

Referred to:

May 30, 2000

A BILL TO BE ENTITLED

AN ACT TO SET THE PUBLIC UTILITY REGULATORY FEES AND THE INSURANCE REGULATORY CHARGE, TO INCREASE COURT COSTS, TO INCREASE JAIL FEES FOR PERSONS PAYING JAIL FEES PURSUANT TO PROBATIONARY SENTENCES, TO INCREASE THE FEE IMPOSED FOR EMERGENCY PLANNING, TO AUTHORIZE CERTAIN CHANGES IN PERMITS FOR OVERSIZE LOADS AND ESTABLISH PENALTIES FOR PERMIT VIOLATIONS, TO AUTHORIZE AGENCIES TO PROVIDE ACCESS TO SERVICES THROUGH ELECTRONIC AND DIGITAL TRANSACTIONS AND TO IMPOSE A FEE FOR THOSE TRANSACTIONS, AND TO REPEAL THE SUNSET OF THE WHITE GOODS TAX AND DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY ISSUES RELATED TO THE SCRAP TIRE DISPOSAL TAX AND THE WHITE GOODS DISPOSAL TAX.

The General Assembly of North Carolina enacts:

TABLE OF CONTENTS:

PART I. PUBLIC UTILITY REGULATORY FEE
PART II. NORTH CAROLINA ELECTRIC MEMBERSHIP CORPORATION REGULATORY FEE
PART III. INSURANCE REGULATORY CHARGE
PART IV. INCREASE COURT COSTS

PART V. JAIL FEES FOR LOCAL GOVERNMENTS
PART VI. INCREASE FEE FOR EMERGENCY PLANNING
PART VII. OVERSIZE LOAD PERMITS AND PENALTIES
PART VIII. FEES FOR ACCESS TO AGENCY SERVICES THROUGH ELECTRONIC AND DIGITAL TRANSACTIONS
PART IX. WHITE GOODS SUNSET REPEAL
PART X. EFFECTIVE DATES

PART I. PUBLIC UTILITY REGULATORY FEE

Section 1. The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is nine-hundredths percent (0.09%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2000.

PART II. NORTH CAROLINA ELECTRIC MEMBERSHIP CORPORATION REGULATORY FEE

Section 2. The annual fee imposed on The North Carolina Electric Membership Corporation under G.S. 62-302(b1) for the 2000-2001 fiscal year is two hundred thousand dollars ($200,000).

PART III. INSURANCE REGULATORY CHARGE

Section 3. The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is seven percent (7%) for the 2000 calendar year.

PART IV. COURT COSTS FOR TECHNOLOGY

Section 4.(a) G.S. 7A-304(a)(4) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no costs may be assessed when a case is dismissed.

. . .

(4) For support of the General Court of Justice, the sum of ~~sixty-one dollars ($61.00)~~ sixty-five dollars ($65.00) in the district court, including cases before a magistrate, and the sum of ~~sixty-eight dollars ($68.00)~~ seventy-two dollars ($72.00) in the superior court, to be remitted to the State Treasurer.

. . . ."

Section 4.(b) G.S. 7A-305(a)(2) reads as rewritten:

"(a) In every civil action in the superior or district court the following costs shall be assessed:

. . .

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 5

HOUSE BILL 1854*
Committee Substitute Favorable 6/7/00
Senate Finance Committee Substitute Adopted 6/21/00
Senate Finance Committee Substitute No. 2 Adopted 6/22/00
Fifth Edition Engrossed 6/28/00

Short Title: 2000 Fee Bill. (Public)

Sponsors:

Referred to:

May 30, 2000

A BILL TO BE ENTITLED

AN ACT TO SET THE PUBLIC UTILITY REGULATORY FEES AND THE INSURANCE REGULATORY CHARGE, TO INCREASE COURT COSTS, TO INCREASE JAIL FEES FOR PERSONS PAYING JAIL FEES PURSUANT TO PROBATIONARY SENTENCES, TO INCREASE THE FEE IMPOSED FOR EMERGENCY PLANNING, TO AUTHORIZE CERTAIN CHANGES IN PERMITS FOR OVERSIZE LOADS AND ESTABLISH PENALTIES FOR PERMIT VIOLATIONS, TO AUTHORIZE AGENCIES TO PROVIDE ACCESS TO SERVICES THROUGH ELECTRONIC AND DIGITAL TRANSACTIONS AND TO IMPOSE A FEE FOR THOSE TRANSACTIONS, AND TO REPEAL THE SUNSET OF THE WHITE GOODS TAX AND DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY ISSUES RELATED TO THE SCRAP TIRE DISPOSAL TAX AND THE WHITE GOODS DISPOSAL TAX.

The General Assembly of North Carolina enacts:

TABLE OF CONTENTS:

PART I. PUBLIC UTILITY REGULATORY FEE
PART II. NORTH CAROLINA ELECTRIC MEMBERSHIP CORPORATION REGULATORY FEE
PART III. INSURANCE REGULATORY CHARGE
PART IV. INCREASE COURT COSTS

PART V. JAIL FEES FOR LOCAL GOVERNMENTS
PART VI. INCREASE FEE FOR EMERGENCY PLANNING
PART VII. OVERSIZE LOAD PERMITS AND PENALTIES
PART VIII. FEES FOR ACCESS TO AGENCY SERVICES THROUGH ELECTRONIC AND DIGITAL TRANSACTIONS
PART IX. WHITE GOODS SUNSET REPEAL
PART X. EFFECTIVE DATES

PART I. PUBLIC UTILITY REGULATORY FEE

Section 1. The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is nine-hundredths percent (0.09%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2000.

PART II. NORTH CAROLINA ELECTRIC MEMBERSHIP CORPORATION REGULATORY FEE

Section 2. The annual fee imposed on The North Carolina Electric Membership Corporation under G.S. 62-302(b1) for the 2000-2001 fiscal year is two hundred thousand dollars ($200,000).

PART III. INSURANCE REGULATORY CHARGE

Section 3. The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is seven percent (7%) for the 2000 calendar year.

PART IV. COURT COSTS FOR TECHNOLOGY

Section 4.(a) G.S. 7A-304(a)(4) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no costs may be assessed when a case is dismissed.

. . .

(4) For support of the General Court of Justice, the sum of ~~sixty-one dollars ($61.00)~~ sixty-five dollars ($65.00) in the district court, including cases before a magistrate, and the sum of ~~sixty-eight dollars ($68.00)~~ seventy-two dollars ($72.00) in the superior court, to be remitted to the State Treasurer.

. . . ."

Section 4.(b) G.S. 7A-305(a)(2) reads as rewritten:

"(a) In every civil action in the superior or district court the following costs shall be assessed:

. . .

(2) For support of the General Court of Justice, the sum of ~~fifty-five dollars ($55.00)~~ fifty-nine dollars ($59.00) in the superior court, and the sum of ~~forty dollars ($40.00)~~ forty-four dollars ($44.00) in the district court except that if the case is assigned to a magistrate the sum shall be ~~twenty-eight dollars ($28.00).~~ thirty-three dollars ($33.00). Sums collected under this subsection shall be remitted to the State Treasurer.

. . . ."

Section 4.(c) G.S. 7A-306(a) and (b) read as rewritten:

"**§ 7A-306. Costs in special proceedings.**

(a) In every special proceeding in the superior court, the following costs shall be assessed:

(1) For the use of the courtroom and related judicial facilities, the sum of ten dollars ($10.00) to be remitted to the county. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.

(2) For support of the General Court of Justice the sum of ~~twenty-six dollars ($26.00).~~ thirty dollars ($30.00). In addition, in proceedings involving land, except boundary disputes, if the fair market value of the land involved is over one hundred dollars ($100.00), there shall be an additional sum of thirty cents (30¢) per one hundred dollars ($100.00) of value, or major fraction thereof, not to exceed a maximum additional sum of two hundred dollars ($200.00). Fair market value is determined by the sale price if there is a sale, the appraiser's valuation if there is no sale, or the appraised value from the property tax records if there is neither a sale nor an appraiser's valuation. Sums collected under this subsection shall be remitted to the State Treasurer.

(b) The facilities fee and ~~twenty-six dollars ($26.00)~~ thirty dollars ($30.00) of the General Court of Justice fee are payable at the time the proceeding is initiated.

. . . ."

Section 4.(d) G.S. 7A-307(a) and (b) read as rewritten:

"(a) In the administration of the estates of decedents, minors, incompetents, of missing persons, and of trusts under wills and under powers of attorney, and in collections of personal property by affidavit, the following costs shall be assessed:

(1) For the use of the courtroom and related judicial facilities, the sum of ten dollars ($10.00), to be remitted to the county. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.

(2) For support of the General Court of Justice, the sum of ~~twenty-six dollars ($26.00),~~ thirty dollars ($30.00), plus an additional forty cents (40¢) per one hundred dollars ($100.00), or major fraction

thereof, of the gross estate, not to exceed three thousand dollars ($3,000). Gross estate shall include the fair market value of all personalty when received, and all proceeds from the sale of realty coming into the hands of the fiduciary, but shall not include the value of realty. In collections of personal property by affidavit, the fee based on the gross estate shall be computed from the information in the final affidavit of collection made pursuant to G.S. 28A-25-3 and shall be paid when that affidavit is filed. In all other cases, this fee shall be computed from the information reported in the inventory and shall be paid when the inventory is filed with the clerk. If additional gross estate, including income, comes into the hands of the fiduciary after the filing of the inventory, the fee for such additional value shall be assessed and paid upon the filing of any account or report disclosing such additional value. For each filing the minimum fee shall be ~~ten dollars ($10.00).~~ fifteen dollars ($15.00). Sums collected under this subsection shall be remitted to the State Treasurer.

(2a) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars ($100.00), or major fraction, of the gross estate, not to exceed three thousand dollars ($3,000), shall not be assessed on personalty received by a trust under a will when the estate of the decedent was administered under Chapters 28 or 28A of the General Statutes. Instead, a fee of ~~fifteen dollars ($15.00)~~ twenty dollars ($20.00) shall be assessed on the filing of each annual and final account.

(2b) Notwithstanding subdivisions (1) and (2) of this subsection, no costs shall be assessed when the estate is administered or settled pursuant to G.S. 28A-25-6.

(3) For probate of a will without qualification of a personal representative, the clerk shall assess a facilities fee as provided in subdivision (1) of this subsection and shall assess for support of the General Court of Justice, the sum of ~~seventeen dollars ($17.00).~~ twenty dollars ($20.00).

(b) In collections of personal property by affidavit, the facilities fee and ~~twenty-six dollars ($26.00)~~ thirty dollars ($30.00) of the General Court of Justice fee shall be paid at the time of filing the qualifying affidavit pursuant to G.S. 28A-25-1. In all other cases, these fees shall be paid at the time of filing of the first inventory. If the sole asset of the estate is a cause of action, ~~the thirty dollars ($30.00)~~ these fees shall be paid at the time of the qualification of the fiduciary.

. . . ."

Section 4.(e) G.S. 7A-308(a)(1) reads as rewritten:

"(a) The following miscellaneous fees and commissions shall be collected by the clerk of superior court and remitted to the State for the support of the General Court of Justice:

(1) Foreclosure under power of sale in deed of trust or mortgage ..... ~~$30.00~~ $40.00
If the property is sold under the power of sale, an additional amount will be charged, determined by the following formula: thirty cents (30¢) per one hundred dollars ($100.00), or major fraction thereof, of the final sale price. If the amount determined by the formula is less than ten dollars ($10.00), a minimum ten dollar ($10.00) fee will be collected. If the amount determined by the formula is more than two hundred dollars ($200.00), a maximum two hundred dollar ($200.00) fee will be collected."

PART V. JAIL FEE FOR LOCAL GOVERNMENTS

Section 5. G.S. 7A-313 reads as rewritten:

"**§ 7A-313. Uniform jail fees.**

~~Only persons~~ Persons who are lawfully confined in jail awaiting ~~trial, or who are ordered to pay jail fees pursuant to a probationary sentence,~~ trial shall be liable to the county or municipality maintaining the jail in the sum of five dollars ($5.00) for each 24 hours' confinement, or fraction thereof, except that a person so confined shall not be liable for this fee if the case or proceeding against him is dismissed, or if acquitted, or if judgment is arrested, or if probable cause is not found, or if the grand jury fails to return a true bill.

Persons who are ordered to pay jail fees pursuant to a probationary sentence shall be liable to the county or municipality maintaining the jail at the same per diem rate paid by the Department of Correction to local jails for maintaining a prisoner, as set by the General Assembly in its appropriations acts."

PART VI. INCREASE FEE FOR EMERGENCY PLANNING

Section 6. G.S. 166A-6.1(b) reads as rewritten:

"(b) Every person, firm, corporation or municipality who is licensed to construct or who is operating a fixed nuclear facility for the production of electricity shall pay to the Department of Crime Control and Public Safety, for the use of the Division of Radiation Protection ~~Division~~ of the Department of Environment and Natural Resources, an annual fee of ~~eighteen thousand dollars ($18,000)~~ thirty-six thousand dollars ($36,000) for each fixed nuclear facility ~~which~~ that is located within this State or has a Plume Exposure Pathway Emergency Planning Zone of which any part is located within this State. This fee shall be applied to the costs of planning and implementing emergency response activities as are required by the Federal Emergency Management Agency for the operation of nuclear facilities. ~~Said~~ This fee is to be paid no later than July 31 of each year."

PART VII. OVERSIZE LOAD PERMITS AND PENALTIES

Section 7.(a) G.S. 20-119(d) reads as rewritten:

"(d) ~~Violation~~ For each violation of any of the terms or conditions of a special permit issued under this section ~~shall be a Class 3 misdemeanor. A person convicted~~

~~of a Class 3 misdemeanor under this section shall be subject to a fine of not more than five hundred dollars ($500.00).~~ the Department of Transportation may assess a separate civil penalty against the registered owner of the vehicle as follows:

(1) A fine of five hundred dollars ($500.00) for any of the following: operating without a permit, moving a load off the route specified in the permit, falsifying information to obtain a permit, failing to comply with dimension restrictions of a permit, or failing to comply with escort vehicle requirements.

(2) A fine of two hundred fifty dollars ($250.00) for moving loads beyond the distance allowances of an annual permit covering the movement of house trailers from the retailer's premises or for operating in violation of time of travel restrictions.

(3) A fine of one hundred dollars ($100.00) for any other violation of the permit conditions or requirements imposed by applicable regulations.

The Department of Transportation may refuse to issue additional permits or suspend existing permits if there are repeated violations of subdivision (1) or (2) of this subsection."

Section 7.(b) G.S. 20-140 is amended by adding a new subsection to read:

"(f) A person is guilty of the Class 2 misdemeanor of reckless driving if the person drives a commercial motor vehicle carrying a load that is subject to the permit requirements of G.S. 20-119 upon a highway or any public vehicular area either:

(1) Carelessly and heedlessly in willful or wanton disregard of the rights or safety of others; or

(2) Without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property."

Section 7.(c) G.S. 20-141 is amended by adding a new subsection to read:

"(j3) A person is guilty of a Class 2 misdemeanor if the person drives a commercial motor vehicle carrying a load that is subject to the permit requirements of G.S. 20-119 upon a highway or any public vehicular area at a speed in excess of 15 miles per hour above either:

(1) The posted speed; or

(2) The restricted speed, if any, of the permit, or if no permit was obtained, the speed that would be applicable to the load if a permit had been obtained."

Section 7.(d) G.S. 20-16(c) reads as rewritten:

"(c) The Division shall maintain a record of convictions of every person licensed or required to be licensed under the provisions of this Article as an operator and shall enter therein records of all convictions of such persons for any violation of the motor vehicle laws of this State and shall assign to the record of such person, as of the date of commission of the offense, a number of points for every such conviction

in accordance with the following schedule of convictions and points, except that points shall not be assessed for convictions resulting in suspensions or revocations under other provisions of laws: Further, any points heretofore charged for violation of the motor vehicle inspection laws shall not be considered by the Division of Motor Vehicles as a basis for suspension or revocation of driver's license:

Schedule of Point Values

Passing stopped school bus	5
Reckless driving	4
Hit and run, property damage only	4
Following too close	4
Driving on wrong side of road	4
Illegal passing	4
Running through stop sign	3
Speeding in excess of 55 miles per hour	3
Failing to yield right-of-way	3
Running through red light	3
No driver's license or license expired more than one year	3
Failure to stop for siren	3
Driving through safety zone	3
No liability insurance	3
Failure to report accident where such report is required	3
Speeding in a school zone in excess of the posted school zone speed limit	3
All other moving violations	2
Littering pursuant to G.S. 14-399 when the littering involves the use of a motor vehicle	1

Schedule of Point Values for Violations While Operating a Commercial Motor Vehicle

Passing stopped school bus	8
Rail-highway crossing violation	6
Careless and reckless driving in violation of G.S. 20-140(f)	6
Speeding in violation of G.S. 20-141(j3)	6
Reckless driving	5
Hit and run, property damage only	5
Following too close	5
Driving on wrong side of road	5
Illegal passing	5
Running through stop sign	4
Speeding in excess of 55 miles per hour	4
Failing to yield right-of-way	4

Running through red light 4
No driver's license or license expired more than one year 4
Failure to stop for siren 4
Driving through safety zone 4
No liability insurance 4
Failure to report accident where such report is required 4
Speeding in a school zone in excess of the posted school zone speed limit 4
Possessing alcoholic beverages in the passenger area of a commercial motor vehicle 4
All other moving violations 3
Littering pursuant to G.S. 14-399 when the littering involves the use of a motor vehicle 1

The above provisions of this subsection shall only apply to violations and convictions which take place within the State of North Carolina. The Schedule of Point Values for Violations While Operating a Commercial Motor Vehicle shall not apply to any commercial motor vehicle known as an "aerial lift truck" having a hydraulic arm and bucket station, and to any commercial motor vehicle known as a "line truck" having a hydraulic lift for cable, if the vehicle is owned, operated by or under contract to a public utility, electric or telephone membership corporation or municipality and used in connection with installation, restoration or maintenance of utility services.

No points shall be assessed for conviction of the following offenses:

Overloads
Over length
Over width
Over height
Illegal parking
Carrying concealed weapon
Improper plates
Improper registration
Improper muffler
Improper display of license plates or dealers' tags
Unlawful display of emblems and insignia
Failure to display current inspection certificate.

In case of the conviction of a licensee of two or more traffic offenses committed on a single occasion, such licensee shall be assessed points for one offense only and if the offenses involved have a different point value, such licensee shall be assessed for the offense having the greater point value.

Upon the restoration of the license or driving privilege of such person whose license or driving privilege has been suspended or revoked because of conviction for a traffic offense, any points that might previously have been accumulated in the driver's record shall be cancelled.

Whenever any licensee accumulates as many as seven points or accumulates as many as four points during a three-year period immediately following reinstatement of his license after a period of suspension or revocation, the Division may request the licensee to attend a conference regarding such licensee's driving record. The Division may also afford any licensee who has accumulated as many as seven points or any licensee who has accumulated as many as four points within a three-year period immediately following reinstatement of his license after a period of suspension or revocation an opportunity to attend a driver improvement clinic operated by the Division and, upon the successful completion of the course taken at the clinic, three points shall be deducted from the licensee's conviction record; provided, that only one deduction of points shall be made on behalf of any licensee within any five-year period.

When a license is suspended under the point system provided for herein, the first such suspension shall be for not more than 60 days; the second such suspension shall not exceed six months and any subsequent suspension shall not exceed one year.

Whenever the driver's license of any person is subject to suspension under this subsection and at the same time also subject to suspension or revocation under other provisions of laws, such suspensions or revocations shall run concurrently.

In the discretion of the Division, a period of probation not to exceed one year may be substituted for suspension or for any unexpired period of suspension under subsections (a)(1) through (a)(10a) of this section. Any violation of probation during the probation period shall result in a suspension for the unexpired remainder of the suspension period. Any accumulation of three or more points under this subsection during a period of probation shall constitute a violation of the condition of probation."

Section 7.(e) G.S. 20-17.4(d) reads as rewritten:

"(d) Less Than a Year. -- A person is disqualified from driving a commercial motor vehicle for 60 days if that person is convicted of two serious traffic violations, or 120 days if convicted of three or more serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period. For purposes of this subsection, a 'serious violation' includes violations of G.S. 20-140(f) and G.S. 20-141(j3)."

Section 7.(f) G.S. 20-119(b) reads as rewritten:

"(b) Upon the issuance of a special permit for an oversize or overweight vehicle by the Department of Transportation in accordance with this section, the applicant shall pay to the Department for a single trip permit a fee of ~~ten~~ twelve dollars ~~($10.00)~~ ($12.00) ~~for a single trip permit and fifty dollars ($50.00) for an annual permit issued for a single vehicle. Any person who operates more than one vehicle may obtain an annual permit for all oversize or overweight vehicles operated by the person upon payment of an annual fee based on the following schedule:~~

~~No. of Vehicles~~	~~Annual Permit Rate Per Vehicle~~
~~First 50~~	~~$50.00~~
~~51 to 100~~	~~40.00~~

~~101 to 150 30.00~~
~~Over 150 20.00~~

~~Any vehicle required to obtain an overweight permit shall not be charged an additional fee for oversize. Any vehicle required to obtain an oversize permit shall not be charged an additional fee for overweight.~~ for each dimension over lawful dimensions, including height, length, width, and weight up to 132,000 pounds. For overweight vehicles, the applicant shall pay to the Department for a single trip permit in addition to the fee imposed by the previous sentence a fee of three dollars ($3.00) per 1,000 pounds over 132,000 pounds.

Upon the issuance of an annual permit for a single vehicle, the applicant shall pay a fee in accordance with the following schedule:

Commodity:	Annual Fee:
Annual Permit to Move House Trailers	$200.00
Annual Permit to Move Other Commodities	$100.00

In addition to the fees set out in this subsection, applications for permits that require an engineering study for pavement or structures or other special conditions or considerations shall be accompanied by a nonrefundable application fee of one hundred dollars ($100.00).

This subsection ~~shall~~ does not apply to farm equipment or machinery being used at the time for agricultural purposes, nor to the moving of a house as provided for by the license and permit requirements of Article 16 of this Chapter. Fees will not be assessed for permits for oversize and overweight vehicles issued to any agency of the United States Government or the State of North Carolina, its agencies, institutions, subdivisions, or municipalities if the vehicle is registered in the name of the agency."

Section 7.(g) It is the intent of the General Assembly that the permit fees provided in G.S. 20-119 shall be adjusted periodically to assure that the revenue generated by the fees is equal to the cost to the Department of administering the Oversize/Overweight Permit Unit Program within the Division of Highways. At least every two years, the Department shall review and compare the revenue generated by the permit fees and the cost of administering the program, and shall report to the Joint Legislative Transportation Oversight Committee created in G.S. 120-70.50 its recommendations for adjustments to the permit fees to bring the revenues and the costs into alignment.

PART VIII. FEES FOR ACCESS TO AGENCY SERVICES THROUGH ELECTRONIC AND DIGITAL TRANSACTIONS

Section 8. Article 11A of Chapter 66 of the General Statutes is amended by adding a new section to read:

"§ 66-58.12. Agencies may provide access to services through electronic and digital transactions; fees authorized.

(a) Public agencies are encouraged to maximize citizen and business access to their services through the use of electronic and digital transactions. A public agency may

determine, through program and transaction analysis, which of its services may be made available to the public through electronic means, including the Internet. The agency shall identify any inhibitors to electronic transactions between the agency and the public, including legal, policy, financial, or privacy concerns and specific inhibitors unique to the agency or type of transaction. An agency shall not provide a transaction through the Internet that is impractical, unreasonable, or not permitted by laws pertaining to privacy or security.

(b) An agency may charge a fee to cover its costs of permitting a person to complete a transaction through the World Wide Web or other means of electronic access. The fee may be applied on a per transaction basis and may be calculated either as a flat fee or a percentage fee, as determined under an agreement between a person and a public agency. The fee must be approved by the Information Resource Management Commission, in consultation with the Joint Legislative Commission on Governmental Operations. The fee may be collected by the agency or by its third-party agent. The revenue derived from the fee must be credited to a nonreverting agency reserve account. The funds in the account may be expended only for e-commerce initiatives and projects approved by the Information Resource Management Commission, in consultation with the Joint Select Committee on Information Technology.

(c) This section shall not apply to the Judicial Department."

PART IX. WHITE GOODS SUNSET REPEAL

Section 9.(a) Section 11 of Chapter 471 of the 1993 Session Laws, as amended by Section 15.1(b) of Chapter 769 of the 1993 Session Laws and Section 7 of S.L. 1998-24, reads as rewritten:

"Sec. 11. Sections 1 through 5 of this act and this section become effective January 1, 1994. ~~Section 3 of this act expires July 1, 2001. Section 6 of this act becomes effective July 1, 2001. Sections 7, 8, and 9 of this act become effective July 1, 2002.~~

~~The repeal of the tax imposed by Section 3 of this act does not affect the rights or liabilities of the State, a taxpayer, or another person that arose during the time the tax was in effect.~~ The first report submitted by the Department to the Environmental Review Commission under G.S. 130A-309.85, as enacted by this act, shall cover the period from January 1, 1994, to June 30, 1994."

Section 9.(b) The Department of Environment and Natural Resources shall study issues related to the scrap tire disposal tax and the white goods disposal tax. This study shall include an evaluation of whether the amount of the scrap tire disposal tax and the amount of the white goods disposal tax should be altered and whether the distribution of the proceeds of these taxes should be reapportioned. The Department shall report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission no later than October 1, 2000.

PART X. EFFECTIVE DATES

Section 10.(a) Public Utility Regulatory Fee. -- Section 1 of this act becomes effective July 1, 2000.

Section 10.(b) North Carolina Electric Membership Corporation Regulatory Fee. -- Section 2 of this act becomes effective July 1, 2000.

Section 10.(c) Insurance Regulatory Charge. -- Section 3 of this act is effective when it becomes law.

Section 10.(d) Increase Court Costs. -- Section 4 of this act becomes effective July 15, 2000, and applies to all costs assessed or collected on and after that date.

Section 10.(e) Jail Fees for Local Governments. -- Section 5 of this act becomes effective July 1, 2000, and applies to sentences or portions of sentences being served on or after that date.

Section 10.(f) Increase Fee for Emergency Planning. -- Section 6 of this act becomes effective July 1, 2000.

Section 10.(g) Oversize Load Permits and Penalties. -- Section 7(f) of this act becomes effective October 1, 2000. The first report required by Section 7(g) of this act is due December 1, 2002.

Section 10.(h) Fees for Access to Agency Services Through Electronic and Digital Transactions. -- Section 8 is effective when it becomes law.

Section 10.(i) White Goods Sunset Repeal. -- Section 9 of this act is effective when it becomes law.

Section 10.(j) Remainder. -- The remainder of this act is effective when it becomes law.

COMPARISON OF HOUSE & SENATE VERSIONS OF HB 1854 – 2000 FEE BILL

HB 1854, 2nd edition, *As passed by the House on 6/12/00*	HB 1854, 5th edition, *As passed by the Senate on 6/28/00*
PART I. PUBLIC UTILITY REGULATORY FEE.	
Maintains the public utility regulatory fee at 0.09%	*No Change.*
PART II. NC ELECTRIC MEMBERSHIP CORPORATION REGULATORY FEE.	
Sets the NC Electric Membership Corporation regulatory fee at $200,000	*No Change.*
PART III. INSURANCE REGULATORY CHARGE.	
Sets the insurance regulatory charge at 7%.	*No Change.*
PART IV. INCREASE COURT COSTS.	
Increases court costs in criminal and civil proceedings.	*No Change.*
PART V. JAIL FEE FOR LOCAL GOVERNMENTS.	
Provides that a person who is ordered to pay jail fees pursuant to a probationary sentence must pay the same per diem rate the Department of Correction pays to local jails for maintaining a prisoner. This rate is set in the appropriations act each year. The reimbursement amount for fiscal year 1999-2000 is $18 per day.	*No Change.*
PART VI. INCREASE FEE FOR EMERGENCY PLANNING	
Increases the annual fee imposed on nuclear facilities from $18,000 to $36,000. The fee revenue is applied to the costs of planning and implementing emergency response activities.	*No Change.*
PART VII. OVERSIZE LOAD PERMITS & PENALTIES	
Not contained in House version.	**Fees for Oversize/Overweight Load Permits Imposed by DMV:** ♦ Increases the fee for a single trip permit for an oversize or overweight vehicle from $10 to $12. ♦ If the vehicle weighs over 132,000 pounds, there is an additional surcharge of $3 for each 1,000 pounds over 132,000 pounds. ♦ Establishes annual permit fee of $200 to move house trailers and $100 fee to move other commodities.

	♦ Establishes a nonrefundable fee of $100 for permits for which an engineering study of the move's impact is required. **Penalties for Oversize Loads:** Allows DOT to assess a separate penalty against a vehicle's registered owner as follows: ♦ $500 for operating without a special permit for an oversize or overweight vehicle, for moving a load off the route specified in the permit, for falsifying information to obtain a permit, for failing to comply with the permit's dimensional restrictions, or for failing to comply with escort vehicle requirements. DOT can refuse to issue additional permits if the registered owner commits repeated violations of these offenses. ♦ $250 for moving loads beyond the distance allowances of an annual permit covering the movement of house trailers from the retailer's premises or for violating travel restrictions. DOT can refuse to issue additional permits if the registered owner commits repeated violations of these offenses. ♦ $100 for any other violation of overweight or oversize permit conditions or requirements. Establishes a Class 2 misdemeanor if the driver of a commercial vehicle, carrying a load subject to oversize or overweight permits, drives at a speed in excess of 15mph either over the posted speed or restricted speed limit set out in the permit or drives the vehicle recklessly or without due caution and circumspection. Makes these misdemeanors a "serious violation" for purposes of disqualifying a person from driving a commercial vehicle. Assigns 6 points to the driver's record for committing any of these offenses. Directs DOT, by December 1, 2002, to review and compare the revenue generated by the permit fees and the cost of administering the program and report to the Joint Legislative Transportation

HB 1854, 2nd edition, *as passed by the House on 6/12/00*	HB 1854, 5th edition, *as passed by the Senate on 6/28/00*
	Oversight Committee. **Effective:** October 1, 2000.
PART VIII. FEES FOR ACCESS TO AGENCY SERVICES THROUGH ELECTRONIC & DIGITAL TRANSACTIONS.	
Not contained in House version.	Authorizes public agencies to determine which of its services shall be made available to the public through electronic means, including the Internet, and to charge a fee to cover the cost of the electronic transactions. Any fee must be approved by the Information Resource Management Commission, in consultation with the Joint Legislative Commission on Governmental Operations. Provides that law does not apply to Judicial Department. **Effective:** When it becomes law
PART IX. WHITE GOODS SUNSET REPEAL.	
Not contained in House version. Separate bill (HB 1613) was introduced by Rep. Hackney. Bill is in House Finance.	Repeals the sunset on the white goods tax and directs DENR to study issues related to the scrap tire disposal tax and the white goods disposal tax. Under current law, the tax sunsets July 1, 2001. This part was recommended by the Environmental Review Commission. **Effective:** When it becomes law. *SB 1331, White Goods Sunset Repeal, (Sen. Odom) is identical to this provision and is in House Finance.*

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Allen, Luebke and Miller** for the Committee on **Finance.**

☒ Committee Substitute for
S.B. 1300 A BILL TO BE ENTITLED AN ACT TO INCORPORATE THE TOWN OF MIDLAND, SUBJECT TO A REFERENDUM.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1300
State and Local Government Committee Substitute Adopted 6/26/00

Short Title: Midland Incorporation. (Local)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE TOWN OF MIDLAND, SUBJECT TO A REFERENDUM.

The General Assembly of North Carolina enacts:

Section 1. A Charter for the Town of Midland is enacted to read:

"CHARTER OF THE TOWN OF MIDLAND.

"CHAPTER I.

"INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Midland are a body corporate and politic under the name 'Town of Midland'. Under that name they shall have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"CHAPTER II.

"CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with the law, the corporate boundaries of the Town of Midland are as follows:

BEGINNING at a point of the northernmost corner of the property described by the Cabarrus County Tax Maps as Map/PIN 5556-12-4009. Thence in a southwesterly direction along the western boundaries of properties Map/PIN 5556-12-4009, 5556-11-1569, and 5556-01-7367. Continuing directly across Highway 601 to the Highway 601 right-of-way on the northwest property line of the property Map/PIN 5556-00-4725. Continuing in a southeastern direction along the right-of-way that borders Highway 601 to the right-of-way of Sossoman Road near northeast corner of the property.

Continuing southwest along the right-of-way to the point of intersection with the property Map/PIN 5556-00-5380. Thence moving west along the southeast property line of Map/PIN 5556-00-4725 to the point of intersection with the property Map/PIN 5546-90-9409. Thence moving northwest along the southwesternmost boundaries of Map/PIN 5556-00-4725, and Map/PIN 5546-91-7410 to the point where it intersects with the easterly corner of the property Map/PIN 5546-90-2819. Thence west and south along the north and west perimeter of said parcel to the point of intersection with Spring Drive. Continuing directly across Spring Drive to the northeast corner of Map/PIN 5546-80-8682. Thence west along the north boundary and south along the west boundary of said property to its southwest corner. Turn west and go to the southeast corner of Map/PIN 5545-80-5613. Turn south along the westerly property line of Map/PIN 5546-80-6239 and go to its intersection with the northernmost corner of Map/PIN 5545-89-4183. Continuing in a southwestern direction along the westernmost property line of Map/PIN 5545-89-4183 to the intersection of the property Map/PIN 5545-78-6238.

Thence moving in a northwestern direction along the northeastern property lines to the northernmost point of the property Map/PIN 5545-78-6238. Thence southwesterly along the southeast property lines of Map/PINs 5545-78-3569, 5545-78-1244, 5545-78-0052, and 5545-67-8748 to the south corner of Map/PIN 5545-67-8748. Thence northwest to the southeast corner of Map/PIN 5545-67-6519 and continuing west along the southeast property line to the south corner of said parcel. Turn southwest and go to the northernmost corner of Map/PIN 5545-67-3175. Continue southeast along the northeasterly property line of Map/PINs 5545-67-3175, 5545-67-3051, and 5545-66-3858 to the east corner of Map/PIN 5545-66-3858. Turn southwest and follow the northwest property line of Map/PIN 5545-66-4715 to the northwest corner of said parcel. Turn south and follow the west property line of Map/PINs 5545-66-4715, 5545-66-5602, and 5545-66-4494 to the intersection with the northerly property line of Map/PIN 5545-66-2067. Turn southwesterly along the northwesterly property line of Map/PIN 5545-66-2067 to the southeast corner of parcel Map/PIN 5545-56-8171. Thence continue north and then west along said parcel to the northwest corner of Map/PIN 5545-56-8171. Thence northwest across Snowcrest Drive to the north corner of Map/PIN 5545-56-6098. Turn southwest and continue along the east and south property lines of Map/PINs 5545-56-5300, 5545-56-3032, 5545-56-1145 to the east corner of Map/PIN 5545-56-0025. Thence southwest along the east property line of Map/PINs 5545-56-0025, 5545-45-9992, and 5545-45-9642 to the southeast corner of Map/PIN 5545-45-9642. Turn west and continue along the Map/PIN 5545-45-9642 property line to the intersection with the property line of Map/PIN 5545-45-6701.

Thence continuing southwest along the easternmost property lines of Map/PINs 5545-45-6701, and 5545-45-1648 to the southeasternmost corner of the property. Thence continuing southwest along the west property lines of Map/PINs 5545-45-4280 and 5545-35-7453. Thence continuing southwest 65 feet thence in a western direction across Troutman Road to the northeastern corner of Map/PIN 5545-34-9832. Thence continuing in a northwest direction to the northwest corner of the property. From that corner of the property continue southwest along the northwest property lines of

Map/PIN 5545-34-9832 and 5545-34-8782 to the southwest corner of Map/PIN 5545-34-8782.

Thence continue southeast to the northwestern corner of property Map/PIN 5545-34-8423. Thence continue southwest along the property line to the southwest corner of the property. Thence continue westerly and southerly along Map/PIN 5545-34-6124 to the intersection with Map/PIN 5545-34-2199. Thence continue westerly along the southerly property line of Map/PINs 5545-34-3410 and 5545-24-9440 to the northwest corner of property Map/PIN 5545-24-8197.

Thence continuing in a southwestern direction to the southwesternmost corner of Map/PIN 5545-24-8197. From that corner continue in a southeast direction to a point where the property line intersects the property line of property Map/PIN 5545-33-0983. At that point continue in a western direction to the westernmost corner of Map/PIN 5545-33-0983.

From that point continuing in a northwestern direction along the southern property line of Map/PIN 5545-24-5291 to its southwest corner. Then turn southwest and continue along the easterly and then northwest along the southeasterly property line of Map/PIN 5545-23-1979 to the northernmost corner of Map/PIN 5545-13-9685. Turn southwest and go to the westernmost corner of said property. Cross directly over an unnamed private road to the southernmost corner of Map/PIN 5545-13-6890. Proceed southwest along the southeast property line of Map/PINs 5545-13-3599 and 5545-13-0296 to the point of intersection with the east property line of Map/PIN 5545-02-7867. Go north on the east property line of said parcel to the southeast corner of property Map/PIN 5545-03-6194.

Turn southwest and proceed along the south and west property line of said parcel to the northernmost corner of Map/PIN 5545-02-5755. Thence southwest along the southeast property line of Map/PIN 5545-02-2876 to the northernmost corner of Map/PIN 5545-02-1533. Proceed along the northeast property line to the southeast corner of said parcel. Turn southwest and proceed along the southeast property line of Map/PINs 5545-02-1533 and 5535-92-8388 to the south corner of Map/PIN 5535-92-8388. Cross directly over Bethel Church Road to the east corner of Map/PIN 5535-92-5207. Continue along the southeast property line of Map/PIN 5535-92-5207 to the westernmost corner of Map/PIN 5535-91-6926. Turn southeast following the property line of Map/PIN 5535-91-6926 to the south corner of property Map/PIN 5545-02-6926. Continue southeast from that corner to the southwest corner of Map/PIN 5545-02-5551 and then east along said property line to the western right-of-way of Bethel Church Road.

Thence continue southeast along the western right-of-way of Bethel Church Road to the north property line of Map/PIN 5545-00-3369. Thence continue southwest to the northerly northwest corner of said property. Thence continue southeast along the property line to the northeastern corner of property Map/PIN 5545-00-3704. Thence continue west-southwest along the north property lines of Map/PINs 5545-00-3704 and 5535-90-9617 to the northwest corner of Map/PIN 5535-90-9617. From that corner continue south along the property line to the southwest corner of the property. Thence continue northeast to the point of intersection with the westerly property line

of Map/PIN 5545-00-3369. From that point continue south along said property line to the southerly southwest corner of the property Map/PIN 5545-00-3369. Thence continue southwest along the northerly property lines of Map/PINs 5534-99-8401, 5534-99-3460, 5534-99-2451, 5534-99-1410, and 5534-89-9430 to the northwest corner of the property Map/PIN 5534-89-9430. Thence move south to the northerly right-of-way for NC Highway 24/27. Thence continue west to the intersection with the property line of Map/PIN 5535-80-5534. Thence continue north then northwest to the northwest corner of the property. Thence continue southwest along the northerly property lines of the properties Map/PINs 5535-80-1414 and 5535-70-5934 to the northwest corner of Map/PIN 5535-70-5934.

Thence continue southeast to the northern corner of property Map/PIN 5535-70-1627. From that point continue southwest along the property line to the southeastern corner of property Map/PIN 5535-60-8678. Thence continue north and west along said property line around to the west corner of Map/PIN 5535-60-8678 and then southwest across Sam Black Road to the southeast corner of Map/PIN 5535-60-3559. From that point continue north along the property line to the north corner of Map/PIN 5535-50-3559. Thence proceed southwest along the easterly property line of Map/PIN 5535-50-4455 to its point of intersection with the northerly right-of-way for NC Highway 24/27.

Turn west along the NC Highway 24/27 right-of-way to its point of intersection with the property line of Map/PIN 5534-49-5492. Continue northwest to the north corner of said property. Cross directly over property Map/PIN 5535-50-4455 to the southerly northeast corner of Map/PIN 5534-49-4506. Proceed northwest along the northeast property lines of Map/PINs 5534-49-4506 and 5534-49-3677 to the northernmost corner of Map/Pin 5534-49-3677. Thence turn southwest and thence southeast to the southwest corner of said parcel. Continue southeast along the property line of Map/PINs 5534-49-4506 and 5534-49-4415 to a point of intersection with the northerly right-of-way for NC Highway 24/27.

From that point continue west along the northerly NC Highway 24/27 right-of-way to the western right-of-way of Flowes Store Road. Thence continue southeast along the west right-of-way of Flowes Store Road and Old Camden Road to the point of intersection with the southeasterly property line of property Map/PIN 5524-97-8018. Thence go northeast along the property line to the southeast corner of said parcel. Thence continue southeast across Old Camden Road to the southwestern corner of property Map/PIN 5534-07-8047. Continuing southeast along the southern property line of the said property and the property line of Map/PIN 5534-07-9085 to the southeastern corner of Map/PIN 5534-07-9085. Thence continue northeast along the northwesterly property line of Map/PIN 5534-17-6044 to the northernmost corner of the property. Thence north along the westerly property line of Map/PIN 5534-27-4832 to the westerly northwest corner of said property. Thence northeast along property lines to the northwest corner of Map/PIN 5534-28-2266. Thence southeast and northeast along the property line to the southeast corner of said parcel.

Thence continue along the northeasterly property lines of Map/PINs 5534-28-2266, 5534-28-1414, and 5534-28-1507 to the northeast corner of Map/PIN 5534-28-1507.

Thence cross Ritchie Road to the northwestern corner of property Map/PIN 5534-28-8371. Thence continue east along the said property line to the northerly northeast corner. Thence continue northwest along the westerly property line of property Map/PIN 5534-37-8848 to the westernmost corner of the property then northeast along the property line to the point of intersection with the southerly right-of-way for NC Highway 24/27. Thence continue along the right-of-way to the west property line of Map/PIN 5534-38-6988.

From that intersection continue south to the southwestern corner of the property. Thence continue southeast to the southeastern corner and then north to the right-of-way on the southern side of NC Highway 24/27. Thence continue east along the right-of-way to the west property line of Map/PIN 5534-49-0076. Continue south to the southwest corner of the parcel, thence continue southeasterly along the southerly property lines of Map/PINs 5534-49-0076 and 5534-49-4044 to the southernmost corner of Map/PIN 5534-49-4044. Thence continue northeast along the property line to the southwestern corner of Map/PIN 5534-49-8018. From that corner continue east to the southeastern corner of the said property and thence north to the right-of-way on the south side of NC Highway 24/27. Thence continue east along the right-of-way to the east property line of property Map/PIN 5534-68-1909. Thence continue southwest along the property line to the southeastern corner of Map/PIN 5534-68-1909. Thence continuing northeast along the south boundaries of Map/PINs 5534-69-4031, 5534-69-7102, and 5534-69-7183 to the southeast corner of Map/PIN 5534-69-7183 and thence north along the property line to the right-of-way along the south side of NC Highway 24/27. From that point continue east along the right-of-way to the intersection with the west right-of-way of Sam Black Road. Thence continue southeast along the right-of-way on the west side of Sam Black Road to the point of intersection with the northeast property line of property Map/PIN 5534-78-8739. Thence continue northwest to the northwestern corner of the property then southwest to the southwestern corner of the property.

Thence continue southeast along the property line to the southeastern corner of the property. Then cross Sam Black Road to the southwest corner of Map/PIN 5534-88-3986. Continue along the southerly property line of Map/PIN 5534-88-3986 to the southernmost corner of the property. Thence continue southeast along the southwest property line of Map/PIN 5534-97-1831 to the southern corner of the said property. Thence continuing southeast along the northeast property line of Map/PIN 5534-96-1653 to the southeastern corner of the property. Thence continuing southeast along the northeast property line of Map/PIN 5534-96-2168 to the southeast corner of said property. Thence continue southwest along the property line to the southwest corner of Map/PIN 5534-96-2168. Turn southeast and follow the southwest property lines of Map/PINs 5534-85-8783 and 5534-85-6566 to the south corner of Map/PIN 5534-85-6566. Cross directly over Ben Black Road to the northernmost corner of property Map/PIN 5534-85-4281. Thence continue southwest along the northwest property line to the southwest corner of the property. From that corner of the property continue southeast across the Norfolk Southern Railway right-of-way to the northwest corner of Map/PIN 5534-84-6486. Follow the Norfolk Southern Railway right-of-way to its

point of intersection with the northerly east line of the property Map/PIN 5534-84-6486. Thence continue along the eastern property lines of Map/PIN 5534-84-6486 to the southerly southeast corner of the property. Thence continue west-northwest along the southern property line to the westernmost corner of said property. From that corner continue southwest along the southeast property line of Map/PIN 5534-75-7521 to the southernmost corner of the property. Thence continue southwest to the southernmost corner of the property Map/PIN 5534-64-2431. From that point continue northwest along the southwest property line of said property and continue along the northeast property line of Map/PIN 5534-54-4074 to the northernmost corner of property Map/PIN 5534-54-4074.

Thence south along the property line of property Map/PIN 5534-54-1462 to the southeastern corner of the property. Thence continue along the southern property line to the southwestern corner of the property. From that point continue southwest along the west side of Map/Pin 5543-43-8793 to the right-of-way of Sleepy Hollow Road on the northern side. Thence continue northwest along the right-of-way to its intersection with the west side of property Map/PIN 5534-44-7569. Continue along the southwesterly property lines of Map/PIN 5534-44-7569 to the north corner of Map/Pin 5534-44-3371. From that point continue southwest along the northwest property line of Map/Pin 5534-44-3371 to the right-of-way of Sleepy Hollow Road along the northern side of the road. Thence continue west-northwest along the right-of-way to the point of intersection with Map/PIN 5534-34-3396. Turn north-northwest and follow said property line to the northerly southwest corner of that parcel. Follow the west and south property lines of property Map/PIN 5534-35-6533 to its point of intersection with the Norfolk Southern Railway right-of-way. From that intersection continue across the Norfolk Southern track to the Norfolk Southern Railway right-of-way along the northern side of the rail line. Thence continue westerly along the right-of-way to its intersection with the easterly property line of Map/PIN 5534-15-4291. Thence continue north to the northeast corner of said property. Thence continue west along the property line to the northwest corner of Map/PIN 5534-15-4291. Turn south and follow the westerly property lines of Map/PINs 5534-15-4291, 5534-14-4946, 5534-14-4842, 5534-14-4781, 5534-14-5548, 5534-14-5471, 5534-14-5268, 5534-14-5146, and 5534-13-6874 to the southwest corner of property Map/PIN 5534-13-6874. Thence continue southeast to the southeast corner of said property. From that corner continue north to the northeast corner of the property. Thence continue east along the northern property line of property Map/PINs 5534-23-2783 and 5534-33-1831 to the northern northeast corner of property Map/PIN 5534-33-1831. Thence, proceed south-southwest along the west property line of property Map/PIN 5534-33-3879 to the southwest corner of Map/PIN 5534-33-3879, then travel east-southeast along the southern property line of said parcel to the intersection with property Map/PIN 5534-33-4522. From here turn southwest and proceed along the northwest property line of Map/PIN 5534-33-4522 to the southwest corner of the property.

Thence proceed southeast along the northeastern boundary of property Map/PIN 5534-32-1232 to its easternmost corner. Turn west and follow the boundary of Map/PIN 5534-32-3086 to its westernmost intersection with Map/PIN 5534-31-3478.

Follow the northern border of Map/PIN 5534-31-3478 east to the intersection with Map/PIN 5534-31-5848. Turn south and follow the property line of property Map/PIN 5534-31-5848 to its southeast corner. Turn southeast and follow the northeastern border of the property Map/PIN 5534-41-0295 to its intersection with the west right-of-way of Cabarrus Station Road. Turn southwest and follow the right-of-way to its intersection with the northeasterly property line of Map/PIN 5534-40-2825. Turn northwest and follow said property line to its northern corner, thence southwest to its western corner. Now follow the property line for property Map/PIN 5534-40-2825 back to the westerly right-of-way for Cabarrus Station Road.

Continue southwest along said right-of-way until you meet the northeastern property line of Map/PIN 5534-30-8212. From here, turn northwest and go to the north corner of said parcel. Turn southwest and follow the property line to its western corner. Turn southeast and go to the north corner of Map/PIN 5533-39-6802. Turn southwest and follow the property lines of Map/PINs 5533-39-6802 and 5533-39-4605 respectively. Turn southeast at the westernmost corner of Map/PIN 5533-39-4605 and go to the north corner of property Map/PIN 5533-39-1416. Turn southwest and follow the property line of Map/PIN 5533-39-1416 west then south to the Cabarrus Station Road right-of-way.

Follow the northwesterly right-of-way of Cabarrus Station Road southwest until you come to its intersection with the property line of Map/PIN 5533-18-9661. Turn northwest and follow this line until you reach the northeast corner of the parcel. Turn southwest and travel along the westernmost southeast property line of Map/Pin 5533-29-4326 to the northwest corner of Map/PIN 5533-18-3388. From here, turn southeast and follow the property line for Map/PIN 5533-18-3388 until you reach the southwest corner of the property.

Cross directly over Cabarrus Station Road to the northwest corner of Map/PIN 5533-17-8801. Then go southeast along the property line to the point of intersection with the southwesterly right-of-way of Cabarrus Station Road. Travel northeast along the right-of-way until you reach the northeast property line of Map/PIN 5533-17-9887. Turn southeast and go to the intersection of Map/PIN 5533-27-2838 and the Cabarrus County Boundary. Continue southeast along the Cabarrus County Boundary to its intersection with the southeast property line of said property. From here, turn northeast and go along the northwest property line of Map/PIN 5533-27-8192 to the northeast corner of Map/PIN 5533-27-8192. Continue traveling northeast along the northwest property lines of Map/PINs 5533-37-3408 and 5533-48-0035 until you reach the northern corner of Map/PIN 5533-48-0035. Turn southeast and follow this property line to the intersection with Map/PIN 5533-47-7785. From here, turn northeast and follow the property line of Map/PIN 5533-47-7785 until you reach the northwest corner of Map/PIN 5533-57-4817. Turn southeast and follow this property line until you reach the right-of-way for the cul-de-sac on Forestbluff Drive. Continue following around the west side of the right-of-way until reaching Map/PIN 5533-57-5427. Turn southwest and follow the property line to the intersection with Map/PIN 5533-57-1174. Turn east and follow the property line of Map/PINs 5533-57-5427 and

5533-57-7516 to the intersection with Map/PIN 5533-57-7151. Turn south and follow this property line to the intersection with the Ben Black Road right-of-way.
From here, turn southwest and travel along the northerly Ben Black Road right-of-way for 727 feet. Turn southeast to the northwest corner of Map/PIN 5533-55-4997. Turn south and follow the property line of Map/PIN 5533-55-4997 until you meet Map/PIN 5533-55-7467. Now turn northeast and follow the Map/PIN 5533-55-7467 northwest property line until you meet Map/PIN 5533-66-0296. Turn southeast and travel along the property lines of Map/PINs 5533-66-0296 and 5533-66-2076 to the southern corner of Map/PIN 5533-66-2076. Turn northeast and follow the northwesterly property lines of Map/PIN 5533-76-5268 around to the north corner of Map/PIN 5533-76-2656. Cross directly over Ben Black Road to the south property line of Map/PIN 5533-77-2327.
Turn northeast and go to the southeast corner of Map/PIN 5533-77-2327. Turn northwest and go to the north corner of said property. From here, go north-northeast along the eastern borders of Map/PINs 5533-78-1051 and 5533-78-1271. At the northeast corner of 5533-78-1271 turn northwest and follow the southern boundary of Map/PIN 5533-68-6765 until you reach the Forestbluff Dr. right-of-way. Turn southwest and follow the Forestbluff Dr. right-of-way to its intersection with Map/PIN 5533-68-0070. From here, turn northwest and travel to the border of Map/PIN 5533-58-3389. Turn northeast and go to the southern corner of Map/PIN 5533-58-9936. Turn northwest and follow the property line of Map/PIN 5533-58-3389 to the end of Waterbury Road. From here, go northeast until you reach the northerly right-of-way for Waterbury Road. Turn west and go until you meet Map/PIN 5533-49-7149. Turn northeast and follow this property line until it intersects with Map/PIN 5533-49-5850. Turn southwest and go to the southern corner of said property. Turn northwest and go until you meet Map/PIN 5533-49-0935, then turn northeast and go to the easternmost corner of the property. From here, turn northwest and go to the Cabarrus Station Road right-of-way. Turn northeast and travel to the southwest property line of Map/PIN 5534-40-1154. From here, turn southeast and go to the southern corner of said property. Turn northeast and go along the southeast property lines of Map/PINs 5534-40-1154 and 5534-40-2371 to the eastern corner of Map/PIN 5534-40-2371. Turn southeast and go along the southwest property line of Map/PIN 5534-40-5408 to the south corner of Map/PIN 5534-40-5408. Turn northeast and go along the property line to the eastern corner of said property. Turn northeast and follow the northern property line for Map/PIN 5534-50-3474 up to its northern corner. Turn north-northwest and follow the eastern border of Map/PIN 5534-51-2593 until you reach the southwest corner of Map/PIN 5534-52-6179. Turn northeast and follow the border of said property until you reach the southerly right of way for Cabarrus Station Road.
Follow the Cabarrus Station Road right-of-way east to the west property line of Map/PIN 5534-72-3682. Turn southeast and follow the boundary of said property around until you meet the Cabarrus Station Road right-of-way again. Continue east on the right-of-way to the southwest edge of Map/PIN 5534-72-6774. Turn southeast and travel along the northeast edge of Map/PINs 5534-71-9823 and 5534-80-9905 to

the southern corner of Map/PIN 5534-91-5983. Turn north and go along the property line to the Bethel Avenue Extension right-of-way. Follow the westerly Bethel Avenue Extension right-of-way south to the point of intersection with Map/PIN 5534-91-6180. Turn due north to the point of intersection with the southwest property line of Map/PIN 5544-01-7629. Turn southeast and go to the southwest corner of said property. Turn southwest and follow the west property lines of Map/PINs 5543-29-0546 and 5543-09-5170 to the southwest corner of Map/PIN 5543-29-0546. Turn east and follow the south property line of Map/PIN 5543-29-0546, 5543-29-6374, 5543-29-8440, 5543-39-0670, 5543-39-4530, and 5543-39-4936 to the southeast corner of Map/PIN 5543-39-4936. Cross directly over Map/PIN 5543-37-3491 to the southwest corner of Map/PIN 5543-44-4681. Continue along the south property line of Map/PINs 5543-49-4681, 5544-40-9609 and 5544-50-5735 to the southwest corner of Map/PIN 5544-50-8763.

Follow the western boundary of 5544-50-8763 north to the northwest corner of said property. Turn west and go along the north property lines of Map/PINs 5544-50-5735 and 5544-40-9609 to the northernmost corner of Map/PIN 5544-40-9609. Turn northeast and go to the easternmost corner of Map/PIN 5544-51-3808. Turn northwest and go to the northerly northeast corner of said parcel. Turn north to the easternmost corner of Map/PIN 5544-42-8481. Go to the westernmost corner of Map/PIN 5544-63-6383. Follow the northwest perimeter of Map/PIN 5544-63-6383 north to the north corner and then southeast until you reach the property's easternmost corner. From here follow the southern border of Map/PIN 5544-83-4451 to the western corner of Map/PIN 5544-83-7180. Turn southwest along the west property line of Map/PINs 5544-92-1669 and 5544-92-0588 to the northwest corner of Map/PIN 5544-92-2309. Turn southeast and follow around the north, east, and south borders of said property until you reach its southwest corner. Turn south and follow the western border of Map/PIN 5544-91-2911 until you reach the centerline of the Norfolk Southern Railway tracks.

From here, cross to the south side of the railroad track to the northwest corner of Map/PIN 5544-91-6017. Follow the southwest border of said property until you reach the centerline of Highway 601. Follow the centerline of Highway 601 south for approximately 2364 feet until you reach a point directly opposite the southwest property line of Map/PIN 5543-89-3040. Turn southeast and go along the southwest property lines of Map/PINs 5543-89-3040 and 5543-88-7716 to the southernmost corner of Map/PIN 5543-88-7716. Turn northeast and follow the boundary of said property to its easternmost corner. Turn northwest and follow the same boundary and the northeast boundary of Map/PIN 5543-89-3040 to the southernmost corner of Map/PIN 5543-89-5201. Turn northeast and follow the boundary of Map/PIN 5543-88-8145 around to the intersection with the northwest corner of Map/PIN 5553-08-6749. Continue east along the northern border of Map/PIN 5553-08-6749 until you reach the Hopewell Church Road westerly right-of-way. Turn southeast and continue following the right-of-way to the northern perimeter of Map/PIN 5553-18-1552. From here, turn southwest and follow the boundary of Map/PINs 5553-08-6749 and 5543-88-8145 until you reach the westernmost corner of Map/PIN 5543-97-0017. Turn

southeast and follow the border of Map/PIN 5543-97-0017 to the intersection with Map/PIN 5543-97-6556. At this point, turn northeast and follow the southern boundary of said property to the intersection with Map/PIN 5553-06-9822. From here, follow the eastern border of Map/PIN 5543-96-6459 south to the southwest corner of Map/PIN 5553-06-6441. Turn southeast and follow the south boundary of Map/PIN 5553-06-6441 to its southeast corner. Cross directly over Map/PIN 5553-15-8474 and Hopewell Church Road to the southwest corner of Map/PIN 5553-15-4576. Continue southeast along the property lines of Map/PINs 5553-15-4576 and 5553-15-8474 to the southernmost corner of Map/PIN 5553-15-8474. Turn northeast and follow the perimeter of said property until you reach the easterly Hopewell Church Road right-of-way. Turn northeast and follow the right-of-way to the southwest border of Map/PIN 5553-16-9800. Turn southeast and follow the northeast border of Map/PIN 5553-24-9675 to the southernmost corner of Map/PIN 5553-26-8196. Turn northeast and follow the northwest boundary of Map/PIN 5553-35-9990 to its northernmost corner. Continue northeast, following the eastern boundary of Map/PIN 5553-38-6833. Continue along the perimeter of said property until you reach the southernmost corner of Map/PIN 5553-29-5443.

From here, turn northwest and follow the northeast border of Map/PIN 5553-18-6976 to the southern corner of Map/PIN 5553-19-6599. Turn northeast and follow the west boundary of Map/PIN 5553-29-5443 to its northernmost corner. Continue north along the northwest border of Map/PIN 5554-20-2483 until you reach Garmon Mill Road. Cross Garmon Mill Road to a point 27 feet west of the southeast corner of Map/PIN 5554-21-2045 on the south property line of said parcel. Turn east and go to the southeast corner of Map/PIN 5554-21-2045, cross over Oak St., and follow the Chaney Road northern right-of-way to the southeast corner of Map/PIN 5554-21-4046. Turn north and follow the western boundary of Map/PIN 5554-31-1263, directly across the Norfolk Southern Railway right-of-way to the west edge of Map/PIN 5554-31-0864, and continue along the west property line of said property and Map/PIN 5554-32-0922 to the west corner of Map/PIN 5554-32-0922. At the intersection with Map/PIN 5554-23-1707, continue northwest along said property's southwest boundary until you reach the northeast corner of Map/PIN 5554-13-6172. Turn west-southwest and follow the south and west boundaries of Map/PIN 5554-13-3760 around until you reach the property's northeasternmost corner. At this point, turn northeast and follow the western boundary of Map/PIN 5554-24-2721 to its northerly northwest corner. Turn northwest and follow the northern border of Map/PIN 5554-16-5399 until you reach the easterly right-of-way of US Highway 601.

Thence continue northeast along the right-of-way on the southeast side of US Highway 601 to its intersection with the southwest border of property Map/PIN 5554-17-6858. Thence continue southeast along the property line to the southeastern corner of said property. From that corner continue northeast along the property line of said property and property Map/PIN 5554-18-6075 to the northeastern corner of Map/PIN 5554-18-6075. Thence continue southeast along the property line of Map/PIN 5554-18-7280 to the southeast corner of said property. From that corner continue northeast along the eastern property line of the property and the property Map/PIN 5554-18-

8327 to the northeast corner of 5554-18-8327. Thence continue southeast to the southeast corner of Map/PIN 5554-18-7567.

Thence continue to the southernmost corner of property Map/PIN 5554-29-4168. Turn northeast and follow the northerly property line of Map/PIN 5554-38-7270 around to the southwest corner of Map/PIN 5554-49-7745. Thence continue east along the Map/PIN 5554-49-7745 property line and the property line of Map/PIN 5554-49-8595 to the southeast corner of the property. Thence continue east along the southern right-of-way of Loving Road to the property line of Map/PIN 5554-58-7874. From that point continue south along the property lines of said property and property Map/PIN 5554-58-2939 for approximately 723 feet to a point directly opposite the southwest corner of Map/PIN 5554-58-3931.

From that point continue east to the southwest corner and then to the southeast corner of property Map/PIN 5554-58-3931. Thence continue north along said property line to the northerly northeast corner of the property. From that corner of the property continue northeast directly across the property of Map/PIN 5554-58-7874 to the southern property line of Map/PIN 5554-59-4334. Thence continue east along the property line to the easterly northeast corner of the property. From that point continue directly across the property Map/PIN 5554-58-7874 to the property line of Map/PIN 5554-59-8365. Thence continue southeast to the southerly southwest corner of Map/PIN 5554-59-8365. Thence continue south to the northwest corner of Map/PIN 5554-69-0079. Thence continue southeast along the property line to the southernmost corner of Map/PIN 5554-69-2254. From that corner continue northeast along the property line to the southwestern corner of property Map/PIN 5554-69-5056. Thence continue southeast along the property lines of said property and property Map/PIN 5554-68-8951 to the southernmost corner of the property Map/PIN 5554-68-8951. Thence continue northeast along the eastern side of the property to the point of intersection with McManus Road. Turn and go east to the intersection with the McManus Road right-of-way.

Thence continue northeast along the right-of-way of McManus Road on the eastern side of the road to the intersection with the south border of property Map/PIN 5555-70-2167. Thence continue east to the southeastern corner of Map/PIN 5555-70-2167 then northeast to the northeasternmost corner and then northwest to the point of intersection with the McManus Road right-of-way. Thence continue northeast along the right-of-way on the eastern side of the road to the southwest property line of property Map/PIN 5555-70-4703. Thence continue southeast along the property line to the southernmost corner of said property and then northerly along the eastern property line to the point of intersection with NC Highway 24/27 southerly right of way. Thence continue directly across the Highway to the southeast corner of property Map/PIN 5555-72-5202. Continue along the southerly property lines of Map/PIN 5555-71-7706 and 5555-71-8321 to the southeast corner of Map/PIN 5555-71-8321.

Thence continue northwest along the eastern boundary to the northeast corner of the property. Thence continuing northwest along the property line of Map/PIN 5555-71-7706 to the northernmost corner of the property Map/PIN 5555-71-7706. Thence continue southwest along the westerly property line of said property and property

Map/PIN 5555-71-5202 to the point of intersection with the NC Highway 24/27 right-of-way. Thence continue southwest along the northern right-of-way of NC Highway 24/27 to the point of intersection with the east property line of Map/PIN 5555-61-8154. Thence continue northerly along the property line of said property to the northernmost corner. From that corner continue southwest along the northwest property line to the point of intersection with the NC Highway 24/27 right-of-way. Thence continue west along the northern right-of-way to the point of intersection with the east property line of property Map/PIN 5555-50-3891.

From that point continue northwest along the eastern property line of Map/PIN 5555-50-3891 to the northernmost corner of the property. Thence continue northeast along the southeast property line of property Map/PIN 5555-51-3993 to the northeastern corner of the property. Thence continue northwest along the northern property line to the northwestern corner of the property and continue southwest along the western property line of the property to the point of intersection with the NC Highway 24/27 right-of-way. Thence continue southwest along the northern right of way to the point of intersection with the property Map/PIN 5555-30-9401. Thence continue northeast along said property line to the northeast corner of the property and then southwest along the property line to the northwestern corner of the property. Thence continue northeast along the east property lines of Map/PINs 5555-30-6464 and 5555-30-8813 to the northeast corner of Map/PIN 5555-30-8813. Thence continue around the perimeter of Map/PIN 5555-30-8813 to the northwest corner of Map/PIN 5555-30-6464.

Cross over Widenhouse Road to the northeast corner of property Map/PIN 5555-30-3368. Thence continue northwest along the northern property line of Map/PIN 5555-30-3368 to the northwestern corner of the property. Thence continue northeast along the southeast property line of Map/PIN 5555-20-7506 to the northeastern corner of the property. From that corner continue northwest along the northern property line to the point of intersection with property Map/PIN 5555-21-3274. Thence continue northeast along the property line of said property to the northeastern corner of the property. From that corner continue west to the northwest corner of the property and continue south to the southwest corner. Cross directly over US Highway 601 to the northeast corner of property Map/PIN 5555-11-2213. Thence continue northwest along the northern property line of said property to the northernmost corner of the property.

Thence continue southwest along the northwest property line of property Map/PIN 5555-01-2134 to the west corner of the property. From that corner continue southwest along the property line of the property Map/PIN 5545-90-6414 to the point of intersection with the property Map/PIN 5545-90-1280. Thence continue northwest to the northwestern corner of said property. From that corner continue southwest along the property line to the southwest corner of Map/PIN 5545-90-1280 then southeast to the point of intersection with property Map/PIN 5544-99-4865. Thence continue southwest along the property line of Map/PIN 5544-99-4865 to the intersection with Map/PIN 5544-99-0543. Thence continue west along the northern boundary of said

property and property Map/PIN 5544-89-8583 to the northwestern corner of Map/PIN 5544-89-8583.

Thence continue south to the intersection with the northerly NC Highway 24/27 right-of-way. Thence continue west along the northern right-of-way of NC Highway 24/27 to the point of intersection with the property Map/PIN 5544-79-6696. Turn north, and follow the western border of Map/PIN 5545-80-6865 to the northeast corner of Map/PIN 5545-71-6954. Turn west and follow the northern border of said property and Map/PIN 5545-71-2774 until you reach the northwest corner of Map/PIN 5545-71-2774. Turn southwest and follow the boundaries of Map/PINs 5545-71-2774, 5545-71-0151, and 5545-60-9722 to the southeast corner of Map/PIN 5545-61-1127. Turn northwest and travel to the southwest corner of Map/PIN 5545-61-1127. Turn northeast and follow the western border of said property to its northwestern corner.

Turn northwest and follow the northern border of Map/PIN 5545-41-9555 until you reach the Jim Sossoman Road right-of-way. Turn northeast and follow the eastern right-of-way to its point of intersection with Map/PIN 5545-62-3629. Turn southeast and follow the southern boundary of Map/PIN 5545-62-3629 to its southeast corner. Turn north and follow the eastern bounds of Map/PINs 5545-62-3629, 5545-62-4814, 5545-62-4978, 5545-63-5135, 5545-53-8663, 5545-63-6465, 5545-63-7640, and 5545-64-1035 to the northeast corner of Map/PIN 5545-64-1035. Turn northwest and follow the border of said property to the Jim Sossoman Road eastern right-of-way.

Turn northeast and follow the eastern right-of-way to the intersection with Map/PIN 5545-74-8667. Turn southeast and follow the southern border of Map/PIN 5545-74-8667 to its easternmost corner. Continue northeast along the southeast border of Map/PIN 5545-84-6783 to its easternmost corner. Turn northwest and follow the east border of Map/PIN 5545-84-6783 to the northeast corner crossing over an unnamed right-of-way to the southeast corner of Map/PIN 5545-85-7344. Continue along the eastern and northern borders of said property until you reach the property's northwest corner. Continue northwest along the northern border of Map/PIN 5545-85-3576 to its northern corner. Turn southwest and go to the southwest corner of said property. When you reach an unnamed right-of-way, turn northwest and follow the right-of-way to the Jim Sossoman Road eastern right-of-way. When you reach the right-of-way for Jim Sossoman Road, turn northeast and follow the eastern right-of-way to its point of intersection with Map/PIN 5545-98-7291.

From this point, travel east along the southern border of Map/PIN 5545-98-7291 until you reach its southeast corner. Turn south and follow the eastern border of Map/PIN 5545-97-7724 and 5555-06-6822 to the southeast corner of 5555-06-6822. Turn southeast and follow the border of Map/PIN 5545-87-4111 southeast and then southwest to the southeast corner. From here, turn east and follow the northeast perimeter of Map/PIN 5555-03-7435 until you reach the southeast corner of Map/PIN 5555-12-6854. Turn north and follow the easterly property line of Map/PINs 5555-12-6854, 5555-12-6938, 5555-13-5302, 5555-13-4567, 5555-13-4840, 5555-14-4080, 5555-14-4158, 5555-14-4356, 5555-14-1498, 5555-14-4651, 5555-14-3932, and 5555-15-5279 to the northeast corner of Map/PIN 5555-15-5279. Turn southeast, cross the road to the southwest corner of Map/PIN 5555-25-0668, and continue to the southeast corner of

Map/PIN 5555-25-0668. Turn northeast and follow the western boundary of Map/PIN 5555-35-9827 to the northernmost corner of Map/PIN 5555-26-7559. Cross Mt. Pleasant Road to the southeast corner of Map/PIN 5555-27-5019. Proceed north along the easterly property line of said parcel and Map/PINs 5555-27-5383 and 5555-27-6647 to the southeast corner of Map/PIN 5555-28-5511.

Continue west along the southern boundary of Map/PIN 5555-28-5511 to its southwest corner. Cross Highway 601 to the southeast corner of Map/PIN 5555-17-6979. Proceed northerly along the easterly property lines of Map/PINs 5555-17-6979, 5555-18-6156, 5555-18-5472, 5555-18-4955, and 5555-19-2451 to the southeast corner of Map/PIN 5555-19-3854. Cross Highway 601 to the northwest corner of Map/PIN 5555-29-0676. Proceed along the west and south borders of the parcel to the southeast corner of said property. Follow the northeast property line of said parcel to the south corner of Map/PIN 5555-29-2721. Continue north on the east property line of Map/PIN 5555-29-2721 to the northeastern corner of said parcel. Turn northwest and follow the border of said property to its northwest corner. Turn northeast and follow the western border of Map/PIN 5555-29-9552 to its northwest corner. Turn west and follow the southern border of Map/PIN 5556-21-3259 back to the easterly US Highway 601 right-of-way. Staying on the east side right-of-way, continuing along Map/Pin 5556-21-3259 northwest then northeast to the intersection of Map/PIN 5556-23-1563. Turn west and follow the southern border of Map/PIN 5556-23-1563 to the Point of Beginning.

This area excludes any area described in Section 1 of S.L. 2000-7.

"CHAPTER III.

"GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Midland shall be the Town Council, which shall have four members, and the Mayor.

"Section 3.2. **Manner of Electing Town Council; Term of Office.** The qualified voters of the entire Town shall elect the members of the Town Council and, except as provided in this section, they shall serve four-year terms. In 2001, the two candidates receiving the highest number of votes shall be elected to four- year terms and the two candidates receiving the next highest number of votes shall be elected to two-year terms. In 2003 and biennially thereafter, two members shall be elected to four-year terms.

"Section 3.3. **Manner of Electing Mayor; Term of Office.** The qualified voters of the entire Town shall elect the Mayor. In 2001 and quadrennially thereafter, the Mayor shall be elected for a term of four years.

"Section 3.4. **Initial Council.** Until the organizational meeting after the initial regular municipal election of 2001, L.W. 'Bunk' Whitley, Joyce Beatty, and Dan Short are hereby appointed as members of the Town Council. Until that time, the Council shall consist of three members. Until the organizational meeting after the initial regular municipal election of 2001, the Town Council shall choose from among its members one person to serve as Mayor.

"CHAPTER IV.

"ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and results determined by a plurality as provided in G.S. 163-292.

"CHAPTER V.

"ADMINISTRATION.

"Section 5.1. **Town to Operate Under Mayor-Council Plan.** The Town of Midland shall operate under the Mayor-Council form of government as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes."

Section 2. From and after the effective date of this act, the citizens and property in the Town of Midland shall be subject to municipal taxes levied for the year beginning July 1, 2000. For that purpose the Town shall obtain from Cabarrus County a record of property in the area herein incorporated which was listed for taxes as of January 1, 2000. The Town may adopt a budget ordinance for fiscal year 2000-2001 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 2000-2001, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360.

Section 3. The Cabarrus County Board of Elections shall conduct an election on November 7, 2000, for the purpose of submission to the qualified voters of the area described in Section 2.1 of the Charter of the Town of Midland the question of whether or not the area shall be incorporated as the Town of Midland. Registration for the election shall be conducted in accordance with G.S. 163-288.2.

Section 4. In the election, the question on the ballot shall be:

"[ ]FOR [ ]AGAINST

Incorporation of the Town of Midland."

Section 5. In the election, if a majority of the votes are cast "For incorporation of the Town of Midland", Sections 1 through 2 of this act shall become effective on the date that the Cabarrus County Board of Elections certifies the results of the election. Otherwise, those sections shall have no force and effect.

Section 6. This act is effective when it becomes law.

MINUTES
HOUSE COMMITTEE ON FINANCE

Wednesday, July 5, 2000

The House Committee on Finance met on Wednesday, July 5, 2000 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen and Miller; Vice Chair Jarrell; Representatives Bridgeman, Brown, Buchanan, Capps, Church, Cox, Decker, Dedmon, Eddins, Edwards, Ford, Gibson, Goodwin, Gray, Hackney, Haire, Hill, Howard, Morris, Pope, Rayfield, Starnes, Tucker, Weiss, Wilson and Womble; and Ex Officio members Baddour and Earle. Staff including Cindy Avrette, Richard Bostic, Gerry Cohen, Linda Millsaps, Mary Shuping; Eugene Son and Rebekah Butler, Interns; were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Miller called the meeting to order. Chair Miller recognized the pages and Sargent-at-Arms staff and commented briefly on the agenda and proceeded to consider the following bills:

Rep. Womble was recognized to explain HB 1359, A BILL TO BE ENTITLED AN ACT AUTHORIZING THE CITY OF WINSTON-SALEM TO REMOVE AND DISPOSE OF MOTOR VEHICLES THAT POSE A SAFETY HAZARD. Rep. Jarrell made a motion to adopt a Proposed Committee Substitute. The motion passed. Rep. Womble sent forth a technical amendment. Staff was recognized to explain the amendment. Rep. Womble made a motion to adopt an amended Proposed Committee Substitute. The motion passed. Rep. Jarrell made a motion to give the Proposed Committee Substitute a favorable report and give the original bill an unfavorable report. The motion passed. A copy of the bill and the Proposed Committee Substitute included in the minutes.

Senator Hoyle was recognized to explain SB 1463, A BILL TO BE ENTITLED AN ACT TO ALLOW DARE COUNTY TO CREATE SPECIAL DISTRICTS TO UNDERGROUND LINES. Rep. Allen sent forth an amendment and made a motion to adopt. The motion passed. Rep. Buchanan made a motion to give the Proposed Committee Substitute a favorable report and give the original bill an unfavorable report. Rep. Haire asked if this was new legislation. Senator Hoyle stated that prior legislation allowed electric lines to be placed underground and this bill would allow telephone lines to be placed underground as well. Rep. Culpepper was recognized to speak on the bill. Rep. Culpepper stated that as amended, this bill would exempt people of financial hardship from being charged hook up fees to be connected at their house. Rep. Culpepper noted that each township would have to agree to be included in one of these districts. Rep. Starnes asked if there was a sunset included in the bill regarding the initial assessment. Staff was recognized to respond. Cindy Avrette, General Counsel, stated that once the lines have been undergrounded and the costs have been paid the board of Commissioners will terminate assessment. Rep. Howard asked if there was going to be "no-cost" to the citizens to accept this process. Mike Thompson, with North Carolina Power, was recognized to explain the process. Mr. Thompson stated that if the lines were taken from overhead to underground there would be a charge incurred. Rep. Howard asked if Mr. Thompson had any idea what that cost would be. Mr. Thompson noted that it would vary per individual. Rep. Howard requested the ayes and nayes on the vote. Rep. Capps was recognized to speak on the bill. Rep. Capps noted that he would not support the bill because he felt it was a tax

increase and he would prefer that the citizens of Dare County to vote on this issue. Chair Miller requested staff to clarify this issue. Gerry Cohen, Director of Bill Drafting, was recognized to respond. Mr. Cohen stated that this bill authorizes the Dare County officials to levy the assessment. Rep. Eddins asked how many people would qualify under the proposed financial hardship clause. Pam Wescott, with Sprint, was recognized to respond. Ms. Wescott stated that there would be approximately 3,000 people who would qualify. Rep. Allen sent forth an amendment. Gerry Cohen was recognized to explain the amendment. Mr. Cohen stated that the amendment would cover the cost of transferring the overhead to the underground service. The motion passed. Rep. Buchanan made a motion to give the Proposed Committee Substitute a favorable report and give the original bill an unfavorable report. The roll was called. By a vote of 17 ayes and 11 nayes, the motion passed. A copy of the bill, amendment, Proposed Committee Substitute, fiscal note and roll call vote included in the minutes.

Rep. Haire was recognized to explain SB 586, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE CREATION OF MILLENNIAL CAMPUSES AT THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA. Chancellor John Bardo, with Western Carolina University, was recognized to speak on the bill. Chancellor Bardo stated that faculty members at a regional comprehensive university spend a majority of their time teaching in the classroom while retaining their research responsibilities. Chancellor Bardo noted that in addition to teaching and research, regional comprehensive universities are looked at as drivers of economic development. Chancellor Bardo noted that the millennial campus would be a continuation of this theme. Chancellor Bardo stated that this bill would promote economic development in the mountain regions and allow graduates to work in the mountain regions without having to move to rural areas to work. Chair Miller noted that the committee was out of time and would continue with this bill at tomorrow's meeting. A copy of the bill, bill analysis and fiscal note included in the minutes.

There being no further business, the Chair adjourned the meeting at 11:00 a.m.

Respectfully submitted:

Representative George Miller
Chair

Ken Melton
Assistant to the Committee

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL
CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Wednesday, July 5, 2000 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

SB 1463 – DARE UTILITY UNDERGROUNDING AMEND. – SENATOR HOYLE
SB 1359 – WINSTON-SALEM LOCAL ACT – SENATOR HORTON
SB 586 – UNC MILLENIUM CAMPUSES – SENATOR LEE

ADJOURNMENT OF MEETING

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES		7-5														
Allen, Gordon	Chair	X														
Luebke, Paul	Chair															
Miller, George	Chair	X														
Jarrell, Mary	Vice-Chair	X														
Wood, Steve	Vice-Chair															
Bridgeman, John		X														
Brown, John		X														
Buchanan, Monroe		X														
Capps, Russell		X														
Church, Walter		X														
Cox, Leslie		X														
Creech, Billy																
Decker, Michael		X														
Dedmon, Andy		X														
Eddins, Rick		X														
Edwards, Zeno		X														
Fitch, Toby																
Ford, Jimmie		X														
Gibson, Pryor		X														
Goodwin, Wayne		X														
Gray, Lyons		X														
Hackney, Joe		X														
Haire, Phillip		X														
Hill, Dewey		X														
Howard, Julia		X														
McComas, Daniel																

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES	7-5														
McCombs, Eugene															
Miner, David															
Morris, Mia	X														
Pope, Art	X														
Ramsey, Liston															
Rayfield, John	X														
Starnes, Edgar	X														
Tallent, Tim															
Tucker, Russell	X														
Weiss, Jennifer	X														
Wilson, Connie	X														
Womble, Larry	X														
Wright, Thomas															
Ex Officio Members:															
Hackney, Pro Tem	X														
Baddour, Majority	X														
Dedmon, Whip	X														
Earle, Whip	X														
Cunningham															

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sharon Miller	NCCA
[illegible]	W-S Journal
John Bardo	Western Carolina Univ
Elizabeth Greenstein	OSBM
[illegible]	OSBM
[illegible]	OSBM
Hal Miller	NCACCT
[illegible]	State Govt. Offices
GEORGE WORSLEY	NC STATE UNIV
Mark Henry	NC State University
Karl Knapp	City of Winston-Salem
Natalie English	Charlotte Chamber
Michael A. Thompson	Dominion North Carolina Power
Ed Regan	N.C. Assoc. of Co. Commissioners
Cam Cather	BPMHL
John H. Cyprus	N.C. State Grange
Mari [illegible]	NCSFPS
Pam Wescott	Sprint
Austin Brown	East Carolina Univ.
Ed Kizer	UNC Charlotte
Kim Hibbard	NCLM
Emily Meeker	CCNC
Mike Carpenter	NCAHA
[illegible]	CPAC

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

House

☒ Committee Substitute for
S.B. 1359 A BILL TO BE ENTITLED AN ACT AUTHORIZING THE CITY OF WINSTON-SALEM TO REMOVE AND DISPOSE OF MOTOR VEHICLES THAT POSE A SAFETY HAZARD.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to House committee substitute bill (# 2), ☐ ~~which changes the title,~~ unfavorable as to ~~(original bill)~~ (House Committee Substitute Bill # 1), ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 3

SENATE BILL 1359
State and Local Government Committee Substitute Adopted 6/26/00
House Committee Substitute Favorable 6/30/00

Short Title: Winston-Salem Local Act. (Local)

Sponsors:

Referred to:

May 22, 2000

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE CITY OF WINSTON-SALEM TO REMOVE AND DISPOSE OF MOTOR VEHICLES THAT POSE A SAFETY HAZARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-303 reads as rewritten:

"**§ 160A-303. Removal and disposal of junked and abandoned motor ~~vehicles.~~ vehicles and motor vehicles that constitute a safety hazard.**

(a) A city may by ordinance prohibit the abandonment of motor vehicles on the public streets or on public or private property within the city, and may enforce any such ordinance by removing and disposing of junked or abandoned motor vehicles or motor vehicles that constitute a safety hazard according to the procedures prescribed in this section.

(b) A motor vehicle is defined to include all machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

(b1) An abandoned motor vehicle is one that:

(1) Has been left upon a street or highway in violation of a law or ordinance ~~prohibiting parking; or~~ that prohibits parking or requires the display of a valid license plate or registration sticker; or

(2) Is left on property owned or operated by the city for longer than 24 hours; or

(3) Is left on private property without the consent of the owner, occupant, or lessee thereof for longer than two hours; or

(4) Is left on any public street or highway for longer than seven ~~days.~~ days, or within the corporate limits of the City of Winston-Salem for longer than 48 hours on:

a. U.S. Highway 52;

b. Interstate Highway 40; ~~or~~

c. Business Interstate Highway 40;

d. Peters Creek Parkway;

e. Silas Creek Parkway; or

f. Highway 421.

~~within the corporate limits of the City of Winston-Salem for longer than 48 hours.~~

(b2) A junked motor vehicle is an abandoned motor vehicle that also:

(1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or moved in the manner in which it was originally intended to move; or

(3) Is more than five years old and worth less than ~~one hundred dollars ($100.00);~~ five hundred dollars ($500.00); or

(4) Does not display a current license plate.

(b3) A motor vehicle that constitutes a safety hazard is one that is left upon a public street or highway or private property longer than 48 hours; has been declared a safety hazard, without regard to whether the vehicle is abandoned or junked as defined in this section, by the Board of Aldermen or a duly authorized city official or employee pursuant to an ordinance adopted under this section; and:

(1) Is a breeding ground or harbor for rats;

(2) Is a point of concentration or source of leaking of uncontained gasoline, oil, or other flammable or explosive materials;

(3) Is positioned in a way that there is a danger it will fall or turn over; or

(4) Is a source of danger for children because they might become entrapped in areas of confinement that cannot be opened from the inside.

(c) Any junked or abandoned motor vehicle or motor vehicle that constitutes a safety hazard that is found to be in violation of an ordinance adopted under this section may be removed to a storage garage or area, but no ~~such~~ junked or abandoned motor vehicle or motor vehicle that constitutes a safety hazard shall be removed from private property without the written request of the owner, lessee, or occupant of the ~~premises unless the council or a duly authorized city official or employee has declared it to be a health or safety hazard.~~ premises. The city may require any person requesting the removal of a ~~junked or abandoned~~ motor vehicle from private property to indemnify the city against any loss, expense, or liability incurred because of the removal, storage, or sale thereof. When ~~an abandoned or~~

~~junked~~ a motor vehicle is removed, the city shall give notice to the owner as required by G.S. 20-219.11(a) and (b).

(d) Hearing Procedure. -- Regardless of whether a city does its own removal and disposal of motor vehicles or contracts with another person to do so, the city, shall provide a hearing procedure for the owner. For purposes of this subsection, the definitions in G.S. 20-219.9 apply.

(1) If the city operates in such a way that the person who tows the vehicle is responsible for collecting towing fees, all provisions of Article 7A, Chapter 20, apply.

(2) If the city operates in such a way that it is responsible for collecting towing fees, it shall:

a. Provide by contract or ordinance for a schedule of reasonable towing ~~fees,~~ fees and storage fees that are comparable to the fees customarily charged to the public by local private towers.

b. Provide a procedure for a prompt fair hearing to contest the towing,

c. Provide for an appeal to district court from that hearing,

d. Authorize release of the vehicle at any time after towing by the posting of a bond or paying of the fees due, and

e. Provide a sale procedure similar to that provided in G.S. 44A-4, 44A-5, and 44A-6, except that no hearing in addition to the probable cause hearing is required. If no one purchases the vehicle at the sale and if the value of the vehicle is less than the amount of the lien, the city may destroy it.

(e) Repealed by Session Laws 1983, c. 420, s. 13.

(f) No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of any abandoned, lost, or stolen motor vehicle for disposing of the vehicle as provided in this section.

(g) Nothing in this section shall apply to any vehicle in an enclosed building or any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, or to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city.

(h) Repealed by Session Laws 1983, c. 420, s. 13."

Section 2. G.S. 160A-303.2(a) reads as rewritten:

"(a) A municipality may by ordinance regulate, restrain or prohibit the abandonment of junked motor vehicles on public grounds and on private property within the municipality's ordinance-making jurisdiction upon a finding that such regulation, restraint or prohibition is necessary and desirable to promote or enhance community, neighborhood or area appearance, and may enforce any such ordinance by removing or disposing of junked motor vehicles subject to the ordinance according to the procedures prescribed in this section. The authority granted by this section

shall be supplemental to any other authority conferred upon municipalities. Nothing in this section shall be construed to authorize a municipality to require the removal or disposal of a motor vehicle kept or stored at a bona fide 'automobile graveyard' or 'junkyard' as defined in G.S. 136-143.

For purposes of this section, the term 'junked motor vehicle' means a vehicle that does not display a current license plate and that:

(1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or

(3) Is more than five years old and appears to be worth less than ~~one hundred dollars ($100.00).~~ five hundred dollars ($500.00)."

Section 3. This act applies to the City of Winston-Salem only.

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1359
State and Local Government Committee Substitute Adopted 6/26/00
House Committee Substitute Favorable 6/30/00
HOUSE FINANCE COMMITTEE SUBSTITUTE
S1359-CSRB-7.5A

Short Title: Winston-Salem Local Act. (Local)

Sponsors:

Referred to:

May 22, 2000

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE CITY OF WINSTON-SALEM TO REMOVE AND DISPOSE OF MOTOR VEHICLES THAT POSE A SAFETY HAZARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-303 reads as rewritten:

"**§ 160A-303. Removal and disposal of junked and abandoned motor ~~vehicles.~~ vehicles and motor vehicles that constitute a safety hazard.**

(a) A city may by ordinance prohibit the abandonment of motor vehicles on the public streets or on public or private property within the city, and may enforce any such ordinance by removing and disposing of junked or abandoned motor vehicles or motor vehicles that constitute a safety hazard according to the procedures prescribed in this section.

(b) A motor vehicle is defined to include all machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

(b1) An abandoned motor vehicle is one that:

(1) Has been left upon a street or highway in violation of a law or ordinance ~~prohibiting parking; or~~ that prohibits parking or requires the display of a valid license plate or registration sticker; or

(2) Is left on property owned or operated by the city for longer than 24 hours; or

(3) Is left on private property without the consent of the owner, occupant, or lessee thereof for longer than two hours; or

(4) Is left on any public street or highway for longer than seven ~~days.~~ days, or within the corporate limits of the City of Winston-Salem for longer than 48 hours on:

a. U.S. Highway 52;

b. Interstate Highway 40; ~~or~~

c. Business Interstate Highway 40;

d. Peters Creek Parkway;

e. Silas Creek Parkway; or

f. Highway 421.

~~within the corporate limits of the City of Winston-Salem for longer than 48 hours.~~

(b2) A junked motor vehicle is an abandoned motor vehicle that also:

(1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or moved in the manner in which it was originally intended to move; or

(3) Is more than five years old and worth less than ~~one hundred dollars ($100.00);~~ five hundred dollars ($500.00); or

(4) Does not display a current license plate.

(b3) A motor vehicle that constitutes a safety hazard is one that is left upon a public street or highway or private property longer than 48 hours; has been declared a safety hazard, without regard to whether the vehicle is abandoned or junked as defined in this section, by the Board of Aldermen or a duly authorized city official or employee pursuant to an ordinance adopted under this section; and:

(1) Is a breeding ground or harbor for rats;

(2) Is a point of concentration or source of leaking of uncontained gasoline, oil, or other flammable or explosive materials;

(3) Is positioned in a way that there is a danger it will fall or turn over; or

(4) Is a source of danger for children because they might become entrapped in areas of confinement that cannot be opened from the inside.

(c) Any junked or abandoned motor vehicle or motor vehicle that constitutes a safety hazard that is found to be in violation of an ordinance adopted under this section may be removed to a storage garage or area, but no ~~such~~ junked or abandoned motor vehicle or motor vehicle that constitutes a safety hazard shall be removed from private property without the written request of the owner, lessee, or occupant of the ~~premises unless the council or a duly authorized city official or employee has declared it to be a health or safety hazard.~~ premises. Prior to removing a vehicle that constitutes a safety hazard from private property, the city shall attach a notice to the vehicle stating the nature of the safety hazard and indicating that the vehicle is subject to removal within 72 hours if the safety hazard is not eliminated. THe city shall also provide the same notice to the owner, lessee, or occupant of the

premises, either by personal service or certified mail. The city may require any person requesting the removal of a ~~junked or abandoned~~ motor vehicle from private property to indemnify the city against any loss, expense, or liability incurred because of the removal, storage, or sale thereof. When ~~an abandoned or junked~~ a motor vehicle is removed, the city shall give notice to the owner as required by G.S. 20-219.11(a) and (b).

(d) Hearing Procedure. -- Regardless of whether a city does its own removal and disposal of motor vehicles or contracts with another person to do so, the city, shall provide a hearing procedure for the owner. For purposes of this subsection, the definitions in G.S. 20-219.9 apply.

(1) If the city operates in such a way that the person who tows the vehicle is responsible for collecting towing fees, all provisions of Article 7A, Chapter 20, apply.

(2) If the city operates in such a way that it is responsible for collecting towing fees, it shall:

a. Provide by contract or ordinance for a schedule of reasonable towing ~~fees;~~ fees and storage fees that are comparable to the fees customarily charged to the public by local private towers.

b. Provide a procedure for a prompt fair hearing to contest the towing,

c. Provide for an appeal to district court from that hearing,

d. Authorize release of the vehicle at any time after towing by the posting of a bond or paying of the fees due, and

e. Provide a sale procedure similar to that provided in G.S. 44A-4, 44A-5, and 44A-6, except that no hearing in addition to the probable cause hearing is required. If no one purchases the vehicle at the sale and if the value of the vehicle is less than the amount of the lien, the city may destroy it.

(e) Repealed by Session Laws 1983, c. 420, s. 13.

(f) No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of any abandoned, lost, or stolen motor vehicle for disposing of the vehicle as provided in this section.

(g) Nothing in this section shall apply to any vehicle in an enclosed building or any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, or to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city.

(h) Repealed by Session Laws 1983, c. 420, s. 13."

Section 2. G.S. 160A-303.2(a) reads as rewritten:

"(a) A municipality may by ordinance regulate, restrain or prohibit the abandonment of junked motor vehicles on public grounds and on private property within the municipality's ordinance-making jurisdiction upon a finding that such

regulation, restraint or prohibition is necessary and desirable to promote or enhance community, neighborhood or area appearance, and may enforce any such ordinance by removing or disposing of junked motor vehicles subject to the ordinance according to the procedures prescribed in this section. The authority granted by this section shall be supplemental to any other authority conferred upon municipalities. Nothing in this section shall be construed to authorize a municipality to require the removal or disposal of a motor vehicle kept or stored at a bona fide 'automobile graveyard' or 'junkyard' as defined in G.S. 136-143.

For purposes of this section, the term 'junked motor vehicle' means a vehicle that does not display a current license plate and that:

(1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or

(3) Is more than five years old and appears to be worth less than ~~one hundred dollars ($100.00).~~ five hundred dollars ($500.00)."

Section 3. This act applies to the City of Winston-Salem only.

Section 4. This act is effective when it becomes law.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) ALLEN, LUEBKE AND MILLER for the Committee on FINANCE.

☒ Committee Substitute for #2
S.B. 1463 A BILL TO BE ENTITLED AN ACT TO ALLOW DARE COUNTY TO CREATE SPECIAL DISTRICTS TO UNDERGROUND LINES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill (#), ☐ ~~which changes the title~~, unfavorable as to ~~(original bill)~~ (Committee Substitute Bill # 2), ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 3

SENATE BILL 1463
State and Local Government Committee Substitute Adopted 6/14/00
Finance Committee Substitute No. 2 Adopted 6/22/00

Short Title: Dare Utility Undergrounding Amendments. (Local)

Sponsors:

Referred to:

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO ALLOW DARE COUNTY TO CREATE SPECIAL DISTRICTS TO UNDERGROUND LINES.

The General Assembly of North Carolina enacts:

Section 1. Authorization to Create Utility District. A county board of commissioners may create one or more Utility Districts for the purpose of raising and expending funds to underground electric and telephone utility lines in the district.

Section 2.(a) Procedure. A county board of commissioners may by resolution signify its determination to create a Utility District under the provisions of this act. The resolution shall be adopted after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for the hearing, in a newspaper having a general circulation in the county. The notice shall contain a brief statement of the substance of the proposed resolution, shall set forth the boundaries of the district, and shall state the time and place of the public hearing. No other publication of the resolution is required under the provisions of any other law.

Section 2.(b) The resolution shall include articles of incorporation which shall set forth:

(1) The name of the district;

(2) A statement that the district is organized under this act; and

(3) A description of the boundaries, which may include any territory designated by the county board of commissioners that is not in the corporate limits of any municipality.

Section 2.(c) No territory may be in more than one district.

Section 2.(d) All territory of a district shall be within the county.

Section 2.(e) A certified copy of the resolution signifying the determination to organize a district under the provisions of this act shall be filed with the Secretary of State, together with proof of publication of the notice of hearing on the resolution. If the Secretary of State finds that the resolution, including the articles of incorporation, conforms to the provisions of this act and that the notice of hearing was properly published, the Secretary of State shall file the resolution and proof of publication in the records of that office, shall issue a certificate of incorporation under the seal of the State, and shall record the same in an appropriate book of record. The issuance of the certificate of incorporation by the Secretary of State shall constitute the district, a public body and body politic and corporate of the State of North Carolina. This certificate of incorporation shall be conclusive evidence of the fact that the district has been duly created and established under the provisions of this act.

Section 2.(f) When the district has been duly organized and its officers appointed as provided by this act, the secretary or clerk of the district shall certify to the Secretary of State the names and addresses of the officers as well as the address of the principal office of the district.

Section 3.(a) Annexation to District. By adoption of a resolution, and with the approval of the board of commissioners of a county by resolution, any municipality located wholly within that county may annex the entirety of that municipality to any Utility District created by this act, but no municipality may be in more than one district. The resolution shall be adopted by the municipal governing board after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for the hearing, in a newspaper having a general circulation in the county. The notice shall contain a brief statement of the substance of the proposed resolution and shall state the time and place of the public hearing. No other publication of the resolution is required under the provisions of any other law.

Section 3.(b) By adoption of a resolution, the board of commissioners of a county may annex any area within that county but not within the corporate limits of any municipality to a Utility District, but no area may be in more than one district. The resolution shall be adopted by the county board of commissioners after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for the hearing, in a newspaper having a general circulation in the county. The notice shall contain a brief statement of the substance of the proposed resolution, the boundaries of the proposed annexation, and shall state the time and place of the public hearing. No other publication of the resolution is required under the provisions of any other law.

Section 3.(c) If any area in a Utility District is annexed to the corporate limits of any municipality, it shall remain in the same Utility District notwithstanding any other provision of this act.

Section 4.(a) Governing Board. Each Utility District shall be governed by a special commission consisting of one person appointed by the board of commissioners of that county, one nonvoting member appointed by the board of commissioners of the county who has been recommended by each local telephone exchange carrier licensed to do business in North Carolina and providing service in that county, one nonvoting member appointed by the board of commissioners of the county who has been recommended by each electric utility provider in the county, one nonvoting member appointed by the board of commissioners of the county who has been recommended by each cable television provider in the county, and one person appointed by the governing board of each municipality that has annexed its territory to the district under Section 3(a) of this act.

Section 4.(b) In the case of Dare County, one person shall also be appointed to the Special Commission by the Roanoke Island Commission established by Part 27A of Article 2 of Chapter 143B of the General Statutes. Appointments shall be for two-year terms.

Section 5.(a) Powers. By resolution the board of commissioners of the county, acting ex officio on behalf of the Utility District, may levy an assessment of up to:

(1) One dollar ($1.00) per month on each residential electric power customer bill for service within the district, and up to five dollars ($5.00) per month on each commercial or industrial electric power customer bill within the district.

(2) One dollar ($1.00) per month on each residential telephone customer bill for service within the district and up to five dollars ($5.00) per month on each commercial or industrial telephone customer bill within the district.

Section 5.(b) The Utility District may receive contributions from the State of North Carolina, local governments, and the private sector for corporate purposes authorized by this act.

Section 5.(c) The commission may contract with the State of North Carolina, another local government, or a private entity for carrying out the projects authorized by this act. Any State, local government, or other entity which carries out projects authorized by this act, or otherwise takes action affecting any company whose lines are effected pursuant to the terms of this act shall remain fully liable for any damages to company property. Any private sector entity with which the district wishes to contract to carry out projects authorized by this act must be approved in writing in advance by each company whose facilities will be affected and must carry sufficient insurance to cover any damages caused.

Section 5.(d) The board of commissioners may exempt from payment of the assessment on an electric bill any person for whom the payment would work an unreasonable financial hardship in accordance with criteria established by the board

of commissioners. The board of commissioners shall exempt from payment of the assessment on a telephone bill those low-income residential telephone customers who pay reduced rates for local telephone service pursuant to an order of the North Carolina Utilities Commission.

Section 5.(e) The commission may order any cable television lines (or other lines other than electric or telephone) to be undergrounded when any electric or telephone line on the same pole is undergrounded.

Section 6. Use of Funds. The assessments levied under this act, after being expended for the necessary administrative expenses of the utility district, shall be used only for undergrounding of electric and telephone utility lines within the district. The budget for the Utility District shall be adopted by the special commission for that district. The budget shall include funding to pay for the installation of conduit for underground telephone cable, where required.

Section 7. Corporate Existence. A Utility District created under this act shall have the power granted by this act, and may do all acts reasonably necessary to fulfill this purpose. A simple majority of the governing board constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

Section 8. Fiscal Control. The Utility District is a special district under G.S. 159-7 and is covered by the applicable provisions of Chapter 159 of the General Statutes.

Section 9.(a) Levy. An assessment authorized by this act may be levied only by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto. An assessment authorized by this act shall become effective on the date specified in the resolution levying the assessment. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the third month after the date the resolution is adopted. In establishing the effective date, the board of commissioners shall consult with any utility that will be collecting the assessment to determine any administrative lead times that might be desirable.

Section 9.(b) Collection. Every utility subject to an assessment authorized by this act shall, on and after the effective date of the levy of the assessment, collect it. The assessment shall be collected as part of the charge for furnishing service. The assessment shall be stated and charged separately and shall be paid by the purchaser to the utility as trustee for and on account of the Utility District. The assessment shall be passed on to the purchaser instead of being borne by the utility. The Utility District shall design, print, and furnish to all appropriate utilities in the district the necessary forms for filing returns and instructions to ensure the full collection of the assessment. A utility who collects an assessment authorized by this act may deduct from the amount remitted to the Utility District a discount equal to the discount the State allows the utility for State sales and use tax. For the purpose of this act, a utility includes a government entity providing service, a cooperative, and any other utility. A utility shall have the same right to suspend or terminate service for nonpayment of the assessment that it has to suspend or

terminate service for payment of any other part of the utility bill. A utility has no obligation to take any legal action to enforce the collection of assessments under this act. The county or the district may initiate a collection action in its name and reasonable costs and attorneys' fees may be awarded to the plaintiff.

Section 9.(c) Administration. The Utility District shall administer an assessment it levies under this act. An assessment authorized by this act is due and payable to the district finance officer in monthly installments on or before the last day of the month following the month in which the assessment accrues. Every person, firm, corporation, or association liable for the assessment shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the Utility District. The return shall state the total gross receipts derived in the preceding month upon which the assessment is levied. A return filed with the district finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 as if the Utility District were a county. The Utility District may adopt a payment schedule keyed to the billing cycle of the utility collecting the assessment rather than the calendar month, as long as there are at least 12 billing cycles per year.

Section 9.(d) Penalties. A person, firm, corporation, or association who fails or refuses to file an assessment return or pay an assessment authorized by this act as required by law is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The governing board of the Utility District has the same authority to waive the penalties for an assessment authorized by this act that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

Section 9.(e) Increase, Repeal, or Reduction. An assessment levied by a district under this act may be increased not in excess of the maximum allowed by this act, repealed or reduced by a resolution adopted by the board of commissioners of the county, acting ex officio on behalf of the Utility District. Repeal or reduction of an assessment authorized by this act shall become effective on the first day of a month and may not be earlier than the first day of the third month after the date the resolution is adopted. Repeal or reduction of an assessment authorized by this act does not affect a liability for an assessment that was attached before the effective date of the repeal or reduction, nor does it affect a right to a refund of an assessment that accrued before the effective date of the repeal or reduction. In establishing the effective date, the board of commissioners shall consult with any utility that will be collecting the assessment to determine any administrative lead times that might be desirable. Once the lines have been undergrounded and the costs have been paid, the board of commissioners shall terminate the assessment.

Section 10. Interlocal Agreements. By interlocal agreement adopted under Chapter 160A of the General Statutes, a Utility District created under this act may contract with a municipality or county to handle assessment collections and fiscal control.

Section 11.(a) The district shall coordinate with affected utilities, municipalities, and the North Carolina Department of Transportation to facilitate acquisition of rights-of-way for burial of cable.

Section 11.(b) The undergrounding required by this act shall be a coordinated effort between the utility district and the affected electric, telephone, and cable television companies.

Section 12. The State Auditor may perform audits pursuant to Article 5A of Chapter 147 of the General Statutes to ensure that funds collected by or paid to the Utility District are being managed in accordance with the provisions of this act, and shall perform an audit at least every two years. The costs of the audit shall be reimbursed to the State Auditor by the Utility District.

Section 13. This act applies to Dare County only.

Section 14. Sections 1.1 through 11 of S.L. 1999-127 are repealed.

Section 15. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1463
State and Local Government Committee Substitute Adopted 6/14/00
Finance Committee Substitute No. 2 Adopted 6/22/00
Proposed House Committee Substitute S1463-PCS8679-RB

Short Title: Dare Utility Undergrounding Amendments. (Local)

Sponsors:

Referred to:

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO ALLOW DARE COUNTY TO CREATE SPECIAL DISTRICTS TO UNDERGROUND LINES.

The General Assembly of North Carolina enacts:

Section 1. Authorization to Create Utility District. A county board of commissioners may create one or more Utility Districts for the purpose of raising and expending funds to underground electric and telephone utility lines in the district.

Section 2.(a) Procedure. A county board of commissioners may by resolution signify its determination to create a Utility District under the provisions of this act. The resolution shall be adopted after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for the hearing, in a newspaper having a general circulation in the county. The notice shall contain a brief statement of the substance of the proposed resolution, shall set forth the boundaries of the district, and shall state the time and place of the public hearing. No other publication of the resolution is required under the provisions of any other law.

Section 2.(b) The resolution shall include articles of incorporation which shall set forth:

(1) The name of the district;

(2) A statement that the district is organized under this act; and

(3) A description of the boundaries, which may include any territory designated by the county board of commissioners that is not in the corporate limits of any municipality.

Section 2.(c) No territory may be in more than one district.

Section 2.(d) All territory of a district shall be within the county.

Section 2.(e) A certified copy of the resolution signifying the determination to organize a district under the provisions of this act shall be filed with the Secretary of State, together with proof of publication of the notice of hearing on the resolution. If the Secretary of State finds that the resolution, including the articles of incorporation, conforms to the provisions of this act and that the notice of hearing was properly published, the Secretary of State shall file the resolution and proof of publication in the records of that office, shall issue a certificate of incorporation under the seal of the State, and shall record the same in an appropriate book of record. The issuance of the certificate of incorporation by the Secretary of State shall constitute the district, a public body and body politic and corporate of the State of North Carolina. This certificate of incorporation shall be conclusive evidence of the fact that the district has been duly created and established under the provisions of this act.

Section 2.(f) When the district has been duly organized and its officers appointed as provided by this act, the secretary or clerk of the district shall certify to the Secretary of State the names and addresses of the officers as well as the address of the principal office of the district.

Section 3.(a) Annexation to District. By adoption of a resolution, and with the approval of the board of commissioners of a county by resolution, any municipality located wholly within that county may annex the entirety of that municipality to any Utility District created by this act, but no municipality may be in more than one district. The resolution shall be adopted by the municipal governing board after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for the hearing, in a newspaper having a general circulation in the county. The notice shall contain a brief statement of the substance of the proposed resolution and shall state the time and place of the public hearing. No other publication of the resolution is required under the provisions of any other law.

Section 3.(b) By adoption of a resolution, the board of commissioners of a county may annex any area within that county but not within the corporate limits of any municipality to a Utility District, but no area may be in more than one district. The resolution shall be adopted by the county board of commissioners after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for the hearing, in a newspaper having a general circulation in the county. The notice shall contain a brief statement of the substance of the proposed resolution, the boundaries of the proposed annexation, and shall state the time and place of the public hearing. No other publication of the resolution is required under the provisions of any other law.

Section 3.(c) If any area in a Utility District is annexed to the corporate limits of any municipality, it shall remain in the same Utility District notwithstanding any other provision of this act.

Section 4.(a) Governing Board. Each Utility District shall be governed by a special commission consisting of one person appointed by the board of commissioners of that county, one nonvoting member appointed by the board of commissioners of the county who has been recommended by each local telephone exchange carrier licensed to do business in North Carolina and providing service in that county, one nonvoting member appointed by the board of commissioners of the county who has been recommended by each electric utility provider in the county, one nonvoting member appointed by the board of commissioners of the county who has been recommended by each cable television provider in the county, and one person appointed by the governing board of each municipality that has annexed its territory to the district under Section 3(a) of this act.

Section 4.(b) In the case of Dare County, one person shall also be appointed to the Special Commission by the Roanoke Island Commission established by Part 27A of Article 2 of Chapter 143B of the General Statutes. Appointments shall be for two-year terms.

Section 5.(a) Powers. By resolution the board of commissioners of the county, acting ex officio on behalf of the Utility District, may levy an assessment of up to:

(1) One dollar ($1.00) per month on each residential electric power customer bill for service within the district, and up to five dollars ($5.00) per month on each commercial or industrial electric power customer bill within the district.

(2) One dollar ($1.00) per month on each residential telephone customer bill for service within the district and up to five dollars ($5.00) per month on each commercial or industrial telephone customer bill within the district.

Section 5.(b) The Utility District may receive contributions from the State of North Carolina, local governments, and the private sector for corporate purposes authorized by this act.

Section 5.(c) The commission may contract with the State of North Carolina, another local government, or a private entity for carrying out the projects authorized by this act. Any State, local government, or other entity which carries out projects authorized by this act, or otherwise takes action affecting any company whose lines are effected pursuant to the terms of this act shall remain fully liable for any damages to company property. Any private sector entity with which the district wishes to contract to carry out projects authorized by this act must be approved in writing in advance by each company whose facilities will be affected and must carry sufficient insurance to cover any damages caused.

Section 5.(d) The board of commissioners may exempt from payment of the assessment on an electric bill any person for whom the payment would work an unreasonable financial hardship in accordance with criteria established by the board

of commissioners. The board of commissioners shall exempt from payment of the assessment on a telephone bill those low-income residential telephone customers who pay reduced rates for local telephone service pursuant to an order of the North Carolina Utilities Commission.

Section 5.(e) The commission may order any cable television lines (or other lines other than electric or telephone) to be undergrounded when any electric or telephone line on the same pole is undergrounded.

Section 6. Use of Funds. The assessments levied under this act, after being expended for the necessary administrative expenses of the utility district, shall be used only for undergrounding of electric and telephone utility lines within the district. When an electric or telephone utility line is undergrounded adjacent to a residential premises which is served by that distribution line, the Utility District shall, at no additional cost to the customer, underground the customer service line to the premises and replace or modify the meter base to accept the underground service. The budget for the Utility District shall be adopted by the special commission for that district. The budget shall include funding to pay for the installation of conduit for underground telephone cable, where required.

Section 7. Corporate Existence. A Utility District created under this act shall have the power granted by this act, and may do all acts reasonably necessary to fulfill this purpose. A simple majority of the governing board constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

Section 8. Fiscal Control. The Utility District is a special district under G.S. 159-7 and is covered by the applicable provisions of Chapter 159 of the General Statutes.

Section 9.(a) Levy. An assessment authorized by this act may be levied only by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto. An assessment authorized by this act shall become effective on the date specified in the resolution levying the assessment. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the third month after the date the resolution is adopted. In establishing the effective date, the board of commissioners shall consult with any utility that will be collecting the assessment to determine any administrative lead times that might be desirable.

Section 9.(b) Collection. Every utility subject to an assessment authorized by this act shall, on and after the effective date of the levy of the assessment, collect it. The assessment shall be collected as part of the charge for furnishing service. The assessment shall be stated and charged separately and shall be paid by the purchaser to the utility as trustee for and on account of the Utility District. The assessment shall be passed on to the purchaser instead of being borne by the utility. The Utility District shall design, print, and furnish to all appropriate utilities in the district the necessary forms for filing returns and instructions to ensure the full collection of the assessment. A utility who collects an assessment authorized by this act may deduct from the amount remitted to the Utility District a discount

equal to the discount the State allows the utility for State sales and use tax. For the purpose of this act, a utility includes a government entity providing service, a cooperative, and any other utility. A utility shall have the same right to suspend or terminate service for nonpayment of the assessment that it has to suspend or terminate service for payment of any other part of the utility bill. A utility has no obligation to take any legal action to enforce the collection of assessments under this act. The county or the district may initiate a collection action in its name and reasonable costs and attorneys' fees may be awarded to the plaintiff.

Section 9.(c) Administration. The Utility District shall administer an assessment it levies under this act. An assessment authorized by this act is due and payable to the district finance officer in monthly installments on or before the last day of the month following the month in which the assessment accrues. Every person, firm, corporation, or association liable for the assessment shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the Utility District. The return shall state the total gross receipts derived in the preceding month upon which the assessment is levied. A return filed with the district finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 as if the Utility District were a county. The Utility District may adopt a payment schedule keyed to the billing cycle of the utility collecting the assessment rather than the calendar month, as long as there are at least 12 billing cycles per year.

Section 9.(d) Penalties. A person, firm, corporation, or association who fails or refuses to file an assessment return or pay an assessment authorized by this act as required by law is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The governing board of the Utility District has the same authority to waive the penalties for an assessment authorized by this act that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

Section 9.(e) Increase, Repeal, or Reduction. An assessment levied by a district under this act may be increased not in excess of the maximum allowed by this act, repealed or reduced by a resolution adopted by the board of commissioners of the county, acting ex officio on behalf of the Utility District. Repeal or reduction of an assessment authorized by this act shall become effective on the first day of a month and may not be earlier than the first day of the third month after the date the resolution is adopted. Repeal or reduction of an assessment authorized by this act does not affect a liability for an assessment that was attached before the effective date of the repeal or reduction, nor does it affect a right to a refund of an assessment that accrued before the effective date of the repeal or reduction. In establishing the effective date, the board of commissioners shall consult with any utility that will be collecting the assessment to determine any administrative lead times that might be desirable. Once the lines have been undergrounded and the costs have been paid, the board of commissioners shall terminate the assessment.

Section 10. Interlocal Agreements. By interlocal agreement adopted under Chapter 160A of the General Statutes, a Utility District created under this act

may contract with a municipality or county to handle assessment collections and fiscal control.

Section 11.(a) The district shall coordinate with affected utilities, municipalities, and the North Carolina Department of Transportation to facilitate acquisition of rights-of-way for burial of cable.

Section 11.(b) The undergrounding required by this act shall be a coordinated effort between the utility district and the affected electric, telephone, and cable television companies.

Section 12. The State Auditor may perform audits pursuant to Article 5A of Chapter 147 of the General Statutes to ensure that funds collected by or paid to the Utility District are being managed in accordance with the provisions of this act, and shall perform an audit at least every two years. The costs of the audit shall be reimbursed to the State Auditor by the Utility District.

Section 13. This act applies to Dare County only.

Section 14. Sections 1.1 through 11 of S.L. 1999-127 are repealed.

Section 15. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1463

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S1463-ARB-7.5B

Page 1 of __

Date_____,2000

Comm. Sub. [YES]
Amends Title []
Third Edition

Representative_____

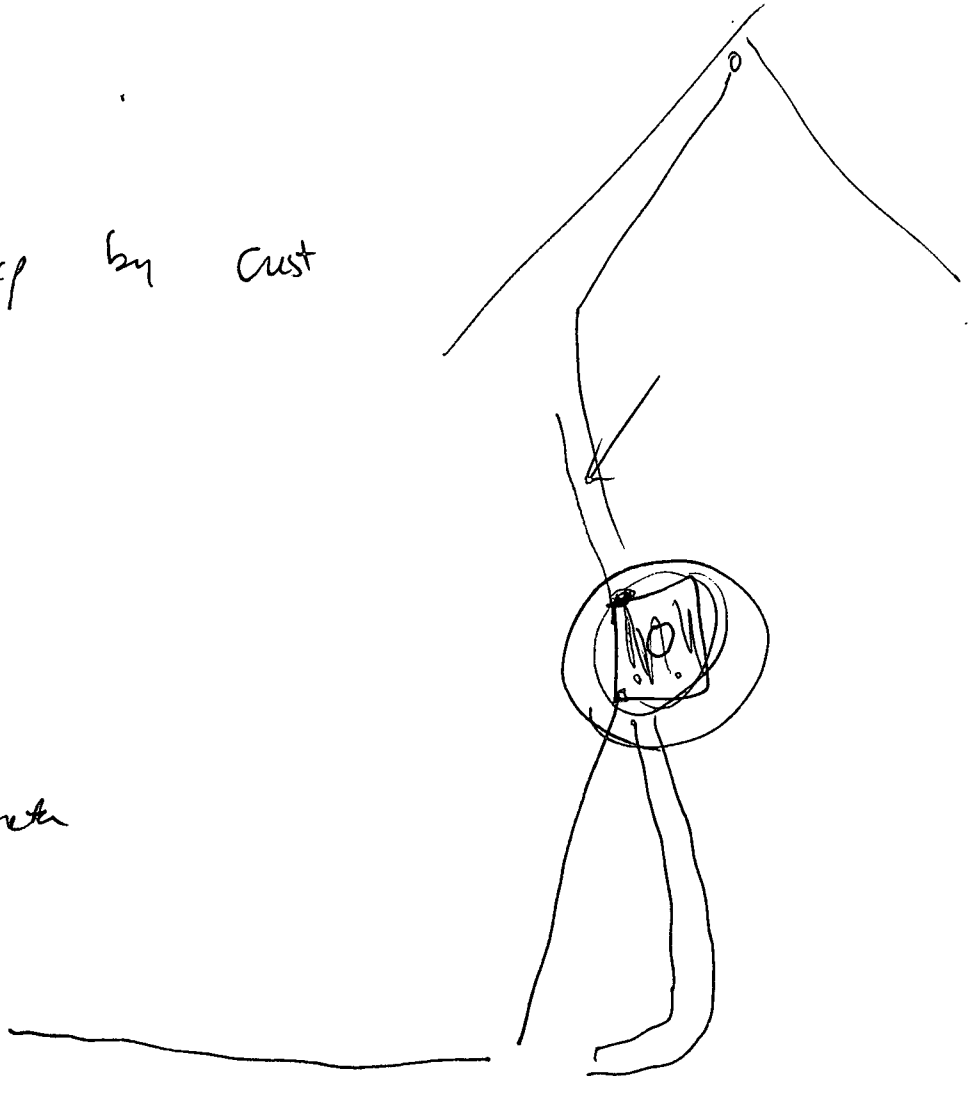
moves to amend the bill on page 4, line 11, by inserting the following immediately after the word "district.":
"When an electric or telephone utility line is undergrounded adjacent to a residential premises which is served by that distribution line, the Utility District shall, at no additional cost to the customer, underground the customer service line to the premises." and replace or mod. by the meter base to accept the underground servid."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Costs exp by cust



NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 1463 (Third Edition)

SHORT TITLE: Dare Utility Undergrounding Amendments

SPONSOR(S):

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
REVENUES					
Dare Co. Local Gov.	$927,684	$927,684	$927,684	$927,684	$927,684
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Dare County Local Government, Office of the State Auditor, Department of the Secretary of State

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY:

This legislation allows Dare County to expand the purpose of special tax districts authorized in SL 1999-127 to include telephone lines.

BACKGROUND INFORMATION:

Under SL 1999-127, Dare County is authorized to create one or more utility districts for the purpose of raising and expending funds to install underground electric utility lines. A fee of $1 per residential customer and $5 per commercial customer is to be levied on electricity service

clients within these utility districts. Though this plan has been established and authorized, it has not been fully implemented. Given the most current estimates of residential and commercial electricity use within Dare County, the previously authorized legislation will raise approximately **$552,400** per year.

The monthly revenue from SL 1999-127 is $46,034. The yearly revenue from this electricity line fee is $552,408. Dare County has three major providers of electricity; NC Power, Tideland Electric, and Cape Hatteras Electric Membership Cooperative (CHEMC). The Dare County Manager's Office provided estimates of the number of customers for each of the three companies that are shown in the chart below.

Dare Co. Electricity Lines

Dare Co. Customers		$1/mth Residential	$5/mth Commercial		Revenue
Residential					
	NC Power	20,699			$20,699
	Tideland	604			$604
	CHEMC	4,986			$4,986
	Total	26,289			**$26,289**
Commercial					
	NC Power		2,896		$14,480
	Tideland		106		$530
	CHEMC		947		$4,735
	Total		3,949		**$19,745**
				Total Rev. monthly	**$46,034**
				Yearly	**$552,408**

ASSUMPTIONS AND METHODOLOGY:

This legislation authorizes Dare County to levy a fee of $1 per residential customer and up to $5 per commercial customer for telephone service. These fees are in addition to the existing electricity fee. This fiscal note assumes the maximum $5 commercial fee authorized for all estimates. The expansion of utility fees to include telephone lines will generate **$927,684** per year.

Since Sprint is the bulk telephone carrier for Dare County, estimates for telephone fee revenues are generated using the number of customers serviced by this principal carrier within the utility district. The monthly revenue within Dare County from a telephone line fee will be $77,307 and the yearly revenue will be $927,684.

Dare Co. Phone Lines

Dare Co. Accounts	$1/mth Residential	$5/mth Commercial		Revenue
Residential	28,322			$28,322
Commercial		9,797		$48,985
			Total Rev. Monthly	**$77,307**
			Yearly	**$927,684**

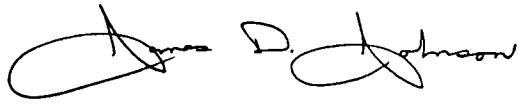
The proposed installation of underground utility lines within Dare County will follow the two main corridors within the region - US 158 and NC 12. The distance along each of these routes from Kitty Hawk to Nags Head is approximately 20 miles. Therefore, the approximate mileage of the lines to be installed underground is 40 miles. Preliminary estimates reveal a cost of $1 million per mile of underground installation for each utility line. Therefore the underground installation of electricity and telephone lines along these corridors will cost $80 million to $100 million.

The utility poles along these two corridors are leased by NC Power to Sprint and Charter Communications, the bulk telephone and cable carriers. In accordance with their lease agreement, Charter Communications would be required to install underground lines upon NC Power doing so. Although authorized to install these underground lines and collect fees to do so by SL 1999-127, NC Power will not install lines underground until telephone lines are authorized to be installed underground. They do not wish to devote time and resources toward this installation when telephone lines would remain on their leased pole directly overhead. In essence, the failure to authorize this bill negates the utility of the previously authorized legislation.

The utility company is only responsible for underground installation costs on the actual right of way. The property owner is responsible for any costs of installation on their property, or from the right of way to their residence or business.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic and Eugene Son (Research Assistant)

APPROVED BY: James D. Johnson



DATE: July 3, 2000

ROLL CALL VOTE

17 YES 11 NO = _____(TOTAL) HB# _____ SB# 1463

HOUSE STANDING COMMITTEE ON FINANCE

House Subcommittee on _____

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
✓		MILLER, GEORGE-CHAIR		✓	HOWARD, JULIA
		LUEBKE, PAUL-CHAIR			McALLISTER, MARY
✓		ALLEN, GORDON-CHAIR			McCOMAS, DANNY
✓		JARRELL, MARY- V.C.			McCOMBS, GENE
		WOOD, STEVE-V.C.			MINER, DAVID
	✓	BRIDGEMAN, JOHN		✓	MORRIS, MIA
	✓	BROWN, JOHN		✓	POPE, ART
✓		BUCHANAN, MONROE			RAMSEY, LISTON
	✓	CAPPS, RUSSELL		✓	RAYFIELD, JOHN
✓		CHURCH, WALT		✓	STARNES, EDGAR
		COX, LESLIE			TALLENT, TIM
		CREECH, BILLY			TUCKER, RUSSELL
	✓	DECKER, MIKE	✓		WEISS, JENNIFER
✓		DEDMON, ANDY		✓	WILSON, CONNIE
	✓	EDDINS, RICK	✓		WOMBLE, LARRY
✓		EDWARDS, ZENO			WRIGHT, TOM
		FITCH, TOBY			
✓		FORD, JIMMIE			
✓		GIBSON, PRYOR			
✓		GOODWIN, WAYNE			
✓		GRAY, LYONS	Ex officio Members		
		HACKNEY, JOE			CUNNINGHAM
✓		HAIRE, PHILLIP	✓		Majority Leader BADDOUR
✓		HILL, DEWEY	✓		Majority Whip EARLE

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 3

SENATE BILL 586
Education/Higher Education Committee Substitute Adopted 4/28/99
House Committee Substitute Favorable 6/29/00

Short Title: UNC Millennial Campuses. (Public)

Sponsors:

Referred to:

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CREATION OF MILLENNIAL CAMPUSES AT THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. The catch line of G.S. 116-36.5 reads as rewritten:

"**§ 116-36.5. Centennial Campus trust fund; Horace Williams Campus trust ~~fund.~~ fund; Millennial Campuses' trust funds.**"

Section 2. G.S. 116-36.5 is amended by adding a new subsection to read:

"(c) All moneys received through development of a Millennial Campus of a constituent institution of The University of North Carolina as defined by G.S. 116-198.33(4b), from whatever source, including the net proceeds from the lease or rental of real property on a Millennial Campus, shall be placed in a special, continuing, and nonreverting trust fund having the sole and exclusive use for further development of that Millennial Campus, including its operational development. This fund shall be treated in the manner of institutional trust funds as provided in G.S. 116-36.1. This fund shall be deemed an additional and alternative method of funding the Millennial Campus and not an exclusive one. To the extent that any general, special, or local law is inconsistent with this section, it is declared inapplicable to this section."

Section 3. The title of Article 21B of Chapter 116 of the General Statutes reads as rewritten:

"The Centennial ~~Campus and~~ Campus, the Horace Williams ~~Campus~~

Campus, and the Millennial Campuses Financing Act."

Section 4. G.S. 116-198.31 reads as rewritten:

"**§ 116-198.31. Purpose of Article.**

The purpose of this Article is to authorize the Board of Governors of The University of North Carolina to issue revenue bonds, payable from any leases, rentals, charges, fees, and other revenues but with no pledge of taxes or the faith and credit of the State or any agency or political subdivision thereof, to pay the cost, in whole or part, of buildings, structures, or other facilities for the Centennial Campus, located at North Carolina State University at ~~Raleigh and~~ Raleigh, for the Horace Williams Campus located at the University of North Carolina at Chapel ~~Hill.~~ Hill, and for any Millennial Campus as defined by G.S. 116-198.33(4b)."

Section 5. G.S. 116-198.33 reads as rewritten:

"**§ 116-198.33. Definitions.**

As used in this Article, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(1) The word 'Board' shall mean the Board of Governors of The University of North Carolina.

(2) The word 'cost' as applied to any project, shall include the cost of acquisition or construction; the cost of acquisition of all property, both real and personal, or interests therein; the cost of demolishing, removing, or relocating any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be removed or relocated; the cost of all labor, materials, equipment and furnishings, financing charges, interest prior to and during construction and, if deemed advisable by the Board, for a period not exceeding one year after completion of such construction; provisions for working capital, reserves for debt service and for extensions, enlargements, additions, and improvements; cost of engineering, financial, and legal services, plans, specifications, studies, surveys, and estimates of cost and of revenues; administrative expenses; expenses necessary or incident to determining the feasibility or practicability of constructing the project; and such other expenses as may be necessary or incident to acquisition or construction with respect to the project or to the placing of the project in operation. Any obligation or expense incurred by the Board prior to the issuance of bonds under the provisions of this Article in connection with any of the foregoing items of cost may be regarded as a part of such cost.

(3) The word 'Institution' shall mean North Carolina State University at Raleigh and the University of North Carolina at Chapel ~~Hill.~~ Hill, or a constituent institution of The University of North Carolina with a Millennial Campus as defined by G.S. 116-198.33(4b).

(4) The term 'Centennial Campus' means all of the following properties:

a. The real property and appurtenant facilities bounded by Blue Ridge Road, Hillsborough Street, Wade Avenue, and Interstate 440 that are the sites of the College of Veterinary Medicine, the University Club, and the Agricultural Turf Grass Management Program.

b. The real property and appurtenant facilities that are the former Dix Hospital properties and other contiguous parcels of property that are adjacent to Centennial Boulevard.

c. All other real property and appurtenant facilities designated by the Board of Governors as part of the Centennial Campus. The properties designated by the Board of Governors do not have to be contiguous with the Centennial Campus to be designated as part of that Campus.

(4a) The term 'Horace Williams Campus' means all of the following properties:

a. The real property and appurtenant facilities left to the University of North Carolina at Chapel Hill by the Will of Henry Horace Williams.

b. All other real property and appurtenant facilities designated by the Board of Governors as part of the Horace Williams Campus. The properties designated by the Board of Governors do not have to be contiguous with the Horace Williams Campus to be designated as part of that Campus.

(4b) The term 'Millennial Campus' means all real property and appurtenant facilities designated by the Board of Governors as part of a Millennial Campus of a constituent institution of The University of North Carolina other than North Carolina State University or the University of North Carolina at Chapel Hill. The properties designated by the Board of Governors do not have to be contiguous with the constituent institution to be designated as part of the institution's Millennial Campus.

(5) The term 'existing facilities' shall mean buildings and facilities, then existing, any part of the revenues of which are pledged under the provisions of any resolution authorizing the issuance of revenue bonds hereunder to the payment of such bonds.

(6) The word 'project' shall mean and shall include any one or more buildings, structures, administration buildings, libraries, research or instructional facilities, housing maintenance, storage, or utility facilities, and any facilities related thereto or required or useful for conducting of research or the operation of the Centennial ~~Campus or~~ Campus, the Horace Williams Campus, or of a Millennial Campus as defined by G.S. 116-198.33(4b), including roads, water,

sewer, power, gas, greenways, parking, or any other support facilities essential or convenient for the orderly conduct of the Centennial ~~Campus or~~ Campus, the Horace Williams ~~Campus~~ Campus, or a Millennial Campus, respectively.

(7) The word 'revenues' shall mean all or any part of the rents, leases, charges, fees, and other income revenues derived from or in connection with any project or projects and existing facilities."

Section 6. G.S. 116-198.34 reads as rewritten:

"**§ 116-198.34. General powers of Board of Governors.**

The Board may exercise any one or more of the following powers:

(1) To determine the location and character of any project or projects, and to acquire, construct, and provide the same, and to maintain, repair, and operate, and to enter into contracts for the management, lease, use, or operation of all or any portion of any project or projects and any existing facilities.

(2) To issue revenue bonds as hereinafter provided to pay all or any part of the cost of any project or projects, and to fund or refund the same.

(3) To fix and revise from time to time and charge and collect rates, fees, rents, and charges for the use of, and for the services furnished by, all or any portion of any project or projects.

(4) To establish and enforce, and to agree through any resolution or trust agreement authorizing or securing bonds under this Article to make and enforce, rules and regulations for the use of and services rendered by any project or projects and any existing facilities, to provide for the maximum use of any project or projects and any existing facilities.

(5) To acquire, hold, lease, and dispose of real and personal property in the exercise of its powers and the performance of its duties hereunder and to lease all or any part of any project or projects and any existing facilities upon such terms and conditions as the Board determines, subject to the provisions of G.S. 143-341 and Chapter 146 of the General Statutes.

Notwithstanding G.S. 143-341 and Chapter 146 of the General Statutes, a disposition by easement, lease, or rental agreement of space in any building on the Centennial ~~Campus or~~ Campus, on the Horace Williams ~~Campus~~ Campus, or on a Millennial Campus made for a period of 10 years or less shall not require the approval of the Governor and the Council of State. All other acquisitions and dispositions made under this subdivision are subject to the provisions of G.S. 143-341 and Chapter 146 of the General Statutes.

(6) To employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers, and

such other employees and agents as may be necessary in its judgment in connection with any project or projects and existing facilities, and to fix their compensation.

(7) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Article.

(8) To receive and accept from any federal, State, or other public agency and any private agency, person or other entity donations, loans, grants, aid, or contributions of any money, property, labor, or other things of value for any project or projects, and to agree to apply and use the same in accordance with the terms and conditions under which the same are provided.

(8a) To designate the real property and appurtenant facilities to be included as part of the Centennial ~~Campus or~~ Campus, the Horace Williams ~~Campus.~~ Campus, or a Millennial Campus.

(8b) Acting on recommendation made by the President of The University of North Carolina after consultation by the President with the Chancellor and the Board of Trustees of a constituent institution, to designate real property held by, or to be acquired by, a constituent institution as a 'Millennial Campus' of the institution. That designation shall be based on an express finding by the Board of Governors that the institution desiring to create a 'Millennial Campus' has the administrative and fiscal capability to create and maintain such a campus and provided further, that the Board of Governors has found that the creation of the constituent institution's 'Millennial Campus' will enhance the institution's research, teaching, and service missions as well as enhance the economic development of the region served by the institution. Additionally, the Board of Governors may authorize two or more constituent institutions which meet the requirements of this section to create a joint Millennial Campus.

(9) To do all acts and things necessary or convenient to carry out the powers granted by this Article."

Section 7. G.S. 116-198.35 reads as rewritten:

"**§ 116-198.35. Issuance of bonds and bond anticipation notes.**

The Board is hereby authorized to issue, subject to the approval of the Director of the Budget, at one time or from time to time, revenue bonds of the Board for the purpose of paying all or any part of the cost of acquiring, constructing, or providing any project or projects on the Centennial ~~Campus or~~ Campus, on the Horace Williams ~~Campus.~~ Campus, or on a Millennial Campus. The bonds of each issue shall be dated, shall mature at such time or times not exceeding 40 years from their date or dates, shall bear interest at such rate or rates as may be determined by the Board, and may be redeemable before maturity, at the option of the Board, at such price or prices and under such terms and conditions as may be fixed by the Board prior to the

issuance of the bonds. The Board shall determine the form and manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Article or any recitals in any bonds issued under the provisions of this Article, all such bonds shall be deemed to be negotiable instruments under the laws of this State, subject only to the provisions for registration in any resolution authorizing the issuance of such bonds or any trust agreement securing the same. The bonds may be issued in coupon or registered form or both or as book-entry bonds, as the Board may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The Board may sell such bonds in such manner, at public or private sale, and for such price, as it may determine to be for the best interests of the Board.

The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the Board may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. Unless otherwise provided in the authorizing resolution or in the trust agreement securing such bonds, if the proceeds of such bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit and shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the Board may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Prior to the preparation of definitive bonds, the Board may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Board may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

Except as herein otherwise provided, bonds may be issued under this Article and other powers vested in the Board under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of

any other conditions or things than those proceedings, conditions, or things which are specifically required by this Article.

The Board may enter into or negotiate a note with an acceptable bank or trust company in lieu of issuing bonds for the financing of projects covered under this section. The terms and conditions of any note of this nature shall be in accordance with the terms and conditions surrounding issuance of bonds.

The Board is hereby authorized to issue, subject to the approval of the Director of the Budget, at one time or from time to time, revenue bond anticipation notes of the Board in anticipation of the issuance of bonds authorized pursuant to the provisions of this Article. The principal of and the interest on such notes shall be payable solely from the proceeds of bonds or renewal notes, or, in the event bond or renewal note proceeds are not available, any available revenues of the project or projects for which such bonds shall have been authorized. The notes of each issue shall be dated, shall mature at such time or times not exceeding two years from their date or dates, shall bear interest at such rate or rates as may be determined by the Board, and may be redeemable before maturity, at the option of the Board, at such price or prices and under such terms and conditions as may be fixed by the Board prior to the issuance of the notes. The Board shall determine the form and the manner of execution of the notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the notes and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any notes or coupons shall cease to be such officer before the delivery of such notes, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Article or any recitals in any notes issued under the provisions of this Article, all such notes shall be deemed to be negotiable instruments under the laws of this State, subject only to the provisions for registration in any resolution authorizing the issuance of such notes or any trust agreement securing the bonds in anticipation of which such notes are being issued. The notes may be issued in coupon or registered form or both or as book entry notes, as the Board may determine, and provision may be made for the registration of any coupon notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon notes of any notes registered as to both principal and interest. The Board may sell such notes in such manner, at public or private sale, and for such price, as it may determine to be for the best interests of the Board.

The proceeds of the notes of each issue shall be used solely for the purpose for which the bonds in anticipation of which such notes are being issued shall have been authorized, and such note proceeds shall be disbursed in such manner and under such restrictions, if any, as the Board may provide in the resolution authorizing the issuance of such notes or bonds or in the trust agreement securing such bonds.

The resolution providing for the issuance of notes, and any trust agreement securing the bonds in anticipation of which such notes are being authorized, may also contain such limitations upon the issuance of additional notes as the Board may deem

proper, and such additional notes shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement. The Board may also provide for the replacement of any notes which shall become mutilated or be destroyed or lost.

Except as herein otherwise provided, notes may be issued under this Article and other powers vested in the Board under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this Article.

Unless the context shall otherwise indicate, the word 'bonds' wherever used in this Article, shall be deemed and construed to include the words 'bond anticipation notes.'"

Section 8. G.S. 116-198.37 reads as rewritten:

"**§ 116-198.37. Fixing fees, rents, and charges; sinking fund.**

For the purpose of aiding in the acquisition, construction, or provision of any project and the maintenance, repair, and operation of any project or any existing facilities, the Board is authorized to fix, revise from time to time, charge, and collect such fee or fees for such privileges and services and in such amount or amounts as the Board shall determine, and to fix, revise from time to time, charge, and collect other fees, rents, and charges for the use of and for the services furnished or to be furnished by any project or projects and any existing facilities, or any portion thereof, and to contract with any person, partnership, association, or corporation for the lease, use, occupancy, or operation of any project or projects and any existing facilities, or any part thereof, and to fix the terms, conditions, fees, rents, and charges for any such lease, use, occupancy, or operation. So long as bonds issued hereunder and payable therefrom are outstanding, such fees, rents, and charges shall be so fixed and adjusted, with relation to other revenues available therefor, as to provide funds pursuant to the requirements of the resolution or trust agreement authorizing or securing such bonds at least sufficient with such other revenues, if any, (i) to pay the cost of maintaining, repairing, and operating any project or projects and any existing facilities any part of the revenues of which are pledged to the payment of the bonds issued for such project or projects, (ii) to pay the principal of and the interest on such bonds as the same shall become due and payable, and (iii) to create and maintain reserves for such purposes. Any surplus funds remaining after application to the purposes mentioned in (i), (ii), and (iii), above, shall be held in trust and applied by the Board to the development of the Centennial ~~Campus or~~ Campus, the Horace Williams ~~Campus~~ Campus, or a Millennial Campus, as applicable. Such fees, rents, and charges shall not be subject to supervision or regulation by any other commission, board, bureau, or agency of the State. A sufficient amount of the revenues, except such part thereof as may be necessary to pay such cost of maintenance, repair, and operation and to provide such reserves therefor and for renewals, replacements, extensions, enlargements, and improvements as may be provided for in the resolution authorizing the issuance of such bonds or in the trust

agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to and charged with the payment of the principal of and the interest on such bonds as the same shall become due and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the fees, rents, and charges and other revenues or other moneys so pledged and thereafter received by the Board shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Board, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Board. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of the trust agreement securing the same."

Section 9. G.S. 146-30(b1) reads as rewritten:

"(b1) Notwithstanding the other provisions of this section, no service charge into the State Land Fund shall be deducted from or levied against the proceeds of any disposition by lease, rental, or easement of State lands that are designated as part of the Centennial Campus as defined by ~~G.S. 116-198.33(4) or~~ G.S. 116-198.33(4), that are designated as part of the Horace Williams Campus as defined by ~~G.S. 116-198.33(4a).~~ G.S. 116-198.33(4a), or that are designated as part of a Millennial Campus as defined by G.S. 116-198.33(4b). All net proceeds of those dispositions are governed by G.S. 116-36.5."

Section 10. G.S. 66-58(b) reads as rewritten:

"(b) The provisions of subsection (a) of this section shall not apply to:

(1) Counties and municipalities.

(2) The Department of Health and Human Services or the Department of Agriculture and Consumer Services for the sale of serums, vaccines, and other like products.

(3) The Department of Administration, except that the agency shall not exceed the authority granted in the act creating the agency.

(4) The State hospitals for the mentally ill.

(5) The Department of Health and Human Services.

(6) The North Carolina School for the Blind at Raleigh.

(6a) The Office of Juvenile Justice.

(7) The North Carolina Schools for the Deaf.

(8) The Greater University of North Carolina with regard to its utilities and other services now operated by it nor to the sale of articles produced incident to the operation of instructional departments, articles incident to educational research, articles of merchandise incident to classroom work, meals, books, or to articles of merchandise not exceeding twenty-five cents (25¢) in value when sold to members of the educational staff or staff

auxiliary to education or to duly enrolled students or occasionally to immediate members of the families of members of the educational staff or of duly enrolled students nor to the sale of meals or merchandise to persons attending meetings or conventions as invited guests nor to the operation by the University of North Carolina of an inn or hotel and dining and other facilities usually connected with a hotel or inn, nor to the hospital and Medical School of the University of North Carolina, nor to the Coliseum of North Carolina State University at Raleigh, and the other schools and colleges for higher education maintained or supported by the State, nor to the Centennial Campus of North Carolina State University at Raleigh, nor to the Horace Williams Campus of the University of North Carolina at Chapel Hill, nor to a Millennial Campus of a constituent institution of The University of North Carolina, nor to the comprehensive student health services or the comprehensive student infirmaries maintained by the constituent institutions of the University of North Carolina.

(9) The Department of Environment and Natural Resources, except that the Department shall not construct, maintain, operate or lease a hotel or tourist inn in any park over which it has jurisdiction. The North Carolina Wildlife Resources Commission may sell wildlife memorabilia as a service to members of the public interested in wildlife conservation.

(10) Child-caring institutions or orphanages receiving State aid.

(11) Highlands School in Macon County.

(12) The North Carolina State Fair.

(13) Rural electric memberships corporations.

(13a) State Farm Operations Commission.

(13b) The Department of Agriculture and Consumer Services with regard to its lessees at farmers' markets operated by the Department.

(13c) The Western North Carolina Agricultural Center.

(13d) Agricultural centers or livestock facilities operated by the Department of Agriculture and Consumer Services.

(14) Nothing herein contained shall be construed to prohibit the engagement in any of the activities described in subsection (a) hereof by a firm, corporation or person who or which is a lessee of space only of the State of North Carolina or any of its departments or agencies; provided the leases shall be awarded by the Department of Administration to the highest bidder, as provided by law in the case of State contracts and which lease shall be for a term of not less than one year and not more than five years.

(15) The State Department of Correction is authorized to purchase and install automobile license tag plant equipment for the purpose of

manufacturing license tags for the State and local governments and for such other purposes as the Department may direct.

The Commissioner of Motor Vehicles, or such other authority as may exercise the authority to purchase automobile license tags is hereby directed to purchase from, and to contract with, the State Department of Correction for the State automobile license tag requirements from year to year.

The price to be paid to the State Department of Correction for the tags shall be fixed and agreed upon by the Governor, the State Department of Correction, and the Motor Vehicle Commissioner, or such authority as may be authorized to purchase the supplies.

(16) Laundry services performed by the Department of Correction may be provided only for agencies and instrumentalities of the State which are supported by State funds and for county or municipally controlled and supported hospitals presently being served by the Department of Correction, or for which services have been contracted or applied for in writing, as of May 22, 1973. In addition to the prior sentence, laundry services performed by the Department of Correction may be provided for the Governor Morehead School and the North Carolina School for the Deaf.

The services shall be limited to wet-washing, drying and ironing of flatwear or flat goods such as towels, sheets and bedding, linens and those uniforms prescribed for wear by the institutions and further limited to only flat goods or apparel owned, distributed or controlled entirely by the institutions and shall not include processing by any dry-cleaning methods; provided, however, those garments and items presently being serviced by wet-washing, drying and ironing may in the future, at the election of the Department of Correction, be processed by a dry-cleaning method.

(17) The North Carolina Global TransPark Authority or a lessee of the Authority.

(18) The activities and products of private enterprise carried on or manufactured within a State prison facility pursuant to G.S. 148-70.

(19) The North Carolina Justice Academy.

(20) The Department of Transportation, or any nonprofit lessee of the Department, for the sale of books, crafts, gifts, and other tourism-related items at visitor centers owned by the Department."

Section 11. This act is effective when it becomes law.

SENATE BILL 586:
UNC Millennial Campuses.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Lee
Date:	July 5, 2000	**Summary by:**	Robin Johnson
Version:	3rd Edition		Emily Johnson

SUMMARY: ***Senate Bill 586 is identical to SB 1549, 2nd edition, and would authorize the Board of Governors (Board) to designate real property and appurtenant facilities to be part of a Millennial Campus and to issue revenue bonds to pay the cost of buildings, structures or other facilities on a Millennial Campus. The bill would further authorize the transfer of all net revenues from the lease or rental of real property, fees, and other charges incident to the development of specific portions of University campuses designated as "millennial campuses" into a special, continuing, and non-reverting trust reserved for the sole and exclusive use of development of those millennial campuses. A Millennial Campus would be associated with one or more constituent institutions of The University of North Carolina other than North Carolina State University (NCSU) or the University of North Carolina at Chapel Hill (UNC-CH). A Millennial Campus would have the same purpose as the Centennial Campus located at NCSU and the Horace Williams Campus located at UNC-CH. These campuses, authorized in 1987 and 1999 respectively, are intended to bring together business, industry, and academia. The act would take effect when it becomes law.***

BILL ANALYSIS:

Designation of a Millennial Campus. The Board would be authorized to designate real property and appurtenant facilities to be held by or acquired by a constituent institution as a Millennial Campus. This designation would be based on a recommendation of the President after she has consulted with the institution's Chancellor and Board of Trustees. The Board would be required to make an express finding that the institution has the administrative and fiscal capability to create and maintain a Millennial Campus. It also must find that the creation of a Millennial Campus would enhance the institution's research, teaching, and service missions and the region's economic development. The Board would be able to authorize two or more institutions that meet these other requirements to create a joint Millennial Campus.

Leases. The Board would be authorized to approve and enter into leases of land and buildings on or for a Millennial Campus. Rental agreements made for 10 years or less would not require the approval of the Governor and Council of State. No service charge would be deducted for the State Land Fund from the proceeds of any lease of State lands designated as part of a Millennial Campus. These provisions are identical to those applicable to the Centennial and Horace Williams Campuses.

Revenue Bonds. The Board would be allowed to issue revenue bonds to pay all or part of the cost of any project on a Millennial Campus. These projects may include administration buildings, libraries, research or instructional facilities, roads, water, sewer, parking, and other facilities related to the operation of the Campus. The bonds are payable from revenues derived from leases, rentals, charges, and fees set by the Board of Governors. Currently, the Board may issue revenue bonds to pay the cost of these projects on the Centennial Campus and the Horace Williams Campus.

Finances. The bill would enable UNC to leverage State dollars with corporate dollars through partnership arrangements between a millennial campus and a private entity. These partnerships will attract private revenue and will also assist the State in retiring public indebtedness. These partnerships will generate

rental income from lease arrangements. In some situations, the private entities would actually build buildings on land they lease from the campus and, at the end of the lease, ownership of the building would transfer to the State. In other cases, the campus will build the building and lease it to a private entity, which assists in repayment of the public indebtedness.

Trust Fund. The proceeds from all monies received through the development of a Millennial Campus would be credited to a special, nonreverting trust fund. The money in each fund may be used only for the development of that Campus. These trust funds would be identical to those created for the Centennial and Horace Williams Campuses. The Board would manage and administer each trust fund; however, the Board may delegate these responsibilities to the chancellors.

Umstead Act Exemption. Much of the revenue generated from a Millennial Campus will come from the lease of office space to private industry. As a general rule, it is unlawful under the Umstead Act for the State to lease space in a State-owned building for the purpose of operating a business. A Millennial Campus would be treated the same as the Centennial and Horace Williams Campuses, which are exempted from these provisions of the Umstead Act.

Effective Date. The bill would take effect when it becomes law.

Re-referral. The bill must be re-referred to Finance.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 586 (Third Edition)

SHORT TITLE: UNC Millennial Campuses

SPONSOR(S):

FISCAL IMPACT

Yes ( ) **No (x)** **No Estimate Available ( )**

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
REVENUES					
EXPENDITURES					
POSITIONS:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: UNC System

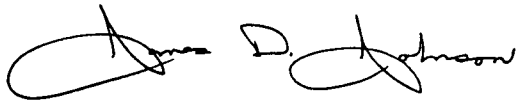
EFFECTIVE DATE: Upon becoming law

BILL SUMMARY: Amends Art. 21B of GS Ch. 116 (Centennial and Horace Williams Campus Financing Act) to authorize UNC Board of Governors to issue revenue bonds for cost of buildings and other facilities at Millennial Campuses. Amends GS 116-198.33(4b) and 116-198.34(8b) to authorize Board to designate as Millennial Campus real property of constituent institutions of UNC other than NC State or UNC-CH. Adds GS 116-36.5(c) establishing special trust fund for monies received for development of a Millennial Campus. Makes conforming changes to GS 116-198.35 (issuance of bonds), 116-198.37 (fees, rents, and charges), 146-30(b1) (net proceeds of dispositions), and 66-58(b) (sale of merchandise or services).

ASSUMPTIONS AND METHODOLOGY: Projects would come back to the General Assembly for approval through the self-liquidating bill process. The only minor potential fiscal impact is section 9, exempting the proceeds of any disposition of land from a service charge into the State Land Fund. Since the intent of the Millennial Campus is to acquire land rather than dispose of it, losses, if any, would be very minimal.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION
733-4910
PREPARED BY: Charlotte Todd
APPROVED BY: James D. Johnson



DATE: July 3, 2000

MINUTES
HOUSE COMMITTEE ON FINANCE

Thursday, July 6, 2000

The House Committee on Finance met on Thursday, July 6, 2000 in Room 544 of the Legislative Office Building at 8:30 a.m. The following members were present: Chairs Allen, Luebke and Miller; Vice Chairs Jarrell and Wood; Representatives Bridgeman, Brown, Capps, Church, Creech, Decker, Dedmon, Eddins, Edwards, Ford, Gibson, Goodwin, Gray, Hackney, Haire, Hill, Howard, McComas, McCombs, Morris, Pope, Rayfield, Starnes, Tucker, Weiss, Wilson and Womble; and Ex Officio members Baddour and Cunningham. Staff including Cindy Avrette, Richard Bostic, Gerry Cohen, Linda Millsaps, Mary Shuping; Eugene Son and Rebekah Butler, Interns; were in attendance. A Visitor Registration List is attached and made a part of these minutes.

Chair Luebke called the meeting to order. Chair Luebke recognized the pages and Sargent-at-Arms staff and commented briefly on the agenda and proceeded to consider the following bills:

Rep. Haire was recognized to explain SB 586, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE CREATION OF MILLENNIAL CAMPUSES AT THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA. Rep. Jarrell sent forth an amendment. Rep. Jarrell made a motion to adopt the amendment. The motion passed. Rep. Miller sent forth an amendment. Rep. Miller was recognized to explain the amendment. Rep. Miller made a motion to adopt the amendment. The motion passed. Rep. Rayfield asked how the investment fund would be treated if one wanted to get out. Rep. Miller noted that this is a voluntary plan and people can get in or out whenever they wish. Rep. Pope was recognized to speak in support of the bill. Rep. Pope said that the Centennial Campus at North Carolina State University has been a tremendous asset but warns that future private partnerships paying must be accountable for repairs and renovations. Rep. Brown made a motion to give the Proposed Committee Substitute and give the original bill an unfavorable report. The motion passed. A copy of the bill, amendments, bill analysis and fiscal note included in the minutes.

Rep. Miller was recognized to explain HB 1049, A BILL TO BE ENTITLED AMENDING THE LAWS RELATED TO THE LICENSURE OF PHYSICIANS IN THIS STATE. Rep. Womble made a motion to adopt a Proposed Committee Substitute. The motion passed. Rep. Womble made a motion to give the Proposed Committee Substitute a favorable report and give the original bill an unfavorable report. Rep. Weiss asked if the contributions of alternative medical community to health care in North Carolina would be addressed by a study commission. Rep. Miller stated that if a request is made it would be considered for the study committees bill. Chair Luebke noted that Rep. Weiss could move this forward by talking to the Rule Committee Chair, Representative Culpepper. Rep. Hackney asked what this bill does. Andy Wautry, with the North Carolina Medical Board, was recognized to respond. Mr. Wautry stated that this bill would allow the Medical Board to do a better job regulating the practice of medicine. Mr. Wautry noted that as an example, this bill would give the Medical Board authority to impose probation; currently, the board can only impose probation if the licensee concurs. Rep. Jarrell was recognized to speak on the bill. Rep. Jarrell stated that she had been telling constituents that the issue of alternate health

care would be addressed by a study commission and that she would feel better if this could be done. Rep. Hill was recognized to speak on the bill. Rep. Hill noted that he too had been informing his constituents that this issue would be in the study committees bill. Rep. Miller noted that this could be accomplished by amending the bill in such a manner. Rep. Hill sent forth an amendment. Staff was recognized to explain the amendment. Rep. Hill made a motion to adopt the amendment. The motion passed. Rep. Womble made a motion to roll this amendment into a Proposed Committee Substitute and give a favorable report and give the original bill an unfavorable report. Rep. Haire asked why immunity was worded in this bill and if it is in similar legislation. Staff noted that it is not common language in similar bills. Rep. Haire asked what caused this language to be included. Mr. Wautry stated that in order to make a case against a physician the board must obtain peer testimony and this language would allow the board to do such. Mr. Wautry noted that it was boilerplate language. Rep. Hackney noted that if it was boilerplate language it was poorly worded. Rep. Haire sent forth an amendment. Staff was recognized to explain the amendment. Rep. Haire made a motion to adopt the amendment. Rep. Hackney was recognized to speak on the bill. Rep. Hackney noted that he was not opposed to what the Medical Board was requesting; he was opposed to the wording. The motion passed. Rep. Womble made a motion to roll all the amendments into a Proposed Committee Substitute and give a favorable report and give the original bill an unfavorable report. The motion passed. A copy of the bill, amendments, Proposed Committee Substitute, bill analysis and fiscal note included in the minutes.

Senator Dalton was recognized to explain SB 1529, A BILL TO BE ENTITLED AN ACT TO ADJUST AND ADD FEES CHARGED BY THE REGISTER OF DEEDS. Rep. Miller made a motion to give the bill a favorable report. The motion passed. A copy of the bill and fiscal note included in the minutes.

Rep. Insko was recognized to explain HB 1132, A BILL TO BE ENTITLED AN ACT TO PROMOTE THE PRESERVATION OF FARMLAND AND TO PROMOTE SMALL, FAMILY-OWNED FARMS. Rep. Hackney made a motion to concur. The motion passed. A copy of the bill and bill analysis included in the minutes.

Chair Luebke added a bill to the agenda.

Senator Metcalf was recognized to explain SB 1474, A BILL TO BE ENTITLED AN ACT TO AUTHORIZE ASHEVILLE-BUNCOMBE TECHNICAL COMMUNITY COLLEGE TO LEASE CERTAIN PROPERTY BY PRIVATE NEGOTIATION AND TO ALLOW FLEXIBLE USE OF LEASE PROCEEDS. Rep. Allen made a motion to give the bill a favorable report. Rep. Creech asked if the college would have to maintain upkeep of the incubator facility. Senator Metcalf noted that the college has been looking to address these concerns. There being no further questions a vote was taken. The motion passed. A copy of the bill included in the minutes.

There being no further business, the Chair adjourned the meeting at 9:45 a.m.

Respectfully submitted:

Representative Paul Luebke
Chair

Ken Melton
Assistant to the Committee

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL
CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Thursday, July 6, 2000 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

HB 1049 -- Physician Licensure – Rep. Miller
HB 1132 -- Preserve Farmlands/Small Farms -- For concurrence – Rep. Insko
SB 586 – UNC Millennial Campuses – Senator Lee
SB 1529 -- Register of Deeds Fee Adjustment – Senator Dalton

ADJOURNMENT OF MEETING

BILLS ARE IN NUMERICAL ORDER IN BILL BOOKS

THIS DOES NOT MEAN THE CHAIR WILL
CALL BILLS IN THIS ORDER.

HOUSE FINANCE COMMITTEE

Thursday, July 6, 2000 – Room 544 LOB

CALL TO ORDER

INTRODUCTION OF PAGES

HB 1049 -- Physician Licensure – Rep. Miller
HB 1132 -- Preserve Farmlands/Small Farms -- For concurrence – Rep. Insko
SB 586 – UNC Millennial Campuses – Senator Lee
SB 1529 -- Register of Deeds Fee Adjustment – Senator Dalton

ADJOURNMENT OF MEETING

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES		7-6														
Allen, Gordon	Chair	X														
Luebke, Paul	Chair	X														
Miller, George	Chair	X														
Jarrell, Mary	Vice-Chair	X														
Wood, Steve	Vice-Chair	X														
Bridgeman, John		X														
Brown, John		X														
Buchanan, Monroe																
Capps, Russell		X														
Church, Walter		X														
Cox, Leslie																
Creech, Billy		X														
Decker, Michael		X														
Dedmon, Andy		X														
Eddins, Rick		X														
Edwards, Zeno		X														
Fitch, Toby																
Ford, Jimmie		X														
Gibson, Pryor		X														
Goodwin, Wayne		X														
Gray, Lyons		X														
Hackney, Joe		X														
Haire, Phillip		X														
Hill, Dewey		X														
Howard, Julia		X														
McComas, Daniel		X														

ATTENDANCE

HOUSE FINANCE COMMITTEE

1999 – 2000 SESSION

(Name of Committee)

DATES	7-6														
McCombs, Eugene	X														
Miner, David															
Morris, Mia	X														
Pope, Art	X														
Ramsey, Liston															
Rayfield, John	X														
Starnes, Edgar	X														
Tallent, Tim															
Tucker, Russell	X														
Weiss, Jennifer	X														
Wilson, Connie	X														
Womble, Larry	X														
Wright, Thomas															
Ex Officio Members:															
Hackney, Pro Tem	X														
Baddour, Majority	X														
Dedmon, Whip	X														
Earle, Whip															
Cunningham	X														

VISITOR REGISTRATION SHEET

Finance Comm — 7-6-00
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
R. Paul Wilms	NCHBA
GEORGE WORSLEY	NCSU
[illegible]	UNC
[illegible]	NCAHP
Rick Webb	ITS
Sharon Miller	CUCA
Alan Miles	Bailey & Dixon LLP
Stuart Albright	Lt Gov's office
Mark Fleming	NC State
Spurgeon Bloxham	State Const. Offices
Mike Hubbard	Smith Anderson
Peggy Maynard	GPC Inc.
Andy Whitley	NCMB
Mary Lou [illegible]	Edwards Wallace
Kim Wyatt	BCBSNC
Alice Garland	Friend of Jim Blackburn
Katherine Daniel	Electricities
Kim Hibbard	NCLM
Natalie English	Charlotte Chamber
Ed Kizer	UNC Charlotte
Tom Nunn	Sprint
Chester Bullard	UBC Ben Hodges
Paul Pulley	NCATL
Jan Ramsaur	NCBOS
Brown Markham	EGITS
Amy Baum	NCMS
Cissy Porter	
John Bowdish	[illegible]

VISITOR REGISTRATION SHEET

Finance — 7/6/00
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Erwin Thurston	UNC-CH
John Haigh	Morris Van Allen
Paul Stock	NC Bankers Assn.
Steve Woodson	NC Farm Bureau
Charlie Diehl	NC Trucking Assn.
Philip Albano	NC Community College System
Kennon Briggs	" " " "
Suzanne Williams	" " " "
Bill Spoon	ACLU
John Policastro	AT&T
Nancy Thompson	NMFC

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 1049 A BILL TO BE ENTITLED AN ACT AMENDING THE LAWS RELATED TO THE LICENSURE OF PHYSICIANS IN THIS STATE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

HOUSE BILL 1049
Second Edition Engrossed 4/27/99

Short Title: Physician Licensure. (Public)

Sponsors: Representative Miller.

Referred to: Select Committee on Health Care Delivery.

April 14, 1999

A BILL TO BE ENTITLED

AN ACT AMENDING THE LAWS RELATED TO THE LICENSURE OF PHYSICIANS IN THIS STATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-5 reads as rewritten:

"**§ 90-5. Meetings of Board.**

The North Carolina Medical Board shall assemble at least once in every year in the City of ~~Raleigh, and shall remain in session from day to day until all applicants who may present themselves for examination within the first two days of this meeting have been examined and disposed of; other~~ Raleigh. Other meetings in each year may be held at some suitable point in the State if deemed advisable."

Section 2. G.S. 90-9 reads as rewritten:

"**§ 90-9. Examination for license; scope; conditions and prerequisites.**

It is the duty of the North Carolina Medical Board to examine for license to practice medicine or surgery, or any of the branches thereof, ~~every applicant who complies with the following provisions: the applicant shall, before admittance to examination, satisfy the Board of possession of academic education equal to the entrance requirements of the University of North Carolina, or furnish a certificate from the superintendent of public instruction of the county that the applicant has passed an examination upon literary attainments to meet the requirements of entrance in the regular course of the State University. The applicant shall exhibit a diploma or furnish satisfactory proof of graduation from a medical college or an osteopathic college approved by the American Osteopathic Association at the time of~~

~~graduation, dated from January 1, 1960, to the present, and whose medical and osteopathic schools shall require an attendance of not less than four years or for a lesser period of time approved by the Board, and supply these facilities for clinical and scientific instruction as meet the approval of the Board. An applicant shall have graduated from a medical college approved by the Liaison Commission on Medical Education or osteopathic college that has been approved by the American Osteopathic Association; or, if graduated from any other medical or osteopathic college, the applicant shall be enrolled in a graduate medical education and training program in North Carolina that has been approved by the Board. An applicant who has graduated from a medical college not approved by the Liaison Commission on Medical Education or osteopathic college that has not been approved by the American Osteopathic Association and who has not enrolled in a graduate medical education and training program in North Carolina which has been approved by the Board shall satisfy the Board that the applicant has successfully completed three years of graduate medical education in a training program approved by the Board.~~ applicants for a medical license who meet eligibility requirements as provided by Board rules. The Board may contract for the design of, application for, and administration of the licensing examination through the Federation of State Medical Boards of the U.S., Inc., its successor organization, or another organization approved by the Board. No applicant from a medical or osteopathic college that has been disapproved by the Board is eligible to take the examination.

The examination shall cover the branches of medical science and subjects which the Board considers necessary to determine competence to practice medicine. The Board may divide the examination into parts or components.

The Board shall grant the applicant a license authorizing the applicant to practice medicine in any of its branches if the Board determines that the applicant has successfully passed the examination, is of good moral character, satisfies the requirements of the Board's rules, and ~~is:~~ is one of the following:

(1) ~~a~~ A graduate of a medical college approved by the Liaison Commission on Medical Education or an osteopathic college approved by the American Osteopathic Association and has successfully completed one year of training in a medical education program approved by the Board after graduation from medical ~~school;~~ school.

(2) ~~a~~ A graduate of a medical college approved by the Liaison Commission on Medical Education or an osteopathic college approved by the American Osteopathic Association, is a dentist licensed to practice dentistry under Article 2 of Chapter 90 of the General Statutes, and has been certified by the American Board of Oral and Maxillofacial Surgery after having completed a residency in an Oral and Maxillofacial Surgery Residency Program approved by the Board before completion of medical ~~school; or~~ school.

(3) ~~a~~ A graduate of a medical college that has not been approved by the Liaison Commission on Medical Education or an osteopathic

college that has not been approved by the American Osteopathic Association and has successfully completed three years of training in a medical education program approved by the Board after graduation from medical school.

~~Applicants shall be examined by number only; names and other identifying information shall not appear on examination papers.~~"

Section 3. G.S. 90-14 reads as rewritten:

"**§ 90-14. Revocation, suspension, annulment or denial of license.**

(a) The Board shall have the power to deny, annul, suspend, or revoke a license, or other authority to practice medicine in this State, issued by the Board to any person who has been found by the Board to have committed any of the following acts or conduct, or for any of the following reasons:

(1) Immoral or dishonorable conduct.

(2) Producing or attempting to produce an abortion contrary to law.

(3) Made false statements or representations to the Board, or who has willfully concealed from the Board material information in connection with an application for a license.

(4) Repealed by Session Laws 1977, c. 838, s. 3.

(5) Being unable to practice medicine with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of alcohol, drugs, chemicals, or any other type of material or by reason of any physical or mental abnormality. The Board is empowered and authorized to require a physician licensed by it to submit to a mental or physical examination by physicians designated by the Board before or after charges may be presented against the physician, and the results of the examination shall be admissible in evidence in a hearing before the Board.

(6) Unprofessional conduct, including, but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the medical profession, irrespective of whether or not a patient is injured thereby, or the committing of any act contrary to honesty, justice, or good morals, whether the same is committed in the course of the physician's practice or otherwise, and whether committed within or without North Carolina. The Board shall not revoke the license of or deny a license to a person solely because of that person's practice of a therapy that is experimental, nontraditional, or that departs from acceptable and prevailing medical practices unless, by competent evidence, the Board can establish that the treatment has a safety risk greater than the prevailing treatment or that the treatment is generally not effective.

(7) Conviction in any court of a crime involving moral turpitude, or the violation of a law involving the practice of medicine, or a

conviction of a felony; provided that a felony conviction shall be treated as provided in subsection (c) of this section.

(8) By false representations has obtained or attempted to obtain practice, money or anything of value.

(9) Has advertised or publicly professed to treat human ailments under a system or school of treatment or practice other than that for which the physician has been educated.

(10) Adjudication of mental incompetency, which shall automatically suspend a license unless the Board orders otherwise.

(11) Lack of professional competence to practice medicine with a reasonable degree of skill and safety for patients. In this connection the Board may consider repeated acts of a physician indicating the physician's failure to properly treat a patient. The Board may, upon reasonable grounds, require a physician to submit to inquiries or examinations, written or oral, by members of the Board or by other physicians licensed to practice medicine in this State, as the Board deems necessary to determine the professional qualifications of such licensee.

(12) Promotion of the sale of drugs, devices, appliances or goods for a patient, or providing services to a patient, in such a manner as to exploit the patient, and upon a finding of the exploitation, the Board may order restitution be made to the payer of the bill, whether the patient or the insurer, by the physician; provided that a determination of the amount of restitution shall be based on credible testimony in the record.

(13) Having a license to practice medicine or the authority to practice medicine revoked, suspended, restricted, or acted against or having a license to practice medicine denied by the licensing authority of any jurisdiction. For purposes of this subdivision, the licensing authority's acceptance of a license to practice medicine voluntarily relinquished by a physician or relinquished by stipulation, consent order, or other settlement in response to or in anticipation of the filing of administrative charges against the physician's license, is an action against a license to practice medicine.

(14) The failure to respond, within a reasonable period of time and in a reasonable manner as determined by the Board, to inquiries from the Board concerning any matter affecting the license to practice medicine.

(15) The failure to complete an amount not to exceed 150 hours of continuing medical education during any three consecutive calendar years pursuant to rules adopted by the Board.

(16) Aiding in the unlicensed practice of medicine.

(17) Allowing another person or organization to use a license issued by the Board.

(18) The repeated prescribing of controlled substances for personal or family use.
(19) Fee splitting.
(20) Failure to report to the Board disciplinary action in another state.
(21) Failure to make copies of patient records available to another physician when legally requested to do so.

For any of the foregoing reasons, the Board may deny the issuance of a license to an applicant or revoke a license issued to a physician, may suspend such a license for a period of time, and may impose conditions upon the continued practice after such period of suspension as the Board may deem advisable, may limit the accused physician's practice of medicine with respect to the extent, nature or location of the physician's practice as the Board deems advisable. The Board may, in its discretion and upon such terms and conditions and for such period of time as it may prescribe, restore a license so revoked or rescinded, except that no license that has been revoked shall be restored for a period of two years following the date of revocation. In addition to and in conjunction with the actions described above, the Board may make a finding adverse to a licensee or applicant but withhold imposition of judgment and penalty or it may impose judgment and penalty but suspend enforcement thereof and place the licensee on probation, which probation may be vacated upon noncompliance with such reasonable terms as the Board may impose. The Board may administer a public or private reprimand or a private letter of concern and the private reprimand and private letter of concern shall not require a hearing in accordance with G.S. 90-14.2 and shall not be disclosed to any person except the licensee. The Board may require a licensee to: (i) make specific redress or monetary redress; (ii) provide free public or charity service; (iii) complete educational, remedial training, or treatment programs; (iv) pay a fine; and (v) reimburse the Board for disciplinary costs.

(b) The Board ~~shall~~ may refer to the ~~State Medical Society Physician Health and Effectiveness Committee all physicians~~ North Carolina Physicians Health Program any physician or physician assistant whose health and effectiveness have been significantly impaired by alcohol, drug addiction or mental illness.

(c) A felony conviction shall result in the automatic revocation of a license issued by the Board, unless the Board orders otherwise or receives a request for a hearing from the person within 60 days of receiving notice from the Board, after the conviction, of the provisions of this subsection. If the Board receives a timely request for a hearing in such a case, the provisions of G.S. 90-14.2 shall be followed.

(d) The Board and its members and staff may release confidential or nonpublic information to any health care licensure board in this State or another state about the issuance, denial, annulment, suspension, or revocation of a license, or the voluntary surrender of a license by a Board-licensed physician, including the reasons for the action, or an investigative report made by the Board. ~~The Board shall notify the physician within 60 days after the information is transmitted. A summary of the information that is being transmitted shall be furnished to the physician. If the physician requests, in writing, within 30 days after being notified that such~~

~~information has been transmitted, he shall be furnished a copy of all information so transmitted. The notice or copies of the information shall not be provided if the information relates to an ongoing criminal investigation by any law enforcement agency, or authorized Department of Health and Human Services personnel with enforcement or investigative responsibilities.~~

(e) The Board and its members and staff shall not be held liable in any civil or criminal proceeding for exercising, in good faith, the powers and duties authorized by law.

(f) A person, partnership, firm, corporation, association, authority, or other entity shall be immune from civil and criminal liability for (i) reporting or investigating the acts or omissions of a licensee or applicant that violate the provisions of subsection (a) of this section or any other provision of law relating to the fitness of a licensee or applicant to practice medicine and (ii) initiating or conducting proceedings against a licensee or applicant if a complaint is made or action is taken in good faith without fraud or malice. Any person who testifies before the Board in good faith and without fraud or malice in any proceeding involving a violation of subsection (a) of this section or any other law relating to the fitness of an applicant or licensee to practice medicine, or who makes a recommendation to the Board in the nature of peer review, shall be immune from civil and criminal liability."

Section 4. G.S. 90-15.1 reads as rewritten:

"**§ 90-15.1. Registration every year with Board.**

Every person licensed to practice medicine by the North Carolina Medical Board shall register annually with the Board within 30 days of the person's birthday. A person who registers with the Board shall report to the Board the person's name and office and residence address and any other information required by the Board, and shall pay a registration fee fixed by the Board not in excess of ~~one hundred dollars ($100.00).~~ one hundred twenty-five dollars ($125.00). A physician who is not actively engaged in the practice of medicine in North Carolina and who does not wish to register the license may direct the Board to place the license on inactive status. For purposes of annual registration, the Board shall use a simplified registration form which allows registrants to confirm information on file with the Board. A physician who fails to register as required by this section shall pay an additional fee of twenty dollars ($20.00) to the Board. The license of any physician who fails to register and who remains unregistered for a period of 30 days after certified notice of the failure is automatically inactive. A person whose license is inactive shall not practice medicine in North Carolina nor be required to pay the annual registration fee. Upon payment of all accumulated fees and penalties, the license of the physician may be reinstated, subject to the Board requiring the physician to appear before the Board for an interview and to comply with other licensing requirements. The penalty may not exceed the maximum fee for a license under G.S. 90-13."

Section 5. G.S. 90-18 reads as rewritten:

"**§ 90-18. Practicing without license; practicing defined; penalties.**

(a) No person shall practice medicine or surgery, or any of the branches thereof, nor in any case prescribe for the cure of diseases unless the person shall have been

first licensed and registered so to do in the manner provided in this Article, and if any person shall practice medicine or surgery without being duly licensed and registered, as provided in this Article, the person shall not be allowed to maintain any action to collect any fee for such services. The person so practicing without license shall be guilty of a Class ~~1 misdemeanor.~~ I felony.

(b) Any person shall be regarded as practicing medicine or surgery within the meaning of this Article who shall diagnose or attempt to diagnose, treat or attempt to treat, operate or attempt to operate on, or prescribe for or administer to, or profess to treat any human ailment, physical or mental, or any physical injury to or deformity of another person. A person who resides in any state and who, by use of any electronic or other mediums, performs any of the acts described in this subsection shall be regarded as practicing medicine or surgery and shall be subject to the provisions of this Article and appropriate regulation by the North Carolina Medical Board. Any person who has graduated from a medical college or osteopathic college in accordance with G.S. 90-9 and who performs medical precertification, utilization review, or evaluation of the medical management of a patient and the use of resources for patient care shall be regarded as practicing medicine within the meaning of this Article.

(c) The following shall not constitute practicing medicine or surgery as defined in subsection (b) of this section:

(1) The administration of domestic or family remedies in cases of emergency.

(2) The practice of dentistry by any legally licensed dentist engaged in the practice of dentistry and dental surgery.

(3) The practice of pharmacy by any legally licensed pharmacist engaged in the practice of pharmacy.

(4) The practice of medicine and surgery by any surgeon or physician of the United States army, navy, or public health service in the discharge of his official duties.

(5) The treatment of the sick or suffering by mental or spiritual means without the use of any drugs or other material means.

(6) The practice of optometry by any legally licensed optometrist engaged in the practice of optometry.

(7) The practice of midwifery as defined in G.S. 90-178.2.

(8) The practice of chiropody by any legally licensed chiropodist when engaged in the practice of chiropody, and without the use of any drug.

(9) The practice of osteopathy by any legally licensed osteopath when engaged in the practice of osteopathy as defined by law, and especially G.S. 90-129.

(10) The practice of chiropractic by any legally licensed chiropractor when engaged in the practice of chiropractic as defined by law, and without the use of any drug or surgery.

(11) The practice of medicine or surgery by any nonregistered reputable physician or surgeon who comes into this State, either in person or by use of any electronic or other mediums, on an irregular basis, to consult with a resident registered physician or to consult with personnel at a medical school about educational or medical training. This proviso shall not apply to physicians resident in a neighboring state and regularly practicing in this State.

(12) Any person practicing radiology as hereinafter defined shall be deemed to be engaged in the practice of medicine within the meaning of this Article. 'Radiology' shall be defined as, that method of medical practice in which demonstration and examination of the normal and abnormal structures, parts or functions of the human body are made by use of X ray. Any person shall be regarded as engaged in the practice of radiology who makes or offers to make, for a consideration, a demonstration or examination of a human being or a part or parts of a human body by means of fluoroscopic exhibition or by the shadow imagery registered with photographic materials and the use of X rays; or holds himself out to diagnose or able to make or makes any interpretation or explanation by word of mouth, writing or otherwise of the meaning of such fluoroscopic or registered shadow imagery of any part of the human body by use of X rays; or who treats any disease or condition of the human body by the application of X rays or radium. Nothing in this subdivision shall prevent the practice of radiology by any person licensed under the provisions of Articles 2, 7, 8, and 12A of this Chapter.

(13) The performance of any medical acts, tasks, and functions by a licensed physician assistant at the direction or under the supervision of a physician in accordance with rules adopted by the Board. This subdivision shall not limit or prevent any physician from delegating to a qualified person any acts, tasks, and functions that are otherwise permitted by law or established by custom. The Board shall authorize physician assistants licensed in this State or another state to perform specific medical acts, tasks, and functions during a disaster.

(14) The practice of nursing by a registered nurse engaged in the practice of nursing and the performance of acts otherwise constituting medical practice by a registered nurse when performed in accordance with rules and regulations developed by a joint subcommittee of the North Carolina Medical Board and the Board of Nursing and adopted by both boards.

(15) The practice of dietetics/nutrition by a licensed dietitian/nutritionist under the provisions of Article 25 of this Chapter.

(16) The practice of acupuncture by a licensed acupuncturist in accordance with the provisions of Article 30 of this Chapter."

Section 6. G.S. 90-18.1 is amended by adding the following new subsection:

"(g) The provisions of G.S. 90-14 shall apply to physician assistants."

Section 7. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

HOUSE BILL 1049
Second Edition Engrossed 4/27/99
PROPOSED COMMITTEE SUBSTITUTE
H1049-CSRB-7.5

Short Title: Physician Licensure. (Public)

Sponsors:

Referred to: Select Committee on Health Care Delivery.

April 14, 1999

A BILL TO BE ENTITLED

AN ACT AMENDING THE LAWS RELATED TO THE LICENSURE OF PHYSICIANS IN THIS STATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-5 reads as rewritten:

"**§ 90-5. Meetings of Board.**

The North Carolina Medical Board shall assemble at least once in every year in the City of ~~Raleigh, and shall remain in session from day to day until all applicants who may present themselves for examination within the first two days of this meeting have been examined and disposed of; other~~ Raleigh. Other meetings in each year may be held at some suitable point in the State if deemed advisable."

Section 2. G.S. 90-9 reads as rewritten:

"**§ 90-9. Examination for license; scope; conditions and prerequisites.**

It is the duty of the North Carolina Medical Board to examine for license to practice medicine or surgery, or any of the branches thereof, ~~every applicant who complies with the following provisions: the applicant shall, before admittance to examination, satisfy the Board of possession of academic education equal to the entrance requirements of the University of North Carolina, or furnish a certificate from the superintendent of public instruction of the county that the applicant has passed an examination upon literary attainments to meet the requirements of entrance in the regular course of the State University. The applicant shall exhibit a~~

~~diploma or furnish satisfactory proof of graduation from a medical college or an osteopathic college approved by the American Osteopathic Association at the time of graduation, dated from January 1, 1960, to the present, and whose medical and osteopathic schools shall require an attendance of not less than four years or for a lesser period of time approved by the Board, and supply these facilities for clinical and scientific instruction as meet the approval of the Board. An applicant shall have graduated from a medical college approved by the Liaison Commission on Medical Education or osteopathic college that has been approved by the American Osteopathic Association; or, if graduated from any other medical or osteopathic college, the applicant shall be enrolled in a graduate medical education and training program in North Carolina that has been approved by the Board. An applicant who has graduated from a medical college not approved by the Liaison Commission on Medical Education or osteopathic college that has not been approved by the American Osteopathic Association and who has not enrolled in a graduate medical education and training program in North Carolina which has been approved by the Board shall satisfy the Board that the applicant has successfully completed three years of graduate medical education in a training program approved by the Board.~~ applicants for a medical license who meet eligibility requirements as provided by Board rules. The Board may contract for the design of, application for, and administration of the licensing examination through the Federation of State Medical Boards of the U.S., Inc., its successor organization, or another organization approved by the Board. No applicant from a medical or osteopathic college that has been disapproved by the Board is eligible to take the examination.

The examination shall cover the branches of medical science and subjects which the Board considers necessary to determine competence to practice medicine. The Board may divide the examination into parts or components.

The Board shall grant the applicant a license authorizing the applicant to practice medicine in any of its branches if the Board determines that the applicant has successfully passed the examination, is of good moral character, satisfies the requirements of the Board's rules, and ~~is:~~ is one of the following:

(1) ~~a~~ A graduate of a medical college approved by the Liaison Commission on Medical Education or an osteopathic college approved by the American Osteopathic Association and has successfully completed one year of training in a medical education program approved by the Board after graduation from medical ~~school;~~ school.

(2) ~~a~~ A graduate of a medical college approved by the Liaison Commission on Medical Education or an osteopathic college approved by the American Osteopathic Association, is a dentist licensed to practice dentistry under Article 2 of Chapter 90 of the General Statutes, and has been certified by the American Board of Oral and Maxillofacial Surgery after having completed a residency in an Oral and Maxillofacial Surgery Residency Program approved by the Board before completion of medical ~~school; or~~ school.

(3) ~~a~~ A graduate of a medical college that has not been approved by the Liaison Commission on Medical Education or an osteopathic college that has not been approved by the American Osteopathic Association and has successfully completed three years of training in a medical education program approved by the Board after graduation from medical school.

~~Applicants shall be examined by number only; names and other identifying information shall not appear on examination papers.~~"

Section 3. G.S. 90-14 reads as rewritten:

"**§ 90-14. Revocation, suspension, annulment or denial of license.**

(a) The Board shall have the power to deny, annul, suspend, or revoke a license, or other authority to practice medicine in this State, issued by the Board to any person who has been found by the Board to have committed any of the following acts or conduct, or for any of the following reasons:

(1) Immoral or dishonorable conduct.

(2) Producing or attempting to produce an abortion contrary to law.

(3) Made false statements or representations to the Board, or who has willfully concealed from the Board material information in connection with an application for a license.

(4) Repealed by Session Laws 1977, c. 838, s. 3.

(5) Being unable to practice medicine with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of alcohol, drugs, chemicals, or any other type of material or by reason of any physical or mental abnormality. The Board is empowered and authorized to require a physician licensed by it to submit to a mental or physical examination by physicians designated by the Board before or after charges may be presented against the physician, and the results of the examination shall be admissible in evidence in a hearing before the Board.

(6) Unprofessional conduct, including, but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the medical profession, irrespective of whether or not a patient is injured thereby, or the committing of any act contrary to honesty, justice, or good morals, whether the same is committed in the course of the physician's practice or otherwise, and whether committed within or without North Carolina. The Board shall not revoke the license of or deny a license to a person solely because of that person's practice of a therapy that is experimental, nontraditional, or that departs from acceptable and prevailing medical practices unless, by competent evidence, the Board can establish that the treatment has a safety risk greater than the prevailing treatment or that the treatment is generally not effective.

(7) Conviction in any court of a crime involving moral turpitude, or the violation of a law involving the practice of medicine, or a conviction of a felony; provided that a felony conviction shall be treated as provided in subsection (c) of this section.

(8) By false representations has obtained or attempted to obtain practice, money or anything of value.

(9) Has advertised or publicly professed to treat human ailments under a system or school of treatment or practice other than that for which the physician has been educated.

(10) Adjudication of mental incompetency, which shall automatically suspend a license unless the Board orders otherwise.

(11) Lack of professional competence to practice medicine with a reasonable degree of skill and safety for patients. In this connection the Board may consider repeated acts of a physician indicating the physician's failure to properly treat a patient. The Board may, upon reasonable grounds, require a physician to submit to inquiries or examinations, written or oral, by members of the Board or by other physicians licensed to practice medicine in this State, as the Board deems necessary to determine the professional qualifications of such licensee.

(12) Promotion of the sale of drugs, devices, appliances or goods for a patient, or providing services to a patient, in such a manner as to exploit the patient, and upon a finding of the exploitation, the Board may order restitution be made to the payer of the bill, whether the patient or the insurer, by the physician; provided that a determination of the amount of restitution shall be based on credible testimony in the record.

(13) Having a license to practice medicine or the authority to practice medicine revoked, suspended, restricted, or acted against or having a license to practice medicine denied by the licensing authority of any jurisdiction. For purposes of this subdivision, the licensing authority's acceptance of a license to practice medicine voluntarily relinquished by a physician or relinquished by stipulation, consent order, or other settlement in response to or in anticipation of the filing of administrative charges against the physician's license, is an action against a license to practice medicine.

(14) The failure to respond, within a reasonable period of time and in a reasonable manner as determined by the Board, to inquiries from the Board concerning any matter affecting the license to practice medicine.

(15) The failure to complete an amount not to exceed 150 hours of continuing medical education during any three consecutive calendar years pursuant to rules adopted by the Board.

(16) Allowing another person or organization to use a license issued by the Board.
(17) The repeated prescribing of controlled substances for personal or family use.
(18) Fee splitting.
(19) Failure to report to the Board disciplinary action in another state.
(20) Failure to make copies of patient records available to another physician when legally requested to do so.

For any of the foregoing reasons, the Board may deny the issuance of a license to an applicant or revoke a license issued to a physician, may suspend such a license for a period of time, and may impose conditions upon the continued practice after such period of suspension as the Board may deem advisable, may limit the accused physician's practice of medicine with respect to the extent, nature or location of the physician's practice as the Board deems advisable. The Board may, in its discretion and upon such terms and conditions and for such period of time as it may prescribe, restore a license so revoked or rescinded, except that no license that has been revoked shall be restored for a period of two years following the date of revocation. In addition to and in conjunction with the actions described above, the Board may make a finding adverse to a licensee or applicant but withhold imposition of judgment and penalty or it may impose judgment and penalty but suspend enforcement thereof and place the licensee on probation, which probation may be vacated upon noncompliance with such reasonable terms as the Board may impose. The Board may administer a public or private reprimand or a private letter of concern and the private reprimand and private letter of concern shall not require a hearing in accordance with G.S. 90-14.2 and shall not be disclosed to any person except the licensee. The Board may require a licensee to: (i) make specific redress or monetary redress; (ii) provide free public or charity service; (iii) complete educational, remedial training, or treatment programs; (iv) pay a fine; and (v) reimburse the Board for disciplinary costs.

(b) The Board ~~shall~~ may refer to the ~~State Medical Society Physician Health and Effectiveness Committee all physicians~~ North Carolina Physicians Health Program any physician or physician assistant whose health and effectiveness have been significantly impaired by alcohol, drug addiction or mental illness.

(c) A felony conviction shall result in the automatic revocation of a license issued by the Board, unless the Board orders otherwise or receives a request for a hearing from the person within 60 days of receiving notice from the Board, after the conviction, of the provisions of this subsection. If the Board receives a timely request for a hearing in such a case, the provisions of G.S. 90-14.2 shall be followed.

(d) The Board and its members and staff may release confidential or nonpublic information to any health care licensure board in this State or another state about the issuance, denial, annulment, suspension, or revocation of a license, or the voluntary surrender of a license by a Board-licensed physician, including the reasons for the action, or an investigative report made by the Board. ~~The Board shall notify the physician within 60 days after the information is transmitted. A summary of the~~

~~information that is being transmitted shall be furnished to the physician. If the physician requests, in writing, within 30 days after being notified that such information has been transmitted, he shall be furnished a copy of all information so transmitted. The notice or copies of the information shall not be provided if the information relates to an ongoing criminal investigation by any law enforcement agency, or authorized Department of Health and Human Services personnel with enforcement or investigative responsibilities.~~

(e) The Board and its members and staff shall not be held liable in any civil or criminal proceeding for exercising, in good faith, the powers and duties authorized by law.

(f) A person, partnership, firm, corporation, association, authority, or other entity shall be immune from civil and criminal liability for (i) reporting or investigating the acts or omissions of a licensee or applicant that violate the provisions of subsection (a) of this section or any other provision of law relating to the fitness of a licensee or applicant to practice medicine and (ii) initiating or conducting proceedings against a licensee or applicant if a complaint is made or action is taken in good faith without fraud or malice. Any person who testifies before the Board in good faith and without fraud or malice in any proceeding involving a violation of subsection (a) of this section or any other law relating to the fitness of an applicant or licensee to practice medicine, or who makes a recommendation to the Board in the nature of peer review, shall be immune from civil and criminal liability."

Section 4. G.S. 90-15.1 reads as rewritten:

"**§ 90-15.1. Registration every year with Board.**

Every person licensed to practice medicine by the North Carolina Medical Board shall register annually with the Board within 30 days of the person's birthday. A person who registers with the Board shall report to the Board the person's name and office and residence address and any other information required by the Board, and shall pay a registration fee fixed by the Board not in excess of ~~one hundred dollars ($100.00).~~ one hundred twenty-five dollars ($125.00). A physician who is not actively engaged in the practice of medicine in North Carolina and who does not wish to register the license may direct the Board to place the license on inactive status. For purposes of annual registration, the Board shall use a simplified registration form which allows registrants to confirm information on file with the Board. A physician who fails to register as required by this section shall pay an additional fee of twenty dollars ($20.00) to the Board. The license of any physician who fails to register and who remains unregistered for a period of 30 days after certified notice of the failure is automatically inactive. A person whose license is inactive shall not practice medicine in North Carolina nor be required to pay the annual registration fee. Upon payment of all accumulated fees and penalties, the license of the physician may be reinstated, subject to the Board requiring the physician to appear before the Board for an interview and to comply with other licensing requirements. The penalty may not exceed the maximum fee for a license under G.S. 90-13."

Section 5. G.S. 90-18.1 is amended by adding the following new subsection:

"(g) The provisions of G.S. 90-14 shall apply to physician assistants."

Section 6. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1049

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1049-ARB-7.6 Page 1 of __

Date_____,2000

Comm. Sub. [PROPOSED]
Amends Title []
H1049-CSRB-7.5

Representative_____

moves to amend the bill on page 7, line 2, by rewriting the line to read:

"Section 6. The Legislative Research Commission may study the role alternative health care providers have in the healthcare of the State's citizens and the role they should have in an integrated healthcare system. The Commission may study the need to acknowledge the role alternative healthcare providers serve in the healthcare system and the need to license and regulate alternative health care providers. The Legislative Research Commission may make a final report of its findings and recommendations to the 2001 Regular Session of the 2001 General Assembly.

Section 7. This act is effective when it becomes law.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. PCS for 2nd ed.

H. B. No. 1049 DATE 7/6

S. B. No. _____ Amendment No. 2
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) [redacted] Haire
Sen.)

1 moves to amend the bill on page 6, lines 11-21
2 ( ) WHICH CHANGES THE TITLE
3 by deleting those lines.
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19

SIGNED [signature]

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE

HOUSE BILL 1049: Physician Licensure

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Miller
Date:	July 6, 2000	**Summary by:**	Cindy Avrette
Version:	PCS for 2nd Edition H1049-CSRB-7.5		Committee Counsel

SUMMARY: ***House Bill 1049 would amend certain sections in Article 1 of Chapter 90 of the General Statutes related to the licensure of physicians in North Carolina. The bill becomes effective when it becomes law.***

PROPOSED COMMITTEE SUBSTITUTE: ***The proposed committee substitute incorporates the three changes adopted by the committee on Monday, June 26:***

- ***It removes the provision that would have included "aiding in the unlicensed practice of medicine" as a grounds for suspending or revoking a medical license.***
- ***It removes the provision that would have made it a Class I felony to practice medicine without a license.***
- ***It removes the language that would have regarded persons who perform medical precertifications as practicing medicine.***

CURRENT LAW: Article 1 of Chapter 90 of the General statutes regulates the practice of medicine by licensing physicians and by defining the scope of medical practice. This authority to regulate the practice of medicine is vested in the North Carolina Medical Board consisting of 12 members, seven of whom shall be licensed physicians.

BILL ANALYSIS: House Bill 1049 makes the following changes to the bill:

Section 1: Specifies that the North Carolina Medical Board shall meet at least once a year. Language is deleted that requires the Board to remain in session for purposes of examining students.

Section 2: Rewrites G.S. 90-9 to:

(1) Allow the Board to set additional eligibility requirements by rule. To be licensed, the statute continues to require that the applicant pass the examination, be of good moral character, and be a graduate of an accepted medical college.
(2) Allow the Board to contract with outside groups to design and administer the licensing tests. The Board no longer administers its own tests. All the states use the United States Medical Licensing Exam.
(3) Delete the requirement that tests be done by number only. This change is needed so that the State may use the national exam.

Section 3: Adds the following new grounds for revocating, suspending, or denying a license:

- Allowing another person or organization to use a medical license.
- Repeated prescribing of controlled substances for personal or family use.
- Fee spliting.
- Failure to report a disciplinary action taken in another state.
- Failure to provide patient records to another physician when legally requested to do so.

Second, this section gives the Board the ability to impose probation in lieu of other action and to condition probation on payment of fine, restitution to the Board or another party or impose a requirement of free or charity service.

This section also allows the Board to refer a physician's assistant with an alcohol, a drug or a mental health problem to the NC Physicians Health Program. It currently has the authority to refer a physician to this treatment program.

Lastly, this section provides immunity from civil and criminal liability for good faith reporting of a violation, participating in investigation or testifying.

Section 4: Raises the annual registration fee from "not more than $100" to "not more than "$125".

Section 5: Provides that the grounds to revoke or deny a license to a physician would also apply to a physician assistant.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1049 (House Finance Committee Substitute)

SHORT TITLE: Physician Licensure

SPONSOR(S): Rep. Miller

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
REVENUES					
Board Operating Account	$732,743	$747,397	$762,345	$777,592	$793,144
EXPENDITURES					
Board Operating Account	Not yet determined				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Medical Board

EFFECTIVE DATE: The bill is effective when it becomes law.

BILL SUMMARY: The bill amends various laws pertaining to the licensure of physicians. Included in the changes is an amendment to raise the annual registration fee from not more than $100 to an amount not more than $125.

ASSUMPTIONS AND METHODOLOGY:
The bill increases the annual registration fee for physicians from $100 to $125. There are currently 28,735 physicians licensed in North Carolina. This number includes 19,638 doctors living in the state and 9,097 living outside the state. Staff of the North Carolina Medical Board estimates that the number of physicians licensed in the state increases 2% a year. The chart below shows the projected five-year growth in physicians and the increased revenue from the $25 fee increase.

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
Licenses	28,735	29,310	29,896	30,494	31,104	31,726
Fee Increase		$732,743	$747,397	$762,345	$777,592	$793,144

For 1999, the Medical Board's operating expenditures exceeded operating revenues by $52,709. The Board's 1999 budget was balanced with interest income from its cash reserves. As of October 31, 1999, the Medical Board had a total fund balance of $5,543,290 designated as follows:

Designated for litigation	$700,000
Designated for capital purchases	$43,359
Designated for building	$600,000
Undesignated	$4,199,931
Total Fund Balance	$5,543,290

The unrestricted, undesignated fund balance of $4.2 million equals 84.7% of the Medical Board's 1999 operating budget. The Board plans to use part of the increased revenue for additional investigators and attorneys.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY:

DATE:

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 1132 A BILL TO BE ENTITLED AN ACT TO PROMOTE THE PRESERVATION OF FARMLAND AND TO PROMOTE SMALL, FAMILY-OWNED FARMS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 5

HOUSE BILL 1132*
Second Edition Engrossed 4/28/99
Committee Substitute Favorable 7/8/99
Committee Substitute #2 Favorable 7/13/99
Senate Finance Committee Substitute Adopted 6/27/00

Short Title: Preserve Farmlands/Promote Small Farms. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PROMOTE THE PRESERVATION OF FARMLAND AND TO PROMOTE SMALL, FAMILY-OWNED FARMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-744(c) reads as rewritten:

"(c) There is established a 'North Carolina Farmland Preservation Trust Fund' to be administered by the Commissioner of Agriculture. The Trust Fund shall consist of all monies received for the purpose of purchasing agricultural conservation easements or transferred from counties or private sources. The Trust Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3. The Commissioner shall use Trust Fund monies for the purchase of agricultural conservation easements, including transaction costs, and shall distribute Trust Fund monies ~~to counties and private nonprofit conservation organizations~~ for such purchases, including transaction ~~costs.~~ costs, as follows:

(1) To a private nonprofit conservation organization that matches thirty percent (30%) of the Trust Fund monies it receives with funds from sources other than the Trust Fund.

(2) To counties according to the match requirements under subsection (c1) of this section.

(c1) A county that is an enterprise tier four county or an enterprise tier five county, as these tiers are defined in G.S. 105-129.3(a), and that has prepared a

countywide farmland protection plan shall match fifteen percent (15%) of the Trust Fund monies it receives with county funds. A county that has not prepared a countywide farmland protection plan shall match thirty percent (30%) of the Trust Fund monies it receives with county funds. A county that is an enterprise tier one county, an enterprise tier two county, or an enterprise tier three county, as these counties are defined in G.S. 105-129.3(a), and that has prepared a countywide farmland protection plan shall not be required to match any of the Trust Fund monies it receives with county funds.

(c2) The Commissioner of Agriculture shall adopt rules ~~and regulations~~ governing the use, distribution, investment, and management of Trust Fund monies."

Section 2. G.S. 106-744 is amended by adding two new subsections to read:

"(e) As used in subsection (c1) of this section, a countywide farmland protection plan means a plan that satisfies all of the following requirements:

(1) The countywide farmland protection plan shall contain a list and description of existing agricultural activity in the county.

(2) The countywide farmland protection plan shall contain a list of existing challenges to continued family farming in the county.

(3) The countywide farmland protection plan shall contain a list of opportunities for maintaining or enhancing small, family-owned farms and the local agricultural economy.

(4) The countywide farmland protection plan shall describe how the county plans to maintain a viable agricultural community and shall address farmland preservation tools, such as agricultural economic development, including farm diversification and marketing assistance; other kinds of agricultural technical assistance, such as farm infrastructure financing, farmland purchasing, linking with younger farmers, and estate planning; the desirability and feasibility of donating agricultural conservation easements, and entering into voluntary agricultural districts.

(5) The countywide farmland protection plan shall contain a schedule for implementing the plan and an identification of possible funding sources for the long-term support of the plan.

(f) A countywide farmland protection plan that meets the requirements of subsection (e) of this section may be formulated with the assistance of an agricultural advisory board designated pursuant to G.S. 106-739."

Section 3. This act becomes effective July 1, 2000.

HOUSE BILL 1132:
Preserve Farmlands/Promote Small Farms

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Insko
Date:	July 6, 2000	**Summary by:**	Mary Shuping
Version:	5th edition		Research Assistant

HB 1132, 5TH EDITION IS BACK FOR CONCURRENCE

Changes made by the Senate:

The Senate removed the provision allowing a county which has adopted a countywide farmland protection plan to impose a fee of no more than $10.00 for each subdivision plat required to be filed with the Register of Deeds.

- **HB 1132 was reported out of House Finance on July 8, 1999, and passed the House on July 15, 1999.**

BACKGROUND: The Farmland Preservation Enabling Act authorizes counties to undertake farmland preservation programs. The Act also establishes a North Carolina Farmland Preservation Trust Fund, consisting of all monies received for the purpose of purchasing agricultural conservation easements. The Trust Fund is administered by the Commissioner of Agriculture.

HB 1132 provides that in order to be eligible for Trust Fund monies:

- Private non-profit conservation organizations must provide a 30% match.
- County matching requirements: 15% if the county has prepared a countywide farmland protection plan; 30% if the county has not prepared such a plan; and, Tier 1, 2, and 3 counties (as defined in the Bill Lee Act) that have prepared countywide farmland protection plans are not required to provide a match.

Countywide Farmland Protection Plans are plans that contain:

- A list and description of existing agricultural activity.
- A list of existing challenges to continued family farming.
- A list of opportunities for maintaining or enhancing small, family-owned farms and the local agricultural economy.
- A description of how the county plans to maintain a viable agricultural community.
- A schedule for implementing the plan and identification of possible funding sources for the long-term support of the plan.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

☐ Committee Substitute for
S.B. 586 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE CREATION OF MILLENNIAL CAMPUSES AT THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 3

SENATE BILL 586
Education/Higher Education Committee Substitute Adopted 4/28/99
House Committee Substitute Favorable 6/29/00

Short Title: UNC Millennial Campuses. (Public)

Sponsors:

Referred to:

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CREATION OF MILLENNIAL CAMPUSES AT THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. The catch line of G.S. 116-36.5 reads as rewritten:

"**§ 116-36.5. Centennial Campus trust fund; Horace Williams Campus trust ~~fund.~~ fund; Millennial Campuses' trust funds.**"

Section 2. G.S. 116-36.5 is amended by adding a new subsection to read:

"(c) All moneys received through development of a Millennial Campus of a constituent institution of The University of North Carolina as defined by G.S. 116-198.33(4b), from whatever source, including the net proceeds from the lease or rental of real property on a Millennial Campus, shall be placed in a special, continuing, and nonreverting trust fund having the sole and exclusive use for further development of that Millennial Campus, including its operational development. This fund shall be treated in the manner of institutional trust funds as provided in G.S. 116-36.1. This fund shall be deemed an additional and alternative method of funding the Millennial Campus and not an exclusive one. To the extent that any general, special, or local law is inconsistent with this section, it is declared inapplicable to this section."

Section 3. The title of Article 21B of Chapter 116 of the General Statutes reads as rewritten:

"The Centennial ~~Campus and~~ Campus, the Horace Williams ~~Campus~~

Campus, and the Millennial Campuses Financing Act."

Section 4. G.S. 116-198.31 reads as rewritten:

"**§ 116-198.31. Purpose of Article.**

The purpose of this Article is to authorize the Board of Governors of The University of North Carolina to issue revenue bonds, payable from any leases, rentals, charges, fees, and other revenues but with no pledge of taxes or the faith and credit of the State or any agency or political subdivision thereof, to pay the cost, in whole or part, of buildings, structures, or other facilities for the Centennial Campus, located at North Carolina State University at ~~Raleigh and~~ Raleigh, for the Horace Williams Campus located at the University of North Carolina at Chapel ~~Hill.~~ Hill, and for any Millennial Campus as defined by G.S. 116-198.33(4b)."

Section 5. G.S. 116-198.33 reads as rewritten:

"**§ 116-198.33. Definitions.**

As used in this Article, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(1) The word 'Board' shall mean the Board of Governors of The University of North Carolina.

(2) The word 'cost' as applied to any project, shall include the cost of acquisition or construction; the cost of acquisition of all property, both real and personal, or interests therein; the cost of demolishing, removing, or relocating any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be removed or relocated; the cost of all labor, materials, equipment and furnishings, financing charges, interest prior to and during construction and, if deemed advisable by the Board, for a period not exceeding one year after completion of such construction; provisions for working capital, reserves for debt service and for extensions, enlargements, additions, and improvements; cost of engineering, financial, and legal services, plans, specifications, studies, surveys, and estimates of cost and of revenues; administrative expenses; expenses necessary or incident to determining the feasibility or practicability of constructing the project; and such other expenses as may be necessary or incident to acquisition or construction with respect to the project or to the placing of the project in operation. Any obligation or expense incurred by the Board prior to the issuance of bonds under the provisions of this Article in connection with any of the foregoing items of cost may be regarded as a part of such cost.

(3) The word 'Institution' shall mean North Carolina State University at Raleigh and the University of North Carolina at Chapel ~~Hill.~~ Hill, or a constituent institution of The University of North Carolina with a Millennial Campus as defined by G.S. 116-198.33(4b).

(4) The term 'Centennial Campus' means all of the following properties:

a. The real property and appurtenant facilities bounded by Blue Ridge Road, Hillsborough Street, Wade Avenue, and Interstate 440 that are the sites of the College of Veterinary Medicine, the University Club, and the Agricultural Turf Grass Management Program.

b. The real property and appurtenant facilities that are the former Dix Hospital properties and other contiguous parcels of property that are adjacent to Centennial Boulevard.

c. All other real property and appurtenant facilities designated by the Board of Governors as part of the Centennial Campus. The properties designated by the Board of Governors do not have to be contiguous with the Centennial Campus to be designated as part of that Campus.

(4a) The term 'Horace Williams Campus' means all of the following properties:

a. The real property and appurtenant facilities left to the University of North Carolina at Chapel Hill by the Will of Henry Horace Williams.

b. All other real property and appurtenant facilities designated by the Board of Governors as part of the Horace Williams Campus. The properties designated by the Board of Governors do not have to be contiguous with the Horace Williams Campus to be designated as part of that Campus.

(4b) The term 'Millennial Campus' means all real property and appurtenant facilities designated by the Board of Governors as part of a Millennial Campus of a constituent institution of The University of North Carolina other than North Carolina State University or the University of North Carolina at Chapel Hill. The properties designated by the Board of Governors do not have to be contiguous with the constituent institution to be designated as part of the institution's Millennial Campus.

(5) The term 'existing facilities' shall mean buildings and facilities, then existing, any part of the revenues of which are pledged under the provisions of any resolution authorizing the issuance of revenue bonds hereunder to the payment of such bonds.

(6) The word 'project' shall mean and shall include any one or more buildings, structures, administration buildings, libraries, research or instructional facilities, housing maintenance, storage, or utility facilities, and any facilities related thereto or required or useful for conducting of research or the operation of the Centennial ~~Campus or~~ Campus, the Horace Williams Campus, or of a Millennial Campus as defined by G.S. 116-198.33(4b), including roads, water,

sewer, power, gas, greenways, parking, or any other support facilities essential or convenient for the orderly conduct of the Centennial ~~Campus or~~ Campus, the Horace Williams ~~Campus~~ Campus, or a Millennial Campus, respectively.

(7) The word 'revenues' shall mean all or any part of the rents, leases, charges, fees, and other income revenues derived from or in connection with any project or projects and existing facilities."

Section 6. G.S. 116-198.34 reads as rewritten:

"**§ 116-198.34. General powers of Board of Governors.**

The Board may exercise any one or more of the following powers:

(1) To determine the location and character of any project or projects, and to acquire, construct, and provide the same, and to maintain, repair, and operate, and to enter into contracts for the management, lease, use, or operation of all or any portion of any project or projects and any existing facilities.

(2) To issue revenue bonds as hereinafter provided to pay all or any part of the cost of any project or projects, and to fund or refund the same.

(3) To fix and revise from time to time and charge and collect rates, fees, rents, and charges for the use of, and for the services furnished by, all or any portion of any project or projects.

(4) To establish and enforce, and to agree through any resolution or trust agreement authorizing or securing bonds under this Article to make and enforce, rules and regulations for the use of and services rendered by any project or projects and any existing facilities, to provide for the maximum use of any project or projects and any existing facilities.

(5) To acquire, hold, lease, and dispose of real and personal property in the exercise of its powers and the performance of its duties hereunder and to lease all or any part of any project or projects and any existing facilities upon such terms and conditions as the Board determines, subject to the provisions of G.S. 143-341 and Chapter 146 of the General Statutes.

Notwithstanding G.S. 143-341 and Chapter 146 of the General Statutes, a disposition by easement, lease, or rental agreement of space in any building on the Centennial ~~Campus or~~ Campus, on the Horace Williams ~~Campus~~ Campus, or on a Millennial Campus made for a period of 10 years or less shall not require the approval of the Governor and the Council of State. All other acquisitions and dispositions made under this subdivision are subject to the provisions of G.S. 143-341 and Chapter 146 of the General Statutes.

(6) To employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers, and

such other employees and agents as may be necessary in its judgment in connection with any project or projects and existing facilities, and to fix their compensation.

(7) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Article.

(8) To receive and accept from any federal, State, or other public agency and any private agency, person or other entity donations, loans, grants, aid, or contributions of any money, property, labor, or other things of value for any project or projects, and to agree to apply and use the same in accordance with the terms and conditions under which the same are provided.

(8a) To designate the real property and appurtenant facilities to be included as part of the Centennial ~~Campus or~~ Campus, the Horace Williams ~~Campus.~~ Campus, or a Millennial Campus.

(8b) Acting on recommendation made by the President of The University of North Carolina after consultation by the President with the Chancellor and the Board of Trustees of a constituent institution, to designate real property held by, or to be acquired by, a constituent institution as a 'Millennial Campus' of the institution. That designation shall be based on an express finding by the Board of Governors that the institution desiring to create a 'Millennial Campus' has the administrative and fiscal capability to create and maintain such a campus and provided further, that the Board of Governors has found that the creation of the constituent institution's 'Millennial Campus' will enhance the institution's research, teaching, and service missions as well as enhance the economic development of the region served by the institution. Additionally, the Board of Governors may authorize two or more constituent institutions which meet the requirements of this section to create a joint Millennial Campus.

(9) To do all acts and things necessary or convenient to carry out the powers granted by this Article."

Section 7. G.S. 116-198.35 reads as rewritten:

"**§ 116-198.35. Issuance of bonds and bond anticipation notes.**

The Board is hereby authorized to issue, subject to the approval of the Director of the Budget, at one time or from time to time, revenue bonds of the Board for the purpose of paying all or any part of the cost of acquiring, constructing, or providing any project or projects on the Centennial ~~Campus or~~ Campus, on the Horace Williams ~~Campus.~~ Campus, or on a Millennial Campus. The bonds of each issue shall be dated, shall mature at such time or times not exceeding 40 years from their date or dates, shall bear interest at such rate or rates as may be determined by the Board, and may be redeemable before maturity, at the option of the Board, at such price or prices and under such terms and conditions as may be fixed by the Board prior to the

issuance of the bonds. The Board shall determine the form and manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Article or any recitals in any bonds issued under the provisions of this Article, all such bonds shall be deemed to be negotiable instruments under the laws of this State, subject only to the provisions for registration in any resolution authorizing the issuance of such bonds or any trust agreement securing the same. The bonds may be issued in coupon or registered form or both or as book-entry bonds, as the Board may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The Board may sell such bonds in such manner, at public or private sale, and for such price, as it may determine to be for the best interests of the Board.

The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the Board may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. Unless otherwise provided in the authorizing resolution or in the trust agreement securing such bonds, if the proceeds of such bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit and shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the Board may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Prior to the preparation of definitive bonds, the Board may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Board may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

Except as herein otherwise provided, bonds may be issued under this Article and other powers vested in the Board under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of

any other conditions or things than those proceedings, conditions, or things which are specifically required by this Article.

The Board may enter into or negotiate a note with an acceptable bank or trust company in lieu of issuing bonds for the financing of projects covered under this section. The terms and conditions of any note of this nature shall be in accordance with the terms and conditions surrounding issuance of bonds.

The Board is hereby authorized to issue, subject to the approval of the Director of the Budget, at one time or from time to time, revenue bond anticipation notes of the Board in anticipation of the issuance of bonds authorized pursuant to the provisions of this Article. The principal of and the interest on such notes shall be payable solely from the proceeds of bonds or renewal notes, or, in the event bond or renewal note proceeds are not available, any available revenues of the project or projects for which such bonds shall have been authorized. The notes of each issue shall be dated, shall mature at such time or times not exceeding two years from their date or dates, shall bear interest at such rate or rates as may be determined by the Board, and may be redeemable before maturity, at the option of the Board, at such price or prices and under such terms and conditions as may be fixed by the Board prior to the issuance of the notes. The Board shall determine the form and the manner of execution of the notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the notes and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any notes or coupons shall cease to be such officer before the delivery of such notes, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Article or any recitals in any notes issued under the provisions of this Article, all such notes shall be deemed to be negotiable instruments under the laws of this State, subject only to the provisions for registration in any resolution authorizing the issuance of such notes or any trust agreement securing the bonds in anticipation of which such notes are being issued. The notes may be issued in coupon or registered form or both or as book entry notes, as the Board may determine, and provision may be made for the registration of any coupon notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon notes of any notes registered as to both principal and interest. The Board may sell such notes in such manner, at public or private sale, and for such price, as it may determine to be for the best interests of the Board.

The proceeds of the notes of each issue shall be used solely for the purpose for which the bonds in anticipation of which such notes are being issued shall have been authorized, and such note proceeds shall be disbursed in such manner and under such restrictions, if any, as the Board may provide in the resolution authorizing the issuance of such notes or bonds or in the trust agreement securing such bonds.

The resolution providing for the issuance of notes, and any trust agreement securing the bonds in anticipation of which such notes are being authorized, may also contain such limitations upon the issuance of additional notes as the Board may deem

proper, and such additional notes shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement. The Board may also provide for the replacement of any notes which shall become mutilated or be destroyed or lost.

Except as herein otherwise provided, notes may be issued under this Article and other powers vested in the Board under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this Article.

Unless the context shall otherwise indicate, the word 'bonds' wherever used in this Article, shall be deemed and construed to include the words 'bond anticipation notes.'"

Section 8. G.S. 116-198.37 reads as rewritten:

"**§ 116-198.37. Fixing fees, rents, and charges; sinking fund.**

For the purpose of aiding in the acquisition, construction, or provision of any project and the maintenance, repair, and operation of any project or any existing facilities, the Board is authorized to fix, revise from time to time, charge, and collect such fee or fees for such privileges and services and in such amount or amounts as the Board shall determine, and to fix, revise from time to time, charge, and collect other fees, rents, and charges for the use of and for the services furnished or to be furnished by any project or projects and any existing facilities, or any portion thereof, and to contract with any person, partnership, association, or corporation for the lease, use, occupancy, or operation of any project or projects and any existing facilities, or any part thereof, and to fix the terms, conditions, fees, rents, and charges for any such lease, use, occupancy, or operation. So long as bonds issued hereunder and payable therefrom are outstanding, such fees, rents, and charges shall be so fixed and adjusted, with relation to other revenues available therefor, as to provide funds pursuant to the requirements of the resolution or trust agreement authorizing or securing such bonds at least sufficient with such other revenues, if any, (i) to pay the cost of maintaining, repairing, and operating any project or projects and any existing facilities any part of the revenues of which are pledged to the payment of the bonds issued for such project or projects, (ii) to pay the principal of and the interest on such bonds as the same shall become due and payable, and (iii) to create and maintain reserves for such purposes. Any surplus funds remaining after application to the purposes mentioned in (i), (ii), and (iii), above, shall be held in trust and applied by the Board to the development of the Centennial ~~Campus or~~ Campus, the Horace Williams ~~Campus~~ Campus, or a Millennial Campus, as applicable. Such fees, rents, and charges shall not be subject to supervision or regulation by any other commission, board, bureau, or agency of the State. A sufficient amount of the revenues, except such part thereof as may be necessary to pay such cost of maintenance, repair, and operation and to provide such reserves therefor and for renewals, replacements, extensions, enlargements, and improvements as may be provided for in the resolution authorizing the issuance of such bonds or in the trust

agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to and charged with the payment of the principal of and the interest on such bonds as the same shall become due and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the fees, rents, and charges and other revenues or other moneys so pledged and thereafter received by the Board shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Board, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Board. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of the trust agreement securing the same."

Section 9. G.S. 146-30(b1) reads as rewritten:

"(b1) Notwithstanding the other provisions of this section, no service charge into the State Land Fund shall be deducted from or levied against the proceeds of any disposition by lease, rental, or easement of State lands that are designated as part of the Centennial Campus as defined by ~~G.S. 116-198.33(4) or~~ G.S. 116-198.33(4), that are designated as part of the Horace Williams Campus as defined by ~~G.S. 116-198.33(4a).~~ G.S. 116-198.33(4a), or that are designated as part of a Millennial Campus as defined by G.S. 116-198.33(4b). All net proceeds of those dispositions are governed by G.S. 116-36.5."

Section 10. G.S. 66-58(b) reads as rewritten:

"(b) The provisions of subsection (a) of this section shall not apply to:

(1) Counties and municipalities.

(2) The Department of Health and Human Services or the Department of Agriculture and Consumer Services for the sale of serums, vaccines, and other like products.

(3) The Department of Administration, except that the agency shall not exceed the authority granted in the act creating the agency.

(4) The State hospitals for the mentally ill.

(5) The Department of Health and Human Services.

(6) The North Carolina School for the Blind at Raleigh.

(6a) The Office of Juvenile Justice.

(7) The North Carolina Schools for the Deaf.

(8) The Greater University of North Carolina with regard to its utilities and other services now operated by it nor to the sale of articles produced incident to the operation of instructional departments, articles incident to educational research, articles of merchandise incident to classroom work, meals, books, or to articles of merchandise not exceeding twenty-five cents (25¢) in value when sold to members of the educational staff or staff

auxiliary to education or to duly enrolled students or occasionally to immediate members of the families of members of the educational staff or of duly enrolled students nor to the sale of meals or merchandise to persons attending meetings or conventions as invited guests nor to the operation by the University of North Carolina of an inn or hotel and dining and other facilities usually connected with a hotel or inn, nor to the hospital and Medical School of the University of North Carolina, nor to the Coliseum of North Carolina State University at Raleigh, and the other schools and colleges for higher education maintained or supported by the State, nor to the Centennial Campus of North Carolina State University at Raleigh, nor to the Horace Williams Campus of the University of North Carolina at Chapel Hill, nor to a Millennial Campus of a constituent institution of The University of North Carolina, nor to the comprehensive student health services or the comprehensive student infirmaries maintained by the constituent institutions of the University of North Carolina.

(9) The Department of Environment and Natural Resources, except that the Department shall not construct, maintain, operate or lease a hotel or tourist inn in any park over which it has jurisdiction. The North Carolina Wildlife Resources Commission may sell wildlife memorabilia as a service to members of the public interested in wildlife conservation.

(10) Child-caring institutions or orphanages receiving State aid.

(11) Highlands School in Macon County.

(12) The North Carolina State Fair.

(13) Rural electric memberships corporations.

(13a) State Farm Operations Commission.

(13b) The Department of Agriculture and Consumer Services with regard to its lessees at farmers' markets operated by the Department.

(13c) The Western North Carolina Agricultural Center.

(13d) Agricultural centers or livestock facilities operated by the Department of Agriculture and Consumer Services.

(14) Nothing herein contained shall be construed to prohibit the engagement in any of the activities described in subsection (a) hereof by a firm, corporation or person who or which is a lessee of space only of the State of North Carolina or any of its departments or agencies; provided the leases shall be awarded by the Department of Administration to the highest bidder, as provided by law in the case of State contracts and which lease shall be for a term of not less than one year and not more than five years.

(15) The State Department of Correction is authorized to purchase and install automobile license tag plant equipment for the purpose of

manufacturing license tags for the State and local governments and for such other purposes as the Department may direct.

The Commissioner of Motor Vehicles, or such other authority as may exercise the authority to purchase automobile license tags is hereby directed to purchase from, and to contract with, the State Department of Correction for the State automobile license tag requirements from year to year.

The price to be paid to the State Department of Correction for the tags shall be fixed and agreed upon by the Governor, the State Department of Correction, and the Motor Vehicle Commissioner, or such authority as may be authorized to purchase the supplies.

(16) Laundry services performed by the Department of Correction may be provided only for agencies and instrumentalities of the State which are supported by State funds and for county or municipally controlled and supported hospitals presently being served by the Department of Correction, or for which services have been contracted or applied for in writing, as of May 22, 1973. In addition to the prior sentence, laundry services performed by the Department of Correction may be provided for the Governor Morehead School and the North Carolina School for the Deaf.

The services shall be limited to wet-washing, drying and ironing of flatwear or flat goods such as towels, sheets and bedding, linens and those uniforms prescribed for wear by the institutions and further limited to only flat goods or apparel owned, distributed or controlled entirely by the institutions and shall not include processing by any dry-cleaning methods; provided, however, those garments and items presently being serviced by wet-washing, drying and ironing may in the future, at the election of the Department of Correction, be processed by a dry-cleaning method.

(17) The North Carolina Global TransPark Authority or a lessee of the Authority.

(18) The activities and products of private enterprise carried on or manufactured within a State prison facility pursuant to G.S. 148-70.

(19) The North Carolina Justice Academy.

(20) The Department of Transportation, or any nonprofit lessee of the Department, for the sale of books, crafts, gifts, and other tourism-related items at visitor centers owned by the Department."

Section 11. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 586

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S586-ALG-1 Page 1 of __

Date_____,2000

Comm. Sub. [YES]
Amends Title []
Third Edition

Representative Jarrell

moves to amend the bill on page 5, line 29, by deleting the phrase "Additionally," and substituting "Upon formal request by the constituent institutions,".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 586

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S586-ARB-7.6 Page 1 of __

Date_____,2000

Comm. Sub. [YES]
Amends Title [YES]
Third Edition

Representative_____

moves to amend the bill on page 1, line 4, by rewriting the line to read:
"CAROLINA AND TO PERMIT THE STATE EDUCATION ASSISTANCE AUTHORITY TO INVEST A PORTION OF THE PARENTAL SAVINGS TRUST FUND IN PREFERRED OR COMMON STOCKS ISSUED BY A COMPANY INCORPORATED OR OTHERWISE LOCATED WITHIN OR WITHOUT THE UNITED STATES.";

and on page 11, line 39, by rewriting the line to read:
"Section 11. G.S. 116-209.25 reads as rewritten:
'**§ 116-209.25. Parental Savings Trust Fund.**
(a) Policy. -- The General Assembly of North Carolina hereby finds and declares that encouraging parents and other interested parties to save for the postsecondary education expenses of eligible students is fully consistent with and furthers the long-established policy of the State to encourage, promote, and assist education as more fully set forth in G.S. 116-201(a).
(b) Parental Savings Trust Fund. -- There is established a parental savings trust fund to be administered by the State Education Assistance Authority to enable qualified parents to save funds to meet the costs of the postsecondary education expenses of eligible students.
(c) Contributions to the Trust Funds. -- The Authority is authorized to accept, hold, invest, and disburse contributions, and interest earned on such contributions, from qualified parents and other interested parties as trustee ~~in~~ of the Parental Savings Trust Fund. ~~The contributions to the Parental Savings Trust Fund shall be held by the Authority in a separate institutional trust fund and, as such, contributions to the trust fund~~ The Authority shall hold all

contributions to the Parental Savings Trust Fund, and any earnings thereon, in a separate trust fund and shall invest the contributions in accordance with this section. The assets of the Parental Savings Trust Fund shall at all times be preserved, invested, and expended solely for the purposes of the trust fund and shall be held in trust for the parents and other interested parties and their designated beneficiaries. ~~The~~ Neither the contributions to the Parental Savings Trust ~~Fund~~ Fund, nor the earnings thereon, shall ~~not~~ be considered State moneys, assets of the State, or State revenue for any purpose.

(c1) Investments. -- The Authority shall determine an appropriate investment strategy for the Parental Savings Trust Fund. The strategy may include a combination of fixed income assets and preferred or common stocks issued by any company incorporated, or otherwise located within or without the United States, or other appropriate investment instruments to achieve long-term return through a combination of capital appreciation and current income. The Authority may deposit all or any portion of the Parental Savings Trust Fund for investment either with the State Treasurer, or in the individual, common, or collective trust funds of an investment manager or managers that meet the requirements of this subsection. Contributions to the Parental Savings Trust Fund on deposit with the State Treasurer shall be invested by the State Treasurer as authorized in G.S. 147-69.2(b)(1) through (6) and the applicable provisions of G.S. 147-69.3. Contributions to the Parental Savings Trust Fund may be invested in the individual, common, or collective trust funds of an investment manager provided that the investment manager meets both of the following conditions:

(1) The investment manager has assets under management of at least one hundred million dollars ($100,000,000) at all times.

(2) The investment manager is subject to the jurisdiction and regulation of the United States Security and Exchange Commission.

(d) Administration of the Trust Fund. -- The Authority is authorized to develop and perform all functions necessary and desirable to administer the Parental Savings Trust Fund and to provide such other services as the Authority shall deem necessary to facilitate participation in the Parental Savings Trust Fund. The Authority is further authorized to obtain the services of such

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 586

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S586-ARB-7.6

investment advisors or program managers as may be necessary for the proper administration and marketing and investment strategy for the Parental Savings Trust Fund.

(e) Loan Program. -- The Authority is authorized to develop and administer a loan program in conjunction with the Parental Savings Trust Fund to provide loan assistance to qualified parents and interested parties in order to facilitate the postsecondary education of eligible students. All funds appropriated to, or otherwise received by the Authority for loans under this section, all funds received as repayment of such loans, and all interest earned on these funds shall be placed in an institutional trust fund. This institutional trust fund may be used only for loans made to qualified parents and interested parties who contributed to the Parental Savings Trust Fund and administrative costs associated with the recovery of funds advanced under this loan program.

(f) Limitations. -- Nothing in this section shall be construed to create any obligation of the Authority, the State Treasurer, the State, or any agency or instrumentality of the State to guarantee for the benefit of any parent, other interested party, or designated beneficiary the rate of return or other return for any contribution to the Parental Savings Trust Fund and the payment of interest or other return on any contribution to the Parental Savings Trust Fund.'

Section 12. Section 11 of this act becomes effective July 1, 2001. The remainder of this act is effective when it becomes law.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 586

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S586-ARB-7.6 Page 1 of __

Date_____,2000

Comm. Sub. [YES]
Amends Title [YES]
Third Edition

Representative_____

moves to amend the bill on page 1, line 4, by rewriting the line to read:
"CAROLINA AND TO PERMIT THE STATE EDUCATION ASSISTANCE AUTHORITY TO INVEST A PORTION OF THE PARENTAL SAVINGS TRUST FUND IN PREFERRED OR COMMON STOCKS ISSUED BY A COMPANY INCORPORATED OR OTHERWISE LOCATED WITHIN OR WITHOUT THE UNITED STATES.";

and on page 11, line 39, by rewriting the line to read:
"Section 11. G.S. 116-209.25 reads as rewritten:
'**§ 116-209.25. Parental Savings Trust Fund.**
(a) Policy. -- The General Assembly of North Carolina hereby finds and declares that encouraging parents and other interested parties to save for the postsecondary education expenses of eligible students is fully consistent with and furthers the long-established policy of the State to encourage, promote, and assist education as more fully set forth in G.S. 116-201(a).
(b) Parental Savings Trust Fund. -- There is established a parental savings trust fund to be administered by the State Education Assistance Authority to enable qualified parents to save funds to meet the costs of the postsecondary education expenses of eligible students.
(c) Contributions to the Trust Funds. -- The Authority is authorized to accept, hold, invest, and disburse contributions, and interest earned on such contributions, from qualified parents and other interested parties as trustee ~~in~~ of the Parental Savings Trust Fund. ~~The contributions to the Parental Savings Trust Fund shall be held by the Authority in a separate institutional trust fund and, as such, contributions to the trust fund~~ The Authority shall hold all

contributions to the Parental Savings Trust Fund, and any earnings thereon, in a separate trust fund and shall invest the contributions in accordance with this section. The assets of the Parental Savings Trust Fund shall at all times be preserved, invested, and expended solely for the purposes of the trust fund and shall be held in trust for the parents and other interested parties and their designated beneficiaries. ~~The~~ Neither the contributions to the Parental Savings Trust ~~Fund~~ Fund, nor the earnings thereon, shall ~~not~~ be considered State moneys, assets of the State, or State revenue for any purpose.

(c1) Investments. -- The Authority shall determine an appropriate investment strategy for the Parental Savings Trust Fund. The strategy may include a combination of fixed income assets and preferred or common stocks issued by any company incorporated, or otherwise located within or without the United States, or other appropriate investment instruments to achieve long-term return through a combination of capital appreciation and current income. The Authority may deposit all or any portion of the Parental Savings Trust Fund for investment either with the State Treasurer, or in the individual, common, or collective trust funds of an investment manager or managers that meet the requirements of this subsection. Contributions to the Parental Savings Trust Fund on deposit with the State Treasurer shall be invested by the State Treasurer as authorized in G.S. 147-69.2(b)(1) through (6) and the applicable provisions of G.S. 147-69.3. Contributions to the Parental Savings Trust Fund may be invested in the individual, common, or collective trust funds of an investment manager provided that the investment manager meets both of the following conditions:

(1) The investment manager has assets under management of at least one hundred million dollars ($100,000,000) at all times.

(2) The investment manager is subject to the jurisdiction and regulation of the United States Security and Exchange Commission.

(d) Administration of the Trust Fund. -- The Authority is authorized to develop and perform all functions necessary and desirable to administer the Parental Savings Trust Fund and to provide such other services as the Authority shall deem necessary to facilitate participation in the Parental Savings Trust Fund. The Authority is further authorized to obtain the services of such

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 586

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S586-ARB-7.6 Page 3 of __

investment advisors or program managers as may be necessary for the proper administration and marketing and investment strategy for the Parental Savings Trust Fund.

(e) Loan Program. -- The Authority is authorized to develop and administer a loan program in conjunction with the Parental Savings Trust Fund to provide loan assistance to qualified parents and interested parties in order to facilitate the postsecondary education of eligible students. All funds appropriated to, or otherwise received by the Authority for loans under this section, all funds received as repayment of such loans, and all interest earned on these funds shall be placed in an institutional trust fund. This institutional trust fund may be used only for loans made to qualified parents and interested parties who contributed to the Parental Savings Trust Fund and administrative costs associated with the recovery of funds advanced under this loan program.

(f) Limitations. -- Nothing in this section shall be construed to create any obligation of the Authority, the State Treasurer, the State, or any agency or instrumentality of the State to guarantee for the benefit of any parent, other interested party, or designated beneficiary the rate of return or other return for any contribution to the Parental Savings Trust Fund and the payment of interest or other return on any contribution to the Parental Savings Trust Fund.'

Section 12. Section 11 of this act becomes effective July 1, 2001. The remainder of this act is effective when it becomes law.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

SENATE BILL 586:
UNC Millennial Campuses.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Lee
Date:	July 5, 2000	**Summary by:**	Robin Johnson
Version:	3rd Edition		Emily Johnson

SUMMARY: ***Senate Bill 586 is identical to SB 1549, 2nd edition, and would authorize the Board of Governors (Board) to designate real property and appurtenant facilities to be part of a Millennial Campus and to issue revenue bonds to pay the cost of buildings, structures or other facilities on a Millennial Campus. The bill would further authorize the transfer of all net revenues from the lease or rental of real property, fees, and other charges incident to the development of specific portions of University campuses designated as "millennial campuses" into a special, continuing, and non-reverting trust reserved for the sole and exclusive use of development of those millennial campuses. A Millennial Campus would be associated with one or more constituent institutions of The University of North Carolina other than North Carolina State University (NCSU) or the University of North Carolina at Chapel Hill (UNC-CH). A Millennial Campus would have the same purpose as the Centennial Campus located at NCSU and the Horace Williams Campus located at UNC-CH. These campuses, authorized in 1987 and 1999 respectively, are intended to bring together business, industry, and academia. The act would take effect when it becomes law.***

BILL ANALYSIS:

Designation of a Millennial Campus. The Board would be authorized to designate real property and appurtenant facilities to be held by or acquired by a constituent institution as a Millennial Campus. This designation would be based on a recommendation of the President after she has consulted with the institution's Chancellor and Board of Trustees. The Board would be required to make an express finding that the institution has the administrative and fiscal capability to create and maintain a Millennial Campus. It also must find that the creation of a Millennial Campus would enhance the institution's research, teaching, and service missions and the region's economic development. The Board would be able to authorize two or more institutions that meet these other requirements to create a joint Millennial Campus.

Leases. The Board would be authorized to approve and enter into leases of land and buildings on or for a Millennial Campus. Rental agreements made for 10 years or less would not require the approval of the Governor and Council of State. No service charge would be deducted for the State Land Fund from the proceeds of any lease of State lands designated as part of a Millennial Campus. These provisions are identical to those applicable to the Centennial and Horace Williams Campuses.

Revenue Bonds. The Board would be allowed to issue revenue bonds to pay all or part of the cost of any project on a Millennial Campus. These projects may include administration buildings, libraries, research or instructional facilities, roads, water, sewer, parking, and other facilities related to the operation of the Campus. The bonds are payable from revenues derived from leases, rentals, charges, and fees set by the Board of Governors. Currently, the Board may issue revenue bonds to pay the cost of these projects on the Centennial Campus and the Horace Williams Campus.

Finances. The bill would enable UNC to leverage State dollars with corporate dollars through partnership arrangements between a millennial campus and a private entity. These partnerships will attract private revenue and will also assist the State in retiring public indebtedness. These partnerships will generate

rental income from lease arrangements. In some situations, the private entities would actually build buildings on land they lease from the campus and, at the end of the lease, ownership of the building would transfer to the State. In other cases, the campus will build the building and lease it to a private entity, which assists in repayment of the public indebtedness.

Trust Fund. The proceeds from all monies received through the development of a Millennial Campus would be credited to a special, nonreverting trust fund. The money in each fund may be used only for the development of that Campus. These trust funds would be identical to those created for the Centennial and Horace Williams Campuses. The Board would manage and administer each trust fund; however, the Board may delegate these responsibilities to the chancellors.

Umstead Act Exemption. Much of the revenue generated from a Millennial Campus will come from the lease of office space to private industry. As a general rule, it is unlawful under the Umstead Act for the State to lease space in a State-owned building for the purpose of operating a business. A Millennial Campus would be treated the same as the Centennial and Horace Williams Campuses, which are exempted from these provisions of the Umstead Act.

Effective Date. The bill would take effect when it becomes law.

Re-referral. The bill must be re-referred to Finance.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 586 (Third Edition)

SHORT TITLE: UNC Millennial Campuses

SPONSOR(S):

FISCAL IMPACT

Yes ( ) **No (x)** **No Estimate Available ( )**

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
REVENUES					
EXPENDITURES					
POSITIONS:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: UNC System

EFFECTIVE DATE: Upon becoming law

BILL SUMMARY: Amends Art. 21B of GS Ch. 116 (Centennial and Horace Williams Campus Financing Act) to authorize UNC Board of Governors to issue revenue bonds for cost of buildings and other facilities at Millennial Campuses. Amends GS 116-198.33(4b) and 116-198.34(8b) to authorize Board to designate as Millennial Campus real property of constituent institutions of UNC other than NC State or UNC-CH. Adds GS 116-36.5(c) establishing special trust fund for monies received for development of a Millennial Campus. Makes conforming changes to GS 116-198.35 (issuance of bonds), 116-198.37 (fees, rents, and charges), 146-30(b1) (net proceeds of dispositions), and 66-58(b) (sale of merchandise or services).

ASSUMPTIONS AND METHODOLOGY: Projects would come back to the General Assembly for approval through the self-liquidating bill process. The only minor potential fiscal impact is section 9, exempting the proceeds of any disposition of land from a service charge into the State Land Fund. Since the intent of the Millennial Campus is to acquire land rather than dispose of it, losses, if any, would be very minimal.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION
733-4910
PREPARED BY: Charlotte Todd
APPROVED BY: James D. Johnson

DATE: July 3, 2000

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

☐ Committee Substitute for
S.B. 1529 A BILL TO BE ENTITLED AN ACT TO ADJUST AND ADD FEES CHARGED BY THE REGISTER OF DEEDS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1529
Finance Committee Substitute Adopted 6/30/00

Short Title: Register of Deeds Fee Adjustments. (Public)

Sponsors:

Referred to:

May 30, 2000

A BILL TO BE ENTITLED

AN ACT TO ADJUST AND ADD FEES CHARGED BY THE REGISTER OF DEEDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 161-10(a) reads as rewritten:

"(a) Except as provided in G.S. 161-11.1 or 161-11.2, all fees collected under this section shall be deposited into the county general fund. ~~In the performance of his duties,~~ While performing the duties of the office, the register of deeds shall collect the following fees which shall be uniform throughout the State:

. . .

(8a) Vital Records Network. -- For obtaining access to the Vital Records Computer Network, two dollars ($2.00).

. . .

(19) Miscellaneous Services. -- For performing miscellaneous services such as faxing documents, providing laminated copies of documents, expedited delivery of documents, and similar services, the cost of the service."

Section 2. This act becomes effective October 1, 2000.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 1529 (Senate Finance Committee Substitute)

SHORT TITLE: Register of Deeds Fee Adjustments

SPONSOR(S): Senator Dalton

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
REVENUES					
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: County Registers of Deeds

EFFECTIVE DATE: This act is effective October 1, 2000.

BILL SUMMARY:
This legislation amends G.S. 161-10 (a) to authorize county Registers of Deeds to collect a $2 access fee to the Vital Records Network and to collect the cost of providing miscellaneous services.

ASSUMPTIONS AND METHODOLOGY:
Section 2 of SB 1529 authorizes county Registers of Deeds to collect a $2 fee for access to the Vital Records Network. Currently, a North Carolina resident pays a $10 fee to obtain an official birth certificate duplicate by travelling to Vital Records in Raleigh or by waiting 6-8 weeks for the duplicate to arrive via the mail request system. Of this $10, $5 is directed to the state General Fund and $5 to the State Automation Fund. A Vital Records Network has been designed to allow North Carolina residents to obtain on-line access to official birth certificate duplicates from the Register of Deeds in their county of residence. The test pilot for this Vital Records Network is scheduled for implementation in Harnett County in August of this year.

Under current legislation, Registers of Deeds are only authorized to collect $8 for access to this Vital Records Network. Of this $8, $5 is directed to the State Automation Fund and $3 is

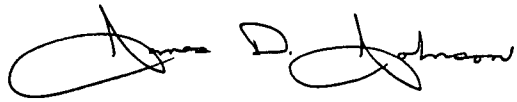
directed to the state General Fund. This situation creates a $2 discrepancy between obtaining a birth certificate via the network and obtaining a certificate by the conventional means of mail request or travel to Raleigh. Upon the passage of SB 1529, the fee for obtaining a birth certificate duplicate will be the same regardless of which method is used. Until the Harnett County pilot project is completed, there is no reliable estimate of the number of North Carolinians who will utilize the Vital Records Network. There is also no estimate of the number of counties that will participate in the program. Therefore, no estimate of the fiscal impact of this portion of the bill is available at this time. However, the majority of Registers of Deeds in the state feel that most residents will choose to utilize the Vital Records Network because of the time and expense of travel to Raleigh and the time involved in a mail request.

This bill also allows the county Register of Deeds to collect the costs of providing miscellaneous services. Under the bill, the Registers of Deeds may charge a fee for the actual expenses incurred from providing such services such as lamination, faxing, expedited delivery, etc. No estimate is available of the amount of uncompensated services provided by the 100 Registers of Deeds.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic and Eugene Son (Research Assistant)

APPROVED BY: James D. Johnson



DATE: June 29, 2000

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

☐ Committee Substitute for
S.B. 1474 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE ASHEVILLE-BUNCOMBE TECHNICAL COMMUNITY COLLEGE TO LEASE CERTAIN PROPERTY BY PRIVATE NEGOTIATION AND TO ALLOW FLEXIBLE USE OF LEASE PROCEEDS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1474
Finance Committee Substitute Adopted 6/22/00

Short Title: Lease Law Exemption/Buncombe T.C.C. (Local)

Sponsors:

Referred to:

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE ASHEVILLE-BUNCOMBE TECHNICAL COMMUNITY COLLEGE TO LEASE CERTAIN PROPERTY BY PRIVATE NEGOTIATION AND TO ALLOW FLEXIBLE USE OF LEASE PROCEEDS.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 115D-15, G.S. 115C-518, Article 12 of Chapter 160A of the General Statutes, or any other provisions of law, the Board of Trustees of Asheville-Buncombe Technical Community College may lease any or all portions or interest in the Enka Center of the College by private negotiation. The terms and conditions of any such lease shall be set by the Board and may include rental at less than fair market value. The duration of any such lease shall not exceed five years. Any such lease shall not require the prior approval of the State Board of Community Colleges. The Board shall report annually to the State Board of Community Colleges on any leases entered into pursuant to this act.

The Enka Center property was donated to the College by BASF Corporation. It is located in Buncombe County at the intersection of the southern margin of U.S. Highways 19 and 23 and the western margin of Sand Hill Road.

Section 2. Notwithstanding G.S. 115D-15 or any other provision of law, Asheville-Buncombe Technical Community College may use the proceeds of leases of property pursuant to this act for Plant Fund and Current Expenses budget items at the Enka Center and for the operating costs of programs at the Enka Center.

Section 3. This act is effective when it becomes law.

MINUTES
HOUSE COMMITTEE ON FINANCE

Tuesday, July 11, 2000

The House Committee on Finance met on Tuesday, July 11, 2000 in the Chamber of the House of Representatives at 1:20 p.m.

Chair Luebke called the meeting to order. With a quorum being present, Chair Luebke commented briefly and proceeded to consider the following bills:

Rep. Wright was recognized to explain SB 1192, A BILL TO BE ENTITLED AN ACT TO REQUIRE CRIMINAL BACKGROUND CHECKS FROM STATE AND NATIONAL REPOSITORIES OF CRIMINAL HISTORY FOR CERTAIN APPLICANTS FOR EMPLOYMENT IN ADULT CARE HOMES, NURSING HOMES, HOME CARE AGENCIES, AND CERTAIN MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES FACILITIES; TO IMPOSE A CRIMINAL PENALTY FOR FALSIFYING INFORMATION ON EMPLOYMENT APPLICATIONS; TO REQUIRE CERTAIN DISCLOSURES BY NURSING HOMES; AND PERTAINING TO RULES FOR THE OPERATION OF THE ADULT CARE PORTION OF NURSING HOMES. Rep. Hackney noted his concern about the liability language in the bill and stated that he could not support the bill in its present form. Chair Luebke stated that the bill was presented to the Finance Committee as non-controversial and if a member finds it controversial then the bill would be displaced.

Chair Luebke read a list of bills remaining before the Finance Committee. Rep. Jarrell made a motion to give the bills an indefinite postponement report. The motion passed. A copy of the report included in the minutes.

There being no further business, the Chair adjourned the meeting at 1:27 p.m.

Respectfully submitted:

Representative Paul Luebke
Chair

Ken Melton
Assistant to the Committee

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

☒ With an indefinite postponement report.

~~H21~~	~~CLAYTON SATELLITE ANNEXATION~~
H32	BLADEN SALES TAX FOR SCHOOLS
H54	MAKE FARMLAND USE VALUE ACCURATE
~~H63~~	~~REVIEW TAX CREDITS PERIODICALLY~~
H73	EXEMPT TOBACCO COMP. PAYMENTS
H87	RICHMOND SALES TAX USE
H89	HOMESTEAD TAX REDUCTION
~~H110~~	~~CATAWBA 1% LOCAL SALES TAX~~
H130	LOCAL OPTION HOMESTEAD EXEMPTION
H139	HYDE TRANSFER TAX
H351	COLFAX INCORPORATED
H358	FAIR AUTOM0BILE PROPERTY TAXES
H362	REPEAL GIFT TAX
H364	AGRICULTURAL FAIR REFUNDS
H375	OAK RIDGE ANNEXATION
~~H376~~	~~HUNTERSVILLE ANNEXATION~~
~~H377~~	~~HUNTERSVILLE SATELLITE ANNEXATION~~
H394	CONTINUING CARE RETIREMENT HOMES
H411	PROHIBIT CERTAIN CIGARETTE SALES
~~H490~~	~~EXPAND CORPORATE CHARITABLE DEDUCTIONS~~
H586	MACON COUNTY AIRPORT AUTHORITY
H594	NO GIFT TAX ON FARMS
H616	MODIFY INTANGIBLES REIMBURSEMENT
H675	JACKSON TRANSFER TAX
~~H784~~	~~BERMUDA RUN INCORPORATION~~
H796	DORTCHES/ROCKY MOUNT BOUNDARIES
H798	CARY RECREATIONAL FEES
~~H851~~	~~MATTHEWS ANNEXATIONS~~
~~H857~~	~~CHATHAM, ORANGE REVENUE OPTIONS~~
~~H869~~	~~USE VALUE ROLLBACK MODIFIED~~
~~H952~~	~~EARNED INCOME TAX CREDIT~~
H954	CLARIFY HOSPITAL PROPERTY TAX
~~H955~~	~~RIPARIAN BUFFERS TAX EXEMPT~~
~~H970~~	~~AFFORDABLE HOUSING~~
H1013	CONFORM TAX REFUND PERIOD
H1114	ENHANCING EMERGENCY MEDICAL SERVICES
~~H1196~~	~~UNIFORM CONSUMER FINANCE TAX~~
~~H1197~~	~~CONFORM CRIMINAL DEADLINE TO FEDERAL~~
H1203	MOTORCYCLE SAFETY ACT
~~H1297~~	~~REAL ESTATE PRIVILEGE LICENSE TAX~~
H1303	AMEND BILL LEE ACT/INCENTIVES - 2
H1304	NO INCOME TAX MARRIAGE PENALTY
~~H1314~~	~~ADJUST GAS TAX FORMULA - 2~~
H1319	PORTS AUTHORITY TAX REFUNDS
H1322	LAB TESTING FACILITY SALES TAX
H1330	HIGHWAY USE TAX CORRECTION
H1357	REFUND INTANGIBLES TAX TO ALL
H1358	CAMPAIGN CONTRIBUTION CREDIT

~~H1373~~	~~MODERNIZE FRANCHISE TAX BASE~~
~~H1374~~	~~CLARIFY SALES TAX ON UTILITIES~~
~~H1388~~	~~UNIFORM TAXES ON SALES~~
H1409	INCENTIVES/BORDER AND LOW-TIER CO.
~~H1400~~	~~PAYMENT BOND REVISIONS~~
H1410	POSTPONE PIPED GAS TAX CHANGE
~~H1462~~	~~CLARIFY SALES TAX STRUCTURE~~
H1465	TAX-FREE BACK TO SCHOOL
H1474	LOCAL OPTION FOOD TAX REPEAL
~~H1477~~	~~CONFORM BANK TAX TO FEDERAL~~
~~H1478~~	~~MAKE TAXES UNIFORM & SIMPLER~~
~~H1481~~	~~AMEND TAX LAWS - 2~~
~~H1511~~	~~CRIM. RECORD CHECKS/LONG-TERM CARE~~
~~H1535~~	~~FILM INDUSTRY INCENTIVES~~
H1676	$30,000 HOMESTEAD EXEMPTION
H1788	PORTS AUTHORITY TAX CHANGES
~~H1806~~	~~SOME ELECTRICITY EXEMPT~~
H1812	NO SALES TAX ON DONATIONS
~~H1814~~	~~MODIFY BILL LEE ACT~~
H1824	TEACHER TAX CREDIT
H1834	ELIMINATE FAMILY VEHICLE TAX
H1842	2 YEAR LICENSE PLATES/INSPECTION

MINUTES
HOUSE COMMITTEE ON FINANCE

Wednesday, July 12, 2000

The House Committee on Finance met on Wednesday, July 12, 2000 in the Chamber of the House of Representatives at 9:45 a.m.

Chair Luebke called the meeting to order. With a quorum being present, Chair Luebke commented briefly and proceeded to consider the following bills:

Rep. Hackney was recognized to explain SB 1192, A BILL TO BE ENTITLED AN ACT TO REQUIRE CRIMINAL BACKGROUND CHECKS FROM STATE AND NATIONAL REPOSITORIES OF CRIMINAL HISTORY FOR CERTAIN APPLICANTS FOR EMPLOYMENT IN ADULT CARE HOMES, NURSING HOMES, HOME CARE AGENCIES, AND CERTAIN MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES FACILITIES; TO IMPOSE A CRIMINAL PENALTY FOR FALSIFYING INFORMATION ON EMPLOYMENT APPLICATIONS; TO REQUIRE CERTAIN DISCLOSURES BY NURSING HOMES; AND PERTAINING TO RULES FOR THE OPERATION OF THE ADULT CARE PORTION OF NURSING HOMES. Rep. Hackney made a motion to adopt a Proposed Committee Substitute. Rep. Hackney made a motion to give the Proposed Committee Substitute a favorable report and give the original bill an unfavorable report. The motion passed. A copy of the bill, amendment, Proposed Committee Substitute and bill analysis included in the minutes.

There being no further business, the Chair adjourned the meeting at 9:50 a.m.

Respectfully submitted:

Representative Paul Luebke
Chair

Ken Melton
Assistant to the Committee

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE.**

☐ Committee Substitute for
S.B. 1192 A BILL TO BE ENTITLED AN ACT TO REQUIRE CRIMINAL BACKGROUND CHECKS FROM STATE AND NATIONAL REPOSITORIES OF CRIMINAL HISTORY FOR CERTAIN APPLICANTS FOR EMPLOYMENT IN ADULT CARE HOMES, NURSING HOMES, HOME CARE AGENCIES, AND CERTAIN MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES FACILITIES; TO IMPOSE A CRIMINAL PENALTY FOR FALSIFYING INFORMATION ON EMPLOYMENT APPLICATIONS; TO REQUIRE CERTAIN DISCLOSURESS BY NURSING HOMES; AND PERTAINING TO RULES FOR THE OPERATION OF THE ADULT CARE PORTION OF NURSING HOMES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **ALLEN, LUEBKE AND MILLER** for the Committee on **FINANCE**.

☒ Committee Substitute for ~~#~~ 2
S.B. 1192 A BILL TO BE ENTITLED AN ACT TO REQUIRE CRIMINAL BACKGROUND CHECKS FROM STATE AND NATIONAL REPOSITORIES OF CRIMINAL HISTORY FOR CERTAIN APPLICANTS FOR EMPLOYMENT IN ADULT CARE HOMES, NURSING HOMES, HOME CARE AGENCIES, AND CERTAIN MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES FACILITIES; TO IMPOSE A CRIMINAL PENALTY FOR FALSIFYING INFORMATION ON EMPLOYMENT APPLICATIONS; TO REQUIRE CERTAIN DISCLOSURESS BY NURSING HOMES; AND PERTAINING TO RULES FOR THE OPERATION OF THE ADULT CARE PORTION OF NURSING HOMES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to ~~House~~ committee substitute bill (# 1), ☐ ~~which changes the title~~, unfavorable as to ~~(original bill)~~ (Senate Committee Substitute Bill # 2), ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 3

SENATE BILL 1192*
Judiciary I Committee Substitute Adopted 6/27/00
Finance Committee Substitute No. 2 Adopted 7/6/00

Short Title: Crim. Record Checks/Long-Term Care. (Public)

Sponsors:

Referred to:

May 10, 2000

A BILL TO BE ENTITLED

AN ACT TO REQUIRE CRIMINAL BACKGROUND CHECKS FROM STATE AND NATIONAL REPOSITORIES OF CRIMINAL HISTORY FOR CERTAIN APPLICANTS FOR EMPLOYMENT IN ADULT CARE HOMES, NURSING HOMES, HOME CARE AGENCIES, AND CERTAIN MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES FACILITIES; TO IMPOSE A CRIMINAL PENALTY FOR FALSIFYING INFORMATION ON EMPLOYMENT APPLICATIONS; TO REQUIRE CERTAIN DISCLOSURES BY NURSING HOMES; AND PERTAINING TO RULES FOR THE OPERATION OF THE ADULT CARE PORTION OF NURSING HOMES.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Chapter 114 of the General Statutes is amended by adding the following new section to read:

"**§ 114-19.10. Criminal record checks for adult care homes, nursing homes, home care agencies, and area mental health, developmental disabilities, and substance abuse services authorities.**

The Department of Justice may provide to the following entities the criminal history from the State and National Repositories of Criminal Histories:

(1) Nursing homes or combination homes licensed under Chapter 131E of the General Statutes.

(2) Adult care homes licensed under Chapter 131D of the General Statutes.

(3) Home care agencies licensed under Chapter 131E of the General Statutes.

(4) Area mental health, developmental disabilities, and substance abuse services authorities licensed under Chapter 122C of the General Statutes, including a contract agency of an area authority that is subject to the provisions of Article 4 of that Chapter.

The criminal history shall be provided to nursing homes and home care agencies in accordance with G.S. 131E-265, to adult care homes in accordance with G.S. 131D-40, and to area mental health, developmental disabilities, and substance abuse services authorities in accordance with G.S. 122C-80. The requesting entity shall provide to the Department of Justice, along with the request, the fingerprints of the individual to be checked if a national criminal history record check is required, any additional information required by the Department of Justice, and a form signed by the individual to be checked consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories. If a national criminal history record check is required, the fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. All information received by the entity shall be kept confidential in accordance with G.S. 131E-265, 131D-40, and 122C-80, as applicable. The Department of Justice shall charge a reasonable fee for conducting the checks authorized by this section. The fee for the State check may not exceed fourteen dollars ($14.00)."

Section 2.(a) Subsections (a) and (a1) of G.S. 131D-40 read as rewritten:

"(a) Requirement; Adult Care Home. -- An offer of employment by an adult care home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. An adult care home shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, an ~~An~~ adult care home shall submit a request to the Department of Justice under ~~G.S. 114-19.3~~ G.S. 114-19.10 to conduct a State or national criminal history record ~~check~~ check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. ~~within five business days of making the conditional offer of employment.~~ All criminal history information received by the

home is confidential and may not be disclosed, except to the applicant as provided in subsection (b) of this section.

(a1) Requirement; Contract Agency of Adult Care Home. -- An offer of employment by a contract agency of an adult care home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned upon consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. A contract agency of an adult care home shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, a ~~A~~ contract agency of an adult care home shall submit a request to the Department of Justice under G.S. ~~114-19.3~~ 114-19.10 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. ~~criminal history record check within five business days of making the conditional offer of employment.~~ All criminal history information received by the contract agency is confidential and may not be disclosed, except to the applicant as provided by subsection (b) of this section."

Section 2.(b) G.S. 131D-40 is amended by adding the following new subsections to read:

"(e) Penalty for Furnishing False Information. -- Any applicant for employment who willfully furnishes, supplies, or otherwise gives false information on an employment application that is the basis for a criminal history record check under this section shall be guilty of a Class A1 misdemeanor.

(f) Conditional Employment. -- An adult care home may employ an applicant conditionally prior to obtaining the results of a criminal history record check regarding the applicant if both of the following requirements are met:

(1) The adult care home shall not employ an applicant prior to obtaining the applicant's consent for a criminal history record check as required in subsection (a) of this section or the completed fingerprint cards as required in G.S. 114-19.10.

(2) The adult care home shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment.

(g) Immunity From Liability. -- An entity and officers and employees of an entity shall be immune from liability for failure to consider criminal history information not contained in the criminal history record check requested and received by the entity pursuant to this section."

Section 3.(a) Subsections (a) and (a1) of G.S. 131E-265 read as rewritten:

"(a) Requirement; Nursing Home or Home Care Agency. -- An offer of employment by a nursing home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. An offer of employment by a home care agency licensed under this Chapter to an applicant to fill a position that requires entering the patient's home is conditioned on consent to a criminal history record check of the applicant. In addition, employment status change of a current employee of a home care agency licensed under this Chapter from a position that does not require entering the patient's home to a position that requires entering the patient's home shall be conditioned on consent to a criminal history record check of that current employee. If the applicant for employment or if the current employee who is changing employment status has been a resident of this State for less than five years, then the offer of employment or change in employment status is conditioned on consent to a State and national criminal history record check. The national criminal history record check shall include a check of the applicant's or current employee's fingerprints. If the applicant or current employee has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant or current employee applying for a change in employment status. A nursing home or a home care agency shall not employ an applicant who refuses to consent to a criminal history record check required by this section. In addition, a home care agency shall not change a current employee's employment status from a position that does not require entering the patient's home to a position that requires entering the patient's home who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, ~~A~~ a nursing home or home care agency shall submit a request to the Department of Justice under G.S. ~~114-19.3~~ 114.19.10 to conduct a ~~criminal history record check within five business days of making the conditional offer of employment.~~ State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. All criminal history information received by the home or agency is confidential and may not be disclosed, except to the applicant as provided in subsection (b) of this section.

(a1) Requirement; Contract Agency of Nursing Home or Home Care Agency. -- An offer of employment by a contract agency of a nursing home or home care agency licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned upon consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a

State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. A contract agency of a nursing home or home care agency shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, ~~A~~ a contract agency of a nursing home or home care agency shall submit a request to the Department of Justice under G.S. ~~114-19.3~~ 114-19.10 ~~to conduct a criminal history record check within five business days of making the conditional offer of employment.~~ to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. All criminal history information received by the contract agency is confidential and may not be disclosed, except to the applicant as provided by subsection (b) of this section."

Section 3.(b) G.S. 131E-265 is amended by adding the following new subsections to read:

"(e) Penalty for Furnishing False Information. -- Any applicant for employment who willfully furnishes, supplies, or otherwise gives false information on an employment application that is the basis for a criminal history record check under this section shall be guilty of a Class A1 misdemeanor.

(f) Conditional Employment. -- A nursing home or home care agency may employ an applicant conditionally prior to obtaining the results of a criminal history record check regarding the applicant if both of the following requirements are met:

(1) The nursing home or home care agency shall not employ an applicant prior to obtaining the applicant's consent for a criminal history record check as required in subsection (a) of this section or the completed fingerprint cards as required in G.S. 114-19.10.

(2) The nursing home or home care agency shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment.

(g) Immunity From Liability. -- An entity and officers and employees of an entity shall be immune from liability for failure to consider criminal history information not contained in the criminal history record check requested and received by the entity pursuant to this section."

Section 4. Chapter 122C of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 3A.

"Miscellaneous Provisions.

"§ 122C-80. Criminal history record check required for certain applicants for employment.

(a) Definition. -- As used in this section, 'area authority' means an area mental health, developmental disabilities, and substance abuse services area authority,

including a contract agency of an area authority that is subject to the provisions of Article 4 of this Chapter.

(b) Requirement. -- An offer of employment by an area authority licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a State and national criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. An area authority shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, an area authority shall submit a request to the Department of Justice under G.S. 114-19.10 to conduct a criminal history record check required by this section. All criminal history information received by the area authority is confidential and may not be disclosed, except to the applicant as provided in subsection (c) of this section.

(c) Action. -- If an applicant's criminal history record check reveals one or more convictions of a relevant offense, the area authority shall consider all of the following factors in determining whether to hire the applicant:

(1) The level and seriousness of the crime.
(2) The date of the crime.
(3) The age of the person at the time of the conviction.
(4) The circumstances surrounding the commission of the crime, if known.
(5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.
(6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed.
(7) The subsequent commission by the person of a relevant offense.

The fact of conviction of a relevant offense alone shall not be a bar to employment; however, the listed factors shall be considered by the area authority. If the area authority disqualifies an applicant after consideration of the relevant factors, then the area authority may disclose information contained in the criminal history record check that is relevant to the disqualification, but may not provide a copy of the criminal history record check to the applicant.

(d) Limited Immunity. -- An area authority and an officer or employee of an area authority that, in good faith, complies with this section shall be immune from liability for:

(1) The failure of the area authority to employ an individual on the basis of information provided in the criminal history record check of the individual.

(2) Failure to consider criminal history information not contained in the criminal history record check requested and received by the entity pursuant to this section.

(e) Relevant Offense. -- As used in this section, 'relevant offense' means a State crime, whether a misdemeanor or felony, that bears upon an individual's fitness to have responsibility for the safety and well-being of persons needing mental health, developmental disabilities, or substance abuse services. These crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. These crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

(f) Penalty for Furnishing False Information. -- Any applicant for employment who willfully furnishes, supplies, or otherwise gives false information on an employment application that is the basis for a criminal history record check under this section shall be guilty of a Class A1 misdemeanor.

(g) Conditional Employment. -- An area authority may employ an applicant conditionally prior to obtaining the results of a criminal history record check regarding the applicant if both of the following requirements are met:

(1) The area authority shall not employ an applicant prior to obtaining the applicant's consent for criminal history record check as required in subsection (b) of this section or the completed fingerprint cards as required in G.S. 114-19.10.

(2) The area authority shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment."

Section 5. G.S. 114-19.3(a) reads as rewritten:

"(a) Authority. -- The Department of Justice may provide to any of the following entities a criminal record check of an individual who is employed by that entity, has

applied for employment with that entity, or has volunteered to provide direct care on behalf of that entity:

(1) Hospitals licensed under Chapter 131E of the General Statutes.

~~(2) Nursing homes or combination homes licensed under Chapter 131E of the General Statutes.~~

~~(3) Adult care homes licensed under Chapter 131D of the General Statutes.~~

(4) ~~Home care agencies or hospices~~ Hospices licensed under Chapter 131E of the General Statutes.

(5) Child placing agencies licensed under Chapter 131D of the General Statutes.

(6) Residential child care facilities licensed under Chapter 131D of the General Statutes.

(7) Hospitals licensed under Chapter 122C of the General Statutes.

~~(8) Area mental health, developmental disabilities, and substance abuse authorities licensed under Chapter 122C of the General Statutes, including a contract agency of an area authority that is subject to the provisions of Article 4 of that Chapter.~~

(9) Licensed child care facilities and nonlicensed child care homes regulated by the State.

(10) Any other organization or corporation, whether for profit or nonprofit, that provides direct care or services to children, the sick, the disabled, or the elderly."

Section 6. Effective January 1, 2001, Part A of Article 6 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

"**§ 131E-113. Special care units; disclosure of information required.**

(a) A nursing home or combination home licensed under this Part that provides special care for persons with Alzheimer's disease or other dementias in a special care unit shall make the following disclosures pertaining to the special care provided that distinguishes the special care unit as being especially designed for residents with Alzheimer's disease or other dementias. The disclosure shall be made annually, in writing, to all of the following:

(1) The Department, as part of its licensing procedures.

(2) Each person seeking placement within a special care unit, or the person's authorized representative, prior to entering into an agreement with the person to provide special care.

(b) Information that must be disclosed in writing shall include, but is not limited to, all of the following:

(1) A statement of the overall philosophy and mission of the licensed facility and how it reflects the special needs of residents with dementia.

(2) The process and criteria for placement, transfer, or discharge to or from the special care unit.

(3) The process used for assessment and establishment of the plan of care and its implementation, as required under State and federal law.
(4) Typical staffing patterns and how the patterns reflect the resident's need for increased care and supervision.
(5) Dementia-specific staff training.
(6) Physical environment features designed specifically for the special care unit.
(7) Alzheimer's disease and other dementia-specific programming.
(8) Opportunities for family involvement.
(9) Additional costs or fees to the resident for special care.

(c) As part of its license renewal procedures and inspections, the Department shall examine for accuracy the written disclosures made by each licensed facility subject to this section.

(d) Nothing in this section shall be construed as prohibiting a nursing home or combination home that does not offer a special care unit from admitting a person with Alzheimer's disease or other dementias. The disclosures required by this section apply only to a nursing home or combination home that advertises, markets, or otherwise promotes itself as providing a special care unit for persons with Alzheimer's disease or other dementias.

(e) As used in this section, the term 'special care unit' means a wing or hallway within a nursing home, or a program provided by a nursing home, that is designated especially for residents with Alzheimer's disease or other dementias, or other special needs disease or condition, as determined by the Medical Care Commission, which may include mental disabilities."

Section 6.1. G.S. 131E-104 reads as rewritten:

"**§ 131E-104. Rules and enforcement.**

(a) The Commission is authorized to adopt, amend, and repeal all rules necessary for the implementation of this Part.

(b) The Commission shall adopt rules for the operation of the adult care portion of a combination ~~home that are equal to the rules adopted by the Social Services Commission for the operation of freestanding adult care homes. The adult care portion of a combination home in existence on January 1, 1982, shall be exempt from physical plant minimum standards, unless the Department determines the exemption to be an imminent hazard to health, safety and welfare of the residents.~~ home. The rules shall provide that for each requirement applicable to freestanding adult care homes or freestanding nursing homes, the combination home may choose to operate the adult care portion of the home in compliance with either the requirement applicable to freestanding adult care homes or the higher standard applicable to freestanding nursing homes."

Section 7. Sections 1 through 5 of this act become effective January 1, 2001, and apply to offenses committed and offers of employment made on and after that date. The remainder of this act is effective when it becomes law.

PCS, w/ Amendment engrossed

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1192*
Judiciary I Committee Substitute Adopted 6/27/00
Finance Committee Substitute No. 2 Adopted 7/6/00
Proposed House Committee Substitute S1192-PCS8689-RB

Short Title: Crim. Record Checks/Long-Term Care. (Public)

Sponsors:

Referred to:

May 10, 2000

A BILL TO BE ENTITLED

AN ACT TO REQUIRE CRIMINAL BACKGROUND CHECKS FROM STATE AND NATIONAL REPOSITORIES OF CRIMINAL HISTORY FOR CERTAIN APPLICANTS FOR EMPLOYMENT IN ADULT CARE HOMES, NURSING HOMES, HOME CARE AGENCIES, AND CERTAIN MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES FACILITIES; TO IMPOSE A CRIMINAL PENALTY FOR FALSIFYING INFORMATION ON EMPLOYMENT APPLICATIONS; TO REQUIRE CERTAIN DISCLOSURES BY NURSING HOMES; AND PERTAINING TO RULES FOR THE OPERATION OF THE ADULT CARE PORTION OF NURSING HOMES.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Chapter 114 of the General Statutes is amended by adding the following new section to read:

"**§ 114-19.10. Criminal record checks for adult care homes, nursing homes, home care agencies, and area mental health, developmental disabilities, and substance abuse services authorities.**

The Department of Justice may provide to the following entities the criminal history from the State and National Repositories of Criminal Histories:

(1) Nursing homes or combination homes licensed under Chapter 131E of the General Statutes.

(2) Adult care homes licensed under Chapter 131D of the General Statutes.
(3) Home care agencies licensed under Chapter 131E of the General Statutes.
(4) Area mental health, developmental disabilities, and substance abuse services authorities licensed under Chapter 122C of the General Statutes, including a contract agency of an area authority that is subject to the provisions of Article 4 of that Chapter.

The criminal history shall be provided to nursing homes and home care agencies in accordance with G.S. 131E-265, to adult care homes in accordance with G.S. 131D-40, and to area mental health, developmental disabilities, and substance abuse services authorities in accordance with G.S. 122C-80. The requesting entity shall provide to the Department of Justice, along with the request, the fingerprints of the individual to be checked if a national criminal history record check is required, any additional information required by the Department of Justice, and a form signed by the individual to be checked consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories. If a national criminal history record check is required, the fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. All information received by the entity shall be kept confidential in accordance with G.S. 131E-265, 131D-40, and 122C-80, as applicable. The Department of Justice shall charge a reasonable fee for conducting the checks authorized by this section. The fee for the State check may not exceed fourteen dollars ($14.00)."

Section 2.(a) Subsections (a) and (a1) of G.S. 131D-40 read as rewritten:

"(a) Requirement; Adult Care Home. -- An offer of employment by an adult care home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. An adult care home shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, an ~~An~~ adult care home shall submit a request to the Department of Justice under ~~G.S. 114-19.3~~ G.S. 114-19.10 to conduct a State or national criminal history record ~~check~~ check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. ~~within five business days of making the conditional offer of employment.~~ All criminal history information received by the

home is confidential and may not be disclosed, except to the applicant as provided in subsection (b) of this section.

(a1) Requirement; Contract Agency of Adult Care Home. -- An offer of employment by a contract agency of an adult care home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned upon consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. A contract agency of an adult care home shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, a ~~A~~ contract agency of an adult care home shall submit a request to the Department of Justice under G.S. ~~114-19.3~~ 114-19.10 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. ~~criminal history record check within five business days of making the conditional offer of employment.~~ All criminal history information received by the contract agency is confidential and may not be disclosed, except to the applicant as provided by subsection (b) of this section."

Section 2.(b) G.S. 131D-40 is amended by adding the following new subsections to read:

"(e) Penalty for Furnishing False Information. -- Any applicant for employment who willfully furnishes, supplies, or otherwise gives false information on an employment application that is the basis for a criminal history record check under this section shall be guilty of a Class A1 misdemeanor.

(f) Conditional Employment. -- An adult care home may employ an applicant conditionally prior to obtaining the results of a criminal history record check regarding the applicant if both of the following requirements are met:

(1) The adult care home shall not employ an applicant prior to obtaining the applicant's consent for a criminal history record check as required in subsection (a) of this section or the completed fingerprint cards as required in G.S. 114-19.10.

(2) The adult care home shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment.

(g) Immunity From Liability. -- An entity and officers and employees of an entity shall be immune from civil liability for failure to check an employee's history of criminal offenses if the employee's criminal history record check is requested and received in compliance with this section."

Section 3.(a) Subsections (a) and (a1) of G.S. 131E-265 read as rewritten:

"(a) Requirement; Nursing Home or Home Care Agency. -- An offer of employment by a nursing home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. An offer of employment by a home care agency licensed under this Chapter to an applicant to fill a position that requires entering the patient's home is conditioned on consent to a criminal history record check of the applicant. In addition, employment status change of a current employee of a home care agency licensed under this Chapter from a position that does not require entering the patient's home to a position that requires entering the patient's home shall be conditioned on consent to a criminal history record check of that current employee. If the applicant for employment or if the current employee who is changing employment status has been a resident of this State for less than five years, then the offer of employment or change in employment status is conditioned on consent to a State and national criminal history record check. The national criminal history record check shall include a check of the applicant's or current employee's fingerprints. If the applicant or current employee has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant or current employee applying for a change in employment status. A nursing home or a home care agency shall not employ an applicant who refuses to consent to a criminal history record check required by this section. In addition, a home care agency shall not change a current employee's employment status from a position that does not require entering the patient's home to a position that requires entering the patient's home who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, ~~A~~ a nursing home or home care agency shall submit a request to the Department of Justice under G.S. ~~114-19.3~~ 114.19.10 to conduct a ~~criminal history record check within five business days of making the conditional offer of employment.~~ State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. All criminal history information received by the home or agency is confidential and may not be disclosed, except to the applicant as provided in subsection (b) of this section.

(a1) Requirement; Contract Agency of Nursing Home or Home Care Agency. -- An offer of employment by a contract agency of a nursing home or home care agency licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned upon consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a

State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. A contract agency of a nursing home or home care agency shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, ~~A~~ a contract agency of a nursing home or home care agency shall submit a request to the Department of Justice under G.S. ~~114-19.3~~ 114-19.10 ~~to conduct a criminal history record check within five business days of making the conditional offer of employment.~~ to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. All criminal history information received by the contract agency is confidential and may not be disclosed, except to the applicant as provided by subsection (b) of this section."

Section 3.(b) G.S. 131E-265 is amended by adding the following new subsections to read:

"(e) Penalty for Furnishing False Information. -- Any applicant for employment who willfully furnishes, supplies, or otherwise gives false information on an employment application that is the basis for a criminal history record check under this section shall be guilty of a Class A1 misdemeanor.

(f) Conditional Employment. -- A nursing home or home care agency may employ an applicant conditionally prior to obtaining the results of a criminal history record check regarding the applicant if both of the following requirements are met:

(1) The nursing home or home care agency shall not employ an applicant prior to obtaining the applicant's consent for a criminal history record check as required in subsection (a) of this section or the completed fingerprint cards as required in G.S. 114-19.10.

(2) The nursing home or home care agency shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment.

(g) Immunity From Liability. -- An entity and officers and employees of an entity shall be immune from civil liability for failure to check an employee's history of criminal offenses if the employee's criminal history record check is requested and received in compliance with this section."

Section 4. Chapter 122C of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 3A.

"Miscellaneous Provisions.

"§ 122C-80. Criminal history record check required for certain applicants for employment.

(a) Definition. -- As used in this section, 'area authority' means an area mental health, developmental disabilities, and substance abuse services area authority,

including a contract agency of an area authority that is subject to the provisions of Article 4 of this Chapter.

(b) Requirement. -- An offer of employment by an area authority licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a State and national criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. An area authority shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, an area authority shall submit a request to the Department of Justice under G.S. 114-19.10 to conduct a criminal history record check required by this section. All criminal history information received by the area authority is confidential and may not be disclosed, except to the applicant as provided in subsection (c) of this section.

(c) Action. -- If an applicant's criminal history record check reveals one or more convictions of a relevant offense, the area authority shall consider all of the following factors in determining whether to hire the applicant:

(1) The level and seriousness of the crime.
(2) The date of the crime.
(3) The age of the person at the time of the conviction.
(4) The circumstances surrounding the commission of the crime, if known.
(5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.
(6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed.
(7) The subsequent commission by the person of a relevant offense.

The fact of conviction of a relevant offense alone shall not be a bar to employment; however, the listed factors shall be considered by the area authority. If the area authority disqualifies an applicant after consideration of the relevant factors, then the area authority may disclose information contained in the criminal history record check that is relevant to the disqualification, but may not provide a copy of the criminal history record check to the applicant.

(d) Limited Immunity. -- An area authority and an officer or employee of an area authority that, in good faith, complies with this section shall be immune from civil liability for:

(1) The failure of the area authority to employ an individual on the basis of information provided in the criminal history record check of the individual.

(2) Failure to check an employee's history of criminal offenses if the employee's criminal history record check is requested and received in compliance with this section.

(e) Relevant Offense. -- As used in this section, 'relevant offense' means a State crime, whether a misdemeanor or felony, that bears upon an individual's fitness to have responsibility for the safety and well-being of persons needing mental health, developmental disabilities, or substance abuse services. These crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. These crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

(f) Penalty for Furnishing False Information. -- Any applicant for employment who willfully furnishes, supplies, or otherwise gives false information on an employment application that is the basis for a criminal history record check under this section shall be guilty of a Class A1 misdemeanor.

(g) Conditional Employment. -- An area authority may employ an applicant conditionally prior to obtaining the results of a criminal history record check regarding the applicant if both of the following requirements are met:

(1) The area authority shall not employ an applicant prior to obtaining the applicant's consent for criminal history record check as required in subsection (b) of this section or the completed fingerprint cards as required in G.S. 114-19.10.

(2) The area authority shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment."

Section 5. G.S. 114-19.3(a) reads as rewritten:

"(a) Authority. -- The Department of Justice may provide to any of the following entities a criminal record check of an individual who is employed by that entity, has

applied for employment with that entity, or has volunteered to provide direct care on behalf of that entity:

(1) Hospitals licensed under Chapter 131E of the General Statutes.

~~(2) Nursing homes or combination homes licensed under Chapter 131E of the General Statutes.~~

~~(3) Adult care homes licensed under Chapter 131D of the General Statutes.~~

(4) ~~Home care agencies or hospices~~ Hospices licensed under Chapter 131E of the General Statutes.

(5) Child placing agencies licensed under Chapter 131D of the General Statutes.

(6) Residential child care facilities licensed under Chapter 131D of the General Statutes.

(7) Hospitals licensed under Chapter 122C of the General Statutes.

~~(8) Area mental health, developmental disabilities, and substance abuse authorities licensed under Chapter 122C of the General Statutes, including a contract agency of an area authority that is subject to the provisions of Article 4 of that Chapter.~~

(9) Licensed child care facilities and nonlicensed child care homes regulated by the State.

(10) Any other organization or corporation, whether for profit or nonprofit, that provides direct care or services to children, the sick, the disabled, or the elderly."

Section 6. Effective January 1, 2001, Part A of Article 6 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

"**§ 131E-113. Special care units; disclosure of information required.**

(a) A nursing home or combination home licensed under this Part that provides special care for persons with Alzheimer's disease or other dementias in a special care unit shall make the following disclosures pertaining to the special care provided that distinguishes the special care unit as being especially designed for residents with Alzheimer's disease or other dementias. The disclosure shall be made annually, in writing, to all of the following:

(1) The Department, as part of its licensing procedures.

(2) Each person seeking placement within a special care unit, or the person's authorized representative, prior to entering into an agreement with the person to provide special care.

(b) Information that must be disclosed in writing shall include, but is not limited to, all of the following:

(1) A statement of the overall philosophy and mission of the licensed facility and how it reflects the special needs of residents with dementia.

(2) The process and criteria for placement, transfer, or discharge to or from the special care unit.

(3) The process used for assessment and establishment of the plan of care and its implementation, as required under State and federal law.
(4) Typical staffing patterns and how the patterns reflect the resident's need for increased care and supervision.
(5) Dementia-specific staff training.
(6) Physical environment features designed specifically for the special care unit.
(7) Alzheimer's disease and other dementia-specific programming.
(8) Opportunities for family involvement.
(9) Additional costs or fees to the resident for special care.

(c) As part of its license renewal procedures and inspections, the Department shall examine for accuracy the written disclosures made by each licensed facility subject to this section.

(d) Nothing in this section shall be construed as prohibiting a nursing home or combination home that does not offer a special care unit from admitting a person with Alzheimer's disease or other dementias. The disclosures required by this section apply only to a nursing home or combination home that advertises, markets, or otherwise promotes itself as providing a special care unit for persons with Alzheimer's disease or other dementias.

(e) As used in this section, the term 'special care unit' means a wing or hallway within a nursing home, or a program provided by a nursing home, that is designated especially for residents with Alzheimer's disease or other dementias, or other special needs disease or condition, as determined by the Medical Care Commission, which may include mental disabilities."

Section 6.1. G.S. 131E-104 reads as rewritten:

"§ 131E-104. Rules and enforcement.

(a) The Commission is authorized to adopt, amend, and repeal all rules necessary for the implementation of this Part.

(b) The Commission shall adopt rules for the operation of the adult care portion of a combination ~~home that are equal to the rules adopted by the Social Services Commission for the operation of freestanding adult care homes. The adult care portion of a combination home in existence on January 1, 1982, shall be exempt from physical plant minimum standards, unless the Department determines the exemption to be an imminent hazard to health, safety and welfare of the residents.~~ home. The rules shall provide that for each requirement applicable to freestanding adult care homes or freestanding nursing homes, the combination home may choose to operate the adult care portion of the home in compliance with either the requirement applicable to freestanding adult care homes or the higher standard applicable to freestanding nursing homes."

Section 7. Sections 1 through 5 of this act become effective January 1, 2001, and apply to offenses committed and offers of employment made on and after that date. The remainder of this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. PCS [illegible]

H. B. No. _____ DATE 4/10/20

S. B. No. 1162 Amendment No. _____

(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

(Rep.) Sen.) Hicks J.

1 moves to amend the bill on page 5, line 32-34

2 ( ) WHICH CHANGES THE TITLE

3 by [illegible]

4 "[illegible]

5 [illegible]

6 [illegible]

7 [illegible]

8 [illegible]"

9

10

11

12

13

14

15

16

17

18

19

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

SENATE BILL 1192:
Crim. Record Checks/Long-Term Care

BILL ANALYSIS

Committee: House Finance
Date: July 11, 2000
Version: 3rd Edition

Introduced by: Sen. Rand
Summary by: Cindy Avrette
Staff Attorney

Summary: *The original bill, Senate Bill 1192, was recommended to the General Assembly by the Health Care Oversight Commission. The original bill did two things:*

- *It required State and national criminal record checks for applicants for employment in adult care homes, nursing homes, and home care agencies.*
- *It made it a Class A1 misdemeanor for an applicant for employment in adult care homes, nursing homes, and home care agencies to falsify information on employment applications.*

THE SENATE MADE THE FOLLOWING CHANGES TO THE ORIGINAL BILL:

- *Provided that only a State record check required if the applicant has been a resident of NC for 5 or more years; State and federal record check required if the applicant has NOT been a resident of NC for 5 years.*
- *Provided for conditional employment of applicant if the applicant consents to the record check and the request for the record check is made within 5 business days after the applicant begins conditional employment.*
- *Provided for immunity from liability of the entity and the employees of the entity for failure to consider criminal history information not contained in the criminal history record check requested and received.*
- *Added similar record check, conditional employment, and immunity from liability provisions for certain mental health, developmental disabilities, and substance service facilities.*
- *Added disclosure requirements for special care units that provide special care for persons with Alzheimer's disease or other dementias when the special care unit distinguishes itself as being especially designed for residents with Alzheimer's disease or other dementias.*
- *Added a provision authorizing the Medical Care Commission to adopt rules pertaining to the adult care portion of combination homes.*

CURRENT LAW: Current law only requires a State criminal history record check for employees of adult care homes, nursing homes, combination homes, home care agencies, and certain mental health, developmental disabilities, and substance abuse service facilities. These record checks are fingerprint-based but do no include a national criminal history record check conducted by the FBI.

BILL ANALYSIS: The bill addresses three areas:

1. Requires that criminal history record checks be conducted for certain applicants for employment in nursing homes, adult care homes, home care agencies, and area mental health authorities and their contracting agencies.

- If applicant has been a resident of NC for less than 5 years, then the offer of employment is conditioned upon applicant's consent to both a State and federal fingerprint check.
- If applicant has been a resident for 5 years or longer, then the offer is conditioned upon consent to a State check (not fingerprint), which may be done by a private entity.
- It is a Class A1 misdemeanor for providing false information on an application.
- The facility may employ an applicant conditionally, pending results of the check.

The Department of Justice may charge a reasonable fee for the checks. The fee for the State may not exceed $14.

2. Requires nursing homes that offer special care units to disclose certain information about the services provided in the special care unit on an annual basis. The disclosure must be made as part of the nursing home's licensing procedures and it must be made to each person seeking placement within the special care unit. The information that must be disclosed include the following

- A statement of the overall philosophy and mission of the facility and how it reflects the special needs of the residents with dementia.
- The process and criteria for placement, transfer, or discharge to or from the special care unit.
- The process used for assessment and establishment of the plan of care and its implementation.
- Typical staffing patterns.
- Dementia-specific staff training.
- Physical environment features designed specifically for the special care unit.
- Alzheimer's disease and other dementia-specific programming.
- Opportunities for family involvement.
- Additional costs or fees to the resident for special care.

3. Authorizes the Medical Care Commission to adopt rules pertaining to the adult care portion of combination homes. Current law requires that the rules adopted by the Medical Care Commission be equal to the rules adopted by the Social Services Commission for freestanding adult care homes. Current law also exempts the adult care portion of combination homes in existence in 1982 from the physical plant minimum standards, unless the exemption would pose an imminent hazard to health, safety, and welfare of residents. This amendment allows the combination home to choose between rules applicable to nursing homes and those applicable to adult care homes, with respect to operation of the adult care portion of the combination home.

Effective date: Sections 1-5 (Criminal background check) and Section 6 (disclosure requirement) effective January 1, 2001. The remainder of the bill is effective immediately.

Gann Watson, staff to the Health Care Oversight Committee and an attorney in the Bill Drafting Division, contributed substantially to this summary.